



## UPR MID-TERM REVIEW SINGAPORE

Submission by the Humanitarian Organization for Migration Economics,  
Singapore ([www.home.org.sg](http://www.home.org.sg))  
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### INTRODUCTION

The Humanitarian Organisation for Migration Economics (HOME) was established in 2004 and runs programmes to uphold the rights of migrant workers in Singapore. It assists an average of 2,000 workers a year in crisis situations, including employment-related disputes. The organization works with the Singapore government, in particular the Ministry of Manpower (MOM), to resolve these disputes. It offers shelter, employment advice, social support, financial assistance and legal aid for workers without charge.

This mid-term review is a follow up to the second cycle of Singapore's UPR reporting process, which was held on Wednesday, 27 January 2016. Singapore accepted a total of 236 recommendations, and partially accepted seven recommendations. It took note of 109 recommendations. This review will examine the recommendations that Singapore has accepted in relation to labour rights and trafficking in persons.

#### **The following recommendation was accepted partially:**

*166.134 Improve the situation of work migrants by enabling them to easily switch employers and to have access to decent housing. The provisions of the Employment Act should also apply to foreign domestic workers (Germany)*

This recommendation has not been fully implemented, nor is it clear which aspects have been accepted. While there have been instances of workers being allowed to switch employers, especially those who have substantial salary claims or are required to remain in the country as prosecution witnesses, large numbers of migrant workers are still unable to do so when they have been exploited. For example, migrant domestic workers (MDWs) who are subjected to

long working hours without days off, are not considered to have a valid complaint when it is filed at the Ministry of Manpower. Similarly, those who endure poor living conditions with no privacy are also not allowed to switch employers when they are terminated for filing a complaint.<sup>1</sup> Many workers, especially those in the construction sector, have reported having to pay high recruitment fees and illegal kickbacks in order to get a job.<sup>2</sup>

Domestic workers continue to be excluded from Singapore's main labour law, the Employment Act. In response to this recommendation, the government also said that 'while foreign domestic workers are not covered under Singapore's Employment Act, they are provided with other legislative protections and robust policies to ensure their well-being'. This is not true. While other legislation provide protection to domestic workers, they fall short of international labour rights standards. There are no legal limits to the number of hours they can work and it is not mandatory for domestic workers to have a weekly 24-hour day off. Public holidays, paid annual leave, and sick leave are also not legally guaranteed.<sup>3</sup>

**The following recommendations to combat trafficking in persons were accepted but have not been implemented in full:**

*166.178 Continue to exert efforts to combat trafficking in persons through the implementation of the Prevention of Human Trafficking Act in accordance with its obligations under the Palermo Protocol (Qatar); A/HRC/32/17 26*

*166.179 Take adequate measures to prevent trafficking in women and children and to strengthen the protection of victims of human trafficking (Serbia);*

*166.180 Consolidate the progress already made in the fight against human trafficking by guaranteeing the prosecution and punishment of the perpetrators and the protection and rehabilitation of victims (Spain);*

*166.181 Continue efforts to combat human trafficking and to protect victims of such crimes, especially women and children (Sri Lanka);*

*166.182 Ensure proper investigation, prosecution and adequate sanctions in all cases of human trafficking, including through the training of relevant personnel (Turkey);*

*166.183 Continue to develop strategies to promote public awareness of the issue of trafficking in persons (Bahamas);*

*166.184 Continue enhancing its efforts to combat trafficking in persons, and protecting the victims (Cuba); 166.185 Further strengthen its measures to combat all forms of trafficking in women and children and protecting and rehabilitating its victims (Egypt);*

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<sup>1</sup> Humanitarian Organization for Migration Economics & Transient Workers Count Too, *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) Shadow Report for Singapore* (Singapore: HOME & TWC2, October 2017), <https://tinyurl.com/HOME-Cedaw> (accessed August 9, 2018).

<sup>2</sup> Stephanie Chok and Jevon Ng, *Wage Theft & Exploitation Among Singapore's Migrant Workers* (Singapore: HOME, January 2017), <https://tinyurl.com/HOME-WageTheft2017> (accessed August 9, 2018).

<sup>3</sup> HOME & TWC2, *CEDAW Shadow Report for Singapore*.

*166.186 Allocate adequate resources to train the relevant authorities to ensure the effective implementation of the Prevention of Human Trafficking Act (Fiji);*

*166.187 Continue its efforts to guarantee the protection and rehabilitation of the victims of trafficking in persons, especially for women and children (Holy See);*

*166.188 Take measures in the legislative sphere and policy measure to strengthen mechanisms for combating trafficking (Honduras);*

*166.189 Strengthen its efforts for protecting victims of trafficking in persons and organize awareness-raising programmes in favour of public on issues related to combating human trafficking (Islamic Republic of Iran);*

*166.190 Continue combating trafficking in persons, and provide protection to its victims (Lebanon);*

Singapore's Prevention of Human Trafficking Act still falls short of international standards in identifying survivors of trafficking and protecting their rights. Social support for survivors is not guaranteed and given on a case-by-case basis. This makes it difficult for those who have been trafficked to report their traffickers and file complaints. Key indicators of trafficking such as forced labour and exploitation are not defined in the law, and this lack of transparency in how key terms and concepts are operationalized and applied hinders effective identification and prosecution of traffickers. Definitions of terms such as 'abuse of vulnerability' and 'coercion' differ in crucial ways from the United Nations' Model Law against Trafficking in Persons. Frontline officers are not adequately trained to detect possible cases of trafficking and forced labour.

**The following recommendation was accepted but only partially implemented:**

*166.79 Enact a national migrant legislation to protect the rights of migrant workers and ensure that migrant workers who wish to pursue claim against employers are not forced to repatriate without access to justice (Afghanistan);*

This recommendation is only partially enforced. Employers still have the right to cancel work permits without notice and immediately repatriate a worker, and there is no legislative protection for migrant domestic workers against unjust dismissal. For migrant workers covered by the Employment Act, an appeal against an unfair dismissal can be made to the Minister of Manpower, and the decision is final.

HOME has documented cases of immigration officers at the airport discouraging workers from filing claims at the Ministry of Manpower. Live-in domestic workers who are successful in convincing an immigration officer to allow them to file a complaint may be required by immigration officers to return to their employer's homes to stay, even though they have a valid claim against them. Immigration officers justify this practice because the employer is still liable for the worker, as the SGD5000 security bond the employer is required to purchase for the

MDW has not been discharged due to her not departing the country.<sup>4</sup> Directing an aggrieved domestic worker to continue staying at her employer's house makes her vulnerable to further abuse.

**The following recommendations were accepted but only partially implemented:**

*166.94 Adopt a comprehensive legislation that guarantees the protection of the rights of migrant workers (Honduras)*

*166.130 Deepen the legal initiatives and their enforcement aimed at ensuring a legal and de facto situation that guarantees the human rights of migrants (Peru);*

*166.132 Continue its ongoing efforts to promote and protect economic, social and cultural rights of migrant workers in Singapore, including efforts to enhance reach out to migrant workers on their employment rights, responsibilities, and their avenues of recourse (Sri Lanka);*

*166.135 Protect the legitimate rights of foreign workers in Singapore and help them get the necessary vocational training (China);*

*166.137 Strengthen measures to protect the human rights of non-citizens and migrant workers to prevent their exploitation and discrimination (Mexico);*

*166.140 Continue to promote and protect migrants and their rights, in particular while countering terrorism (Bangladesh);*

Singapore has accepted these recommendations and says it is 'committed to protecting the rights and well-being of migrant worker with laws, such as the Employment of Foreign Manpower Act, Employment Agencies Act and Foreign Employee Dormitories Act, to protect the rights of migrant workers, and in appropriate cases, to provide for added protection to cater to their unique vulnerabilities'. However, significant gaps persist in the mentioned laws that pose as barriers to migrant workers realizing their rights in Singapore.

The work permit terms and conditions of the Employment of Foreign Manpower Act do not provide clear standards in terms of working hours, adequate rest, living conditions, and access to medical care. As a result, law enforcement is inconsistent and does not fully ensure protection of the rights of workers. The law also allows employers to terminate workers without notice.

Singapore's work permit conditions also prevent low-wage migrant workers from marrying Singaporeans and Permanent Residents. It also makes pregnancy an offence and workers can be penalized for engaging in 'immoral and undesirable behavior'.<sup>5</sup> These broadly-worded conditions encourage the surveillance and moral policing of migrant workers by employers,

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<sup>4</sup> HOME & TWC2, CEDAW Shadow Report for Singapore.

<sup>5</sup> Employment of Foreign Manpower Act (Chapter 91A), Employment of Foreign Manpower (Work Passes) Regulations 2012, Fourth Schedule, Part VI, Section 8.

who may impose draconian control measures due to concerns over potentially losing their SGD5000 security bond if the migrant worker they hire breaches any work permit conditions.<sup>6</sup>

Migrant workers such as those in the construction industry are often left bereft of income and basic accommodation and food when they file claims against their employers. Even though the Employment of Foreign Manpower Act stipulates that employers are responsible for their upkeep and maintenance, workers are still denied a decent standard of living, food and medical care due to inconsistent enforcement.

The indebtedness of migrant workers in Singapore is a significant factor in their compliance with deteriorating working conditions. The Employment Agencies Act does not adequately protect migrant workers from being charged exorbitant fees from recruiters. Even though the law stipulates that agencies are only allowed to charge a maximum of two months of the worker's salary, the Ministry of Manpower allows agencies who place domestic workers to collect higher fees under the guise of 'loans'. Currently, many migrant domestic workers are required to pay fees of SGD2,000–4,500 (USD 2,209–3,314) to employment agencies (EAs) for being placed in a job in Singapore. These fees are collected from the worker in the form of a 'loan' to the EA that is to be repaid via monthly salary deductions. Typically, the employer would be required to make an upfront payment to the EA; the employer would then deduct a migrant domestic worker's salary until the amount is recovered. Depending on the MDW's salary and the size of the 'loan', this could stretch up to six or eight months worth of salary deductions. MDWs therefore often work for months either without any pay or with only a minimal monthly sum. Fearful that the MDW may 'run away' during this salary deduction period, employers may impose additional restrictions such as denying their workers their full complement of rest days and/or restrict their use of mobile phones.<sup>7</sup> Domestic workers who wish to leave their placement are particularly vulnerable at this time; they often experience great difficulty in getting their recruitment agents to provide them with assistance, as agents often pressure MDWs to endure unfavourable working conditions until they have paid off their 'loan'. These conditions add to domestic workers' vulnerability to forced labour.

Meanwhile, Bangladeshi construction workers pay between SGD7,000 and SGD9,000 for their jobs in Singapore, with some paying between SGD15,000 and SGD\$20,000: the latter is equivalent to about 30-40 months of their wages. The Singapore government maintains that it has no jurisdiction over these fees, even when money is paid here in Singapore via monthly salary deductions, or is remitted to employers and agents in Singapore from the country of origin.

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<sup>6</sup> HOME & TWC2, *CEDAW Shadow Report for Singapore*.

<sup>7</sup> 'The Current System is No Good': The Challenges of Singapore's Domestic Work Industry', *Asia Research Institute*, Policy Briefing, September 2016, no.5, <http://migratingoutofpoverty.dfid.gov.uk/files/file.php?name=rp08-mig-ind-mi-policy-brief-v9.pdf&site=354> (accessed May 17, 2018).

The Foreign Employees Dormitories Act only applies to dormitories with 1000 residents and above. Those who live in other housing types, such as factory-converted dormitories, shophouses and temporary work sites are excluded. As a result, a significant number of workers continue living in squalid conditions that do not meet standards that fully respects their right to adequate living conditions.

Singapore does not have a minimum wage law for both migrants and locals despite Singapore being one of the most expensive cities in the world to live in. Due to their lack of bargaining power, migrant workers in Singapore suffer from chronically low, depressed wages, even though recruitment fees continue to rise exponentially.

- Newly-arrived Bangladeshi construction workers are currently earning S\$16-18 a day in basic wages, the same rate they were paid in the 1990s. In August 2018, HOME met Bangladeshi workers who were paid \$150 a month in basic wages;
- Domestic workers' monthly wages are also low: Indian domestic workers earn around S\$350-S\$450; Burmese domestic workers around S\$450-S\$550; Indonesian domestic workers around S\$500-S\$600; Filipino domestic workers around S\$550-S\$650.

Migrant workers who are owed salaries find it difficult to file claims because they do not have documents to prove that they have not been paid or underpaid. Even though the Ministry of Manpower made it compulsory for pay slips to be issued, many workers are still not given a copy. As a result, their claims may be dismissed or severely undermined when it is adjudicated by the Employment Claims Tribunal. It is not clear if the Ministry of Manpower penalizes employers for not providing pay slips to their workers.

Workers also find it daunting to pursue owed wages at the Employment Claims Tribunal. Their lack of legal knowledge is an obstacle to them presenting evidence to substantiate their claims. As a result, their cases may be dismissed or they may only receive partial restitution of their arrears.

HOME has also documented several cases in which workers returned home empty-handed, or received only a fraction of their salary arrears because the companies that owed them wages had either closed down or ran into financial difficulty. Even in cases where a court order has been issued for companies to pay up, workers need to pay prohibitive fees and navigate complicated bureaucratic processes to enforce the order. The government does not prevent the directors of these companies from setting up new enterprises even though they have not paid their workers. There is no statutory compensation for workers in such situations.

For domestic workers, the exercise of their social and cultural rights is severely limited because a weekly day off is not mandatory as employers can pay compensation in lieu. The lack of rest days also adds to their social isolation and aggravates the problem of excessive working hours; overwork is the top complaint among the domestic workers who seek assistance from HOME.

**The following recommendation was accepted and not implemented in full:**

*166.133 Take the necessary steps to prohibit employers from withholding their foreign workers' passports, travel documents, and work permits as well as to improve access to comprehensive and affordable health services (Thailand);*

The majority of domestic workers who approach HOME for assistance and enquiries do not have passports in their possession; some do not hold on to their work permits either. Migrant workers risk losing their jobs if they file complaints against their employers for withholding their passports. It is rare for the government to prosecute employers for withholding passports. Access to comprehensive health services is also limited when employers are reluctant to pay for costly surgeries and medical treatment, even when they are covered by insurance. HOME has documented cases where workers have little choice but to return to their countries when employers refuse to pay for treatment, despite having approached the Ministry of Manpower for assistance. The Ministry justifies this practice for workers whose medical conditions have not been assessed to be an immediate medical crisis by doctors.

**The following recommendation was accepted and implemented:**

*166.136 Continue safeguarding the well-being and rights of migrant workers in Singapore and reach out to migrant workers to ensure that they understand their employment rights and responsibilities (Cuba);*

This recommendation to improve understanding of employment rights and responsibilities has been implemented. The Ministry of Manpower's Settling In Programme (SIP) for domestic workers teaches them about their basic rights. For example, they are told that it is illegal for employers to ask them to clean the outside of windows in high-rise buildings without the necessary precautions. However, it has come to HOME's attention that domestic workers who are pressured to do so by their employers have been investigated and penalised by the government for 'endangering' their own lives. The women are told that they should have 'known better' since they have undergone the Ministry's SIP. Such an approach fails to consider the tremendous difficulty domestic workers have in asserting their rights because of the grossly unequal balance of power between both parties. It is problematic that a programme to educate workers about their rights can result in them being 'blamed' for employer violations.

These SIPs also include recommendations on working hours as well as employers' responsibilities to provide adequate food and lodging. However, in HOME's experience, guidelines on 'adequate rest' and 'adequate food' are regularly breached by employers but such

complaints are generally not considered valid claims for being granted permission to switch employers by the Ministry; such violations are treated only as guidelines and not legal breaches.

**The following recommendation was not accepted:**

***166.61 Review laws and regulations that call for immediate and automatic deportation of migrant workers on health grounds (Uganda);***

Migrant workers on Work Permits continue to be subject to medical checks and are liable to being dismissed and repatriated if they fail these medical tests. Migrant domestic workers are subject to mandatory medical checks every six months, which screens them for pregnancy and infectious diseases such as syphilis, HIV and tuberculosis. Any domestic worker who fails this medical check is to be deported.<sup>8</sup>

**Singapore noted the following recommendation and did not commit to implementing it:**

***166.60 Enact comprehensive legislation prohibiting discrimination in employment on the basis of sex, race, ethnicity, religion, age, sexual orientation, gender identity and expression, marital status or disability (Canada)***

**The government explained why it did not accept this recommendation:**

*'Singapore strongly supports the principle of non-discrimination in the workplace. Our preferred approach is to encourage employers to adopt fair employment practices through the Tripartite Alliance for Fair and Progressive Employment Practices (TAFEP), which sets guidelines for employers to treat their employees fairly and with respect, and refrain from discriminatory practices, rather than a legislative approach which may add market rigidities without addressing discriminatory practices. Errant employers are sanctioned.'*

Wage discrimination by nationality is rampant. Migrant construction workers from China are paid double what South Asian construction workers are paid, with no viable explanation for these wage differences. Domestic workers' wages also vary by nationality. Singaporean nationals are paid more for doing the same job as migrant workers. The Singapore government has mentioned its Progressive Wage Model (PWM) as a means to deal with low wages. However, this PWM *excludes* foreigners. Migrant conservancy workers who clean Singapore's public housing estates have basic starting salaries of around SGD400-500 a month, while resident (Singaporean/PR) cleaners are supposed to earn at least SGD1,000 under the PWM. Thus, the PWM is institutionalizing and entrenching severe pay inequalities.<sup>9</sup>

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<sup>8</sup> Ministry of Manpower, 'Six-monthly medical examination (6ME) for foreign domestic worker (FDW)', <https://www.mom.gov.sg/passes-and-permits/work-permit-for-foreign-domestic-worker/eligibility-and-requirements/six-monthly-medical-examination> (accessed August 8, 2018).

<sup>9</sup> Stephanie Chok, 'Include Migrant Cleaners in Progressive Wage Model', HOME.org, Letter to the Press, 21 December 2016, <https://tinyurl.com/pwmcleaners> (accessed August 9, 2018).

**Singapore notes the following recommendations and has not committed to implementing them:**

*166.61 Review laws and regulations that call for immediate and automatic deportation of migrant workers on health grounds (Uganda);*

*166.95 Repeal the law that deports foreign workers suffering from sexually transmitted diseases (Congo);*

*166.138 Continue efforts at protecting migrant workers and members of their families from exploitation (Myanmar)*

*166.139 Adopt measures to protect the human rights of migrants, in particular foreign domestic workers through the revision of the legislation that establishes deportation in case of pregnancy or diagnostic of sexually transmitted diseases such as HIV/AIDS (Colombia);*

*166.131 Continue providing migrants and their families access to education, health care, and housing at par with its citizens (Philippines).*

*Singapore has said that it supports in part recommendation 166.138 and notes recommendation 166.131 as they do not apply to Singapore's context. The majority of migrant workers in Singapore are temporary guest workers, who regard Singapore as a place of work and not a place to settle with their families permanently.*

Singapore's regulatory framework currently prohibits family reunification for low-wage migrant workers on Work Permits (the visa category for lower-paid migrant workers in sectors such as construction and domestic work), even while those on S Passes and Employment Passes are eligible to apply for Dependent's Passes and permanent residency.<sup>10</sup> The Work Permit system is a discriminatory work pass system that dispenses rights and privileges carved along lines of income, nationality and gender.<sup>11</sup> There are also source country restrictions, basically sector-specific requirements that determine which nationalities can work in particular industries and jobs. There is no publicly-available policy rationale provided, but one writer has challenged this racialized policy,<sup>12</sup> in which it has been pointed out that particular nationalities appear to be funnelled into menial/manual labour positions but are excluded from higher-status retail work.

As earlier mentioned, migrant domestic workers continue to be subject to additional restrictions despite being afforded lesser protections; there is also wage discrimination by nationality. Mandatory testing for pregnancy, HIV and other STDs are still conducted and workers will be deported and barred from working in Singapore in future if they do not pass these tests.

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<sup>10</sup> Ministry of Manpower, 'Dependent's Passes', <https://www.mom.gov.sg/passes-and-permits/dependants-pass> (accessed August 8, 2018).

<sup>11</sup> Brenda S Yeoh, 'Bifurcated Labour: The Unequal Incorporation of Transmigrants in Singapore', *Journal of Economic and Social Geography* 97, no.1 (Feb 2006): 26-37.

<sup>12</sup> Surekha A. Yadav, 'Apartheid in Singapore?', *Malaymail*, 10 April 2016, <https://www.malaymail.com/s/1097053/singapore-is-a-racist-country> (accessed August 8, 2018).

### **HOME's Recommendations to the Singapore Government:**

- 1) Include domestic workers under the Employment Act: while the Singapore government argues that they are covered by the Employment of Foreign Manpower Act, this is inadequate in protecting them from exploitation. Failing to provide international standards of protection perpetuates the discrimination domestic workers experience vis a vis other low-wage employees in Singapore.
- 2) Liberalise the criteria for workers to switch employers. It should not be reserved for those who are required to remain in Singapore to assist in investigations or those who are potential prosecution witnesses. Those who have experienced exploitation and abuse but are not required to remain for investigations or be prosecution witnesses should also be allowed to switch employers.
- 3) Enact clear legal standards to ensure that migrant domestic workers have sufficient privacy and proper accommodation. Surveillance cameras in areas where they sleep should be banned. For other migrant workers, do a review of the existing legislation which governs housing of workers to ensure that the standards provided for in the Foreign Employees Dormitories Act are also applicable for other types of accommodation.
- 4) Key indicators of trafficking in persons need to be clearly defined in the Prevention of Human Trafficking Act in accordance with the UNODC model law and UN Palermo Protocol. A victim-centric approach, including the right to gender- and culturally-sensitive support services and decent work, as well as temporary residency status, should be guaranteed in law.
- 5) Ensure that all workers pursuing claims have decent housing and adequate food by proactively enforcing the work permit terms and conditions which provide for such benefits.
- 6) Enforce Employment Agency Act (EAA) regulations on recruitment fees. The widespread practice of employment agencies charging six to eight months of recruitment fees needs to be abolished. Allowing employment agencies in Singapore to demand large amounts and then claim that such fees collected are for overseas partners without adequate verification allows for the persistent undermining of EAA regulations that were meant to protect MDWs from significant debt burdens. There is a lack of

transparency and accountability in the recruitment process that needs to be addressed and a more determined approach from the Singapore government is required to regulate and improve ethical standards among employment agencies. The Ministry of Manpower should disallow employment agencies in Singapore from entering into 'loan' agreements with MDWs under the guise of collecting inflated recruitment fees.

- 7) Work with sending country governments to proactively investigate monetary transactions originating from agents of both sending and receiving countries so that agents who charge workers usurious fees are prosecuted.
- 8) Enact an anti-discrimination law to ensure that all workers are paid according to merit and not discriminated against by virtue of their nationality.
- 9) Provide free legal aid to workers who are pursuing claims at the Employment Claims Tribunal.
- 10) Set up a statutory fund for workers who are not paid by their employers because of serious financial difficulty or when such employers have become insolvent.
- 11) Make it compulsory for workers to be paid electronically so that they do not have difficulty substantiating their claims when they are owed salaries. Proactively enforce regulations which mandate employers must provide itemised pay slips to their workers.
- 12) Liberalise the criteria for workers to have access to their compulsory hospitalisation insurance without the onerous criterion that they must be facing an immediate medical crisis in order to receive treatment.
- 13) Start a campaign and proactively enforce existing laws to discourage employers and employment agents from withholding the passports of their workers.
- 14) Repeal the current law which makes it compulsory for workers to undergo mandatory medical and pregnancy checks on the grounds that it discriminates against migrant workers.
- 15) Reform current security bond conditions which puts employers at a financial risk if they are not aware of the whereabouts of their workers. This regulation unduly restricts the movement of workers and makes it difficult for them to leave their employers to file claims. Alternative regulatory mechanisms should be adopted to ensure effective repatriation of migrant workers.