



KEY ISSUES AND RECOMMENDATIONS CONCERNING RIGHTS OF WOMEN MIGRANT WORKERS IN ASEAN¹



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INTRODUCTION

Although both men and women migrate, migration is not a gender-neutral phenomenon. Women currently make up about one half of the world's migrant population. Various factors such as globalization, the wish to seek new opportunities, poverty, gendered cultural practices and gender-based violence in countries of origin, natural disasters or wars and internal military conflicts determine women's migration.²

Labor migration may benefit women through economic as well as socio-cultural empowerment. Unfortunately, the migration experience is not always safe for women migrant workers. Due to their dual vulnerability as migrants and as women, they are still disproportionately affected by a variety of risks arising from their mobility. During every stage of their migratory experience, women migrant workers may be more exposed to human rights violations compared to their male counterparts. They frequently have to deal with difficult living and working conditions, increased health risks, a lack of access to social services and various forms of abuse such as the confiscation of passports by their employers. Women migrant workers tend to be concentrated in sectors that are largely informal and unregulated therefore offering them little or no protection. These women tend to have limited or no bargaining power and few or no opportunities for establishing networks to receive information and social support. Irregular women migrant workers are particularly vulnerable to harassment, intimidation or threats as well as economic and sexual exploitation including trafficking and racial discrimination. Often times, they face incarceration and/or deportation if they attempt to leave their employer.³



The position of female migrants is different from that of male migrants in terms of legal migration channels, the sectors into which they migrate, the forms of abuse they suffer and the consequences of migration. To understand the specific ways in which women are impacted, female migration should be studied from the perspective of gender inequality, traditional female roles, a gendered labour market, the universal prevalence of gender-based violence and the worldwide feminization of poverty and labour migration. The integration of a gender perspective is, therefore, essential to the analysis of the position of female migrants and the development of policies to counter discrimination exploitation and abuse. While migration presents new opportunities for women and may be a means for their economic empowerment through wider participation, it may also place their human rights and security at risk.⁴

¹ This briefing paper has been prepared based on the discussions and recommendations from the Regional Dialogue on Women Migrant Workers in ASEAN organized by IRAW Asia Pacific, The Foundation for Women (FFW), Oxfam and The Australian Department of Foreign Affairs and Trade (DFAT) in 7-9 December 2016 in Bangkok

² CEDAW General Recommendation 26

³ Working to Prevent and Address Violence Against Women Migrant Workers – International Organization for Migration

⁴ CEDAW General Recommendation 26

Violations of women's rights are committed throughout the migration cycle in labour-sending and -receiving countries in the region. Among them are: restrictions on women's right to work and mobility, the feminization of migration that undervalues women's right to work and mobility, lack of social protection for women, violations of women migrants' sexual and reproductive health rights, trafficking in women and girls, and barriers to women's access to justice in the face of rights violations, including gender based violence against women and violations of their economic, social and cultural rights.⁵

All women migrant workers are entitled to the protection of their human rights, which includes the right to life, the right to personal liberty and security, the right not to be tortured, the right to be free of degrading and inhumane treatment, the right to be free from discrimination on the basis of sex,

race, ethnicity, cultural particularities, nationality, language, religion or other status, the right to be free from poverty, the right to an adequate standard of living, the right to equality before the law and the right to benefit from the due processes of the law. These rights are provided for in the Universal Declaration of Human Rights and the many human rights treaties ratified or acceded to by State Members of the United Nations. Women migrant workers are also entitled to protection from discrimination on the basis of the Convention (CEDAW), which requires States parties to take all appropriate measures without delay to eliminate all forms of discrimination against women and to ensure that they will be able to exercise and enjoy de jure and de facto rights on an equal basis with men in all fields.⁶

WOMEN MIGRANT WORKERS IN ASEAN

Labour migration in ASEAN largely occurs under temporary migration regimes and for less-skilled, low wage work in sectors including domestic and care work, construction, manufacturing and agriculture (including fishing and forestry sectors).⁷ There are more irregular than regular migrant workers in the region. According to estimates, many of low-skilled, low wage, irregular migrant workers in the region are women employed in informal work sectors.⁸

The commodification of labour and services within the regional economic framework for ASEAN integration creates a gap in addressing the human rights of women migrant workers. The increasing potential for migration created by ASEAN regional integration also links to the decreasing levels of

formal sector employment in the sending countries resulting in increasing levels of vulnerability and emerging precarious employment. There is no multilateral framework on the rights of migrant workers in ASEAN, and there is still no recognition of unskilled work including domestic work as work at the regional level.

The cases of women migrant workers from Lao PDR and Myanmar illustrate the conditions of women and girls whose rights are violated under the existing framework of labour migration in the region. Support from family and NGOs, and adequate response from law enforcers are important factors that facilitate women migrant workers' access to remedy.⁹

⁵ The Missing Women: Implications of the ASEAN Integration on Women Migrant Workers' Rights- Pg 9 (WLB and IWRAW Asia Pacific, 2016)

⁶ CEDAW General Recommendation 26

⁷ The Missing Women: Implications of the ASEAN Integration on Women Migrant Workers' Rights- Pg 39 (WLB and IWRAW Asia Pacific, 2016)

⁸ The Missing Women: Implications of the ASEAN Integration on Women Migrant Workers' Rights- Pg 8 (WLB and IWRAW Asia Pacific, 2016)

⁹ The Missing Women: Implications of the ASEAN Integration on Women Migrant Workers' Rights- Pg 9 (WLB and IWRAW Asia Pacific, 2016)

KEY ISSUES AND RECOMMENDATIONS CONCERNING WOMEN MIGRANT WORKERS

Families and Children of Women Migrant Workers (WMWs)

CSOs and migrant workers community advocates have identified issues related to families and children of WMWs as one of the critical issues in the context of Southeast Asia.

Returning WMWs are not always welcomed back, notwithstanding their contribution to their families, communities and even national economies. Women migrants are looked at with suspicion and suspected of misconduct while abroad by family members and society at large. Many return home to disintegrated families and separation from husbands. Studies have shown that women returnees, especially those

subjected to sexual abuse and/or exploitation face violence at the hands of their husbands and in-laws (ILO, 2013). Some women migrants return with severe physical and psychological problems, disability and illness, making reintegration even more difficult (HRW, 2007). Returned women migrants also face the challenge of reintegrating into the labour market since they can rarely make use of the skills and experience earned abroad. Their inability to manage their earnings at destination or upon return also means that they have limited funds for investments or for exploring self employment opportunities.¹⁰



Recommendations

- Provide pre-departure awareness raising and orientation programmes for women migrant workers and their families. Such programmes should also focus on prioritization of social services and saving by migrant women to be self-sufficient.
- Conduct community awareness on marriage migration. Countries of destination (COD) should provide identity (visa renewal) and independence that protects women from being deported if marriage fails and also allowing them to continue to work in that country.¹¹
- Provide protection and capacity building measures for families of women migrant workers who are left behind so they understand the situation of women who migrate and are able to manage family's expectations of them.
- Establish a women migrant workers credit union with profits that go to services for the women migrant workers and their families.
- COD mandated by UN-CRC to ensure children of migrant workers have the right to an identity and education in local language.
- COD shall have strong laws to enforce inter-country adoption agencies.

¹⁰ Women's Labour Migration from Asia and the Pacific: Opportunities and Challenges (Issue in Brief- IOM, MPI Bandita Sijapati, March 2015)

¹¹ Women Migrant Workers who join their spouses or other members of their families who are also workers have been recognized by GR 26 as one of the categories of migrant women [See GR 26, para 5]

National and International Legal Framework

The Convention for the Elimination of Discrimination Against Women (CEDAW) has been ratified by 189 states since 1981. Although all 11 ASEAN states have ratified CEDAW, only Thailand, Philippines, Cambodia and Timor Leste have signed and ratified its Optional Protocol. CEDAW is a mechanism to report on women migrant workers and trafficked women, and can be used in conjunction with other international human rights standards, including the ILO conventions, International Covenant on Economic Social and Cultural Rights (ICESCR) and International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families CMW. CEDAW has issued Concluding Observations (COBs) for sixteen articles and these should be reviewed by all ASEAN countries as a vital advocacy tool. There is very often a gap between implementation and the normative framework.

Besides specific laws protecting women workers¹², Employment and labour laws are critical legal instruments to guarantee and protect the rights of women migrant workers, and domestic workers; however these laws can contain many gaps¹³ and/or there may be other laws (or the lack of such laws) related to rights of workers that are an obstacle (such as restrictive collective bargaining laws, or minimum wage guarantees) and thus reduce the level of protection. Women's groups must continue to monitor the interaction of such laws and the substantive protections within them to ensure that women migrant workers can use the law to claim their rights in cases of violation. There should be consistency of legislation within a domestic framework and across the region with a more cohesive and integrated approach to WMW human and labour rights in economic, political and protection mechanisms.

We just passed a law that took 13 years. It's a landmark legislation that establishes an employer/employee relationship between the household owner and domestic worker. It is now a protected profession. They now have a day off and secure tenure. Their rights are recognized now. It was passed a few years ago, so its implementation is not 100% because there is resistance among the employers. We have two bilateral agreements. We are entering a bilateral agreement with the Qatar NHRI. We are adding a mechanism so women migrant workers can have a mechanism to complain. We have done this with Saudi Arabia, but the mechanism has not been used yet, so we need to explore how to use NHRIs to help advocacy. **(Center for Human Rights, Philippines)**

¹² For example the Philippines instituted in 2013 the Act Instituting Policies for the Protection and Welfare of Domestic Workers (Republic Act 10361), specifically addressing right of domestic workers in Philippines.

¹³ Malaysia for instance, has amended its employment act (<http://www.ilo.org/dyn/natlex/docs/WEBTEXT/48055/66265/E55mys01.htm#c36>) to include 'domestic servants' within the definition of employees however in another part of the law it has excluded domestic servants from some of the major protections in the law including the protection from retirement benefits, maternity protections and leave days which are enjoyed by other employees under the act.



Recommendations

- Ratify Convention on Migrant Workers (CMW) and ILO Conventions 189 and 100.
- Ensure effective implementation of ratified treaties including CEDAW, ILO and CMW
- Harmonize national legal framework concerning gender equality, labour and migration according to CEDAW, ILO and other human rights standards
- Revise and repeal discriminatory laws and enforce implementation of laws and policies in line with human rights standards- CEDAW (non discrimination principles- recognizing direct and indirect discrimination)
- Disseminate and socialize all grassroots level communities including ethnic people in the provisions of the law.
- Ensure existing labour laws in areas/sectors where women are over represented, contain measures that do not oppress and disadvantages women (example domestic work)
- Existing labour laws should cover all sectors where women work, including care and domestic work
- Provide training on related labour law to VAW responders, law enforcers and the judiciary
- Ensure normative frameworks are in place to protect women migrant workers from violence. Laws should include recognition of rights and safety standards for women migrant workers.

Care and Domestic Work

There are numerous types of employment that women choose to undertake, including agriculture, garment industry, fishing, massage, sex work, construction, and domestic work. In ASEAN, only the Philippines and Indonesia have ratified the ILO Convention 189 on domestic work and it is in fact not recognised in many of the ASEAN countries, such as Myanmar, as a legal form of employment. It is therefore regionally and internationally regarded as a typical form of unskilled labour provided by women who are regarded as family members, and prevents compliance with minimum labour standards, health and safety standards and contractual terms and conditions. This prevents WMWs from obtaining legal work permits or visas and exposes them to exploitation and abuse.

Predominantly the critical issue was the informality of domestic work, as domestic workers are often regarded as a family member and not as employees, and crucially, most women migrant workers working as domestic workers are undocumented. They are often controlled through fear of deportation and few therefore complain of violations. Many are also hidden from view as they live with their employers. Accordingly, there are few or no labour standards, social protections, complaint mechanisms or legal redress. Added to which, Laos or Thailand, for example, do not have data for numbers of WM domestic workers and this compounds the difficulty in creating a policy framework.



Recommendations

- Include domestic work in migration management policies
- Have strong monitoring and redress mechanisms in place to regulate recruitment agencies to emphasis protection of women migrant workers including undocumented migrant workers.
- Ratify and implement ILO Convention 189 on domestic work
- Develop disaggregated data on women migrant domestic workers (sometimes considered as family members but not as workers) including undocumented migrant workers.
- Enforce strong transboundary accountability framework and mechanism between/among sending and receiving countries for the protection of domestic migrant workers.
- Legal framework to recognize domestic and care work as work and to ensure minimum/decent living wage for domestic work
- Guarantee equal pay for work of equal value and redress mechanisms
- Education and empowerment programmes for women migrant domestic workers about their rights and legal measures.

“Because of my illegal status I was dependent on my employers to obtain employment and an ID card. I was constantly vulnerable to exploitation due to the threat of deportation and so any form of negotiation was severely limited. Many domestic workers suffer from physical and psychological abuse from their employers, including restriction of liberty and movement; excessive working hours and expansive duties including raising children; no access to health or other social services; difficulty in obtaining legal documents; and actual violence. Many live with the families they work for and are hidden from society. This in turn means a restricted access to any form of assistance or rescue. Significantly, even in the event of assistance being obtained, due to the lack of labour standards and their often illegal status, they have no legal or formal rights of redress, regardless of the severity of their claims, which can range from unpaid wages and unfair dismissal for becoming pregnant, to physical injuries.” (A woman domestic worker for over 11 years in Thailand)

Representation of Women Migrant Workers

There is a need for more trained women in the diplomatic services, trade unions, and public office, as these are where the normative frameworks are established. The ILO tripartite structure encourages the three target actors of governments, private sector employers and employees to equally participate in discussions. As contributions from employees are often hampered due to lack of representation, the ILO is calling for an increase in the number of women and the number of platforms for these women to become actively involved in the process at all levels which currently is very low. Thai law provides women migrant workers with five types of jobs, so not only does this restrict access to legal documented work, it fails to acknowledge the more common unskilled and undocumented workers who are not represented, despite the demand for them. In Hong Kong, there is freedom of association for migrant workers, but that is not the case in ASEAN countries.



Recommendations

- Respect the rights of freedom of association and collective bargaining of women migrant workers by removing barriers for the representation of women migrant workers in trade unions.
- Responsibilities of stakeholders in protecting women migrant workers and utilizing people who are trained to liaise between the groups in order to facilitate a better understanding and contribute to alleviating the differences and difficulties experienced

I had legal work status in a Thai rubber plantation, but a lack of health and safety standards and training. I was regarded as an illegal migrant worker after being robbed of my ID. I was subsequently treated disrespectfully by the authorities and was prevented from accessing any legal remedy. Despite gaining employment in construction, I received unequal pay to the male workers, despite the same requirements and conditions of work. After trying to change employers, I was arrested by my supervisor, beaten, fined and prevented from leaving. Health issues are particularly challenging, as there is no access without money, and if you cannot pay, you are arrested by the authorities. This tragically often results in women abandoning children and babies at hospitals, as they cannot afford the medical bills or the possibility of being arrested and deported. I was aware of some training programmes educating on labour and human rights involving training, empowerment, obtaining ID, and health and legal assistance etc, but without legal documents you are unable to attend. (A woman construction worker from Myanmar)

Access to Justice, Healthcare and Information

In line with the obligations set out in Article 2 of CEDAW, States parties to the Convention must guarantee women's right to equality; prohibit discrimination against all women on grounds of their gender in laws and policies and protect all women's rights through effective mechanisms allowing for redress against violations. Undocumented women's fundamental right to access justice is regularly superseded by migration control interests.¹⁴

Undocumented women are often excluded from the general systems for accessing basic social rights,

including health care services, housing support and violence against women shelters, and they face particularly disadvantageous terms when seeking access to justice and equality before the law. Lack of access to information and gender sensitive access to the justice system is a key problem concerning women migrant workers. Most of the women migrant workers have no ID cards or find it very difficult to obtain them and this limits access to health, travel etc.



Recommendations

- Access to complaint and support mechanism when facing violations
- Provide affordable and accessible health and sexual and reproductive health care to women migrant workers, especially in remote areas
- Access to information about migration policies, women's rights, labour issues, legal framework – perhaps online and in writing, but some women may not have access nor be literate
- Provide safe houses/women friendly centers in cases of violence.
- Increase female case workers; advisors, lawyers and legal aid; doctors, nurses, teachers etc

Cross Border Access to Justice

Human migration is an inherently global and historical phenomenon, which occurs from the interacting push and pull factors of political instability and conflict, economic and social opportunities, poverty and inequality. The policies of states in recent times has been focused on addressing illegal, undocumented and irregular migration, rather than the rights context of risk and exploitation faced by migrants in the continuum of migration. Safe migration for workers requires cooperation among States in multilateral, bilateral and regional levels. The ASEAN Economic Community focuses on the free movement of goods and services but not workers. ASEAN is focused more on limited skilled labor and not on

the majority unskilled workforce. Undocumented workers have increasingly become a serious issue in ASEAN, potentially 3 million in Malaysia that are accounted for. Thailand – 4 million documented and 1.5 million undocumented. Most of the migrant workers are unable to return home and even if they do, they may not be able to return to the receiving country. Punishments in the COD are very harsh including long prison sentences and governments not stepping in to reduce threats from employers and judicial punishments. The ASEAN Convention on Trafficking in Persons has been ratified only by Singapore, Cambodia and Thailand. It requires three more ratifications to come into force.

¹⁴<http://www.ohchr.org/Documents/HRBodies/CEDAW/AccessToJustice/PlatformForInternationalCooperationOnUndocumentedMigrants.pdf>



Recommendations

- Include low wage workers in ASEAN economic cooperation including cross border access to justice ASEAN must enforce Mutual Legal Assistance (MLW) agreement that is signed. Use MLA to develop bi lateral agreements.
- Develop guidelines on using MLW for cross border trafficking cases including reciprocal agreements for shared responsibility for costs incurred for investigation of violations, enforcement proceedings, legal aid, pro bono services, video conferencing; etc
- There needs to be coherence of laws and migration policies among ASEAN countries including cross-border liability of employers and agents
- Ratify ASEAN Convention on Trafficking in Persons.
- Workers' access to remedies in COD; Access to civil remedies beyond non-payment of salary: compensation; informal actions such as letters of demand, not only court
- Provide legal assistance to migrant workers to bring civil employment claims
- Diplomatic missions: should have dedicated legal desks to handle to matters and problems of women migrant workers
- Develop guidelines on using MLW for cross border trafficking cases

Conclusion

Women are at a distinct disadvantage including a greater familial responsibility and burden of care work; lack of education and training; gender-based violence; sexual discrimination; access to justice; cultural and engendered prejudices and policies; and an absence of labour laws and protection; all contributing to a disproportionately negative impact on how women migrate (commonly forced to seek illegal channels with no protection or legal redress); the type and nature of work they obtain (mostly low skilled and low paid), and the conditions they work in (often exploitative).

We need to remember and emphasise that women are the rights holders, and that states as the duty bearers, must be reminded of their obligations to ensure gender equality for women migrant workers, and provide sufficient, accessible and competent remedies to any and all violations. Migrant workers,

whether documented or not, shall enjoy treatment not less favourable than that which applies to nationals of the country of employment in respect of remuneration and other working conditions.

It is therefore essential to review the relevant current international and regional human rights standards that apply to them; to identify the critical issues, and to develop a comprehensive approach that establishes and applies minimum labour standards with a gendered response, with women as the main focus and beneficiaries. A gender-friendly agenda is necessary to promote equality and women's rights in the ASEAN community, to protect the migrant women who want to exercise their right to find economic opportunities to improve their lives and those of their families.

Annex 1: CEDAW references to rights of women migrant workers in concluding observations of ASEAN countries

| Issues / concerns | Recommendations |
|---|---|
| Situation of Women Migrant Workers | |
| <p>CEDAW expresses concern about the situation of women migrant workers who are vulnerable to abuse and exploitation, particularly those who are undocumented (Thailand, 2017).¹⁵</p> <p>The Committee is concerned at the widespread exploitation and abuse of Filipino women migrant workers working abroad, in particular those working as domestic workers, and insufficient support to reintegrate returning women migrant workers. The Committee also notes that the protection of migrant workers under the ASEAN migration policies does not cover unskilled migrants, who constitute the majority of Filipino women migrant workers (Philippines, 2016).</p> <p>The Committee is concerned that (Vietnam, 2015)¹⁶:</p> <ul style="list-style-type: none"> • Internal migrant workers, including women and girls, face barriers in accessing basic social services guaranteed to all Vietnamese citizens; • Migrant women and girls, especially women domestic workers, are subject to a high risk of sexual and labour exploitation; | <p>CEDAW urges the State party to Strengthen efforts to protect migrant women workers from abusive and exploitative conditions, including by prosecuting and punishing those responsible, ensuring access to health care and essential services without fear of being arrested or deported, and providing effective channels to seek protection and redress for violations of their rights (Thailand, 2017).</p> <p>CEDAW urges the State party to (Philippines, 2016)</p> <ul style="list-style-type: none"> • Enhance its efforts to effectively protect the rights of Filipino women migrant workers abroad through bilateral agreements and memorandums of understanding with countries and regions to which Filipino women migrate in search of work; • Strengthen the regulation and inspection of recruitment agencies for migrant workers and the sanctions in case of breaches of relevant regulations; • Continue its efforts to raise awareness among women migrant workers on their rights, the risks they may face, and channels to seek remedies in case of violations of their rights, through pre-departure briefings and public information campaigns; • Investigate, prosecute and punish perpetrators of exploitation and abuse of women migrant workers, in particular domestic workers, who are under its jurisdiction; • Provide gender-responsive support to returning women migrant workers for their reintegration. |

¹⁵ Concluding observations on the combined sixth and seventh periodic reports of Thailand, CEDAW/C/THA/CO/6-7

¹⁶ Concluding observations on the combined seventh and eighth periodic reports of Viet Nam, CEDAW/C/VNM/CO/7-8

- Women and girls migrating abroad are often victimized by fraudulent recruitment agencies and brokers for international marriage;

- Migrant women who are victims of exploitation and violence face barriers in filing complaints and accessing justice.

While commending the State party's conclusion of the memorandum of understanding on migrant workers' rights with Thailand, the Committee is concerned at the continued feminization of migration and that Lao women now constitute some 70 per cent of the country's migrants. It is also concerned that bilateral agreements and memorandums of understanding do not exist with all countries and regions to which Lao women migrate, and that women workers who migrate to other countries and regions in search of work opportunities through informal channels remain vulnerable to becoming victims of various forms of exploitation, violence and trafficking (**Laos, 2009**)¹⁷.

The Committee recommends that the State party (**Vietnam, 2015**):

- Designate an agency responsible for the protection of migrants, including those who migrate outside of official migration programmes;

- Ensure that internal migrants and their families, including those who are not registered in the household registration system (hộ khẩu), enjoy all the rights that are guaranteed to all Vietnamese citizens; • Strengthen the inspection of workplaces, including private households;

- Ensure the regulation and monitoring of recruitment agencies and marriage brokers;

- Raise awareness of and provide information to women and girls, in particular those in rural areas, on the risks that they may face and on the remedies available in case they face human rights violations.

The Committee urges the State party (**Laos, 2009**) to:

- Adopt a comprehensive gender-sensitive migration policy and to continue to conclude bilateral agreements and memorandums of understanding with countries and regions to which Lao women migrate in search of work, while ensuring that such agreements fully reflect women's human rights and are in conformity with the Convention.

- In addition, it requests the State party to strengthen its information activities so as to ensure that potential women migrants are fully aware of their rights, as well as of the potential risks of such employment.

- The State party is also urged to introduce gender-responsive policies, legislation and programmes to protect outgoing, returning and incoming women migrant workers, including those who go abroad through informal channels, from all forms of violations of their rights.

The Committee reiterates its deep concern about the persistence of violence, abuse and exploitation experienced by women migrant workers in the host countries and at the hands of the recruitment agencies that facilitate their placement **(Indonesia, 2012)**.

- The Committee further encourages the State party to take a coherent and comprehensive approach to addressing the root causes of women's migration, including through the creation of the conditions necessary for sustainable development and of safe and protected jobs for women as a viable economic alternative to migration or unemployment. The Committee recommends that the State party pay due attention to its general recommendation 26 in this respect.

The Committee urges the State party **(Indonesia, 2012)** to:

- Take a coherent and comprehensive approach to addressing the root causes of women's migration, including through the creation of conditions necessary for sustainable development and of safe and protected jobs for women as a viable economic alternative to migration or unemployment;
- Continue developing bilateral agreements and memorandums of understanding with the countries to which Indonesian women migrate in search of work, while ensuring the security of women migrant workers and establishing mechanisms in the country of destination to deal with the violation of the rights of women migrant workers during employment;
- Provide assistance for migrant women who are seeking redress;
- Address issues relating to, inter alia, the severe risk of exploitation of unskilled migrant workers, the confiscation of their passports and their contracted debts with recruitment agencies;
- Strengthen the inspection of recruitment agencies and training centres with a view to monitoring human rights abuses; impose substantial penalties on companies that fail to respect the rights of the employees they recruit; and prosecute and punish persons engaged in illegal recruitment processes, including the traffickers of migrant women for forced labour and sexual exploitation.

Domestic workers

The Committee notes with concern that the right to maternity leave is not applicable in all sectors of employment; and that information on women domestic workers is lacking **(Myanmar, 2016)**.

The Committee is deeply concerned about **(Indonesia, 2012)**:

- The exclusion of domestic workers, a high proportion of whom are women, from the protections afforded to other workers by the Manpower Act of 2003, including on minimum wage, overtime pay, the number of hours worked per day, a weekly day of rest and social security;
- The delay in adopting the draft law on domestic workers;
- The lack of accurate data on domestic workers;
- The persistence of child labour, in particular the situation of girl child domestic workers who work long hours, do not have access to education and may be subjected to violence, and the lack of effective and concrete measures to eliminate this phenomenon.

The Committee urges the State party **(Myanmar, 2016)** to:

- Conduct regular labour inspections aimed at enforcing compliance with labour laws
- Provide data in the next periodic report on the status of women domestic workers in the State party

The Committee recommends that the State party **(Indonesia, 2012)**¹⁸:

Adopt, within a clear time frame, the draft law on domestic workers and ensure that it is in compliance with the Convention; Includes minimum wage, overtime pay, the regulation of the number of hours worked per day, a weekly day of rest and social security; Provides domestic workers with the right to freedom of movement, communication and access to information;

- Conduct awareness-raising campaigns through the media and public education programmes on the situation of girls performing domestic work and their rights; support unions working with domestic workers and strengthen labour-inspection mechanisms;
- Create a mechanism whereby workers may lodge complaints of abuse regarding unfair labour practices in the domestic sphere and further develop support services and shelters for victims of abuse in the domestic sphere;
- Collect data on domestic workers, disaggregated by sex, age and areas of origin (rural or urban);
- Take all the measures necessary to eradicate domestic child labour, and ensure that children, in particular girls, have access to education, health care and social protection, as well as enjoy the protection of the minimum labour standards elaborated by the International Labour Organization (ILO); and engage in a public outreach campaign to inform the population about the need to ensure that the rights of all children are respected, including access to education and medical care;

Social Security and Labour Protection

The Committee expresses concern about the concentration of women in the informal employment sector, including as domestic workers, who continue to be excluded from labour and social security protections, such as minimum wage protection, overtime compensation and maternity leave **(Thailand, 2017)**.

CEDAW welcomes the removal of the prohibition of night work for women and the adoption of the Domestic Workers Law (Republic Act No. 10361). However, it remains concerned at **(Philippines, 2016)**¹⁹:

- Women's over-representation in the informal sector.
- Persistent occupational gender segregation with women being concentrated in social and care giving work.
- The wide gender wage gap in the State party and the restrictive interpretation of the principle of equal pay for work of equal value

The Committee is concerned at the lack of information on the applicability of the Social Security Law, 2012, to women in the informal sector of employment **(Myanmar, 2016)**.

The Committee is concerned about **(Vietnam, 2015)**:

- The persistent gender wage gap; the lower retirement age for women and extensive list of occupations prohibited for women;
- The concentration of women in low-paid jobs in the informal sector without access to social protection and outside the scope of the Labour Code;
- Discriminatory practices against women by employers based on maternity and pregnancy.

The Committee recommends the State Party to ensure that the rights of women in the informal sector are effectively protected, including by ensuring adequate coverage of labour and social security protections **(Thailand, 2017)**.

The Committee recommends that the State party to **(Philippines, 2016)**:

- Intensify measures to increase the protection of the human rights of women working in the informal sector and efforts to facilitate the entry of women workers into the formal sector including through use of temporary special measures for women belonging to minority groups
- Eliminate horizontal and vertical gender segregation in the labour market, including by adopting temporary special measures to promote access for women to employment.

• The Committee recommends the state party to Establish objective job evaluation schemes for the application of the principle of equal pay for work of equal value in accordance with the Convention as well as the ILO Convention No. 100. The Committee requests the State party to provide in its next periodic report information on the applicability of the Social Security Law, 2012, to women in the informal sector of employment... **(Myanmar, 2016)**.

The Committee recommends that the State party **(Vietnam, 2015)** to:

- Adopt the same age of mandatory retirement for women and men, and review and reduce the list of occupations prohibited for women;
- Provide a regulatory framework for the informal sector, with a view to providing women in this sector with access to social protection and other benefits;
- Strengthen the regulation and inspection of employers to enforce compliance with labour standards and the prohibition of discrimination against women. The Committee recommends that the State party (Indonesia, 2012) to ratify the ILO Convention concerning decent work for domestic workers (No. 189).

19 Concluding observations on the combined seventh and eighth periodic reports of the Philippines, CEDAW/C/PHL/CO/7-8

Occupational segregation and gender pay gap

The Committee is concerned at the wide gender wage gap, the limited implementation and monitoring of the principle of equal pay for work of equal value and women's concentration in the informal sector of employment **(Myanmar, 2016)**²⁰.

The Committee recalls its previous concluding observations (CEDAW/C/KHM/CO/3, para. 16) and remains concerned at the continued occupational segregation and the concentration of women in low-wage and unskilled labour sectors as well as at the persistent gender pay gap. The Committee is particularly concerned about poor working conditions for women employed in the garment industry and women domestic workers, including migrant women **(Cambodia, 2013)**.

The Committee expresses its concern at the poor work conditions in the garment factories, where 80 per cent of the workers are young women from rural areas. It is also concerned about the persistence of a gender wage gap and vertical and horizontal labour force segregation and that women usually engage in temporary and seasonal employment with less job security. The Committee is further concerned that women involved in small- and medium-size enterprises face a number of obstacles and challenges compared with their male counterparts **(Laos, 2009)**.

The Committee urges the State party to intensify efforts to gradually transform and reduce the informal sector of employment and to eliminate structural inequalities and occupational segregation; and to reduce the gender pay gap by enforcing the principle of equal pay for work of equal value **(Myanmar, 2016)**.

The Committee recommends that the State party **(Cambodia, 2013)**²¹ to:

- (a) Continue adopting proactive and concrete measures to eliminate occupational segregation and to narrow the gender pay gap;
- (b) Take measures to ensure that labour laws are enforced effectively, and increase their number adequately equip labour inspectors to enable them to effectively monitor women's working conditions, in particular in the garment industry and in other low-paid sectors;

The Committee requests the State party to ensure equal opportunities for women in the labour market, in accordance with article 11 of the Convention. It urges the State party to pay specific attention, and to adopt a comprehensive approach, to improving the work conditions in the garment factories. It also calls on the State party to strengthen and implement measures to protect women from discrimination and exploitation and to take proactive measures to monitor and close the gender wage gap and apply the principle of equal remuneration and equal opportunities at work. It calls on the State party to provide, in its next report: detailed information, including data disaggregated by sex; analysis on the situation of women in the field of employment, in both the formal and informal sectors, and trends over time; information about measures taken and their impact on realizing equal opportunities for women in the employment sectors, including in new fields of employment and entrepreneurship; and concrete and detailed information about the concerns raised regarding women involved in small- and medium-size enterprises **(Laos, 2013)**.

The Committee recommends that the State party **(Indonesia, 2012)** to:

- Monitor and close the gender wage gap in technical professions;

20 Concluding observations on the combined fourth and fifth periodic reports of Myanmar, CEDAW/C/MMR/CO/4-5

21 Concluding observations on the fourth and fifth periodic report of Cambodia, CEDAW/C/KHM/CO/4-5

The Committee is concerned about the increase in the gender wage gap in the technical professions, while noting with appreciation that the general gender wage gap has narrowed; and about the lack of legal protection for women against sexual harassment in the workplace (**Indonesia, 2012**).

- Consider amending the legislation, with a view to prohibiting and introducing adequate sanctions for sexual harassment in the workplace. The Committee recommends that the State party to reduce the gender wage gap, including by addressing occupational segregation of women in the public and private sectors and promoting women's access to higher paid jobs and decision-making positions (**Vietnam, 2015**).

Gender Discrimination and Sexual Harassment in the Work Place

CEDAW expresses concern on the persistence of gender-based discrimination in the workplace, including with regard to recruitment, promotion, and retirement age which, in many factories, is reportedly set at 55 years for women as opposed to 60 years for men. Further, the Committee expressed concern on the absence of legislation prohibiting sexual harassment in the workplace, despite reports that it is widespread in the State party (**Thailand, 2017**).

CEDAW expresses serious concern on the widespread sexual harassment in the workplace and prevalence of impunity (**Philippines, 2016**).

The Committee is concerned at the limited disaggregated data on cases of sexual harassment in the workplace and measures taken to address them (**Myanmar, 2016**).

The Committee recommends the State Party to (**Thailand, 2017**):

- Combat all forms of sex and gender-based discrimination in the workplace, including with regard to recruitment and promotion, and ensure that the retirement age of women in all sectors is the same as that for men.

- Ensure that sexual harassment is prohibited under law, and adopt further measures to prevent sexual harassment in the workplace, including by developing a system for filing confidential complaints and ensuring that victims have effective access to redress.

The Committee recommends the State Party to (**Philippines, 2016**):

- Expedite the amendment of the Labour Code to expand the list of prohibited acts of discrimination against women on account of sex, as well as the adoption of pending bills to expand the definition of sexual harassment to include peer sexual harassment, and increase penalties for such crimes;
- Strengthen efforts to investigate and sanction sexual harassment in the workplace, committed in both the public and private sectors, in line with the Committee's general recommendation No. 19 (1992) on violence against women;

The Committee recommends the State Party to take appropriate sanctions to deter sexual harassment at the work place; and ensure women's access to justice in cases of discrimination in employment, including on grounds of pregnancy (**Myanmar, 2016**).

Ratification of International Human Rights Instruments

The Committee has acknowledges the steps taken by the State party to increase the participation of women in the labour market and to introduce minimum labour standards, including by ratifying the Convention concerning Discrimination in Respect of Employment and Occupation (No.111) of the International Labour Organization **(Thailand, 2017)**.

The Committee notes with concern that the State party has not ratified ILO Convention No. 100 concerning equal Remuneration, ILO Convention No. 111 concerning discrimination in respect of employment and occupation, and ILO Convention No. 189 concerning decent work for domestic workers **(Myanmar, 2016)**.

The Committee welcomes the fact that the State party has ratified ILO Convention No. 189 (2012) concerning decent work for domestic workers **(Philippines, 2016)**.

The Committee welcomes the State party's ratification of International Labour Conventions No.100 on equal remuneration and No. 111 concerning Discrimination in Respect of Employment and Occupation **(Vietnam, 2015)**.

The Committee welcomes the State party's accession to or ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women on 13 October 2010 **(Cambodia, 2013)**.

The Committee welcomes State party's ratification of the International Covenant on Economic, Social and Cultural Rights, in 2007 **(Laos, 2009)**.

The Committee welcomes State party's ratification of **(Indonesia, 2012)**:

- The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, in 2012;
- The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.

The Committee recommends the state party to ratifying the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the Domestic Workers Convention, 2011 (No.189) of the International Labour Organization **(Thailand, 2017)**.

The Committee recommends the state party to ratifying ILO Convention No. 100 concerning equal Remuneration, ILO Convention No. 111 concerning discrimination in respect of employment and occupation and ILO Convention No. 189 (2011) concerning decent work for domestic workers **(Myanmar, 2016)**.

The Committee recommends that the State party to consider ratifying ILO Convention No. 189 on domestic workers **(Vietnam, 2015)**. The Committee recommends the state party to Consider acceding to the ILO Convention No. 189 on decent work for domestic workers and the Convention on the Protection of All Migrant Workers and Members of their Families **(Cambodia, 2013)**.

Legal Framework

The Committee welcomes the progress achieved in undertaking legislative reforms, in particular the adoption of the Domestic Workers Act (Republic Act No. 10361), in 2013 **(Philippines, 2016)**

The Committee welcomes the adoption of the amended Migrant Workers and Overseas Filipinos Act of 2010 (Republic Act No. 10022) to protect migrant workers working in the State party **(Philippines, 2016)**

The Committee welcomes the State party's efforts since 2008 to increase the participation of women in the labour market and the introduction of minimum wages in 2013 **(Myanmar, 2016)**

The Committee welcomes the progress achieved in undertaking legislative reforms, in particular the adoption of the Labour Code, as amended, which prohibits sexual harassment at work, in 2012 **(Vietnam, 2015)**

The Committee recommends the state party to amend the Law on Marriage and Family and the Labour Code to bring them into full conformity with the Convention and the Constitution **(Vietnam, 2015)**.

The Committee recommends the state party to revise the Law on Vietnamese Guest Workers Working Abroad Under Contract (2007) to make it gender-sensitive and responsive to the specific needs of migrant women and girls **(Vietnam, 2015)**.

The Committee recommends that the State party to adopt legislation for the protection of domestic workers **(Vietnam, 2015)**.

International Women's Rights Action Watch Asia Pacific (IWRAP Asia Pacific) is an independent, non-profit NGO in Special Consultative Status with the Economic and Social Council of the United Nations. IWRAP Asia Pacific has gained expertise, experience and credibility from 20 years work of mobilizing and organizing women's groups and NGOs to support the work of the State in fulfilling its obligations to Respect, Protect and Fulfill women's human rights under CEDAW, through capacity building, advocacy and knowledge creation initiatives aimed toward development of effective national women's rights advocacy strategies.



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