

**The Law of Hotel Housekeeper
Occupational Health & Safety:
The International Legal
Framework,
and the Cases of Argentina,
India, and Indonesia**

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Introduction

Hotel housekeepers face grave safety and health risks at the workplace and suffer from preventable injuries and illnesses. According to one recent study conducted in the United States, hotel workers are 40% more likely to be injured at work than are service-sector workers in general, and that housekeepers suffer from the highest rates of injury among those workers. As the global tourism industry continues to grow, hotel housekeepers need effective occupational safety and health (“OSH”) mechanisms to protect their health and wellness in the workplace. This preliminary report was compiled to help shed light on the OSH problems that hotel housekeepers face, to identify legal avenues for addressing the problems, and to serve as the foundation for further research.

This preliminary report identifies: (1) the OSH problems that hotel housekeepers face; (2) the international legal frameworks available for ensuring proper OSH mechanisms; and (3) the OSH laws of Argentina, India, and Indonesia. These three countries were chosen because they represent geographical diversity and varied levels of economic and legal development, and because these are countries with strong union partners in the sector. The preliminary report finds that, although there is a clear hierarchy in the three countries’ legal regimes—Argentina has the most developed OSH laws and Indonesia the least—all three have gaps that need to be filled in order to ensure protection of OSH for hotel housekeepers and compliance with international law. The examination of the gaps in the three countries’ legal regimes has led to specific suggested avenues for reform and further research. These gaps in occupational health and safety might be most properly addressed on the international level, because corporate policy for many hotels is made at the global level and because these gaps are often symptoms of worldwide trends. This preliminary report extrapolates from our research in these three countries to arrive at recommendations that could be applied in other countries where housekeepers face similar OSH-related legal challenges.

The sections that follow identify OSH problems, the corresponding laws that address them, and the existing legal gaps. Section I provides an overview of the global tourism industry and notes that its rapid growth contributes to the urgency of addressing hotel housekeeper occupational health and safety. Section II describes, broadly, the hazards housekeepers face at work. Section III describes the substantive law that could potentially address the problems that housekeepers face, including musculoskeletal injuries, acute trauma, chemical exposure, lack of regular medical examinations, excessive work hours, sexual harassment, and mental stress. Section IV addresses the procedural avenues housekeepers could use to address their OSH problems, including OSH management systems, workers' compensation schemes, access to courts, and collective bargaining rights.

Executive Summary

Hotel housekeepers face grave safety and health risks at the workplace and suffer from preventable injuries and illnesses. According to one recent study conducted in the United States, hotel workers are 40% more likely to be injured at work than are service-sector workers in general, and that housekeepers suffer from the highest rates of injury among those workers. As the global tourism industry continues to grow, hotel housekeepers need effective occupational safety and health (“OSH”) mechanisms to protect their health and wellness in the workplace.

The presence of broad rights to OSH protections in both international treaties and national constitutions manifests the importance of these rights and the global consensus on the need for their enforcement. International law provides a broad framework for the protection of occupational health and safety built largely around the Right to Health. A number of additional rights, such as the Right to Collectively Bargain and the Right to Organize, enable workers to secure occupational health and safety provisions in their own workplaces. These Rights are established in numerous international instruments, most notably the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights. The task of translating these rights into national compliance has largely fallen to the International Labor Organization, which has promulgated binding Conventions and issued non-binding Recommendations outlining critical workplace rights. ILO documents typically contain general standards and leave the adoption of specific provisions to national legislatures. Nevertheless, ratification of many ILO Conventions that might otherwise play an important role in securing occupational health and safety remains sparse. This preliminary report notes when compliance with these Conventions could play an important role in improving the occupational health and safety of housekeepers in the three countries under discussion and around the world.

On the national level, hotel housekeepers are guaranteed the constitutional right to a safe and healthy work environment in Argentina, India, and Indonesia. But broad constitutional rights are no substitute for detailed OSH legislation because they are, on their own, insufficiently specific to ensure that these rights could be enforced in any court in the three countries studied. Legislation designed to address the major problems that hotel housekeepers face is scarce or insufficient within the countries we studied. For example, despite the frequency of musculoskeletal injuries, only Argentina – of the three countries studied – has laws that specify ergonomics control strategies applicable to hotel housekeepers, and even these lack the detail required for effective enforcement. In other contexts, existing legislative mandates may not effectively protect OSH because they are insufficiently capable of compelling corporate practice. For example, legislatively-mandated rest break intervals may not reduce the overall physical burden on housekeepers because they fail to consider the existence of employer-mandated room quotas that housekeepers must meet regardless of how often they may legally take breaks.

Similarly, procedural avenues for preventing and remedying OSH problems faced by hotel housekeepers remain under-developed and under-enforced. While all three countries have national legislation related to the establishment of OSH management systems, many of the provisions remain fairly general and lack the specificity necessary to ensure that employers create robust in-house OSH management systems. Other provisions to ensure adequate compliance with OSH mandates, such as auditing and inspection of employer sites, where such provisions exist, are infrequently enforced. For example, the effectiveness of, and coverage provided by, workers' compensation programs varies by country. Argentina's program establishes generous compensation rates and guarantees funds will be available no matter the state of an employer's finances, and Indonesia's scheme covers mental and physical damages including all rehabilitation costs, while India's contains no similar

provisions. Petitions to courts to vindicate established rights are not well-documented, and evidence suggests that OSH claims are not routinely litigated in national or labor-specific courts. Finally, while all three countries comply with international standards by guaranteeing a right to collectively bargain, negotiating collective bargaining agreements remains difficult with certain multinational hotel chains.

Based on this preliminary report's analysis, it is evident that national OSH regimes – ranging from basic to well-developed – can contain major gaps in protection for housekeeper OSH across both substantive and procedural law. The countries studied have not ratified many of the OSH-related international agreements, and in some cases they have not satisfied their international obligations to codify the provisions to which they have agreed. OSH laws in general may not address problems of special concern to housekeepers (such as sexual harassment and mental stress) or exclude the hotel industry from safety provisions altogether. When existing laws do address issues of concern to housekeepers, they often mandate the application of obscure metrics, such as a maximum amount of force, rather than ones that could be easily operationalized by hotel management and labor inspectors, such as limits on the number of square feet a housekeeper can clean. Workers' compensation packages, crucial to both preventing injury by forcing companies to take seriously their obligations and to remedying harms post-injury, remain underdeveloped or underutilized by workers. The right to collectively bargain, also a necessary component of the struggle to negotiate with employees for better health and safety protections, similarly remains stymied despite statutory guarantees in all three countries. Finally, regardless of what labor laws say, our preliminary assessment based on interviews and input from union partners indicates that enforcement is often weak. Workers often seek to address this gap through the use of private law, like the law of contracts. Despite private law's potential to bind multinational hotel chains to stricter OSH standards, it has yet to fulfill its promise in the countries studied.

Attempting to close these various gaps by pressing national governments and hotel chains to improve their laws and practices could significantly advance the day-to-day health and safety of housekeepers.

I. Tourism Industry Overview

According to the International Labor Organization, the Hotel, Catering, and Tourism industry accounts for more than 260 million jobs (about one-in-twelve) worldwide, contributes about 9% to global GDP, and represents 30% of world exports of commercial services.¹ Information describing international hotel industry labor statistics as hard to come by, but according to the United States Bureau of Labor Statistics, approximately one quarter of all hotel workers are employed as housekeepers.²

The number of workers employed as housekeepers is only expected to grow in the coming years. 2012 marked the first time that international tourist arrivals exceeded one billion individuals, and as of August 2013, arrivals were up 5% over the same period in 2012.³ The three countries studied have benefitted greatly from international tourism. Six million international tourists arriving in Argentina contributed 1.0% of GDP in 2012,⁴ and hotels, bars, and restaurants contributed a total of 2.4% of GDP in the same year.⁵ In India, approximately 6.5 million international tourists, along with an additional one billion domestic tourists, contributed 6.6% of overall GDP in 2012.⁶ In Indonesia, approximately 8 million international tourists⁷ contributed 4.0% of GDP in 2012.⁸

¹ *Tourism, Poverty Reduction and Gender Equality*, ILO (Sept. 25, 2013), http://www.ilo.org/global/about-the-ilo/newsroom/comment-analysis/WCMS_221967/lang--en/index.htm

² U.S. Bureau of Labor Statistics, cited in Susan Buchanan, et al., *Occupational injury disparities in the US hotel industry*, 53 AM. J. IND. MED. 116 (2010), <http://onlinelibrary.wiley.com/doi/10.1002/ajim.20724/abstract>.

³ United Nations World Tourism Organization, *World Tourism Barometer* (Oct. 2013), http://dtxtq4w60xqpw.cloudfront.net/sites/all/files/pdf/unwto_barom13_05_oct_excerpt_0.pdf

⁴ *Anuario Estadístico de Turismo*, Ministerio de Turismo (2012), Chart 6.1, Chart 2.1.1, and Graphic 2.1.2, <http://siet.desarrolлотuristico.gov.ar/documentos/descarga/342/0112ddbe5f20250393abe93cbe13c82a2553950c.pdf>.

⁵ *Id.*, Chart 6.1.

⁶ Ministry of Tourism, *India Tourism Statistics at a Glance 2012*, <http://tourism.gov.in/writereaddata/CMSPagePicture/file/marketresearch/Ministry%20of%20tourism%20English%202013.pdf>.

⁷ *Number of Foreign Tourists in Indonesia Rises to 2 Million in Q1-2013*, Indonesia Investments (May 3, 2013) <http://www.indonesia-investments.com/news/todays-headlines/number-of-foreign-tourists-in-indonesia-rises-to-2-million-in-q1-2013/item707>.

⁸ *Indonesia's Tourism, Creative Industry Improve Contribution to 2012 GDP*: Minister, XINHUA News (Dec. 19, 2012), http://news.xinhuanet.com/english/business/2012-12/19/c_132051322.htm.

On the one hand, growth in the global tourism industry can be viewed as an opportunity to deliver jobs to popular tourist destinations. But tourism also presents a number of challenges that must be addressed to ensure that everyone has the ability to share in its potential benefits. Housekeepers are among the hardest-working and lowest-paid members of the global economy, and as the number of people who hold this occupation continues to rise, it is important to ensure that their rights and needs are not neglected.

II. Housekeeper Safety and Health Overview

Housekeepers are required to dust, vacuum, make beds, scrub bathrooms, clean mirrors, distribute amenities, take out the trash, and more.⁹ At first blush, these may sound like undemanding, everyday activities, but when housekeepers must perform each of them dozens of times a day, subject to room-cleaning quotas and under various physical and psychological stressors, they can add up to a serious risk to health and safety. The result is that hotel workers in the United States are 40% more likely to be injured at work than are service-sector workers in general.¹⁰

One study of United States hotel workers found that housekeepers suffer from the highest rates of injury of any occupation within the hotels studied and that injury rates varied significantly by gender and ethnicity.¹¹ In particular, the study found that housekeepers studied suffered the highest rate of musculoskeletal disorders among all job titles studied, and ranked first (along with cooks and kitchen workers) for the highest rates of injury due to acute trauma.¹² Moreover, the study found that the rate of injury varied between hotel companies, which implies that the dangers faced by housekeepers may be mitigated by an

⁹ National Institute for Occupational Safety and Health, *Safety and Health among Hotel Cleaners* (2012), <http://www.cdc.gov/niosh/docs/2012-151/pdfs/2012-151.pdf>.

¹⁰ Buchanan, *supra* note 2.

¹¹ Buchanan, *supra* note 2.

¹² Buchanan, *supra* note 2.

individual corporation's practices.¹³ Finally, the injury incidence among housekeepers is possibly even higher than the numbers that have been reported, as formal reporting systems – like the OSHA 300 logs on which the study was based – are known to suffer from serious and systematic underestimation.¹⁴ Another study of over 900 housekeepers pointed to a significant factor contributing to workers' experience of pain: work intensity. For instance, workers who made more than 18 beds per day reported a 44% increase in lower back pain.¹⁵

In addition to the occupational health and safety risks posed to hotel housekeepers, housekeepers have a high rate of precarious employment; housekeepers are predominantly female,¹⁶ earn low wages, are frequently migrants and/or ethnic and racial minorities, and enjoy low job security due to short-term, seasonal, and otherwise part-time contracts.¹⁷ The precariousness of their employment increases the risks of dismissal for housekeepers if they approach their employers with complaints, and a high turnover rate within the industry discourages many workers who might otherwise invest in improving their working conditions.

III. Existing legal regime and gaps

A. Substantive Laws for Workplace Safety

This section addresses substantive law relevant to occupational health and safety in both international law and the law of the three studied countries. It demonstrates that, despite the existence of applicable legal rights accompanied by certain substantive protections for occupational health and safety, there remain substantial gaps in both the law and in the translation of law into practice.

¹³ Buchanan, *supra* note 2.

¹⁴ “According to Laura Punnett, an occupational epidemiologist and ergonomist at the University of Massachusetts Lowell . . . ‘we know that formal reporting systems like that have serious underestimation problems.’” Unite Here!, *Creating Luxury, Enduring Pain* (2006), http://www.hotelworkersrising.org/pdf/Injury_Paper.pdf.

¹⁵ Niklas Krause et al., *Physical workload, work intensification and prevalence of pain in low wage workers: Results from a participatory research project with hotel room cleaners in Las Vegas*, AM. J. IND. MED. (2005).

¹⁶ See, Thomas Baum, *International Perspectives on Women and Work in Hotels, Catering and Tourism*, ILO WORKING Paper (2013), http://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_209867.pdf.

¹⁷ Yu-Chin Hsieh et al., *The World at Work: Hotel Cleaners*, 70 OCCUP. ENVIRON. MED. J. 360 (2013).

1. Basic International Law and Constitutional Protections Relating to OSH

Foundational international human rights conventions acknowledge and guarantee the right to a safe and healthy work environment. Article 23(1) of the Universal Declaration of Human Rights – which is binding on all states as customary international law¹⁸ – provides that “[e]veryone has the right to work, to free choice of employment, to *just and favourable conditions of work* and to protection against unemployment.”¹⁹ Moreover, Article 25 of the UDHR states that “[e]veryone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and *medical care*.”²⁰ Read together, Articles 23 and 25 could be interpreted to guarantee both preventive and remedial measures protecting the health and safety of all workers, including housekeepers. Similarly, the International Covenant on Economic, Social and Cultural Rights, which the three studied countries have ratified, provides for “the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular . . . safe and healthy working conditions.” The Committee on Economic, Social and Cultural Rights²¹ and the U.N. Special Rapporteur on the Right to Health²² have both described the right to occupational health and safety as part of this broader right to health. Individual complaints alleging the violation of this right can be brought before either, once all domestic remedies have been exhausted.

Hotel housekeepers in the three studied countries also enjoy constitutional protection of the right to a safe and healthy work environment. Argentina’s Constitution includes in Article 14a provisions guaranteeing “dignified and equitable working conditions,” “limited

¹⁸ See, e.g., W. Michael Reisman, *Sovereignty and Human Rights in Contemporary International Law*, 84 AMER. J. INT’L L. 866, 867 (1990).

¹⁹ UDHR art. 23(1), <http://www.un.org/en/documents/udhr/> (emphasis added).

²⁰ *Id.* (emphasis added).

²¹ Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social, and Cultural Rights, E/C.12/2000/4, <http://www.unhcr.ch/tbs/doc.nsf/%28symbol%29/E.C.12.2000.4.En>.

²² Anand Grover, Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, A/HRC/20/15, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-15_en.pdf.

working hours,” and “paid rest and vacations.”²³ Similarly, Article 39 of India’s Constitution requires the State to “secur[e] [] that the health and strength of workers, men and women, and the tender age of children are not abused”; Article 42 requires the State to “make provision for securing just and humane conditions of work and for maternity relief”; and Articles 24 and 39 prohibit child labor in hazardous employment and child exploitation.²⁴ Finally, Indonesia’s Constitution includes in Chapter XA a guarantee that “[e]very person shall have the right to work and to receive fair and proper remuneration and treatment in employment.”²⁵

The presence of such broad rights to OSH protections in both international treaties and the highest law of the land, though written using different terms or language, shows the importance of these rights and the global consensus on the need for their enforcement. Though their existence is certainly a positive sign, broad constitutional rights of this sort are not a substitute for detailed, specific OSH legislation. Although health-related constitutional provisions may embody strong aspirational goals, they are insufficiently specific to ensure that these rights would be enforced in any court.

2. Legal Protections Relating to Acute Trauma

Housekeepers frequently suffer from cuts and burns, trips, slips and falls, and falls from height. Acute traumas of this sort accounted for 52% of the injuries recorded in the Buchanan study over a three year period, and nearly half of these incidents were to an upper extremity, especially the hand.²⁶ According to the Buchanan study, there are two primary causes of such injuries. First, housekeepers must move quickly in order to fulfill their daily

²³ CONSTITUCIÓN ARGENTINA [Constitution] (Arg.), art. 14(a), http://www.wipo.int/wipolex/en/text.jsp?file_id=282508.

²⁴ The Constitution of India, art 39, <http://lawmin.nic.in/olwing/coi/coi-english/coi-indexenglish.htm>.

²⁵ CONST. OF 1945 [INDONESIA] ch. XA, <http://www.embassyofindonesia.org/about/pdf/IndonesianConstitution.pdf>.

²⁶ Buchanan, *supra* note 2.

room quotas, which makes them more prone to slipping, tripping, and falling. Second, housekeepers often encounter broken glass and razor blades while emptying wastebaskets.²⁷

Relevant legal provisions for acute trauma are even scarcer than those for musculoskeletal injuries in general. The ILO's Hygiene (Commerce and Offices) Recommendation,²⁸ 1964 (No. 120) requires hotels (among other workplaces) to maintain a first-aid post/dispensary or a first-aid kit.²⁹ In India, some states' Shops and Establishments Acts, which apply to hotels, include a broad provision that requires maintenance of a first-aid kit. Argentine law provides protocols for the timeline of diagnosis and treatment of work-related injuries covered through the workers' compensation system.³⁰ No relevant law was located in Indonesia.

Although acute trauma injuries are often seen as random accidents when they occur, OSH law in fact could mandate practices that would systematically reduce these injuries. Bathroom floors can be designed with nonslip tiles.³¹ Especially where wastebaskets are not lined at all, the use of transparent trash bags can enable housekeepers to spot and better handle sharp objects.³² Additionally, installing razor blade disposal devices in bathrooms could help alleviate this problem entirely.³³ Some countries provide guaranteed minimums for treatment like medical timelines or first-aid kits, and some do not. But all countries could benefit their housekeepers by mandating compliance with preventive measures.

²⁷ Pam Tau Lee, *Hotels*, ILO Encyclopedia of Occupational Health & Safety (2011), <http://www.ilo.org/oshenc/part-xvii/hotels-and-restaurants/item/793-hotels>.

²⁸ ILO Recommendations are non-binding guidelines that typically accompany, and provide more detail than, binding ILO convention. Recommendations are often issued in conjunction with specific Conventions, though they can also stand alone. International Labor Organization, *Conventions and Recommendations*, <http://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm>.

²⁹ ILO Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120), http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::NO::P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:REC,en,R120,%2FDocument.

³⁰ Resolution No. 1528/2012 ("Approval of the Protocol for the Treatment of Traumatic Injuries of the Upper Limbs"); Resolution No. 761/2013 ("Approval of the Protocol for the Treatment of Traumatic Injuries of the Lower Limbs"); Resolution No. 696/2013 (Treatment of traumatic spinal injuries).

³¹ Slides provided by Patricia Mantovano, Manager for Hotels & Tourism at Argentine union UTHGRA.

³² Lee, *supra* note 25.

³³ *Id.*

3. Legal Protections Relating to Musculoskeletal Injuries

The most common type of injury suffered by housekeepers, after acute trauma, is musculoskeletal. In the Buchanan study, this type accounted for nearly 40% of all injuries recorded among hotel workers.³⁴ Another study found that in a given month, 95% of room cleaners reported pain, and 47% reported severe or very severe physical pain, primarily concentrated in the back and the neck.³⁵ Musculoskeletal injuries are common among housekeepers because workers are required to carry and lift heavy loads, make frequent repetitive motions, and push, bend, and stand for long periods of time.³⁶ Room productivity targets are often set without considering the widely divergent burdens of cleaning rooms with high versus low square footage, with larger- versus smaller-size beds, in a lower- versus higher-star hotel, or to the standard of a checkout clean (for a new guest) versus daily clean (for the same guest).³⁷ Housekeepers often lack uniforms suitable for carrying out their work, rubber-soled shoes to prevent slipping, lightweight carts and vacuum cleaners that are easier to maneuver, and long-handle mops, scrubbers, and dusters to avoid prolonged straining.³⁸ The consequence of this physically-challenging work is that, in one study, the majority of housekeepers report having experienced work-related pain that required a visit to medical professionals, which necessitated their taking time off work.³⁹

Detailed provisions related to ergonomics and musculoskeletal injuries are scarce, but international law and Argentine law contain some specific protections. First, the ILO Maximum Weight Convention, 1967 (No. 127), which applies to “all branches of economic activity in respect of which the Member concerned maintains a system of labour inspection,”

³⁴ Buchanan, *supra* note 2.

³⁵ Niklas, *supra* note 15.

³⁶ Lee, *supra* note 25.

³⁷ Pam Tau, Lee and Niklas Krause, *The impact of a worker health study on working conditions*, J. PUB. HEALTH POLICY (2002).

³⁸ Slides provided by Patricia Mantovano, Manager for Hotels & Tourism at Argentine union UTHGRA.

³⁹ Tau, *supra* note 37.

provides that “[n]o worker shall be required or permitted to engage in the manual transport of a load which, by reason of its weight, is likely to jeopardise his health or safety.”⁴⁰ Of the three countries, only India has ratified this Convention. Despite the ratification, India does not have relevant law applicable to hotel workers, although the Factories Act that applies to factory workers contains a provision on excessive weights.⁴¹ No relevant law was found in Indonesia.

Although Argentina has not ratified Convention No. 127, its national legislation contains the most detailed provisions on ergonomics among the three countries studied. Argentina’s Resolution⁴² No. 295/2003 (Technical standards) covers all establishments, including hotels. It defines ergonomics threshold limit values for peak force on the hands and weight lifted. Employers are instructed to assess jobs believed to possibly involve musculoskeletal risks, monitor workers’ musculoskeletal injuries and health upon identification of an existing risk, and implement control strategies upon detection of tasks exceeding threshold limit values. Control strategies discussed include permitting breaks hourly – if not more often – “rotat[ing]” workers through activities involving “high . . . demands” over the course of the workday, and employing tools that “reduce the requirement of force,” allow for better “time management,” and implore workers to “improve [their] posture” (Annex I). While this resolution’s ergonomics provisions are highly procedural, and

⁴⁰ ILO Maximum Weight Convention, 1967 (No. 127)

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312272:NO

⁴¹ Article 34 of the Factories Act states:“(1) No person shall be employed in any factory to lift, carry or move any load so heavy as to be likely to cause him injury. (2) The State Government may make rules prescribing the maximum weights which may be lifted, carried or moved by adult men, adult women, adolescents and children employed”

⁴² Resolutions are issued by the government ministries, agencies, or Office of the President in accordance with powers that are inherent or delegated by a law. Decrees (as distinct from Necessity and Urgency Decrees for emergencies, none of which are cited in this report) are issued by the President in accordance with his or her powers. In the context of OSH, both types of legal instruments are usually issued to elaborate on the details and implementation of laws. See Law No. 26122, Ministerio de Economía y Finanzas Públicas (n.d.), <http://www.infoleg.gob.ar/infolegInternet/anexos/115000-119999/118261/norma.htm>; Manual de procedimiento, Ministerio de Trabajo, Empleo y Seguridad Social (n.d.), Chapter 2, <http://www.trabajo.gov.ar/downloads/manualProcedimientos/titulo-preliminar-capII.pdf>.

the associated threshold limit values context-specific, the resolution does define concrete employer obligations. Implementation of an Integrated Ergonomics Program of detection and mitigation is mandatory, and compliance is enforced through inspections and fines.⁴³

Despite the ambitions of many governments' overall OSH programs, national law in some countries affords housekeepers minimal protection against musculoskeletal injuries, despite its status as one of the most common occupational risks in their line of work. Standards such as those for maximum weight may be applied to other types of establishments, such as in factories in India, but not hotels. This is likely without any deliberate consideration of the less-conspicuous but similarly-dangerous loads born by housekeepers, who work alone and often without even the help of tools. In other countries, such standards are absent altogether.

4. Legal Protections Relating to Chemical Exposure

Housekeepers come in frequent contact with chemicals through the industrial cleaners given to them by their employers used to clean sinks, tubs, toilets, floors and mirrors in each room on a daily basis. Compounds in these cleaning agents, such as ammonia, detergents, and solvents, can cause skin rashes, respiratory distress, eye irritation, and sore throats.⁴⁴ According to one 2002 study of housekeepers in Las Vegas, 72% of housekeepers reported that they constantly encounter these symptoms as the result of their work.⁴⁵ Certain chemicals used to clean in hotels are thought to cause damage to kidneys and reproductive organs, and some are even suspected to cause cancer.⁴⁶ Even measures meant to protect

⁴³ *Control strategies were implemented on PEI*, Sindicato de Informáticos y Afines de Río Negro y Neuquén (Feb. 21, 2013), <http://www.siarne.org.ar/2013/02/21/se-implentaran-estrategias-de-control-sobre-el-p-e-i/>.

⁴⁴ *Id.*

⁴⁵ Krause et al., *supra* note 33.

⁴⁶ *Id.*

housekeepers can sometimes backfire, as the use of latex in gloves can increase the risk of dermatitis and can cause an allergic reaction in affected individuals.⁴⁷

The ILO's Chemicals Convention, 1990 (No. 170) applies to all branches of economic activity in which chemicals are used and mandates that each Member "shall formulate, implement and periodically review a coherent policy on safety in the use of chemicals at work"⁴⁸; however, none of the three countries has ratified the Convention. Of the three countries, only Argentina has relevant laws applicable to the hotel industry that mandates hygiene with respect to chemical agents⁴⁹ and provides maximum allowable concentrations of chemical contaminants, carcinogens, and dust particles.⁵⁰ India does not have relevant laws applicable to the hotel industry, but its Factories Act has established maximum permissible threshold limits for exposure to chemicals in manufacturing processes.⁵¹ No relevant law was found in Indonesia.

While threshold limits for chemical exposure are lacking altogether in some countries, in others they are merely restricted to specific industries. As was the case regarding musculoskeletal injuries, some countries have sought to protect workers from chemical exposure only in industries where the hazard is most conspicuous, rather than recognizing that workers encountering a given hazard may suffer harm regardless of industry. Therefore, where these industry-specific provisions exist, they ought to be readily transferable to hotels.

⁴⁷ Luenda E. Charles, Dana Loomis & Zewditu Demissie, *Occupational hazards experienced by cleaning workers and janitors: A review of the epidemiologic literature*, Work 34 (2009) 105, 107.

⁴⁸ ILO Chemicals Convention, 1990 (No. 170), https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312315:NO

⁴⁹ Law No. 19587 (Health and Safety at Work), art. 6(c).

⁵⁰ Resolution No. 444/1991 ("Environmental Pollution") elaborates on the details of Law No. 19587 (Health and Safety at Work), art. 6(c).

⁵¹ *The Factories Act, 1948*, Section 41F, available at <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/32063/64873/E87IND01.htm>

5. Legal Protections Relating to Medical Examinations and On-Site Health Professionals

Of the three studied countries, only Argentina mandates that employers provide pre-employment and regular medical examinations for all workers, including hotel workers.⁵² Pre-employment medical examination records provide critical pieces of evidence necessary to evaluate claims that workers have suffered injury or disability on the job.

No relevant international law was found on this subject. Argentine law requires employers to provide medical examinations and mandates that based on employment levels and activity risks, establishments retain certain occupational medicine and OSH services to prevent harm to the health and safety of workers (although hotels may be excluded).⁵³ In India, Section 31C of the Factories Act provides that every employer operating a factory that uses hazardous processes⁵⁴ must provide for medical examinations prior to employment and at least once a year during and post-employment. The same section provides that the employer shall maintain accurate and up-to-date health or medical records. In Indonesia, there is a regulation that requires employers to provide pre-employment and periodic medical examinations in workplaces using machines which are dangerous or may cause accident, fire or explosion, and in workplaces involving construction, agriculture, mining, transportation,

⁵² Law No. 19587 (Health and Safety at Work), art. 9(a).

⁵³ The weekly minimum varies according to the number of production employees plus half the number of administrative employees at the establishment. Decree No. 1338/1996 (“Medical Services and Health and Safety at Work”). Article 3 of the Decree says that the specified occupational medicine and OSH services should be retained toward complying with Article 5 paragraph a) of Law No. 19,587, and Article 1 of Law No. 19,587 specifies that provisions of that law apply to for-profit and nonprofit establishments and farms regardless of the “economic nature of their activities...” However, requirements in some of the Decree's Articles apply only to establishments with certain employment levels and activity risks. And Article 14 provides various exceptions, including d) commercial or service establishment with up to 100 workers that don't deal with work products dangerous to the worker.

⁵⁴ See Section 2 of the *Factories Act, 1948* for the definition of “hazardous process”: relevant definition pertains to a process that would “cause material impairment to the health of the persons” engaged in it.

loading cargo, excavations, garbage disposal, or education. This provision does not cover the hotel industry.⁵⁵

On-site medical care can serve as housekeepers' first line of defense in the event of occupational injury or illness. Yet OSH law in some countries does not oblige employers to bring in occupational health professionals who can consult with employees and help to improve workplace safety. Employers may not even be required to provide for pre-employment medical examinations. Such examinations could monitor, *inter alia*, the progression of potentially chronic conditions endemic to housekeeping, such as musculoskeletal pain.

6. Legal Protections Relating to Working Hours/Overtime/Weekly Holiday

Excessive working hours is an important contributor to stress and injury within the housekeeping profession. Not only do housekeepers work long and sometimes unpredictable hours, but they do so in long shifts and while exercising very little control over their working hours.⁵⁶ Work requirements for the national day of rest (typically Sunday) are a common phenomenon.⁵⁷ Housekeepers consequently struggle with maintaining work, family and other commitments. Moreover, because housekeepers must often meet daily quotas for room cleaning, they must work quickly, making them more vulnerable to musculoskeletal injuries and acute trauma. According to one survey of European housekeepers, 48% said they did not have enough time to get their work done, and 75% admitted to feeling forced to work at high speed to fulfill their quotas.⁵⁸

⁵⁵ Regulation of the Minister of Manpower and Transmigration No. PER-02/MEN/1980 on Medical Examination of Workers.

⁵⁶ European Agency for Safety and Health at Work, *Protecting workers in hotels, restaurants and catering* (2008), <https://osha.europa.eu/en/publications/factsheets/79> [Protecting workers].

⁵⁷ International Labour Organization, *Violence at work in hotels, catering and tourism* (2003), http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---actrav/documents/publication/wcms_111456.pdf [Violence at work].

⁵⁸ Parent-Thirion, A. et al., *Fourth European survey on working conditions, 2005*, European Foundation for the Improvement of Living and Working Conditions (Eurofound) (2007) [European survey], <http://www.eurofound.europa.eu/pubdocs/2006/98/en/2/ef0698en.pdf>

All persons have the right to reasonable working hours, as stated in the Universal Declaration of Human Rights, Article 24: “Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.”⁵⁹ Article 4 of the ILO's Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172) includes specific provisions entitling hotel workers to “reasonable normal hours of work and overtime provisions [and] reasonable minimum daily and weekly rest periods, in accordance with national law and practice.”⁶⁰ The ILO's Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) makes similar provisions, but does not single out hotel workers for protection.⁶¹ Not only does Convention No. 172 apply specifically to hotel and restaurant employees, but it explicitly extends coverage to all hotel workers “irrespective of the nature and duration of their employment relationship.”⁶² The extent of this coverage is critical given the high incidence of precarious employment in this sector of the economy. Convention No. 172 also contains provisions requiring “sufficient advance notice of working schedules to enable them to organise their personal and family life accordingly.”⁶³ None of the three countries studied have ratified either No. 172 or No. 106.

All three countries have similar legal provisions that regulate the maximum number of working hours. In Argentina, maximum working hours are 8 hours per day and 48 hours per week. Exceptions may be instituted by regulation, but pay for additional hours must be at least 50% higher, or 100% higher on holidays.⁶⁴ In Indonesia, the work week is 40 hours

⁵⁹ UDHR art. 24, <http://www.un.org/en/documents/udhr/>.

⁶⁰ ILO, Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172) art. 4, http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C172

⁶¹ ILO, Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106), http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312251:NO

⁶² ILO, Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172) art. 2.

⁶³ ILO, Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172) art. 4.

⁶⁴ Law No. 11544 (Work Day).

with legal maximum overtime of 14 hours per week, or 3 hours per day.⁶⁵ In India, the Shops and Establishments Acts enacted by various State Governments regulate the hotel industry. These acts vary from state to state. Concerning the states studied for this preliminary report, Maharashtra⁶⁶ and Karnataka⁶⁷ limit work hours to 9 hours per day and 48 hours per week maximum; Goa⁶⁸ limits work hours to 8 hours per day and 48 hours per week. Overtime hour limits in these states vary more: Maharashtra has a maximum of 3 hours per day; Karnataka has a maximum of total work hours including overtime, 10 hours per day with certain exceptions,⁶⁹ and a maximum of 50 hours of overtime in 3 consecutive months; and Goa has a maximum of 6 hours per week. The three states all mandate a minimum of one hour of rest for every 5 consecutive hours of work, and one day of weekly holiday for employees working 6 days a week.

Even when relatively-comprehensive provisions for work hours, overtime, and weekly holiday exist, the extent of their enforcement remains questionable. In India, there is some evidence of their enforcement, though a lack of detailed statistics makes it difficult to assess the extent to which it is effective.⁷⁰ The Central Government's Labour Bureau reports that the enforcement of these Acts carried out by the state authorities follows a "policy of persuasion" and that the Labour Bureau initiates "prosecution[]" only as a last resort in

⁶⁵ Manpower Act (Law No. 13, 2003), art. 77.

⁶⁶ The Bombay Shops and Establishments Act, 1948.

⁶⁷ The Karnataka Shops and Commercial Establishments Act, 1961.

⁶⁸ The Goa Shops and Establishments (Amendment) Act, 2001.

⁶⁹ The exceptions are for "days of stock-taking and preparation of accounts."

⁷⁰ Among the 18 States (of 28 total) and one Union Territory (Delhi) (of 7 total) that reported to the Central Government's Labour Bureau in 2010, the agencies conducted 1,045,048 inspections, launched 291,772 prosecutions, the courts disposed of 223,383 cases and fined Rs. 68,829,104 to the defending establishments. The offenses were "non-payment of wages, arrears, bonus, overtime, leave with wages, non-maintenance of prescribed records and registers, non-display of notices and non-observance of working hours, weekly holidays, etc."

extreme cases of continuing defaults.”⁷¹ Anecdotal evidence also suggests that enforcement is problematic, at least in India and Indonesia.⁷²

Further, even perfectly enforced limits on total hours worked could only be partially effective in protecting housekeepers from overwork. Legislated breaks after a certain number of work hours do not necessarily address the hazards placed on housekeepers due to overwork because housekeepers must meet employer-mandated room quotas regardless of how often they may take breaks.⁷³ The lack of regulation regarding the pace of work in either international or national guarantees adds a further wrinkle to attempts to ensure adequate working hours and overtime protections. Certain private-law CBAs in U.S. hotel campaigns have attempted to remedy this issue, and may provide good examples to follow for international union campaigns.

7. Legal Protections Relating to Work Environment (Noise, Temperature, Lighting, and Ventilation)

Hotel guests often regard their rooms as pleasant, relaxing environments, but to housekeepers, guest rooms are also a workplace and can be every bit as unpleasant as any other. For instance, 29% of European housekeepers are exposed to loud noise, and 4% of hotel workers report experiencing noise levels which they consider to put their health at risk.⁷⁴ Housekeepers can also suffer from excessively hot or cold working environments, and they often alternate between the two while traveling from room to room.⁷⁵ Additionally, housekeepers are at some risk of encountering used hypodermic needles while emptying

⁷¹ Labour Bureau, *Report on the Working of the Legislation Governing Conditions of Employment in Shops, Commercial Establishments, Theatres, Hotels and Restaurants During the Year 2010*, http://labourbureau.nic.in/REPORT_WOTLGCOEIShops_2010.pdf.

⁷² India: Interview with Franklyn D’souza (Chief Coordinator: IUF India Outreach) and Rhea Aamina (IUF Staff), Nov. 8, 2013. Indonesia: Interview with IUF-FSPM Union Leader, Nov. 5, 2013.

⁷³ Interview with Kerstin Howald (IUF European coordinator in the Hotel, Restaurant, Catering and Tourism sector), Nov. 8, 2013.

⁷⁴ European survey, *supra* note 56.

⁷⁵ Protecting workers, *supra* note 54.

wastebaskets.⁷⁶ Finally, a number of studies have found that workers employed in cleaning suffer from above-average rates of respiratory illness, including asthma and chronic bronchitis.⁷⁷

Relevant OSH provisions exist in international law and the law of the three studied countries. However, national law provisions lack meaningful specificity, and measuring enforcement is consequently difficult. The ILO's Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120)⁷⁸ which applies explicitly to workers at, *inter alia*, hotels and boarding houses, contains detailed recommendations for cleanliness, ventilation, lighting, temperature, working space, drinking water, washstands, sanitary convenience, seats, clothing and changing rooms, methods and places of work, toxic substances, noise and vibrations, first aid, mess rooms, rest rooms, planning and construction, diseases, and hygiene.

Argentine law requires that establishments in certain industries comply with various work environment specifications regarding temperature, drinking water, first aid, restrooms, and precautions against fires. Minimum required lighting and ventilation levels are set according to worker task. Threshold limit values are established for air contaminants, noise, vibration, and radiation.⁷⁹

In India, two of the three states surveyed have enacted some provisions that address issues of hygiene and the like in their Shops and Establishments Acts, but they are very broad.

⁷⁶ Lee, *supra* note 25.

⁷⁷ Luenda E. Charles, Dana Loomis & Zewditu Demissie, *Occupational hazards experienced by cleaning workers and janitors: A review of the epidemiologic literature*, Work 34 (2009) 105, 107.

⁷⁸ Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120), http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0:::55:P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:REC,en,R120,/Document

⁷⁹ See *Law 19587 and Decree 351-79*, Ministerio de Educación (n.d.), http://www.me.gov.ar/spu/guia_tematica/infraestructura_u/doc/Decreto_351.pdf. Annex I, Title I, Chapter I, Article 1 of the Decree says that regulations in the Decree apply to establishments within the scope of Law No. 19587, i.e., for-profit and nonprofit establishments and farms regardless of the "economic nature of their activities..." under Article 1. Industries totally or partially exempted from Decree No. 351/1979 and regulated by other Decrees include construction, agriculture, and mining. See *Decrees No. 911/1996, 617/1997, and 249/2007*. No exemption from Decree No. 351/1979 was found for the hotel industry. *Decree No. 351/1979*, Ministerio de Economía y Finanzas Públicas (n.d.), <http://www.infoleg.gob.ar/infolegInternet/anexos/30000-34999/32030/texto.htm>.

Maharashtra and Goa's Shops and Establishments Acts contain provisions that require shops and establishments, including hotels, to maintain cleanliness, ventilation, lighting, precautions against fire and a first aid kit.⁸⁰ Karnataka's Shops and Establishments Act does not contain any OSH provisions. Considering that these OSH provisions are the only OSH laws that apply to the hotel industry, there is a large gap in the legal regime for protection of OSH for hotel housekeepers in India.

Indonesian law also mandates that employers, including hotels, take measures to “promote cleanliness and good order, [] provide sufficient lighting and suitable conditions for carrying out the work, [] provide a proper temperature of the workplace and sufficient ventilation, [and] prevent the spread of dust, gas, steam, and unpleasant smells.”⁸¹ Indonesia has also established threshold values for exposure to noise, vibration, and radiation in workplaces, including hotels.⁸²

Thus provisions on environmental factors like noise and ventilation vary significantly. Some, like those regarding noise, may be directly implemented through the issuance of specific threshold values. But as OSH policymakers pursue a safe work environment through law, it is questionable whether their use of broad language like “cleanliness” allows for meaningful government enforcement.

8. Legal Protections Relating to Sexual Harassment

Housekeepers are especially vulnerable to sexual harassment on the job because they are predominantly women and tend to occupy junior positions in the hierarchy of hotel employees.⁸³ In addition to the gender and power dynamics these demographic patterns reflect, sexual harassment can be partly traced to other factors, including evening and

⁸⁰ The Bombay Shops and Establishments Act, 1948; The Goa Shops and Establishments (Amendment) Act, 2001.

⁸¹ Decree of the Minister of Labour No. 7 of 1964 on Conditions of Health, Cleanliness and Lighting in Workplaces, art 2.

⁸² Decree of the Minister of Manpower and Transmigration No.KEP-51/MEN/1999.

⁸³ Violence at work, *supra* note 55. *See also* Baum, *supra* note 14; Hsieh, *supra* note 15.

nighttime work hours, housekeeper dress code, and the flirtation sometimes encouraged in service industries worldwide.⁸⁴ Harassment can be perpetrated by either hotel customers or management, and its prevalence can vary widely from country to country.⁸⁵

The ILO's Occupational Safety and Health Convention, 1981 (No. 155) provides general protection from undue consequences for any worker "who has removed him[or her]self from a work situation which he [or she] has reasonable justification to believe presents an imminent and serious danger to his [or her] life or health."⁸⁶ This provision could be readily interpreted to apply to workplace violence, including sexual harassment and assault. More specifically applicable to the issue of sexual harassment, all three countries studied have signed onto the Convention on the Elimination of All Forms of Discrimination against Women, which calls on signatories to protect women's "right to protection of health and to safety in working conditions."⁸⁷

Despite the binding force of the CEDAW on all three countries, only India appears to have enacted a fairly comprehensive law on sexual harassment in the workplace. All three countries have ratified CEDAW, which requires the State parties to act to protect women against violence of any kind occurring at the workplace or in any other area of social life.⁸⁸ Nevertheless, a comprehensive legal regime governing sexual harassment is lacking in Argentina and Indonesia. A survey of Argentine law found no national law criminally penalizing sexual harassment in workplaces short of criminal abuse, although draft laws have been considered as recently as May 2013.⁸⁹ Some city and provincial laws prohibit and

⁸⁴ Violence at work, *supra* note 55.

⁸⁵ *Id.*

⁸⁶ ILO, Occupational Safety and Health Convention, 1981 (No. 155), art. 13, http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C155

⁸⁷ CEDAW art. 11, <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article11>

⁸⁸ Committee on the Elimination of Discrimination against Women, *General Recommendation No. 12 (eighth session, 1989)*, available at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>.

⁸⁹ Cámara Argentina de Comercio, *PROYECTO SOBRE VIOLENCIA LABORAL Y ACOSO SEXUAL* (May 16, 2013), available at http://www.cac.com.ar/noticia/PROYECTO_SOBRE_VIOLENCIA_LABORAL_Y_ACOSO_SEXUAL_4386;

punish sexual harassment but, with the exception of one covering both the private and public sectors, only among government employees.⁹⁰ Although Indonesia has enacted several presidential decrees designed to eliminate violence against women and child sexual exploitation, the Indonesian National Commission on Violence Against Women found in 2012 that more regulations are being passed that discriminate against women than are being repealed or amended.⁹¹ Newly enacted laws that remove women's constitutional rights include those that restrict mobility, impose religious standards or dress codes, or relate to lewd or sexual behavior inconsistent with Muslim values.⁹²

India may have the most developed law on sexual harassment at the workplace by virtue of the enactment of a new law earlier this year, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redress) Act, 2013, which brings into force the Supreme Court's 1997 decision in *Vishaka v. State of Rajasthan*. It requires workplaces with more than ten employees to establish Internal Complaints Committees ("ICC") consisting of at least four employees under the Chairpersonship of a senior woman. Female employees can file a complaint with the ICC, upon receipt of which the ICC must investigate and provide recommendations to the employer. Employers are required to provide training and education on the harms of sexual harassment. An employer found in violation of the Act may be liable for a monetary penalty of up to 50,000 rupees, and repeated offenses could result in the fine

see also Florencia Stero, *Proyecto de ley nacional contra la violencia y acoso sexual laboral*, Asociación Civil (Nov. 30, 2011), available at http://acosados.com.ar/index.php?option=com_content&view=article&id=11:proyecto-de-ley-nacional-contra-la-violencia-y-acoso-sexual-laboral&catid=7:noticias&Itemid=18.

⁹⁰ Buenos Aires Province – Law No. 13168: This law prohibits workplace violence, including bullying and sexual harassment, in the government. Its scope includes third-party perpetrators associated with government officials (article 2, as amended by Law No. 14040).

Sante Fe Province – Law No. 12434: This law prohibits workplace violence, including bullying and sexual harassment, in the government. Its scope includes companies with at least majority state ownership (article 2). *But see*, Entre Rios Province – Law No. 9671: This law prohibits workplace violence, including bullying and sexual harassment, within both public and private employers.

⁹¹ Constance Johnson, *Indonesia: Commission Finds Many Laws that Discriminate Against Women*, GLOBAL LEGAL MONITOR (Sep. 19, 2012), http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205403336_text.

⁹² *An Uphill Battle to End Discriminatory Laws*, JAKARTAPOST (Sept. 17, 2012), <http://www.thejakartapost.com/news/2012/09/17/an-uphill-battle-end-discriminatory-laws.html>.

being doubled and cancellation of business licenses. Although enforcement may be difficult due to vague provisions,⁹³ India's new law appears to be the most progressive among the three countries surveyed.

The laws of these three countries demonstrate that criminalization of workplace sexual harassment at the national level is an effort in progress. Hotel policy and practice should also play an important role in protecting housekeepers, but these too are failing to adequately do so. The IUF has written the major international hotel chains asking them if they had policies to prevent sexual harassment but never received any information in response.⁹⁴ As to practice, housekeepers are made to enter guest rooms alone, which leaves them vulnerable to harassment. This is especially risky when the guest is present.⁹⁵ Hotels can take different approaches to address this issue, for example by having housekeepers work in pairs or carry handheld communication devices such as panic buttons.⁹⁶

9. Legal Protections Relating to Mental Stress

Housekeepers are under considerable stress primarily attributable to the fast pace at which they must complete their work. Not only are they charged with cleaning a set quota of rooms each day, but they are also tasked with returning them to a high standard of cleanliness, regardless of the condition in which they found them.⁹⁷ The monotony and lack of creativity or initiative may also be a significant contributor to mental stress.⁹⁸ Moreover, housekeepers often lack a support network at work, with one study of housekeepers in Europe finding that only 70% of housekeepers feel comfortable asking co-workers for support and only 53%

⁹³ Nishith Desai Associates, *HR Hotline: India's New Labour Law –Prevention for Sexual Harassment at the Workplace*, available at <http://www.nishithdesai.com/information/research-and-articles/nda-hotline/nda-hotline-single-view/newsid/1649/html/1.html>

⁹⁴ Interview with Kerstin Howald (IUF European coordinator in the Hotel, Restaurant, Catering and Tourism sector), Nov. 8, 2013.

⁹⁵ *Id.*

⁹⁶ Interview with Massimo Frattini (Global Hotel Coordinator for IUF), Nov. 11, 2013.

⁹⁷ Violence at work, *supra* note 55.

⁹⁸ Protecting workers, *supra* note 54.

would ask the same of their supervisors.⁹⁹ Additionally, housekeepers often face unreasonable and conflicting demands from guests and hotel management,¹⁰⁰ in addition to the threat and reality of sexual harassment. Low wages in the industry may also compel housekeepers to take a second job in order to support their families.¹⁰¹

Legal provisions that concern mental stress at the workplace are scarce in all contexts. No relevant provisions were found in international law or in India. Only Argentina has an OSH law that encompasses psychological health in the definition of OSH.¹⁰² In Indonesia, social security compensatory benefits for workplace accidents under the Manpower Act include mental/psychological damages for hotel workers.¹⁰³

Neglect of mental stress by countries in their OSH or workers' compensation laws represents a major gap in legal protection of housekeeper well-being. Mental stress, like other injuries and illnesses, can in some cases be a debilitating event demanding treatment or rest for a healthy recovery in the short term or can even lead to the development of chronic conditions demanding sustained medical care in the long term.¹⁰⁴ Unless mental stress is treated as a fully cognizable occupational harm by these labor laws, housekeepers are left to bear the especially heavy psychological burdens of their work without OSH assurances of prevention and treatment.

B. Procedural Guarantees for Workplace Safety

As the previous section demonstrates, there exist substantial gaps in the applicable substantive law relating to occupational health and safety in each of the three countries studied. However, even where substantive protections exist, an enforcement gap persistent in

⁹⁹ *Id.*

¹⁰⁰ Leon J. Warshaw, *Health Effects and Disease Patterns*, ILO Encyclopedia of Occupational Health & Safety (2011), <http://www.ilo.org/oshenc/part-xvii/hotels-and-restaurants/item/794-health-effects-and-disease-patterns>.

¹⁰¹ Violence at work, *supra* note 55.

¹⁰² Law No. 19587 (Health and Safety at Work), art. 4(a); *see also* Resolution No. 762/2013 (“Approval of the Protocol on Medical Care in Psychiatry”).

¹⁰³ Manpower Act (Law No. 13, 2003), art. 99.

¹⁰⁴ *More on psychosocial hazards and mental stress*, International Labour Organization (June 15, 2009), http://www.ilo.org/safework/areasofwork/WCMS_117938/lang--en/index.htm.

occupational health and safety law around the world calls into question what procedures are available and functioning to ensure meaningful protection of workers. This section addresses a range of procedural protections in international law and the law of the three studied countries for securing OSH rights.

1. Establishment of OSH Oversight Regimes

There are three primary ways to translate standards into an improved reality for housekeepers: enforcement, monitoring, and education. Laws requiring oversight and reporting on occupational health and safety can perform the latter functions by collecting data on compliance rates, auditing and investigating hotels to interview workers independent of management and respond to worker complaints, or simply through educating employers and workers about how to create a safe work environment and prevent dangerous incidents. OSH oversight legislation also has the potential to establish rules for sanctioning and investigation of employers who are not in compliance with required procedures.

Several ILO conventions lay out general schemes for regulating OSH inspection and compliance with national laws.¹⁰⁵ In particular, the Occupational Health Services Convention, 1985 (No. 161)¹⁰⁶ calls on states to establish occupational health services charged with advising employers and employees on how to create a safe work environment and prevent dangerous incidents. The Promotional Framework for OSH Convention of 2006 proposes appropriate national frameworks, including laws and regulations, for the creation and enforcement of OSH provisions.¹⁰⁷ None of the three countries examined has ratified either of these Conventions. However, all three countries have broad national laws that require

¹⁰⁵ These include the Occupational Safety and Health Convention, 1981 (No. 155), Occupational Safety and Health Recommendation, 1981 (No. 164), the Occupational Health Services Convention, 1985 (No. 161), and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187).

¹⁰⁶ Occupational Health Services Convention, 1985 (No. 161)

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C161

¹⁰⁷ Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C187

governments to develop OSH oversight schemes.¹⁰⁸ Despite the existence of these laws, adequate OSH management systems have not been developed. Sector-specific statutes for hotel housekeeping do not currently exist for any of the three countries.¹⁰⁹

Argentina has the best-developed OSH auditing laws, with requirements for employers to provide medical examinations of employees periodically and to inform insurers of all relevant workplace risks.¹¹⁰ A national labor inspectorate examines workplace compliance and seeks sanctions for any labor law infractions through specific investigative and judicial procedures.¹¹¹ Argentina's law contains several provisions mandating that hotels retain occupational medical services and that employers with more than 300 workers report accident and illness statistics.¹¹² Similarly, general schemes enacted in current Indonesian legislation include auditing dangerous enterprises (not including hotels) for routine inspection or requiring employers to document and report all workplace accidents.¹¹³ Evidence suggests that enforcement of auditing or record-keeping requirements remains low in Indonesia and scarce in terms of general labor inspections for Argentina.¹¹⁴ National-level statistics for workplace accidents in India are not compiled for hotel workers, but only for the sectors that have implemented sector-specific OSH statutes.

¹⁰⁸ Indonesia: Manpower Act (Law No. 13, 2003), Arts. 86-87; India: National Policy on Safety, Health & Environment at Workplace, 2009. Argentina: Law No. 19587 (Health and Safety at Work)

¹⁰⁹ Sector-specific acts are prevalent in India, see Factories Act, 1949, Mines Act, 1952, Dock Workers (Safety, Health and Welfare Rules) Act, 1986 Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996. For Argentina, see Decree No. 911/1996 (note: Health and Safety "Regulations for the Construction [I]ndustry"; Decree No. 617/1997 (note: "Health and Safety Regulations" for the Agriculture Industry).

¹¹⁰ Argentina: Resolution No. 37/2010 (note: Health examinations at work).

¹¹¹ Argentina: Law No. 18695 on procedures for applying sanctions; Law No. 25877 (Title III, Chapter I) on inspector powers.

¹¹² Argentina: Decree No. 1338/1996; Resolution No. 37/2010. No information was found on the success of the statistics program in Argentina.

¹¹³ Indonesia: *Ministry Regulation (Permenaker 50/2012); Guidelines for Occupational Health Management Information System (2003); Regulation of the Minister of Manpower concerning Occupational Safety and Health Service Companies.*

¹¹⁴ Indonesia: In 2004, eight years after the initial legislation passed, only about 500 out of an estimated 170,000 enterprises had been audited for the OSH-MS. Argentina: In 2006, there was a general labor inspection conducted under the auspices of the labor inspectorate regime for every 3,500 establishments, according to the Instituto para el Desarrollo Social Argentino (June 11, 2006), http://www.idesa.org/sites/default/files/documentos/06-06-11_Informe%20Semanal.pdf.

Private law initiatives aim for similar oversight goals. The Global Reporting Initiative (GRI), a voluntary partnership between governmental organizations and corporate sponsors, asks participating hotels to track rates of injury and health and safety.¹¹⁵ Several major chains participate in the GRI but do not report on OSH-related metrics.¹¹⁶

All three countries have set policy goals for future OSH management. In 2011, Argentina adopted a five-year Strategy of Health and Safety at Work that proposes enacting “specific rules concerning psychosocial work-related risks” and “[p]romoting the organization of a campaign on Gender, Health, and Labour.”¹¹⁷ Indonesia and India also have national policy programs related to OSH management that lay out goals such as enacting an “effective enforcement machinery”¹¹⁸ and “establishing an OSH professional certification institution.”¹¹⁹

As with other aspects of health and safety law and policy, national OSH management systems suffer from enforcement and implementation gaps. In some countries, there remain low rates of labor inspection and of occupational accident reporting. Unsurprisingly, then, there may be little comprehensive statistical data at the country level about hotel workers and the injuries, illnesses, and long-term health effects associated with their work. At a more basic level, workers and employers may be inadequately trained regarding their rights and obligations under OSH laws as well as ways of reconfiguring workplaces and adapting routines to mitigate OSH risks. Expanded outside aid from various private agencies and

¹¹⁵ Global Reporting Initiative, *About GRI*, <https://www.globalreporting.org/information/about-gri/Pages/default.aspx>.

¹¹⁶ For those metrics, see, Global Reporting Initiative, *Content Index and Checklist*, <https://www.globalreporting.org/reporting/reporting-support/reporting-resources/content-index-and-checklist/Pages/default.aspx>. For a full list of organizations participating in the GRI, see <http://database.globalreporting.org/>

¹¹⁷ Argentina Strategy of Health and Safety at Work, 2011-2015, Ministry of Labor, Employment, and Social Security (Apr. 27, 2011).

¹¹⁸ India: National Policy on Safety, Health & Environment at Workplace, Ministry of Labour and Employment in 2009.

¹¹⁹ Vision, Mission, Policy, Strategy and Program of National Occupational Safety and Health (OSH) 2007-2010, ILO (June 1, 2006).

international NGOs that provide tools for training programs could help to fill this gap.¹²⁰ In addition, CBAs may contain provisions requiring employers to issue safety manuals or form an OSH in-house committee.¹²¹ They should further require employers to inform their workers of the OSH management system in place and ensure that workers understand their rights.

2. Establishment of Workers' Compensation Programs

Workers' compensation schemes are especially critical for housekeepers given the high prevalence of pain and injury they incur on the job. These programs are intended to ensure that employees are able to support themselves while unable to work due to employment-related injury. The Buchanan study observed that, in the United States, many workers fail to report their injuries – especially when they were non-unionized, migrants, or otherwise vulnerable – because they feared retaliation from upper management, due to language barriers, or simply because they were unaware of existing workers' compensation schemes.¹²² Educating workers about workers' compensation lowers the barrier to reporting and helps ensure that workers who have been injured in the line of duty do not feel the need to remain on the job, in pain, in order to keep their families fed and clothed. It is not sufficient for a Workers' Compensation program simply to exist; it must also be speedy and efficient. One study of the Workers' Compensation program in California found that a delay in processing claims and providing treatment of just two weeks was associated with a 77% increase in the likelihood the claimant would ultimately suffer from a chronic disability.¹²³

¹²⁰ Indonesia: ILO Jakarta collaborates with major Indonesian labor confederations and the Japan International Labor Foundation (JILAF) to implement joint OSH training programs to fulfill the Manpower Law's mandate.

¹²¹ Art. 66, Gran Melia Jakarta CBA. Argentina's Ministry of Labor catalogues CBAs online, for full text in Spanish see *Buscador de Convenios Colectivos de Trabajo*, Ministerio de Trabajo, Empleo y Seguridad Social (n.d.), <https://convenios.trabajo.gob.ar/ConsultaWeb/Aviso.asp>.

¹²² Buchanan, *supra* note 2.

¹²³ P. Sinnott, *Administrative delays and chronic disability in patients with acute occupational low back injury*, J. OCCUP. ENVIRON. MED. 690-699 (2009).

None of the three countries examined have ratified the relevant ILO Convention on Employment Injury Benefits, which provides that “[n]ational legislation concerning employment injury benefits shall protect all employees, including apprentices, in the public and private sectors,”¹²⁴ and which grants signatories wide latitude to choose which illnesses are classified as occupational diseases and what level of compensation is appropriate.¹²⁵ All three countries have social security protection, although it is unclear whether the main Workmen’s Compensation Act of 1923 in India is applicable to hotel workers.¹²⁶

Employees should receive equal care and compensation for injuries, but in practice, an employer may choose to set up a private insurance scheme rather than enroll workers in the state social security program. Consequently, employees may receive differing levels of care and compensation for suffering the same injuries. Argentina and Indonesia, among the three studied countries, allow for private social security schemes of comparable benefits.¹²⁷

The scope of social security programs, including workers’ compensation, varies greatly by country. In Indonesia workers *and their families* are guaranteed the right to social security, and stated benefits include compensation and *rehabilitation* for workers from the time of accident until full recovery. Benefits include mental and physical damages.¹²⁸ India’s Employees’ State Insurance Act provides social security for maternity. Argentina’s Law No. 26773 on compensation for damages provides that compensation should cover both the “reduction produced in... fitness for... productive activities” and, in case of disability or

¹²⁴ Employment Injury Benefits Convention, 1964 (No. 121).

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C121

¹²⁵ *Id.*

¹²⁶ Indonesia: Law No. 3/1992 on Social Security. India: Workmen’s Compensation Act, 1923; Employees’ State Insurance Act, 1948. However, some state Shops and Establishments Acts—for example, those of Maharashtra, Karnataka, and Goa—have provisions that provide for the application of the Workmen’s Compensation Act for all employees that fall under the Shops and Establishments Acts, which include hotel employees.

¹²⁷ Argentina: Law No. 24557 (note: Workers’ compensation), arts. 3, 20, 27. Indonesia: Law No. 3/1992 on Social Security.

¹²⁸ Manpower Act (Law No. 13, 2003), art. 99.

death, the “need for continued assistance”¹²⁹ to the worker or his or her family. It also establishes a minimum payout for total disability or death. Argentina’s laws go into more detail than Indonesia or India’s in specifying the creation of lists to determine which occupational diseases are covered by insurance, to specify minimum procedures for internal control systems of insurers, and to fine employers if accidents or diseases result from “any breach...of the rules of hygiene and safety at work.”¹³⁰ In addition, Argentina’s laws create a guarantee fund to finance compensation in the event that an employer has insufficient equity or is liquidated,¹³¹ whereas in Indonesia employees must cover social security costs themselves in these situations.¹³² Workers’ compensation is not given to certain contract employees or employees who work full-time under the guise of student interns.¹³³

This comparison highlights a number of the problematic gaps in workers’ compensation systems with regard to housekeepers who suffer occupational harms. First, in some countries, workers’ compensation systems may not cover all industries. This means that among workers with identical types of injuries or illnesses, some may be compensated while others are left to bear health care and associated costs themselves, simply because of the industry in which they are employed. Second, workers’ compensation systems may not cover all injuries and illnesses within a covered industry. For example, some countries do not cover mental or psychological disorders, which might result from workplace stress, trauma, or harassment. Finally, workers’ compensation programs may not cover all types of workers, even within a covered industry. Depending on the country, if employers hire workers without registering them with the government, or on a contract rather than permanent basis, or under

¹²⁹ *Law No. 26773*, Ministerio de Economía y Finanzas Públicas (n.d.), <http://www.infoleg.gob.ar/infolegInternet/anexos/200000-204999/203798/norma.htm>.

¹³⁰ Argentina: *Law No. 24557 art. 5*; *Law No. 26773*; *Resolution No. 31231/2006*.

¹³¹ Argentina: *General Workers’ Compensation Law No. 24557*.

¹³² Indonesia: Interview with workers from Ibis Mangaduar, Nov. 5, 2013 (on file with author).

¹³³ Indonesia: Interview with Indonesia-ACILS employer, Nov. 5, 2013 (record on file with author).

an exempted employment status such as “student intern,” those workers may lack access to compensation when they become injured or sick.

Workers face a different kind of coverage gap when private entities – such as employers or insurers – rather than governments are responsible for paying out workers’ compensation. Without regulation setting specific requirements, workers may not receive equivalent compensation across employers. At the very least, regulation can set minimum levels of compensation. In addition, where private entities pay out compensation, workers face the appreciable risk of not receiving full compensation for their injuries and illnesses if their provider lacks sufficient funds. Some governments have set up guaranteed funds to cover the inevitable occurrence of such contingencies.

3. Protection of Access to Courts

When workers are unable to resolve disputes with their employers, it is critical that they have recourse to an independent judiciary. Although access to courts should be guaranteed under all circumstances governed by the rule of law, it is especially important in employer-employee relations involving low-income workers because the power disparity between the parties is vast. Corruption, fraud, and judicial misconduct number among other potential barriers that could conceivably prevent housekeepers from accessing the judiciary.

Article 8 of the Universal Declaration of Human Rights guarantees that everyone has the “right to an effective remedy by the competent national tribunal for acts violating the fundamental rights granted him by the constitution or by law.”¹³⁴ Because updated online court records in English are not available from Indonesia or India, the research presented here is limited. However, available data suggest that courts have been successful at guaranteeing

¹³⁴ UDHR art. 8, <http://www.un.org/en/documents/udhr/>.

workers' rights in a few select cases in Argentina.¹³⁵ Overall, although workers have formal access to courts in all three countries, in practice workers aren't necessarily able to vindicate their statutory and constitutional rights via this mechanism. Certain legal systems, such as Indonesia's, may be hostile to worker's rights, given the governments' preference for global business and development.¹³⁶ All three countries have established industrial and labor relations courts to introduce guidelines for conciliation, mediation, arbitration and alternative dispute settlement mechanisms.¹³⁷ Additionally, the Constitution of Buenos Aires Province in Argentina mandates that the government establish specialized courts for labor disputes.¹³⁸

As with inadequate OSH management systems, the difficulties that housekeepers can face in vindicating their labor rights through the courts exacerbate the gap between OSH law and OSH practice. But resistance to redress by judges is not necessarily an inevitable byproduct of policymaking commitments to development. Resistance may, for example, result in part from judges' lack of sufficient training in judicial independence and principles of equitable fairness. Dedicated labor courts can provide workers a venue with specialized judges presiding who are better versed in workers' rights jurisprudence,¹³⁹ bearing in mind that the same reservations regarding judicial independence exist as in the typical civilian courts.

¹³⁵ Argentina: Labour Court of Appeal of the City of Santa Fe, First Chamber, Fernández, Pedro c/ Ortiz, Arcangel v. CPL, 8 March 2012, Case No. 98/10 (court affirms workers right to "protection against arbitrary dismissal").

¹³⁶ See the Shangri Law case from Indonesia in 2000. The Jakarta High Court, which ordered trade union activists to pay compensation for "damages" wrought by their protests of unlawful dismissals and to present a written apology to hotel owners in the five national newspapers. No relevant case law on hotel housekeeper OSH was found in India.

¹³⁷ Indonesia: Law No. 2 of 2004 on the Industrial Relations Disputes Settlement; Argentina: Law No. 18345 National Labour Court Organizational and Procedural Law; India: Industrial Disputes Act, 1947.

¹³⁸ Enacted by Law No. 18345 National Labor Court Organizational and Procedural Law – Outlines the organization and procedure of the National Labor Chamber of Appeals as well as national labor courts of first instance. These courts have jurisdiction over the Autonomous City of Buenos Aires, and there are provincial tribunals outside the city as well (http://www.ilo.org/ifpdial/information-resources/national-labour-law-profiles/WCMS_158890/lang--en/index.htm#P35_10593).

¹³⁹ Indonesia: Industrial Disputes Resolution Act 2004. Argentina has a National Labor Chamber of Appeals (governed by Law No. 18345) and a Domestic Labor Court.

The private sector also has a role to play in promoting access to justice. The UN Guiding Principles on Business and Human Rights call on corporations to, *inter alia*, create a legitimate, accessible, predictable, equitable, transparent grievance mechanism to remediate human rights violations after they occur in consultation with “potentially affected groups and other relevant stakeholders,”¹⁴⁰ including employees. The OECD Guidelines for Multinational Enterprises similarly call upon business to, *inter alia*, provide (or co-operate in) “legitimate process in the remediation of adverse human rights impacts”¹⁴¹ which they have caused, or to which they have contributed. Although these exhortations extend only to internal grievance mechanisms, they may be all the more necessary and effective in countries where access to justice in the courts is constrained.

4. Protection of the Right to Collectively Bargain

Housekeepers may address hotel-specific or even sector-specific concerns related to OSH in collective bargaining agreements, making the right to collectively bargain itself a valuable asset to the process of OSH protection. Even if specific substantive OSH-related provisions are not feasible, the framework that a CBA creates and the dialogue that it generates can prove crucial in enabling employees to voice their concerns to management and in forcing it to act on these issues. However, the proportion of hotel workers worldwide who are affiliated with unions appears to be generally lower than the average within all industries.¹⁴² One obstacle to unionization in this sector is the high percentage of precarious employment, and the low bargaining power and high rate of turnover this feature engenders.

The Universal Declaration of Human Rights art. 23(4) states, “Everyone has the right to form and join trade unions for the protection of his interests.”¹⁴³ Several ILO conventions

¹⁴⁰ Guiding Principles on Business and Human Rights, UN HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

¹⁴¹ OECD, *Guidelines for Multinational Enterprises* (2011), <http://www.oecd.org/daf/inv/mne/48004323.pdf>.

¹⁴² Violence at work, *supra* note 55.

¹⁴³ UDHR art. 23(4), <http://www.un.org/en/documents/udhr/>.

relate to the right to bargain collectively. In particular, Convention No. 87 broadly guarantees the right to form unions.¹⁴⁴ Argentina and Indonesia have ratified Convention 87, but India has not. All three countries have passed national legislation that legalizes the right to collective work agreements.¹⁴⁵ Argentina affirms the right to collectively bargain in its constitutional guarantees as well, as article 14a states, “trade unions are hereby guaranteed.”¹⁴⁶ Some hotels have also affirmed their employees’ right to collectively bargain.¹⁴⁷

The right to bargain collectively is imperative for housekeepers to advance their own health and safety at work. CBAs are a forum not only for negotiating more favorable terms on the standard employment contract issues such as hours, wages, and termination but also for resolving hotel-specific or even sector-specific concerns related to OSH through binding, albeit private, law. Nonetheless, while all hotel chains have the ability to go beyond what is required of them in national legislation, some hotels still refuse to negotiate CBAs.¹⁴⁸ They have the choice to respect their workers’ collective bargaining rights as part of a good faith effort to emphasize OSH protection, even if those rights are not fully guaranteed by law. In addition, hotel chains vary greatly in the level of specificity with which their codes of conduct address issues related to OSH, and they should be encouraged to detail requirements and guarantees in a manner most conducive to creating tangible rights. Other informal mechanisms designed to facilitate increased awareness of worker’s rights outside of the CBA include corporate social responsibility mission statements. Hotels typically do not focus on

¹⁴⁴ The Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

¹⁴⁵ Indonesia: Manpower Act (Law No. 13, 2003) art. 116. Argentina: Decree No. 1135/2004 (Collective Agreements). India: There is a right to collective bargaining subject to restrictions in the Industrial Disputes Act, 1947. See Chandra Kumarjohri, *Labour Law In India*, 2012, 226.

¹⁴⁶ CONST. (Argentina). The Constitution of Buenos Aires Province art. 39 also guarantees workers’ rights of free association, collective bargaining, and striking.

¹⁴⁷ See the U.N. Global Compact.

¹⁴⁸ Indonesia: Accorhotels will not sign a CBA with employees. India: CBAs are not encouraged in the Industrial Disputes Act; see Chandra Kumarjohri, *Labour Law In India*, 2012. Hotels asked to track percentage of the workforce represented by collective bargaining related to health and safety programs, or health and safety topics covered by formal agreements, as part of the Global Reporting Initiative, do not report on these categories.

occupational injury protection or training in their CSR reports, but they should be encouraged to do so. When detailed articulations of requirements and guarantees are lacking, neither workers nor management can evaluate the fidelity with which hotel practices track these commitments.

Conclusion

This preliminary report has surveyed the state of occupational health and safety legal protections for housekeepers by analyzing the OSH laws of a modest but diverse sample of national regimes (Argentina, India, and Indonesia) as well as relevant international legal frameworks. This inquiry into the laws regarding substantive hazards faced by housekeepers and procedural avenues for redress has produced a number of general observations regarding the gaps that exist in these protections at the national level.

First, numerous countries have not yet ratified key OSH-related ILO Conventions or adopted key ILO Recommendations. Signing these Conventions would represent a commitment to both the international community and to a country's own citizens that, at the very least, government policy would be oriented toward the implementation of legal protections for health and safety in the workplace.

Second, national policy is not OSH law, and OSH law is not OSH practice. Countries that have established councils to formulate policy in pursuit of broad objectives (such as compliance with a Convention) may have little law to show for it. And countries with OSH law may hardly enforce them or even see them systematically violated. In neither circumstance should codification be used as an excuse to avoid implementation and enforcement. More frequent inspections, greater worker and management awareness, better access to administrative and judicial remediation, and more detailed, verifiable standards are all needed.

Third, there may be OSH standards existing for other industries that are appropriate to the hotel industry but have not been applied to it. For many of these standards, the rationale for their industry-specific limitations is not clear, and they could be easily adapted to protect housekeepers. The broader application of existing standards would help protect

workers according to the nature of the hazards and injuries they face rather than the industry in which they happen to be employed.

Finally, hotel-specific standards might offer housekeepers practically enforceable improvements in workplace OSH. With the possible exception of broad and conventionally regulated industries such as mining, construction, and agriculture, sector-specific OSH standards are absent from the countries studied. Currently, housekeepers must turn to broad standards that apply across industries and are often framed in terms of physiological metrics (such as hours worked, force experienced, or particles breathed). Standards specific to the hotel industry could translate these metrics into measurements relating directly to housekeeping tasks at the lawmaking rather than enforcement level. The adoption of a hotel-specific OSH standard could help to fill many of the gaps in national legal regimes identified in this preliminary report across substantive areas of concern to housekeepers.