

**Convention on the Elimination of All
Forms of Discrimination Against
Women (CEDAW)
Shadow Report for Singapore**



**HUMANITARIAN ORGANIZATION FOR MIGRATION
ECONOMICS
&
TRANSIENT WORKERS COUNT TOO**

OCTOBER 2017

About HOME & TWC₂

The Humanitarian Organization for Migration Economics (HOME; www.home.org.sg) is a non-governmental organization based in Singapore that serves the needs of the migrant community, especially low-waged migrant workers. Established in 2004, HOME has been granted United Nations ECOSOC status, and provides services to thousands of migrant workers in need through the provision of shelter, legal assistance, training, and rehabilitation programmes. In the last five years, HOME has provided shelter to approximately 3,500 migrant domestic workers (MDWs). At our helpdesk, we register an average of around 15-20 new MDW cases every week. Our findings and recommendations are based on our empirical research on MDWs as well as our collective casework experience and casework statistics from over a decade of dealing with a large and persistent volume of MDW cases. Where necessary, this report has also drawn on relevant academic literature and news articles on MDWs.

Transient Workers Count Too (TWC₂; www.twc2.org.sg) is a Singapore-registered charity that champions fair treatment of blue-collar migrant workers and migrant domestic workers. It does advocacy work, conducts research, and provides a whole range of assistance to migrant workers who meet with workplace accidents or who are exploited by employers and labour agents. It also supports the activities of two independent domestic worker groups, the Indonesian Family Network (IFN) and the Filipino Family Network (FFN).

Singapore's Work Pass System for Migrant Domestic Workers

Singapore is a temporary home to approximately 239,700 migrant domestic workers (MDWs).¹ Arriving from countries in the region including Indonesia, the Philippines, Myanmar, India and Cambodia, MDWs live and work with their employers, performing a varied range of duties associated with the upkeep and maintenance of the family and home, including cleaning, cooking, and looking after children and the elderly. At present, it is estimated that one in five resident households in Singapore employs a live-in domestic worker.² MDWs, therefore, are a vital and visible part of Singaporean households and Singaporean society at large.

Migrant domestic workers enter Singapore on a Work Permit (WP), which lays out the terms of their employment. WPs are valid for one or two years. Only employers and authorized employment agencies may apply to renew an MDW's work permit, to be determined by the Ministry of Manpower (MOM) on a case-by-case basis. The work permit is an employer-tied work pass and imposes similar conditions to the *kafala* system in the Gulf States.³ Employers retain the unilateral right to cancel a domestic worker's WP without her knowledge or consent.

Under WP regulations, MDWs—unlike other foreigners on Employment Passes—are not able to apply for permanent residency. They are subject to six-monthly mandatory medical examinations that screen MDWs for “pregnancy and infectious diseases such as syphilis, HIV and tuberculosis”.⁴ Employers are instructed that if the hired domestic worker does not pass her medical screening, her work permit must be cancelled and the MDW is to be repatriated immediately.⁵ It is currently a breach of WP regulations for a female migrant worker to become pregnant and deliver a child in Singapore during the validity of her WP, unless she is already married to a Singaporean or permanent resident (PR).⁶ However, it is also a violation of WP conditions for a domestic worker to marry a Singaporean citizen or PR without the permission of the Controller of Work Passes; this restriction applies even after the domestic worker's WP has expired, been cancelled or revoked.⁷ Work Permit conditions also stipulate that WP holders—a

¹ Ministry of Manpower, “Foreign Workforce Numbers”, <http://www.mom.gov.sg/documents-and-publications/foreign-workforce-numbers> (accessed September 29, 2017).

² Kok Xing Hui, “Draw Up List of Chores That Maids Shouldn't Have to Do”, *Straits Times*, 30 March 2017.

³ The *kafala* system, which operates in the Gulf States, is a tied-sponsorship system in which every migrant worker's right to work and legal status is wholly dependent on their sponsoring employer. It is a system used to monitor migrant labourers working primarily in low-wage sectors such as construction and domestic work. Singapore's Work Permit system is also an employer-tied system that is similarly structured.

⁴ Singapore Government. “Six-monthly Medical Examination (6ME) for Foreign Domestic Worker (FDW).” Ministry of Manpower. <http://www.mom.gov.sg/passes-and-permits/work-permit-for-foreign-domestic-worker/eligibility-and-requirements/six-monthly-medical-examination> (accessed September 29, 2017).

⁵ *Ibid.*

⁶ Employment of Foreign Manpower Act (Chapter 91A), Employment of Foreign Manpower (Work Passes) Regulations 2012, Fourth Schedule, Part VI, s(7).

⁷ *Ibid.*, s(6)

category MDWs fall under—“shall not be involved in any illegal, immoral or undesirable activities, including breaking up families in Singapore”.⁸ This broadly-worded provision potentially criminalizes MDWs who become involved in intimate relationships with Singaporeans or PRs, and induces the moral policing of MDWs. As it is regarded an employer’s responsibility to ensure domestic workers do not violate the terms of their WPs, these regulations incentivize employers to adopt draconian control measures to restrict and monitor their MDWs movements and activities, such as through the denial of rest days or the enforcement of curfews on rest days, and through the confiscation and withholding of MDWs’ passports and other key documents. Employers’ anxieties about their foreign employee’s behaviour is closely linked to the particular legal responsibilities employers of WP holders are conferred. Since 1986, employers need to put up a one-time security bond of S\$5000 (USD 3,680) to the Singapore government in the form of an insurance/banker’s guarantee for every WP holder hired.⁹ The bond may be forfeited if either the employer *or* the employee is deemed to have contravened the terms of the WP.

⁸ Ibid., s(8)

⁹ Ministry of Manpower, “Security Bond Requirements for Foreign Domestic Worker”, <http://www.mom.gov.sg/passes-and-permits/work-permit-for-foreign-domestic-worker/eligibility-and-requirements/security-bond> (accessed September 6, 2017).

Article 7 Political and Public Life

Singapore's Trade Unions Act disallows foreigners from holding key appointments and executive committee positions in trade unions. This has deprived women migrant workers, in particular domestic workers from being able to represent their own interests. The government has justified this prohibition by claiming that it is to prevent foreigners from interfering in domestic affairs politics. The formation of associations or societies for low wage migrant workers to promote their rights is also highly restricted due to regulations that stipulate that the governing bodies of such associations should have Singapore citizens as the majority. However, being able to form a union or association is not the same as allowing foreigners to run for public office. It is also important for workers to take ownership and have agency in issues which directly affect them. We find this justification to be untenable.

Article 11: Employment

Article 11 of CEDAW refers to Singapore's obligation to eliminate discrimination against women in employment

Exclusion from the Employment Act

The Employment Act (EA) is Singapore's main labour law and governs the terms and conditions of employment in Singapore, including conditions regulating working hours, paid sick leave and paid annual leave, among others.¹⁰ The EA applies to the majority of workers in Singapore, with a few exceptions such as migrant domestic workers.¹¹

The state rationalises domestic workers' exclusion from the EA on the basis that the nature of domestic work is "quite different from normal work",¹² making conditions of work difficult to regulate.¹³ This exclusion leaves MDWs bereft of core labour rights protection. In HOME and TWC2's experience, many MDWs in Singapore work excessively long hours; overwork figures high on the list of complaints filed by MDWs at HOME's helpdesk (14–16 hour work days are common). Exclusion from the EA means there are no legal implications for imposing such working hours on MDWs, for whom living in with employers is mandatory (thus often leading to them being 'on call' 24/7). Additionally, this EA exclusion means domestic workers are not fairly compensated for overtime work.

¹⁰ The Employment Act (Cap 91, 2009 Rev Ed).

¹¹ Other than domestic workers, those not covered by the EA include seafarers, civil servants and managers/executives with a monthly salary higher than S\$4,500. See Ministry of Manpower, "Employment Act: Who It Covers", <http://www.mom.gov.sg/employment-practices/employment-act/who-is-covered> (accessed September 29, 2017).

¹² Parliamentary Debates Singapore: Official Report, vol 85 at vol 998 (November 18, 2008).

¹³ In late 2012/early 2013, the Ministry of Manpower re-considered the issue of whether domestic workers should be included under the EA but ultimately decided not to enact any changes.

Unlike workers covered by the EA, MDWs are not entitled to paid annual leave. On 1 August 2017, Member of Parliament Louis Ng raised the issue in Parliament, hoping to encourage the government to extend paid annual leave to MDWs.¹⁴ The Singapore government decided against the motion on the grounds that compulsory paid annual leave “may not be practical given that households have very different needs and home care arrangements”.¹⁵

As a result of their exclusion from the EA, MDWs are denied recourse to Labour Court as well as the newly set up Employment Claims Tribunal as a low-cost means to redress employment disputes.¹⁶ Rather, MDWs must rely on statutory mediation processes and if it fails, costly and complicated civil proceedings, an impractical and often unfeasible option, particularly for claims in which the quanta may be relatively small vis-à-vis the costs of initiating a civil claim.

The Employment of Foreign Manpower Act

While the Singapore government states that MDWs are covered by the Employment of Foreign Manpower Act (EFMA)¹⁷ the Act offers a limited set of protections and entitlements which are not equal to that provided for under the Employment Act.

Lack of clear rules and regulations

The ambiguous language of EFMA provisions impacts on MDW’s welfare. Presently the EFMA requires employers to provide “acceptable” accommodation, “adequate” food, “adequate” rest, and “reasonable” notice of repatriation.¹⁸ Failure to clearly specify these terms leaves MDWs vulnerable to exploitation and abuse. This is exacerbated by inconsistent enforcement even when guidelines are issued.

Rest days and working hours

While the EFMA specifies that MDWs should be given a weekly rest day off or be financially compensated, this arrangement allows the rest day legislation to be undermined. HOME continues to see MDWs—particularly from Myanmar—who arrive in Singapore bound to “no days off” contracts, in which financial compensation is structured into contractual agreements that

¹⁴ Ministry of Manpower, “Written Answer by Mr Lim Swee Say Minister for Manpower to Parliamentary Question on Paid Annual Home Leave for Foreign Domestic Worker”, <http://www.mom.gov.sg/newsroom/parliament-questions-and-replies/2017/0802-written-answer-by-mr-lim-swee-say-minister-for-manpower-to-parliamentary-question-on-paid-annual-home-leave-for-foreign-domestic-worker> (accessed September 14, 2017).

¹⁵ *Ibid.*

¹⁶ Ministry of Manpower, “Managing Employment Disputes”, <http://www.mom.gov.sg/employment-practices/managing-employment-disputes> (accessed September 14, 2017).

¹⁷ Singapore Government, *CEDAW: Fifth Periodic Report of State Parties Due in 2015*, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SGP/CEDAW_C_SGP_5_6007_E.pdf (accessed September 14, 2017), 28.

¹⁸ Employment of Foreign Manpower Act (Chapter 91A), Employment of Foreign Manpower (Work Passes) Regulations 2012, Fourth Schedule, Part 1, s(1), s(4), s(10a); Part II, s(12).

determine the domestic worker will work without weekly rest days. Additionally, the lack of specification over how many hours constitutes a rest day leads to scenarios where domestic workers are only allowed out of the house for a few hours, and may be expected to complete a list of chores before they leave, and after they return home.

A study conducted by TWC2 in late 2013–2014 on the effectiveness of the day off legislation showed that about 59 percent of the 192 domestic workers surveyed did not have a weekly day off and 40 percent who did not have a weekly day off did not receive compensation in lieu as mandated by the law.¹⁹

Meanwhile, TWC2's 2016 survey revealed that 90 percent of the 429 MDW respondents worked more than ten hours a day, with the average being 13.9 hours per day. About 30 percent of the respondents stated that they got less than eight hours of sleep per night. The domestic workers surveyed indicated that they spent most of their waking hours working, with 75 percent noting that they had less than two hours a day to themselves.²⁰

Termination and repatriation

Under the Work Permit system that governs MDWs, employers have unilateral power to end MDW contracts without their consent, acknowledgment and with no avenues for redress if the dismissal was unfair. While the EFMA states that employers should provide “reasonable notice”, what constitutes “reasonable notice” is not clearly defined. HOME regularly receives distress calls from MDWs who are terminated and repatriated on the same day, sometimes within hours of being notified they have been fired.

Salary non payment

There are many employers who withhold the wages of their workers under the guise of helping them to “safe keep” money. They are usually pressured to sign contracts allowing the employer to do this, or sign documents that they have already received their salaries. When domestic workers leave their employers and file such complaints at the Ministry of Manpower, it is not accepted as a case of salary non-payment because the women are said to have “consented” to such an arrangement. However, this ignores the grave power imbalances between both parties and it is extremely difficult for the worker to say no to such an arrangement. In the most egregious case that HOME has encountered, an Indonesian domestic worker was not paid for almost 10 years under this arrangement and was owed over SGD40,000 (USD29,381).

¹⁹ Transient Workers Count Too, “The Right to Rest: The Effectiveness of the ‘Day Off’ Legislation for Foreign Domestic Workers”, 11 June 2015, <http://twc2.org.sg/2015/06/11/the-right-to-rest-the-effectiveness-of-the-day-off-legislation-for-foreign-domestic-workers/> (accessed September 27, 2017).

²⁰ TWC2, “Foreign Domestic Workers’ Living Conditions Survey”.

Job mobility

Employers also have the ability to restrict the occupational mobility of MDWs within Singapore. Under MOM regulations, only MDWs who are held back as prosecution witnesses to assist in investigations may be granted permission to switch employers on a case-by-case basis (the employer's consent is not required in this instance). Otherwise, it is entirely contingent on employers whether or not to allow MDWs to transfer to a new employer while in Singapore. This dependency on sponsor/employers for their legal and employment status often induces compliance with exploitative conditions for MDWs who do not wish to lose their jobs and be sent back home. Even in instances where an employer may have mistreated the MDW (for e.g. withheld her wages or denied her rest days), the employer retains the right to repatriate the worker and deny her the opportunity to seek a new employer if MOM does not require her as a possible prosecution witness.²¹

Lack of Minimum Wage Guidelines

As a matter of national policy, the Singapore government does not prescribe a minimum wage for any workers, whether local or foreign. The MOM's stand is that "[w]hether wages should increase or decrease is best determined by market demand and supply for labour".²² While the Philippines embassy and the Indonesian embassy have set minimum wages for their citizens working as domestic workers in Singapore—at the monthly rate of S\$570 (USD 420) and S\$550 (USD 405) respectively²³—these wage rates are not enforceable. Wage rates therefore remain low, particularly for MDWs from countries such as India and Myanmar. At HOME's helpdesk, the salaries of MDWs range from S\$350 (USD 258) at the lower end, to around S\$650 (USD 479) per month. With average working hours of 13 hours a day,²⁴ this would translate to an average wage rate of S\$1 (USD 0.75) an hour to S\$1.90 (USD 1.40) an hour.²⁵ At the recommended embassy

²¹ Terry Xu, "FDW Owed 10 Months of Salary, Sent Back Home After Ministry of Manpower Said She Must Return", *The Online Citizen*, 29 September 2017, <https://www.theonlinecitizen.com/2017/09/29/fdw-owed-10-months-of-salary-sent-back-home-after-ministry-of-manpower-said-she-must-return/> (accessed September 30, 2017).

²² Ministry of Manpower, "Is There a Prescribed Minimum Wage for Foreign Workers in Singapore", <http://www.mom.gov.sg/faq/work-permit-for-foreign-worker/is-there-a-prescribed-minimum-wage-for-foreign-workers-in-singapore> (accessed September 14, 2017).

²³ Joanna Seow, "Minimum Pay Raised for Filipino Maids Here", *Straits Times*, 1 April 2017, <http://www.straitstimes.com/singapore/manpower/minimum-pay-raised-for-filipino-maids-here> (accessed September 14, 2017).

²⁴ Two separate research projects conducted by HOME and TWC2 revealed that domestic workers' daily working hours are, on average, around 13 hours (HOME's research found it was 13 hours while TWC2's report found it was 13.9 hours). See Humanitarian Organization for Migration Economics, *Home Sweet Home? Work, Life and Well-Being of Foreign Domestic Workers in Singapore* (Singapore: HOME, March 2015), 2; Transient Workers Count Too, "Foreign Domestic Workers' Living Conditions Survey—Full Results", 6 July 2016, <http://twc2.org.sg/2016/07/06/foreign-domestic-workers-living-conditions-survey-full-results/> (accessed September 27, 2017).

²⁵ This figure was derived by first dividing the monthly wage (e.g. SGD350) by 26 days to get the daily rate. The daily rate was then divided by 13 hours, which is the average number of hours worked by MDWs as revealed by HOME and TWC2's research (see footnote 25).

minimum wage rates, the hourly wage rates would be S\$1.70 (USD 1.25) and S\$1.60 (USD 1.18) respectively.

The lack of enforceable minimum wage guidelines leave MDWs vulnerable to long-term economic exploitation, where their wages remain depressed and do not reflect increased costs of living as well as the inflated placement costs incurred in overseas labour migration. MDWs have expressed in HOME's focus groups in 2017 that socio-economic mobility is a key motivation for migrating overseas to work: the end goal of financial empowerment and eradicating inter-generational poverty will remain elusive if both sending and receiving country governments take a hands-off approach in dealing with excessive recruitment fees and multiple forms of wage theft, including chronic wage depression. MDWs should have the right to earnings that commensurate with their experience and capabilities, and to the ability to accumulate assets and retire comfortably after many years of employment.

Access to Justice

Disincentives to filing employment claims

The Work Permit system that governs MDWs in Singapore generates strong disincentives to domestic workers filing claims against their employers. As earlier mentioned, employers have the right to deny MDWs the ability to transfer to another employer. Employers can also cancel a MDW's WP and repatriate her suddenly, thus frustrating any attempt by the MDW to seek assistance. While the MDW may refuse to board the plane in order to file a claim with the authorities, this is a daunting situation for MDWs, who may have to resist harassment from employers/recruitment agents as well as immigration authorities, who may also pressure the MDW to leave the country.

Additionally, the Ministry of Manpower maintains a "feedback" system in which employers are able to submit unsubstantiated negative feedback about an MDW after she has left the country.²⁶ A domestic worker will not know this has occurred until a prospective employer or recruitment agent makes a new application. At that point, the prospective employer will be alerted to the fact that the MDW's ex-employer has left "feedback" (usually a complaint). He/she will be provided with the contact details of the former employer, who can then make unverified allegations about the MDW, thereby jeopardizing her chances of being hired. HOME has also documented cases where the Ministry of Manpower has disallowed work permit applications from MDWs who have "run away" from their employers, even those who are fleeing abuse. This ability of employers to ruin a migrant domestic worker's chance of returning to Singapore to work makes the threat of "blacklisting" a fearsome and powerful tool, one that employers and agents regularly and

²⁶ Joanna Seow, "Employers Share Feedback on Maids", *Straits Times*, 15 April 2017; Joanna Seow, "Tough Time for Maid After False Complaint", *Straits Times*, 15 April 2017.

effectively wield to threaten and coerce workers into not making claims against them or into agreeing to unfavourable terms of employment.

Lack of autonomy and agency

The Ministry of Manpower mandated a new casework referral system (CRS) in August 2017 that frontline organizations who deal with migrant domestic workers—such as HOME and TWC2—have to follow. This CRS determines the following:

- All MDW cases have to be filed with the Ministry of Manpower whether or not the MDW wishes to file an official complaint;
- Upon filing this claim at the MOM, the MOM will decide if it is a “valid claim”; MDWs who do not have a “valid claim” as determined by MOM may be sent back to their employment agencies;
- MOM may decide to send the MDW to another shelter (aside from HOME).

This CRS is problematic in several ways. It negates the agency of MDWs in making decisions about how they wish to resolve their employment problems; it also denies them the right to decide where they wish to stay and who they wish to seek assistance from. MDWs frequently do not wish to return to their employment agencies because agents were either indifferent to MDWs’ pleas for help when they ran into employment problems, or because employment agents can sometimes be perpetrators of abuse themselves. MDWs who do not comply with instructions may be threatened with blacklisting by government officials.

There is also no official definition of what MOM considers a “valid claim” in relation to MDW cases. From HOME’s casework experience, issues related to verbal abuse, denial of rest days, poor living conditions, excessive working hours, intrusive employer surveillance and the confiscation of phones or unreasonable restriction of mobile phones are generally not viewed as “valid claims”: MDWs who leave their employers to file such complaints will most likely not be allowed to transfer to a new employer without their consent and will be repatriated.

MDWs are also not given the right to decide whether to pursue a claim or not. HOME has documented several cases of MDWs who were physically and sexually abused and have been compelled by the authorities to remain for several months to over a year to assist in investigations.

Forced confinement and restriction on communication

HOME has documented dozens of cases where MDWs have been locked up in their employer’s houses or their agent’s living quarters. Those living in government-approved quarters and shelters are also not allowed to leave the premises freely. Many employers also disallow them

from owning mobile phones or only allowing them to use the phones on Sundays. When complaints are made against employers and agents for forced confinement and confiscation of mobile phones, they are not accepted as serious complaints and MDWs are usually terminated by their employers and repatriated for filing such claims.

Unaffordable medical care

Even though the Employment of Foreign Manpower Act (EFMA) stipulates that employers are responsible for the cost of medical expenses, many employers are often reluctant to pay because the government withdrew subsidies for all foreigners at public hospitals and clinics. Many MDWs have reported not receiving medical attention as employers are reluctant to pay and they dared not risk termination or angering their employers for incurring costly medical bills. Even though there is a government mandated \$15,000 insurance, it is only for hospitalisation and surgery. Illnesses and treatment which does not require surgical procedures are not included and can be very costly.

Food deprivation

While the Ministry of Manpower (MOM) issues advisories for employers on what a typical daily food intake for an MDW should consist of,²⁷ at HOME's helpdesk for domestic workers, such advisories do not have the force of the law, which makes enforcement unclear and inconsistent. HOME routinely encounters MDWs who do not have enough to eat. In 2014, it was reported that as many as eight in 10 domestic workers who sought help from HOME do not get enough food.²⁸ During a series of focus groups conducted by HOME in early 2017, MDWs complained of inadequate food in terms of quantity as well as quality: some were only allowed to eat instant noodles and/or bread, others only leftovers, and almost all said they were not allowed to have fruit. Many said they were not allowed to snack in between meals and would drink water to stave off their hunger pangs.²⁹ Some Muslim MDWs have related how their employers did not consider their religious beliefs and would mix pork (considered non-*halal*) with most of the food, leaving them to eat only rice and some leftover vegetables.

In September 2017, a couple who starved their Filipino domestic worker were sentenced to 10 months jail. The domestic worker, Thelma Oyasan Gawidan, was fed a "diet of plain bread and

²⁷ Here is MOM's example of a day's food intake for a female engaged in moderate activity: breakfast—four slices of bread with spread; lunch—one bowl of rice and a three-quarter cup of cooked vegetables and a palm-sized amount of meat (fish/poultry/beef/lamb) and fruit; dinner—one bowl of rice and a three-quarter cup of cooked vegetables and a palm-sized amount of meat (fish/poultry/beef/lamb) and fruit. See Ministry of Manpower, "Rest Days and Well-Being for Foreign Domestic Worker", <http://www.mom.gov.sg/passes-and-permits/work-permit-for-foreign-domestic-worker/employers-guide/rest-days-and-well-being> (accessed September 27, 2017).

²⁸ Chang May Choon, "More Foreign Domestic Workers Say They Do Not Get Enough To Eat", *Straits Times*, 25 October 2014.

²⁹ HOME conducted six focus groups with approximately 30 MDW residents living in HOME's shelter in March and April 2017. The MDWs were from the Philippines, Indonesia and Myanmar. During the focus groups, the MDWs discussed their living and working conditions, and inadequate food surfaced as a key issue.

instant noodles".³⁰ She was only 29 kg when she finally fled the house, and had lost 40 percent of her body weight. This appears to be the first conviction of an employer under EFMA for inadequate food, despite HOME regularly encountering MDWs with complaints about insufficient food.

Poor living conditions and lack of privacy

The Ministry of Manpower does not forbid employers from allowing MDWs to sleep in a store room, living room, kitchen or narrow corridors in employers' homes. The Employment Of Foreign Manpower Act only stipulates that they live in "acceptable accommodation" and provides guidelines for employers and agencies to follow. The lack of clear legal standards has led to patchy and inconsistent enforcement of proper living standards for MDWs.

A TWC2 survey on 429 domestic workers on their living conditions conducted in 2016 revealed that 40 percent had to share their sleeping space with their employer's family members while five percent shared a room with a male teenager or adult member of the employer's family. About 10 percent of the respondents indicated that they sleep in small windowless spaces such as the store room or bomb shelter or open spaces such as the living room or the kitchen. Twenty percent of the respondents were not provided with a bed and given only a mattress while about five respondents stated that they slept on the hard floor. One in three respondents did not have access to a locker, drawer or wardrobe that they could lock while one in four of those who were provided with such a facility shared that someone else would have access to it.³¹

Many Singaporean households have installed surveillance cameras in their homes to monitor the movements and behaviours of their MDWs. Employers justify such practices because they fear MDWs causing harm to their children or elderly parents. However, such cameras can also be found in the MDW's private spaces and rooms where they sleep. Complaints made against such arrangements are usually not accepted by the Ministry of Manpower and results in the termination and repatriation of the MDW.

Employment Agencies and Excessive Recruitment Fees

Currently, many migrant domestic workers are required to pay fees of S\$3,000–4,500 (USD 2,209–3,314) to employment agencies (EA) for being placed in a job in Singapore. These "fees" are collected from the worker in the form of a "loan" to the EA that is to be repaid by the deduction of the MDW's monthly salary. Typically, the employer would be required to make an upfront payment to the EA; the employer would then deduct an MDW's salary until the amount

³⁰ Vanessa Paige, "Couple Who Starved Filipino Maid to Serve Longer Jail Sentences", 15 September 2017, *Channel NewsAsia*, <http://www.channelnewsasia.com/news/singapore/couple-who-starved-filipino-maid-to-serve-longer-jail-sentences-9220984> (accessed September 27, 2017).

³¹ TWC2, "Foreign Domestic Workers' Living Conditions Survey".

is recovered. Depending on the MDW's salary and the size of the "loan", this could stretch up to six or eight months worth of salary deductions. MDWs therefore often work for months either without any pay or with only a minimal monthly sum. Fearful that the MDW may "run away" during this loan repayment/salary deduction period, employers may also impose additional restrictions. They may, for example, deny their workers their full complement of rest days and/or restrict their use of mobile phones.³² Domestic workers who wish to leave their placement are particularly vulnerable at this time; they often experience great difficulty in getting their recruitment agents to provide them with assistance, as agents often pressure MDWs to endure unfavourable working conditions until they have paid off their "loan".

If a worker does manage to switch to a new employer, they may end up with an increase in their debt as agents often charge an additional one or two months worth of fees, ostensibly to cover work placement fees. Domestic workers may be transferred by agents from one employer to another, leaving them "caught in eternally ballooning debts which are very difficult to pay off".³³

While the Employment Agencies Act (EAA) in Singapore stipulates that employment agencies should not collect more than one month of a worker's salary for each year of service, capped at two month's salary,³⁴ domestic workers are routinely and openly charged more than this. Despite this EAA regulation, the Ministry of Manpower allows the deduction of MDWs' salaries for amounts exceeding two months, and accepts the explanation by employment agencies that deductions in excess of two months salary are to pay for fees charged by the overseas recruitment agency. The MOM regards this as a loan beyond the jurisdiction of the Employment Agencies Act. However, this undermines the original intent of the EAA that seeks to control the migration costs imposed on MDWs and their unequitable debt burden: HOME often encounters domestic workers who leave abusive employers after five or six months of work and return home empty-handed, because they were not paid for all those months and their salaries were not deemed "claimable" by MOM as it was still their "loan deduction" period.

Work Injury Compensation Act

Domestic workers are currently excluded from the Work Injury Compensation Act (WICA), which is a no-fault system that awards lump sum compensation to workers who sustain injuries at the workplace that result in permanent incapacity. WICA also provides for claims related to medical

³² "The Current System is No Good": The Challenges of Singapore's Domestic Work Industry', Asia Research Institute, Policy Briefing, September 2016, no. 5, <http://migratingoutofpoverty.dfid.gov.uk/files/file.php?name=rpo8-mig-ind-mi-policy-brief-v9.pdf&site=354> (accessed 10 August 2017).

³³ Ibid.

³⁴ Ministry of Manpower, "How Will Foreign Workers Know How Much They Have to Pay the Singapore Employment Agency (EA)?", <http://www.mom.gov.sg/faq/employment-agencies/how-will-foreign-workers-know-the-amount-that-they-are-expected-to-pay-the-singapore-ea> (accessed September 14, 2017).

leave wages (including hospital leave) and medical expenses.³⁵ When a work injury results in the death of a worker covered under WICA, family members and dependents may also claim compensation, with the compensation ranging from S\$69,000–204,000 (USD 50,815–150,237).³⁶

It is currently mandatory for employers to purchase medical insurance as well as personal accident insurance (PAI) for their domestic worker employees. The medical insurance coverage should be at least S\$15,000 (USD 11,046) and, from 1 October 2017, the personal accident insurance at least S\$60,000 (USD 44,187).³⁷ However, as migrant domestic workers are not eligible for medical subsidies at public hospitals, medical fees can escalate if a catastrophic illness or accident occurs. Being excluded from WICA also means that MDWs who sustain serious injuries at the workplace—that is, the households where they work, or in the course of their work—that result in disability or death are not able to claim beyond the personal accident insurance limit of S\$60,000, an amount significantly lower than what WICA offers. Personal accident insurance benefits are also more limited than WICA not just in terms of compensation amounts but type of injuries covered. There is also no consistent standard as PAI coverage tends to rely on the criteria of the assigned insurance company.

Trafficking

Although the government enacted the Prevention of Human Trafficking Act (PHTA) in 2014 to tackle trafficking in persons, there are major weaknesses in the law which prevents individuals who have been trafficked from being identified. Key indicators and definitions of trafficking are either poorly-defined or non-existent.

“Abuse of position of vulnerability” is a key indicator of trafficking. Yet, this definition, under the PHTA, is limited to an individual’s legal status, pregnancy, and only those with physical or mental vulnerabilities that rise to the level of mental illness or disability.³⁸ The UNODC Model Law provision that includes vulnerability caused by being in a precarious situation from the standpoint of social survival³⁹ is not included in the Singapore Act. We are concerned about this omission as

³⁵ Ministry of Manpower, “Types of Compensation Under WICA”, <http://www.mom.gov.sg/workplace-safety-and-health/work-injury-compensation/types-of-compensation> (accessed September 14, 2017).

³⁶ *Ibid.*

³⁷ Kenneth Cheng, “Foreign Domestic Workers to Be Better Insured Against Accidents from Oct”, *TODAY*, 7 May 2017, <http://www.todayonline.com/singapore/greater-personal-accident-insurance-protection-domestic-workers-oct> (accessed September 14, 2017).

³⁸ Prevention of Human Trafficking Act 2014 (No. 45 of 2014), Part I, s(2).

³⁹ United Nations Office on Drugs and Crime, “Model Law Against Trafficking in Persons”, https://www.unodc.org/documents/human-trafficking/UNODC_Model_Law_on_Trafficking_in_Persons.pdf (accessed September 30, 2017), 9.

vulnerability caused by social and economic weakness is the leading source of vulnerability among the victims HOME and TWC2 encounter.

Psychological pressure has been omitted as a form of “coercion”, which is another key indicator of trafficking. This omission is concerning because the threat of harassment, humiliation and high recruitment debt in their home countries is frequently utilized as a tool of coercion by employers and employment agents in order to force MDWs to continue to work. “Deception” is also not clearly defined. It is unclear whether the Act will consider deception to include deception about the conditions as well as the nature of the work.

“Forced labour” is also not defined in the law. We are gravely concerned about this omission because forced labour is a common form of exploitation among exploited MDWs and the lack of definition greatly hinders the government’s ability to accurately identify and convict traffickers.

Support measures for victims are currently inadequate under the Act, which does not provide for a transparent system of victim identification, support and protection. Victims of trafficking still do not have a legally mandated right to protection measures, including:

- The right to be treated as a victim during the identification process;
- Immediate authorization of temporary residency upon reporting to the authorities;
- The right not be prosecuted for legal infractions inadvertently committed while trafficked;
- The right to give informed consent to participation in investigations, protection and privacy, and legal assistance at no cost.

Victims of trafficking also have limited/no access to support measures including:

- The right to decent work opportunities;
- The right to compensation;
- A recovery period after reporting;
- Access to physical and psycho-social recovery services/facilities, and return to country of origin;
- Special support for victims who are minors.

Recommendations

1. We recommend that migrant domestic workers be included in the Employment Act. While the Singapore government raises the point that MDWs are covered by the EFMA, this is inadequate in offering clear standards on core labour protections. To subject MDWs’ salary and other key

employment terms to negotiation between them and employers/employment agents negates the grave imbalances of power that exist between these parties, and the relatively poorer economic conditions in countries of origin that may compel persons to agree to unfavourable terms of employment. There is also inadequate acknowledgment of the prevalence of deceptive practices such as contract substitution (in which verbal or written agreements about salary or working conditions in sending countries are not upheld when the domestic worker arrives in Singapore) and the normalization of exploitative conditions—such as not granting MDWs weekly rest days—that have become entrenched practice in Singapore. While extending the Employment Act to migrant domestic workers, the following should be considered:

- **Maximum working hours.** We recommend that the eight-hour maximum working day included in s38 of the EA be applied to domestic workers.
- **Adequate rest and days off.** While we commend the government’s decision to legislate a rest day for MDWs, at present the EFMA only requires employers to give workers “adequate” rest. The ambiguity of this terminology leaves MDWs vulnerable to exploitation. We suggest therefore, that in the absence of EA protections currently, a provision should be inserted into the EFMA to ensure MDWs receive at least eight continuous hours of rest per night and weekly rest days should be 24 hours. The government should also implement measures to ensure that MDWs are not pressured into forgoing their day off in lieu of compensation. Those who are terminated by their employers asserting for their right to a weekly day off should be allowed to change employers.
- **Notice of termination.** Domestic workers should be entitled to the same standard as other workers regarding notice of termination of employment, or payment in lieu of notice.
- **Public holiday pay.** Domestic workers deserve to be given paid public holidays off, or an additional day’s pay in lieu of the holiday, in line with the rights afforded to all other workers in Singapore. The associated offence in s90 of the EA should also apply to employers who fail to comply with this provision.
- **Sick leave.** Domestic workers should not be required to work while sick. Domestic workers deserve the protection afforded to other workers under s89 of the EA to receive paid sick leave. This would be subject to the requirements set out in s89, including the minimum length of service and examination by a medical practitioner. The associated offence in s90 of the EA should also apply to employers who fail to comply with this provision.
- **Annual leave.** We submit that annual leave, pro-rated for the worker’s length of service to the particular employer, should be granted to migrant domestic workers.

2. Enact clear legal standards to ensure that MDWs have sufficient privacy and proper accommodation. Surveillance cameras in areas where they sleep should be banned.
3. Ensure minimum wage guidelines issued by the embassies of MDW's countries of origin are followed and that regular increments are taken into account so that wages do not remain depressed.
4. Disallow the practice of withholding a domestic worker's wages under the guise of "safekeeping" her money.
5. Liberalise the criteria for MDWs to switch employers. It should not be reserved for those who are required to remain in Singapore to assist in investigations or those who are potential prosecution witnesses. Those who have experienced exploitation and abuse but are not required to remain for investigations or be prosecution witnesses should also be allowed to switch employers.
6. Abolish the Ministry of Manpower's "feedback" system, which allows employers to make unfounded and unsubstantiated complaints against MDWs. This one-sided system further skews the power imbalance between employers/agents and deters MDWs from filing claims and complaints of abuse and exploitation against employers and employment agents. Prospective employers who wish to conduct reference checks should ask MDWs for employer references as is practiced by companies, rather than rely on the Government to facilitate the process in a manner that severely disadvantages MDWs without holding employers accountable for their accusations.
7. Allow migrant domestic workers the agency to seek shelter from an organization of their choice, and to stay in that shelter even after a complaint is filed rather than be sent back to their employment agencies against their will.
8. Enforce Employment Agency Act (EAA) regulations on recruitment fees. The widespread practice of employment agencies charging six to eight months of recruitment fees needs to be abolished. Allowing employment agencies in Singapore to demand large amounts and then claim that such fees collected are for overseas partners without adequate verification allows for the persistent undermining of EAA regulations that were meant to protect MDWs from significant debt burdens. There is a lack of transparency and accountability in the recruitment process that needs to be addressed and a more determined approach from the Singapore government is required to regulate and improve ethical standards among employment agencies.

The Ministry of Manpower should disallow employment agencies in Singapore from entering into “loan” agreements with MDWs under the guise of collecting inflated recruitment fees.

9. We support the recommendation from the UN CEDAW report in 2011 that Singapore repeal the law requiring work permit holders, including migrant domestic workers, to be deported on grounds of pregnancy.⁴⁰

10. The Work Permit condition that criminalizes WP holders who are deemed to have been “involved in any illegal, immoral or undesirable activities, including breaking up families in Singapore” should be removed.⁴¹ It is a discriminatory provision that promotes the moral policing of MDWs and incentivizes employers to adopt control measures to restrict MDWs’ movements and activities.

11. Include domestic workers under the Work Injury Compensation Act so that they are entitled to the compensation and benefits that are equal to other low-wage employees in Singapore.

12. Key indicators of trafficking in persons need to be clearly defined in the Prevention of Human Trafficking Act in accordance with the UNODC model law and UN Palermo Protocol.

13. A victim-centric approach, including the right to gender- and culturally-sensitive support services and decent work, as well as temporary residency status, should be guaranteed in law.

14. MDWs should be allowed to seek redress in the Employment Claims Tribunal free of charge to avoid costly civil litigation claims in the event of an employment dispute.

15. Penalise employers and agencies from confiscating the personal property of MDWs, including their mobile phones

16. Abolish the \$5000 (USD 3670) security bond requirement, which results in many employers confiscating the passports, restricting the movement, and social life of MDWs.

17. Extend subsidies of medical treatment at all public hospitals and clinics to migrant workers, including domestic workers. Since they make substantial contributions to the economy and community, their basic health needs should be affordable and accessible.

⁴⁰ CEDAW, “Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Singapore”, 49th Session, 11–29 July 2011 (CEDAW/C/SGP/CO/4/Rev.1), http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CEDAW/C/SGP/CO/4/Rev.1&Lang=En (accessed September 27, 2017), para 32(b).

⁴¹ EFMA, Employment of Foreign Manpower (Work Passes) Regulations 2012, Fourth Schedule, Part VI, 5(8).

18. Allow migrant domestic workers to form their own associations and trade unions so they are empowered and can represent their own interests and advocate for themselves.