



Migrant Women Domestic Workers and Freedom of Communication in Taiwan

A case for barrier-free access to mobile phones as a basic right

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Migrant women domestic workers in Taiwan remain invisible within their employers' households, where they live isolated from their loved ones and from possibilities to seek assistance and protection. Therefore, for migrant domestic workers, the ability to communicate is more than just about the freedom of speech. It concerns the freedom of communication, that is, the liberty and ability to mobilise the means and resources necessary in order to communicate effectively and seek information freely, without restriction or interference by any other party, including the State.

Freedom of communication is fundamental for the enjoyment by migrant domestic workers of their rights to health and well being, to family life, to information, to association and to organise, as well as their ability to seek assistance, protection and legal advice. It therefore also implies a positive right, placing on the State an obligation to protect and create the conditions for the enjoyment of such freedom, and to ensure that the means and resources of communication are not interfered with or restricted by any other party.

Research by Asia Pacific Forum on Women, Law and Development (APWLD), in Taiwan, indicates that for migrant women domestic workers, the mobile phone is

vital. By creating the channel for de facto access to their freedom to communicate, the mobile phone directly addresses the social and legal vulnerability of migrant women domestic workers.

The research also highlights strong barriers to the access and effective use of mobile phones by this group, both in terms of restrictions from agents and employers as well as in the bureaucratic and discriminatory regulatory regime around the purchase of SIM cards.

In order for migrant women domestic workers to enjoy their freedom to communicate, the Taiwanese government must recognise their right to possess and effectively use personal communication devices, like the mobile phone, as a basic right. The government must take urgent steps to guarantee the enjoyment of this right by removing discriminatory restrictions on SIM card purchases and ensuring legal action on intimidation and constraints placed by employers or agents. The government must also undertake positive measures and institute public services to enable workers to access information, assistance and legal protection through mobile phones.

Measures of control by employers

Migrant women domestic workers live and work in other people's houses, cleaning, cooking and caring for a family that is not their own. They are often far from home and only rarely are they able to return to visit their loved ones. They seldom have time off from work, and are rarely able to meet friends in their temporary country of residence.

In a recent research study of migrant women domestic workers in Taiwan, APWLD recorded that 31% of workers surveyed have no days off and 37% have only 1-3 days off a month during which they are able to be on their own without being monitored by members of the employer's household.¹ It is not at all easy to deal with such isolation.

The isolation is amplified when migrant women domestic workers are restricted by the government, recruitment agencies and their employers in their ability to use information and communication technologies, such as their mobile phones and the Internet, to maintain regular contact with friends, family, their unions, networks and other forms of support.

Employers may impede access to or monitor the use of the home phone closely and admonish the worker for calling too many friends or family members or for talking too long. The employer may also not allow or restrict the worker's use of the home computer and Internet connection, and even the worker's own mobile phone. Workers who use the phone to contact unions, access information about rights or organise with other workers risk dismissal and deportation.

Few workers are given sufficient time and privacy to communicate with friends, family and networks, with employers insisting that they not use their mobile phone during work hours. However, when they work an average of 12-14 hours, with 41% working more than 14 hours a day, they have little time to themselves.² Furthermore, if the worker does not have her own room - as she usually shares space with the children or the elderly person she cares for - it may be impossible for her to have any measure of time or privacy to speak to loved ones.

Many workers are hesitant to let their employer know that they have a mobile phone, due to the fear that it will be confiscated.³ If the employer is home, they keep it on silent mode, text in the bathroom, and make calls late at night.

Measures of control by agents

Even before the worker meets her employer and is placed in a household, she experiences the first obstruction to her freedom of communication through the recruitment and employment agency. Agents confiscate the worker's mobile phone and advise employers to restrict her days off and movements outside the household.

During the interviews by APWLD, domestic workers complained that they had been told by their agent that they could not have a mobile phone, and so they did not have one, or that their mobile phone had been confiscated by the agent upon arrival in Taiwan.⁴ When mobile phones are confiscated by agents or employers, the worker may lose valuable phone contacts and information, as well as the ability to contact nearby friends, faith-based groups, migrant worker organisations, embassies or consulates.

Restrictive government policies and practices

The current national labour laws in Taiwan do not provide adequate protection to migrant domestic workers. Domestic workers were included under the Labour Standards Act in Taiwan briefly in April 1998, but the government dropped the inclusion due to the difficulty of determining working hours and remuneration for overtime.⁵ The Labour Standards Act (2009.04.22 Modified) thus does not cover domestic workers; they are covered by the Employment Services Act 2009.05.13 (Amended), but this law does not protect rights to the set minimum wage, set work hours, days off, holidays or leave.

A Household Service Act, drafted in 2003 by non-government organisations, comprehensively includes provisions on residency, health, legal termination, work hours, leave, days-off and labour contracts. It became a bill before the Taiwan Parliament in 2008, but has since been stalled, and therefore, migrant domestic workers are unprotected by the present legal regime in Taiwan.

Taiwan is also yet to ratify many of the international laws that are important to the protection of migrant workers. Freedom of communication is included under Article 14 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (UN Migrant Workers Convention):

No migrant worker or member of his or her family shall be subjected to arbitrary or unlawful

interference with his or her privacy, family, correspondence or other communications [...]

Furthermore, under the new International Labour Organisation Convention Concerning Decent Work for Domestic Workers (Domestic Workers Convention), under Article 6, domestic workers who reside in households have a right to decent living conditions and privacy.

Not only are national laws in Taiwan yet to recognise these rights of migrant domestic workers, but administrative rules, norms and practices also actively restrict migrant workers' access to and effective use of information and communication technologies. The official stipulation for the purchase of SIM cards by foreigners includes two types of photo identification and a form that is mostly in Chinese. This creates obvious difficulties for migrant domestic workers, especially if their documentation is being held by their employers. Many shops simply refuse to sell prepaid SIM cards to migrant workers and to assist them with the form. It is also unclear what terms of privacy one is agreeing to on the form, as it is in Chinese. Thus, for migrant women domestic workers, the paper work for the purchase of prepaid SIM cards becomes an uphill task subject to tight bureaucratic control, and potentially, a threat to their right to privacy if their personal data is misused.

Recommendations

To guarantee migrant women domestic workers' freedom of communication and access to mobile phones, the Taiwanese government needs to take the following measures.

1. Ratify international laws and amend national laws

The freedom of communication is an inalienable right of migrant women domestic workers. It is an 'enabler' of the rights to health and well being, to family life, to information, to association and to organise. It derives from international instruments that protect and promote the rights of migrant domestic workers that the Taiwanese Government needs to ratify, including in particular:

- Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- Convention Concerning Decent Work for Domestic Workers
- Freedom of Association and Protection of the Right to Organise Convention

- Right to Organise and Collective Bargaining Convention.

There is an urgent need for the rights enshrined in these conventions to be included into national law through the Labour Standards Act and the Employment Services Act so that migrant domestic workers' freedom of communication is guaranteed by law.

2. Take pro-active measures through law to ensure barrier-free access to mobile phones as a basic right

The mobile phone may be the only option for many migrant women domestic workers to gain information about rights, network, organise and have a voice in public debates. For this social group therefore, the mobile phone is more than just a consumer product; it is a life-line. To enable migrant women domestic workers to enjoy their freedom of communication, the Taiwanese government must address the barriers that impede workers' access to and effective use of communication devices and resources, like mobile phones, through legal measures, and penalise the parties who constrain workers in this regard. Specifically, the government needs to take the following measures:

a. Relax the regulation around purchase of SIM cards

SIM cards should be easily available for purchase at convenience stores without tight bureaucratic procedures or discriminatory rules and practices that compromise the privacy and other human rights of migrant domestic workers.

b. Protect mobile use from restrictions and interference

To unduly restrict migrant women domestic workers' communications is to restrict their human dignity, their rights and responsibilities as a mother, wife or daughter, and their ability to seek information and to protect themselves when the employment situation is abusive. All migrant domestic workers should have the right to keep in their possession their personal documentation and private property, including their mobile phones.

It should be made mandatory for work contracts to incorporate the freedom to communicate, including time and privacy for workers to use their mobile phones and other communication devices, outside of the household. The government should monitor agencies and employers, and penalise them in cases where mobile phones are confiscated, or where the

freedom to communicate is restricted through absence of time-off or violation of other basic labour rights by agents and employers.

3. Going beyond legal action, implement programmes and public services that pro-actively reach information on rights, advice and legal assistance to migrant women domestic workers through their mobile phones

Central to the migrant domestic worker's freedom of communication is her ability to access information, public services, legal counsel and protection. A progressive regulatory regime on information and communication technologies can therefore enable the mobile phone to be much more than just a consumer artefact. It can be the necessary link to the worker that the government can use for reaching public services. Informing women of their rights through proactive public information services is considered an obligation of the State. Under paragraph 21 (1) (f) of the Recommendation Concerning Decent Work for Domestic Workers, member states should consider:

[...] providing for a public outreach service to inform domestic workers, in languages understood by them, of their rights, relevant laws and regulations, available complaint mechanisms and legal remedies, concerning both employment and immigration law, and legal protection against crimes such as violence, trafficking in persons and deprivation of liberty, and to provide any other pertinent information they may require.

Especially for migrant women domestic workers outside of Taipei, public services extension will need a robust system. One way of providing outreach services and information is through text messages. A phone number can be advertised, which migrant domestic workers can use to opt-in to a service that will send them regular updates on emergency numbers, changes in migration or labour policies, and other important news. This number should be given to migrant domestic workers by their agent when they arrive and also be advertised at airports and train stations in the language of the women migrants.

Endnotes:

1 – 4 Asia Pacific Forum on Women, Law and Development (2011), 'A survey of Indonesian and Filipino women migrant domestic workers in Taiwan' in *The Power to Organise and Engage: The Use of ICT by Women Migrant Domestic Workers' Organisations*, CITIGEN Asia Research Programme 2010-2012, IT for Change: Bengaluru.

5 Human Rights Watch (2010, 10 February), 'Indonesia: Guarantee Domestic Workers' Rights in 2010'. Retrieved from <http://www.hrw.org/en/news/2010/02/12/indonesia-guarantee-domestic-workers-rights-2010>, 12 March, 2010.

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