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RESPECT Network: Campaigning for the Rights of Migrant Domestic Workers in Europe & Internationally

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CONFERENCE: ALLIANCE AGAINST TRAFFICKING IN PERSONS

Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude

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Theme panel discussion: Lessons learned, Ways Forward & Next Steps

Acting Together for the Protection of the Rights of Migrant Domestic Worker: Migrant Domestic Workers' perspective

1. INTRODUCTION

Greetings to everybody!

My name is Petra Snelders and I am a member of the organization RESPECT NL, a network of migrant domestic workers in the Netherlands which also has the support of several human rights advocates and NGO's. We are a member of the European Network RESPECT, which includes migrant domestic workers organizations, migrant and human rights organizations, Trade Unions and NGO's based in most of the EU countries.

Our overall objective is to improve and strengthen the social, economic and legal position of the growing number of migrant domestic workers (MDWs) who work in private households as cleaners and/or as caretakers, women and men, regardless of their immigration status.

In the last decades, MDWs in the private household in Europe and their living and working conditions have gained increasing attention – not only within migrant communities, but also from human right advocates, trade unions, women's networks, scholars, media and policy makers.

Global and regional developments have contributed to this: the importance and consequences of the rapid globalization of economies worldwide; its impact on changing labor and social conditions in Europe and labor migration; and the unequal Nord-South divide and the continuing "demand" and "supply" dynamics between North and South on political and economic level. Furthermore, there is the double standard vis a vis labor migration in Europe, where on one hand there is a significant employment of MDWs in the private household, but on the other hand this is not duly acknowledged. In fact what we see is the denial of their labor and immigration rights, with the result that many migrant domestic workers are becoming "undocumented".

But the higher level of attention for domestic work in the private household is also enforced by migrant domestic workers themselves. In the last decades successful campaigns have been undertaken in several European countries (as in case as in UK, Spain, Italy, Greece) by migrant

domestic workers, together with migrant communities, trade unions and migrant right advocates. Those campaigns have successfully challenged the immigration legislation and gained recognition for the work in the private household as a category for migration. In the UK for example a lengthy campaign by KALAYAAN (member organization of RESPECT) and the Trade Union, brought changes to the immigration rules for migrant domestic workers in 1997. MDWs in the UK are now recognized as workers in the UK, with an independent immigration status and the right to change employers. Unfortunately because of the restrictive political climate in the EU member states regarding immigration today, some of these successes are put under pressure again.

It is even more important however to note that migrant domestic workers through these campaigns put their exploitative living and working conditions on the political and public agenda. They broke the wall of invisibility and they started to raise their demands in the political arena – to trade unions, to national governments, to the EU, the UN and most recently to the ILO.

2. DEMAND FOR MIGRANT DOMESTIC WORK IN EUROPE

Increasingly extra provisions for domestic and care work in the private households in Europe becomes more and more essential. A growing number of women are working outside the home. But there are not enough adequate provisions put in place to support the families to combine the work inside and outside the home. Also more and more elderly and disabled people who want to remain living independently in their own home are relying increasingly on the domestic and care work performed by migrant domestic workers. Previously, they received support from their – mostly female – relatives and from subsidized aid through the health care system. Today, most of their female relatives lack the time to support them. Besides as a result of the financial cuts in the health care system, it is more difficult to receive sufficient subsidized support. Therefore, today many European households are increasingly dependent on domestic workers and more and more families are paying for household services where previously they had relied on unpaid family labor.

However, although more and more European households are dependent on domestic workers, there is a shortage of workers in the European states who can or are willing to do the job. Governments are repeatedly stating that there are enough people available, either in the national state, or in one of the other EU states. For this reason governments are unwilling to change the immigration law in favor of non-EU migrant domestic workers. Despite this, attempts to mobilize for example the long-term unemployed have failed – as research has showed, either because some unemployed refuse to do the work because of its low status, while others their contracts were terminated because their employers were dissatisfied with them. There is a longstanding misconception that domestic work is unskilled and everybody can perform it. But in fact, it requires considerable social skills, organizational talent and resourcefulness, especially if there are several employers involved.

So what we witness today in Europe is a significant restructuring and re-division of reproductive and care labor. However, this reality is not matched by the development of a coherent strategy in the EU states or from the EC itself around immigration and domestic work, childcare or eldercare.

We can ask if a consequence of this shortage of domestic and care workers is related to an increase of more forced domestic servitude in Europe. In RESPECT, we don't think so, but maybe more research has to be done on this. What we do see is that more and more employers are finding other solutions - for example using the au-pair system, or hiring workers without a valid residence and working permit.

3. WHO ARE THE MDW'S

Because there is no coherent strategy developed around immigration and domestic and care work, migrant domestic workers have a wide range of immigration statuses.

Some of them work as live-in, for example au-pairs or domestic workers working for diplomats or expats. They all are extremely dependent on their employers, because their immigration status is dependent on their employers. However, many migrants are also living-out and making a living by working for several employers.

Some of them have a work permit that allows them to work as a domestic worker in private households, as in the case of Spain and Italy. Others do have a residence permit, but are not allowed to work, such is the case as of tourist visa holders or migrant students who are working more hours in the week than is permitted.

And many of domestic workers are undocumented. They came to Europe with legally, but overstayed their temporary visa. Others lost their residence permit, as in case of women with a dependent residence permit who left their husbands – or were left by their husbands - before they could acquire an independent residence permit. Or they are refugees who were not granted a refugee permit, but stayed in Europe out of fear for their safety when they should return to their home country.

A majority of the domestic workers are female, but also more men are entering the workforce as domestic workers, especially because this is one of the few ways to earn a living as undocumented.

That many of the migrant domestic workers once were regular migrants, but became in time undocumented, is one of the reasons that they don't identify themselves as victims of trafficking. But their work is unprotected and their exploitation often invisible.

4. PROBLEMS FACED BY MDWS IN THE EU

The work of domestic and care services in the private home is categorized mainly as “unskilled” and is therefore in many European countries not recognized as a category for immigration. Hopefully this will change with the upcoming ILO convention of Domestic Work. Work in the private home is highly unregulated. In this context, the worker is faced with an unsustainable status as a worker and frequently becomes undocumented. And because of this lack of legal security, it is notoriously open to abuse and to violation of basic human rights, as has been well documented.

The working and living conditions of MDWs are highly vulnerable and subject to systematic violation of their labor and human rights. Violations such as no written contracts, no social benefits, no health insurance, job insecurity, multiple part-time jobs when “live-out”, total availability when “live-in”, no work – no pay, total dependency on the employer's goodwill, psychological, physical and even sexual harassment, fear to protest, and living in a constant fear of apprehension, detention and deportation.

Also for documented migrant domestic workers there are structural reasons why they are vulnerable, particularly when their immigration status ties them to a particular employer. It means that they are dependent on the employer, not just for work, but also for their continued stay in the EU.

To some extent domestic work is included in labor laws and legislation and in most countries the labor laws are in principle for every worker, regardless of immigration status. But only a few of the migrant domestic workers will take advantage of their labor rights, because of fear of deportation. All these factors combine to make migrant domestic workers – documented and undocumented - a particularly vulnerable group of migrants.

The measures necessary to protect migrant domestic rights are no secret. These include extending equal protection under labor laws, adopting and enforcing standard employment contracts for migrant domestic workers, removing restrictive and discriminating immigration and labor laws, a decoupling between labor inspections and immigration control, and last but not least creating local employment opportunities in the countries of origin, so that domestic workers migrate out of choice and not out of desperation. But much of these assume that governments recognize and value domestic work as work.

5. STRATEGIES DEVELOPED BY MDWS

So in general, the cause of the problems of the systematic abuse that many migrant domestic workers are facing in Europe, are primarily rooted in their unsustainable immigration status. Unlike victims of trafficking, many of them were not violently forced or falsely seduced to come to Europe for forced labor. Therefore their problems and needs are also different from those of trafficked women and men. And consequently, so is the analysis of their problem and the right solutions for it. The use of anti-traffic or anti-smuggling policies is therefore not the strategy and approach that RESPECT has chosen. Instead, our campaign is based on empowerment from the framework of a rights-based approach. Actual access to their workers' rights and women's rights, would give migrant domestic workers the tools to strengthen their position, improve their living and working conditions and to stand up against exploitation and abuse.

In this context, it is also relevant to indicate that migrant domestic workers don't identify themselves as victims of trafficking. The dominant image of migrant women within the concept of trafficking is the one of a victim. That is not how migrant domestic workers perceive themselves or want to be perceived by others. They see themselves as self-conscious migrants who know very well about their economic relevance for as well the sending countries as the receiving countries. A rights-based approach acknowledges the importance of the economic and social contribution that migrant domestic workers deliver to European households and with that to the European society at large. It acknowledges also migrant domestic workers as active agents with a voice articulating their demands. The rights-based approach also leads to emancipatory and empowering processes. It also stimulates mobilizing action among each other and lays the basis for MDWs to become a force of self-support and political activism.

Furthermore, there is a radical difference in concerns and agenda's between the interests of migrant domestic workers and the states interests in developing more restrictive approaches to migration in general and in fighting irregular migration. Also often there is a difference with the concerns and agenda's of anti-traffic organizations. One important difference is the question of regularization of undocumented migrants. While the RESPECT network argues in favor of this, the anti-traffic approach favors the demand for a temporary residence permit on humanitarian grounds, and which does not include work permits. Without diminishing the importance of prevention and protection of victims of trafficking, over-emphasizing trafficking – and smuggling – in the discourse of labor

migration and migrant domestic work is in our view counterproductive in the fight for human rights and weakens the position of migrant domestic workers living and working in Europe.

The RESPECT Network facilitates the empowerment of migrant domestic workers working in private households, as main actors in the campaign for their rights as a sector and the importance of strengthening the immigration and labor rights of migrant domestic workers. .

As a common campaign strategy, and also therefore incorporating our key recommendations, RESPECT member organizations pursue the following specific objectives:

- Recognition of work in the private household as a proper, regular work with specific qualifications and competences.
- Ensuring the protection of all rights of all migrant domestic workers as workers, whether they live-in or live-out, regardless of their immigration status.
- Putting in place an immigration status related to their work as migrant domestic workers.

From our campaign perspective, the following are essential components of our strategies at the national, Europe-wide and international levels:

- Strengthening the self-organization of migrant domestic workers as a principal actor in the campaign.
- Innovating our methodologies of awareness-raising and advocacy to bring the often invisible issue of migrant domestic work into the public arena.
- Pursuing a new level and mode of policy dialogue between migrant domestic workers and “experts” in the policy arena towards mobilizing academe in developing long-term advocacy strategies.
- Joint initiatives and campaigns with Trade Unions, which results in better protection for the labor rights of migrant domestic workers and for the regularization of their immigration status.
- Promoting transnational organization – and alliance-building across migrant domestic workers from different countries and continents.
- Giving visibility to migrant domestic workers organization as transnational social actors and agents of change in labor- receiving and –sending countries.
- Promoting participatory methods of research that facilitate migrant domestic workers to be subjects and actors in the research, and not only objects and consumers.
- Implementing, together with migrant domestic workers, advocacy and lobby work strategies on rights of migrant workers in the domestic sector towards policy in government and other relevant institutions at national and European level – parliament, media, the UN and the ILO.

Finally, of course RESPECT values very much the positive contribution of the OSCE in the fight against trafficking and domestic servitude. For the protection of migrant domestic workers however, we advocate strongly for further policy coherence that will address a crucial gap in the policy context of migrant domestic workers, e.g. recognition of domestic work as a proper work and a category for migration.

Thank you for your attention....

RESPECT NL, Petra Snelders, June 6th, 2010