



LIST OF ISSUES AND PARALLEL REPORT

**85th CEDAW Pre-Sessional Working Group
31 October 2022 to 4 November 2022**

**Prepared by: Humanitarian Organization for Migration Economics
(Singapore)**

LIST OF ISSUES

Article 6: Trafficking

1. Please inform the Committee about:
 - a. Updates to ensure that the Protection against Human Trafficking Act 2014 is in full compliance with the Palermo Protocol, and that definitions of key terms are benchmarked to international standards.
 - b. Measures to create a transparent system for victim identification, support and protection, particularly the right to decent work opportunities, and the right to not be prosecuted for committing legal infractions.

Article 11: Employment

General

2. Please inform the Committee about:
 - a. Updates on the State's intention to ratify the the Domestic Workers Convention, 2011 (No. 189), of the International Labour Organisation and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

Exclusion from the Employment Act (EA)

3. Please inform the committee about:
 - a. Measures undertaken to include migrant domestic workers (MDWs) in the Employment Act (EA) and/or any initiatives to secure their core labour rights, including compensation for overtime work, defined working hours, annual leave and medical leave.

Unclear well-being standards under the Employment of Foreign Manpower Act (EFMA)

4. Please inform the Committee about:
 - a. Specific definitions under EFMA of “acceptable” accommodation and “adequate” food, and whether currently available guidelines on these standards will be given the force of law;
 - b. Specific details as to the number of hours that the MDW should be given each day (afternoon and/or night) to rest to fulfil the subjective criteria of “adequate rest” under EFMA.

'Mandatory rest day' regulations & other rest day issues

5. Please inform the Committee about:
 - a. Specific details about the upcoming mandatory rest day regulation, particularly whether the mandatory rest day would be defined as a continuous period of 24 hours, and what punishment would be given if employers did not grant the mandatory rest day;
 - b. Mechanisms to detect MDWs who are not granted their mandatory rest day and cannot seek help due to the employers restricting their communication and access to helplines and authorities;
 - c. Whether employers are allowed to ask the MDWs to work on their rest days before they leave and after they return home, and how the State ensures that compensation is paid for work done during the MDW's assigned rest days;
 - c. Steps taken under the EFMA or additional initiatives to ensure that MDWs receive not only 1 mandatory rest day a month but weekly rest days (i.e. one mandatory rest day every 7 days).

Termination and repatriation

6. Please inform the Committee about:
 - a. The scope of "reasonable" notices that employers need to give to the MDW before repatriation i.e. when the workers should be notified of termination before they can be repatriated;
 - b. Systems that MDWs can reach out to if their dismissals were subjectively unfair, considering the unilateral power that employers have to terminate them.

Job mobility

7. Please inform the Committee about:
 - a. Steps taken to ensure that MDWs are given the right to change employers with clearly defined notice periods, or at the end of the work permit terms;
 - b. Steps taken for MDWs to view their prospective employers' history of hiring MDWs, including the number of MDWs hired within a stipulated period, and the reasons for each employment being terminated.

Forced confinement and restriction on communication

8. Please inform the Committee about:
 - a. Penalties that employers and agents are subjected to to ensure that MDWs are not wrongfully confined in their employers' houses or agency quarters', or have their freedom of movement unduly restricted; and

- b. Guidelines that employers and agents are subjected to to ensure that an MDW's phone will not be confiscated by her employer or agent, and/or that MDWs are given reasonable access to their mobile phones.

Article 12: Health

Access to Medical Care

9. Please inform the Committee about:
 - a. Penalties that the employers are subjected to if they do not provide the medical treatment that the MDW needs, particularly outpatient and dental treatment;
 - b. Clarifications as to why the mandated medical insurance for employers only includes hospitalisation and surgery and potential initiatives to include other medical treatments such as outpatient medical care and dental care;
 - c. Steps taken to ensure that even with the increased minimum insurance of \$60,000, MDWs will not be denied access to medical care, as the co-payment scheme may still cause employers to deny medical care to them, and instead, forcibly repatriate them.

Work Injury Compensation Act

10. Please inform the Committee about:
 - a. Justifications as to why MDWs are excluded from the Work Injury Compensation Act and in effect, preventing them from receiving a lump-sum amount as compensation for sustaining permanent injuries at the workplace.

Pregnancies

11. Please inform the Committee about:
 - a. Justifications as to why women migrant workers are subject to six-monthly tests to detect pregnancy and sexually-transmitted diseases, which may result in their termination, repatriation and debarment from future employment if they are found to have tested positive.

PARALLEL REPORT

Introduction

1. This report focuses on the treatment of migrant domestic workers (MDWs) and other women migrant workers vis-a-vis Singapore's obligations under CEDAW.
2. As of December 2021, there are approximately 246,300 MDWs¹ from countries such as Indonesia, the Philippines, Indonesia Myanmar, India, and Cambodia. MDWs are required by law to live with their employers and perform "household and domestic" duties.²
3. MDWs are a vital and visible part of Singaporean households and society at large. However, many of their rights under CEDAW remain unfulfilled.

Article 6: Trafficking

4. In 2014, Singapore enacted the Prevention of Human Trafficking Act (PHTA). However, support measures for victims of trafficking under this Act are discretionary. They are only provided on a case-by-case basis, as they still lack a legally-mandated right to protection measures. These measure include:
 - a. The right to not be prosecuted for legal infractions committed while trafficked, including immigration offences (which may result due to workers being deceived about the legality of the permits they are issued); and
 - b. The right to decent work opportunities, medical/psychological services, and compensation.
5. The Committee has previously cited concerns as regards the problematic definitions, or lack of definitions, of key terms such as "coercion", and "deception", and "forced labour" in the PHTA³. This inhibits victim identification and the provision of holistic support for survivors of forced labour and trafficking.

Recommendations :

1. Review PHTA 2014 to ensure compliance with the Palermo Protocol, and that the definitions of key terms are up to the international standards.
2. Create a system for victim identification, support and protection that secures the right to work opportunities and the right to not be prosecuted for committing legal infractions.

¹ Ministry of Manpower, "Foreign Workforce Numbers": <https://www.mom.gov.sg/documents-and-publications/foreign-workforce-numbers> (accessed 05 September 2022).

² Employment of Foreign Manpower Act, Employment of Foreign Manpower (Work Passes) Regulations 2012, Fourth Schedule, Part II, s(3).

³ CEDAW Committee, Concluding Observations on the Fifth Periodic Report of Singapore, CEDAW/C/SGP/CO/5. 21 November 2017, para. 22

Article 11: Employment

Exclusion from Employment Act

6. In the previous CEDAW review, the Committee expressed concern over the exclusion of MDWs from the Employment Act (EA), which is the main labour law in Singapore and covers basic labour rights such as working hours, paid sick leave, and annual leave. However, MDWs remain excluded from the EA.⁴
7. The EA governs core working conditions in Singapore such as limits of working hours, overtime formulas, entitlement to rest days, minimum standards of notice periods, annual leave, paid sick and hospitalisation leave, and public holiday pay. However, MDWs are excluded from this Act on the basis that their domestic work is “quite different from normal work”⁵. This rationalisation makes it difficult to regulate their working conditions, leaving them bereft of core labour rights.

Inadequate protections under EFMA

8. In Singapore, MDWs are covered under the Employment of Foreign Manpower Act (EFMA). The EFMA fails to provide concrete rights to MDWs and instead uses subjective standards such as requiring employers to provide “acceptable” accommodation, “adequate” food, “adequate” rest, and “reasonable” notice of repatriation⁶. These vague and subjective standards often translate into employers overexploiting their MDWs. Labour rights are also subject to the generosity of employers, rather than regulatory protections. MDWs are left more vulnerable due to inconsistent enforcement of these standards that ignore a key factor, that is, the inequality in the bargaining powers between the employer and the MDW.

Lack of right to redress for wrongful dismissals

9. Since MDWs are excluded from the EA, they are denied the right to redress for wrongful dismissals from the Employment Claims Tribunal. Therefore, they are not able to utilise low-cost means to redress employment disputes. Rather, they must rely on statutory mediation processes. If this fails, MDWs have to resort to costly and complicated civil proceedings. This is an impractical and often unfeasible option, particularly for claims in which the quanta may be relatively small vis-à-vis the costs of initiating a civil claim.

Unregulated working hours

⁴ Ibid., para. 35(a).

⁵ Parliamentary Debates Singapore: Official Report, vol 85 at vol 998 (18 November 2008): https://sprs.parl.gov.sg/search/topic?reportid=016_20081118_S0003_T0001

⁶ Employment of Foreign Manpower Act (Chapter 91A), Employment of Foreign Manpower (Work Passes) Regulations 2012, Fourth Schedule, Part 1, s(1), s(4), s(10a) ; Part II, s(12).

10. Beyond the provision that MDWs should be given “adequate” rest, the law is silent about the duration of daily rest that is to be given to an MDW. HOME reports that MDWs work extremely long hours (13 hours a day on average) and about 40% do not get any rest days in the week⁷.

Recommendations :

1. Include MDWs in the EA to secure their core labour rights.
2. Specific information should be provided about an employer’s obligations under the EFMA to provide “acceptable” accommodation, and “adequate” food, and clarify whether current guidelines on these standards will be given the force of law.
3. Steps taken to allow MDWs seek recourse from the Employment Claims Tribunal for salary disputes.
4. Measures to regulate the working hours of MDWs, to secure compensation for overtime work, and to ensure sufficient legal implications for employers who impose long working hours upon MDWs.

“Mandatory rest day” regulations & other rest day issues

11. In 2012, Singapore amended the EFMA to mandate that MDWs receive a weekly rest day, however, employers are allowed to pay workers in lieu of the day off. This is usually no more than SGD 20 - 30 (USD 15 - 20) per rest day, a fraction of the workers basic salary. Employers may deny a worker rest days for the entire duration of the contract (which is usually for 2 years), as long as she is paid compensation in lieu. The duration of the rest day is also not mandated to be 24 hours. HOME frequently encounters MDWs who have to do chores before and after their hours of rest, without being compensated for this work.
12. In July 2021, MOM announced that employers would be required to give one compulsory day off each month to their domestic workers that cannot be compensated.⁸ This is set to be effected at the end of 2022. However, this overdue measure may be insufficient to guarantee basic workers’ rights present in other international labour standards, such as the Domestic Workers’ Convention by the International Labour Organisation.⁹

⁷ Anja Wessels, “Home Sweet Home? Work, Life and Well-Being of Foreign Domestic Workers in Singapore,” <https://doi.org/10.13140/2.1.4090.1922> (accessed 10 September 2021).

⁸ Straits Times, “Mandatory day off, 24/7 helpline among measures to help domestic workers: Gan Siow Huang” <https://www.straitstimes.com/singapore/mandatory-day-off-247-helpline-among-measures-to-help-domestic-workers-gan-siow-huang>

⁹ Article 10(2), C189

13. No specific details about the mandatory rest day regulation have been released, including penalties for employers who do not grant the mandatory rest day. Moreover, in response to a parliamentary question earlier this year on whether the mandatory rest day would be defined as a continuous 24-hour period, the MOM stated that such measures will impose “rigidity” on employers and MDWs.¹⁰
14. There is also a lack of measures to ensure that compensation is paid for the work done during the MDW’s assigned rest days. It is vital to have mechanisms in place to detect MDWs who are not granted their mandatory rest day and cannot seek help due to the employers restricting their communication and access to helplines and authorities. These mechanisms will be able to secure the efficacy of the rest day regulation.

Recommendations :

1. Mechanisms to detect MDWs who are not granted their mandatory rest day and cannot seek help due to the employers restricting their communication and access to helplines and authorities.
2. Mechanisms to ensure that compensation is paid for work done during the MDW’s assigned rest days.
3. Increase the frequency of mandatory rest days.
4. Define a rest day as 24 continuous hours.

Job mobility

15. MDWs legitimise their stay in Singapore by way of a work permit (WP), which lays out the terms of their employment. WPs are valid for one or two years. WP renewals do not require the signed consent of the MDW. Employers retain the unilateral right to cancel an MDW’s WP without her knowledge or consent. MDWs also do not have the right to switch employers freely; they require the consent of their current employers to change jobs even upon the expiry of their WP terms. Although the Committee has previously recommended to revise this criteria¹¹, no action has been taken.
16. MDWs who are held back as prosecution witnesses to assist in investigations may be granted permission to switch employers on a case-by-case basis under the Temporary

¹⁰ Straits Times, “Fixed, uninterrupted rest time for domestic workers ‘imposes rigidity’ on households: MOM”, 2 March 2022, <https://www.straitstimes.com/singapore/jobs/fixed-uninterrupted-rest-time-for-maids-on-rest-days-imposes-rigidity-on-households-mom>

¹¹ CEDAW Committee, Concluding Observations on the Fifth Periodic Report of Singapore, CEDAW/C/SGP/CO/5. 21 November 2017, para. 35(b).

Job Scheme (TJS). In some other instances where there have been violations but investigations are not pending, the workers are allowed to switch employers under the Change of Employer (COE) scheme. Otherwise, MDWs are entirely dependent on employers whether or not to allow MDWs to transfer to a new employer while in Singapore. Decisions to refuse TJS or COE are often opaque in reasoning.

17. In 2020, MOM amended the EFMA to allow employment agencies to take over responsibility for MDWs whose employers wish to transfer them.¹² This was to encourage employers to transfer their MDWs without having to incur levy and other upkeep costs. However, employers still retain the right to terminate their MDW with no regard for the MDW's choice as to whether or not she wants to repatriate.

18. MOM recently has made information about their MDWs and their employment history more accessible to employers, including reasons for termination of previous employment.¹³ Paired with the online feedback system,¹⁴ employers are given plenty of opportunities to collect information about an MDW before hiring her. However, similar chances are not granted to MDWs.

Recommendations:

1. All MDWs should be granted the right to change employers, with clearly defined notice periods. Particularly, MDWs should be allowed to transfer employers at the end of their work permits, within a stipulated window before their work permits expire.
2. Allow MDWs to view their prospective employers' hiring history to alleviate the lack of information available to MDWs.

Forced confinement and restriction on communication

19. An MDW's freedom of movement is threatened when they are required to live with their employers, rendering them more vulnerable to confinement, isolation, and abuse. Although wrongful confinement is criminalised under the Penal Code, employers and agents are seldom prosecuted under this law. The use of CCTV is also commonplace to monitor MDWs' actions throughout the day; cameras are also installed in the bedroom or living space where the MDW sleeps - this practice is allowed, especially if the domestic worker shares the bedroom with a child or elderly person.

¹² Ministry of Manpower, 'Transfer a MDW directly to another employer', <https://www.mom.gov.sg/passes-and-permits/work-permit-for-foreign-domestic-worker/transfer-to-a-new-employer>

¹³ Straits Times, "More details of work history of domestic workers made available to employers", 3 November 2021, <https://www.straitstimes.com/singapore/politics/more-details-on-work-history-of-domestic-workers-made-available-to-prospective>

¹⁴ Ministry of Manpower, "Work Permit for Migrant Domestic Workers: notify MOM", <https://www.mom.gov.sg/passes-and-permits/work-permit-for-foreign-domestic-worker/notify-mom-of-changes>

20. Some employers restrict their MDW's mobile phone usage, whereas some disallow MDWs from owning mobile phones altogether. Due to a lack of regulations surrounding an MDW's phone usage, complaints on this matter have not resulted in meaningful change. Ultimately, it may trigger her repatriation.

Recommendations:

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| <ol style="list-style-type: none">1. Regulations given to employers and agents to ensure that an MDW has reasonable access to her mobile phone. |
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Article 12: Health

Inadequate insurance coverage

21. Employers of MDWs are required to purchase and maintain medical insurance of at least SGD 15,000 (USD 10,775) per 12-month period of the foreign employee's employment¹⁵. The minimum coverage of SGD 15,000 (USD 10,775) is often insufficient for workers who require surgery or hospitalisation for more serious illnesses.
22. As this plan applies only to in-patient care and day surgery, fees for out-patient treatment (including dental care) are not covered by their insurance. MDWs are often forced to pay for their medical fees upfront and face difficulty claiming them back from their employers. From the end of 2022, insurers will also co-pay 75% of amounts above \$15,000, up to an annual claim limit of \$60,000.¹⁶ However, MDWs may still not receive their treatment as employers may be reluctant to co-pay amounts exceeding \$15,000.

Work Injury Compensation Act

23. MDWs are currently excluded from the Work Injury Compensation Act (WICA), a no-fault system that awards lump sum compensation to workers who sustain injuries at the workplace that result in permanent incapacity. WICA also provides for claims related to medical leave wages (including hospital leave) and medical expenses. When a work injury results in the death of a worker covered under WICA, family members and dependents may claim compensation, with the compensation ranging from SGD 76,000 - 225,000 (approx USD 56,000 - 166,000).¹⁷

¹⁵ Employment of Foreign Manpower Act, Employment of Foreign Manpower (Work Passes) Regulations 2012, Fourth Schedule, Part II, s(2).

¹⁶ Ministry of Manpower, "Enhanced Medical Insurance Coverage to Better Protect Employers", <https://www.mom.gov.sg/newsroom/press-releases/2022/0304-enhanced-medical-insurance-for-work-permit-and-s-pass-holders>

¹⁷ Ministry of Manpower, 'Changes to Work Injury Compensation Act in 2020', <https://www.mom.gov.sg/workplace-safety-and-health/work-injury-compensation/changes-to-wica-in-2020>

24. Being excluded from WICA means an MDW who sustains serious injuries at the household (their workplace), or in the course of their work and incur a disability or face death will not be able to claim beyond the personal accident insurance limit of S\$60,000 (USD 43,102).¹⁸ This is an amount that is significantly lower than what is guaranteed by WICA. Personal accident insurance benefits provide less in terms of compensation, cover fewer types of injuries, and offer inconsistent coverage as this relies on the criteria of the assigned insurance company.

Pregnancy

25. All female WP holders are subject to six-monthly mandatory medical examinations that screen them for “pregnancy and infectious diseases such as syphilis, HIV and tuberculosis”.¹⁹ Employers are instructed that if their MDW does not pass her medical screening, her work permit must be cancelled and the MDW is to be repatriated immediately.²⁰ They may also be barred from seeking future employment in Singapore. Although the Committee has previously recommended the repeal of this law²¹, no action has been taken.

26. It is also currently a breach of WP regulations for a female migrant worker to become pregnant and deliver a child in Singapore during the validity of her WP, unless she is already married to a Singaporean or permanent resident (PR).

¹⁸ Employment of Foreign Manpower Act, Employment of Foreign Manpower (Work Passes) Regulations 2012, First Schedule, Part II, s(2)(a)(ii).

¹⁹ 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>

²⁰ Ibid.

²¹ CEDAW Committee, Concluding Observations on the Fifth Periodic Report of Singapore, CEDAW/C/SGP/CO/5. 21 November 2017, para. 35(c).