

**Convention on the Elimination of All Forms of  
Discrimination against Women  
Shadow Report for  
Nepal  
The Republic of Korea and  
Singapore**

**Submitted to the  
Committee on the Elimination of Discrimination Against Women (CEDAW)  
49<sup>th</sup> Session**

**Submitted by:  
Migrant Forum in Asia  
Humanitarian Organization for Migration Economics  
Women Migrant's Human Rights Center of Korea(WMHRCK)  
Joint Committee with Migrants in Korea(JCMK)  
Women's Rehabilitation Centre Nepal (WOREC-Nepal)  
POURAKHI Nepal  
Youth Action Nepal  
Pravasi Nepal**



## **Table of Contents**

<b><i>Introduction</i></b>	<b>3</b>
<b><i>Shadow Report on Nepal</i></b>	<b>4</b>
<i>Introduction</i>	5
<i>The Situation of Women Migrant Workers from Nepal</i>	5
<i>Recommendations</i>	11
<i>Annex of Case Studies</i>	
<b><i>Shadow Report on Republic of Korea</i></b>	<b>23</b>
<i>Implementation of CEDAW in Korea</i>	24
<i>Limitations in the Country Report</i>	25
<i>Organizational Changes in the Ministry of Gender Equality and Family</i>	28
<i>Protection of Migrant Women’s Human Rights</i>	29
<i>Annex</i>	36
<b><i>Shadow Report on Singapore</i></b>	<b>44</b>
<i>Executive Summary</i>	45
<i>Background and Framework</i>	45
<i>Violations Under Specific Articles of the Convention</i>	46
<i>Recommendations</i>	54

## **Introduction**

The shadow report on Nepal, Republic of Korea and Singapore for the consideration of the Committee for the Elimination of Discrimination Against Women (CEDAW) was prepared by Migrant Forum in Asia (MFA) members. MFA is a regional membership network of migrants rights advocate, migrant associations, trade unions, faith based organizations and individuals working to protect and promote the rights of migrant workers and members of their families.

Part of the mandate of MFA under its *Advocacy and Capacity Building task force* as well as *Gender and Feminization of Migration task force* is to engage United Nations (UN) Human Rights Mechanisms, UN treaty bodies such as the CEDAW and Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW). MFA through its regional secretariat helps its members at the national level prepare shadow reports and documentation of the implementation of international treaties that impact the rights of migrant workers. MFA as well helps facilitate spaces for dialogue with governments through the participation of its members in the various committee sessions.

In line with the network's engagement with UN treaty bodies MFA members prepared shadow reports for the 10<sup>th</sup> and 11<sup>th</sup> sessions of the CMW where Philippines and Sri Lanka were due to give their report. For both of the committee sessions MFA also facilitated the participation of its national members in the committee session and assisted its members in preparing oral interventions to the committee.

During the 48<sup>th</sup> session of CEDAW MFA through the regional Secretariat facilitated the submission of a shadow from its members from Bangladesh. Due to lack of resources the members were not able to participate in the committee sessions in Geneva, Switzerland.

In preparation for the 49<sup>th</sup> session of CEDAW MFA worked with the International Women's Rights Action Watch (IWRAW-Asia Pacific) in compiling government reports as well as the list of issues and questions with regard to the consideration of periodic reports for the three Asian countries reporting for the 49<sup>th</sup> Session: Nepal, Republic of Korea and Singapore. Questions in relation to women migrant workers were identified and MFA worked with its members at the national level in providing answers to the questions and issues raised by the committee.

The shadow report focuses on providing the committee with information on issues and questions raised pertaining to women migrant workers in the periodic reports of the Governments of Nepal, Republic of Korea and Singapore. The shadow report for Nepal was a consolidated report prepared by the MFA members: Women's Rehabilitation Centre Nepal (WOREC), Pourakhi, Youth Action Nepal and Pravasi Nepal. The shadow report for the Republic of Korea was prepared by MFA members: Women Migrant's Human Rights Center Korea (WMHRCK) and Joint Committee with Migrants Korea (JCM). The shadow report for Singapore was prepared by MFA member: Humanitarian Organization for Migration Economics (HOME)

# Shadow Report on Nepal For Consideration during the 49<sup>th</sup> Session of CEDAW

## Prepared by:

Women's Rehabilitation Centre Nepal (WOREC)

POURAKHI

Youth Action Nepal

Pravasi Nepal



## **Introduction**

Migrant Forum in Asia – Nepal members (WOREC Nepal, PNCC, Youth Action Nepal and Pourakhi) are pleased to submit the report on the situation of Nepalese Women Migrant Workers in relation to the 49<sup>th</sup> Session of the CEDAW Committee. Many Nepalese women (including girls) migrate from remote rural areas and rural townships to cities in Nepal and abroad to work. Although very negligible women from India and elsewhere, inclusive of refugees (mostly Bhutanese and Tibetan) taking asylum, are engaged in different forms of employment in Nepal, it is basically a country of origin of Women Migrant Workers.

Nepal ratified CEDAW in 1991 and its Optional Protocol in 2007, without any reservations. According to Article 18 of CEDAW, the Government of Nepal (GoN) submitted its Initial Report in 1997, the Second and Third Combined Periodic Report in 2003, and the Fourth and Fifth Combined Periodic Report (covering the period of 2001 to 2008) in July 2009.

This shadow report is in relation to the Fourth and Fifth Combined Periodic Report submitted by the GoN, albeit focusing only on the issue of **Nepalese Women Migrant Workers** attracting different Articles of CEDAW and the General Recommendation no. 26 on Women Migrant Workers. It would be grateful if the CEDAW Committee considers the issues raised in this report to be listed as critical and recommended as areas to be improved in its concluding observation.

## **The Situation and Issue of Women Migrants Workers (WMWs)**

The total stock of Nepalese nationals working overseas (excluding about 5 million in India) in different capacities is estimated to be about 2.5 Million. Approximately 700-1000 (which excludes migrants without work permit going through India and Bangladesh) Nepalese migrate for foreign employment every day; and more than 80% of them go to Arab Gulf countries for employment. The trend of foreign labor migration is increasing. Within the 13 years (from the fiscal year 1994/95 to 2006/07) a total of 758,675 Nepalese migrated while within last 4 years (from the fiscal year 2007/08 to 2010/11) a total of 967,643 (M- 943,918; F- 23,725) and within six months from Mid-July 2010 to Mid-Jan 2011, a total of 157,516 (Male-154,000; F- 3,516) have been migrated.

The armed conflict and the post-conflict violence as well as the transitional phase, including natural disasters, experiencing political instability, economic crisis/poverty, discrimination and social stigmatization, resulted in high mobility of people looking for sustenance as well as better options and opportunities. The migrating population includes girl children, adolescent girls and adult women. The trend of number of women migrating alone is increasing as the government has approved for that, which is a praiseworthy effort.

The foreign employment sector has been a contributor of a large chunk of the revenue to

the Government of Nepal and source of livelihood of many families. It has contributed to the socio-economic and socio-political development of the country. Similarly, the internal migration also has created job for many citizens and income sources for many entrepreneurs, which consists of a large number of women. However, the State has not been adequately responsive, accountable and responsible towards the migrant workers.

It cannot also be denied that the contribution of migrant workers in the destination countries' economy and development is vital. However, it took long for activists working for migrants' rights to make the countries acknowledge this fact. Amidst this, it is encouraging fact that their rights, has slowly started to be gradually acknowledged in the counties of destination. However, several migrant workers continue to face human rights violation including forced labor, exploitation, sexual abuse, underpayment, excessive work, limitation of mobility, denial of access to health, education and legal justice, workplace discrimination, among others. Particularly, women migrant workers, working in the domestic and informal sectors are far from access to information, access to justice and redress, and among the most vulnerable. Several human rights violation against women migrant workers can be accounted to their lack of self-awareness on their rights and process of foreign employment.

The increased mobility of women, particularly their migration, has presented them with new opportunities including a means for their economic empowerment. However, in many cases human rights of women migrant workers have been blatantly violated and their security also have been placed at risk because of abuse and discrimination during the entire cycle of migration: origin, transit, destination and return.

There are basically two categories of migration of women workers (including girls) in the context of destination in Nepal: in-country and inter-country. The General Recommendations no. 26 does not speak about the migration of women workers within the country; however its number is higher than that of women workers migrating outside the country.

The following are the critical issues to be considered seriously to improve the situation of the Nepalese women migrant workers:

### **1. Information Relating to Migration**

The data on migration of persons/families for different purposes either within the country or abroad is not complete; and that of women is unreliable. The high mobility of agents and unobstructed push and pull of illicit procedures for migration existent even in remote rural areas have caused the information to peter out. There is no record of number of women migrating to India and through India to third countries or even within the country. There is the tendency to regard 'women migration workers' as only the women workers migrating to third countries. It excludes those within the country and to India, where work permit and/or passport/visa is not required because of open border and a treaty to that effect with India. This increases the vulnerabilities of women migrant workers and the risks to unsafe migration resulting in high risks to their human rights and security in the entire cycle of migration. *(Please refer to annexed case study # 1)*

## **2. Sectors of Employment of Nepalese WMWs**

The sectors of employment of women migrant workers are based on gendered cultural practices. The majority of women migrant workers are employed as informal sectors involving unskilled and menial labor, mostly in domestic work, child or elderly care, packaging and portering, entertainment business, etc., which make them vulnerable to sexual abuse and exploitation based on the stereotyped sex-roles. Such roles and works perpetuate gender based discrimination and gender based violence detrimental to Articles 3 and 5 of CEDAW.

The Government of Nepal in response to widespread exploitation experienced by the workers in domestic work sector has imposed a restriction to women migrant workers to work in Gulf countries - especially as domestic workers. So, women migrant workers are forced for using informal channels and illegal agents/brokers to leave the country. A son from a family can migrate with high respect using airport of Nepal but a daughter from the same family has to migrate as she is a culprit using the airport of India. According to the data from Ministry of Labor and Transport Management 90% of the women migrant workers are undocumented so they miss the mandatory pre-departure training provided by the government. This different treatment to women based on sex is discrimination; specific measures to address the problems in work environment with ensuring safety and security should be identified rather than limiting the rights to employment/work of women.

Many women have become wage earners in the destinations within the country whether in the formal or informal manufacturing and service sectors or male-centered culture of entertainment which has created demand for women as entertainers. The women migrant workers in entertainment business within the country, particularly working in restaurants, bars, and beauty/massage parlors, are at the high risk of physical, economic and sexual abuse and exploitation. The women workers in the entertainment business are harassed and victimized not only by the owners, staffs and clients but also re-victimized by the officials of the law enforcement agencies. However, the work division tends to be sex-specific and prone to physical and sexual abuse and exploitation. The majority of such women workers receive negligible wages. Many such women (including girls) have been forced to work as commercial sex workers in the sex industry flourishing in the cities and towns in Nepal and/or became victims to trafficking within the borders and cross-border and abroad, which is linked either directly or indirectly to migration that attracts Article 6 of CEDAW. These violate the basic rights to dignified life, right to choose profession, right to access to credit, freedom from 'slavery', freedom from inhuman treatment, right to fair and prompt justice, and so on. *(Please refer to annexed case studies # 1 and 2)*

## **3. Deception and Trickery of the Recruiting Agencies/Agents**

It has been reported by the returned women migrant workers that some of the recruiting agencies for foreign employment misled them concerning the nature of work, incentives and facilities. Many women workers have been forced to perform dirty, difficult and dangerous works with less wage/facilities, which is against the

Foreign Employment Act.

There are cases also that many recruitment agencies and/or agents to have bagged deposits, mostly loan taken by mortgaging their farm land with high rates of interest, from the prospective migrant workers and vanished. Many returnees have informed that some of the recruiting agencies demand more money by enticing the aspiring migrant workers, both men and women, to place them in high earning jobs or countries; quite a few are not approved by the government for foreign employment.

Their risk of suffering physically and sexually because of their irregular status and even losing their earning is high. The State has not carried out any strong action against such recruitment agents/agencies and any support program to the victims.

Women also get arrested by authorities in transit country for irregular migration, whereas the illegal agents manage to flee. *(Please refer to annexed case studies # 2, 4, 5 and 6)*

#### **4. Economic Rights of the Women Migrant Workers**

Though there is provision of equal rights to property in the constitution of Nepal, women have less access to the ancestral property. Women have to borrow money from money lenders or rely on the local agents for their labor migration related expenses.

The money lenders often charge very high interest rates and usually the migrants, particularly women, accept it as they have no other options to get loan. The burdens of such debts compel women to accept work unreservedly, in situations that are too risky. In many cases the usually the local agents, in collaboration with the recruiting agencies, take money in advance from the employing houses/companies for recruiting migrant workers, which is quite similar to bondage.

As accounts of the most returnee women migrant workers, usually in domestic services, narrate that their employers declined to pay them and retorted that they were 'bought'. If any woman is caught without proper documents, usually the recruiting agencies/agents hold their travel documents; their property is confiscated, either in the country of transit or destination.

Similarly, many returned WMWs have reported that they have no control over their earning. They send the money home, which is used to buy land or build home either in ownership of their husbands or fathers. The women, including migrant women workers, are deprived practically to own property although there is a provision of equal right to property in Nepalese law. *(Please refer to annexed case study # 3, 5, 7 and 8)*

#### **5. Problems in the Destination of the Women Migrant Workers**

On landing to the country of destination, women migrant workers' continue to face human rights violation including forced labor, exploitation, sexual abuse, underpayment, excessive work, limitation of mobility, denial of access to health, education and legal justice, workplace discrimination, among others. Particularly,



women migrant workers, working in the domestic and informal sectors are far from access to information, access to justice and redress, and among the most vulnerable. Several human rights violation against women migrant workers can be accounted to their lack of self-awareness on their rights and process of foreign employment.

In case of early termination, many WMWs are at not allowed to return to Nepal by their agents as they have not earned enough to pay back the expenses they owe to the agents. Not many WMW are aware of their rights, and many are working in countries with limited practice of human rights and democratic values. Hence, there are no provisions for unions and associations and in many destination countries, national labor laws do not include provisions for domestic work, thus they are unable to seek legal remedies. The labor contract a migrant worker has signed with the recruitment agency has no value in the destination countries. *(Please refer to case studies # 4, 5, 6 and 8)*

#### **6. Support in the Host Countries**

Because of the lack of information, knowledge of foreign language and vocational skills, majority of women migrant workers, particularly from rural areas and illiterate, are at high risks to physical, economic and sexual exploitation of women migrant workers, including trafficking. They also do not have idea to claim for their rights to protection including safety/security in working conditions and to social benefits. These contravene Articles 6, 10 (a), 11 (1), 12 (2) and 14 of CEDAW, for which the Government of Nepal and the Government of the host country/ies should be responsible. *(Please refer to annexed case study # 3 and 6)*

The GoN (Embassies and/or Missions) have not performed satisfactorily to protect the rights of the WMWs in the destination countries, even after application is lodged, which have resulted in increased vulnerability to physical and sexual abuse and exploitation. The perpetrators of the human rights and dignified life of women migrant workers within the country (origin), transit and destination have not been brought to justice and the WMW are re-victimized due to social stigmatization, which has violated Article 6/CEDAW.

#### **7. Violence against, and Sexual Abuse and Exploitation of Women Migrant Workers**

Most of the returnees, usually in the domestic sector, have accounted for cruel, inhuman and degrading treatment of the women migrant workers by the employers. The excessive workload for more than 12-14 hours without rest made them tired physically and mentally tired and sick. Due to which there could be mistakes, such as breaking glasses, crockery, or burning of food curing cooking or clothes during ironing, etc. Most of the returned WMWs have told that they were beaten without mercy in those situations. *(Please refer to annexed case study # 2)*

In many cases, the women migrant workers have narrated about advances of their employers to sexual abuse and exploitation. The denial to such acts by the women migrant workers led to reprisals by their employers in many forms, e.g. increased

workload, thrashing and beating, in which some have even become wounded and morbid. *(Please refer to annexed case study # 2, 3 and 6)*

Nepalese women migrant workers are also vulnerable to exploitation in the country of transit too, usually India. India has been used by the illegal agents to flow undocumented workers; many times women are stranded in such processes and are sold to Indian brothels. *(Please refer to annexed case study # 2, 3 and 6)*

## **8. Pre-Departure Training/Orientation**

Many training institutes registered with the government to provide mandatory pre-departure training and orientation to the migrant workers to foreign countries, provisioned as of the Foreign Employment Act 2007, are issuing certificates without conducting any training at all in collaboration with the civil servants. Everyone knows about the widespread ill-governance and corruption, and the migrants also have to pay less and willingly accept it. The gap in policy and practice is wide and the State monitoring mechanism is not only weak but also corrupt. All these have resulted in increased risk and vulnerability to physical, economic and sexual exploitation and abuse of the women migrant workers. Also most of the training institutes are centered at Kathmandu and the pre-departure training given to the migrant is not in the rights-based and gender sensitive approach.

Because of the lack of information, knowledge of foreign language and vocational skills, majority of women migrant workers, particularly from rural areas and illiterate, are at high risks to physical, economic and sexual exploitation of women migrant workers, including trafficking. They also do not have idea to claim for their rights to protection including safety/security in working conditions and to social benefits. These contravene Articles 6, 10 (a), 11 (1), 12 (2) and 14 of CEDAW, for which the Government of Nepal and the Government of the host country/ies should be responsible. *(Please refer to annexed case study # 3 , 6, 7 and 8)*

In a nutshell, migration of women workers within and outside Nepal is mostly unsafe. The government of Nepal has to make its policies on internal and foreign migration as well as employment gender-sensitive. There have been no studies relating to the gender perspectives on migration; focusing on gender inequality, traditional gender roles and labor market, gender-based violence and feminization of poverty pertaining to labor market, migration channels, sectors of migration, forms of abuse and its consequences, etc. The policies to counter discrimination, exploitation and abuse of women migrant workers cannot be developed and implemented unless the gender perspective is integrated in the analysis of the position of woman migrant workers.

Although the country of origin and the families of the migrant workers are benefitted from remittance and the host (destination) country is benefitted by the works of the migrant workers, quite a large number of the Nepalese migrant workers, especially WMWs, are suffering because Nepal is not yet a State party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

## Recommendations

The Government of Nepal must :

- Immediately ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
- Establish and necessary mechanisms to promote safe migration procedures to respect, protect and fulfill the human rights of women throughout the migration cycle;
- Ensure protection of the human rights of the migrant women workers including the rights to life, right to privacy, right to mobility, to personal liberty and security, to be free of torture, degrading and inhuman treatment, to be free from discrimination and to equality before the law in the destination countries or locations within the country;
- Criminalize and end impunity to physical, economic and sexual exploitation of women migrant workers, including trafficking of women, within and outside the country and have bilateral/multilateral accords for the same with the destination countries.
- Promote victim centered justice system in order to ensure justice and empower survivor of VAW in process of migration.
- Strengthen monitoring mechanism and the duties and roles of the government agencies to protect the rights of the women workers in the entire cycle of migration, both within and outside the country.
- Take meaningful action for creating employment/self-employment opportunities to women within the country and establish vocational/skill training required for foreign employment.
- Enforce standardized and comprehensive pre-departure orientation and skill training with monitoring. Decentralize the orientation and skill services to reach the grassroots.
- Decentralize and promote transparent recruitment and employment processes with effective enforcement and monitoring.
- Promote Corporate Social Responsibility through interventions with private sector for promoting WMWs access to private sector services and contribution.
- Support bilateral agreements between country of employment and country of origin with adequate provisions to ensure security and mechanisms to deal with violation of right of WMWs during employment through a special MOU and/or contracts to ensure protection in informal sectors.
- Mobilize and strengthen diplomatic missions to secure safe labor opportunities for WMWs as well as prompt services for to ensure for protection and promotion of the rights of WMWs.
- Make arrangement with the Transit Country to monitor and report on the violation of rights of Nepalese women workers using the airport of the transit country.
- Make arrangements for reintegration plan for returnee women migrant workers and social reintegration and rehabilitation plan and programs for returnee migrant workers who are survivor of VAW in process of migration.
- Strengthen regular inspection of recruitment agencies to ensure that migrant women workers are placed in their jobs according the labour contract and are protected against abusive practices.



## **Annex: Case Studies**

### **Case Study # 1: Dil Maya Thapamagar**

Dil Maya Thapamagar, a resident of Fulbari VDC-5 of Kailali district, opted to migrate for foreign employment due to poor economic condition of her family and no option to earn. She agreed to go to Kuwait to work as a domestic worker when an agent, Umakant Pageni, persuaded her. She was taken to Saudi Arabia instead of Kuwait, violating the contract, and to add more through India. She worked in Saudi Arabia for three months and then she was sent to Kuwait to work in a family of thirty members.

Before sending to Kuwait, she had been told by the agent that she had to do simple domestic works, but she had to do all household works at the new employer's from early in the morning till late at night. There she had to take care of a baby, wash clothes, buy food stuff, cook food, and clean the dishes and the entire house. She even had no time to respite for a while. Moreover, the employer and his son frequently tried to sexually abuse her. She always produced a knife for protection when they tried to approach her for protection. They harassed her so much that she was made to go to buy goods even at 10:00 pm. Not only that, she has to carry heavy goods at the midst of night also. But she was neither paid nor given a break from work even for a few minutes. Whenever she asked for money she was severely beaten and was told that the agent had already taken money away as a charge for bringing her in this house.

The violence heightened to the peak day by day, so she desired to return to Nepal and requested her employer many times for her departure. But the employer neither let her to return nor paid her. As she could not find any alternative to get away from there, she began making mess in her work. Seeing her err in work the employer was compelled to send her back to Nepal. In this way, bearing inhuman treatment and violence she succeeded to return.

Her husband regularly quarreled with her as she did not make any money in spite of staying in Kuwait for half a year. Currently, she is staying in safe house of WOREC where she is provided with psycho-social counseling service and skill development training.

### **Case Study # 2: Lila Chaudhary**

A 35 year old woman, Lila Chaudhary, from a simple family of seven members of Hasulia VDC - 9 of Kailali district used to work in other's land as share cropping as the production from her field was not sufficient for her family to survive. Once an agent from her neighboring village, Maya Chaudhary, convinced her to go for a foreign employment where there was easy access to work and an opportunity to earn more money. Without knowing anything, Lila easily believed on the words of the agent and completed the preparations to migrate to Kuwait.

She was taken to Mumbai, India and flown to Kuwait as per the agreement to work in a company. But to her surprise she was sent to work as a domestic worker in a house. As

she could not understand the language, there was problem for her to work in that house and so the employer rejected her and sent her back to the same recruitment company that hired her.

Before her departure to Kuwait she did not have any medical report but the report of her medical examination in Kuwait failed due to which she was sent to Delhi. She preferred to return to Nepal but was forced to go to another country.

After knowing the treachery of Recruitment Company, Lila secretly entered into a shop and contacted her family members and informed them about her stranded situation. Then her family members rescued her with the help of the Women Human Right Defender's Network. She declined to file a case against Maya Chaudhary who had swindled her and the case is dismissed. However, Maya returned five thousand rupees to her which she had taken from her before departure to Kuwait. Currently she is engaged in agricultural work in her own family land with the support of WOREC Nepal.

### **Case Study # 3: Kalawati Badi**

Kalawati Badi, age 33 is a resident of Chauki danda village of Malakheti -5. She is from a very poor and socially disadvantaged family. The Badi community's traditional occupation is singing and dancing, and so she used to beg some money or food from her early childhood by performing sing songs and dance.

She neither had a permanent house nor a piece of land. They used to live in a small tent, which was their house, close to the village. She had to follow the same occupation even after her marriage. The traditional occupation was not sufficient to let her even to survive, as there was always hand to mouth problem. She was looking for alternatives when her own sister-in-law helped her to contact a foreign employment recruitment agent. Then she migrated to Saudi Arabia as a domestic worker via India on Sunday, February 7, 2010.

At first she had to face many problems due to language. Although she did not have much work to do at the employer's house, but the male members of the household asked her to open the door at night and tried to sexually abuse her. She tried to escape from there but in vein. Finding no alternative she acted mad - screaming, laughing loudly and crying. Thus, the employers thought that she was mentally disturbed and returned her to Delhi, India after staying for 15 days in Saudi Arabia. She had no money and nowhere to go and so stayed at the Delhi Airport for a day and night in hunger and pain. At last the Indian police found her and sent her to the Rescue Foundation. She returned to Nepal through Maiti Nepal after staying for two months in the foundation.

She underwent psycho-social counseling and was provided with other support from WOREC. She declined legal aid to sue the agent because the contact was her own sister-in-law.

#### **Case Study # 4: Amrita Rai**

Amrita Rai, 40, is from a poor family of Mrigaulia-9 in Morang district. At the age of 16, she got married according to her own will. After some years later her husband married another wife leaving her alone with one son. Then, she started staying with her mother. Later, she married again but her second husband also left her. She returned to live with her mother and there with the help of a local agent, in June 2007, she departed for the first time for foreign employment in Saudi Arabia via Mumbai, India as a domestic worker. She had a heavy work load however earned quite a bit. But, after six months her employer asked her to return her home and come back after 10 months because they were leaving the city.

Upon her return, after a while she got in touch with a local agent name Moti Man Thapa who assured her to send in Kuwait for foreign employment via Delhi, India. She went to Delhi, India with the agent via Silgudhi, India and there were altogether 5 women including her when they left for Delhi and staying for five days there. She was received by a person named Om Sharma in Kuwait Airport and sent to a house to work as a domestic worker. She had to do all domestic works including cleaning the house, cooking food, ironing cloths, taking care of children and elderly, but was never paid. When he asked about her salary she was told that all her salary was given to the agent earlier. Working from dawn (5 am) till midnight was not easy. In the meantime for her small fault, e.g. for breaking a glass, she was severely beaten by the employer.

She was beaten unconscious and her backbone was fractured and thrown away in the street. The police took her to the police station while she in the unconscious state. As her documents were with the employer, which could not be identified, the police helped her return to Nepal after two months. She returned with bare hands and ill health despite of working for many months.

Because of severe internal wounds she became morbid and she also suffered from respiration problem. She could do nothing to the agent responsible for her deplorable condition as he had died earlier. She went to the village health post for treatment but nothing improved. Currently she is living with her mother. Her situation is critical if she does not get medical treatment in time.

#### **Case Study # 5: Radha Phnuyal**

Radha Phnuyal, (28), a dweller of Sunsari district is a married woman. Her economic condition is pathetic as she and her husband had to work in other's house as a labor to sustain their life of five family members (with 2 sons and 1 daughter). While going to her maternal uncle's house in Itahari, she got into contact with an agent (Govind Khadka, including his mother Goma Khadka and his wife). The agent tempted Radha for foreign employment and she became ready to depart to Saudi Arab via India. The agent promised Radha, her husband and other family members that she would depart to Saudi Arab from Nepal but they took her to Saudi Arab via Mumbai, India on December 2008. The name and address of her employer according to the contract document was Fatema Mohammed Mohammed Abdul, Karim, Al Marba, Tel:4043050.

After reaching Saudi Arab, she contacted her family members twice only and then she has been out of contact as informed by her brother Jay Prasad Chaulagain. The agents gave them the contact numbers 966504728684 and 966603437190 as the telephone numbers of her employer, however nobody picked up the phone when her family members tried to call there.

Then her family members looked for the agents and only Goma Khadka, mother of Govind Khadka could be contacted and her response to them was improper and rude. As Radha Phnuyal is out of contact from her family the brother Jay Prasad Chaulagain, being worried, registered a petition on 14th June 2010 (registration no. 11923) at Foreign Employment Board for her rescue and further appealed for punishment to the agents responsible for her stranded condition on. Moreover, the Foreign Employment Board reported to the Ministry of Foreign Affairs for her liberation on the same date. All the agents have absconded.

#### **Case Study # 6: Manaso Devi Uraw (alias Manju Devi Jhangad)**

Manaso Devi Uraw, aged 35, is a married woman of Pattharghatta, ward no. 5, Mrigauliya VDC in Morang district and their main source of livelihood is labor. She was living in her family with her husband Santa Jhangad, 2 sons and one daughter. The village agents (Manaki Uraw and Arjun Yadav) took the benefit of their deplorable condition by luring them to heave for foreign employment. The agents told them that they will manage to get job for husband and wife together in the same country. Both of them believed the agents and were convinced to process for the passport. Then, they were taken to Mumbai, India via the border of Jogbani. Together with them one man from Duhabi, Sunsari and 2 men from Vokraha VDC were also taken to Mumbai, India by the agent. In Mumbai they were kept in a small rented room at Kurla. With the promise of sending to foreign employment the agent took Rs. 60,000 from them but after spending two months in a room Manaso was sent to Saudi Arab leaving her husband at Mumbai. Manaso contacted him three days after her departure to Saudi and then never. He waited for four months in the hope of departing to foreign country, but to no avail. The agents ignored and left him alone, and he was forced to return home.

Back at home, he again contacted the agents and they again took him to Mumbai and they introduced him to Jagir Mia and told that from then on he would be responsible for his foreign employment. However, he could not manage for his departure and so after working for two months in Mumbai he returned home. He says that Manaso had once called her sister and told her that the job was difficult. Then there has been no communication between them.

On 14th January 2010, he saw news published in Kantipur Daily about the suicide of Manju Devi Jhangad, Passport No. 446137 from ward no. 5 of Mrigaulia VDC. It just said that she had committed a suicide in her working place by hanging herself in Qatar and also mentioned about her nearest kin's name as Santa Kumar Jhangad.



The Nepalese Embassy in Saudi Arab had published that news because no one came forward to take the responsibility of her dead body because of her forged passport. Then, he reported to the police immediately. The police arrested the agent Manaki Devi but they soon released her. The police did not call him to discuss on the case while Manaki Devi was arrested and held in the police station.

The family is in grief due to loss of Manaso Devi Uraw and neither her dead body nor compensation has been given to her family, because they are relying upon the agent and did not seek help from other organizations.

### **Case Study # 7: Najara Khatun**

Najara Khatun, a married woman of 26 years, is from a simple family background. She lives with her family in Darbesha-4, Amtola in Morang district. Since she got married in her early age she left her husband and married another man when she matured and understand about marital relationship. She had a son, who was 9 years old and studying in class 3 in a private school. Her husband worked as a driver for a private school. Due to poor economic condition and lack of land for cultivation the family hardly managed their livelihood.

In the meantime an agent named Govinda Subba convinced Najara to go to foreign country assuring for a well paid job that would help to improve her family status. He also assured her of getting 10-11 thousand salary per month without any payments before departure. The agent asked Nazara to introduce with him other women of the village if they also opted for foreign employment. The agent, moreover, offered to bear the expenses for obtaining passport as a loan and told her to send 3 month's salary as the reimbursement of expenses. The enticing words of the agent lured 5 women from the village. Thus, with the consent of her husband she became ready to move to Saudi Arabia. On August/September 2008 she was taken to Kakarbhatta, bordering India, together with 4 other women. When they reached near the border, the agent asked them to walk one by one behind him keeping the distance of 25/30 meters and also instructed them to say that they were going for marketing if someone asked them where they were going to.

After crossing the border, they were handed over to another agent who took them to Mumbai. They were kept in a room at Mumbai for twelve days together with many people in the same room. Seeing this, Najara thought if they had been swindled, however after 12 days she was flown to Saudi Arabia. There she was received by the employer only after staying for nine days again in the Saudi Arabia airport.

As a domestic worker, Najara did not have to face many problems. The employers were teachers and both were good to her but the only difficulty was language. Due to this they had to talk in sign language. The employers also let her to talk to her family members once in a while. She had to work from 7 am in the morning until 2 am the next morning (around 18 hrs/day) and receiving only 500 Riyal/month. When she asked about the low salary, the employer told her that they had already given 200 thousand to the agents

before her arrival and said that they had bought her. However, in each 3 months Nazara sent her income to her husband. Through this money he bought a piece of land in his name and also built a house there.

After staying 2 years and 4 months, the employer let her return and bought for her a return ticket to Nepal on his own expense. She arrived on 1st January 2011. The employers were good to her so while staying there she did not have to face direct violence but she said that she had heard about many domestic workers like her had faced violence and some had even killed themselves.

Realizing that the agent had forged and sold her, she tried to contact the agents but in vain. However, she feels lucky as she had safely reached her home. She said she has not learned any skill during her stay in Saudi Arabia since she had not worked in technical field.

### **Case Study # 8: Lalmani Karmakar**

Lalmani Karmakar, a 29 year woman of Durbesha-4, Amtola of Morang district had studied up to class 3. She got married in her early age. Due to harsh poverty in the family, nobody from her family had got an opportunity to study. Even the meal for the day was not possible for them if they did not work. Even after marriage, her situation still remained the same. She gave birth to a son and a daughter. The income as a laborer was not sufficient for them to even bare survival. In this situation she as approached by a stranger, Govind Subba, who was an agent of a recruitment agency for foreign employment, convinced her to go for foreign employment.

He talked around Lalmani and five other women to recruit for foreign employment. He even told them that he would spend for the expenses for obtaining passport and other procedures, which they could reimburse after they started earning. After a long discussion they thought that it was a good option to improve their lot. Lalmani with the other five women were escorted to Mumbai, India via Kakarbhatta, the eastern border town in August/September 2008. In Mumbai they were stacked in a small dingy room for twelve days and then they were flown to Saudi Arabia.

After almost 3 hours of reaching the airport of Saudi Arabia she was received by her employer. She was taken to the house where she had to work as a domestic worker. In the beginning she felt everything new. The employer began unfolding her work details; however, she understood nothing since the Arabian language was completely new to her. With the passage of time, she adjusted in that house having four members only. She had to work from dawn to midnight (6 am till 1 am the next day).

Although the family was small but the chores were never ending and she had very little time to rest, recreation and leisure. They also used to verbally assault her. Sometimes the house mistress even beat her for the mistakes of her own children.

As per the agreement with the agent her salary was supposed to be 500 Riyal but she was only given 400 Riyal. When she refused to work in such a low salary, the employer told

they had bought her from an agent. So, in compulsion she had to work despite of low salary. She sent all the money she earned to her husband. With the money she earned, her husband managed to buy a piece of land in his own name, educate their children and also bought oxen for farming. In the mean time in Nepal, the agent confiscated her husband's citizenship card and forced him to pay Rs. 30,000 (3 month's salary).

Frustrated from the work, Lalmani requested her employer and his mistress many times to let her return but they turned deaf ears. Once he had an accident with a car as she was escorting her mistress to her friend's house, which caused injury to her body. They finally bought a ticket for her return upon seeing the impossibility of her full medical treatment after general treatment.

She returned home on 27 December 2010. Because of the injury, her physical and mental condition degraded day by day. In fact, there are wounds and bruises in many parts of her body and her vision is despaired and she needs help to walk. The family is not in a condition for her further treatment.

### **Case Study # 9: Bimala Thingh**

Bimala Thing is from simple rural family background. She got married as per the parent's choice in a poor family. Due to lack of cultivable land, her husband worked as a seasonal laborer in Delhi and Punjab (India) for their livelihood. While she was enduring and struggling to eke out a living in the difficult times an agent of the recruitment agency for foreign employment visited her and convinced her to go for a foreign employment. He assured that he would lend her the preparation expenses, which she could return the once she started earning from foreign employment.

Staying for twelve days in Mumbai (India), she finally departed to Saudi Arabia. She had to stay for 8 days in the Saudi Arabia airport, and employer received her only on the 9th day. She had to work as a domestic worker for almost 24 hours a day; she was exhausted. Her employers did not give enough food for her to eat; she had to rely on the left-over. There she came to know about the forgery of the agent: she was told that she would get Rs. 800 but she was offered only 400. Her employers told that the agent had already taken two hundred thousand from the employer as soon as she reached there. However, she managed to send some money to her family, which the husband utilized for the household works and to educate the children.

After working for two years, she returned to Nepal. The employer bought a ticket to Kathmandu for her. But, she would not like to go again to foreign employment and advices that regular procedure should be followed and the government should facilitate women to go abroad for work.

### **Case Study #10: Fulmani Besara**

Fulmani Besara, a 35 year woman is from a poor family background, was married off with a disable at the age of 15. She did not have opportunity even to enter a school in her childhood due to her family's poverty.

The disability of the husband added difficulty for survival of eight family members. In such a situation she was visited by a recruitment agent of the foreign employment agency and, to add flavor, he proposed to bear the preparatory expenses as a loan to be repaid upon starting to earn from the foreign employment. It was tempting.

So, she became ready to go for foreign employment as a domestic worker via Delhi, India. She finally reached Saudi Arabia after the stay of nine days in Delhi. She had to perform all the household chores from 5 am till mid night, with very little rest either to eat or to go to lavatory during that time. However, her employer was not cruel; she sometimes scolded her but had never beaten her. Instead she was forced to wear 'Burkha' during Muslim festivals. She learnt that the agent had cheated her; she was paid less than the agreed salary. However, she refunded the Rs. 30,000 the agent had spent for preparations. She was confined in the four walls of the employer's house and had no opportunity to learn anything.

By working for two years, she sent her earning to her husband who used it for household works and to educate the children; she has nothing left personal with her upon return home. She viewed that to work as a migrant domestic worker is good if they use Nepalese route while going to foreign employment and the process is transparent and safe.

### **Case Study # 11: Yasodha Karmakar**

Yashoda Karmakar (40 years), a resident of Morang district, hailed from a lower-middle farmer family. Her parents produced food from their land that was sufficient for 9-10 months and they had to work in other person's lands for the remaining months. Knowing her desire for education, her parents let her to study up to lower secondary level. Then, she got married at the age of 16 in a family where they hardly managed a meal working whole day.

She saw no alternative to her life drowned in poverty unless a recruiting agent called Milan Budhathoki approached her for foreign employment with all the preparation expenses as a loan, amounting to Rs. 30,000 to be reimbursed within 3/4 months after stating to earn. She departed to Lebanon with a contract to work as a domestic worker; she was given the work and salary as agreed. She had to work for eight hours a day and the employer used to increase a small amount of money in each month's salary. She sent her earning to her husband, who bought a small piece of land, a house and oxen, paid the loan including the preparatory expenses to the agent and spent for their children's education.

She worked for two years and returned home. She says that performing such work for two years was not difficult for her and that she plans of going to another country but has not decided yet. She says that it was nothing new for her because she did the same things in Lebanon that she had been doing in Nepal.

### **Case Study # 13 Nirmala Katuwal**

Nirmala Katuwal, a resident of Morang, was from a sophisticated family. Her mother died when she was young so her father had a second marriage. However, in the encouragement of her father, she studied up to class nine.

But the people from her family rumored about illicit relationship between father and daughter. So, she got married at the age of 15 in a simple farming family background. In fact, there was hand to mouth problem in the family. Moreover her husband, after getting drunk, usually beat and verbally assaulted her. The family problems increased when children - a son and a daughter were born to her.

She was approached by an agent of the recruitment agency for foreign employment, named Hema Giri, who convinced her to go to Kuwait to work. Her brothers also were migrant workers in Kuwait and she made up her mind to go there. Before going she had an agreement with the agent to pay 30,000 after she earned from the foreign employment in addition to other clauses, terms and conditions. She was paid as per the agreement so she became able to pay the agent. She sent her earning to her husband who spent it in domestic works and to educate the children. The work in Kuwait was easy for her as she had to take care of a child only and she had to work only for eight hours.

After working for two years and five months, she became able to save 300 thousand, a part of which she invested in her own work and kept the remaining in her bank account for going to foreign employment again.

### **Case Study # 13: Chandra Kala Tajpuriya**

Chandra Kala Tajpuriya, belonged to a simple large farming family. Twelve family members depended upon the income generated from work of the adults as daily laborers. When she grew up, she went to Kathmandu and worked in a carpet factory. There, she was introduced with Sahadev Tajpuriya who worked in one of the boarding schools and later they got married.

The income of her husband was not adequate for their survival since they had a son and a daughter. So, her husband suggested her to go for a foreign employment after contacting with an agent who managed to make passport and other procedures without any payment.

In Saudi Arabia, she did not have to work hard. She had to take care of a child and help perform other household chores. The employer provided regular and good food to eat and also paid her salary on time according to the agreement.

With the income from her work, she was able to send money to her husband so that he bought a small piece of land and spent for the education of the children. Along with this she deposited 350 thousand rupees. However, her husband time and again told her to return and she was forced to return when he threatened to marry a second wife.

However, after her arrival his behavior was changed. He uses to severely beat and verbally assault her. He often beats her until she becomes unconscious. She wishes to live separately from her husband.

# **Shadow Report on Republic of Korea For Consideration during the 49<sup>th</sup> Session of CEDAW**

**Prepared by:  
Women Migrant's Human Rights Center of Korea(WMHRCK)  
Joint Committee with Migrants in Korea(JCMK)**

 **외국인이주·노동운동협의회**  
Joint Committee with Migrants in Korea  
후원: 국민은행 008-25-0022-413 외국인이주노동운동협의회

## **I. Implementation of the Convention on the Elimination of All Forms of Discrimination against Women and its limitation**

In July 2007, the Committee on the Elimination against Women issued General Recommendation regarding migrant women '*to enact a law regulating international marriage brokers and take proper actions to prevent harassments and domestic violence against marriage migrant women*'. It is estimated that the Korean government made visible efforts on the General Recommendation.

In 2006, foreign women was newly added to the beneficiaries of *the Act on the Prevention of Domestic Violence and Protection, etc. of Victims Thereof* and systematic improvements were followed. In 2007, shelters for foreign women and the Emergency Support Center for Migrant Women (Emergency call service: 1577-1366) were established. Foreign women were granted residence permit in case of a death of spouse or divorce caused by the spouse's faults. Furthermore, the '*Report of officially recognized women organizations listed by the Ministry of Justice*', a record of counselling by women organization, is adopted as a potential evidence of domestic violence when a migrant victim cannot prove it. In 2008, *Support for Multi-cultural Families Act/Act on Support for Multi-cultural Families* was enacted and *Multi-cultural family Support Centers* were established nationwide in order to implement the multi-cultural family support project of the government. They provide supports for marriage migrant women in adapting themselves to the Korean society.

The government exerted an efforts to regulate international marriage brokers violating migrant women's human rights. In 2008, *the Act on Regulation of Marriage Brokerage Agency* was enacted and later revised for mandatory provision providing personal information in advance to both sides after the incidents of human rights infringement happened. The government also conducts the education course for international marriage brokers. In spite of the above progress, international marriage through marriage brokers is still the main cause of the violence of migrant women's human rights.

The adoption of these policy for marriage migrant women was actually driven by migrant women organizations. The issues on migrant women were not recognized by the government in the beginning. Hence, the government actively adopted the opinions and ideas of civic organizations considering these issues in gender perspective. The establishment of collaborative relationship was followed, of course.

However, the migrant women policy is based on *the Basic Act on the Treatment of Foreigners in Korea* enacted in 2007 and is implemented within the framework of *the Basic Plan for Foreigner Policy* designed in 2008. Therefore, it puts an emphasis on social integration based on a family system rather than individual human right of migrant woman. It shows some distance from the perspective of *the Convention on the Elimination of All Forms of Discrimination against Women*.



## II. Limitations in the Country Report

The periodic country report of the Republic of Korea describes about migrant women policies as followings: *the Act on Support for Multi-cultural Families, the Act on Regulation of Marriage Brokerage Agency*, prevention of sex trade targeting foreign women and compensation, and prevention of domestic violence against women, etc. However, these only focus on marriage migrant women and do not contain any policy to prevent discrimination against women migrant workers. The report also does not have enough information on the current status of migrant women's human rights. Hence, this shadow report focuses on discrimination against migrant women despite the enhancement of related law and policy.

### 1) Women migrant workers hidden from statistics

The statistics of the Korean government are supposed to reveal sex ratio in every item, but the statistics of the immigration office do not show sex ratio except marriage migrants related information. Accordingly, it is impossible to conduct the evaluation of the policy effect by sex and reveal the exact condition of women migrant workers (including overseas Korean women workers).

### 2) Poverty of migrant women

In 2005, the survey on marriage migrant women by the Korean government revealed 52.9% of multi-cultural families belonged to the poorest class. Also, the number of migrant woman householder from the divorce caused by husband's faults or etc is increased. But even their condition has not been investigated yet. Migrant women are not granted basic social security such as the government's livelihood subsidy because of their nationality unless they have a child(ren) from a Korean husband. Even in the case that migrant women are granted custody of a child(ren), parental rights still remain on a Korean spouse mostly. In this case, it is very difficult to afford for nursery school fee or to change the address for the government's livelihood subsidy, without a Korean husband's agreement. It often exposes migrant women to the poverty more easily.

In South Korea, women migrant workers or undocumented migrant women without health insurance have to pay huge money for a childbirth and cannot receive any postnatal care. Since they cannot afford raising a child, they sometimes hope an adoption. However, their child is not even eligible for adoption because he/she is undocumented. It drives the mother to an extreme choice such as abandoning her child. Also, refugee women's children have no nationality and cannot be granted basic rights such as right to health or right to education because they cannot be registered neither in their home country nor in South Korea. The country report does not contain the above problems.

### 3) Limitation of legal system for migrant women's human rights

Although the legal system shows some progress since the last Session, lack of basic understanding on the protection of migrant women's human rights is shown in various

ways. Otherwise Welfare facilities in South Korea are requested to register user's personal information, and it requests other facilities for protecting migrant women's human rights to do it. If this request is not satisfied, the government threatens the centers by quitting the grant, which infringes independence of the centers.

## **A. Newly enacted laws**

### **a. Act on Support for Multi-cultural Families**

#### **Analysis**

This Act, enacted on 21 March 2008, was intended to '*contribute to the improvement of the quality of life of multi-cultural family members and the unity of society by helping multi-cultural family members enjoy stable family living*'. The government agreed to use the term of 'multi-cultural family' instead of 'international marriage family' and enacted this Act because of the limitation of the policy to support multi-cultural family based on only *the Basic Act on Healthy Family*. In 2011, there are 200 multi-cultural family support centers nationwide in order to implement the program based on *the Act on Support for multi-cultural Families*.

#### **Recommendation**

This Act applies only to migrant women possessing a Korean nationality or married with a Korean national. As a result, it excludes and discriminates many migrant families in South Korea. This Act also has a limitation on the boundary of objectives and contents of supports because it is affected by *the Basic Act on the Treatment of Foreigners in Korea* benefiting only so called 'legally-resident' migrants. .

Furthermore, the Act purposing '*establish a stable family life for multi-cultural family*' support migrant women to integrate into Korean patriarchal family system and culture. It weakens protecting a single migrant woman's human rights.

Therefore, the concept of multi-cultural family should be extended to all migrants in South Korea and the policy should focus on the protection of individual migrant women's human rights rather than family oriented ones.

### **b. Regulation of Marriage Brokerage Agency**

#### **Analysis**

This Act, enacted on 14 Dec 2007, was intended to establish a good marriage culture by directing marriage brokers into a better way and protecting users. This Act prevents problems caused by human rights infringements or lack of information during international marriage process. It enforces international marriage brokers to register them to the government, introduces mandatory contact for marriage brokers, prevents false or exaggerated PR, and mentions newly made punishment for breaking this Act.

This Act had several times of revisions and the revision in Nov 2011 stated that it is mandatory for brokerage agency provide personal information of both sides, after filling out the Personal Information Verification Form for International Marriages and translating. It may regulate the uncontrolled increase of international marriage brokers, however, it causes side effects that marriage brokers do business secretly. Currently, South Korea is estimated to have 1,300 marriage brokers, but only 400 are registered. Effect of the Act is doubtful because it has punishment on suspension of business, fine, etc. Furthermore, more and more Korean spouses married through international marriage brokers recently started broker business using their foreign wives. It is very difficult to regulate human rights infringement by them.

On the other hand, although the Korean government successfully regulates international marriage brokers, the effect of the Act is still doubtful because there is no method to regulate marriage brokers in sending countries. Also, the Act states only the regulation of marriage brokers, but no protection system for migrant woman victims. It is necessary to define the migrant victims of marriage brokers as victims of human trafficking.

### **Recommendation**

The management of international marriage brokers was a part of General Recommendation by CEDAW to the Korean government. In order to follow the General Recommendation, it is necessary to regulate marriage brokers in sending countries besides South Korea, define the victim of marriage brokers as the victim of human trafficking, and grant them residence permit and working permit for stable life in South Korea.

### **B. Revised laws**

#### **a. The Act on the Prevention of Sexual Traffic and Protection, etc. of Victims Thereof**

##### **Analysis**

In the revision on March 21, 2008, the article on the protection of foreign women was newly added. According to the Act, migrant victims of sex trade can be stayed in shelters until the investigation is over and supported for their returning to home country. It is not sufficient for migrant women, comparing to Korean victims eligible for both staying in shelters and being provided self-support service in shelters.

In South Korea, approximately 10,000 foreign women (5,000 according to the official statistics) are working in the entertainment industry and 90% of them are assumed to work in sex trade industry. Most of them are victims of fraud employment and have a huge debt. Since the governmental support for them ends up with assistance in returning home upon the completion of investigation, migrant women are very reluctant to escape from prostitution business.

## **Recommendation**

In order to improve *the Act on the Prevention of Sexual Traffic and Protection, etc. of Victims Thereof* for migrant women, the current way to end the case with assisting the escaped victims in returning home country should be changed. Except those who wish to return home, other victims should be identified as the victims of human trafficking, and be granted residence permit and the same assistance of self-supporting with the Korean victims.

### **b. Act on the Prevention of Domestic Violence and Protection, etc. of Victims Thereof** **Analysis**

*The Act on the Prevention of Domestic Violence and Protection, etc. of Victims Thereof* was revised on May 8, 2009, and, as a result, the victims of domestic violence are granted a priority in renting public housing. But it is applied only to migrant women who have Korean nationality, not to those with a foreign nationality.

## **Recommendation**

In order to grant a priority in renting public housing to foreign women regardless of the nationality, the related article should be changed to include 'foreign women' in a boundary of beneficiaries. Foreign women belong to the vulnerable class in South Korea and they definitely need legal protection.

## **III. Organizational Change in the Ministry of Gender Equality and Family**

### **Analysis**

The Ministry of Gender Equality and Family is responsible for migrant women issues. For a couple of years, main governmental entity in charge of family policy has been changed several times. Originally, the Ministry of Gender Equality was changed to the Ministry of Gender Equality and Family, and to the Ministry of Gender Equality again, and finally to the Ministry of Gender Equality and Family again. As a result, the government officials handling multi-cultural family agendas and protection of migrant women's human rights have been changed to those who were experienced with public health or juvenile agenda. Their work based on bureaucratism weaken the protection of migrant women's rights in government policies.

### **Recommendation**

The experts need to be involved in order to prevent discrimination against a minority and socially vulnerable group, and to protect their human rights. Those who have understanding on 'gender and race' agenda need to design and implement the migrant women policy in the Ministry of Gender Equality and Family.

## **IV. Protection of Migrant Women's Human Rights**

### **A. Human rights of women migrant workers**

#### **a. Working environment of women migrant workers**

##### **Analysis**

In spite of the overall increase of women migrant workers in statistics, except Korean-Chinese and overseas Korean in CIS(Commonwealth of Independent States) with H-2 visa(Working visa for overseas Korean), the number of other women migrant workers has been declined. Most of women migrant workers work in a manufacturing industry while overseas Korean women in restaurants, caregiving business, and domestic helper service. Women migrant workers in a manufacturing industry are, as laborers, eligible for the employment insurance, the health insurance, etc. However, those in service area such as caregivers and domestic helpers, are not acknowledged as laborers, so that they should be responsible for their own insurance.

The para 68 of the country report describing '*68. women migrant workers are eligible for maternity protection and undocumented migrant workers are eligible for Labor Standards Act*' is not true. In reality, even Korean women irregular workers hardly receive the benefits of the article 68, 69, and 71 of *the Labor Standards Act*. Even documented women migrant workers scarcely use menstrual leave though it is guaranteed in the *Labor Standards Act*. In this situation, undocumented women migrant workers cannot enjoy the benefits of the article 68, 69, and 71 of *the Labor Standards Act*. Furthermore, although undocumented women migrant workers are eligible for benefits defined in *the Act On the Prevention of Sexual Assault and Protection, etc of Victims Thereof*, it is useless because the case is closed by sending victims back to home country upon the completion of investigation.

##### **Recommendation**

- a) Women migrant workers in the caregiving business or domestic helper service should be identified as laborers and be eligible for *the Labor Standards Act*.
- b) The sex based statistics should be made on all women migrant workers including those with work permit(E-9 visa) and overseas Korean working permit(H-2 visa). The statistics should be accessible and the evaluated on policy implementation according to gender and gender effect on the policy.
- c) The maternity protection of all women migrant workers including undocumented must be realized, not just only in a declaration.

#### **b. Women migrant workers and sexual assaults**

## **Analysis**

a) Foreign women residing in South Korea are eligible for legal protection from 'sexual harrasment in workplace' according to *the Act On the Prevention of Sexual Assault and Protection, etc of Victims Thereof* and *the Act on Equal Employment and Support for Work-Family Reconciliation*. Those who report the incidents are granted a shelter and employment permit during the period of investigation. There are some cases of raising issues related to sexual assaults or harassments against women migrant workers, however, little cases of a lawsuit. Most of sexual assaults target undocumented migrant workers because they usually do not report it to the police. Although they report and file a suit, the case is closed by deportation of victims.

b) Most of workplace in South Korea have housing facilities (poor dormitories, but not as housing). Mostly, men and women dormitories are located on the same floor or share the same exit. Hence, migrant women are easily exposed to the threat of sexual assaults. In case of sexual assaults between migrant workers, male workers usually drive this incident to the sexual intercourse based on the agreement and ignore the women's rights to determine sexual life. The government does not actively respond to it and regards it as happenings between migrant workers. It is definitely necessary to provide an education program to prevent sexual assaults or harassments in the workplace.

c) *The Act on Equal Employment and Support for Work-Family Reconciliation* regulates that it is mandatory to conduct sexual harrasment prevention education in all workplace. *The Basic Plan for Foreigner Policy*(4-1-2-1-3) states that the employers of foreign workers should provide sexual harrasment prevention education course and field investigation. However, there have been only inspections on the employment of 'undocumented migrant workers', but not a single case of education or field investigation so far.

## **Recommendation**

Two systems are required in order to reduce sexual assaults against women migrant workers. One is to provide mandatory sexual harrasment prevention education course in workplace and conduct thorough inspection. It is also necessary to provide sexual assault prevention education course for male migrant workers entering South Korea through employment permit system. The other is to provide further assistance for migrant victims of sexual assaults. In case they report the incidents to the police, instead of sending them home after investigation, it is necessary to grant the work opportunities through employment permit system for a certain period, if they wish.

### **c. Prevention of sexual assaults against migrant children and proper measures for victims**

## **Analysis**

The government made an announcement of 'comprehensive plan to provide social

security and protection for women and children' in order to protect children from kidnapping or sexual assaults. But sexual assaults against girls have increased in spite of these efforts. Especially, the children of undocumented migrant workers are vulnerable to sexual abuse and they cannot properly respond to the crimes due to their parents' legal status.

### **Recommendation**

It is required to prepare proper measures to protect migrant children from sexual assaults. The government needs to support school and migrant centers so that schools give sex education to children and migrant centers provide sexual assault prevention education for both parents and children. Especially, the policy for undocumented migrant workers' children should be changed. The children should be nurtured and protected according to the spirit of *the UN Convention on the Rights of the Child*, not be targeted for a crackdown.

### **B. Prevention of migrant women's sex trade and redemption of victims**

#### **Analysis**

a) Foreign women are eligible for legal protection based on *the Act on the Prevention of Sexual Traffic and Protection, etc of Victims Thereof*. However, the government does not conduct labor inspection on the entertainment business. Hence, the entry of migrant women into sex trade industry has increased.

b) As the country report describes, the number of foreign victims forced into sex industry from entertainment business is increased. In addition, the influx of undocumented migrant women and marriage migrant women to sex trade industry through human trafficking brokers is increased as well. The portion of undocumented migrant women who entered South Korea for marriage migration is about 8%, and some of them seem to be entered into sex trade industry.

The government provides police protection, interpretation service, counseling, medical service, lawyer counseling, and return ticket based on the Article 11 of *the Act on the Prevention of Sexual Traffic and Protection, etc of Victims Thereof*. The government states in the country report that their supports include self-supporting assistance, but it is not correct. Also, according to *the Act on the Prevention of Sexual Traffic and Protection, etc of Victims Thereof*, the victims should be granted an extension of stay during the investigation. However, most of cases end up with deportation and, as a result, victims avoid reporting the crime to the police.

### **Recommendation**

It is necessary to design more flexible immigration policy in order to prevent migrant women in entertainment business, undocumented migrant workers, and divorced migrant women from being introduced into sex trade industry. Furthermore, the support for the

victims should not end up with returning them home. The victims should be acknowledged as victims of human trafficking and be granted a job opportunity in South Korea.

### **C. Prevention of Domestic Violence and Redemption of Victims**

#### **a. Support for the victims of domestic violence**

##### **Analysis**

a) According to the statistics of the Ministry of Gender Equality and Family on the domestic violence against migrant women, physical violence counts 10.1% in 2006, 17.5% in 2008, and 47.3% in 2010. As the cases of domestic violence have increased, the Ministry of Gender Equality and Family added 'foreign women' to the article upon revising *the Act on the Prevention of Domestic Violence and Protection, etc. of Victims Thereof* in 2006, reflecting recommendations of migrant centers. Based on the Act, the Ministry contracted out 4 shelters for marriage migrant women and the number grew up to 18 in 2009. Also, according to another recommendation of migrant centers, the government established 'Emergency Support Center for Migrant Women (emergency call service: 1577-1366)', where trained marriage migrant women work as counselors for other migrant women with poor language ability.

In 2006, the revision of *the Act on the Prevention of Domestic Violence and Protection, etc. of Victims Thereof* newly included 'foreigner' for its beneficiaries. Accordingly, the shelters for migrant victims of domestic violence were established and now they are up to 18 located in major areas of the country. The shelter is multi-purposed for the victims of both sexual assaults and domestic violence. The government somewhat supports the protection of migrant women's human rights by establishing shelters and emergent counselling phone service. However, the government adopted the experience of shelters for Korean victims of domestic violence, without expertise on migrant women's specific situation, and extended it to the shelters for migrant victims. As a result, it is very difficult to effectively support migrant victims under the operation guidelines established by the government. Also, since the government restricts the qualifications of the victims for the shelter only to physical violence, many migrant women who need the shelter cannot benefit from the assistance.

b) Another problem is the absence of the counseling office for migrant victims of domestic violence. Migrant women have difficulty in using the counseling office for Korean citizens because of language barrier and different legal system. They need separate counseling office also because it is mandatory to have counseling with their husbands for legal support for residence permit and divorce. However, the Ministry of Gender Equality and Family responsible for domestic violence agenda does not plan the establishment of counseling office for migrant women only.

c) The government provides a rental housing service for victims of domestic violence in order to support victims' self-supporting. But it does not apply to migrant women.



d) *The Special Act on Punishment of Crime of Domestic Violence* defines the range of 'domestic violence crime' as assaults, wounding, abandonment, harassment, arrest, confinement, threat, and etc which cause physical, psychological, or property damage. Like above, the range of domestic violence is wide for Korean nationals, however, it is very narrow to migrant women. The Immigration Office, in charge of foreigners' visa and status policy, takes only visible physical violence such as assaults, wounding, arrest, and confinement as the cases of domestic violence for migrant women. Therefore, migrant victims of domestic violence suffer from unstable status of residence.

### **Recommendation**

a) Migrant women shelters need operation guidelines reflecting specific situation of migrant women such as language, culture, family heritage, relationship with sending countries, and independence after leaving shelter, etc. Also, it is necessary to establish counseling office only for migrant women so that they can have counseling in consideration of their own situation.

b) It is necessary to provide rental housing service, job opportunities, etc for migrant women divorced by the husband's faults, in the same way with Korean nationals.

c) The range of domestic violence should be defined more widely for migrant women. At least, the standard of judging domestic violence should be same with one for Korean citizens. Hence, besides physical violence, psychological and language abuse, sexual harassment, threat, etc should be acknowledged as domestic violence and causes of divorce by husband's faults so that migrant women can have more stable residence.

### **b. Prevention of violence through *the Act on Regulation of Marriage Brokerage Agency***

#### **Analysis**

a) The government enacted *the Act on Regulation of Marriage Brokerage Agency* on Dec 14, 2007, for the purpose of preventing violence against migrant women. The Act regulates international marriage brokers. The government intended to form a good marriage culture by directing international marriage broker service in a desirable way and protect its users. The Act is to prevent human right infringement or problems caused by lack of providing information before marriage. The progress made by the Act includes the government license system for international marriage brokers, mandatory contract upon marriage brokering, prohibition of false or exaggerated expression and advertisement, and the punishment for breaking the Act.

b) The General Recommendation of the CEDAW was issued to the Korean government stated that '*the regulation on international marriage brokers needs to be reinforced*' because of serious problems caused by them. The Korean government also recognized

the serious situation and enacted *the Act on Regulation of Marriage Brokerage Agency*, but couldn't keep on monitoring the situation afterwards. The revisions of this Act were caused not by continuous monitoring but by efforts to fix the problems after the serious incident of infringing migrant women's human rights happened and drew social attention. The government revised the Act several times whenever the issues were raised. The revision in Nov 2010 made a progress that the broker must receive personal information from both sides, make, and provide both sides *Personal Information Verification Form for International Marriages*. However, the punishment for not implementing this service is weak, so the effect is doubtful.

The Ministry of Gender Equality and Family is responsible for managing international marriage brokers. Originally, the mission belonged to the Ministry of Health and Welfare. When the Ministry of Gender Equality was changed to the Ministry of Gender Equality and Family, the mission to regulate international marriage brokers was transferred to the Ministry of Gender Equality and Family from the Ministry of Health and Welfare. However, because of its importance, the issues regarding international marriage brokers are discussed at the Presidential Committee on Social Cohesion. Once the agreement is reached, the Ministry of Gender Equality and Family implements the policy. Since the international marriage brokers cause serious problems, the Ministry of Gender Equality and Family considers contracting out international marriage brokerage service to NGOs like Taiwan's model.

Starting from 2010, the responsibility for regulating international marriage brokers was transferred to local governments including city, county, and district offices. It is assumed that the changed monitoring system based on scattered responsibility would not be effective under the weak control of the central government. Even until now, the local government proceeds with 'international marriage campaign for bachelors in farm and fishing villages' by establishing the ordinance with an excuse of flourishing farming and fishing villages. The campaigns accompanied by cooperation and close connection between local governments and marriage brokers cause problems. For example, in some area, international marriage broker established a migrant center and the local government allowed it without raising any question. In this situation, it is impossible for local governments to monitor the activities of international marriage brokers.

c) The government announced to establish marriage broker registry and management system. However, it has a limitation that they cannot punish unregistered individual brokers' activities. The Act may restrict flooded international marriage brokers, but on the other hand, it may cause side effects for international marriage brokers to disappear and do secretly business. The Act also describes the punishments such as suspension of business, fine, etc for failing to observe it. But the effect is doubtful because the degree of the punishments is weak. Moreover, the cases that Korean husbands do individual brokerage service through their foreign wives have been increased. It is difficult to regulate the infringement of human rights by them.

d) In many sending countries, commercial international marriage brokers are illegal. Therefore, it is impossible for us to involve or discuss illegal brokerage service in

sending countries. Especially, there is no institutional system to protect victims of local marriage brokers' illegal business. For example, recently, there was a case that a migrant juvenile who were not allowed to get married requested a legal counseling on paternity suit. She had a marriage meeting with a Korean male, married him, and even had a baby in her country. However, since she had no ID registration in South Korea, it was impossible to provide a legal assistance.

## **Recommendation**

*The Act on Regulation of Marriage Brokerage Agency* does not state any legal system to protect victims of international marriage brokers. Therefore, it is necessary to enact *the Act on Prevention on Human Trafficking* matching the international standard. Migrant victims of marriage brokers should be regarded as victims of human trafficking according to the definitions used in *the International Law on the Prevention of Human Trafficking* (the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Conventions against Transnational Organized Crime) and be granted residence permit and work permit.

## **D. Prevention of Human Trafficking**

### **Analysis**

South Korea does not have *the Act on Prevention on Human Trafficking*. Instead, the punishments for related crimes are described in several separate laws such as *Criminal law, Act on the Aggravated Punishment, etc. of Specific Crimes, Act on the Punishment of Acts of Arranging Sexual Traffic, Act on the Prevention of Juveniles from Sexual Abuse, Child Welfare Act, and Labor Standards Act*. However, the punishment is very weak for the criminals, from the perspective of the definitions used in *the International Law on the Prevention of Human Trafficking*. Especially, protection of victims is very insufficient. The current system definitely has a limitation to prevent human trafficking of marriage migrant women or migrant workers in entertainment business, needless to say the protection of victims.

Currently, *the bill of the Act on Prohibition on Human Trafficking* is pending in the National Assembly. Besides, two different versions of *the Act on Prevention on Human Trafficking* are under the review of the committee of the National Assembly. The key elements of them are the prevention of human trafficking of women and children, and the prevention of human trafficking characterized marriage and protection of migrant women. These two bills were designed based on the meetings and workshops by women organizations.

## **Recommendation**

It is necessary to enact *the Act on Prevention on Human Trafficking* satisfying the international standards in order to prevent human trafficking and protect migrant victims' human rights.

## Annex

### NGO responses on List of Issues of the CEDAW Regarding the 7th periodic report of Republic of Korea

**\*Question 3:** Please indicate whether - after its signature of the instrument - the state party has identified a time frame for proceeding with the ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Conventions Against Transnational Organized Crime.\*

#### Analysis

South Korea does not have *the Act on Prevention on Human Trafficking*. Instead, the punishments for related crimes are described in several separate laws such as *Criminal law, Act on the Aggravated Punishment, etc. of Specific Crimes, Act on the Punishment of Acts of Arranging Sexual Traffic, Act on the Prevention of Juveniles from Sexual Abuse, Child Welfare Act, and Labor Standards Act*. However, the punishment is very weak for the criminals, from the perspective of the definitions used in *the International Law on the Prevention of Human Trafficking*. Especially, protection of victims is very insufficient. The current system definitely has a limitation to prevent human trafficking of marriage migrant women or migrant workers in entertainment business, needless to say the protection of victims.

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#### Recommendation

It is necessary to enact *the Act on Prevention on Human Trafficking* satisfying the international standard in order to prevent human trafficking and protect migrant victims' human rights.

#### Violence against Women

**\*Question 10:** Please indicate the measures taken by the state party to improve the rate of mandatory reporting of domestic violence and provide information on the measures taken to bring perpetrators to trial and conviction with reference to paragraph 53-56 of the report (are there cases of violence against women in intercultural marriage?)\*

#Answer **Prevention of Domestic Violence and Redemption of Victims**

## Analysis

a) According to the statistics of the Ministry of Gender Equality and Family on the domestic violence against migrant women, physical violence counts 10.1% in 2006, 17.5% in 2008, and 47.3% in 2010. As the cases of domestic violence have increased, the Ministry of Gender Equality and Family added 'foreign women' to the Article upon revising *the Act on the Prevention of Domestic Violence and Protection, etc. of Victims Thereof* in 2006, reflecting recommendations of migrant centers. Based on the Act, the Ministry contracted out 4 shelters for marriage migrant women and the number grew up to 18 in 2009. Also, according to another recommendation of migrant centers, the government established 'Emergency Support Center for Migrant Women (emergency call service: 1577-1366)', where trained marriage migrant women work as counselors for other migrant women with poor language ability.

In 2006, *the Act on the Prevention of Domestic Violence and Protection, etc. of Victims Thereof* newly included 'foreigner' for its beneficiaries. Accordingly, the shelters for migrant victims of domestic violence were established and now they are up to 18 located in major areas of the country. The shelter is multi-purposed for the victims of both sexual assaults and domestic violence. The government somewhat supports the protection of migrant women's human rights by establishing shelters and emergent counseling phone service. However, the government adopted the experience of shelters for Korean victims of domestic violence, without expertise on migrant women's specific situation, and extended it to the shelters for migrant victims. As a result, it is very difficult to effectively support migrant victims under the operation guidelines established by the government. Also, since the government restricts the qualifications of the victims for the shelter only to physical violence, many migrant women who need the shelter cannot benefit from the assistance.

b) Another problem is the absence of the counseling office for migrant victims of domestic violence. Migrant women have difficulty in using the counseling office for Korean citizens because of language barrier and different legal system. They need separate counseling office also because it is mandatory to have counseling with their husbands for legal support for residence permit and divorce. However, the Ministry of Gender Equality and Family responsible for domestic violence agenda does not plan the establishment of counseling office for migrant women only.

c) The government provides a rental housing service for victims of domestic violence in order to support victims' self-supporting. But it does not apply to migrant women.

d) *The Special Act on Punishment of Crime of Domestic Violence* defines the range of 'domestic violence crime' as assaults, wounding, abandonment, harassment, arrest, confinement, threat, and etc which cause physical, psychological, or property damage. Like above, the range of domestic violence is wide for Korean nationals, however, it is very narrow to migrant women. The Immigration Office, in charge of foreigners' visa and status policy, takes only visible physical violence such as assaults, wounding, arrest, confinement as the cases of domestic violence for migrant women. Therefore, migrant

victims of domestic violence suffer from unstable status of residence.

### **Recommendation**

a) Migrant women shelters need operation guidelines reflecting specific situation of migrant women such as language, culture, family heritage, relationship with sending countries, independence after leaving shelter, etc. Also, it is necessary to establish counseling office only for migrant women so that they can have counseling in consideration of their own situation.

b) It is necessary to provide rental housing service, job opportunities, etc for migrant women divorced by the husband's faults, in the same way with Korean nationals.

c) The range of domestic violence should be defined more widely for migrant women. At least, the standard of judging domestic violence should be same with one for Korean citizens. Hence, besides physical violence, psychological and language abuse, sexual harassment, threat, etc should be acknowledged as domestic violence and causes of divorce by husband's faults so that migrant women can have more stable residence.

Question 11: The state report seems to indicate that establishing "marital rape" as a crime is subject to legal interpretation. As this would make it harder for marital rape to be recognized, please indicate whether the state party intends to revise existing legislation with a view to

criminalizing marital rape. In addition please indicate measures taken to encourage victims to report cases of rape, especially marital rape to the police. (are there cases of marital rape reported in intercultural marriage?)\*

Marital rape has not recognized yet in South Korea. There was one case of marital rape in February 2010, which a Korean husband was accused to rape his Filipina wife, threatening her with a gas gun. The court decided it was marital rape but he appealed to the high court. However, it was not confirmed by the court because he committed suicide unfortunately.

### **\*Trafficking and Exploitation of prostitution of women\*\*\***

\*Question 13: Please also indicate whether the state party intends to introduce a system of data collection with regard to trafficking which categorizes cases by nationality of the victim. Does the state party intend to adopt a formal system which would proactively identify victims of trafficking among vulnerable groups?\*

\*Question 16: With regard to women migrant workers who have entered the country under the E-6 entertainment work scheme, please indicate (in light of paragraph 26 of general recommendation No. 26 (2008) on women migrant workers) how the state party intends to make in situ monitoring of establishments where these women work more rigorous and efficient (with reference to paragraph 63, 64, 66 and 67 of the report). With regard to foreign women employed in entertainment establishments and who are alleged

victims of trafficking, please provide information as to whether foreign women victims of prostitution industry who have already lost their E-6 visa status risk being deported when filing a complaint at the labour office or police station.\*

\*Question 17: Please elaborate on any training activities that have been undertaken with view to sensitizing law enforcement officers to the rights and situation of women victims of exploitation or prostitution. In this regard, please comment on reported concerns that since the definition of trafficking is linked to prostitution, the authorities have not been able to sufficiently address the situation of E-6 visa workers who do not work as prostitutes but have still been trafficked for sexual exploitation\*

# **Answer:** Although the article 11 of the Act on the Punishment of Acts of Arranging Sexual Trafficking mentions foreign women for beneficiary, it has problems to relieve migrant victims of sex trade because they are very reluctant to report it to the police. If migrant women in sex trade industry are identified as victims by the Act, their cases mostly end up with supporting returning home(actually deportation). In this case, they would be harassed by the brokers upon returning home. Therefore, the protection policy limited only to supporting returning home is not effective at all.

There is a distortion of the truth in the government's answer that the screening in visa issuing would be reinforced to prevent sexual exploitation of E-6 visa holders. The essential problem regarding E-6 visa holders is to invite migrant workers with 'entertainment job' and then exploit them in sex trade business.

\***Question 18:** Please elaborate in greater detail on ways and means of monitoring international marriage brokerage agencies with a view to protecting foreign wives (with reference to paragraphs 11, 57 and 143 of the report.) Please also indicate whether there is a screening process in place to identify and register women victims of trafficking through such brokerage agencies\*

# The Act on Regulation of Marriage Brokerage Agency shows some improvements such as provision of exact personal information in advance, observation of sending country's law, prevention of human trafficking ex-convict from being international marriage broker, etc. The government also states that immigration officers can visit international marriage brokers and request necessary materials. Furthermore, the visa of foreign spouse would be issued through Electronic-Consul system of the embassy in order to prevent from any harm caused by international marriage brokers. However, the new system has some problems as follows. It can regulate registered marriage brokers, but cannot protect victims of unregistered or individual brokers. Also, it is impossible to protect victims of local brokers in sending countries because there is no legal system in those countries to control them. The idea of regulating international marriage brokers by controlling visa issuance for foreign spouse is not appropriate. The visa is supposed to be issued for an already-married spouse. Therefore, it is impossible to regulate international marriage brokers by visa screening, rather, it will cause unnecessary difficulty in married migrant women's entry to South Korea.

## **\*Nationality\***

\*Question 22: Please indicate whether the state party intends to maintain the requirement of the male spouse's report for foreign wives applying for Korean nationality, as this could constitute an inequality in favor of Korean male spouses\*

#The answer that the Korean government does not request the husband's involvement in the process of naturalization of migrant women is far from the truth. The law seems to require fidelity guarantee of any Korean national for a migrant woman, however, in practical, her Korean spouse's fidelity guarantee is required.

In case of suspension of marriage life caused by a Korean spouse's faults, it is possible to reside in South Korea and, as time goes by, achieve a Korean nationality. But unless raising children from a Korean spouse, the naturalization is difficult and takes a very long time.

\*Disadvantaged groups of women\*

\*Question 22: Please provide information about the intention of the state party to mitigate the requirements for migrant women victims of domestic violence to apply for naturalization. In this regard and in the light of the Committee's general recommendation no. 26, please indicate measures taken by the state party with a view to protecting female migrant workers, who have reported incidents of sexual harassment, against dismissal, loss of regular status or any other reprisals\*

# The government answers that migrant victims of domestic violence do not have any disadvantage or discrimination in naturalization. However, in reality, the priority is given to a multi-cultural family with a child(ren). Migrant women without a child(ren) have difficulty in achieving a Korean nationality. Also, unless migrant women were permitted to use the shelter due to domestic violence, it is difficult to achieve the protection and assistance of the government.

## **Marriage and Family relations\***

\*Question 31: Please provide information on the impact of the 2008 support for multi-cultural families act.\*

### ***# Support for multi-cultural Families Act***

## **Analysis**

This Act, enacted on 21 March 2008, was intended to 'contribute to the improvement of the quality of life of multi-cultural family members and the unity of society by helping multi-cultural family members enjoy stable family living'. The government agreed to use the term of 'multi-cultural family' instead of 'international marriage family' and enacted this Act because of the limitation of the policy to support multi-cultural family based on only *Strong Family Act*. In 2011, there



are 200 multi-cultural family support centers nationwide in order to implement the program based on *the Support for multi-cultural Families Act*

### Recommendation

This Act applies only to migrant women possessing a Korean nationality or married with a Korean national. As a result, it excludes and discriminates many migrant families in South Korea. This Act also has a limitation on the boundary of objectives and contents of supports because it is affected by *the Act on the Treatment of Foreigners in Korea* benefiting only so called 'legal' migrants.

Furthermore, the Act is purposed to 'establish a stable family life for multi-cultural family'. It has a limit in protection of individual human rights of migrant women because the Act supports migrant women's integration into a Korean traditional family system and culture.

Therefore, the concept of multi-cultural family should be extended to all migrants in South Korea and the support should be directed to the protection of individual migrant women's human rights rather than family oriented ones.

**Question 32:** Please provide statistical information regarding the ration of international marriages and their divorce rate in the context of the overall marriage statistics in the country, with reference to paragraphs 137 to 142 of the periodic report.\*

**# The ration of international marriages and their divorce rate in the context of the overall marriage statistics in the country,**

	2003	2004	2005	2006	2007	2008	2009
<b>Total Marriage</b>	302,503	308,598	314,304	330,634	343,559	327,715	<b>309,759</b>
<b>Marriage with Foreigner</b>	24,776	34,640	42,356	38,759	37,560	36,204	<b>33,300</b>
<b>Int'l Marriage rate by total</b>	8.2	11.2	13.5	11.7	10.9	11.0	<b>10.8</b>
<b>Korean Man &amp; Foreign Woman</b>	18,751	25,105	30,719	29,665	28,580	28,163	<b>25,142</b>
<b>Korean Woman &amp; Foreign Man</b>	6,025	9,535	11,637	9,094	8,980	8,041	<b>8,158</b>

#### (1) Increasing Number of Divorce

Divorce cases of marriage immigrants count 11,692 in 2009, which was 9.4% of total divorce and increased 3.9% up. Total divorce cases has been decreased 166,617 in 2003 to 123,999 in 2009, while divorce cases of marriage immigrants has been increased 5 times more 2,012 in 2003 to 11,692 in 2009.

	2003	2004	2005	2006	2007	2008	2009
<b>Total Divorce</b>	166,617	138,932	128,035	124,524	124,072	116,535	<b>123,999</b>
<b>Divorce with Foreigner</b>	2,012	3,300	4,171	6,136	8,671	11,255	<b>11,692</b>
<b>Divorce rate by total</b>	1.2	2.4	3.3	4.9	7.0	9.7	<b>9.4</b>
<b>Number of Increase</b>	268	1,288	871	1,965	2,535	2,584	<b>437</b>
<b>Increase Rate</b>	15.4	64.0	26.4	47.1	41.3	29.8	<b>3.9</b>

It should be noticed that the number of divorce between Korean husband and Foreign wife was 2.5 times than the one between foreign husband and Korean wife in 2009, particularly the former 11,692 was and the latter was 3992. The reasons of different rate is considered that the foreign husband and Korean wife couple generally got married based on knowing each other and rare domestic violence. Also it is higher in rural area than city, which is caused by patriarchal conscious and family culture. After all, it shows importance of gender equal culture and respect migrant women as a spouse.

**\*Question 33:** Please indicate measures adopted to strengthen the protection of the rights of foreign female spouses, inter alia by ensuring that their legal resident status in case of separation/divorce does not depend entirely on proof that the end of the relationship is to be attributed to the Korean spouse. In this regard, please provide information on whether migrant women who have a child with Korean men are entitled to residency rights regardless of their marriage status.\*

# According to the related law, migrant women can reside in South Korea in such case as divorce caused by Korean husband's faults, death or missing of husband, raising a child(ren) from a Korean husband, supporting any family member of husband including parent-in-law, etc. But the reality is different.

1) In case of death of husband, not all migrant women are granted residence permit automatically. In early death after marriage, if parents-in-law do not agree with a migrant woman's residence in South Korea, it is difficult to stay.

2) In case of divorce caused by a Korean husband's faults, if a migrant woman is raising a child(ren) from a Korean husband, she is granted residence permit and eligible for permanent residence or a Korean nationality. However, if she has only the visitation right for her child(ren), her qualification for residence is questioned.

3) The husband's faults is normally limited only to physical violence. Even if the court issued a jurisdiction stating 'divorce is caused by the husband's faults', the Immigration often harasses migrant women by issuing temporary visa instead of residence permit.

4) In case of raising a child(ren), it is possible to achieve residence permit, permanent

residence, and a nationality. However, it applies only to a child(ren) of Korean husband and migrant wife. It does not apply to migrant women's child(ren) adopted during the marriage life with a Korean husband.

### **Disadvantaged groups of women**

**Question 29:** Please inform about the State party's intention to mitigate the requirements for migrant women victims of domestic violence to apply for naturalization. In this regard, and in light of the Committee's General Recommendation 26, please indicate measures taken by the State party with a view to protect female migrant workers . have reported incidents of sexual harassment . against dismissal, loss of regular status, or any other reprisals.

# Another government's answer regarding sexual harassment that women migrant workers are not discriminated from Korean nationals is not correct. Women migrant workers are vulnerable to sexual harassment. First of all, they do not know that they can be protected, upon sexual harassment, by the Act on the Punishment of Sexual Crimes and Protection of Victims thereof. Also, they cannot report sexual harassment because of a threat of layoff (actual threat and psychological fear). Even though they would like to report it to the police, it is difficult for them to prove it. There have been some cases that migrant women canceled the complaint due to a difficulty in a process.

Especially, when undocumented women migrant workers report the sexual harassment or sexual assaults to the police, they are supposed to stay and work in South Korea under the protection of the Act on the Punishment of Sexual Crimes and Protection of Victims thereof, but only during the period of investigation. Once the investigation is completed, they are deported as undocumented workers, which make them not to report the incident to the police.



SHADOW REPORT TO 49<sup>th</sup>  
SESSION

July 11 – July 29, 2011  
2011  
CEDAW

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The Humanitarian Organization Economics ( H.O.M.E.) is a non-governmental organization registered charity dedicated to serve the needs of migrant workers, foreign spouses, and all migrants working and living in Singapore,

HUMANITARIAN  
ORGANIZATION  
FOR MIGRATION  
ECONOMICS

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## **Executive Summary**

1. This shadow report to the State's Fourth Report to United Nations Committee on the Elimination of Discrimination against Women (the Committee) which covers the key legislative, judicial, administrative or other measures introduced in Singapore during the time frame of 2004 to 2008. The Republic of Singapore acceded to the United Nations Convention on the Elimination of All Forms of Discrimination against Women (the Convention) on 5 October 1995. The Convention came into force for Singapore on 4 November 1995.
2. Singapore continues to have two main national bodies overseeing women-related matters. They are the Inter-Ministry Committee (IMC) on CEDAW which was set up in 1996 to monitor Singapore's implementation of the Convention and the Women's Desk, established in 2002. The Women's Desk works closely with these strategic partners Singapore Council of Women's Organisations (SCWO), the National Trades Union Congress (NTUC) Women's Development Secretariat and the People's Association (PA) Women's Integration Network (WIN) Council.
3. This shadow report submitted by the Humanitarian Organization for Migration Economics (HOME) a non-governmental organization in Singapore draws attention to the discrimination and human rights violations faced by migrant women domestic workers, migrant women workers and foreign wives.

## **Background & Framework**

4. Over 30% of the workforce consists of migrants, mostly in low-paid occupations. In December 2009, it was reported that there were 856,000 migrants in low or semi-skilled manual jobs. This includes 196,000 women employed as live-in domestic workers.
5. This large migrant workforce is demand-driven and bridges the gap between a limited pool of local labour and a high rate of employment. Low paid migrant workers are typically employed in the construction, manufacturing, maritime and service industries, which include domestic work, healthcare, retail, entertainment and hospitality.
6. Live-in domestic workers come mainly from Indonesia, the Philippines, and Sri Lanka. Smaller numbers come from India, Myanmar, Bangladesh, Thailand, Nepal and Pakistan. Other low wage migrant workers employed in the construction, marine and service sectors are mainly from Malaysia, People's Republic of China, Bangladesh, India, Thailand and Myanmar. Domestic workers mainly women are not covered by the Employment Act of Singapore like other workers.
7. Singapore is a party to the Convention on the Rights of the Child and a member of the International Labour Organization and has ratified twenty of the conventions.

Singapore is not a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, the International Convention on the Protection and the Rights of All Migrant Workers and Members of Their Families or the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children Supplementary to the United Nations Convention against Transnational Organized Crime.

#### **Article 1: Definition of discrimination**

8. For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.
9. The Constitution of Singapore is the supreme law in Singapore. Article 12 of the Singapore Constitution enshrines the principle of equality of all persons before the law however not all persons are equal before the law and entitled to the equal protection of the law. In Singapore, more than 200,000 migrant women domestic workers in Singapore are excluded from national labour legislation and are subject to discriminatory practices on maternity and health protection and marriage restriction.

#### **Article 2: Policy measures to be undertaken to eliminate discrimination**

10. The State maintains that the exclusion of domestic workers from legal protection of national labour legislation is not gender biased. However all migrant domestic workers in Singapore are women and their exclusion would constitute discrimination against women who are domestic workers in one out of 5 households in Singapore.
11. The State also maintains that the provisions in the Employment Act are difficult to enforce due to the nature of domestic work. In Hong Kong and other countries, domestic workers including migrant women domestic workers are not excluded from national labour legislation or the Employment Ordinance. Hence this nullifies the State's contention that the provisions in the Act are difficult to enforce. Enforcement difficulties should not be a reason to leave a group without protection. Provisions on maximum working hours, leave etc. provide standards, clarity and guidance to employers while no legislation creates room for abuse of domestic worker. Also random house visits are a possible instrument.
12. Hence, the existing Statutory laws and regulations governing migrant domestic workers working in Singapore are in conflict with the principles of equality and non-discrimination of the CEDAW Convention. The policy measures taken by the State as described in their report to eliminate discrimination falls short of the

recognition of domestic workers as workers under national labour legislation which protects them from slavery like conditions of work such as long hours of work, insufficient rest, lack of food, no rest days, no leave benefits and other discriminatory practices.

### **Article 3: Guarantee of basic human rights and fundamental freedoms**

13. The guarantee of basic human rights and fundamental freedoms is provided in the Constitution. However, the State continues to deny migrant women domestic workers their basic human rights and fundamental freedoms on movement, religion, association and equal protection for pregnancy, health, education, social security, job mobility, marriage and family.
14. There is no enforcement action by the State to protect migrant women domestic workers from restrictions to their fundamental freedoms. For example, a migrant woman domestic worker has no right in Singapore to complain against an employer for not allowing her to worship in church on a Sunday. This is also true of her right to hold on to her passport and leave the country to return home in the case of need. A Filipina was denied by her employer her request to return back to her home country when her mother passed away.
15. The Women's Office of the State does not consult with NGOs providing services to migrant women workers; hence are excluded from the national development plan on the advancement of women. There are therefore no human rights action plans to address and monitor the rights of migrant women and migrant women domestic workers.

### **Article 4: Temporary special measures to achieve equality**

16. The State provides some measures progressively protect some of the basic human rights of migrant women domestic workers under the Penal Code, Woman's Charter, the Immigration Act, the Employment for Foreign Manpower Act and the Employment Agencies Act, however as mentioned these regulations and measures fall short of protection under Employment Act which is necessary to achieve equality of treatment.

### **Article 5: Sex roles and stereotyping**

17. In Singapore, migrant domestic workers are referred to as 'maids'. Maids are in the feudalistic era women bought and sold to wealthy households. This stereotyping of domestic workers as maids reinforces discriminatory and slavery like practices against them.
18. The State has as yet not taken action to eliminate the prejudices and all other practices which are based on the idea of the inferiority or the superiority or on

stereotyped roles for migrant women domestic workers that continue to derogate the work of domestic workers.

#### **Article 6: Trafficking and Prostitution**

19. The State remains passive in suppressing the trafficking and exploitation of women as the State continues to maintain that “substantiated cases of trafficking in persons are very rare” despite conflicting reports from foreign embassies, the TIP 2010 report and NGOs feedback on the human trafficking situation.

*The government showed an inadequate response to the sex trafficking problem in Singapore, convicting and punishing two trafficking offenders. The government could and should be more successful in finding, prosecuting, and punishing those responsible for human trafficking. Despite some proactive measures taken by the government to identify and protect victims of trafficking, those measures proved insufficient to generate additional prosecutions for sex or labour trafficking. Extract from TIP 2010 Report*

20. Although State laws, such as the Penal Code, the Women’s Charter and the Children and Young Persons Act which provide for the punishment of offences against women and girls, Singapore has not ratified the Palermo Protocol nor enacted an Anti-Human Trafficking law which provides for a multi-disciplinary response including, witness protection, community education and rehabilitation of survivors in the combat against human trafficking.
21. The State is evidently more concerned on border security and control hence the number of prosecutions against traffickers are few and possible victims are generally deported to their countries of origin. Migrant women are also unlikely to report offences against their offenders for they are not provided services for their protection, security and sustenance during the period of investigations.

#### **Article 7: Political and Public Life**

22. Migrant women domestic workers in Singapore are not unionised as they do not have the mandatory day off to participate in trade union activity and neither does the State linked labour union movement recognise the need to organize women migrant workers in the informal sector. Neither are they allowed to register a non-governmental organization as they are foreigners under the Societies Act.

#### **Article 8: Participation at the International Level**

23. Migrant women domestic workers in Singapore would find it impossible to participate at the International level as they do not enjoy the freedom of movement / the right to hold on to their passports.



## **Article 9: Nationality**

24. A migrant domestic worker could have worked in Singapore for more than ten years without the prospect of becoming a Singapore citizen or permanent resident. Moreover they are also prohibited from marriage with Singapore citizens or permanent residents. The prohibition is subject to approval of the Commissioner for Labour. Where the marriage takes place in or outside Singapore, the migrant domestic work is banned from re-entry into Singapore.
25. Foreign wives are in Singapore under a long term pass that does not permit them to work. The spouse is therefore dependent on the Singapore or PR husband. She would lose her right to stay on in Singapore if the marriage is on the rocks and even if she has children from the marriage.

## **Article 10: Equality in Education**

26. The State does not provide educational opportunities or career development opportunities for migrant women domestic workers as they suffer discrimination and in inequality in respect of job mobility and career progression

## **Article 11: Employment**

27. In recent years the Government has introduced some key measures to offer better protection for migrant women domestic workers. Some progress has been made in successfully prosecuting abusive employers and recovering wages for migrant domestic workers. However issues clearly remain: In 2009 HOME provided shelter housing for 1388 migrant domestic workers. The most common violations suffered by these workers were: well-being violations such as inadequate food or accommodation (43%); psychological abuse (30%) and non-payment of salary (14%). In the first ten months of 2010, TWC2 , our social partner, has seen 685 injury cases and 676 cases involving contraventions of Employment Act provisions, such as non-payment of wages and unauthorised deductions
28. Migrant women domestic workers continue to be vulnerable to mistreatment, abuse, and long hours of work, isolation and gross exploitation. Domestic workers, all women and migrants, are excluded from 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. Even though domestic workers are covered by compulsory medical insurance in the event of an accident, the extent of the coverage and the benefits are less favourable than that of other low-paid manual workers covered by the *Work Injury Compensation Act*.

29. The State maintains that because domestic workers operate in private households, the *Employment Act* would be too difficult to enforce and as such is not applicable. The lack of legislation combined with the isolated workplace make migrant women domestic workers extremely vulnerable to poor labour conditions and abuse.
30. Moreover migrant women domestic workers take large loans in order to pay unreasonably high agency fees; they may then feel unable to leave situations of abuse or maltreatment as they need to work off the loan. Even though these fees are paid to agencies in their countries of origin, it is in Singapore that these workers are without a salary for 8 to 10 months.
31. Existing regulations and practices limit job mobility and may lead to conditions of forced labour and exploitation:
  - a. Migrant women domestic workers require permission from their current employer to change employers. Employers have the power to repatriate, or hold on to a worker at any time during the contract. In many situations, employers deny a worker the right to leave and change jobs.
  - b. If the employer terminates the worker's employment and the work permit is cancelled, s/he has little choice but to be repatriated. Workers may not be informed of the termination of their work permits until just before they are sent home.
32. Singapore's work permit regulations, which forbid migrant women domestic workers from engaging in what it deems 'Immoral and undesirable' activities, provide greater opportunities for unethical employers to threaten and exploit workers. Current regulations also warn migrant women domestic workers against 'breaking up Singaporean families'. These discriminatory regulations allow employers to submit negative feedback about a worker's behaviour to the authorities with the aim of having future employment bans placed on them. The process by which this happens is neither transparent nor fair, and the threat of being blacklisted frequently deters workers who may have legitimate complaints from leaving abusive employment situations and/or seeking assistance from the authorities.
33. Despite the violations, exploitation and abuses, the State maintains that there have been in place adequate measures and regulations such as the Employment for Foreign Manpower Act, the Employment Agencies Act and the Standard Contract to provide sufficient protection for the MDWs.
34. But given the reality, we see serious gaps in protection and equality of treatment of migrant women domestic workers under existing regulations which are not enforced. For example MOM is aware of the fact that all employers hold the domestic workers' passports. Some examples:

- a. A Filipina Domestic Worker fell from the window whilst in the course of employment, her medical expenses were covered by insurance up to a limit – she returned back to her country with an injured spine and without any compensation because she was not covered by Work Injury Compensation Act.
- b. Wrongful dismissals could take place at any time because the Employment Foreign Manpower Act provides for the employer the unilateral right to cancel a work permit of his or her domestic worker.
- c. It is not illegal for a domestic worker to work for 365 days a year without any single day off. Neither is she given a holiday on any of the gazetted public holidays in Singapore.

## **Article 12: Health**

- 35. During employment, migrant women domestic workers are required to go for periodic medical examinations for pregnancy and HIV tests, among other screenings for infectious diseases. Workers who fail the tests are deported. These tests often disregard established best practices of consent, confidentiality, counselling and referral to treatment and support services.
- 36. Migrant women domestic workers do not have access to health education and screening programmes such as “Check your Health” because of their restrictive working conditions where employers would not allow them time off outside the household. As a community of women they are thus discriminated on access to health education.
- 37. The Government no longer subsidizes medical care for migrants. Even though the employer is required by law to pay for all medical expenses and to purchase hospitalisation insurance, workers may find it difficult to access basic health services because of inconsistent enforcement of existing laws. As a result some migrant women domestic workers have to go without medical treatment for long periods of time or are deported without access to medical treatment. Domestic workers are totally dependant on their employers regarding access to health care.
- 38. The psycho-social health of migrant women domestic workers suffer due to adjustment problems, work pressure, financial debt and poor working conditions. Without minimum standards for wages, working hours, or holidays the well-being and health of migrant domestic workers is easily jeopardized. For migrant women domestic workers, the two main causes of death are poor safety and suicide. They suffer abuse from their employers such as physical abuse, food deprivation, sexual abuse and harassment, verbal abuse and threats.
- 39. According to a psychiatrist at a State hospital she has seen an average of 5 migrant women domestic workers in a month suffering from mental disorders. Many of these mentally ill women are discharged and deported due to the lack of

means to continue treatment where the expenses are not covered by medical insurance.

### **Article 13: Economic and Social Benefits**

40. Migrant women domestic workers are not provided any social security plans. In the event that they are unable to fulfil their contracts for health or other labour issues, they may go home penniless.
41. The lack of a day off for domestic workers and the long hours of work of other migrant workers restrict participation in cultural life and ability to access education

### **Article 14: Rural Women**

42. This Article is not applicable to Singapore as we are a city state.

### **Article 15: Equality before the Law**

43. Migrant women workers abused by their employer or labour recruiter may face difficulties in having their complaints examined. Employers may deliberately not give to the workers, or fail to keep important employment records such as contracts, salary schedules. As a result, workers find it difficult to substantiate claims for employment related abuses with the authorities. Employers can unilaterally cancel a work permit and repatriate the worker as soon as they learn that a complaint has been filed, or to prevent a complaint from being filed. Employers can also prevent an employee from getting a new employer by refusing to cancel the existing work permit.
44. Workers who have successfully lodged a claim may experience difficulty surviving day-to-day since it can take up to several months for a complaint or case to be resolved. In some extreme cases, it may take years before a claim is resolved. Employment for such workers is limited to those who are assisting the authorities as prosecution witnesses. Workers with salary related claims who take their complaints to the Labour Court often face a significant barrier in enforcing court orders when the errant employer does not comply with the order. Enforcement of these orders is a costly and protracted process. In civil cases migrant workers have limited access to pro bono legal services. Hence where there is a breach of civil contract, it is really difficult to get it enforced in a court proceeding.
45. When migrant workers are arrested, they may be uninformed of their right to make a phone call or to the services of a language translator; hence, they may be disadvantaged in communication and may not get help from a lawyer, a NGO or an embassy representative.

## **Article 16: Marriage and Family Life**

46. All current and former migrant women workers need approval from the Commissioner for Labour before they can marry a Singaporean citizen or permanent resident. This applies also if the marriage takes place outside Singapore. Economic status is often a deciding factor which means in practice, many of these workers see their applications rejected.
47. Pregnancy is legitimate reason for termination of work and immediate deportation. As a consequence, many migrant women workers terminate their pregnancies as they feel they have no alternative if they wish to remain employed. Although legal in Singapore, the cost of abortion and fear of authorities being notified cause some workers to access self-administered, dangerous abortion drugs. A recent report found at least 100 domestic workers are sent home every year due to pregnancy; however, it is not known how many terminate their pregnancies.
48. Marriage between a non-Singaporean and a citizen or permanent resident does not automatically confer right of permanent residence or citizenship. Foreign spouses are allocated a Long Term Visit Pass, which does not allow them to work or access state medical insurance and subsidized health care. Under such circumstances the right of the child to a family is violated as the foreign spouse has to leave should the Long Term Visit Pass not be renewed.

## **RECOMMENDATIONS**

### **General Recommendations**

1. Establish an independent National Human Rights Commission, as in other ASEAN states, to investigate, monitor and report human rights violations in the country, and with the mandate to educate and inform in the field of human rights.
2. The Women's Desk should include the status of migrant women in the national development and human rights action plan. The Woman's Desk should work closely not only with strategic partners such as the Singapore Council of Women's Organisations (SCWO), the National Trades Union Congress (NTUC) Women's Development Secretariat and the People's Association (PA) Women's Integration Network (WIN) Council but also with other non-governmental organizations particularly those concerned with migrant women in Singapore.
3. Ratify the International Covenant on Economic, Social and Cultural Rights; the International Convention on Civil and Political Rights; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children Supplementing the United Nations Convention against Transnational Organized Crime and the Convention relating to the Status of Refugees and its Protocol.
4. Enact an anti-human trafficking law, as in other ASEAN States that identifies victims of trafficking according to terms consistent with the Palermo Protocols, provides protection to them, further enables prosecution of human traffickers, and provides police with training and education related to trafficking.
5. Support the proposed legally binding ILO Convention on Decent Work for Domestic Workers supplemented by Recommendations at the International Labour Conference in 2011 with a view to ratifying the Convention upon its enactment.

### **Basic Rights and Fundamental Freedom**

6. Fully implement and enforce the regulations that prohibit employers from holding on to the passports and work permits of migrant women workers.
7. Ensure that freedom of expression and association, and equality in participation in all aspects of civic and political life are respected for migrant women workers and NGOs defending their rights.
8. Ensure migrant women workers have the freedom to practise their religion without fear of termination of employment or reprisals.

## **Employment**

9. Review the legal protection offered to migrant domestic workers and includes them under the Employment Act or separate legislation which provides full and equal protection with other low wage workers so that basic workers' rights such as a weekly day off, notice of termination of contract, annual leave, medical leave, maternity leave, and over-time pay are accorded to them. Domestic workers should also be protected under the Work Injury Compensation Act so that they are entitled to full and equal protection like other low paid workers.

10. Actively pursue negotiations for multilateral agreements with major labour sending states to Singapore. Agree upon limits to recruitment fees and standards covering employment to prevent contract substitution and exploitative practices.

11. Repeal the discriminatory law that prohibits workers from engaging in 'illegal, immoral and undesirable activities' and 'breaking up Singaporean families'.

## **Health**

12. Provide access to basic medical care and necessary social support and counselling to migrant women workers diagnosed with a disease, especially those diagnosed with HIV/AIDS. Treatment should be provided on a right to health basis, and laws and regulations that call for immediate and automatic deportation of a migrant worker on health grounds should be reviewed.

13. Ensure migrant women workers have easy access to comprehensive and affordable health services at costs not higher than local workers.

## **Law**

14. Ensure that migrant women workers who wish to pursue a claim against their employer or agency have access and adequate support to decent food and lodging, legal aid and translation services to pursue judicial procedures.

15. Repeal the work permit regulation that gives the employer the unilateral right to cancel the work permit of a worker or to refuse to cancel a work permit.

## **Marriage and Family Life**

16. Ensure that all migrants have their right of marriage to a Singaporean citizen or a permanent resident respected.

17. Repeal the law that requires a work permit holder to be deported on grounds of pregnancy, or when s/he has is diagnosed with infectious diseases such as HIV/AIDS.

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## **ANNEX A**

Nani was working as a domestic worker in Singapore for 4 years. In year 2006 she returned to West Java, Indonesia with her Singaporean boyfriend, Sam. He met her family in the village and stayed there for one week. According to the traditional Moslem custom and with the family approval, they were both married on November 2006.

Sam then returned to Singapore and went back to Indonesia in 2007 to bring Nani back to Singapore to live with him. They applied to MOM for approval to be married legally in Singapore. A month later, MOM replied that their application for marriage was rejected. It was an unexpected decision for Nani who was already pregnant.

On September 2007 their son was born. Following the delivery of the baby, she realized that her stay was expiring. Her husband went to ICA and requested a three months stay permit extension.

She managed to obtain her stay in Singapore but one month later, her husband was convicted for a drug offence. He was sent to prison for three years.

Before his imprisonment Sam registered the birth of his son as a Singaporean. Eight months later, Nani returned to Indonesia with her baby and stayed with her relative in Batam. When Nani and her baby attempted to return to Singapore, the Singaporean

authorities prohibited the mother from returning. As a result, Nani had little choice but to get a Singaporean friend to bring the baby from Batam to Singapore. The baby now lives with his elderly 80 year old Singaporean grand-mother. HOME has assisted Nani, seeking to have lifted the ban on Nani to allow her to be with her son. However, the appeal was not successful.

## **ANNEX B**

**Illegal abortions a click away”** *The Straits Times*, 5 August 2010.

By Liew Hanqing

THE advertisements keep appearing on the online forum, despite efforts by the webmaster to remove them. They tout abortion pills from China, mainly to Chinese nationals who are afraid of being repatriated if the authorities here find out they are pregnant. Sellers promise a 'quick and fuss-free' pregnancy termination with 'no side effects'.

The Straits Times found two Chinese women who had ordered the drugs and had them delivered here. The kit, sold for between \$130 and \$160, contains the known abortion drugs mifepristone and misoprostol, which induce miscarriage. Tonics of Chinese motherwort herb pills and 'Gongxuening' tablets are also thrown in. Both the drugs in the kit cannot be sold here without a licence, and mifepristone is not found in any medicinal product here, said a spokesman for the Health Sciences Authority (HSA).

Misoprostol must be prescribed by a licensed doctor. Under the Medicines Act, anyone caught importing or selling them can be fined up to \$5,000, jailed up to two years, or both. The Penal Code is even more severe, stipulating a maximum of a three-year jail term, or fine, or both, for a person who voluntarily causes a woman to miscarry.

But for the women The Straits Times spoke to, the drugs seemed an easy way out. Work permit holders will be sent home if they are found to be pregnant or have a child, as they are breaching the terms of their stay here, said the Manpower Ministry. Only workers who are already married to Singaporeans or permanent residents, with the Government's permission, are exempted. The fear of being found out keeps foreign workers from seeking medical help. Plus, going to a doctor for an abortion is more expensive, from \$500 up.

Ms Bridget Tan, president of the Humanitarian Organisation for Migration Economics (Home), said: 'They are afraid of going to a doctor because they are afraid the authorities will find out. For them, the work is so very important, so to lose the baby is more important than to lose the job.' A 20-year-old Chinese woman who took the drugs found that she still needed expert medical help anyway. She suffered an incomplete abortion and had to undergo a separate procedure at a hospital. She declined to say more. Another, a 16-year-old, said she suffered heavy bleeding after taking the pills: 'I thought I was going to die.'

Checks by The Straits Times showed that at least one Beijing-based supplier had developed a system for distributing the drugs here. It would take orders online, then ask one of the buyers here to deliver the drugs to fellow buyers in return for a discount. A meeting would be arranged and the drugs and money would change hands.

Last week, The Straits Times met a Chinese national in his 20s who had bought the pills for his girlfriend, and was making deliveries to other buyers who had ordered the drug online. He claimed the supplier had told him the drugs were safe, and that he did not know he was breaking 28

the law. '(The supplier) said he was a doctor, and that he had sold the drugs to many women with no issues,' the man said. After the meeting, he dumped the boxes of medicine in a dustbin.

Dr Jen Shek Wei, an obstetrician and gynaecologist, said it was 'highly likely' that the pills available for sale online were fake versions of mifepristone, which is approved for use in countries including Sweden, Germany and the United States. Asked if he had come across patients who experienced botched abortions from having taken similar drugs, Dr Jen said he had - but that patients were 'not always truthful' about what they had taken. Possible complications from taking abortion-inducing drugs include heavy bleeding and womb infections, a result of incomplete abortions. He added: 'When you take such drugs, you are not covered by insurance if complications arise, and you can't sue the hospital or the doctors.' Abortion is legal here but must be performed by a medical practitioner, usually via vacuum aspiration for early pregnancies, where the womb is emptied with a vacuum.

For mid-trimester abortions, medicine is inserted into the vagina to induce expulsion of the foetus, followed by vacuum aspiration. Both medical abortions - which can include the use of the drug misoprostol - and surgical abortions are allowed here.

Professor Kuldip Singh, a senior consultant at the National University Hospital's obstetrics and gynaecology department, stressed that abortion drugs should not be self-administered. 'Instead, there should be a proper consultation with a qualified doctor who will assess the suitability of any individual woman for medical abortion,' he said. Medical abortion is suitable for women who are up to eight weeks pregnant, or 12 to 24 weeks pregnant.

Surgical abortion is best performed for those who are between seven and 12 weeks pregnant. Prof Singh and his colleagues have seen cases of 'failure and complications' - such as bleeding and fever - arising from the self-administration of drugs. Mr Li Zhihui, the webmaster of sgchinese.com, the site on which the abortion pills were sold, said the forum's administrators routinely delete forum threads that advertise abortion pills. 'We regularly warn members not to sell such drugs on the forum because it is illegal,' he said in Mandarin.

## **ANNEX C**

Wurnyaningsih is an Indonesian Domestic Worker who approached HOME for assistance. She is 34 years old, and has two children. She worked in Brunei for two years from 2005 to 2007. She came to Singapore in April 2009 and worked for two months with her first employer but was dismissed and sent back to her agent because she was unable to cook Chinese food.

She worked for one month with her second employer before being sent back to her agent again because she was unable to cope with looking after four children. Following this, she worked for five months for her third employer but was returned to the agent again because she could not get along with the elderly person she was taking care of.

She worked for six months for her fourth and final employer and was subsequently dismissed because they were angry with her for selling their second hand newspapers to a rag and bone man.

Upon learning that her employer had dismissed her and was sending her back to the employment agency, Wurnyaningsih climbed out of the kitchen window on the 8th floor

in an attempt to escape. When she reached the 6th floor, she slipped and fell. She was badly injured and had to be hospitalised. She could only move around on a wheel chair when she was discharged. When she was certified fit to return to Indonesia, the agent and the employer disputed where she should be repatriated to.

Finally a decision was made to purchase a ticket for her to Surabaya. According to Wurnyaningsih, she took such great risks to escape from her employer's home because she was afraid of going back to her agent. She had wanted to go to the Indonesian embassy for assistance.

The reasons for her fear to return to her agent was because she had been working in Singapore for 16 months without getting much salary. This is because whenever she switched an employer, her agency fees would increase by two months. She arrived in Singapore expecting that she would only be sacrificing 8.5 months worth of salary as her placement fees. However, whenever she was dismissed by one employer and a new one was found for her, her „debt“ to the agent would increase.

She was also afraid of her recruitment agent because she had seen him slap other domestic workers who were returned to the agency by their employers. She was afraid of being punished by him. The accommodation provided by the agent was also poor. They had to sleep on the floor because the mattresses provided were full of bed bugs. The other domestic workers who lived in the quarters provided by the agent were provided with only small portions of rice and vegetables for food. They were also subject to harsh scolding by the staff of the employment agency.

#### **ANNEX D**

When Rona found out that she had a lump on her breast, she suspected that it might be cancerous and made an appointment to see a doctor. She decided to inform her employer about it too. However, when her employer found out, she cancelled the appointment and asked her to move out of the house. Subsequently, her agent informed her that her employer had bought her a ticket home and she was asked to pack her things.

With a current salary of \$400 per month, Rona was also not paid for 12 days salary and she wanted to claim two weeks' notice of termination of contract in lieu of salary.

However, when she made a report to the authorities regarding her claims with the assistance of HOME, she was told to return home since her work permit had already been cancelled.

#### **ANNEX E**

22 year old Kumari arrived in Singapore on June 29th 2010 on a Social Visit Pass. She was promised by a recruitment agent in India that she would be given a job as a hospital attendant. She had paid S\$1500 in recruitment fees to the agent.

However, upon arriving in Singapore she was asked to do sex work. She refused in the beginning but the agent beat her and forced her. She also had to share a room with 2 other men. She was put to work immediately upon arrival and had to have sex with men from 4pm to 6am every day.

For each man that she had sex with, she would be given \$45. However, the agent took all the money and only gave her \$3.50 for food allowance. She claimed that she had sex with approximately 45 men for the period June 29th to 3 August 2010. She feared reporting to the police about her plight for fear of being arrested and prosecuted.

