

TASK FORCE ON ASEAN MIGRANT WORKERS

National Statement **Singapore National Consultation** **on the ASEAN Declaration on the Protection and Promotion of the** **Rights of Migrant Workers** April 16-17, 2009, Peninsula Excelsior Hotel

As representatives of civil society organizations and trade unions, we are 38 participants who gathered at the Peninsula Excelsior Hotel, Singapore on April 16-17, 2009, to conduct this National Consultation on the Protection and Promotion of the Rights of Migrant Workers under the auspices of the Task Force on ASEAN Migrant Workers.

The Government of Singapore is to be commended for its actions to protect the well-being of migrant workers residing and working in Singapore, including through provision of labour legislation such as the Employment Act, the Employment of Foreign Manpower Act, and the Workmen's Compensation Act. We appreciate the newly established Ministerial Steering Committee to address issues and seek ways to enable migrant workers and local communities to live in harmony. MOM has also taken the laudatory step of forming a Task Force in January 2009 to monitor employers of migrant workers who have salary arrears outstanding to the workers, default payment of the foreign worker levy, and fail to comply with regulations related to migrant worker accommodation. We note also, the actions that MOM has taken over the years to bring errant employers who abuse and exploit migrant workers to task. We look forward to working closely with the Government of Singapore and MOM, especially as ASEAN moves towards regional economic integration by 2015. In this spirit of mutual respect and commitment to work together for a common purpose, we have the following recommendations from our two-day consultations to propose to the Government of Singapore, and to ASEAN, which address a wide range of migration policies, including stepping up enforcement of laws to protect and promote the rights of migrant workers.

To the Government of Singapore, we recommend the following:

Recruitment of Migrant Workers

1. The Government should develop an independent multi-stakeholder review and assessment body to monitor both the criteria for accreditation of labour recruitment agencies in Singapore and compliance with those criteria. This body should be comprised of NGOs, employer groups, trade unions, consumer organizations, migrant worker organizations, and community based organizations. However, the body should not include for-profit agencies that have a direct financial or economic interest in decisions on accreditation.
2. As a matter of policy, MOM should actively encourage employers to progressively move to direct recruitment of the migrant workers they require and avoid use of middlemen such as labour recruitment agencies, which add unnecessary costs and may not be fully able to provide workers that fit employers' needs in terms of skills and competence.

3. Singapore benefits when intending migrants are fully informed on the conditions that they will experience when they come to country as a migrant worker. In order to ensure accurate information reaches intending migrant workers while they are still in the country of origin, MOM should develop and make available information on wages and conditions of work, terms of employment under Singapore laws, regulations on migrant registration, the cost of living, and other basic information. This information should be posted on the website of MOM, as well as other appropriate Government and civil society websites in Singapore and overseas, and be produced in pamphlets, posters, and other media for distribution in countries of origin. MOM should ensure distribution of this information to its counterparts in the Governments of the labour-sending countries, and to civil society organizations assisting migrant workers. Importantly, this information should be translated into the languages of the migrant workers coming to Singapore so they are able to make better informed decisions. This information should be updated on a regular basis and be publicized at Singapore Embassies overseas.
4. The current system which requires registered migrant workers to remain with a single employer, and the ease with which an employer can unilaterally terminate a migrant's work permit, has unfortunately opened up avenues for abuse of migrant workers' rights and violations of labour laws by unscrupulous employers. While the MOM has done a commendable job in investigating and penalizing a number of these employers, a better system would allow migrant workers to change employers without requiring permission from their current employers. By guaranteeing migrant workers freedom of movement in their employment, labour market forces would encourage greater compliance by employers with labour laws and regulations since unscrupulous employers would find it difficult to maintain their migrant work force. Moreover, coupled with a policy of direct recruitment by employers, the policy would place a premium on finding qualified and capable migrant workers and treating them well, in accordance with the laws, so as to retain their services.
5. Unfortunately, despite MOM's efforts, there continue to be instances where employers are illegally charging migrant workers for an extension of their work permits, and labour recruitment agents are adding financial charges to migrant domestic workers seeking authorization to transfer from their old employer to a new employer. MOM should establish and strictly enforce stiffer penalties for employers and labour recruitment agencies that are engaging in these illegal practices.
6. Reports from migrant workers also continue to point to unscrupulous agencies deducting more money than allowed for agency fees. The MOM should pro-actively monitor and effectively enforce the requirement that the one-off payment of agency fees shall not account for more than 10% of the migrant worker's first month of salary as stipulated in the Employment Agencies Act.
7. Labour recruitment companies in Singapore should not be allowed to misrepresent or masquerade themselves as legitimate employers with full-time, adequate work in their own facilities when they are in fact acting as labour supply companies that seek to deploy those workers on daily or weekly basis to other companies. MOM should seriously crackdown on these types of businesses who account for a significant amount of the labour abuses against migrant workers.

Post-arrival Orientation/Training for Migrant Workers

8. We recognize MOM's commitment to ensure that migrant workers are fully aware of their rights and responsibilities while working in Singapore, and commend MOM for arranging a training and orientation program as one of the first activities for migrant workers must undergo immediately after they arrive in Singapore. Community groups, trade unions and NGOs should be consulted and directly involved in the delivery of these training programs. The program should instill knowledge

about the rights of migrant workers, conditions governing their work and stay in Singapore according to laws and regulations, methods to seek redress from the MOM and other organizations, and other useful information for migrant workers to ensure they are treated in accordance with the law. Post-arrival orientation should not be left to the employment agencies charged with placing migrant workers with employers.

9. As part of the post arrival training/orientation program, workers should be required to register their presence in Singapore with the Embassy of their Government, and must keep their contact information at the Embassy up to date during the entire time they are working in Singapore. As part of a closer collaborative information-sharing and coordination relationship to protect migrant workers, the Embassies of migrant workers should share information about their citizens with MOM when requested to do so. Equally important, MOM should provide information to Embassies when diplomatic representatives request information about their own citizens working in Singapore.

Repatriation of Migrant Workers

10. Regrettably, despite the efforts of the Government to prevent the practice of forced repatriation, reports from migrant workers indicate that intimidation and forced repatriation of workers is still being carried out by repatriation service companies, some of whom use extrajudicial violence and wrongful confinement to compel migrant workers' compliance. These companies, which are hired by employers, should not be allowed to operate in Singapore. Repatriations should only be planned and carried out by duly appointed Government officials.

11. As a preventive strategy, the Government should provide additional training and sensitization to immigration officials, airport, police, and airport staff based at Changi Airport on detecting and preventing forced repatriation. The Government should also introduce a system of selective exit interviews by trained immigration officers to monitor the repatriation process and ensure that it is fair and voluntary.

12. In order to ensure that immigration officers have the resources at hand to ensure effective regulation of departing and arriving migrant workers, quality translators able to speak languages of the major migrant worker groups coming to Singapore should be recruited and be available as needed.

Training in Language and Skills for Migrant Workers

13. In order to upgrade the skills of migrant workers and make them more efficient and effective in performing their work, the Government should provide appropriate opportunities and facilities for language training (especially in the English language) for migrant workers. Possible avenues that should be considered to deliver these programs include subsidizing training costs, allocating resources for training costs, and giving financial support to NGOs and other service providers to migrant workers to deliver such training. Resources to be tapped could come from the Foreign Worker Levy.

14. Given the major importance of occupational safety and health for workers, employers, and Singapore society as a whole, there is a need for compulsory orientation programs on occupational safety and health that involve training (and, as needed, refresher trainings) for migrant workers.

Terms and Conditions of Work, and Rights of Migrant Workers

15. Analysis by the participants at the National Consultation found that many migrant workers in Singapore are unaware of their rights and fearful about raising complaints or concerns about treatment accorded to them by unprincipled employers. There are concerns that workers also sometimes lack knowledge about protecting themselves, for example in areas of occupational safety and health, and ensuring they are treated in accordance with the national labour laws.

16. In addition to the post-arrival training for newly arrived migrant workers, a number of additional steps are recommended to address this situation. First of all, standard employment contracts should be developed by the MOM (in consultation with trade unions, employer groups, and NGOs) on a sector-by-sector basis, with the contracts taking into account the particular circumstances of each sector of work. All standard contracts must comply with all provisions of Singapore law. A standard Singapore contract issued by MOM should be signed by the migrant worker as a condition of admittance into the country to work, and only a standard Singapore contract should be considered as a valid hiring document.

17. Currently, all migrant domestic workers and non-domestic workers are covered under the Employment of Foreign Manpower Act and must fulfill various Work Permit conditions. We recommend the Singapore Government should extend the coverage of the Employment Act to include migrant domestic workers as “workers” for the purposes of the law so that they can enjoy all the provisions of that law, especially the requirement for one day of leave every week, public holidays, annual leave, and medical leave. Once this is done, a comprehensive education effort should also be undertaken through public relations – such as radio, TV, and newspapers – to ensure that employers understand and respect migrant domestic workers rights under the Act. Migrant domestic workers should also be covered under the Work Injury Compensation Act.

18. MOM should closely monitor employers’ procedures for payment of salaries to migrant workers and ensure that an actual wage slip is produced, showing information on all wages, hours of work, overtime, and deductions, and provided on no less than a monthly basis to each migrant worker. This wage slip should be printed on forms issued by the company that contains the name, logo, and business license number of the company.

19. We believe that migrant workers can play an important role in ensuring the protection of their own rights and compliance by employers with the national labour laws and regulations. For this reason, we recommend that the Government should amend the appropriate laws to allow registered migrant workers to have the right to form a registered society in Singapore, and to serve as leaders of such an organization. In this way, they can work closely with MOM and Government agencies, trade unions, civil society groups and other organizations to further promote the Government’s agenda of effective regulation of migrant workers. The Government should also immediately ratify ILO Convention no. 87 on Freedom of Association.

20. In line with the principle of national treatment, migrant workers should be permitted by the Government to peacefully exercise the right to freedom of expression without having to apply for a permit in advance.

21. Singapore is to be commended for its ratification of the UN Convention on the Elimination of Discrimination against Women (CEDAW). Women migrant workers are covered by this Convention, and in accordance with Article 11 (2) (a), Singapore should repeal discriminatory policies and regulations whereby migrant workers found to be pregnant are automatically deported. Instead, pregnant migrant workers should be given a choice to return to their home country or remain and receive maternity leave under the provisions of the Employment Act. Recognizing that most migrant

workers come to work, and that pregnancies may result from a lack of knowledge or services, Singapore should expand sex education programs provided to migrant workers.

22. In line with Article 16 of CEDAW, MOM should end discriminatory regulations which prohibit work permit holders from marrying while in Singapore. Similarly, MOM should eliminate the work permit condition on migrant domestic workers that provides for punishment, including blacklisting, for workers found to have taken actions under the vague category of “breaking up Singaporean families.” Where an investigation of allegation(s) against migrant workers is undertaken, especially when said investigation could result in the barring of the worker from future employment, there should be arrangements made to secure testimony from the worker and witnesses identified by the worker, thereby ensuring a fully fair and transparent investigation.

23. We believe that there is an important role for Singaporean civil society organizations to play in supporting migrant workers. Accordingly, there should be closer collaboration and coordination of efforts between trade unions and NGOs on behalf of migrant workers. A strong trade union/NGO network can serve as constructive partners with MOM, other Singaporean Government agencies, and representatives of the sending Governments who based at Embassies in Singapore.

Assistance to Migrant Workers

24. There are nearly 800,000 migrant workers holding work permits who reside in Singapore. The Government could play a bigger part in providing financial support (from the Foreign Worker Levy and other appropriate budget sources) for services to be provided to them. Such support could increase productivity, ensure better relations and closer integration between migrant workers and local communities, and assist Government officials providing help to migrants. For instance, among projects that should be considered for support should be creation and operation of shelters for migrant workers facing difficulties, counseling services, operation of helpdesks/hotlines, translation services, trainings, production of information materials, and support for social and recreational activities.

25. A collaborative Government/NGO phone helpline should be established which operates twenty-four hours a day, seven days a week. This helpline should be supplemented by innovative techniques to receive complaints, such as ability to receive SMS messaging from migrant workers. Appropriate translation services to receive phone calls, and referral systems to Government agencies and civil society groups will have to be developed to support this helpline service.

26. The Government should review existing standards for migrant worker housing and take all necessary steps to continue to improve efforts to enforce the laws and regulations concerning accommodation provided to migrant workers. Recognizing the special needs of migrant domestic workers, who are often vulnerable young women, there should also be set minimum standards for privacy (such as a room with a door than can locked from inside) and adequate personal space for a domestic worker’s living arrangement and storage of possessions.

27. Recognizing the importance of healthy workers to Singapore’s productivity, the Government should be praised for its institution of hospitalization insurance benefits for migrant workers. However, it is important that appropriate reviews of the policy be undertaken to assess the adequacy of the level of support provided. Furthermore, the Government should reinstate the entitlement of migrant workers to receive subsidized outpatient medical treatment.

28. Migrant workers who are diagnosed with a disease should be provided to access to basic medical

care and necessary social support and counseling. Treatment should be provided on a humanitarian basis, and laws and regulations which call for immediate and automatic deportation of a migrant worker on health grounds should be re-examined and revised in line with this principle.

Actions Against Human Trafficking

29. In accordance with the ASEAN Declaration Against Trafficking In Persons Particularly Women and Children, adopted by the leaders of the ASEAN Member Governments in Vientiane in 2004, Singapore should systematically screen undocumented migrant workers who are detained by the authorities to ascertain whether they are victims of human trafficking. In doing so, Singapore should use the international definition of human trafficking contained in the Protocol To Prevent, Suppress And Punish Trafficking In Persons, Especially Women And Children, Supplementing The United Nations Convention Against Transnational Organized Crime (the Palermo Protocol). Those migrants who are found to be victims of human trafficking should not be caned or jailed, but should be provided with support to services in line with international standards of protection for such victims.

Mechanisms and Avenues for Redress by Migrant Workers

30. MOM correctly encourages migrant workers to raise complaints and file cases when they receive treatment from their employer which is not in compliance with the labour laws. However, too often, unprincipled employers unilaterally cancel the work permits of a worker as soon as they learn that worker has filed a complaint to MOM. In order to ensure that migrant workers are not intimidated in this way and that MOM can receive accurate and timely information from migrant workers about employer's actions, the MOM should issue a regulation which prohibits unilateral cancellation of a worker's permit from the time a complaint from a migrant worker is formally received by MOM until the grievance is officially resolved. During the period of the dispute, the employer should be held responsible for providing financial support to the migrant worker for accommodation and meals

31. Migrant workers often turn to MOM for redress in cases of problems with their employers but they face difficulties in knowing when their complaint can be resolved. Therefore, in the interest of transparency, the MOM should issue guidelines, developed in coordination with trade unions and civil society, which set approximate time periods for resolving various types of complaints filed by migrant workers with MOM. For example, under this system, resolving a case of wage arrears might take approximately 30 days.

32. The Immigration and Checkpoint Authority (ICA) and MOM should be commended for operationalizing a Special Pass system and Temporary Job Scheme (TJS) that enables migrant workers to remain in Singapore while waiting for resolution of their disputes with employers. However, rather than limiting it to prosecution witnesses only, we recommend that the TJS system should be extended to cover all migrant workers who are seeking remedies in the complaint and resolution process at the MOM until their cases are resolved. MOM should also provide appropriate incentives to companies to join the TJS program, and consult with trade unions, employer federations, and civil society organizations to improve the efficacy of the TJS.

33. MOM should put in place a policy which requires advance notice to a migrant worker of not less than 14 working days before unilateral cancellation of the work permit by an employer. MOM should not allow terminations of work permits of migrant workers in retaliation against those workers using their rights to file grievances, or on other unlawful and unfair grounds.

34. Migrant workers who take their complaints to the Labour Courts often face a significant barrier in compelling employer compliance with Labour Court orders. It is not uncommon that a lawyer must be retained to ensure enforcement of the order, but such an expense is well beyond the reach of the average migrant worker. Accordingly, the Government should provide free legal support to migrant workers seeking to enforce Labour Court orders.

35. The Singapore Police Force should develop and issue guidelines in the handling of cases of physical abuse against migrant workers which includes receiving and reporting all cases at the time of the migrant worker's report to them. These guidelines should also set out processes for investigation and inter-agency coordination in the follow-up on the case. As a matter of practice, migrant workers should not be required to produce a medical certificate attesting to the abuse as a pre-condition for a statement to be taken by the police.

36. In order to support their citizens who are working in Singapore, all Embassies of labour-sending Governments should appoint a designated labour attaché and open a labour affairs office, and should ensure these labour offices are open and available for consultation and provision of services during the days that migrant workers have off from work (often on a weekend).

37. There is a relatively small group of actors involved in most of the legal cases concerning migrants, leading to overburdened service providers and frustrated migrant workers. The Law Society of Singapore should be allowed to extend their pro bono services to non-citizens. Furthermore, a joint strategy should be developed to support more legal training on migrant workers' legal matters for Government officers, NGOs and trade union representatives, which could also include greater support for paralegals willing to be involved in migrant worker cases.

Regional Recommendations

We make the following recommendations on regional issues to the Government of Singapore and ASEAN:

38. The Government of Singapore should actively pursue negotiations for bilateral agreements with major labour sending states whose nationals are coming to work in Singapore. These bilateral agreements should, among other things, set out limits for fees that can be charged to migrant workers by labour recruitment agencies in countries of origin that are sending workers to Singapore. Other topics to protect the rights of migrant workers should similarly be included, such as use of standard contracts, requirements for compliance with the national laws of the sending and receiving states, and other areas and procedures for cooperation between the Government of Singapore and the government of the labour-sending nation. Where standards covering employment can be agreed between Singapore and other Governments, possibilities for Government-to-Government recruiting mechanisms which eliminate private recruitment agencies should be explored. As part of these bilateral agreements, Singapore should expand its effective vocational and skills training programs for citizens of less developed ASEAN countries who are prepared to work in Singapore.

39. There should be a code of conduct promulgated by ASEAN that encourages ethical and transparent practices for labour recruitment agencies operating in ASEAN states. The code should outline expected standards in operations that protect and promote migrant worker rights, ensure transparency and accountability, and incorporate best practices. The code should be developed in a participatory manner by representatives of Governments, labour unions, employer federations, and NGOs, with the ASEAN Secretariat serving as the coordinator for this process. This code of conduct should be the first step in the development of a regional procedure for accreditation of labour recruitment agencies that can be implemented by ASEAN.

40. Singapore should work closely with ASEAN to develop an effective system of accreditation of skills and education, sector by sector, at the regional level. This work should begin with a Singapore-supported study of all aspects of developing such a regional skills and education accreditation system, done in close consultation with the ASEAN Secretariat, other ASEAN Member Governments, employers, trade unions and civil society organizations.

41. As an important step towards regional integration, ASEAN should develop an effective portable health and social insurance scheme for migrant workers originating from ASEAN nations which would ensure coverage for migrant workers across the region, no matter what country or sector the workers are engaged in. ASEAN should consider developing, in close consultation with its Member Governments, a regional migrant workers ID, which would have encoded on it the relevant biodata of the worker. At the appropriate time, this regional migrant worker ID could be linked to portable health and social insurance scheme.

42. The management of migration between sending and receiving states in ASEAN is a complicated and complex process. ASEAN should work with international organizations with technical expertise to support capacity building efforts for Governments, trade unions, NGOs, and other civil society groups so they can fully participate in efforts to protect and promote migrant workers' rights.

43. ASEAN should actively encourage all labour-sending states to develop and effectively implement pre-departure programs which educate workers about the laws, the regulations, the customs and culture, and other relevant information about the country to which those workers will be traveling to work. There should be special attention given to skills accreditation and ensuring OSH knowledge.

44. ASEAN should adopt a policy that holds as a central principle the inviolability of migrant workers' passports and other Government-issued documents which identifies them. Migrant workers should have the right to hold said documents at all times.

45. As a receiving state with significant interests in eradicating human trafficking, Singapore should work closely with its fellow ASEAN Member Governments to develop substantive regional efforts to combat human trafficking. The ASEAN Declaration Against Trafficking adopted in Vientiane in 2004 should serve as a starting point, but much more should be done to reach a common agreement on prevention, protection and prosecution efforts to counter human trafficking.

46. At the regional level, in line with the General Principle 2 of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, the practice of using corporeal punishment and jail terms against migrant workers who, through no fault of their own, have subsequently become undocumented should be brought to an end.

47. We support the regional civil society campaign for one-day off per week for domestic migrant workers, and believe that all ASEAN Member States should concur with this reasonable demand. Domestic work should be considered as work under the labour laws of all ASEAN countries.

48. The Government of Singapore should advocate for a regional wage determination process that ensure that sufficient wages are paid to migrant workers in all receiving countries to allow them to earn sufficient income to live and send remittances to their families. In payment of wages, there should be an insistence on the principle of "national treatment", meaning that migrant workers are paid no less than legal wages given to national workers.

49. There should be a Subcommittee on Migrant Workers established under the ASEAN Human Rights Body, with the Subcommittee empowered to conduct promotional human rights activities concerning migrant workers, receive complaints of rights violations, conduct research and investigations, and issue reports of its findings.

50. ASEAN should develop a supervisory body, composed of representatives from civil society organizations, trade unions, employers associations, and governments, which will play a leading role (under the umbrella of the ASEAN Secretariat) in ensuring effective implementation of regional standards included under the Instrument on the Protection and Promotion of the Rights of Migrant Workers which is developed by the ASEAN Committee on Migrant Workers (ACMW) and ultimately adopted by ASEAN. The Instrument which is concluded should be considered legally binding on all ASEAN states.

51. Singapore should play a leading role in encouraging the full participation of civil society and trade union representatives in person at ASEAN-level events related to migrant workers, such as the meetings of the ACMW.

52. Singapore should also support the request of the Task Force on ASEAN Migrant Workers to make a presentation to the upcoming ASEAN Senior Labour Officials Meeting to be held in Vientiane, Lao PDR, on May 12-14, 2009, at which time the Task Force will present civil society's proposal for a Framework Instrument on the Protection and Promotion of the Rights of Migrant Workers.

Done in Singapore on April 17, 2009