

Valuing Women's Labour: Law, Empowerment and Human Rights of Migrant Filipino Domestic Workers in Pakistan

*Ayesha Shahid**

International labour migration has expanded across the globe and is no more confined to migration from Asia to Europe, Americas and oil rich Gulf countries. New regional migration patterns have emerged, creating new labour markets within countries in Asia. As a result, labour migration has also become an Asian phenomenon. Currently, many Asian countries are facing much stronger and difficult irregular migrant flows.¹ Domestic service is an informal labour sector where international labour migration is taking place.² This large-scale transnational labour migration from Southeast Asian nations in particular is due to an increased demand for domestic and care workers. Historically, domestic service for others' households has remained a principal way of earning a living for women. Domestic service is also linked to the global history of slavery, colonialism and other forms of servitude. In its contemporary manifestations, domestic work is a global phenomenon that perpetuates hierarchies based on gender, race, ethnicity, indigenous status, caste and nationality. Domestic service sector has become one of the key drivers of transnational female labour migration. One such example is of migrant Filipino domestic workers (hereafter referred as MFDW) whose services and labour are now also being used in the developing countries in Asia. In recent years Pakistan has become an "employment destination" for MFDW who are being employed by affluent Pakistani households, despite the presence of a large number of Pakistani female domestic workers. The increase in female migration and the nature of domestic work constitutes a major challenge to the protection of human and labour rights of domestic workers. Human Rights Watch in its latest report has stated that almost 30 per cent of the world's domestic workers are employed in countries where they are completely excluded from national labour laws, including weekly rest days, limits to hours of work, minimum wage coverage, and overtime pay. Even when partially covered, domestic workers are often excluded from key protections such as minimum age requirements, maternity leave, social security, and occupational health measures.³

Based on an exploratory study of the lived experiences of MFDW, this paper questions the extent to which the UN international human rights and ILO's labour standards can provide

* Lecturer in Law, Brunel Law School, Brunel University, United Kingdom.

1 Kaur, A. (2007) Migration and Integration in the Asia-Pacific Region *International Journal on Multicultural Societies* Vol. 9, No. 2, Piper, N. (2007) 'Enhancing the Migration Experience: Gendering Political Advocacy and Migrant Labour in Southeast and East Asia'. IDRC Working Papers on Women's Rights and Citizenship. Social and Economic Policy No1. Silvey, R (2006) Consuming the Transnational Family: Indonesian Migrant Domestic Workers to Saudi Arabia *Global Networks* 6, 1 (2006) 23–40.

2 According to an estimate given by the International Labour Organization (hereinafter referred to as 'ILO'), domestic service constitutes one of the largest, yet least visible service industries in the world. Based on national surveys of 117 countries, the ILO report places the number of both men and women domestic workers above the age of 15 at around 52.6 million. This figure represents around 3.6% of global wage employment. However, experts say that as domestic work is a kind of hidden form of employment and in most countries unregistered, the total number of such workers could be as high as 100 million. Around 83% of these workers are women or girls and many are migrant workers. Women's share of total domestic employment stands at e.g. 93.3% in Brazil and 90.7% in Ethiopia. (ILO, "Decent work for domestic workers", report IV (1) (2009), para. 20).

3 Human Rights Watch (2013) "Claiming Rights: Domestic Workers' Movements and Global Advances for Labour Reform".

protection and empowerment to MFDW? Whether MFDW have the ability and strength to use these legal frameworks for exercising their right to work and earn a decent livelihood and can the case of MFDW be used as a template to provide a window of opportunity for local domestic workers to be included within the national labour legislation and to receive recognition and legal protection as ‘workers’? This paper attempts to make a case for regulating employment conditions and for empowering domestic workers who have been ignored and neglected by the law in the past. It further aims to explore a way forward to implement the rights guaranteed under the evolving modern human rights frameworks. The first section of this paper provides an overview of the domestic service in Pakistan. The first section focuses on developing a conceptual framework by examining the right to work under the United Nations and the International Labour Organization conventions. The second section provides an overview of domestic service sector in Pakistan. The third section discusses the findings and in the final section recommendations are presented.

I. Conceptualizing the Right to Work

Developing a conceptual framework within which to analyse the complex and multilayered questions relating to the situation of MFDW is a challenging task. To analyse the complexities of domestic service carried out by MFDW this article draws on Satterthwaite’s (2004) ‘inter-sectionality approach’, which if applied in the case of migrant domestic workers can support in empowering them. Satterthwaite argues that applying the methodology of inter-sectionality to human rights treaty law allows us to identify and articulate a set of robust standards relating to women migrant workers. This methodology can shift the focus from the single variable of “migration status” to the multiple variables relevant to women who migrate for work – including gender, race or ethnicity, and occupation. Through the framework of inter-sectionality, all of the major treaties have significant contributions to make to the empowerment of migrant workers and for the implementation and protection of the right to work. Thus viewed through the framework of inter-sectionality, it is argued the range of international labour and human rights standards provide a potential site for empowering MFDW. These international norms can be used as interpretive tools for demanding justice and for the enforcement of the right to work for MFDW.

The right to work is an individual and a collective right embedded in all human rights and labour standards. It guarantees the opportunity to perform dignified work under safe and healthy conditions with fair wages affording a decent living for oneself and one's family. It also provides for freedom from unemployment and the right to organise, such as the formation and membership of trade unions.

At the heart of human rights is the belief that everyone should be treated equally and with dignity – no matter what their circumstances. In this regard *universality*, *indivisibility*, *inalienability*, *equality* and *non-discrimination* are the main human rights principles, fundamental to the right to work. This further includes protection against torture, inhuman or degrading treatment, elimination of slavery or working under slave like conditions, which means that nobody has the right to ‘own’ another person or to force them to work under threat of punishment. These principles emphasise that human rights derive from a ‘common humanity’ and the ‘inherent dignity of each human person’ rather than from citizenship of a particular country. On the basis of these principles it is argued that human rights apply everywhere and to everyone - including migrants - and they cannot be denied or given up

voluntarily. There is no hierarchy of rights and certain types of rights cannot be separated from others. However only recognizing these human rights on its own is not enough. A human right, once generally recognized needs to be brought to realization through a specific national legislation, through governmental measures, through the sound efforts of civil society and the honest willingness of employers. The right to work has to be recognized not merely as a tool in the legal system but as a way leading to a more humanized view of the work performed that also emphasizes upon the worth and dignity of labour.

Various UN and ILO human rights treaties and separate legal instruments place the right to work in a human rights context. Under the existing international framework, states are legally responsible for protecting workers from systematic violations of their rights by their employers. The right to equal treatment before the law has been recognised by numerous treaties, including the UN Charter, the International Bill of Rights, the UN Convention on the Elimination of All Forms of Discrimination Against Women, the UN Convention on the Rights of the Child, the Torture Convention, the Elimination of Racial Discrimination Convention, and the Refugee Convention and its Protocol.⁴ The UN Charter proclaims in its preamble that the peoples of the United Nations are determined to reaffirm faith in ‘the equal rights of men and women’, and the Universal Declaration of Human Rights echoes that principle, stating ‘Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as...sex’, requiring states to take measures to prevent private actors from discriminating against women and to provide legal recourse to women who are the victims of gender discrimination. Other noticeable provisions include the right to work and free choice of employment (UDHR, art. 23(1); ICESCR, art. 6(1)); the right to social security (UDHR, art. 22; ICESCR, art. 9); and the right to freedom of association (UDHR, art. 20(1); ICESCR, art. 8; ICCPR, art. 22). However, the inclusion of broad limitation clauses in major UN treaties allows the space for member states to impose restrictions on migrants' entitlement to these rights. Furthermore, as nationality is not considered as a ground for discrimination under major UN treaties, states can still easily flout the provisions and violate migrant workers' rights.

When compared to the above mentioned core UN treaties, the ILO offers substantial protection to migrant workers with respect to their economic, social, and residence rights. The ILO Declaration on Fundamental Principles and Rights at Work lists eight core ILO conventions which have universal, non-derogable human rights, applicable to all people in all ILO member states.⁵ In its preamble, the ILO Declaration explicitly mentions migrant workers as a group with ‘special social needs’, requiring ‘special attention’ in relation to the protection of their fundamental labour rights. The ILO Migration of Employment Convention (No. 143), in Article 8 stipulates that host countries must not restrict a migrant's rights to free choice of employment for more than 2 years; that loss of employment shall not, in its own,

⁴Convention on the Elimination of all Forms of Discrimination against Women, Dec. 18, 1979, 1249 U.N.T.S. 13, *reprinted in* 19 I.L.M. 33 (1980). Convention on the Rights of the Child, G.A. Res. 44/25 (Annex), U.N. GAOR 44th Sess., Supp. No. 49, at 166, U.N. Doc. A/RES/44/49 (1990), *reprinted in* 30 I.L.M. 1448 (1989) [hereinafter Convention on the Rights of the Child]. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46 (Annex), U.N. GAOR, 39th Sess., Supp. No. 51, at 197, U.N. Doc. A/39/51 (1985), *reprinted in* 23 I.L.M. 1027 (1984). International Convention on the Elimination of all Forms of Racial Discrimination, Jan. 4 1969, 660 U.N.T.S. 195, *reprinted in* 5 I.L.M. 352 (1966). Convention Relating to the Status of Refugees, Apr. 22, 1954, 189 U.N.T.S. 150. Protocol Relating to the Status of Refugees, Oct. 4, 1967, 606 U.N.T.S. 267, *reprinted in* 6 I.L.M. 78 (1967)

⁵*International Labour Organization Declaration on Fundamental Principles and Rights at Work*, June 18, 1998, 37 I.L.M. 1233 [ILO Declaration]

imply a loss of residence permit.’ Under Article 9, irregular migrant workers should enjoy equality ‘in respect of rights arising out of past employment as regards remuneration, social security and other benefits.’ Article 10 of ILO Convention (No.143) widens the scope of equality between migrants and nationals of the host state by requiring not only equal treatment, but also equality of opportunity in respect of ‘employment and occupation, of social security, of trade union and cultural rights and of individual and collective freedoms for persons who as migrant workers or as members of their families are lawfully within its territory.’

The other two most significant international legal instruments that address the rights of migrant workers are the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990 (hereinafter referred to as CMW) and the ILO Convention on the Decent Work for Domestic Workers (No. 189) and General Recommendation (201) (hereinafter referred to as the Convention). Based on more than a decade of negotiations, the UN adopted the CMW in 1990 which extends fundamental human rights to all both regular and irregular migrant workers. The CMW in particular has become a cornerstone of the rights-based approach to migration advocated by many international organisations and non-governmental organisations concerned with the protection of migrant workers (Piper, 2009). However, the CMW has certain weaknesses, for example, the ratification level of the CMW is very low, it fails to address the gender specific problems faced by female migrant workers, and it limits itself to a relatively vague and undifferentiated treatment of foreign domestic workers. It is also criticised for diluting the rights to free choice of employment and to social security as formulated in the ILO conventions.

The ILO Convention for Decent Work for Domestic Workers, (No. 189) and Recommendation (No. 201) sets the first global standards for the estimated 50 to 100 million domestic workers worldwide. For the first time under this Convention domestic workers who participate in the paid labour market and have specific working conditions are recognised as ‘workers’. It defines ‘domestic work’ as work performed in or for a household, and a ‘domestic worker’ as any person performing domestic work in an employment relationship (Article 1). The Convention protects the Fundamental Principles and Rights at Work of the domestic workers (Article 3). It recognises that domestic work is undervalued and invisible and is mainly carried out by women and girls (Preamble). Under the treaty, domestic workers are entitled to protections available to other workers, including weekly days off, limits to hours of work, and minimum wage and social security coverage.⁶ The purpose of this Convention is to improve the legal status of domestic workers through labour legislation, thus giving them access to a full range of protections and rights linked to decent work, including the right to organize.⁷

The Convention also requires that members set a minimum age for domestic workers (Article 4), ensure that domestic workers enjoy effective protection against all forms of abuse, harassment and violence (Article 5), have the right to a safe and healthy work environment (Article 13), and of social security protection, especially in respect to maternity (Article 14).

The ratification of the Convention is a precondition to protect and promote the rights of all migrant workers; however, the number of states that have ratified the CMW and Domestic

⁶Article 6, 10, and 13

⁷Article 3,2 (a)

Workers Convention is still very low. despite the presence of certain limitation clauses in these treaties states cannot exempt themselves from the duty of providing basic protection as they have ratified other core human rights treaties, and are bound by the UDHR and, more specifically, by its principle of non-discrimination (Article 2). Moreover, it is argued that as ILO and UN Conventions are applicable to ‘workers’, they generally apply to all categories of workers. Thus, unless otherwise stated, all ILO Conventions apply to migrant workers, who should not receive differential treatment on the basis that they are not nationals of the countries in which they work.

Moreover General Comments issued by the UN treaty bodies have raised concern on the status of migrant workers. Of particular relevance is the General Comment (No. 15) of the Human Rights Committee in which the Committee made clear that there shall be no discrimination between aliens and citizens in the application of the human rights contained in the ICCPR. In August 2004, the Committee on the Elimination of Racial Discrimination also adopted its General Recommendation (No. 30) to eliminate discrimination against non-citizens in relation to working conditions and work requirements, to prevent and redress the serious problems commonly faced by non-citizen workers, in particular by non-citizen domestic workers, including debt bondage, passport retention, illegal confinement, rape and physical assault. The Committee further clarified that ‘all individuals are entitled to the enjoyment of labour and employment rights, including migrant workers’. Since there are no express references to either domestic work or domestic workers within the Migrant Workers Convention, the Committee under the Migrant Workers Convention issued a General Comment in November 2009 to provide guidance to states on how to implement their obligations under the Migrant Workers Convention regarding migrant domestic workers.⁸ After noting that the term "domestic worker" generally refers to a person who performs work within an employment relationship in or for other people's private homes, whether or not residing in the household, it observes that such workers face even "heightened risk of certain forms of exploitation and abuse."The Comment identifies problems faced by such workers and members of their families, for these workers remain vulnerable throughout the migration cycle-recruitment, pre-departure, and in countries of transit, at arrival, during employment, and upon return. ⁹The Committee also noted that as most domestic workers cannot stay in the country of employment after the termination of their employment relationship, they may be unable to seek remedies if their employers have violated their rights by refusing to pay due compensation or having abused the workers.¹⁰

The above discussion shows that all major human rights treaties can make significant contributions for empowering migrant domestic workers. Georgian (2007-2008), in her study on Mexican workers, examines the human rights frameworks and argues that human rights principles of the right to work, equal employment opportunities, and dignity of labour are aimed at empowering individuals to enable them to assert their own rights. Similarly, Khan (2009) examines whether the Canadian labour policy, the Live-in Caregiver Program (LCP) pertaining to migrant caregivers and domestic workers, is reflective of contemporary international efforts, through the ILO and United Nations, to ensure the equality and social protection of migrant workers. Thus it can be argued that the range of international labour and human rights standards provide a potential site for strengthening woman’s agency,

⁸ Committee on the Protection of the Rights of all Migrant Workers and Members of Their Families, *General Comment No. 1 on Migrant Domestic Workers*, U.N. Doc. CMW/C/12/CRP.2/Rev. 2 (Nov. 30 2010)

⁹ *Ibid.*, 9-14,15-17

¹⁰ *Ibid.*,18

particularly now that a specific ILO Convention has been adopted for providing decent work conditions for domestic workers. International human rights perspective can be effectively used to respond to the myriad aspects of women migrant workers' experiences, exploitation, and discrimination. Further, human rights law can support responses to discrimination and exploitation that do not re-inscribe women as mere 'victims' in need of protection and emphasise upon woman's strengths and abilities.

II. Domestic Service Sector in Pakistan: An Overview

Domestic service sector is one of the largest informal employment sectors in Pakistan.¹¹ Middle and upper-class households employ women domestic workers, primarily Pakistani domestic workers. However, during the past ten to fifteen years, Pakistan has become an 'employment destination' for migrant Filipino domestic workers. In recent years, there has been a shift in the demands of employers in Pakistan, in particular the upper-class affluent Pakistanis who now prefer to recruit MFDW over local Pakistani domestic workers. Employing MFDW has become a status symbol and a mark of social prestige. The social, economic and political changes of the past 64 years have further deepened the class structure of Pakistani society. In Pakistan during the last decade increased urbanisation and faster economic expansion has fuelled significant job creation in the industrial and services sectors. This has led to the growth of middle class in Pakistan. According to a recent report, there are an estimated 30 to 35 million Pakistanis earning an average of US\$10,000 a year.¹² Of these, about 17 million are in the upper- and upper-middle-class. It is this newly enriched and empowered elite that includes landlords, industrialists, parliamentarians, bankers, foreign diplomats, politicians and high government officials (including the President, former and current Prime Minister of Pakistan) who employ MFDW. These employers live in mansions and huge multi-story houses and have an active social life, where entertaining friends and relatives at home is a cultural norm. To maintain such huge houses and carryout socialising requires a lot of housework for which local and foreign domestic help is employed. Despite the presence of a large number of local domestic workers there are around four to five thousand MFDW working in Pakistan.¹³ MFDW, in most cases, are employed as domestic workers performing household chores, whereas in some cases, they are employed only as carers for either an elderly family member, disabled person, or as a child-carer. MFDW in Pakistan are live-in workers employed through recruitment agencies and in few cases, through friends or family members who are already working in Pakistan. When compared to Pakistani domestic workers, MFDW are highly paid, receive better treatment, and have more job security as they have written employment contracts. Taran and Geronimi(2003) argue that MFDW are recognised as the 'invisible engine' of the Philippine economy (maximising private households' productivity by freeing additional manpower into the labour market at a time when women have increasingly joined the workforce). The Philippine government has always appreciated its overseas workers as 'heroes and heroines of the nation'. This is not simply a tribute paid by a government to its people, but it is at the same time a way of

¹¹ Pakistan's informal economy accounts for more than 70% of employment in the majority of jobs outside of agriculture. Women are increasingly joining the workforce but often in the informal economy which is dominated by low-paying, poorly protected jobs. In the urban informal sector 67.5% of women work as home-based, casual and domestic workers. Source: Pakistan Labour Force Survey 2008-2009.

¹² Pakistan Economic Survey 2011-2012

¹³ <http://www.businessmirror.com.ph/0509&102008/headlines08.html>. This figure was also confirmed by the Philippines Embassy, Islamabad and Philippines Consulate in Karachi. It includes both documented and undocumented Filipinos in Pakistan, but the official of the embassy told me that out of 3000 only 700 to 800 domestic workers are registered with the Philippines Embassy.

providing some consolation for the difficulties and hardships these workers face in the absence of proper legal frameworks and mechanisms for their protection.

The Philippines has sent approximately 1.5 million women migrant workers throughout the Asian region - the majority of them are domestic workers.¹⁴ In 2008, the Philippine Overseas Employment Administration (POEA) estimated that 10% of the population of the Philippines was working overseas in one of nearly two hundred countries and send home over US\$20 billion per year in the form of remittances, which constitute a significant source of the country's foreign exchange. The receipt of remittances from MFDW underpins much of the Philippines' labour export efforts. A situation analysis conducted by the ILO in the Philippines has shown that Filipino domestic workers who migrate internationally are drawn from a different pool of labour force. Those working overseas tend to come from urban areas, are more qualified, and have prior work experience in different fields. Indeed, some have qualifications far superior to those required for domestic work. In these circumstances, the higher salaries offered abroad and the opportunity to remit home almost their entire salary weighs in favour of migration for domestic work. (D' Souza, A. (2010)

Pakistan has signed an agreement with the Philippines Government for the recruitment of MFDW - but neither the local domestic workers nor the MFDW are covered by the labour legislation and in some cases, their immigration status is also dubious. Currently, there are around 3,000 to 5,000 MFDW in Pakistan. According to the information given by the Philippines Embassy and employment agents, this figure includes both documented and undocumented workers. The Philippines Embassy has a database for domestic workers in Pakistan. Most Filipinos are employed as *Mayordoma*, or head of the household staff, which also includes local female and male domestic workers employed as cooks, cleaners, chauffeurs, gardeners, and security guards. The recruitment is mostly done through employment agencies and the process takes between six months and a year.¹⁵ Before taking up a job, Filipinos have to undergo a 15 day training programme in Philippines and attend a pre-orientation seminar before they travel. For only 350,000 to 400,000 Rupees, a local agent can ensure that a trained, English-speaking MFDW is legally brought to Pakistan. This amount covers the cost of the work visa, plane ticket, paperwork, and the agency's commission.

To test the initial hypothesis of whether international human rights frameworks can be used to empower MFDWs in Pakistan, a small exploratory study was conducted in two cities; Karachi and Islamabad. The objective of conducting this exploratory study was to provide an insight into the lived experiences of MFDW and their employment conditions in Pakistan. A deeper understanding of lived realities was also needed to find out the extent to which international frameworks could empower MFDW to use law for their protection and to assert their rights as workers. Lived experiences of MFDW helped in identifying gaps in the formal legal system and in understanding how international human rights frameworks can improve the socio-legal position of MFDW.

Given the small sample and the non-availability of any prior research on MFDW in Pakistan, the experiences presented in this exploratory study are illustrative rather than representative.

¹⁴ ILO, "Decent Work for Domestic Workers", Report IV (1) (2009), para. 20.

¹⁵ The recruitment agency forwards domestic workers' CVs to the potential employers. After reviewing the CVs, the employer contacts the agency and informs them of the worker they consider suitable for themselves, then the agency sends the profile of the employer to the worker. If both parties agree, then the employer pays a fee to the agency which then completes all the paperwork and sends it to the worker who will then apply for the visa at the Pakistan Embassy in Philippines. The initial visa applied for comes under the 'others' category, which is for a period of two years and is a double entry visa.

The data was collected in the form of individual and group interviews, using a semi-structured interviewing technique with open-ended questions. 30-35 MFDW were interviewed in each city. Those interviewed included MFDW who were oppressed and abused by the employers and those who have enjoyed satisfactory working and living conditions. Variations of age, educational background, and marital status were also considered. I also interviewed Philippines Embassy Personnel, owners of 3 employment agencies, and 20 women employers. While the number of semi-structured interviews with employers is rather limited, important insights were gathered via observations in employers' households and informal conversations with Pakistani friends employing MFDW. ¹⁶The data collected was then qualitatively analysed. By using a combination of research methods I was able to take stock of the situation of MFDW in relation to the recruitment process, job contracts, reasons for migration, nature of domestic work, dynamics of employer-employee relations, and the role of employment agencies.¹⁷ Some of the findings from the field are as follows.

Ethical Issues: A range of ethical issues were considered while carrying out this research. The issues arose from the very nature of the subject group i.e. migrant workers who are in a vulnerable position due to their immigration status and the legal basis of their employment. The risks involved were: financial harm and emotional or even physical abuse from employers, if the worker had any protection/redress if dismissed, the welfare of the researcher in terms of probing both employees and employers rigorously on the subject matter of the research.

Additional concerns included managing power relationship between the researcher and the interview participant, testing the reliability of the data presented i.e. checking the participants are not simply giving a story which complies with what they think the researcher or their employer, would want to hear, or a story which best serves their interests in some way; and

¹⁶ The questions were framed on the basis of the general discussions during the preliminary fieldwork. The initial general discussions were useful in identifying some themes that were further explored in the second phase of data collection. The questions asked were about the nature of work, the employer-employee relationship, and the local-Filipino workers relationship. I also asked about details of their employment contracts, for instance, is there a written contract? What are the terms and conditions of the contract, what type of visas are issued to them? Who pays for the ticket and how often do they visit their families? If they want to leave an employer do they have to give notice? Are they bound to work for only one employer who has sponsored them? I also asked some questions about the role of employment agencies, such as do the agencies work as representatives/agents of Philippines based agencies or as independent agents from Pakistan? What types of services are provided by the agencies? How much in fees do they charge? Are the agencies involved in solving disputes between the employer and employee? Do agencies provide any protection or do they take any responsibility of finding another employer if a maid wants to quit an existing job? Are visas renewed through the agency or do maids have to renew it themselves?

¹⁷ To avoid any unforeseen difficulties that might arise from selecting a small sample, a preliminary fieldwork was previously conducted. The preliminary fieldwork was useful for planning and designing research on this topic. I was also able to refine the research questions during this fieldwork. Initial contact with the women was established by using the snowball technique. With the help of a Filipino maid working in my friend's household I was introduced to a Filipino woman who came to Pakistan 15 years ago, married to a Pakistani and runs a social network for Filipinos employed in Karachi. Through these two initial contacts I was able to contact other Filipino domestic workers working in Karachi and Islamabad. Interviews were conducted in the private rented apartments of the Filipino workers (where they gather on weekends and their days off from work). These workers rent apartments at different locations within the city (The apartments in Karachi are in Tauheed Commercial Area, Gizri and Sharah-i- Faisal). Conducting interviews in these apartments gave the workers the space and privacy to express their views openly. Filipino workers can speak fluent English as most of them were previously employed as office workers in their country of origin, and therefore communication was easy.

how will the researcher successfully acquire information from their employers who might be reluctant to reveal any dubious positions as regards to the niceties of immigration and employment positions.? These ethical issues were given due attention and consideration during the course of the field research.

In order to manage the power relationship I was introduced to the Filipino workers as a UK-based researcher who has already done research on the issue of domestic service in Pakistan. My two contacts helped in building up trust in the women and highlighted that I was giving a voice to MFDW by drawing the attention of law and policy makers through my research to the issues and problems faced by MFDW. In this way I was able to build up a relationship of trust with this group of workers.

As it was for the first time that someone had approached this group of MFDW to discuss their problems, they showed willingness to share their experiences. I also gave them the option of not disclosing their names to me if they felt any kind of threat or pressure. In this way I gained their confidence. Before interviewing commenced each respondent was briefed about the content and purpose of the interview, the intended use of the information, their right not to answer questions, right to terminate the interview at any time, and the right to put restrictions on how the information could be used. It was to make sure that all of them must have a clear understanding of the purpose of this research in order to build up a relationship of trust. To further gain the trust of my interviewees, I gave them the opportunity to ask me questions as well. I also discussed with them if they had any fears that talking to me would pose any problems for them etc.

To ensure the reliability of the data, I conducted both individual and group interviews with MFDW which helped in assessing that the information given was reliable. The information given about the recruitment process and terms and conditions of the employment contract was reconfirmed and checked via information given by the employment agents and the Philippines Embassy. I began the interviews by explaining the precautions taken to protect their identities, before gaining their consent to proceed.

To cover the risk of false information being given by the employers about the hiring /recruitment process, I also contacted the Special Desk service in the Philippines Consulate, Karachi and Philippines Embassy Islamabad. There are also two employment agencies in Karachi involved in recruiting domestic workers. I contacted them as a potential employer without disclosing my real identity (as a researcher/academic) who wanted to hire the services of a Filipino domestic worker. Through this method I was able to obtain accurate information about the hiring process and check the reliability of the data collected through employers and women domestic workers. The data was stored in the form of tape-recorded interviews and notes and pseudonyms were used during the interpretation and analysis of data.

IV. Voices from the Field:

A. Reasons for Seeking Employment as Domestic Workers:

In their interviews MFDW mentioned a number of factors that influence their decision to seek employment in Pakistan. Securing a better future for their children and families is a major factor for searching jobs overseas. G, for instance, has been supporting her children's education and by working overseas she has been able to send her children to the university. She has not taken annual leave in the past three years and instead she requested her employer to pay her the cash equivalent of an air ticket. She sent the entire amount to pay for her

daughter's university fees. Another worker, M, has also not gone back home in the last two years, only to save money to build her house in Philippines.

Some MFDW leave the Philippines to escape from abusive marital relationships. W left Philippines because her husband used to torture her and beat her for not asking her parents to give them money. Therefore, she decided to leave the country to earn money as well as avoid living in a physically and mentally abusive relationship. As divorce is illegal and highly stigmatised, the only acceptable way to escape such relationships is in the form of migration.

Another reason given by the interviewees was a desire to move to European destinations and using experience gained in Pakistan as a stepping stone for a life elsewhere. F and R, who are in their late 20s, were very enthusiastic to '*enjoy living in modern, developed western countries*' as they have heard so much from other relative and friends in the Philippines who are working in US, Italy, France and other European countries. F said '*I don't ever want to return to Philippines...I want to go and work in America and this work experience in Pakistan will help me in getting a job there...I am saving money to get a US visa and pay to the agents.*' This shows that they come to Pakistan so that they can get some experience and save money to pay agents for obtaining employment in Europe or America. On the basis of work experience in Pakistan, they hope that one day they will be able to move to their desired destination. Pakistan, in this way, is a country of transition. They use it as a platform for seeking further opportunities in other parts of the world. In this way, their earning power is linked to migration to other countries and for family sustenance back home. From the interviews, it could also be gathered that most MFDW are overqualified for domestic service, but nevertheless were unable to find good jobs in the Philippines and so downgraded their social status as a result. The women try to resolve this conflict of class status by obtaining high salaries in Pakistan and thus, a higher standard of living for their families back home.

The data from the field suggests that MFDW are aware of some of the hardships of migration such as leaving behind their children and the fear of working with strange people in a strange and new environment but the element of freedom and liberation associated with migration has given them the strength to leave their own country. This sense of independence has played a vital role in empowering MFDW to make the decision about their future. Their decision to migrate demonstrates their ability to exercise agency to improve their family and children's welfare. This shows that MFDW have the capacity to make effective and informed choices about their lives and how they have transformed those choices into desired outcomes. In addition, this has increased their bargaining power within the household as they make the decisions how to spend the money. MFDW's decision to pursue livelihood opportunities in the global labour market and to leave behind young children as well as their dealings or negotiating skills with their employers, demonstrate the courage, resilience and strategies used by the migrant workers to cope with their personal and work related issues.

B. Is Employing MFDW A New Form of Social Stratification?

Employing MFDW has become a new form of social stratification in Pakistan and reflects the public contestation over the boundaries of class hierarchies. This was reflected in the interviews with some employers who justified the hiring of MFDW by arrogantly stating, '*We have the means and resources...we can afford to hire and pay them in dollars so why not enjoy better services.*' Another employer said, '*Well if we can buy foreign-made designer clothes and bags and import household goods...similarly we can get the foreign maids to do our chores.*'

It is interesting to note that on the one hand, the hiring of MFDW appears to be a status symbol that defines the modern middle-class lifestyle associated with social status, but on the other hand, there are a number of other reasons given by employers for hiring MFDW. An employer said *'People think that we employ foreign domestic workers because we want to show that we have money and we can afford to have foreign maids but this is not correct...the reason to employ [MFDW] is not primarily based upon the status quo and the desire to have a certain lifestyle, but purely on the basis of necessity, i.e. for safety and security of our children and ourselves. In recent years, there have been cases where local domestic workers were found involved in kidnapping, robbery and theft cases...so it is safer to employ foreign workers who do not have any local connections.'* Other reasons given were that MFDW are better trained, educated, clean, cheerful, and above all, they do their jobs more efficiently. These are some of the traits that give them an edge over their local counterparts. Another employer commented: *'I'm so relaxed since I have employed a Filipino...I don't have to stand on their head...once you have explained to them they will do their duty but with locals you have to repeat everything ten times before they understand...even little chores like dusting, washing milk bottles or sterilising bottles.'*

These responses show that the mere capacity to hire a migrant domestic worker defines an employer's class status where the state elite and the upper-class, in their pursuit of a modern lifestyle, try to justify the demand for MFDW. It also places the employer in a position of power in relation to workers and defines the employer's social superiority and class position. It also reflects that domestic service is increasingly being commoditised. The social construction of MFDW as commodities legitimises maltreatment of these workers.¹⁸ The commodification of domestic service also undermines the inherent value of care-work performed by these workers. In Pakistan, the employers are individual consumers who choose the right care for their children by employing more expensive MFDW. This has to be reshaped in order to provide better working conditions to MFDW and to strengthen and implement human rights protections for domestic workers. However the security concerns are also genuine to some extent in the light of the deteriorating law and order situation in the country, particularly in Karachi where kidnappings for ransom, robbery and theft with the involvement of some local domestic workers who are either part of the local criminal gangs or are hired by them to facilitate the crimes have become common. It means employing MFDW is, to a certain extent, due to a concern for the safety and security of the employers. However, for an ordinary Pakistani it remains a luxury they cannot afford, and thus they employ only the local domestic workers.

C. Job Contracts A Tool for Empowerment?

A major difference between local domestic workers and MFDW is that the MFDW have written employment contracts with their employers that put them in a stronger position as compared to local domestic workers who work without any written contractual agreement with their employers. Although the job contracts include a salary of US\$400, most of them receive only \$350/. These workers compromise on the salaries because they do not want to lose the opportunity of getting a job after paying fees to the agencies. They also know that if they refuse they will have to go back to Philippines where jobs are unavailable. This clearly

¹⁸ Williams, F. (2003) 'Trends in Women's Employment, Domestic Service and Female Migration: Changing and Competing Patterns of Solidarity', in T. Knijn and A. Komter (eds) *Solidarity between the Sexes and Generations: Transformations in Europe*. Cheltenham: Edward Elgar. pp. 205–18

indicates that the very absence of labour protections, combined with the economic insecurity of the workforce and the influential position, gives employers the upper hand to negotiate terms of employment.

Clause 15(h) of the job contract states that the employer will pay 500 Rupees per hour as overtime and a monthly food allowance. In most cases, the monthly allowance is paid to purchase groceries for their own meals. G told me that her employer pays her 1500 Rupees every two months to get her groceries. Compared to G, K and M reported that initially they were not paid the food allowance, but after demanding it from their employers because it is stated in the contract, the employer, after a long delay, finally paid the allowance.

MFDW are also entitled to a month off with pay and after every two years, they can visit their families in the Philippines and the employer pays for their airfare. However, J and N complained that when they wanted to go home after two years, their employers refused to send them. Upon refusal, J told the employer that as per terms of the contract they cannot refuse her annual leave and when she warned them that she will complain in the embassy and to the agent only then they allowed her to avail annual leave.

It is interesting to note that employers, despite violating the terms and conditions of the contract, were still very much in favour of contracts. One employer was of the view that as MFDW *'have signed a written contract which requires a one month notice period; therefore, their chances of disappearing or leaving the job without prior notice are much less as compared to local domestic workers.'* In their interviews, they emphasised the need for having such contractual arrangements with local domestic workers as well. They consider that if they have written contracts and if both local and migrant domestic workers are registered at the local police stations or with their embassy then at least checks will be carried out on them. However, it was ironic that they value contracts only from their own security point-of-view and not as an obligation between the employer and employee. The employers should abide by the terms of the employment contract and if they trust MFDW, then they should reciprocate this by treating them in a dignified way.

The experiences of MFDW discussed above demonstrate that MFDW have the ability to pressure the employers to abide by the terms of the written employment contracts. Employment contracts, though partially followed and largely unenforceable, are still a crucial tool for protecting MFDW rights and for empowering MFDW since they provide a written record of the scope of work, as well as standing arrangements regarding pay, benefits, and work schedule. To improve the working conditions of MFDW, the most basic step should be enforcement of employment contract. A contract defines the terms of employment, formalizes the employment transaction and signifies that domestic work is an employment relationship. Contracts benefit both employers and employees, specifically in the absence of effective laws governing employment relations in the private sphere, a contract becomes the principal means through which both parties can implement their rights and duties towards each other. Standard written contracts are commonly required under national legislation or under bilateral agreements as memoranda of understanding between sending and receiving countries. South Africa's Sectorial Determination 7 requires that employers of domestic workers provide the latter with detailed terms and conditions of their employment in writing. France's collective agreement requires written contracts. In Pakistan there is a strong need for more robust enforcement mechanisms to ensure that employment contracts are upheld by both parties. This can be complemented by other measures, such as the registration of MFDW at the Philippines Embassy and Consulates which would help in identifying irregular

workers. Countries like Thailand and Hong Kong have already put in place registration policies and programmes for migrant workers. The data collected from the field shows that many obstacles remain to the full enjoyment of this right.

D. Harassment at the Workplace:

In their interviews MFDW shared their experiences of harassment at the hands of employers. G, came to Pakistan 10 years ago, started her first job with a politically-influential family in the province of Balouchistan. While narrating her experiences she told me that her employers *'treated her as a slave...They made me work from 5 o'clock in the morning till late at night...I was not allowed to cook food for myself and by eating spicy food I got ill...when I told my employer that I was sick she didn't take me to the doctor and gave me some medication herself...I had to wash all their clothes with my hands...I was not allowed to use washing machine and one day I was verbally and physically abused by my employer's daughter when I refused to wash heavy curtains with my hands...that was the day when I decided to quit job...I told her that you pray five times a day but you don't follow the teachings of your religion how to treat other human beings...I'm not an ignorant person like your other employees, I have read about your religion and it teaches kindness and humanity...I told my employer that I don't want to work with her anymore... on hearing this she became furious and she refused to give me my passport...she told her guards to keep a strict eye on me so that I may not run away...it was living in torture cell...after two months, I managed to call my cousin in Lahore who runs an employment agency...she informed the Philippines Embassy and that is how I was rescued...and came to Lahore where I stayed for two months with my cousin. It took me a while to recover from that traumatic and shocking experience.'* G's experience shows how employers objectify, demean, command, and control domestic workers. However being an educated person she was able to use a religious argument to claim fair and just treatment from her employer. She used her knowledge to defend herself against abusive treatment. Another worker, J, reported sexual abuse by the former employer when his family was away on holiday. The forms of abuse ranged from giving a body massage to forced sex. Upon her resistance, he threatened to fire her and to lodge a false complaint of theft in the police station. As J's passport was with the employer and due to the threats she was too scared to leave the house. With the help of another Filipino, who was working with her employer's friend, she reported the matter to the Philippines Consulate. Upon the Consulate's intervention, she was able to get her passport back. The employer has now been blacklisted by the Consulate and can no longer hire any MFDW. This case is another example of the struggle and resistance by the MFDW against the oppressive employers. Her resistance negates the image created of domestic workers as those who always silently endure abusive conditions of employment. MFDW are not the passive recipients of their employers' abuse and they react in various ways to challenge employers' attitudes and the consequent treatment of these workers as lesser human beings. Despite all odds MFDW have been determined and they do not succumb to the dominative and exploitative aspects of un-legislated domestic service. As in Chin's words(2002) *"...denial of civil political rights does not necessarily preclude the fact that foreign female domestic workers can be political actors who engage in different forms of resistance that challenge or renegotiate employer/employee relations"*.

However not all workers face abuse and by no means are all employers 'bad' employers. Many abide by common standards of decency, and they treat their domestic workers with dignity and respect. This has an impact on MFDW' decision to stay in overseas domestic service and they consider domestic service as a gainful employment.

Nevertheless, such incidents signify the need for specific legislation. Legal framework to protect both local and migrant domestic workers need to be put in place that should include enforceable standards regarding wages, terms of employment, working hours, and safe working conditions in the workplace. It is also important that all workers must be documented and the embassies/consulates should have a complete record of the employers and employees so that they can receive protection in case of exploitation.

E. Support Networks:

Filipino workers have formed a Progressive Filipino Society Pakistan, which is a network of various categories of Filipino employees working in both formal and informal jobs in Pakistan. This organisation arranges various activities for Filipinos and also helps them if they have problems with their employers. In Karachi at an informal level, MFDW have formed their own network. Under this network they organise events on Christmas and Easter, raise small funds to support Filipino workers who lose their jobs, and coordinate with the Philippines Embassy in relation to other Filipino workers' employment and visa issues. This is an example of women's collective agency and how women can influence their environments through their participation and action to support their co-workers. However, there is a stark absence of unions and other supportive alliances and networks that can fight for the rights of domestic workers in Pakistan. The right to form trade unions is recognised and guaranteed, not only in the main human rights instruments, but also in ILO Conventions No. 87 and No. 98. Pakistan is also a party to the 1948 Freedom of Association and Protection of the Right to Organise Convention (No. 87) and the 1949 Right to Organise and Collective Bargaining Convention (No. 98).¹⁹ Despite being a party to these two significant conventions there are no unions or any other organisations that provide support and protection to workers. In Pakistan, for instance, Article 17 of the Constitution provides for the fundamental right to exercise the freedom of association and the right to form unions, but this constitutional right has been restricted as the minimum number required to form a union is 40. As a result, only 2.4% of the labour force is unionised and has access to collective bargaining for their wages and working conditions, but domestic workers, both local and MFDW, do not have any organisational representation in the form of unions and associations in Pakistan. Viewing MFDW as women with voice and agency, rather than as passive victims, allows the rights of such workers to be heard and respected, rather than repressed by the receiving state.

To provide a secure working environment for both migrant and local domestic workers, there is a strong need to organise and support them through the creation of networks and alliances. Representation through trade unions and the right to a collective voice at work are an important means through which migrant workers, just like other workers, can secure additional labour and employment rights. Local NGOs, labour organisations, and unions can play an important role in organising domestic workers and expressing solidarity with domestic workers is fundamental for upholding the decent work agenda. There are a number of organisations working worldwide to support migrant domestic workers. MIGRANTE International is a global alliance of overseas Filipino organisations and 'Migrant Forum in

¹⁹These Conventions protect workers and employers who exercise the right to organise, forbid interference in the activities of workers' and employers' organisations, and promote voluntary collective bargaining. The principle of 'freedom of association' is recognised as a means of improving conditions of labour and of establishing peace.

Asia' is a regionally centred organisation providing support to migrant workers from different countries in the Asian region. Similarly, in Thailand the 'Action Network of Migrants' is a coalition of nine NGOs who are working together to improve the status of migrant workers in Thailand. In India, the National Domestic Workers Movement is an organisation providing support to domestic workers for the past fifteen years. Whereas 'Kaalyaan' in the UK, 'RESPECT' in the European Union countries, and 'National Domestic Workers Alliance' in the US are providing support to domestic workers. The contribution of these organisations has shown that NGOs can also play a crucial role in lobbying and pressuring governments to comply with international human rights and ILO labour standards.

IV. Legislative and Policy Recommendations

The increase in female migration and the nature of domestic work as performed in the privacy of homes constitute a major challenge to the protection of human and labour rights of domestic workers. Domestic workers are denied labour rights such as collective bargaining, fair wages, decent working conditions, and security of earnings. Without doubt the most challenging aspect of domestic work and especially for live-in workers is the high exposure to workplace physical, mental, and sexual abuse and violence. Despite all odds and being subjected to discriminatory treatment, women migrant domestic workers have been determined in their struggle to support their families and to achieve a better living standard for them. MFDW's decision to pursue livelihood opportunities in the global labour market, their dealings or negotiating skills with their employers, and migrant workers capacity to alter gender power relations back home, show that if policies and legislative frameworks are put in place, they have the strength and courage to deal with their personal and work related issues.

The Philippines has signed and ratified the Convention,²⁰ and it has enacted 'The Domestic Workers Act' in 2013. 21 It is a landmark piece of labour and social legislation that extends labour rights, benefits, and protection to an estimated 1.9 million domestic workers in the Philippines. The Act provides for the protection of domestic workers against abuse, debt bondage, and worst forms of child labour. It sets minimum standards for wages, hours and days of rest, and other benefits. Furthermore, it extends social security and public health insurance to the sector and provides for mechanisms for quick response to abuses and accessible means to redress grievances. The measures taken by the Philippines government reflect that if strong monitoring mechanisms are put in place, they can play an important role in persuading governments to undertake measures for protecting the rights of migrant workers.

In the context of Pakistan, the most important step is to include domestic workers within the definition of the term 'worker' under labour laws, draft specific legislation for domestic workers that can be extended to migrant workers. The nature of domestic work necessitates the need for specific legislation which would help in regulating the relationship between the employer and employee in terms of abiding by the employment contracts, fixing of wages,

²⁰Ten countries have ratified the Domestic Workers Convention: Uruguay, Philippines, Mauritius, Nicaragua, Italy, Bolivia, Paraguay, South Africa, Guyana, and Germany

21 The Act Instituting Policies for the Protection and Welfare of Domestic Workers (Republic Act 10361), also called the Domestic Workers Act, signed into law by President Benigno Simeon Aquino III on 18 January 2013.

setting limits to daily and weekly hours, regulating overtime, and paying compensation in the form of normal wages plus a premium either in monetary form or additional rest and time off in accordance with the provisions of the Domestic Workers Convention.

Documentation of all domestic workers is another important step. The National Database and Registration Authority (NADRA) has issued registration forms to the residents of the capital city Islamabad on the orders of the Ministry of Interior to collect data about people employed across the city as domestic workers. The form includes questions related to the employee's nationality, nature of the work and other personal details. This programme needs to be extended to other big cities, in particular Karachi and Lahore, where a large number of MFDW are employed.

Another important step is that Pakistan has to ratify both the ILO Domestic Workers Convention and the UN Convention on Migrant Workers. Pakistan has to initiate policy action for domestic workers as the expressed will to do so was reflected in June 2011 when all three members from Pakistan voted in favour of ILO Convention 189. Moreover, Pakistan is a party to the ILO Discrimination (Employment and Occupation) Convention of 1958 (No. 111) and the ILO Equal Remuneration Convention of 1951 (No. 100). As nationality is not listed among the grounds of discrimination expressly prohibited by Convention No. 111, therefore Pakistan is bound to extend protections available under these two instruments to MFDW. Ratification of these international instruments can play an important political and strategic role in campaigning for migrant workers' rights. It can enable civil society organisations to raise awareness and speak more forcefully about the rights of migrant workers. The historic Convention No. **189** and Recommendation No. 201 enrich our understanding of labor rights as human rights especially from the point of view of a historically marginalized group of workers who can now claim a substantive equality-based right to inclusion in the corpus of international labor law and national labor regulation. Most importantly domestic workers themselves have been part of the tripartite process of drafting this ILO Convention 189 therefore their participation in the process is perhaps the strongest reason to keep critical skepticism in check and to work to ensure that the provisions of this Convention and Recommendation are incorporated in the national labour laws.

Pakistan has a commitment under its own constitution to provide protection to women from all kinds of discrimination and harassment and to ensure dignity of labour. The women-specific articles in the Constitution are generally articulated as a need to protect women, as women are bracketed together with children and other disadvantaged groups of society in need of special protection by the state.²² These constitutional provisions suggest that the state must enact legislation and create institutions through which workers' rights can be protected and dignity of labour can be ensured for all workers irrespective of gender, race, class, or religion. However, any piecemeal effort is not going to end discrimination nor would it help in achieving equality. There is a need to recognise the work women do and the contribution they make in the form of both paid and unpaid labour.

Finally, a concerted effort on the part of labour unions and civil society organizations is needed to organize domestic workers and to raise awareness through media campaigns for

²²For details, see Article 25, 27,34, 35, 37(e)

recognition of domestic work as a service industry. These are some of the crucial steps that need to be taken so that both MFDW and local domestic workers can enjoy the full range of human rights entitlements— legal, civil, political, cultural, social and economic.