

CEDAW SHADOW REPORT: SINGAPORE 4TH PERIODIC REVIEW

Discrimination against women migrant workers and human trafficking in Singapore

BY TRANSIENT WORKERS COUNT TOO AND THE GLOBAL ALLIANCE AGAINST TRAFFIC IN WOMEN

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EXECUTIVE SUMMARY

Transient Workers Count Too (TWC2) and the Global Alliance against Traffic in Women (GAATW) welcome Singapore's Fourth Periodic Report to CEDAW which details some significant steps forward in Singapore's efforts to ensure equality of men and women.

While Singapore has made great strides forward since independence in raising the status of female citizens, women migrant workers suffer multiple and specific discrimination, most visible in Singapore's restrictive employment and immigration regulations. While these rights violations are significant in and of themselves, they are also important as common precursors to other rights violations, including situations of extreme exploitation, including human trafficking.

This shadow report therefore focuses on two interrelated aspects of discrimination against women in Singapore which continue to impede the government in meeting its obligations under CEDAW: Discrimination against women migrant workers and human trafficking.

In this respect we pay particular attention to CEDAW Articles 1, 2, 3, 6 and 15 and general recommendations No. 19 on Violence against Women and No. 26 on Women Migrant Workers. We also report on Articles 5, 9, 10 and 12 and consider general recommendations No. 12 on Violence against Women, No. 13 on Equal Remuneration for Work of Equal Value, No. 17 Measurement and Quantification of the Unremunerated Domestic Activities of Women and their Recognition in the GNP, No. 21 Equality in Marriage and Family Relations, and No. 24 on Women and Health.

PART I

Definition of Discrimination, Law, Policy and Measures to Implement the CEDAW Convention (Articles 1, 2 and 3)

Female migrant workers in Singapore on work permits (issued for employees due to be paid less than S\$1800 a month) experience widespread discrimination, particularly in immigration and employment regulations. Such regulations result in female migrant workers having limited control over their migration and the nature, limitations and duration of their employment, increasing their vulnerability to exploitation, including forced labour and human trafficking. Migrant workers may not enter Singapore and seek employment wherever there are opportunities. They are admitted only to undertake specific jobs. Some 200,000 women from 'approved sources' are employed as domestic workers. Women may also be employed at work permit level as 'confinement nannies' and 'performing artistes'

Discriminatory practices of particular concern include:

- a) A work permit will only be issued if the migrant worker passes a mandatory medical examination the report of which employers can obtain without a worker's consent. Workers unwilling or unable to undergo medical examinations, as well as those who do not pass the examination are at greater risk of being exploited by employment agents, brokers or smugglers and may become trafficked in their attempts to migrate to Singapore.

- b) Work permit holders require permission from their current employer to change employers. In many situations, employers deny a worker the right to leave and change jobs.
- c) A worker may be dismissed and repatriated at any time during the contract period by an employer and sent home with no reason being given and no right of appeal. This is a deterrent to complaining of abusive treatment and gives excessive power to employers at workers' expense.
- d) The intimidation and forced repatriation of workers by repatriation companies. Some employers find it convenient to remove workers from the country when they know they have a grievance that they may wish to pursue.
- e) Employers of all work permit holders (except Malaysians) have to pay a S\$5,000 security deposit which may be forfeited if a work permit is cancelled and the worker is not repatriated, leading many employers to restrict workers' movements and confiscate their passports.
- f) The majority of employers hold their employees' passports and the Government rarely penalises this practice. It is common for employment agencies to instruct employers to hold these documents. Employers of domestic workers often hold their work permits too.
- g) A female migrant worker holding a work permit may not have a child in Singapore. Her employer is responsible for ensuring this and risks losing their security deposit if they fail to uphold this obligation. Pregnancy is a legitimate reason for termination of work and immediate deportation. Domestic workers are obliged to undergo six-monthly medical examinations which include pregnancy tests
- h) Domestic workers are not covered by the Employment Act. As a result, they are more vulnerable to infringements of their rights than other workers.

Sex Stereotyping and Prejudice (Article 5)

Media coverage of female migrant workers in Singapore commonly generates prejudice and stereotypes, to which the Government is generally passive. The media disproportionately focuses on their involvement in criminal behavior, despite real instances being low. Domestic workers are negatively presented as sexually promiscuous.

Media coverage of trafficked persons commonly stereotype victims as sex workers or 'vice girls'. Trafficking and sex work are often conflated and reinforces the idea that trafficking occurs only for sexual exploitation and not other forms of labour exploitation.

Trafficking and Exploitation (Article 6)

Trafficking in persons takes place on a significant scale in Singapore, but largely goes unrecognized at the official level. Singapore's adopted definition of trafficking does not comply with that stipulated under the UN Convention against Transnational Organised Crime and the protocols thereto (2000). This impedes the implementation of effective anti-trafficking measures and restricts the provision of assistance to those who have suffered trafficking and related exploitation in Singapore and overseas.

Notably, Singapore fails to recognize that an individual may be subjected to being trafficked without the use of physical coercion. Further, trafficked persons who have consented to travel to Singapore will not

be recognized as victims. The customary perception is that if trafficked persons do not self-identify at immigration checkpoints then they must be guilty of immigration-related offences.

PART II

Nationality (Article 9)

The withdrawal of Singapore's reservation to Article 9 of CEDAW in 2007 was a welcome move forward towards obtaining greater equality of men and women; regrettably, this appears to have been undertaken on the basis that female migrant workers would continue to be excluded from the application of the rights herein asserted.

Work permit holders must seek permission if they wish to marry in Singapore. This is usually not granted.

PART III

Education (Article 10)

In recent years, a widening variety of educational opportunities for migrant workers in general and domestic workers in particular have become available, with the Government's encouragement and NGO initiatives. However, as around half the domestic workers employed in Singapore receive no days off, they are unable to avail themselves of these opportunities.

Employment (Article 11)

Singapore's reservations to CEDAW exemplify the entrenched discrimination against female migrant workers in Singapore: Singapore's reservation to Article 11 holds particular pertinence for over 200,000 domestic workers as well as thousands more female migrant workers who contribute to Singapore's labour market, yet experience discrimination and exploitation. Singapore's reservations to Article 11 must be withdrawn if Singapore is to meet its obligations under CEDAW.

Health (Article 12)

The Government no longer subsidizes medical care for migrant workers, although all employers are legally responsible for looking after the health of the migrant workers hired by them, and are required to take out health insurance for their employees. However, there is inconsistent enforcement of this regulation. While some employers do their best to ensure the health and wellbeing of their employees, others oblige ill workers to continue working. When a worker is not in any condition to work, such employers are primarily concerned with having their workers sent home as soon as possible. Domestic workers are particularly vulnerable, as their employers usually have no other worker to stand in for them in the event of illness and are normally quick to seek a replacement.

Female migrant workers are required to go for periodic medical examinations for pregnancy and HIV tests, among other screenings for infectious diseases. Those found to have one of the infectious illnesses

of concern, to be HIV-positive or to be pregnant are required to be returned home by their employers. This condition applies to female 'S' – Pass holders as well as work permit holders.¹

PART IV

Law (Article 15)

Domestic workers are not covered by the Employment Act, nor does any other legislation compensate for the protections so withheld, leaving domestic workers without protection.

Placement costs for female migrant workers are dramatically increasing. In 1997, costs accounted for three months of a domestic worker's salary; in 2010, they accounted for between eight and ten months' salary. The prevailing levels of indebtedness make workers more reluctant to risk losing their jobs and being sent back home, having been unable to send any money to their families, and hence some feel that they have to endure abusive treatment rather than complain or seek help.

Accessing justice poses problems for women migrant workers in Singapore, given their lack of resources and precarious status in Singapore. Workers without a regular day off, as well as those denied access to the outside world, find this particularly difficult, with no access to help, advice or legal assistance.

With regard to trafficked persons, the positive identification of victims is the first step in their being able to access remedies for crimes committed against them. As most trafficked persons in Singapore go unidentified, often criminalized and deported instead, they are unable to claim their right to remedies, including access to justice.

¹ 'S'-Pass holders are meant to hold higher qualifications than work permit holders and to be paid between S\$1800 and S\$2400. It is the experience of migrant rights organisations that many such workers in the service industries are subjected to deductions and kickback arrangements that substantially reduce their real incomes.

THE AUTHORS

1. This shadow report is submitted by Transient Workers Count Too (TWC2) and the Global Alliance against Traffic in Women (GAATW).

2. TWC2 is a Singaporean NGO that works for the rights and wellbeing of migrant workers.

3. GAATW is a network of 107 organisations working in over 40 countries worldwide to combat trafficking and promote women's rights and specifically the fundamental rights and basic labour protections to which all women migrant workers are entitled.

INTRODUCTION

4. Transient Workers Count Too (TWC2) and the Global Alliance against Traffic in Women (GAATW) welcome Singapore's Fourth Periodic Report to CEDAW which details some significant steps forward in Singapore's efforts to ensure equality of men and women.

5. While Singapore has made great strides forward since independence in raising the status of female citizens, women migrant workers suffer multiple and specific discrimination.

6. In Singapore, over 30% of the workforce consists of migrants, mostly in low-paid sectors. In December 2009, it was reported that there were 856,000 migrants in low or semi-skilled manual jobs. This included some 190,000 women employed as live-in domestic workers². As of June 2011, they number over 200,000. Low paid migrant workers are typically employed in the construction, manufacturing, maritime and service industries, which include domestic work, healthcare, retail, entertainment and hospitality.

7. The withdrawal of Singapore's reservation to Article 9 of CEDAW was a welcome move forward towards obtaining greater equality of men and women; regrettably, this appears to have been undertaken on the basis that female migrant workers would continue to be excluded from the application of the rights herein asserted. The rigid and enduring separation between the rights deemed appropriate to citizens and those of non-citizens (especially low paid ones) working in Singapore remains. While all states make distinctions between citizens and non-citizens, as far as possible, migrants should enjoy similar rights to citizens, unless there are specific and justified reasons why they should not.

8. Singapore's ongoing reservation to Articles 2 and 11 holds particular pertinence for over 200,000 domestic workers as well as thousands more female migrant workers who contribute to Singapore's labour market, yet are subject to ongoing discrimination and exploitation. These reservations must be removed if Singapore is to meet its obligations to ensure the equal rights of men and women.

9. Singapore continues to practice widespread discrimination against non-citizens that places migrant workers, women in particular, in precarious immigration and employment situations, giving rise to trafficking and other forms of exploitation. Whilst various examples of measures taken to counter discrimination against women are cited in Singapore's fourth periodic report to CEDAW, none of them are aimed at alleviating the conditions under which women migrant workers live and work.

² 'At last count, there were 196,000 FDWs in Singapore. That means about one in every five households in Singapore relies on an FDW to help out in the home.' Committee of Supply (Speech) by Mr Hawazi Daipi, Parliamentary Secretary for Manpower and Health, 12 March 2010. An FDW is a foreign domestic worker.

10. This shadow report focuses on two interrelated aspects of discrimination against women in Singapore which continue to impede the government in meeting its obligations under CEDAW: Discrimination against women migrant workers and human trafficking.

11. In this respect we pay particular attention to CEDAW Articles 1, 2, 3, 6 and 15 and consider general recommendations No. 19 on Violence against Women and No. 26 on Women Migrant Workers. We also report on Articles 5, 9, 10 and 12 and consider general recommendations No. 12 on Violence against Women, No. 13 on Equal Remuneration for Work of Equal Value, No. 17 Measurement and Quantification of the Unremunerated Domestic Activities of Women and their Recognition in the GNP, No. 21 Equality in Marriage and Family Relations, and No. 24 on Women and Health.

BACKGROUND

12. In Singapore, over 30% of the workforce consists of migrants, mostly in low-paid sectors. In December 2009, it was reported that there were 856,000 migrants in low or semi-skilled manual jobs. This included some 190,000 women employed as live-in domestic worker. As of June 2011, they number over 200,000.

13. Low paid migrant workers are typically employed in the construction, manufacturing, maritime and service industries, which include domestic work, healthcare, retail, entertainment and hospitality.

14. Live-in domestic workers come mainly from Indonesia, the Philippines, and Sri Lanka. Smaller numbers come from India, Myanmar, Bangladesh, Thailand, Nepal and Pakistan.³The services sector is diverse and expanding, and employs women and men from these countries and China. The low wage migrant workers employed in the construction and marine sectors are men from People's Republic of China, Bangladesh, India, Thailand and Myanmar – mainly the first three.

15. While Singapore is a party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), a number of reservations are in place. In its Concluding Comments about Singapore, the CEDAW Committee has raised concerns about trafficked women and foreign domestic workers. Further, in April 2010, the UN Special Rapporteur on racism/xenophobia concluded his visit to Singapore and raised concerns about migrants and the living and working conditions of migrant workers, including domestic workers.⁹

16. Singapore is a non-signatory of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementary to the United Nations Convention against Transnational Organized Crime. The United States Department of State report *Trafficking in Persons Report 2010: Singapore* places Singapore on the Tier Two watch list for risk of human trafficking, which means the government is not doing enough to address the issue. Singapore's laws do not address human trafficking adequately.

³ These are listed as 'Non-Traditional Sources' in the 'Work Permit-Before you apply' page of the MOM's website: <http://www.mom.gov.sg/foreign-manpower/passes-visas/work-permit-fw/before-you-apply/Pages/approved-source-countries.aspx> China is not an approved source for domestic workers.

Part I

Definition of Discrimination, Law, Policy and Measures to Implement the CEDAW Convention: Articles 1, 2 and 3

17. Singapore's fourth periodic report of States parties to CEDAW notes that "although there is no specific gender equality and anti-gender discrimination legislation in Singapore, the principle of equality of all persons before the law is enshrined in the Singapore Constitution.....[e]ncompass[ing] the non-discrimination of women" and proclaims that principles of equality and non-discrimination are upheld. While Singapore has made great strides forward since independence in raising the status of female citizens, women migrant workers suffer multiple and specific discrimination. Notably, Singapore's Fourth CEDAW Report provides various examples of measures taken to counter discrimination against women, but none of them are aimed at alleviating the conditions under which female migrant workers live and work.

18. Discriminatory immigration and employment policies and practices against migrant workers in Singapore, are pervasive, particularly towards those on work permits (issued for employees due to be paid less than S\$1800 a month). Regulations severely restrict their movements and limit the control workers have over the nature and duration of their employment, resulting in many work permit holders living with a precarious immigration and employment status. While these rights violations are significant in and of themselves, they are also important as common precursors to situations of extreme exploitation including trafficking in persons, labour exploitation and other rights violations including the right to: life, liberty and security of person; freedom of movement; marriage; freedom from slavery or servitude; and freedom from torture or to cruel, inhuman or degrading treatment.

19. A work permit will only be issued if the migrant worker passes a mandatory medical examination (including for TB, HIV, syphilis, or malaria) by a registered doctor within 14 days of arrival.⁴ Employers can obtain a copy of the report direct from the doctor without a worker's consent. This can result in workers unwilling or unable to undergo medical examinations, as well as those who do not pass the examination seeking alternative, and possibly unsafe, means of migration. This discrimination may put such workers at risk of being exploited by employment agents, brokers or smugglers and may lead to workers being trafficked in their attempts to migrate to Singapore.

20. Work permit holders require permission from their current employer to change employers.⁵ They need a letter of release, which an employer may withhold if parting company on bad terms

⁴ The general requirement to undergo a medical examination 'as and when directed' is contained in point 9 of part I and point 5 of part IV of the schedule attached to the work permit application form issued by the Ministry of Manpower (MOM). Domestic workers must be examined within 14 days of their arrival in Singapore and thereafter at six monthly intervals.

⁵The work permit holder may only take work in the job category for which she was originally issued a work permit and requires a letter of release in order to transfer. See <http://www.mom.gov.sg/foreign-manpower/passes-visas/work-permit-fw/inform-mom/Pages/update-of-details.aspx#changeemployer>

with a worker, particularly in the case of a dispute. Employers have the power to repatriate at any time during the contract period. Because they pay a levy for each worker employed⁶, employers have an incentive either to agree to release a worker or to send her home, but from time to time, it has been known for a spiteful employer to pay the levy while withholding a letter of release, thus keeping a worker trapped, jobless and without an income, until her contract expires. This is more likely to happen to a domestic worker, who is in day to day contact with her employer, than to male workers in the impersonal conditions of their typical field of employment. In many situations, employers deny a worker the right to leave and change jobs. While a work permit holder may, under favourable conditions, legally be allowed by an existing employer to seek a job with another employer, this must be in the same sector; thus, any woman who is admitted to Singapore to be employed as a domestic worker may not take a different job - as a shop assistant, for example.

21. On this permit, a worker may be dismissed at any time by an employer and sent home with no reason being given and no right of appeal. Workers may not be informed of the termination of their work permits until just before they are sent home.⁷ Accordingly, they often feel that they have little choice but to comply with their employers' wishes, however unreasonable. This is a deterrent to complaining of abusive treatment and gives excessive power to employers at workers' expense.

22. There are numerous reports from migrant workers of intimidation and forced repatriation of workers by repatriation companies hired by employers. Some employers find it convenient to thus remove workers from the country when they know they have a grievance that they may wish to pursue: only if a worker is determined and well aware of her rights is she likely to take the opportunity at the point of departure to inform the authorities in charge that she wants to make a complaint, thus giving her a chance to stay on and pursue it. Some use extrajudicial violence and wrongful confinement to compel a worker to leave the country even though the worker has a legitimate claim against the employer.

23. Employers of all work permit holders (except Malaysians) have to pay a S\$5,000 security deposit⁸ which is forfeited if a work permit is cancelled and the worker is not repatriated. The fear of losing the security bond is frequently cited by employers of domestic workers as their reason for restricting the workers' movements and confiscating their passports. Whether in each case this is necessarily true or just a convenient excuse may be open to dispute, but the fact remains that the

⁶ The levy is a monthly charge that employers of migrant workers are obliged to pay. The government argues that the levy is a disincentive to excessive of locals. However, locals would be unlikely to undertake the hours and obligations of domestic workers even at five or six times their existing salary levels, since the hourly pay rates would still compare unfavourably with those for other workers.hiring of foreigners at the expense

⁷ The employer of a foreign domestic worker is only advised to settle 'all issues arising from her employment' and to give a worker 'reasonable notice' of her repatriation. First Schedule, Conditions of Work Permit for Employer of Foreign Domestic Worker, issued under the Employment of Foreign Manpower Act.

⁸ Not to be confused with the monthly levy, the security bond is a one time payment, and is returnable if its terms are not broken. In practice, many employers take out insurance policies that cover their bond deposit and thereby avoid tying up S\$5000 for the duration of a worker's employment.

bond is one obstacle to the freedom of movement of domestic workers. The very same bond terms apply to male work permit holders, but they are not subjected to the same restrictions on freedom of movement; this is a gender-based customary restriction which is not prohibited in law.

24. Although the *Passports Act 2007* forbids any person 'to possess or control a foreign travel document that was not issued to him (sic) without reasonable excuse'⁹, the majority of employers hold their employees' passports and the Government rarely penalises this practice. It is common for employment agencies to instruct employers to hold these documents. Employers of domestic workers usually hold their work permits too.

25. A female migrant worker holding a work permit may not have a child in Singapore. Her employer is responsible for ensuring this and puts at risk their security bond if their employee gives birth in Singapore.¹⁰ Pregnancy is considered a legitimate reason for termination of work and immediate deportation. As a consequence, many workers terminate their pregnancies as they feel they have no alternative if they wish to remain employed. Those who are sent back to their countries of origin sometimes seek to give birth away from home and leave their babies in orphanages to avoid negative consequences at home. Domestic workers must undergo six monthly medical checks in which they are tested for pregnancy.

26. Domestic workers are not covered by the Employment Act. Further, under the terms of their work permits, domestic workers are required to reside in their employers' homes – a restriction greater than that applying to any other group of workers. Coupled with the lack of a guaranteed regular day off, this allows employers who are so minded to cut off their contact with the outside world. As a result, they are more vulnerable to infringements of their rights than other workers (for more discussion on this issue see article 15).

27. Migrants who are documented may become undocumented through losing their passports and work permits. These include ways that are due to the norms prevailing under the present system of migrant worker employment. A domestic worker who finds conditions with the employer designated in her work permit unbearable and who escapes rarely has possession of her passport, which is retained by the employer precisely to prevent her leaving. If she complains to the Ministry of Manpower (MoM), she would normally be allowed to remain in Singapore while her case is settled, but she could not take on paid work legally. Much energy may be put into attempting to recover the passport by her agent, embassy, MoM or an NGO. Meanwhile the worker lives in a shelter and has no income. Any worker in this position who takes on paid work risks a fine,

⁹ Letter responding to TWC2 from the Foreign Manpower Management Division of MoM, dated 13th November 2008.

¹⁰ The employer formerly stood to lose all S\$5000, though it did not often happen. In 2009, this regulation was revised, "In cases where the foreign worker absconds, only half of the Security Bond (\$2,500), instead of the entire bond of \$5,000, will be forfeited, so long as the employer has made reasonable efforts to locate the worker." 'Obligations of Employers of Foreign Workers Tweaked', MOM Press Release, 25th September 2009.

imprisonment and deportation.¹¹ An employer is considered liable to pay for the worker's return journey home, but an undocumented worker does not have this recourse normally. A worker who has been imprisoned for working illegally is nevertheless expected to find the money to pay for her own airfare home; some manage to obtain help from friends or their embassies, but others have no alternative but to undertake the very employment for which they were imprisoned in order to earn the money to pay for a ticket home.

28. It is important to note that even where a gender bias is not written into law (as it is in the case of the six monthly medical tests and the consequences of pregnancy for women workers), it is nevertheless operative. For example, legal restrictions on women migrant workers' freedom of movement may not be greater than those applying to men, but employers of men rarely attempt to confine them under their direct control 24 hours a day, whereas it is common practice with domestic workers. Likewise, migrant women are more likely to suffer from the severe restrictions on migrant workers marrying while in Singapore, as social convention allows local women to 'marry up', leaving many low-income men seeking spouses.

29. Singapore continues to hold reservations to Article 2, on the grounds of religious and personal laws, preventing it fully fulfilling its obligations to ensure equality between men and women in Singapore.

Sex Stereotyping and Prejudice: Article 5

30. Certain popular prejudices and stereotypes of female migrant workers are sometimes encouraged by the Singapore media, to which the government is generally passive. While the MoM, the chief governmental body dealing with migrant workers, uses the term 'foreign domestic worker' rather than 'maid', with its connotations of servitude, the media habitually uses this derogatory term. Published letters submitted by TWC2 to the Straits Times, for example, are time and again edited to replace 'domestic worker' with 'maid'.

31. Although the level of criminal behaviour among domestic workers appears to be relatively low, media coverage of incidents involving harm inflicted upon the members of employers' families by domestic workers, for example, has generated alarmist responses that are unwarranted by the real incidence and circumstances of such actions. Domestic workers are habitually referred to as 'maids' in the press. Media coverage of issues involving domestic workers and sex tends to fuel all too common popular prejudices that domestic workers are 'loose', sexually predatory and at the same time primarily interested in boyfriends for the money they spend on them. Coverage is rarely reflective, questioning or sympathetic. Instead of considering their situation with some humanity and balance, media stories often seem contrived to combine the greatest salacious content possible with a high moral tone.

32. Media stereotyping does nothing to assist reasoned discussion in the Singapore media on what is commonly referred to as 'sex trafficking'. Many NGOs, academics and others working to combat human

¹¹ Male workers under the age of fifty who are undocumented and undertake paid work are also caned.

trafficking disagree with the discursive distinction between 'sex' and 'labour' trafficking and believe it hinders efforts to address trafficking in an holistic manner. The Singaporean media not only promotes this distinction, but solely focuses on trafficking for sexual exploitation. Furthermore, trafficking and sex work are commonly conflated, trafficked persons are stereotyped as 'vice girls', stories of their arrest, imprisonment and deportation leave no room for consideration of the claims of rights violations made by the women concerned or for questioning of what led to their presence in Singapore. The implication is that that these women are bad people, who take advantage of Singaporean men.

33. It is not censorship of such stories that is called for here, but the promotion of a culture of humanity and non-discrimination from the level of government. An obvious negative example is to be found in the Fourth Schedule-Conditions of Work Permit/Visit Pass for Foreign Worker, clause 11: 'The foreign worker shall not indulge or be involved in any illegal, immoral or undesirable activities, including breaking up families in Singapore.' Migrant workers move to Singapore largely for economic reasons and the great majority are ready to work hard to earn a living. There seems to be very little evidence that any wish 'to break up families in Singapore'.

Trafficking and Exploitation: Article 6

34. Many migrant workers in Singapore, particularly women are trafficked, they are lied to about the nature of the work they will do, about its rewards and costs; they travel to undertake the promised work and then find themselves trapped in conditions of exploitation, by debt and often physically confinement. In Singapore, women are most commonly trafficked for sexual exploitation or domestic work. Trafficking in persons takes place on a significant scale in Singapore, but largely goes unrecognized at the official level.

35. Singapore's government has claimed that: "[s]ubstantiated cases of trafficking in persons are very rare. In 2007, there were 28 reported cases of forced prostitution and importation of women by false pretences but none was substantiated."¹² For the same year, the Philippines embassy in Singapore submitted a report to its government noting that "the human trafficking of Filipinos in Singapore is at an all time high...The report cited an alarming increase in human trafficking cases from 125 in 2006 to 212 in 2007, a surge of 70%. There were only 59 cases in 2005."¹³ There is a difference of figures here that is not attributable to chance; it is due to a difference between the two parties over how trafficking is to be defined.

36. Singapore is a non-signatory to the UN Convention against Transnational Organised Crime Protocol to Prevent, Suppress and Punish Trafficking in Persons (Human Trafficking Protocol)¹⁴, The definition it

¹² Paragraph 6.2, Fourth periodic report of States parties – Singapore, Committee on the Elimination of Discrimination Against Women, 3 April 2009.

¹³ Embassy of the Republic of the Philippines in Singapore, "Human Trafficking of Filipinos in Singapore Surge 70% in 2007", Press Release, 3 February 2008.

¹⁴ Although on 11 June 2011 the Ministry of Home Affairs noted the governments intention to sign the Protocol once domestic legal frameworks have been appropriately adapted.

employs bears little resemblance to that set forth in the Human Trafficking Protocol, . Its understanding of what constitutes trafficking is highly restrictive – so much so as to exclude the vast majority of trafficked people under its jurisdiction from consideration as such.

37. Trafficking is illegal under the Penal Code, but the term itself is not clearly defined there or elsewhere (at least, in the public domain). However, the government’s understanding of what constitutes trafficking is indicated by its statements in response to critical comments on its record. Appropriately, the Government of Singapore’s Fourth CEDAW Report covers trafficking under its comments on CEDAW’s Article 6: Trafficking and Exploitation . It begins with a robust affirmation of its commitment to suppress the trafficking and exploitation of women in Singapore, but the lack of focused attention and real action taken casts serious doubt on the authenticity of this commitment.

38. In paragraph 6.2 of the state report, the legal provisions for the prosecution of those who engage in trafficking are described, mostly falling under sections 363-374 of the Penal Code. Most refer to criminal actions through which individuals are physically coerced and constrained. Sections 363-369 deal with kidnapping and abduction, 370 and 371 with enslavement, and 372 and 373 with the buying and selling of minors for the purpose of prostitution.

39. Section 373A criminalizes the importation of women by fraud with the intention of using them for prostitution, but it should be noted that what is at issue under this section is fraud practiced in order to bring women into Singapore, not fraudulent and deceptive practices employed by traffickers to persuade women to collude with them or to consent to their own exploitation.

40. Absent from the Penal Code is any provision that recognizes that an individual may be subjected to trafficking without the use of direct physical coercion. An individual who, having been promised well paid work in Singapore, then finds herself in a poorly paid job and being charged deductions for repayment of the debt she went into to come, for accommodation and food may comply with an employer’s wishes without undergoing physical violence. She ought to be considered as having been trafficked, but the terms of the Penal Code would not acknowledge her as such.

41. It may be considered that this deficiency is adequately remedied under the Women’s Charter, where trafficking or related activities are covered in Sections 140-142. Section 140, “Offences relating to prostitution”, penalizes the detention of any woman or girl “against her will” for the purpose of prostitution. Under Section 140 (3) (c) (iii), a person is identified as having detained a woman or girl against her will if “he threatens that woman or girl with legal proceedings for the recovery of any debt or alleged debt or uses any other threat whatsoever.” This would appear to offer an avenue for prosecuting those who trap women into sex work by using their indebtedness (often perpetuated by arbitrary charges by their employers), but it appears to be little used.

42. Section 141 sets forth penalties for trafficking in women and girls. Section 142 is titled “The importation of woman or girl by false pretences.” In the text of this section, it is clear that the words ‘false pretences’ do not allude to any deception that might have been practiced on a worker, but to the use of deception against Singapore’s authorities in bringing a woman or girl into the country.

43. If compared to the Human Trafficking Protocol's definition in Article 3, the narrower scope of Singapore's anti-trafficking provisions is striking. Article 3 is 'victim-centred' throughout: in defining trafficking, it deals with it primarily in terms of its impact upon those who are trafficked. The offences that breach the Human Trafficking Protocol's terms are ones that menace, harm and exploit trafficked individuals.

44. Article 3a acknowledges that a person may become one who is trafficked "by means of the threat or use of force or other forms of coercion, of abduction, **of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.**"

45. The words highlighted (bearing in mind the caveat above concerning the context in which the term 'fraud' is used) describe elements of trafficking that are not recognized in Singapore's existing legislation.

46. This absence is at the heart of the Singapore government's failure to recognize the extent of trafficking under its jurisdiction and to act appropriately.

47. Revealed cases of trafficking in which individuals are constantly imprisoned or subjected to violence do not reflect the circumstances of many of those who may be identified as trafficked according to the Human Trafficking Protocol's criteria. It is frequently the case that trafficked individuals co-operate with those who transport and exploit them. This can happen both in circumstances in which they do not know what the ultimate purpose of their transportation is and when they have a fairly accurate sense of what is intended, but already feel obliged to do as their traffickers say.

48. The most common circumstance would be when workers cross an international border through a legal channel intending to undertake work for which they do not have the required visa and/or permit. They may well cooperate with traffickers by deliberately misleading border control officials, either from fear of the consequences or in the expectation of earning a higher income than would be possible in their homeland, even though the traffickers are not present to intimidate or direct them.

49. The Human Trafficking Protocol was framed in the consciousness that such collaboration takes place and the reasons for it. Article 3(b) states:

50. "The consent of a victim of trafficking in persons to the intended exploitation set forth in the subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;"

51. There is no room here for any argument that the collaboration of a worker with traffickers necessarily means that the worker should not be considered to have been trafficked. Far from it; Article 3 (b) is a peremptory dismissal of all arguments that attempt to excuse an oppressive and exploitative process with the words of those subjected to it.

52. The existing anti-trafficking measures in force in Singapore do not include this element and this is another major deficiency in the government of Singapore's understanding of trafficking. To make

matters worse, the authorities in Singapore appear to operate on the basis that the presence of any element of consent or cooperation by individuals in their own exploitation necessarily means that they are not victims of trafficking. For the authorities, it is enough that a person did not appeal for assistance at passport control and say that s/he was going to be subjected to exploitation and be restricted under another person's control for any subsequent claim to have been trafficked to be rejected.

53. Instead, women who might elsewhere be regarded as the victims of trafficking are regarded as criminals, first and foremost.¹⁵

54. A displacement of focus and of criminal responsibility takes place: instead of trafficked people in need of assistance and sympathetic treatment, those concerned are simply immigration offenders and illegal workers. Those who benefit from their exploitation are seen to have offended by assisting individuals without the appropriate permits to enter Singapore and to work, rather than by exploiting them by wringing from them every cent that they can.

55. Singapore has recently indicated that it is working towards signing the Human Trafficking Protocol. 'A Ministry of Home Affairs (MHA) spokesman told The Straits Times that Singapore would sign the UN treaty when it was satisfied with 'domestic measures put in place to ensure adherence' to it. These could include changes in local laws.'¹⁶

56. Singapore's anticipated signing of the Human Trafficking Protocol marks a positive step forward in the state's efforts to address trafficking. However, in order for this milestone to translate into effective prevention, protection and prosecution measures, the Protocol must be implemented with due diligence. Further, robust monitoring and evaluation mechanisms to assess the effectiveness and impact of measures undertaken must be implemented from their naissance. Critically, trafficking must be understood as a cause and consequence of human rights violations and measures developed with this understanding at their centre and victim-centred in design and implementation.

PART II

Equal Nationality Rights: Article 9

57. The withdrawal of Singapore's reservation to Article 9 of CEDAW in 2007 was a welcome move forward towards obtaining greater equality of men and women; regrettably, this appears to have been undertaken on the basis that migrant workers would continue to be excluded from the application of the rights herein asserted. A rigid and enduring separation between the rights deemed appropriate to

¹⁵ Writing about the Singapore government's response to the 2010 US State Department's Trafficking in Persons report, Radha Basu, a senior 'Straits Times' correspondent, says:

'In 2004, in response to an earlier TIP report, Singapore maintained that if a person enters the country willingly to work illegally (as, say, a prostitute), such cases would be considered 'human smuggling' not 'trafficking', which Singapore takes to mean the person was coerced or brought in against his or her will.

Human smuggling, as defined in the United Nations Convention against Transnational Organised Crime, is when a person pays another person to transport him or her to another country illegally, usually for work.'

¹⁶ 'Singapore toughens its stance on human trafficking', Straits Times, 11th June 2011.

citizens and those of non-citizens (especially low paid ones) working in Singapore remains. While, all states make distinctions between citizens and non-citizens, as far as possible, migrants should enjoy similar rights to citizens, unless there are specific and justified reasons why they should not.

58. Work permit holders must seek permission if they wish to marry in Singapore. This is usually not granted. Couples who are nevertheless determined to marry normally go abroad to do so and then attempt to win the right for the former worker to come to Singapore. This is often refused.

59. Singapore is wary of migration from sources perceived to upset the existing ratio between its different communities: this is considered to be a very sensitive issue. It also seeks to exclude migrants who it regards as being likely to become a burden on the economy by requiring support in old age, through illness, disability or by having children. This applies to all work permit holders. It is small wonder when a migrant population is so decisively identified as being permitted to be present only while it is of service to the destination country's economy that possibilities such as eligibility for nationality or social rights do not form part of national discourse.

60. It should be noted that work permit holders may only come from approved sources, and those are not the same for all work permit level occupations in general. In particular, while men from China qualify to work in construction, for example, China is not an approved source for domestic workers. The unstated reason for this, according to popular belief, is that Singapore Chinese males are more likely to find Chinese women sexually attractive, thus leading to all sorts of complications for their families.

Part III

Education: Article 10

61. Singapore's accomplishments in the field of education since independence have been considerable, playing a major role in the economic transformation of the country. In recent years, a widening variety of educational opportunities for migrant workers in general and domestic workers in particular have become available, with government encouragement and NGO initiative: for example the establishment of the Bayanihan Centre and Aidha,¹⁷ which offer courses on Sundays. However, around half the domestic workers employed in Singapore receive no days off,¹⁸ and of the remainder, some are only given one day off in a fortnight or a month.

62. Domestic workers who are deprived a day off are unable to avail themselves of the educational opportunities that exist, and the possibilities are reduced for workers without weekly days off.

¹⁷ The Bayanihan Centre was established through the cooperation of the governments of Singapore and the Philippines and provides a range of courses that are targeted at Filipino workers but are open to other nationalities, Aidha is an NPO that started off by providing courses to help domestic workers to manage the money they earned so that they will derive improved benefits from it when they return home,

¹⁸ In a 2006 survey, the government's Feedback Unit (since renamed REACH) found that over 55 per cent of domestic workers surveyed had no days off. More limited surveys by the media and by NGOs as well as the observations of workers have consistently pointed to a range of between 45 and 55 per cent of domestic workers employed in Singapore receiving no days off. Placements are normally for two years at a time, renewable by agreement. There has been little or no reduction in the proportion of domestic workers receiving no days off in the past ten years.

Employment: Article 11

63. Singapore's ongoing reservation to Article 11 holds particular pertinence for the over 200,000 domestic workers as well as thousands more female migrant workers who contribute to Singapore's labour market and yet who experience widespread discrimination and abuse. This reservation must be removed if Singapore is to meet its obligations under CEDAW.

Health: Article 12

64. The government ceased subsidizing medical care for migrant workers in 2006. Employers are legally responsible for looking after the health of workers and they must take out a personal accident insurance policy for at least S\$40,000 before they can employ a worker. Employers are also obliged to insure workers for S\$15,000 of hospitalization costs¹⁹ and this is currently under consideration for revision, as a serious accident might cost more to treat. However, there is inconsistent enforcement of this regulation. Employers can have genuine difficulties in paying for hospitalization that exceeds their insurance; some do their best, while others try to get their employee out of hospital and to expedite their repatriation. Insurance does not cover treatment for injuries or illnesses that do not require hospitalization, leading some employers to neglect to ensure that they are treated properly; it also does not cover treatment of pre-existing conditions, of which a worker may have been unaware when she came to Singapore. As a result some migrant workers have to go without medical treatment for long periods of time, or be sent home if illness means that they cannot work anymore. For anything that is regarded as a minor ailment, such as colds or 'flu, workers are usually expected to continue working, with the help of a palliative, depending upon the employer's consideration and willingness to spend money. All these terms apply across the board, to male and female work permit holders, but an important qualification has to be taken into account when assessing their impact. Workers who need a modest level of medical assistance might be desperate enough to pay for it out of their own earnings, but domestic workers are particularly poorly paid, normally receiving half or less of the pay of male workers in construction, for example. Furthermore, a significant percentage are not allowed to leave their employers' homes. These two factors mean that domestic workers are more likely than other migrant workers to have to endure illness and pain while continuing to work.

65. Migrant workers on work permits and 'S' Passes are required to go for periodic medical examinations for pregnancy and HIV tests, among other screenings for infectious diseases. Those found to have one of the infectious illnesses of concern, to be HIV-positive or to be pregnant are required to be returned home by their employers. Women who find that they are pregnant find themselves forced to choose between returning home and undergoing an abortion, if they wish to go on being employed. These examinations often disregard established best practices of consent, confidentiality, counseling and referral to treatment and support services. Local women do not have to undergo such examinations and the results of those that they seek voluntarily are a matter between women and their doctors. The examinations are considered to be a means of protecting residents of Singapore from life-threatening infectious illnesses, but checking whether migrant women are pregnant is a means to enforce the

¹⁹ This was raised from S\$5000 as of January 1st 2010.

prohibition against work permit holders becoming pregnant or delivering a child while in Singapore. The government regards these examinations as measures to protect the wellbeing of Singaporean society. To a worker, however, they project a message that her only significance is as a unit of production, and that she will be cast aside the moment that she threatens to become inconvenient.

Part IV

Law: Article 15

66. As noted above, domestic workers, virtually all of whom are non-nationals, are not covered by the Employment Act, which specifies the minimum terms and conditions of employment for rest days, hours of work, overtime entitlements, annual leave and medical leave. They are also excluded from the Work Injury Compensation Act, which provides for compensation for workplace injuries and occupational illnesses. It should be noted that domestic workers were excluded from coverage by the Employment Act when it was passed in 1968, and they were then mainly Singaporean by citizenship; the exclusion was on the basis of the nature of the work undertaken, not the nationality of the workers.

67. The government argues that it is hard to apply the Employment Act's provisions in a domestic situation. This echoes a similar argument heard in the 1980s concerning the difficulty of applying a law against domestic violence, yet Singapore has such a law today and enforces it effectively. In any case, the Act itself allows the withholding of the application of specific parts of the Act should it appear desirable; for domestic workers to be denied the various protections of the Act on the grounds that specific parts of it are deemed difficult to apply in practice does not seem logical or just.

68. The Singaporean government argues that other laws and regulations supply many of the protections of the Employment Act to domestic workers. In particular, the Employment of Foreign Manpower Act and its associated administrative provisions provide adequate protections to foreign domestic workers who are not covered under the Employment Act. In fact, the Act itself is primarily concerned with the regulation of migrant labour over and above the rights and protections of migrant workers. Some protections are contained within the Employment of Foreign Manpower Regulations, but they are inadequate in scope and too general to be effective: for example, an employer must ensure that a domestic worker has 'acceptable accommodation', 'adequate food' and 'adequate rest'.

69. A particular concern is the increase in the level of placement costs for women migrant workers as a percentage of their overall salary. For example, in 1997, placement costs accounted for three months of a domestic worker's salary; in 2003, they accounted for six months; in 2010, they accounted for between eight and ten months' salary.²⁰ This was primarily due to the excessive charges made by recruiters and agencies in countries of origin and agencies in Singapore. They appear to charge market rates that rise and rise, with little connection to the actual costs of conducting training, buying air tickets, securing documents, providing accommodation and transporting from place to place. It remains

²⁰ Among other sources, this finding was supported by a survey based on interviews with 100 Indonesian domestic workers conducted in 2008 ('Indonesian Domestic Workers in Singapore: Experiences of Recruitment, Training and Return', Engender/TWC2, 2009)

to be established whether the recent amendment of the Employment Agencies Act and the introduction of a two-month cap on agency fees charged to workers will bring these costs down to some extent.

70. The prevailing levels of indebtedness make workers more reluctant to risk losing their jobs and being sent back home, having been unable to send any money to their families, and hence some feel that they have to endure abusive treatment rather than complain or seek help.

71. Even though there are legal mechanisms for migrant workers to seek redress access to justice is limited for women migrant workers in Singapore, as a result of often insurmountable formal and practical barriers.

72. One formal barrier is the linking of women migrant workers' legal status with their employer, so that there is a fear of initiating a complaint lest the employer cancel their work permits, cease paying the levy for their employment and send them home. Employers often hold all of a domestic workers' personal documents and employees in establishments that profit from sex work face the same problem: once a complaint has been formally made to MOM, the employer may be induced to hand the documents over, but this can be a time consuming process.

73. Practical barriers to accessing justice for migrant domestic workers are the absence of a mandatory regular day off and denial of access to the outside world – leaving a substantial proportion of domestic workers without access to advice or legal assistance, including access to the MoM helpline.

74. Some women migrant workers have succeeded in lodging appeals to the MoM whilst in transit during repatriation but this depends on them being aware of this process and their will to do so at this late stage: some simply go home, feeling abused and helpless. Workers who stay in Singapore while a dispute with an employer is mediated or a case is settled are not able to earn money legally and may have to wait for months. They often feel obliged to settle on disadvantageous terms: for example, workers whose employers have not paid them often give up seeking full payment of money owed and settle for half the owed amount.

75. The positive identification of victims of trafficking is the first step in their being able to access remedies for crimes committed against them. As most trafficked persons in Singapore go unidentified, are often criminalized and deported, they are unable to claim their right to remedies, including obtaining access to justice.

RECOMMENDATIONS

TWC2 and GAATW make the following recommendations to the Singapore Government as critical measures necessary to fulfill their obligation to ensure the equal rights of men and women.

General Recommendations to the Singapore Government:

1. **Withdraw all reservations to CEDAW:** withdraw its reservation in relation to Article 2 and the interpretation of Article 11 para. 1 and make the practical legal adjustments necessary to reflect revocation of its reservation in relation to a special category of laws and conditions for foreign migrant workers.
2. **Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children Supplementing the United Nations Convention against Transnational Organized Crime, and take immediate action to implement the Protocol with due diligence, notably through the establishment of monitoring and evaluation mechanisms and enshrinement of a victim-centred approach in national law, ensuring that all measures implemented in the name of anti-trafficking do no harm to, *inter alia*, trafficked persons, migrants and women.**
3. **Ratify and apply the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.**
4. **Ratify and apply ILO Convention 189 and its supplementary recommendation on Decent Work for Domestic Workers.**
5. **Mandatory day off:** A weekly day of rest is a fundamental requirement for all workers' health and wellbeing. The failure to uphold this right for migrant workers is discriminatory as it impairs women's access to the enjoyment of their fundamental human rights in the political, economic, social and cultural fields. A mandatory weekly day off for all workers must be enshrined in law in Singapore.

Specific Recommendations

Part I

6. **Discriminatory employment provisions:** Remove discriminatory immigration and employment regulations for work permit holders including:
 - a) Mandatory medical examinations for applicants;
 - b) The need to acquire permission from a current employer to change employers;
 - c) The dismissal and repatriation of employees without a notice period, reason or right of appeal;
 - d) The bonding of employees to employers;
 - e) The prohibition of female migrant workers to have a child in Singapore;
 - f) The obligation to undergo 6 monthly medical examinations, including pregnancy tests.

Part II

7. The right of non-citizens to marry: All migrants must be entitled to marry in Singapore without seeking permission from authorities.

8. Access to remedies for women migrant workers: Female migrant workers must not only be entitled in law to seek reparations for unfair dismissal, and to defend allegations lodged against them by employers in a court of law, but be enabled to exercise their rights. Unless facing trial for a serious criminal offence, they should be given the opportunity to work and earn money to support themselves and their families while awaiting a trial, taking part in mediation or otherwise awaiting resolution of a case.

9. Legal protections for the rights of women migrant workers:

Employers must permit access to communication avenues to female migrant workers. Their right to send and receive correspondence without interference and to communicate by telephone (at their own expense) to be affirmed.

10. Non-discriminatory residency regulations: Work permit conditions requiring domestic workers to reside at their employers' residences should be abolished.

11. Legal protection for the freedom of movement: The prohibition of wrongful confinement in the Penal Code must be enforced to prevent employers from locking workers inside their residences. The 2007 Passports Act must also be enforced.

12. Promote the right to organize and freely associate: It should be recognized that migrant workers are better placed to speak up for their own rights and often well placed to help each other. The organization of societies of migrant workers should be facilitated.

13. Elimination of prejudices: Promote a culture of respect for migrant workers and their families and amended prejudicial language in official documents and regulations.

9. Research and data collection: Statistics which permit informed public debate of the status of migrant workers in Singapore should be published regularly.

10. Association of South-East Asian Nations: Enhance and develop mechanisms for discussion as well as bilateral and multilateral collaboration on trafficking at the ASEAN ministerial level, including working towards an implementation framework for the ASEAN Declaration against Trafficking in Persons, particularly women and children; and actively support the work of the ASEAN Committee on Migrant Workers, Commission for Women and Children and the Inter-Governmental Commission on Human Rights.

Part IV

11. Equal rights and protection to all workers: Promulgate a comprehensive Domestic Workers law that will provide both due allowance for flexibility in working conditions and additional protections necessary for a lone worker in the unusual position of being outnumbered in her workplace by her employers.

12. **Bilateral and regional cooperation:** Pursue bilateral and multilateral tracks in seeking to streamline procedures for placement of workers, reduce costs and relieve workers of most of the current placement costs.

13. **Lift discriminatory regulations:** Sex-discriminatory mandatory health checks for women migrant workers must cease.

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