



**Shadow Report to 59th Session of the
Committee of Elimination of All Forms of
Discrimination Against Women**

CHINA

October 2014

Introduction

The Humanitarian Organization for Migration Economics (HOME) is a non-governmental organization based in Singapore which serves the needs of the migrant community, especially low-waged migrant workers. Established in 2004, HOME has been granted ECOSOC status, and provides services to thousands of migrant workers in need through the provision of shelter, legal assistance, training and rehabilitation programmes. Up to 2,000 individuals are assisted each year, including domestic workers, construction workers, factory workers, shipyard workers and those in the service industries.

Since HOME was founded, it has assisted approximately 500 migrant women from China. These women include waitresses, cashiers, cooks, drivers, hairdressers, cleaners, kitchen assistants, sales staff, factory workers and sex workers. This experience has given valuable insights into the challenges and discrimination these women face, as well as the different ways in which the Chinese government fails to comply with its obligations under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), obligations that include preventing these women from being discriminated against both in China and in Singapore.

Methodology

HOME has collated the data to support the statements and recommendations set out in this report through the following:

- a) A review of case files involving female migrant Chinese workers;
- b) In-depth face-to-face interviews with migrant Chinese women workers. Workers were interviewed in Mandarin by a team of Mandarin-speaking female volunteers. Volunteers had an interest (academic and/or political) in human trafficking in women and were trained at HOME in qualitative interviewing procedures and protocols before conducting the interviews. HOME designed the interview questions to gain detailed insights and information into four areas of clients' lives. These four areas are: clients' experiences of working and living in Singapore, experiences and details of recruitment, whether what agents promised them matched their experiences, and finally, what they would change about their recruitment and/or work experience;
- c) A review of policy documents, newspaper articles and reports on the situation of women migrant workers in China.

Areas of Concern:

China's definition of trafficking does not comply with UN Palermo Protocol

International law recognises exploitation as an aspect of trafficking in persons, whereas it appears that Chinese law does not "criminalize the act of subjecting women or children to forced labour by fraud or coercion or to forced prostitution

unless they were also abducted, kidnapped, purchased, sold, received, or otherwise transferred for the purpose of being sold”.¹

In 2006, the CEDAW Commission was concerned that China’s definition of trafficking in the Penal Code is limited to the purpose of exploitation for prostitution, for the purpose of selling women and children through acts such as abduction, kidnapping, purchasing, selling, sending and receiving.²

In 2010, China’s definition of trafficking continued to fall short of the 2000 UN TIP Protocol, despite adding provisions in 2005 which prohibit any action that “obstructs the rescue of women who are abducted, trafficked or kidnapped”, or any action that “arranges for, forces or lures women to give obscene performances”.³

During 2014, Chinese sex trafficking victims were reported on all of the inhabited continents.⁴

The US *TIP Report 2013* reports that the recruitment of girls and young women often involves “a combination of fraudulent job offers, imposition of large travel fees and threats of physical or financial harm, to obtain and maintain their service in prostitution”.⁵

HOME’s experience assisting women from China corroborates the findings of the US TIP report. We have also learned that Chinese workers are not always found in the field of sex work and are not always sold. In Singapore, Chinese women are not just trafficked into sex work but also other industries, particularly the service industries, such as the cleaning and restaurant sectors.

Deceptive recruitment practices

The cross-border recruitment of Chinese workers by foreign companies is often done through official recruitment agencies.⁶

Chinese law requires the agencies - Overseas Labour Cooperation companies (OLCs) and Overseas Employment Agencies (OEAs) - to sign a contract with workers before they leave for employment overseas, stating the rights and duties of both parties and information relating to the job (how wages are calculated, duties, benefits and how disputes are to be resolved).⁷

OLCs are larger recruitment agencies and have an ongoing responsibility to the management of the workers it hires for the entire duration of their contract. They

¹ US State Department, *Trafficking in Persons Report 2014*, p133.

² CEDAW/C/CHN/CO/6 [19]. Committee on the Elimination of Discrimination against Women Thirty-sixth session 7-25 August 2006

³ CEDAW/C/CHN/7-8 [101]. (see Decision Amending the Law of the People’s Republic of China on the Protection of Rights and Interests of Women in 2005)

⁴ US State Department, *Trafficking in Persons Report 2014*, p132.

⁵ US State Department, *Trafficking in Persons Report 2013*, p129.

⁶ Chan, Aris “Hired on Sufferance” (2011) *China Labour Bulletin*, pp. 18-22.

⁷ Ibid

also have a duty to ensure the salary and terms of the employment contract comply with the laws of the destination country, and that workers really do have a job when they arrive.

In the event that a contract is not completed, and assuming there is no fault of the employee, the OLC should refund the commission in proportion to the remaining contract period.

OEAs are smaller agencies and only provide basic services and information to prospective employees, with no ongoing responsibility for the management or supervision of workers once abroad.

Many of HOME's workers report deceptive recruitment practices in China. Workers report seeing signs and advertisements in their hometowns for overseas work and responded to them. Recruitment agents often make the jobs sound ideal. Many of the workers we assisted and interviewed did not know whether their agents were licensed, nor did they think to ask if they were. Many of the women we assisted do not have receipts of recruitment fees paid, making it difficult for them to seek refunds and other forms of redress. Accounts of agents in China doing little to assist them when they encounter difficulties in Singapore are widespread. Attempts to seek redress and refunds when they return to China are also not successful. One worker we interviewed said: *"They [agents] make use of our ignorance. Once they have the money and as long as you are alive, they don't care about your wellbeing."* Another said: *"After agents receive their payment, they don't care about you."* Clients felt that they were given false expectations with respect to pay and the actual job they would be doing.

The following types of deception by recruiters were reported:

a) Nature of job: Several women we assisted reported being promised jobs such as bar waitresses or singers but were pressured to provide sexual services for clients. If they refused to, they would be punished through deductions to their wages or lose their jobs. Others were promised jobs as sales assistants or office workers but ended up as cleaners.

b) Worse working conditions than originally agreed to: these included hours of work, rest days, and overtime pay. Many of the women we assisted were promised weekly or monthly days off which either did not materialise or were less than what was promised. Some found themselves working 12 hours or more everyday when they were told it would be lesser hours. Although labour laws in Singapore regulate the maximum number of hours that workers can work in a week, there is no minimum wage or regulations for wages in the industry for migrant workers. These laws lead to such conflicting situations where this client is compelled by her circumstances to work extra hours illegally in order to earn a living wage.

Many of them were also not paid overtime wages according to labour standards set in Singapore when they were promised so. Some of the women interviewed also reported that employment contracts they signed in China were substituted by contracts provided by their employers when they arrived in Singapore.

c) Inadequate accommodation: women we assisted were not aware that they would end up living in squalid conditions which were noisy, infested with bed bugs and crowded. Others report living in illegal quarters. They typically paid between USD150 and USD280 per month for accommodation.

d) Legality of work done in Singapore: a substantial number of women we interviewed and assisted were recruited into Singapore under work passes meant for professionals and executives but were doing low-paying menial jobs instead. The occupation descriptions declared in their work passes were also different to what their actual jobs entailed. Workers whose jobs and salary do not match the types of work passes issued by Singapore's Ministry of Manpower are committing an offence which they may be jailed for. Employers in Singapore collude with agents in Singapore and China to apply for such professional passes because they do not meet the government's quota requirements to hire low-wage migrant workers. Reports of agents in China submitting fake education certificates on behalf of the women to obtain these passes have also been reported. Many of the women we assisted were unaware of Singapore's regulations and feared being prosecuted when they discovered that their agents had deceived them into applying for work passes which did not match their occupation descriptions or their declared salaries.

Recruitment fees, forced labour and debt bondage

Chinese law stipulates that agents or Overseas Labour Cooperation companies (OLCs) are allowed to charge a commission of 12.5 per cent of a contract's total value, or a maximum of CNY19,000 (USD3,095); commissions charged by OEAs are supposed to be monitored by local government price bureaus.⁸ Yet, research shows that market forces determine the amount of commission payable. In addition, monetary guarantees are sometimes payable upfront.⁹

The majority of women we assisted and interviewed paid upfront fees of between RMB30,000 (USD4,800) to RMB40,000 (USD6,500). These women earn a basic salary of between USD500 to USD800 and may take up to a year or more to recover their outlay. Excessive work hours of 12 to 16 hours a day, with no days off or limited days off, were widely reported. The women found it difficult to report cases of abuse and exploitation for fear of being dismissed and repatriated to China.

Some of the women we interviewed who were trafficked for sexual and labour exploitation expressed fears that leaving employment may result in them being physically harmed or getting in trouble with the authorities. They were also afraid of being homeless as most of them were living in accommodation provided for or arranged by their employers. Moreover, the overwhelming majority of women we interviewed had their passports withheld by their employers.

Health Issues and Social Support

Many women we interviewed and assisted expressed physical and mental stress and fatigue as a result of the long hours, coupled with relational aggression and/or bullying by employers and other colleagues. They indicated feelings of powerlessness with respect to their employment conditions and associated financial stress. One

⁸ Chan, Aris "Hired on Sufferance" (2011) *China Labour Bulletin*, pp. 18-22.

⁹ Ibid.

worker we spoke to said that at her lowest point, she contemplated suicide. This client was aware that many Chinese migrant workers who lost their jobs prematurely committed suicide because they did not have the means to repay recruitment fee debts to money lenders. Taking medical leave often comes with a 'price'; there may be salary deductions if workers take a sick day. Employers allegedly do not pay for medical treatment their workers need even if the medical problems are caused by workplace hazards or stress.

Role of the Chinese government and Chinese embassy in Singapore

The majority of clients we assisted and interviewed had not approached the Chinese Embassy for support, as it did not occur to them that they could. Many reported that they did not know where the Chinese Embassy was located or what their role is apart from dealing with lost passports. Some reported that they did not think the embassy would do anything to help. Women who had approached the embassy said officials told them there was nothing they could do to assist them as their problems could only be resolved by the Singapore government. Little assistance is also provided to these women when they return to China. Embassy staff also does not refer them to NGOs or to relevant government departments in China for advice and assistance. There is no helpline service for migrant workers experiencing distress. Embassy officials also have limited knowledge of trafficking in persons and forced labour.

China's national plan of action to combat trafficking in women and children 2008 – 2012 and 2013 to 2020 (中国反对拐卖妇女儿童行动计划) outlines the following key proposals in relation to combating the trafficking of women and children overseas:

- 1) Strengthening international, bilateral and multilateral cooperation, including working with international organisations and NGOs;
- 2) Preventive measures, such as raising awareness about trafficking in persons among the masses, especially those living near the borders;
- 3) Strengthening border control, inspection of entry and exit permits, and combating illegal border activities;
- 4) Strengthening the country's effectiveness in combating international trafficking in persons by increasing the capacity of the country's law enforcement personnel.

However, it provides few details on how their plans will be actualised. The Chinese government does not have any pre-departure programmes for its nationals coming to Singapore for work, nor does it have any programmes for the re-integration of its migrants returning from overseas. Cooperation with NGOs in Singapore which provide assistance to its nationals is non-existent.

Recommendations to the Chinese government

- 1) Formulate a comprehensive gender-sensitive and rights-based policy framework on the basis of equality and non-discrimination, to regulate all stages of the processes of recruitment, training, employment and the return of migrant Chinese workers. Such a framework should facilitate access to work opportunities abroad, promote safe migration, and ensure the protection of the rights of women migrant workers.

2) Adopt regulations and implement systems to ensure that employment agencies in China respect the rights of all women migrant workers, and are trained to recognize indicators of trafficking in persons.

3) Enact regulations to ensure that private recruitment agencies provide complete and accurate information to individuals seeking employment abroad.

4) Take steps to ensure jobs found by agents in China for prospective migrants going abroad are in accordance with the labour laws of destination countries, including Singapore.

5) Enhance recruitment monitoring and inspections to prevent private recruitment agencies from collecting excessive fees, with the view of eventually abolishing placement fees for all persons intending to work overseas.

6) Proactively prosecute agencies and persons engaged in illegal and deceptive recruitment processes, including the traffickers of migrant women for forced labour and sexual exploitation.

7) Establish effective complaints mechanisms for affected individuals who wish to make complaints about employment agencies which fail to comply with regulations. A list of licensed agencies should be publicly available as well as a list of those which have been blacklisted.

8) Conduct and support quantitative and qualitative research, data collection and analysis to identify the problems and needs faced by Chinese women migrant workers going abroad. Such efforts should take into account every phase of the migration process, in order to promote the rights of women migrant workers and formulate relevant policies.

9) Urge the Singapore government to improve legislative protection for Chinese migrant workers based on the provisions of the Convention for the Protection of Migrant Workers and Members of their Families, and actively investigate and prosecute employers as well as recruitment agents who abuse and exploit migrant workers.

10) Work with the Singapore government to allow migrant workers the right to switch employers while in Singapore so as to decrease the likelihood of forced labour, with a view towards abolishment of this current employer-sponsored labour migration system.

11) Urge the Singapore government to demonstrate its commitment to eradicating trafficking in persons overseas through the enactment of comprehensive victim centered anti-trafficking legislation and ratifying the UN Palermo Protocol.

12) Develop bilateral agreements and memorandums of understanding with the countries to which Chinese women migrate in search of work. Such MOUs already exist between China and countries such as Australia and New Zealand. It should be extended to other receiving countries, such as Singapore. This should include establishing mechanisms in the country of destination to deal with the violation of the rights of women migrant workers during employment.

13) Undertake steps to reach out more proactively to migrant employees in countries of destination, including Singapore.

14) Ensure the adequacy and availability of diplomatic and consular protection provided by the Chinese Embassy in countries where Chinese women migrate to work, including Singapore. Some recommended steps include guaranteeing affordable and accessible medical care, counselling, legal aid and shelter where necessary. It should establish a hotline and short message service (sms) for migrant workers in distress and crisis situations. Embassy officials should undergo gender sensitivity training and be able to identify suspected cases of trafficking in persons.

15) Collaborate fully with civil society organizations in destination countries such as Singapore, in order to understand the difficulties faced by Chinese migrant workers and trafficked persons and the potential solutions.

16) Develop and deliver country specific pre-departure information and training programmes. Such programs should be provided independently of recruiters and agents and should inform prospective women migrant workers of their rights and the options available to them if they experience any form of exploitation and/or ill-treatment at the hands of their recruiters or employers.

17) Provide holistic and tailored reintegration and rehabilitation services to migrant women workers upon their return to China.

18) Fully adhere to the definition of trafficking in persons as stipulated in the UN Palermo Protocol, which China has ratified. The Chinese government only recognises women as victims of forced labour or forced prostitution within their existing definition, which only includes women as victims of trafficking if “they were also abducted, kidnapped, purchased, sold, received, or otherwise transferred for the purpose of being sold”.¹⁰ Therefore, women who have been exploited through coercion and deception are not recognised as victims of trafficking, and are unable to access victim support services.

¹⁰ CEDAW/C/CHN/CO/6 [19]