



## **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**

### **A Submission for the 27<sup>th</sup> Session of the UN Committee of Migrant Workers**

#### **State Party Under Review: Indonesia**

**August 2017**

#### **INTRODUCTION**

The Humanitarian Organization for Migration Economics (HOME) 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 seven years, HOME has provided shelter to 1015 migrant domestic workers (MDWs) from Indonesia.

Transient Workers Count Too (TWC2) 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).

HOME and TWC2 have drawn on numerous sources of information within their organisations to compile the statements and recommendations set out in this report. These include survey data, casework data, personal interviews with Indonesian domestic workers, and a collation of the experiences of our social workers and volunteers. In compiling this report, HOME and TWC2 also organised a consultation with Indonesian MDWs in July 2017: 30 MDWs

participated, including representatives of the Indonesian Family Network. We also refer to relevant academic literature and media reports on MDWs.

There were a total of 239,700 migrant domestic workers in Singapore as of December 2016.<sup>1</sup> A *Straits Times* article dated May 2016 stated that there were around 125,000 Indonesian MDWs in Singapore, with Indonesia being the biggest source country.<sup>2</sup>

## GLOSSARY

For the purposes of this report, ‘Convention’ refers to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW).<sup>3</sup>

Country of Employment is Singapore.

State Party, or Country of Origin, is Indonesia.

Monetary values are expressed in Singapore dollars (S\$).

## ISSUES OF CONCERN

The issues of concern fall mainly into five broad groups:

1. Failure to regulate recruitment agents within the Country of Origin;
2. Lack of relevant and rights-based pre-departure orientation and training;
3. Failure to engage with the Country of Employment over multiple issues related to the employment and living conditions of Indonesian domestic workers;
4. Failure on the part of Indonesian missions abroad to protect and provide assistance in the Country of Employment;
5. Access to justice and welfare services for returnee migrants.

### **FAILURE TO REGULATE RECRUITMENT AGENTS WITHIN THE COUNTRY OF ORIGIN**

Indonesian domestic workers are often recruited in their country of origin through a mix of informal (unlicensed agents) and formal channels.

This violates **Article 66**, section 2, of the Convention which states that the public authorities of Indonesia should authorise, approve, and supervise intermediaries (whether private or public entities) involved in the recruitment of its citizens for work overseas.

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<sup>1</sup> Ministry of Manpower, ‘Foreign Workforce Numbers’, <http://www.mom.gov.sg/documents-and-publications/foreign-workforce-numbers> (accessed 8 August 2017).

<sup>2</sup> Arlina Arshad and Joanna Seow, ‘Indonesia Plans to Stop Sending New Live-In Maids Abroad’, *Straits Times*, 18 May 2016.

<sup>3</sup> OHCHR, <http://www.ohchr.org/en/professionalinterest/pages/cmw.aspx> (accessed 10 August 2017).

The unregulated nature of the recruitment process in the Country of Origin leads to high recruitment costs (also known as ‘placement loans’)<sup>4</sup> for workers coming to Singapore, which in turn leads to abuses detailed in Section 2.4(a), Conditions Akin to Forced Labour. As a result, recruitment debts of between six to 10 months of a worker’s pay (S\$3,000 to S\$4,500) is common. Workers often work for months either without any pay or with only a minimal monthly allowance. Employers may also impose additional restrictions during this ‘loan repayment’ or ‘salary deduction’ period. They may, for example, deny their workers their full complement of rest days and/or restrict their use of mobile phones.<sup>5</sup> 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 — a practice referred to as ‘churning’ or ‘recycling’ — leaving them ‘caught in eternally ballooning debts which are very difficult to pay off.’<sup>6</sup> The recruitment system is complicated by the existence of multiple tiers and levels of intermediaries, which, in the absence of protocols surrounding transparency and accuracy of documentation, often results in the inflation of fees charged.

The Indonesian government also partners with banks and employment agencies to lend domestic workers money to assist in paying off agency fees. Under this scheme, an Indonesian domestic worker will take up a personal loan of about S\$1,700 from Maybank Indonesia to cover the cost of training, passport applications, medical checks, and placement fees for the Indonesian agencies. MDWs who choose this option still need to pay Singaporean agents a separate service fee capped at S\$1,000, but are not supposed to be charged transfer fees if they change employers.<sup>7</sup> While this scheme was implemented to cap costs and improve transparency, the family of domestic workers may still be at risk should she breach her employment contract and/or default on her loan. HOME and TWC2 have encountered numerous reports of domestic workers and their families facing threats and harassment by Indonesian agents for failing to fulfil their loan obligations.<sup>8</sup> MDWs who wish to circumvent the exploitative recruitment system are not allowed to do so because the practice of ‘direct hiring’ is not allowed under Indonesian law.

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<sup>4</sup> “‘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=rp08-mig-ind-mi-policy-brief-v9.pdf&site=354> (accessed 10 August 2017).

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Joanna Seow, ‘Compulsory Finance Scheme for Indonesian Maids’, *Straits Times*, 24 June 2016.

<sup>8</sup> One Indonesian MDW was told by her Indonesian agent that she should ‘sell her children’ if she cannot repay her loan. Another agent threatened to put an Indonesian MDW in jail for not repaying her loan.

## **PRE-DEPARTURE ORIENTATION AND TRAINING**

Even though **Articles 33** and **Articles 37** of the Convention stipulate that the Country of Origin must ensure that all migrant workers are fully informed of their rights and legal obligations before they leave, as well as the conditions of their admission to and stay in the Country of Employment, Indonesian MDWs are largely unaware of their rights. Instead, preparation for overseas work tends to involve socialising domestic workers into adopting a compliant posture ('you are there to work, just bear it'); warnings about breaking the law (such as theft, or 'getting pregnant'), and some variation of moral policing (for example, warning them not to enter into romantic and/or sexual relationships).<sup>9</sup>

Moreover, there is no follow-up from Indonesian recruiters regarding their welfare once MDWs arrive in Singapore. When problems do occur, agents show little interest in protecting workers, and are only interested in recovering debts incurred by the workers. A significant number of MDWs report being verbally abused and threatened by their Indonesian recruiters when they complain of abuse and exploitation by their employers in Singapore. Often, the agent's only response is to advise them to be patient and not 'create trouble'. The training they receive is basic, often not culturally specific, and may not prove to be helpful to their employment in Singaporean households. Workers have reported widespread confiscation of passports, personal documents, and mobile phones by recruiters and training centre staff. As a result, they are cut off from communicating with their family and friends, and from seeking assistance when required.

Conditions in these centres are also often poor, and workers have reported being fed only instant noodles and plain rice. There is no freedom of movement as they are barred from leaving the training centre; additionally, some centres disallow family members from visiting. Many domestic workers are also forced to cut their hair short. Overcrowded sleeping quarters and beds with no mattresses have also been reported.

Migrant domestic workers are frequently given inadequate and/or inaccurate information about both the terms of their employment and the nature of the job they have been employed to carry out. Many MDWs report workloads larger than that which they had agreed upon (for example, the size of the house or household is bigger than they were led to believe), whilst others report extended salary deduction periods. Many had not understood the contract they had signed in Indonesia, as it had been written in English and had not been explained to them; some have even reported being made to sign blank contracts. Many reported being discouraged by their recruiters and agents from asking too many questions. Domestic workers also find that there is no room for the negotiation for better conditions, for example regarding rest days (domestic workers have told us agents will say: 'You want to work or holiday?'). Further, most of the

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<sup>9</sup> It is against EFMA conditions for female work permit holders to 'become pregnant or deliver any child in Singapore during and after the validity period of her work permit'. The regulations also stipulate that foreign employees 'shall not be involved in any illegal, immoral or undesirable activities, including breaking up families in Singapore'. See Employment of Foreign Manpower Act (Chapter 91A), Employment of Foreign Manpower (Work Passes) Regulations 2012, Fourth Schedule, Part VI, para 7.

women interviewed had not been given a copy of the employment contract which they had signed. Many women were also forced to sign a new contract upon arrival in Singapore; such contracts sometimes included less favourable terms than those they had agreed to back home.

Even though the government has established a one stop integrated centre for those going overseas, none of the workers that HOME or TWC2 consulted were aware of its services. Neither were they aware of the government's crisis hotline.

### **Computerized System of Indonesia Migrant Workers (CSIMW)**

Many migrant workers are not aware of the Computerized System of Indonesia Migrant Workers (CSIMW), which the Indonesian government in its state report says is meant to collect 'accurate and integrated data on the placement of migrant workers' in order to improve their protection. The report states that the CSIMW will contain data of migrant workers related to the recruitment process, including their employment agencies, training centres, medical facilities where they undergo health examinations, insurance, certification, financial institutions as well as Indonesian missions abroad. However, the MDWs that we consulted were either not aware or seemed confused about this system and its benefits.

### **FAILURE TO ENGAGE WITH COUNTRY OF EMPLOYMENT OVER MULTIPLE ISSUES RELATED TO THE EMPLOYMENT CONDITIONS OF INDONESIAN DOMESTIC WORKERS**

While the Indonesian government has signed several bilateral agreements with Singapore to advance its economic interests, it does not currently have an MOU with Singapore related to the protection and placement of migrant workers.<sup>10</sup> In its state report, the State Party mentions the launch of its Indonesia-Singapore Workers Card (KPIS). However, there is a lack of information available to domestic workers in Singapore regarding the purpose of the card and the potential benefits to which it entitles them. MDWs regard it with skepticism and question why professional Indonesian migrants are not issued with such a card. They generally view it as an apparatus that will make them vulnerable to extortion and discrimination as they can be easily identified as domestic workers. Returning workers who have been abused and exploited have faced insurmountable bureaucratic hurdles in trying to claim the benefits which this card is supposed to bring.

### **Conditions Akin to Trafficking in Persons and Forced Labour**

The International Labour Organization has identified 11 indicators of forced labour, including abuse of vulnerability, deception, restriction of movement, isolation, retention of identity documents, physical and sexual violence, withholding of wages, intimidation and threats, debt

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<sup>10</sup> Initial Report of the Republic of Indonesia on the Implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Pursuant to the Simplified Reporting Procedure, 2017, p.7, para 17, [http://tbinternet.ohchr.org/Treaties/CMW/Shared%20Documents/IDN/CMW\\_C\\_IDN\\_1\\_6902\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CMW/Shared%20Documents/IDN/CMW_C_IDN_1_6902_E.pdf) (accessed 4 July 2017).

bondage, excessive overtime, abusive living and working conditions, and excessive overtime.<sup>11</sup> Indonesian MDWs in Singapore are susceptible to most of these indicators.

The most common problems reported by domestic workers to HOME and TWC2 — problems that we document regularly on our websites and reports<sup>12</sup> — include:

- a) No or low salary for up to 10 months when they are paying off their recruitment fee debt;
- b) Lack of rest days;
- c) Long working hours of up to 16 to 18 hours a day;
- d) Inadequate access to medical care;
- e) Constant verbal abuse;
- f) Inadequate and/or poor quality food, or food that compromises their religious beliefs (for example, food that is not *halal*);
- g) Poor living conditions, including sleeping areas that are cramped, lack ventilation, and/or offer little privacy;
- h) Restrictions on communication, often enforced through the confiscation of mobile phones and/or unreasonable restrictions on mobile phone usage;
- i) Withholding of key personal documents, including passports;
- j) Intrusive surveillance, including the presence of closed-circuit television cameras in bedrooms;
- k) Psychological violence and complaints of intimidation and threats by employers and recruiters; for example, threats of blacklisting, dismissal, and/or deportation;
- l) Inability to switch employers freely, resulting in workers enduring abusive and exploitative situations for fear of being terminated from employment and returning to Indonesia with recruitment debts they cannot repay.

The above constitute ‘cruel, inhuman or degrading treatment’ and, as such, violate **Article 10** of the Convention. To the extent that the above-mentioned conditions are akin to forced labour, they also risk violating the conditions set out in **Article 11**. Although these abuses are taking place in the Country of Employment, Indonesia’s failure to engage with Singapore to improve the working conditions of domestic workers and to eliminate abuse is a violation of **Article 64** of the Convention (duty to consult and co-operate).

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<sup>11</sup> International Labour Organization, ‘Indicators of Forced Labour’, [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/--declaration/documents/publication/wcms\\_203832.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/--declaration/documents/publication/wcms_203832.pdf) (accessed March, 8 2016).

<sup>12</sup> For example, see Humanitarian Organization for Migration Economics, *Home Sweet Home? Work, Life and Well-being of Foreign Domestic Workers in Singapore* (Singapore: HOME, 2015); Humanitarian Organization for Migration Economics, *The Invisible Help: Trafficking into Domestic Servitude in Singapore* (Singapore: HOME, 2012). For more, please visit the websites of HOME (<http://www.home.org.sg/>) and TWC2 (<http://twc2.org.sg/>).

## **INDONESIAN MISSIONS ABROAD: FAILURE TO PROTECT AND PROVIDE**

### **Assistance in the Country of Employment**

The State Party has stated in its report that they conduct annual training programmes for consular officers in dealing with issues related to human trafficking, access to justice, and human rights.<sup>13</sup> The IFN and a few other groups meet with consular staff every quarterly. However, the Indonesian MDWs have shared with HOME and TWC2 incidents of biased treatment by some frontline embassy staff, with professionals being treated more politely and with greater respect than domestic workers. MDWs have reported being told by embassy staff and officials that they should not complain of their conditions because they are 'lucky' to have jobs in Singapore.

In addition, the embassy's hotline is often busy or no one answers. During mediations, embassy officials have been known to devolve the responsibility of resolving the MDW's employment dispute to Singaporean agencies instead of themselves playing a more active role. Officials also often pressure workers to return to their countries as a solution to their problems, instead of working to secure their rights in Singapore.

### **Standard Contracts**

The Indonesian embassy has created a standard employment contract with the aim of protecting the rights of workers but its provisions fall short of international labour standards. There are no provisions for public holidays, limits to working hours, and accommodation standards. Moreover, even though it stipulates that the worker is entitled to four rest days a month, it nonetheless allows the employer to financially compensate workers in lieu of these rest days.

### **Embassy Shelter**

Both domestic workers who have lived in the shelter and former embassy staff have criticised the embassy's shelter for not providing enough food; withholding mobile phones, leaving MDWs unable to contact their families; and restricting the movement of MDWs by not allowing them to leave the shelter. The shelter has been reported to be frequently overcrowded, and the embassy staff reportedly adopt a harsh attitude towards the shelter residents. MDWs also report the shelter to be understaffed, with one Indonesian MDW who stayed in the shelter for two months this year saying there seemed to be only two persons looking after more than 150 women.

The above is a violation of **Article 64** of the Convention (consultation and cooperation with the view of promoting humane conditions for workers), and of **Article 65**, section 2 (provision of adequate consular and other services).

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<sup>13</sup> Initial Report of the Republic of Indonesia on the Implementation of the International Convention on the Protection of the Rights of All Migrant Workers, para 48, p. 18.

## **RETURNEE MIGRANTS: ACCESS TO JUSTICE AND REINTEGRATION**

Many of the migrant domestic workers have expressed concern regarding their job opportunities upon return to Indonesia. There is widespread perception that the Indonesian government is not doing enough to assist migrant domestic workers, particularly in providing adequate business and employment opportunities that will ensure a decent standard of living for returnee migrants and their families. Without such alternatives, migrant domestic workers often feel that they have little choice but to venture overseas once again to support their families and achieve socio-economic mobility. Only a few focus group participants were aware of the existence of government 'reintegration programmes', reflecting the poor publicity of such programmes. Efforts to protect the families of migrants are also limited.

Migrant domestic workers who are unjustly dismissed and/or experience abuse by employers and/or recruitment agents, as well as those who return home with medical issues, remain unclear about how to seek justice and claim compensation upon return.

This is in violation of **Article 67**, according to which State Parties should cooperate to promote 'adequate economic conditions' for migrant workers' resettlement, including facilitating 'durable social and cultural reintegration' in their State of origin.

## **RECOMMENDATIONS**

In the absence or pending the conclusion of the above, the State Party should promptly:

1. Reform the regulatory framework for recruiters in Indonesia to ensure that workers are only charged fees and recruited in accordance with standards set out in the ILO Private Employment Agencies Convention.
2. Adopt regulations and design effective monitoring systems to ensure that recruiting agents, employment agencies, and training centres respect the rights of all domestic workers. All employment and recruitment agencies should be accredited and subject to review annually. Monitoring systems should include regular unannounced inspections of training centres, and sanctions for any agencies or centres which do not comply with regulations. This system should also provide for an effective and efficient complaints mechanism whereby affected individuals and relevant third parties (such as family members and/or civil society organisations) can lodge complaints against employment agencies and training centres which fail to comply with the regulations. Finally, a list of accredited agencies should be publicly available as well as a list of those which have been blacklisted.
3. Ensure that women migrant workers have equal and independent access to travel documents that are not restricted in any way and are not tied to the employment agent.



4. Establish mechanisms to protect women against reprisals by recruiters, agents and/or employers upon return to Indonesia, including against actions taken in relation to unpaid recruitment fees.
5. Make it possible for women to migrate for work without engaging the services of a recruitment agent. Information on how to do this should be made available to all potential migrant workers.
6. Conduct and support quantitative and qualitative research, data collection, and analysis to identify the problems and needs faced by Indonesian women migrant workers in every phase of the migration process in order to promote the rights of women migrant workers and formulate relevant policies.
7. Develop training programmes, as well as pre-departure documents that inform MDWs 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, agents or employers. These should be delivered to them independently of recruiters and agents.
8. The CSIMW system meant to collate data for MDW's protection needs to be better publicized among the MDW community and the data collection process coordinated among the various relevant agencies. The Indonesian government and its agencies should also ensure awareness of its policies trickle down to provincial-level authorities. The benefits for MDWs from this e-protection system should be clarified and the mechanisms for claiming benefits made accessible.
9. Provide free legal and administrative assistance to women migrant workers both prior to departure, during the period of employment overseas, and upon return to Indonesia.
10. Facilitate the right of women migrant workers to return to Indonesia should they wish to do so, irrespective of the terms of their employment contract and any fees still owed to their recruiter, agent, or employer.
11. Provide holistic and tailored reintegration and rehabilitation services to migrant women workers upon their return to Indonesia. These services should be widely publicized and care taken to ensure their accessibility for migrant workers and their families.
12. Enhance the provision of counselling and mediation services by the Indonesian Embassy in Singapore to Indonesian migrant domestic workers. Embassy staff should be provided

with training on gender-sensitive, rights-based approaches. The living conditions at the shelter for Indonesian MDWs should also be improved.

13. Develop awareness-raising programmes aimed at the general public in Indonesia, including the families of women migrant workers, recruiters, as well as potential employers in Singapore. These programmes should highlight the rights of women who engage in migrant domestic work and highlight their key contributions to both the Singaporean and Indonesian economies.
14. Encourage other ASEAN member nations, including Singapore, to sign and ratify the Migrant Worker Convention and ILO Domestic Workers Convention.
15. Urge the Singapore government to:
  - Improve legislative protection for Indonesian domestic workers from exploitation based on the provisions of the Migrant Worker Convention and the ILO Domestic Workers Convention.
  - Formalise all requirements by signing a Memorandum of Understanding with Indonesia and agreeing to a standard form contract in accordance with which all Indonesian migrant domestic workers should be recruited and employed. These terms of the MOU should be in compliance with international labour and recruitment standards.

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