Strategy for the Protection and Promotion of the Rights of Migrant Domestic Workers in Cyprus
AMEL Association International (Lebanon) and AEQUITAS (Cyprus) implemented the project ‘Act Now for the Migrant domestic workers in Cyprus and Lebanon.’

The project, which was funded by the Anna Lindh Foundation, commenced in August 2013 and ended in July 2014 and aimed at enhancing the protection offered to this group through the creation of new opportunities of dialogue and action involving NGOS, authorities, Migrant Domestic Workers (hereinafter MDWs) and local communities.

More particularly, the project influenced and informed policy makers on the ratification of international human rights treaties enhancing the protection of MDWs and improved the perception of MDWS in local communities.

To achieve these objectives, the project incorporated an array of activities, namely, field visits in both countries, training of trainers on the rights of MDWs, awareness sessions for MDWs and employers, the preparation and screening of a documentary on the subject as well as the formulation of this strategy which emanated following a workshop with key stakeholders and organizations.
This strategy has been printed in Greek and English and will be disseminated to competent authorities and organizations. It should be noted that a strategy particular to each partner country has been formulated.

The overall aim of the strategy paper is to provide an overview of the theoretical and legal framework of the rights and obligations of MDWs, as these emanate from national and international laws and policies, to provide a succinct appraisal of the central problems MDWs face in Cyprus, to outline the key recommendations made by the participants of the Stakeholders’ workshop in relation to means and methods of promoting MDWs rights in Cyprus, to outline the role of competent authorities, non-governmental organizations and other bodies in the adoption of these recommendations and, finally, to pinpoint the lobbying strategy adopted for the promotion of this document on a national and local level.

We hope that competent authorities, NGOs, charitable organizations and other relevant bodies and individuals find this strategy paper to be a useful tool for the promotion and protection of the rights of MDWs in Cyprus and that policy makers as well as other organizations, as described below, take concrete steps and measures to take into account and implement the recommendations set forth herein.
AEQUITAS is a non-partisan, non-profit organization dedicated to the promotion of Human Rights Education, Citizenship Education and Intercultural Education in Cyprus. AEQUITAS' vision is to contribute to the creation of a society in which human rights are understood, protected and promoted with a view to strengthening the respect for human rights and fundamental freedoms, cultivating a sense of value for human dignity, ensuring gender equality in all spheres, achieving respect for cultural diversity, empowering people to become active citizens and, moreover, enhancing principles such as democracy and solidarity.

AEQUITAS' mission is to implement all its activities on the basis of human rights principles as enshrined in the International Bill of Human Rights and other International and European Conventions on issues pertaining to human rights. Moreover, AEQUITAS seeks to raise awareness and educate individuals and groups on issues pertaining to human rights, intercultural dialogue and citizenship.

AEQUITAS has implemented an array of educational, capacity building as well as advocacy and lobbying activities and projects funded by institutions such as the European Commission, the Council of Europe, the Open Society Foundations and the Cyprus Youth Board. For any further information on AEQUITAS please visit our website at www.aequitas-humanrights.org.
The last official figures of the Civil Registry and Migration Department in April 2013 showed that there are approximately 30,000 regular domestic workers and approximately 30,000 irregular domestic workers living in the Republic of Cyprus. Their countries of origin (in order of population in Cyprus) are the Philippines, Vietnam, Sri Lanka, India and other countries such as Nepal. They make up approximately 50% of the migrants who reside and work in Cyprus. The key obstacles and violations suffered by MDWs in Cyprus have been outlined in a 2013 Ombudsperson report on the issue.

More particularly, the Ombudsperson noted the following issues:

★ The disregard of the gender dimension of domestic work;
★ The sexual harassment of domestic workers in their workplace;
★ The content of the Contract of Employment;
★ The prohibition to form a trade union;
★ The limited access to health services with an emphasis on sexual/reproductive health and protection of motherhood;
★ The problematic nature of the examination procedure for labour disputes;
★ The arrest and detention of domestic workers with a pending labour dispute case or during the time of sending a complaint;
★ The inability to track exploitation practices which could potentially constitute trafficking in persons for purposes of labour exploitation.

Following deliberations with around 100 MDWs during the programme, AEQUITAS has produced a list (in no particular order) of the central problems this group of people face as expressed by them.

Please note that this list is by no means exhaustive but denotes some of the key obstacles and problems faced by this community. Furthermore, this list exists in addition to general observations made by MDWs in relation to the general discrimination they face in Cypriot society as outlined hereinafter.
Long working hours in contravention of contractual obligations

The working hours, namely 7 hours per day for 6 days per week as provided for by the contract, are not followed by the employer in a large majority of the cases discussed, with MDWs working an average of 14-16 hours per day. In addition, a large number of MDWs we spoke to do not enjoy their annual leave or enjoy only part of it, are not granted a day off on public holidays as provided for by the contract, are not granted sick leave and are sometimes prevented from taking Sunday off.

Further, the long working hours are not only spent within the employer’s home, as provided for by the Contract and a relevant Annex thereto, given that the employees are often told to work in the homes of family members, friends, neighbours and the office of the family business.

Dependence on the employer

The participants of the project activities noted that, when their employer requests them to work extra hours or in another place other than the family home, it is virtually impossible for them to say no to this request given that they are completely dependent on their employers for pay, lodging and food.

Accommodation

The preceding point is interrelated with the issue of accommodation. MDWs usually reside within their home and although the majority referred to a clean and safe private room, they would much prefer to live outside the employer’s house. They felt that residing in the employer’s home means that they are effectively on call around the clock and are more vulnerable to abuse, unanimously underlining that they would definitely prefer to reside outside the employer’s home.
MDWs referred to the lack of health rights they have in Cyprus particularly in the field of gynecological rights given that they are not entitled to treatment for gynecological problems or gynecological tests, placing them in a vulnerable position in relation to the treatment and prevention of gynecological problems and related diseases.

**Low wages or non-payment of wages**

MDWs noted that the wage they are paid is low in comparison to the hours of work and type of work conducted by them. They also referred to a non-payment of wages in certain circumstances.

**Confiscation of passport**

The large majority of MDWs who took part in this project noted that their passport and other important documents are arbitrarily taken by the employer who keeps them. They underlined that this limits their right to personal property and renders them even more dependent on their employer.
Human Rights and related principles including non-discrimination and equality are incorporated in documents such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

As well as these founding documents, other relevant Conventions which are directly relevant to MDWs include the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the United Nations Convention against Transnational Organized Crime and, in particular, its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and its Protocol against Smuggling of Migrants by Land, Sea and Air as well as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

It is beyond the scope of this paper to examine all the above in detail and so it will simply provide an overview of the Migrant Workers Convention as well as two documents formulated by the International Labour Organization which are of particular relevant to the topic herein.
THE INTERNATIONAL CONVENTION ON THE PROTECTION OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES (1990)

This Convention applies to all migrant workers and members of their families with no distinction on the grounds of sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status. It incorporates an array of significant human rights but, for purposes of this strategy, some rights which are particularly relevant to the situation of migrant domestic workers are underlined. More particularly, the Convention provides for the freedom from slavery and servitude, prohibits torture or cruel, inhuman or degrading treatment or punishment, prohibits the arbitrary detention of property, guarantees the right to liberty and security of persons, safeguards the equality before courts and tribunals, underlines that migrant workers and their families shall enjoy equal treatment to State nationals in respect of remuneration and health services and provides them with the right to take part in meetings and activities of trade unions and other associations established in accordance with law. It must be noted that Cyprus has not yet ratified this Convention.

CONVENTION CONCERNING DECENT WORKING CONDITIONS FOR DOMESTIC WORKERS (No. 189) (2011)

This Convention defines a domestic worker as ‘any person engaged in domestic work within an employment relationship.’ It provides domestic workers with an array of rights which are particular to their stay in Cyprus. Notwithstanding that the Convention in its entirety is significant in relation to the amelioration of the situation of MDWs in Cyprus, we pinpoint certain articles and provisions which are particularly relevant.

Namely:

* Freedom of association and the right to collective bargaining;
* The elimination of all forms of forced or compulsory labour;
* The elimination of discrimination in respect of employment and occupation;
* Effective protection against all forms of abuse, harassment and violence;
* Fair terms of employment and decent working and living conditions;
* Adequate information of the terms and conditions of employment;
* Right to keep their travel and identity documents;
* No obligation to remain within the household during periods of daily and weekly rest or annual leave;
* Weekly rest shall be at least 24 consecutive hours;
* Enjoyment of minimum wage coverage;
* Equal treatment in relation to social security rights including those related to maternity.

This Convention has not yet been ratified by Cyprus.
This Recommendation supplements the Domestic Workers Convention referred to above and should be considered in conjunction with it. The provisions set out in this Recommendation provide ideas and solutions in relation to the effective implementation of the Convention’s provisions. For example, in relation to the freedom of association, it underlines that member States should identify and eliminate any legislative or administrative restrictions or other obstacles which prevent the exercise of this right and strengthen the capacity of such organizations.

Several other recommendations are incorporated in relation to topics such as the elimination of discrimination, medical testing of domestic workers, understanding the terms and conditions of employment, protection of domestic workers from abuse, harassment and violence, working hours and rest and adequate remuneration.

As well as the before-mentioned three documents, several others have been formulated in the framework of the rights of MDWs such as:

- The ILO Declaration on Fundamental Principles and Rights at Work, 1988
- The ILO Declaration on Social Justice for a Fair Globalization, 2008
- The Migration for Employment Convention (revised), 1949 (No.97)
- The Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143)
- The Workers with Family Responsibility Convention, 1981 (No.156)
- The Private Employment Agencies Convention 1997 (No.181)
- The Employment Relationship Recommendation, 2006 (No.198)
In January 2014, the EU Council of Ministers authorized EU member States to ratify the Domestic Workers Convention, noting that it contributes to the EU’s Strategy toward the Eradication of Trafficking in Human Beings. Germany and Italy have ratified the convention and other EU states are in the process of doing so.

**Council of Europe**

The Parliamentary Assembly of the Council of Europe adopted Recommendation 1663 (2004) - Domestic slavery: servitude, au pairs and 'mail-order brides' which provides the following recommendations to the Committee of Ministers in relation to domestic workers. More particularly, it should promote:

The recognition of domestic work in private households as “real work”, that is, to which full employment rights and social protection apply, including the minimum wage (where it exists), sickness and maternity pay as well as pension rights.

The right to a legally enforceable contract of employment setting out minimum wages, maximum hours and responsibilities;

The right to health insurance;

The right to family life, including health, education and social rights for the children of domestic workers;

The right to leisure and personal time;

The right for migrant domestic workers to an immigration status independent of any employer;

The right to change employer and to travel within the host country and between all countries of the European Union and the right to the recognition of qualifications, training and experience obtained in the home country;

The introduction of a system of accreditation for agencies placing domestic workers.
National Level

The Aliens and Immigration Law 1972 to 2011 and the Aliens and Immigration Regulations 1972 to 2013, which regulate, among other things, the conditions for entry, registration, residence and deportation of immigrants.

The Criteria for the Employment of Migrants agreed between social partners and approved by the Ministerial Cabinet in 1991 and the Strategy for the Employment of Foreign Labour in Cyprus in 2007. The general principles governing these texts are:

* Equal treatment with nationals in relation to the terms and conditions of work;

* The implementation of local and European Community preference.

PROTECTING THE RIGHTS OF MIGRANT DOMESTIC WORKERS

Human Rights are inalienable, interdependent and interrelated to be enjoyed by all with no discrimination.

As a result, the protection of the rights of migrant domestic workers is, per se, an issue of particular significance to the promotion of human dignity and equality.

Cyprus, as a member of the European Union and Council of Europe, is obliged to protect and promote the rights of all persons residing in its territory and must take the necessary measures to ensure this objective.

Moreover, topics relevant to the rights of MDWs such as the freedom from slavery and forced labour, torture, inhuman and degrading treatment, arbitrary detention as well as the right to a fair trial, the right to an adequate standard of living, the freedom of movement and the freedom of association are all provided for under European and international documents which Cyprus has ratified and, thus, is obliged to ensure these rights and freedoms to people residing in its territory.

The situation of MDWs living in Cyprus is particularly difficult given their complete dependence on their employers and their residence within their employer’s home, factors which make them more vulnerable to exploitation and abuse with limited opportunity to seek assistance and redress.

Thus, all competent authorities, organizations and individuals must take the particular circumstances of this group of people and take adequate measures to protect and promote their rights.
With a view to improving the situation faced by MDWs in Cyprus and ensuring the protection and promotion of fundamental human rights and freedoms, this strategy puts forth several recommendations to this end. These are presented according to the body or institution which they are directly related to.

However, for effective solutions to be found to the central problems and for a culture whereby the rights of domestic workers are understood, respected and upheld on all levels, a multi-partite and inter-disciplinary approach must be adopted.

**Cyprus Government**

Immediate ratification of the International Convention on the Protection of All Migrant Workers and Members of their Families (1990) and measures to ensure that national laws, policies and practices are in line with the provisions therein;

Immediate ratification of the ILO Domestic worker Convention and measures to ensure that national laws, policies and practices are in line with the provisions therein;
ROLE OF COMPETENT AUTHORITIES AND ORGANIZATIONS

Competent Authorities

The below-mentioned recommendations related particularly to the Ministry of Interior and Ministry of Labour, Welfare and Social Insurance.

Awareness Raising

Establish a service to ensure that domestic workers receiving a visa to work in Cyprus are informed of their rights and duties under the contract and Cyprus law by Cyprus embassy and/or consulate officials in their countries of origin.

Ensure that MDWs are trained to take care of certain exceptional cases such as persons with special needs and elderly persons who may need particular care.

Set up a telephone hotline for MDWs to receive information and assistance on their stay and employment in Cyprus. This service must be available in the native languages of MDWs in Cyprus.

Establish and coordinate compulsory educational activities for employers before the arrival of the MDWs in order to educate them on their duties towards the MDWs and the rights, obligations and freedoms of the MDW.

Implement a series of ongoing educational training courses for the relevant departments, under the administration of the aforementioned Ministries, on the rights and freedoms of MDWs for staff working with this group. The overarching aim is to sensitize staff on the rights of MDWs and, as a means to this end, it would be effective for such seminars to be carried out by experts trained on non-formal methodology which seeks to develop skills and attitudes as well as knowledge.

Consider means and methods of ensuring that the working hours, as provided for by the Contract of Employment, are in practice upheld. When looking at this point, it must be borne in mind that some MDWs are here to take care of persons who require round the clock treatment and care. In such cases, consider ways in which the tasks and duties can be divided between the MDW and other State services.
Changes to the Contract:

Propose amendments to the contract of employment so that it clearly stipulates all the rights which are to be enjoyed by MDWs, outlines the exact duties which the employee has within the household and finally, that words such as ‘obey’ are removed therefrom.

★ Reconsideration and proposal of amendments in relation to:

★ Promoting the reproductive rights of MDWs in Cyprus;

★ Ensuring the right of MDWs to equal treatment in relation to maternity rights;

★ Granting MDWs the freedom of association and assembly;

★ Consideration of ways in which the treatment of MDWs in their workplace/employer’s home can be monitored by the State with a view to preventing abuse.

Police

Set up an information desk at the airport for newly arrived MDWs to receive information leaflets in their language with key facts, figures, laws and rules and an overview of their rights whilst residing and working in Cyprus. Such leaflets must also include contact details of competent governmental, non-governmental and policy authorities.

The information desks will also provide them with the ability to speak to a member of staff in relation to their stay in Cyprus.

Carry out a series of training courses for police of relevant units such as the anti-trafficking unit and the immigration department on the rights, freedoms and duties of MDWs.

Such courses must also incorporate elements of human rights education and intercultural education with a view to cultivating the necessary skills and attitudes as well as knowledge for the promotion and protection of the rights of MDWs.
NGOS

Participate, where appropriate, in all efforts for the education and awareness raising of governmental officials in relation to the protection and promotion of the rights of MDWs making an effort to avoid duplication and/or repetition of activities.

Carry out awareness raising sessions for society more generally through informal youth groups, schools, universities, colleges and other associations with the aim of educating persons on the rights of MDWs in Cyprus.

Introduce competent authorities to good practices adopted by other countries in relation to the protection and promotion of the rights of MDWs.

Furthermore, this strategy promotes competent Ministers, Members of Parliament, Parliamentary Committees, Political Parties and any other relevant bodies to:

* Propose legislation which criminalizes the retention of the MDW’s passport and other relevant identity and travel documents by the employer;

* Propose an amendment to the visa rules to allow all migrant domestic workers to change employer during the entire span of the contract;

* Propose an amendment to the current contract of employment which prohibits MDWs to exercise their freedom of association;

* Taking into consideration the inviolability of a person’s home, as provided for under the Cyprus Constitution, look at ways in which the State can enter the employer’s home for purposes of monitoring treatment of MDW’s. Such amendments should emanate from the premise that, since the MDW is working within the home, its status alters and incorporates elements of a workplace.
The lobbying strategies to be implemented in order to ensure effective adoption of the recommendations set out herein, but also so that the rights of MDWs in Cyprus are promoted within a wider framework, are provided for below.

**General Lobbying Strategies**

As mentioned above, copies of this strategy will be disseminated to all key governmental and non-governmental organizations who deal directly or indirectly with MDWs with a view to raising awareness of the problems they face and the rights which they are entitled to but also so that competent authorities and institutions consider the recommendations provided for herein. The copies will be available in Greek and English.

Meetings with four stakeholders have been carried out with a view to promoting the strategy and the ideas formulated herein, the overarching aim being to maximize its use even after the end of the project and that the recommendations provided for are materialized.

During the lifetime of the project information packs were made for the set of workshops and educational activities implemented. These information packs include key conventions as well as other information such as a summary of the relevant Ombudsperson’s Report and an overview of key obstacles faced by MDWs in Cyprus. These packs have been disseminated to all participants of the activities and AEQUITAS foresees to promote them to a wider audience for educational and awareness raising purposes, even after the end of this project.

Within the framework of the project a documentary has been developed on the rights of MDWs in Cyprus and Lebanon by depicting employers and employees speaking about their situation, relationships with each other and general situation faced. The overarching aim was to adopt a positive approach by showing good practices adopted by employers so as to set out a benchmark of how things should be done.

This film has been shown to a large audience in both countries, uploaded on social networking sites. It constitutes an educational and awareness raising tool for MDW’s rights. AEQUITAS intends to establish this as a tool used in its activities even after the end of the project.

All the above outputs such as a link to the film and the strategy and material from information packs will be uploaded on AEQUITAS’ website which is an educational tool for human rights and AEQUITAS blog making them available for visitors to read and learn from.

As well as the above, AEQUITAS is in the process of making contacts with relevant radio shows so as to book a slot during which the project’s objectives, outputs and learning outcomes can be discussed for a wider audience to learn about.
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The Anna Lindh Foundation is an international organization which promotes intercultural exchanges and common projects among the civil societies of the Euro-Mediterranean region.