

## **ASEAN Consensus on the Protection and the Promotion of the Rights of Migrant Workers**

Evaluation and Commentary by Transient Workers Count Too (TWC2), Singapore

23 January 2018

---

### **Acronyms used in this commentary**

ACMW	ASEAN Committee on Migrant Workers
AMS	ASEAN member states
ASEAN	Association of South East Asian Nations
CEDAW	Convention on the Elimination on All Forms of Discrimination Against Women
CLAS	Singapore Law Society's Criminal Legal Aid Scheme
ECT	Employment Claims Tribunal
FCWDS	Foreign Construction Worker Directory System
FDW	Foreign domestic worker
HOME	Humanitarian Organisation for Migration Economics
ICMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
ILO	International Labour Organisation
IPA	In-Principle Approval for Work Permit
KET	Key Employment Terms
MOM	Ministry of Manpower
SEC	Standard Employment Contract
TWC2	Transient Workers Count Too

## Objective of this evaluation

- Identify **key commitments** made by Singapore in the ASEAN Consensus on the Protection and the Promotion of the Rights of Migrant Workers;
- Describe the ways in which current practices/policies by Singapore have **fallen short** of these commitments;
- Provide **solid evidence and citations** to support the above.

## Preliminary observations

- Many of the clauses are both non-binding and essentially without practical import because they are “subject to national laws, regulations and policies of receiving states”.
- However, an argument can be made that an in-principle recognition of best practices, set forth in the Consensus, has been made by Singapore and it thus should aspire towards implementing these best practices.
  - Thus, falling short of the clauses in the Consensus may be considered as falling short of aspirational best practices agreed to by Singapore.
- Suggest the Action Plan include a timeline for adoption of laws by all member countries that support these Consensus goals and for the closing of gaps, such as in Singapore.

---

## Specific comments on Chapters and Articles

**Chapter 1** sets out General Principles that ASEAN Member States (AMS) agree to adhere to, including the ASEAN Charter (1.a.), freedom, equity and stability promoted by the ASEAN community (Article 1.b.) fundamental rights set forth in international and regional treaties signed by members (Article 1.c.) and other international instruments that members are party to, fundamental rights and dignity of migrant workers (Article 1.d), fair treatment with respect to gender and nationality (Article 1.e), and pursue a cooperative approach the protection and promotion of the rights of migrant workers.

- We note that Singapore is not a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICMW) and TWC2 urges that Singapore should accede to this convention as soon as possible.
- In general, Chapter 1 recognises international standards of best practice for the treatment and protection of migrant workers. However, this recognition is undercut by making these principles subject to the local laws of member countries. In addition, this statement of General Principles in Chapter 1 does not require that the local laws of member countries adhere to these international standards of best practice, or create a timeline for compliance or adherence.

**Chapter 2** sets forth definitions of terms.

**Chapter 3** sets out the Fundamental Rights of migrant workers, again subject to member country laws. These rights include that workers:

- **Article 8:** May be visited by their families.
  - Visits by family members depend on the issuance of tourist visas, and some migrant workers have been known to receive family visits when the family members are able to obtain visas. However, to the degree that the issuance of tourist visas is discretionary, and may involve a substantial fee, it undermines this as a fundamental right.
  
- **Article 9:** Have the right to hold their passports and work permits.
  - Employers commonly withhold employee passports and work permits in Singapore despite this practice being prohibited by the Passports Act.<sup>1</sup> Enforcement appears to be lax.
  - In an exceptional case in 2015, an employer was charged for withholding a foreign domestic worker's (FDW's) passport, among other labour rights violations.<sup>2</sup>
  
- **Article 10:** Have the same rights as locals if committed to prison or placed in custody pending trial (Article 10).
  - Migrant workers' economic resources (low wages) are limited and thus they are disproportionately dependent on pro-bono legal representation. However, because pro-bono representation is limited in scope, they may disproportionately be disadvantaged in access to assistance if charged with a crime.
  - Whether migrant workers have the right to legal counsel if they are charged with a crime for which they may be incarcerated in Singapore depends on the statute that the charge falls under. Migrant workers may apply to the Law Society's Criminal Legal Aid Scheme (CLAS) for pro bono legal representation if they are accused of a crime that falls under the statutes covered by CLAS. If eligible, a migrant worker must satisfy a means test to show low income, as Singaporeans do. However, if the crime is not covered by CLAS it is unclear how a migrant worker would access pro bono legal representation. This creates gaps for migrant workers as they may be incarcerated without being represented.
  - Raising bail is especially problematic for low-wage migrant workers. Not only do they not have significant savings as a result of their low wages, they do not have family in Singapore and generally would not have well-off friends able to assist with bail

---

<sup>1</sup> Au, A. (2011, October 1). *Fact Sheet: Retention of Passports and Important Documents*. Transient Workers Count Too. <http://twc2.org.sg/2011/10/01/fact-sheet-retention-of-passports-and-important-personal-documents/>, retrieved December 25, 2017

<sup>2</sup> Today Online (2015, April 22). *Employer fined S\$34,500 for withholding maid's pay, breaching work permit rules* <http://www.todayonline.com/singapore/employer-fined-s34500-withholding-maids-pay-breaching-work-permit-rules>, retrieved December 25, 2017

money. State policy forbidding work permit holders from bringing their families with them to Singapore effectively creates the situation where they have no family here. As a result of not being able to raise bail, the possibility exists that they may be detained for far longer than the eventual sentences given to them. They may also have been innocent.

- **Article 11:** May file their grievances in Singapore and seek help from their embassies.
  - Migrant workers have access to the structures set up by the Ministry of Manpower, including the Tripartite Alliance for Dispute Management and the Employment Claims Tribunal, to address their injury, salary and other employment-related claims. However, gaps in these systems have been researched and reported.<sup>3</sup> In addition, embassies of countries of origin that provide workers in the construction sector, particularly Bangladesh and India, do not take an active role in the protection of the employment rights of their citizens in Singapore.<sup>4</sup>
  
- **Article 12:** Have the right to freedom of movement, subject to local laws.
  - While Singapore's Penal Code, Chapter XVI, makes "Wrongful Confinement" an offence and would appear to protect the right of all persons in Singapore to freedom of movement, in practice, this is a right that is frequently denied to domestic workers. TWC2's assessment is that 35-40 percent of the 237,000 domestic workers in the country are denied the right to freely leave their employer's residence.
  - Although their right to a weekly day off is recognised in their work permit conditions, those terms allow employers and workers to agree to the worker giving up her days off in return for financial compensation. In practice, women faced with an agency and/or employer who insist that she must agree to give up her days off has little option but to agree. Such workers are permanently on call to their employers and may either be denied any right to go out or only allowed out with members of their employers' family. This is destructive of their physical and mental health and leaves them particularly vulnerable to abusive behaviour by their employers, since they have little or no opportunity to seek help or advice.
  - Wrongful confinement occasionally happens with non-domestic workers. From time to time, TWC2 comes across injured workers who report being confined in a room or in very limited space, with men guarding the doorways.<sup>5</sup> Usually these instances are believed intended to prevent injured workers from reporting industrial accidents to the

---

<sup>3</sup> Fillinger, T & Harrigan, N., et al. (2017, June). "Labour Protection For The Vulnerable: An Evaluation Of The Salary And Injury Claims System For Migrant Workers In Singapore." *Transient Workers Count Too, TWC2*. pp. 48

<sup>4</sup> Human Rights Watch. (2016, December 8). *Bangladesh: Improve Protections for Migrant Domestic Workers* <https://www.hrw.org/news/2016/12/08/bangladesh-improve-protections-migrant-domestic-workers>, accessed December 25, 2017

<sup>5</sup> TWC2 website: <https://twc2.org.sg/2016/12/18/held-in-windowless-room-shahjahan-faced-forced-repatriation-twc2-rescues-him/> and <https://twc2.org.sg/2017/11/15/escaping-from-ruthless-employer-amzad-gets-help-at-every-turn/> accessed 17 January 2018

authorities, and/or to facilitate their hasty and forced repatriation. By TWC2's observation, there has not been punitive actions taken against such employers.

**Chapter 4** sets out the Specific Rights of migrant workers. These include that workers:

- **Article 13:** Have the right to information on matters pertaining to their employment and employment conditions from relevant authorities.
  - Access to documents, information and key employment terms is a major problem for migrant workers in Singapore. Without this access it is difficult for workers to understand what they should be paid or whether they are being underpaid, and creates evidentiary problems when bringing a claim. Many migrant work permit holders in Singapore do not know their key employment terms, basic salary or how to calculate their overtime pay. Most South Asian workers in the construction sector do not have a contract at all. They rely on their In-Principle Approval (IPA), which only includes their basic salary and deductions. If they lose their copy, the Ministry of Manpower (MOM) will not provide a replacement. In addition, employers may change the terms of employment once a worker arrives in Singapore. The worker may be given the choice to either agree to the changed terms or return home, forgoing the salary needed to pay off their recruitment fee debt. The practice of contract substitution by employers has been documented by TWC2, HOME and Justice Without Borders.<sup>6 7</sup>
  - Singapore has acknowledged and attempted to rectify the fact that workers lack these basic employment terms by recent amendments to the Employment Act to require employers to issue Key Employment Terms (KETs).<sup>8</sup> However, TWC2 has pointed out that there are no safeguards against KETs undercutting the promises implied in the In-Principle Approval for Work Permit, complicating the construction of contract. This is especially as KETs can be issued, unilaterally by the employer without need for employee's agreement, up to 14 days after the employee has started work.<sup>9</sup>
  - TWC2's proposal – to incorporating the KETs into a Standard Employment Contract for Work Permit holders would provide the intended safeguards for all parties in an administratively efficient way. SECs should be agreed to by both parties before employers submit an application for a work pass, and a copy of the SEC should accompany the application to ensure that terms of the offered job are aligned with the work pass application.

---

<sup>6</sup> Chok, S. & Ng, J. (2017, January). *Position Paper: Wage Theft & Exploitation Among Singapore's Migrant Workers*, Humanitarian Organisation for Migrant Economics. Pp. 15 Retrieved from: <http://home.org.sg/homeosg/wp-content/uploads/2017/07/Wage-Theft-Exploitation-among-Singapores-Migrant-Workers.pdf>, accessed 25 December 2017

<sup>7</sup> Justice Without Borders (2017, March). *Protecting Low Wage Foreign Workers in Singapore from Bait-and-Switch Contracts*. Retrieved from: <http://files.constantcontact.com/6fb71215401/53caf7cf-e688-49a1-8c22-0f7bf1d7a5c2.pdf>, accessed 25 December 2017

<sup>8</sup> The Employment Act (Cap 91, 2009 Rev Ed) s 95.

<sup>9</sup> See TWC2's statement at <https://twc2.org.sg/2018/01/19/mom-booklet-sweeps-forward-then-stumbles/>

- In any case, compliance to-date with the present rule for issuing KETs is low.
- **Article 14:** Have the right to an employment contract.
  - As discussed above regarding Article 13, many migrant workers do not have a contract at all.
  - One suggestion for improvement set out in the Labour Protection for the Vulnerable report is to require Standard Employment Contracts (SECs) for all migrant construction workers in order to set out their basic salary, overtime rates, intervals of payment, deductions, and other key employment terms.<sup>10</sup> A SEC both ensures that workers know their basic salary and employment terms, and guards against contract substitution. When both parties know the terms that govern employment, the number of disputes and salary claims are reduced.
- **Article 15:** Have the right to fair treatment in the workplace, subject to local laws.
  - This is an important goal, which needs to be more specifically defined, adhered to and enforced.
  - Certain wage entitlements apply based on nationality. MOM's Progressive Wage Model, which establishes base salaries for those in the cleaning, security and landscaping sectors, applies only to citizens and permanent residents, not migrant workers. Consequently, a pay gap opens up by nationality.
- **Article 16:** Have the right to adequate or reasonable accommodation.
  - In Singapore, employer-provided accommodation for non-domestic employees must be "accepted" by the employee if the employee is to have a portion of his salary deducted for this benefit. The Urban Redevelopment Authority sets certain standards for foreign worker dormitories. However, in practice, an employee's substantive right to refuse to accept or make a complaint about accommodation that falls below standards is very limited due to unequal bargaining power and because the employee may be terminated at will, may not change employers, and has incurred high recruitment fees to work in Singapore.
  - Foreign domestic workers in Singapore are obliged to live in their employer's home according to their work permit terms. According to the work permit conditions for the employer of a domestic worker, "The employer shall ensure that the foreign employee has acceptable accommodation. Such accommodation must be consistent with any written law, directive, guideline, circular or other similar instrument issued by any competent authority." "Acceptable" is inadequate as a qualification of the standard of accommodation for a domestic worker, even taking into account the following sentence. It does not provide sufficient guidance on the space the worker should have, the privacy she should enjoy or a secure place for her personal possessions,

---

<sup>10</sup> Fillinger, T & Harrigan, N., et al. (2017, June). "Labour Protection For The Vulnerable: An Evaluation Of The Salary And Injury Claims System For Migrant Workers In Singapore." Transient Workers Count Too, TWC2.

among other things. Also, the inspection of private dwellings by public enforcement officers poses practical obstacles.

- **Article 17:** Have the right to fair remuneration.
  - As noted above, certain wage entitlements apply based on nationality. MOM's Progressive Wage Model, which establishes base salaries for those in the cleaning, security and landscaping sectors, applies only to citizens and permanent residents, not migrant workers. Consequently, a pay gap opens up by nationality.
  - Underpayment of agreed remuneration remains a common practice. This is largely enabled by State policy permitting salaries to be paid in cash. Employees who are short paid thus have difficulty providing any documentation to show that cash paid to them was less than the amount should be.
  - Making it mandatory for all salaries to be paid through the banking system, which has the benefit of an audit trail, is a necessary step to implementing Article 17.
  
- **Article 18:** Have the right to transfer their earnings.
  - With a freely convertible currency, this does not present any issue in Singapore.
  
- **Article 19:** Have the right to file a complaint.
  - Workers in Singapore have a right to make a salary or injury claim against their employer. However, due the numerous obstacles discussed herein and in the Labour Protection for the Vulnerable report, lodging a salary or injury claim results in job loss<sup>11</sup> with no guarantee of any right to remain in Singapore and seek alternative employment. For many workers this is a disincentive to making a claim because job loss severs the ability to pay off outstanding recruitment fee debt or support family at home.
  
- **Article 20:** Have the right to join trade unions.
  - In Singapore, unions are not known to represent the interests of migrant workers and for this reason, along with high membership fees, migrant workers do not join unions. A migrant worker may not hold the position of officer in a union. The shadow report on the Convention on the Elimination on All Forms of Discrimination Against Women (CEDAW) by TWC2 and HOME explains that "Singapore's Trade Unions Act disallows foreigners from holding key appointments and executive committee

---

<sup>11</sup> Fillinger, T & Harrigan, N., et al. (2017, June). "Labour Protection For The Vulnerable: An Evaluation Of The Salary And Injury Claims System For Migrant Workers In Singapore." Transient Workers Count Too, TWC2.

positions in trade unions” thereby preventing workers from “being able to represent their own interests.”<sup>12</sup>

- The salary claim compensation system in the ECT is capped at \$20,000 for those not represented by a union, while the cap is \$30,000 for those represented by unions. This disadvantages migrant workers because many have claims over \$20,000 but they cannot seek the full amount because they are not represented by a union.
- For domestic workers, there is in any case, no relevant union.

**Chapter 5** sets forth the obligations of Sending States.

- Singapore is not, in any significant way, a sending state.

**Chapter 6** sets out the obligations of receiving states towards migrant workers, subject to local laws, including to:

- **Article 30:** Ensure fair treatment and prevent abuses. See discussions above.
- **Article 31:** The receiving state will make every effort to allow authorization for workers to work their authorized amount of time in country.
  - Many workers are issued a work permit for a year or two but have no rights if the employer fires them after a day or a week. In other words, workers do not have the right to employment for the full duration of the work visas issued to them as Singapore has an *at will* employment system.
  - Currently, work permits in Singapore operate under the Kafala sponsorship system where work permits/visa are directly tied to a single employer (a sponsor). If an employee is terminated, which can occur at any time and without cause, the work permit is cancelled and repatriation follows. This sets up a power imbalance which has serious implications for migrant worker welfare in Singapore as a result of increased vulnerability of workers to employer abuse.<sup>13</sup>
  - Steps are being taken by MOM in some situations to allow workers a Change of Employer. However, this only allows workers to look for a new job and many report that fees demanded by employers to gain such employment are high. The present success rate in getting a new job is low. A system such as the *Foreign Construction Worker Directory System* (FCWDS), where workers who lose their employment may be rehired from a standing pool of workers via the FCWDS portal, could help, but the

---

<sup>12</sup> TWC2 & HOME. (2017, October). *Convention on the elimination on All Forms of Discrimination Against Women (CEDAW) Shadow Report*. Retrieved from [http://twc2.org.sg/wp-content/uploads/2017/10/Cedaw\\_Singapore\\_2017\\_TWC2HOME.pdf](http://twc2.org.sg/wp-content/uploads/2017/10/Cedaw_Singapore_2017_TWC2HOME.pdf), accessed on 25 December 2017

<sup>13</sup> Fillinger, T & Harrigan, N., et al. (2017, June). “Labour Protection For The Vulnerable: An Evaluation Of The Salary And Injury Claims System For Migrant Workers In Singapore.” *Transient Workers Count Too, TWC2*.

take up rate is also low and the scheme currently does not apply to Special Pass holders (those workers with salary or injury claims).<sup>14</sup>

- **Article 32:** Educate employers and penalise them if they break the law.
  - Despite increasing protection of migrant workers in Singapore law and regulations, many employers continue to fail to comply with their responsibilities towards the migrant workers they employ.
  - Most employers hold workers' passports even though this is against the law.
  - In most cases of late or non-payment of salary, TWC2 has observed that the matter is only treated by the authorities as civil disputes. Employers determined to have failed to pay correct salaries on time are rarely penalised even though the law is clear in this respect.
  - Many solvent employers fail to pay Labour Court and Tribunal Orders.
  - Stronger sanctions and enforcement against non-compliant employers are needed in Singapore to increase compliance with the law.
  - The onus should not be placed on workers to pursue the enforcement of their successful Labour Court and Tribunal orders when the employer fails to pay.
  
- **Article 33:** Prevent overcharging of recruitment fees.
  - Non-domestic migrant workers must pay substantial recruitment fees for their jobs in Singapore, almost always through parties who are not registered as employment agents in either their home country or in Singapore. Consequently, the cap on recruitment fees -- no more than a month's pay for each year of contract, subject to a maximum of two months' pay<sup>15</sup> -- has no effect since the job vacancies are not even advertised through licensed employment agencies in the first place. Workers and researchers report fees in the \$5,000-\$15,000 range, well above the monthly salary of work permit holders who earn less than \$2,200 per month. Either all fees are paid in the home country, or a portion of these fees is paid in the home country and a portion is paid to employers or agents in Singapore.<sup>16</sup> But even when all fees are paid in the home country, there have been reports that a portion is subsequently remitted by intermediaries to parties in Singapore, including the employers.
  - It is true that this issue presents a cross-jurisdictional problem, but there are still solutions that Singapore can enact on its own. TWC2 has recommended for example, that the entire recruitment model can be redesigned to eliminate the role of

---

<sup>14</sup> Ho, O. (2015, October) *Portal to match foreign workers with urgent jobs*, The Straits Times. Retrieved from: <http://www.straitstimes.com/singapore/portal-to-match-foreign-workers-with-urgent-jobs> Accessed on 3 January 2018

<sup>15</sup> Ministry of Manpower (2013, December). Press Release: *Employment Agency Fees are already capped*. Retrieved from <http://www.mom.gov.sg/newsroom/press-replies/2013/mom-employment-agency-fees-are-already-capped>, accessed on 25 December 2017

<sup>16</sup> TWC2 (2016, October 19) *The price of a Job*. Retrieved from [http://twc2.org.sg/wp-content/uploads/2016/10/the\\_price\\_of\\_a\\_job\\_2016.pdf](http://twc2.org.sg/wp-content/uploads/2016/10/the_price_of_a_job_2016.pdf), accessed on 25 December 2017.

middlemen, e.g., through online job-matching portals, and to make any fee solicited through the portal, or in association with any job advertised on the portal subject to Singapore jurisdiction.

- Domestic workers tend to have their contracts with Singapore-based employment agencies, often in addition to contracts with home-country employment agents. Singapore agents help their counterparts in home countries get around the cap on agency fees through charging training fees and assisting their counterparts collect such fees from workers in Singapore.
  - The ILO recommends zero recruitment fees. Singapore could support this by first ensuring that present local law on fee cap is strictly adhered to, and later disincentivising employers and agents from charging fees.
- **Article 36:** The receiving state will regulate key employment terms in contracts for workers.
    - In Singapore, many non-domestic workers do not have contracts at all.
    - The Employment Act was amended in 2014 and 2015 to mandate the provision of key employment terms (KETs) but TWC2 research shows that workers still do not have them.<sup>17</sup>
    - The Singaporean High Court in November 2017 ruled that In-Principle Approvals (IPA) may be used as evidence in wage disputes, but it is nonetheless inadequate for IPAs to suffice in lieu of proper contracts because they contain only skeletal terms.<sup>18</sup>
    - The Employment Act, in mandating the provision of KETs is silent on whether the terms in KETs must be aligned with the terms in In-principle Approval for Work Permits (IPAs). It is unclear what be considered contractually binding if the details in a KET contradicts those in the IPA, particularly if there is no prior written contract. This risk is particularly great since KETs are unilaterally issued by employers with no need for employee agreement and can be issued up to 14 days after the employee has started work.
    - More details about TWC2's proposal for standard employment contracts can be found in our comments to Article 13 above.
  - **Article 37:** full and fair payment.
    - Underpayment of agreed remuneration remains a common practice. This is largely enabled by State policy permitting salaries to be paid in cash. Employees who are shortpaid thus have difficulty providing any documentation to show that cash paid to them was less than the amount should be. Making it mandatory for all salaries to be

---

<sup>17</sup> Woo, S.B. (2014, January 27). *Call for standard employment contracts for all migrant workers*, TodayOnline. Retrieved from: <http://www.todayonline.com/singapore/call-standard-employment-contracts-all-migrant-workers> Accessed on: 3 January 2018

<sup>18</sup> Seow, J. (2017, November 9). *In-principle approval letters can be evidence of foreign workers' rightful pay: Judge*, The Straits Times Online. Retrieved from <http://www.straitstimes.com/singapore/manpower/in-principle-approval-letters-can-be-evidence-of-foreign-workers-rightful-pay> Accessed on: 3 January 2018

paid through the banking system, which has the benefit of an audit trail, is a necessary step to implementing this provision of the Consensus.

- When workers find that there has not been full and fair payment of wages, they face a daunting prospect in lodging claims. Almost as a rule, when workers bring claims, they lose their jobs and have to wait in Singapore without the right to seek alternative employment during the claim process, which can last months or years.
  - The heavy emphasis in the Singaporean system on mediation means that workers are often asked to halve the amount of outstanding payment they are owed in order to receive any compensation at all.
  - When workers obtain a tribunal ruling in their favour, enforcement of successful claims remains a problem in Singapore as many employers, averaging about 50% among TWC2 clients, fail to pay, either due to insolvency or simple refusal.<sup>19</sup> Singapore needs to redesign its enforcement mechanisms to be more effective.
- **Article 38:** The right to join unions.
    - This isn't a real right in Singapore as discussed regarding Article 20 above. Migrant workers may join, but unions do not represent their interests.<sup>20</sup> In addition, migrant workers are not allowed to hold officer positions in unions. High fees, lack of migrant worker membership, lack of union interest in migrant worker issues, lack of ability to become officers all mean migrant workers do not effectively have the right to unionize in Singapore.
    - In practice, these workers are not allowed to form independent unions of their own.
    - This presents a real problem because they cannot join together to represent their interests and because, if unrepresented, it caps their salary claim amounts at \$20,000, which is below many of the claim amounts TWC2 sees workers present.
    - For domestic workers, there is in any case, no relevant union.
  - **Article 39:** The right to adequate accommodation.
    - As stated above, workers in Singapore may by law "accept" their accommodation as adequate. This is a meaningless protection as workers do not have the ability to reject their accommodation as inadequate because if they do, they risk losing their job and the ability to pay off their recruitment fee debt.
    - Many workers in Singapore still live on the worksite in makeshift arrangements or containers with substandard sanitary conditions. During the recent Zika outbreak in

---

<sup>19</sup> Chok, S. & Ng, J. (2017, January). *Position Paper: Wage Theft & Exploitation Among Singapore's Migrant Workers*, Humanitarian Organisation for Migrant Economics, Singapore. Retrieved from: <http://home.org.sg/homeosg/wp-content/uploads/2017/07/Wage-Theft-Exploitation-among-Singapores-Migrant-Workers.pdf>, accessed 25 December 2017

<sup>20</sup> TWC2 & HOME. (2017, October). *Convention on the elimination on All Forms of Discrimination Against Women (CEDAW) Shadow Report*. Retrieved from [http://twc2.org.sg/wp-content/uploads/2017/10/Cedaw\\_Singapore\\_2017\\_TWC2HOME.pdf](http://twc2.org.sg/wp-content/uploads/2017/10/Cedaw_Singapore_2017_TWC2HOME.pdf), accessed on 25 December 2017

Singapore, migrant workers made up the majority of cases, evidencing issues with standing water and unsanitary conditions surrounding their living accommodation.

- Singapore law should enhance the current minimalist definition of what constitutes adequate accommodation, such as a bed, bathroom, secure storage, place to cook, wash clothes, etc., and not leave it to the employer.
- **Article 40:** Provide fair treatment in respect of working condition, occupational safety and health protection, protection from violence and sexual harassment, etc.
  - Domestic workers' working hours continue to be poorly defined and regulated. Their right to a weekly rest day is undercut by the option to surrender it in return for more pay, as discussed in our comments to Article 12 above.
  - Protection of occupational safety and health has troubling gaps, especially among construction workers. There are regular complaints of poor quality safety equipment, and some employers deduct the costs of such equipment from workers' salaries, even though this is against the Employment Act. Fearing excessive costs, employees may agree to substandard equipment.
  - Singapore takes violence against domestic workers seriously, but FDWs' disinclination to report abuses, for fear of losing their jobs with no guarantee of right of transfer, may result in under-reporting.
  - Non-domestic workers occasionally report threats of violence from their bosses or company superiors, usually connected with attempts to intimidate them into signing false documents that if signed would negate their rights and remuneration.
- **Article 41:** Access to medical care.
  - This is a big issue for migrant workers in Singapore, particularly those who are injured, due to the regulatory framework and the way that it is implemented. All employers are required by law to purchase two types of insurance: 1) insurance for work-related injury/illness (minimum coverage of S\$36,000) and 2) insurance for medical care that does not arise from a work-related injury or illness (minimum coverage S\$15,000).<sup>21</sup>
  - However, while employers may purchase such insurance the first time, TWC2 has seen cases where employers do not later renew the insurance as required by law.
  - Workers who are injured at work may have to face an extended period before they are provided medical leave wages or their medical expenses are covered, as the injury first has to be determined by MOM to have occurred at the worksite or in the course of employment (a valid workplace injury). This may take six months to over a year, during which time the employer is not required to pay medical leave wages or

---

<sup>21</sup> Ministry of Manpower (2010, February) *Foreign Worker Medical Insurance: Frequently Asked Questions*. Retrieved from: <http://www.mom.gov.sg/~media/mom/documents/services-forms/passes/medical%20insurance%20faqs.pdf> Accessed on: 3 January 2018

pay for medical treatment.<sup>22</sup> <sup>23</sup> In the meantime, employers do not (and are not required to) draw down on medical care insurance policies (policy no, 2 as mentioned above) in injury situations. This may result in a lack of access to needed medical treatment for the migrant worker, and lack of income support in the interim.

- Difficulties with access to medical care and insurance may be linked to employer reporting requirements. An employer must report a workplace injury to MOM if the worker receives more than 3 days' medical leave or is hospitalized for more than 24 hours. If an employer fails to report for fear of a safety violation, stop work order, or incurring medical costs, then the worker may not be able to access medical care and/or insurance coverage.
- Suggestions have been made to the Singapore government to rectify the current situation by ensuring that validity of any work injury claim should be decided no later than one month after report, and require dual reporting so that in addition to employers, medical practitioners also must report to MOM workers who see with more than 24 hours hospitalization or longer than three days' medical leave.<sup>24</sup>
- **Article 42:** Access to legal recourse; facilitating exercise of consular functions
  - As discussed in our comments on Article 10 above, access to legal recourse remains an issue for migrant workers in Singapore. Some can apply for pro bono representation or legal guidance through the Law Society, but such coverage only applies to certain offenses. Greater access to legal help is needed for migrant workers with claims in Singapore.<sup>25</sup>
  - TWC2 does not know of any hurdles in Singapore preventing diplomatic missions from exercising their consular functions.
- **Article 44-60** - enumerates lofty goals.
  - The key is Article 59 regarding an Action Plan. The Action Plan should set out a timeline for compliance if the local laws of member countries do not support or adhere to the implementation of these goals. Or, as in the case of Singapore, where implementation or enforcement inadequacies render the goals unattainable.

---

<sup>22</sup> TWC2 (2017, January) *Worker unable to collect injury compensation. MOM says he must be "realistic"*. Retrieved from: <http://twc2.org.sg/2017/01/23/worker-unable-to-collect-injury-compensation-mom-says-he-must-be-realistic/> Accessed on: 3 January 2018

<sup>23</sup> Zhu, M. (2016, May) *Too injured to work: Migrant workers fight for medical leave, compensation*. Channel News Asia, Singapore. Retrieved from: <http://www.channelnewsasia.com/news/singapore/too-injured-to-work-migrant-workers-fight-for-medical-leave-comp-8001178> Accessed on 3 January 2018

<sup>24</sup> TWC2 (2017, June 29). *Labour Protection for the Vulnerable: Challenges and Recommendations*. Retrieved from: <http://twc2.org.sg/2017/06/29/labour-protection-for-the-vulnerable-challenges-and-recommendations/> Accessed on 3 January 2018

<sup>25</sup> TWC2 (2017, June 29). *Labour Protection for the Vulnerable: Challenges and Recommendations*. Retrieved from: <http://twc2.org.sg/2017/06/29/labour-protection-for-the-vulnerable-challenges-and-recommendations/> Accessed on 3 January 2018



- The Asean Committee on Migrant Workers (ACMW) should include all stakeholders, including civil society, in the elaboration and implementation of the Action Plan to ensure it is a comprehensive plan. The specific policy recommendations set forth in this commentary and the Labour Protection for the Vulnerable report could serve as the basis for the Action Plan items.

### **Transient Workers Count Too**

5001 Beach Road #09-86  
Golden Mile Complex  
Singapore 199588

Phone: +65 6247 7001  
Email: [info@twc2.org.sg](mailto:info@twc2.org.sg)  
Website: [www.twc2.org.sg](http://www.twc2.org.sg)