

Preventing Discrimination, Exploitation and Abuse of Women Migrant Workers

An Information Guide

**Booklet 4
Working and living abroad**

**Gender Promotion Programme
International Labour Office Geneva**

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Contents	Page
4.1. Aims and structure of the Guide	1
4.2. How to use the Guide	5
4.3. Women migrant workers in the destination country: why are they vulnerable	9
4.3.1. Types of discrimination, exploitation and abuse	19
4.3.2. The situation of different groups of women migrant workers in the destination countries	31
4.4. Preventing discrimination, exploitation and abuse of women migrant workers in the destination countries	37
4.4.1. What can destination country governments do	37
4.4.2. What can governments of sending countries do	57
4.4.3. What can workers' and employers' organizations, migrant associations and NGOs do	60
4.4.3.1. Workers' organizations	60
4.4.3.2. Employers' organizations	64
4.4.3.3. Migrant associations and other NGOs	66
4.4.4. What can migrant women themselves do	70
References and additional readings	75
Useful websites	81
Endnotes	87
Power point presentation	93

4.1. Aims and structure of the Guide

This Information Guide is intended:

- **To enhance knowledge and understanding of the vulnerability of migrant workers, especially women, to discrimination, exploitation and abuse throughout all stages of the international labour migration process, including being trafficked;**
- **To promote and improve legislation, policies and action to prevent such discrimination, exploitation and abuse and to better protect those women migrant workers who are vulnerable; and**
- **To emphasize and explain why and how the prevention of discrimination, exploitation and abuse, including trafficking, of migrant workers should be addressed within a framework aimed at promoting regulated and orderly labour migration and as a matter of:**
 - ☑ **Upholding basic human rights, including labour rights and migrant rights;**
 - ☑ **Promoting gender equality and ending all forms of discrimination, racism and xenophobia;**
 - ☑ **Promoting decent and productive work for all workers, women and men, in conditions of freedom, equity, security and human dignity; and**
 - ☑ **Eradicating poverty and social exclusion.**

Box 4.1. Focus on women from a rights-based, gender perspective

Although the focus is on women (and girls), the Information Guide is not women-exclusive. It adopts a rights-based, gender-sensitive perspective that:

- Recognizes the similarities and differences in the migration experiences of different categories of women *and* men in relation to vulnerabilities, violations and consequences;
- Relates these differences in migration experiences to gender -- by distinguishing the biological ("sex") from the socially determined ("gender") differences between women and men. Links differences in migration experiences to the different roles, attributes and behaviour that society deems socially appropriate for women and men, and to the division of labour, access to and control over resources and decision-making and constraints, opportunities and needs facing women and men;
- Addresses the differential and often discriminatory impacts of legislation, policies and programmes on different groups of women and men;
- Considers the interaction between gender and other social categories, such as national origin, class, ethnicity and age;
- Gives particular attention to the especially vulnerable groups of women or men;
- Approaches the issues of women migrant workers not merely from the perspective of moving, working and living in foreign countries but also from the perspective of their generally less valued socio-economic roles and disadvantaged position vis-à-vis men;
- Emphasizes the need for policies that not only address the supply of and demand for migrant workers but also address gender discrimination and inequalities;
- Holds that the elimination of gender inequality and discrimination is a human right and core to efforts to address the problems of women migrant workers;
- Aims to empower, not just to protect, women (and, where appropriate, men), so that they can claim their rights and make informed decisions about their lives.

The Guide shows that changing labour markets with globalization have increased both opportunities and pressures for women to migrate.

For many women, as for men, migration represents a positive experience and can have important emancipating and empowering impacts. But the focus of the Guide is on those women migrant workers who are especially vulnerable to discrimination, exploitation and abuse, including trafficking.

Women are migrating for employment on almost the same scale as men, accounting for about half of the total migrants worldwide. For many women, as for men, migration is a positive experience, leading to a better life and improvement of their economic and social position. The labour migration process can enhance their earning opportunities, autonomy and empowerment and, thereby, change gender roles and responsibilities and contribute to gender equality. Women migrants are able to achieve their goals and may gain comparatively more than male migrants, not so much in terms of income, but in status and position back home. Although they may earn less than male migrants and they usually work in non-regulated sectors of the labour market, they are often able to improve the economic position of their family and their own status, independence and decision-making power within the family. They may also be able to have a better chance in the local labour market upon return and to earn money to start their own business.

But migration for employment can also expose women to serious violation of their human

The concern is that the overall feminization of international migration is likely to continue and that the vulnerability of women migrants to discrimination, exploitation and abuse is also likely to increase.

rights, including their labour rights. Whether in the recruitment stage, the journey across national borders, transit or living and working in another country, women migrant workers, especially those in irregular situations, are vulnerable. They are exposed to harassment, intimidation or threats to themselves and their families, economic and sexual exploitation, racial discrimination and xenophobia, poor working conditions, increased health risks and other forms of abuse, including trafficking into forced labour, debt bondage, involuntary servitude and situations of captivity. The concern is that the overall feminization of international migration is likely to continue and that the vulnerability of women migrants to discrimination, exploitation and abuse is also likely to increase – because of hardened attitudes towards migrants in general ¹ and because gender-based attitudes and perceptions continue to be slow in changing. Gender inequalities persist and labour markets remain highly segmented and segregated in both origin and destination countries.

Women migrant workers, whether documented or undocumented,

Gender-based discrimination intersects with discrimination based on other forms of “otherness”.

are much more vulnerable to discrimination, exploitation and abuse – relative not only to male migrants but also to native-born women. Women and girls are also more at risk than men and boys to trafficking. Gender-based discrimination intersects with discrimination based on other forms of “otherness” – such as non-national/foreigner status, race, ethnicity, religion, economic status – placing women

in situations of double, triple or even fourfold discrimination, disadvantage, marginalization and/or vulnerability.

Although the focus is on women migrant workers, many of the concerns and issues raised, analysis and guidelines provided cut across gender and, sometimes, age. Therefore, this Information Guide could be relevant for all individual migrants, women and men, so that they can better understand the risks involved in labour migration, know their rights and are better able to protect themselves. The Guide also shows why among children, girls are often more vulnerable than boys to exploitation and abuse. However, the greater vulnerability of children to exploitation and abuse and the particular physical, psychological and psychosocial harm suffered by trafficked children require that they be dealt with separately. This Guide does not deal with children-specific solutions, which should also be specific for girls and for boys.²

The Guide comprises six booklets which are inter-related but which can be used separately. Booklet 1 provides a general introduction of the dynamics of female labour migration. Booklets 2 to 5 cover the different stages of the migration process and the corresponding activities, policies and practices of other actors – the government, business, the private sector, civil society groups and families -- that affect the mobility and employment of women and men within and outside their countries of origin. Booklet 6 focuses on the trafficking of human beings, particularly women and girls.

Booklet 1 *Introduction: Why the focus on women international migrant workers*

Highlights the vulnerability of women migrant workers to discrimination, exploitation and abuse in the different stages of the migration process. The labour market situations women migrant workers go into put them at greater risk to human rights violations, compared to male migrants and local women. To protect women migrant workers, the Booklet introduces a multidisciplinary and comprehensive framework – addressing both demand and supply factors, and incorporating the promotion of human rights, gender equality, decent work and poverty reduction; and involving a wide range of social actors in legal and policy instruments and practical action at international, regional, national and community levels.

Booklet 2 *Decision-making and preparing for employment abroad*

Describes the process of decision-making and preparation for moving to and working in a foreign country. It highlights the kinds of accurate and realistic information and assistance services that potential migrants should have to properly decide on employment abroad. It also identifies other actors in the decision-making process, in particular the families of the women, and emphasizes the need to reach out to and sensitize these other actors. For those who make the decision to become labour migrants, the Booklet describes the information that would help steer them safely through the recruitment and journey

process, including information on their legal rights and obligations and how to claim their rights and what to do in crisis situations. It also stresses the importance of measures to ensure that migrant workers have access to social protection.

Booklet 3 *Recruitment and the journey for employment abroad*

Distinguishes the different modes of recruitment and emphasizes that fraudulent and exploitative practices are very common in the recruitment stage. It defines illegal recruitment and draws attention to the various dangers and risks women can face in the recruitment process. Trafficking is one form of illegal recruitment. It describes what governments, the social actors and migrants themselves can do to prevent these malpractices.

Booklet 4 *Working and living abroad*

Raises awareness of the working and living conditions of women migrants in the destination countries, and provides guidelines on how to improve their situation and especially to prevent and redress cases of violation of their basic rights and to also ease their adjustment and integration. It shows that where women migrant workers are organized and have networks of information and social support, exploitation is much less likely to occur. The focus is on migrant domestic workers who are among the most vulnerable to exploitation and abuse and because domestic work is the single largest employment category for women migrants.

Booklet 5 *Back home: return and reintegration*

Illustrates the specific problems faced by women migrants returning to their home countries and families. It identifies the kinds of supports – logistical, legal, socio-psychological, employment, skills related and financial -- they need to enable them to achieve successful reintegration and avoid re-migration or being re-trafficked. It emphasizes opportunities for remunerative employment as key to successful reintegration.

Booklet 6 *Trafficking of women and girls*

Focuses on a global problem of growing concern: trafficking in persons, especially women and girls. It identifies the supply-side and demand-side causes, describes the mechanics of trafficking and explains why women and girls are more vulnerable to becoming victims. It points out that trafficking in human beings is, first and foremost, a violation of human rights; it should not be dealt with merely from the perspective of fighting illegal migration nor protecting national interests. A wide range of actors need to tackle the entire cycle of trafficking through policy, action and cooperation at different levels for the prevention of trafficking, support for and protection of victims and prosecution of traffickers.

4.2. How to use the Guide

The booklets of the Guide are intended as an **information/reference source for a wide and varied audience:**

- The main target audience are advocates and activists, policy makers and implementers concerned with migration issues and women workers' rights in origin, transit and destination countries. They include government officials responsible for the administration of justice, the judiciary and service providers -- such as migration officers, embassy personnel, labour attachés, labour inspection officials, police and law enforcement personnel, judges, prosecutors, equality officers, social and public health workers and officials from women's bureaus and ministries of labour, justice and immigration/emigration;
- The Guide is also more broadly addressed to workers' and employers' organizations, associations of migrant workers (including associations of domestic workers), public and private recruitment and employment agencies, as well as non-governmental organizations (NGOs), community-based organizations (CBOs) and other civil society groups concerned with human rights;
- The information in the Guide is clearly very useful for individual migrants, both women and men. However, the Guide is written for the use of actors who directly address individual migrants; for example trade unions, government agencies or NGOs to raise awareness among potential migrants or to conduct pre-departure orientation for migrants. As such, they may need to adapt the materials or simplify the language and presentation style to suit the migrant audience.

Individual and institutional users will have to select one or more particular booklets and utilize, adjust and adapt the materials according to their specific national and socio-cultural contexts, needs and purposes. To assist users, the information is structured in as "user-friendly" a format as possible. Different symbols, fonts and colours depict different types of information. At the end of each booklet, notes, a bibliography and useful websites are provided for readers interested in more detailed or additional explanations and reference materials.³ A Power Point presentation highlights/ summarizes the main points covered in the booklet. Cross-references are provided where there are areas of overlap in the different booklets or where issues are dealt with in more than one section or booklet. Important information is repeated, so that each booklet is as complete as possible.

The examples given of both "good" and "bad" practices are not intended to single out individual countries. They reflect the availability of information (which also helps to explain why there appears to be more examples from the Asia Pacific region). Although the countries from which the examples are drawn are indicated, the "good" or "bad" practices are not necessarily specific only to these countries.

The Information Guide can flexibly be used for:

- **Awareness raising or sensitisation:** To improve knowledge and understanding of the vulnerabilities faced by migrant workers to discrimination, exploitation and abuse, including trafficking, and the challenges confronting government, workers' and employers' organizations, NGOs and other civil society actors in addressing these vulnerabilities, protecting human rights and promoting decent work for migrant workers, in particular for women migrant workers. Access to such information may empower the women to increase their self-esteem and build confidence to defend their rights as women, as migrants and as workers.
- **Advocacy and publicity:** The Guide intends to place the discrimination, exploitation and abuse that women migrant workers experience on the "radar screen" of the international human rights, development and donor communities. Government agencies, NGOs and other social actors may also use the Guide for media campaigns, community mobilization and outreach to inform or educate the general public and other concerned actors, including migrant women and men themselves, about the role they can play and the possible measures they can take to protect vulnerable women migrant workers and to improve the situation of migrants of both sexes in general.
- **Tool for action:** The Guide indicates the normative framework that could be used for addressing discrimination, exploitation and abuse of women migrant workers. Law and policy makers can refer to relevant international and regional standards and some national examples to adopt a rights-based approach and to formulate or review legislation. The Guide also presents guidelines, checklists and practical examples for action. Users can learn from the experiences of actors in countries of origin, transit and destination and may be better aware of what might be possible or effective for assisting vulnerable women in the migration process. However, since the circumstances vary from one country to another, the information is not intended to represent "best" or "good" practices that should be adopted in all situations or be used in any definite manner.
- **Training and educational purposes:** The information in the booklets may serve as background material in training seminars (such as for migration officers, labour attachés, law enforcement officers and employment agents), topics to include in school curricula or general education programmes targeting potential female migrants, and, importantly, in preparation courses for migrants before they go abroad.
- **Networking tool:** The Guide offers ideas for improving networking and collaboration between and amongst government and social actors, trade unions, NGOs and employment agencies; for generating discussion and stimulating action amongst various stakeholders; and building alliances between various organizations and individual migrant women within and between countries of origin, transit and destination.

To assist users of the Guide, the information is organized in different ways:

-  Aims of the different booklets and sections of the Information Guide
-  *Text box in coloured italics, main themes and highlights of different sections of the Information Guide*
-  *Text box in bold italics, international instruments*
-  Coloured text box, important explanations or examples of policies or action
-  **Key points to bear in mind**
-  *Elaboration/details of key points, checklists or guidelines*
-  *Good practices*
-  *Bad practices*
-  *Lessons learned*
-  Refer to, cross-references

4.3. Women migrant workers in the destination country: why are they vulnerable

The experience of working and living in a foreign country can be a liberating and empowering one for women. And many women – and their families and societies – benefit overall from the experience [👁️ **Boxes 4.2, 4.3 and also Box 2.6 in Booklet 2**].

However, employment in a foreign country can also be fraught with risks and dangers. In the destination country, women migrants, like men migrants, are vulnerable in so far as they are outside the jurisdiction and protection of the laws of their own country and are not entitled to the full range of protection and benefits of the destination country. Especially in situations of rising unemployment, economic difficulties and terrorist threats, xenophobia and racism have been on the rise and there has been a hardening of attitudes towards migrants in general. But women migrant workers tend to be at greater risk to discrimination, exploitation, abuse and forced labour than men migrant workers – importantly because the labour market in the destination country reproduces the gender division of labour and inequalities of their home country.

Box 4.2. The benefits of employment abroad: The individual experience

A survey of migrant domestic workers in the United Arab Emirates (UAE) addressed both the advantages and disadvantages of their employment, so as to obtain a more accurate portrayal of their situation. Those interviewed noted the benefits of their employment as: “Generosity is a strong social value in the UAE. Among other things, UAE employers give tips to their employees during holidays and social events. They also buy them gold and give them money at that end of the contract to buy gifts and electronic devices for their families back home. UAE employers also take up foreign female domestic workers’ shipping expenses for purchased goods and extra luggage. The pay from their contracts enables some foreign female domestic workers to buy land, a house or even more. An Indian woman actually bought a house in India and rented a rice plantation for ten years as an investment. Being a foreign female domestic worker in the UAE gives one a chance to travel and see the world because UAE citizens travel every summer. More than one foreign female domestic worker mentioned travelling as one of the benefits they obtained in migrating to the UAE. Foreign female domestic workers in the UAE have recently obtained a new benefit, introduced with the Indonesian wave of foreign female domestic workers in the UAE: the possibility of making a pilgrimage to Mecca. For a Muslim foreign female domestic worker, this is often the realization of a lifetime dream. [...]

Earning a wage that is at least three or four times more than what they would earn in their home country, getting free accommodation, food and extra benefits are all factors that make migration to the UAE appealing to many foreign female domestic workers, especially women who live in extreme poverty back home [...]

Extra benefits are not the whole story about employment [...] There is, in fact, a probability that some foreign female domestic workers, embarking upon migration to the UAE will be sexually abused, hit, beaten, humiliated, etc. during the course of their employment.”

Source: R. Sabban, *United Arab Emirates: Migrant Women in the United Arab Emirates the Case of Female Domestic Workers* (Geneva, ILO GENPROM Series on Women and Migration, 2002), p.26.

Box 4.3. The benefits of employment abroad: the economic contributions

Despite the difficulties and constraints, migration offers women new opportunities and financial independence in addition to improved status within the home and community. Over and above, female migrant workers are major contributors to their home country's economy through their remittances. In Sri Lanka, they contributed over 62% of the total private remittances in 1999 accounting for more than 50% of the trade balance. In the Philippines, they contributed US \$6.2 billion total remittances in 2001. At another level, Moroccan women in Italy have forged effective informal trade links between their home and host countries. Women migrants are becoming agents of change.

Source: International Organization for Migration, *World Migration 2003: Managing Migration Challenges and Responses for People on the Move* (Volume 2: IOM Migration Report Series, Geneva) p. 7.



In the countries of destination, women migrant workers are often in situations of double, triple or even fourfold discrimination, disadvantage, marginalization or vulnerability - as foreigners relative to nationals, as women relative to men, as having characteristics such as language, culture, ethnicity or religion different from those of nationals and, importantly, because of the kinds of jobs that women migrant workers go into

[👁 Section 1.3.4 in Booklet 1]. The specific reasons for their vulnerability include:

- ☑ *The persistence of gender stereotypes and occupational segregation in the labour market;*
- ☑ *The lack of labour and social protection;*
- ☑ *Discriminatory immigration policies;*
- ☑ *Legal illiteracy and fear of the authorities;*
- ☑ *Dependent employment relationship;*
- ☑ *Individualized and isolated work environments;*
- ☑ *Lack of organization and representation;*
- ☑ *Xenophobia and stigmatisation.*

- ☑ *The persistence of gender stereotypes and occupational segregation in the labour market:*

Where women in general face discriminatory attitudes in the destination country, then migrant women tend to face double or even treble disadvantage or discrimination

Where women in general face discriminatory attitudes in the destination country, then migrant women tend to face double or even treble disadvantage or discrimination. Pre-existing gender discrimination only exacerbates the weak position of migrant women. Whereas men migrate for a variety of jobs ranging from low to high-skilled jobs, the jobs that women migrant workers go into tend to be extensions of the female traditional role of care giving and housework.

Women migrants are concentrated in a limited number of occupations that are female-dominated, such as domestic workers, “au pairs”, restaurant and hotel staff, cleaners, sales girls, entertainers, sex workers, sales girls, manual workers in labour-intensive manufacturing in small factories and sweatshops and trainees or “technical interns” in larger, multinational factories. In fact, women migrant workers may face little or no competition in the labour market of the destination country since nationals do not want these jobs. The demand for women migrant workers, in particular those going into domestic service, is often high and sustained, since they represent a form of “replacement mobility” for female nationals who are freed from their household and care responsibilities to take up other – better – positions in the labour market. Although there are middle-level professionals such as nurses and teachers, the majority of women migrant workers are in the “3-D jobs” (dirty, difficult and demeaning jobs):

“If migrants are concentrated in SALEP-jobs (Shunned by all Nationals except the Very Poorest), migrant women are concentrated in the most vulnerable of these jobs”.⁴

“Domestic work is work that is generally disregarded and considered insignificant. It is work of this nature that is generally given to migrants in European society. Employers are able to externalise the identity of a migrant domestic worker, being able to impose a range of essentially degrading tasks, which they would find more awkward to give to a national with whom they hold a stronger identity”.⁵

☑ **Lack of labour or social protection:**

A very important reason for their vulnerability is that the jobs that women migrant

A very important reason for their vulnerability is that the jobs that women migrant workers go into are mainly in the informal economy and are not covered or only partially covered by the labour legislation and social security and welfare provisions of the country of destination.

workers go into are mainly in the informal economy and are not covered or only partially covered by the labour legislation and social security and welfare provisions of the country of destination. For example, as illustrated in **Box 4.4**, domestic work is often specifically excluded from the country’s labour code.⁶ The employment relationship is therefore strictly a private matter between the migrant workers and their employers and/or the agents - and the women migrant workers are normally not able to negotiate or bargain their terms and conditions of employment. The relationship of power may show a very particular gender dimension – in Costa Rica, for example, most of the employers are women who practice discrimination against the migrant women.⁷ The women migrant workers are often not legally entitled to the standards and protection afforded to nationals or even to other migrant workers; their situation is not monitored by the labour inspection authorities and they do not have access to the labour courts. This exclusion helps to account for the poor working conditions of women migrant workers: “The most serious issue relating to the legal and contextual presence of foreign female domestic workers [...] is the fact that they do not fall under labour laws and regulations [...] The immediate implication of such a regulation is the denial of such rights as limited working hours, weekly or yearly

holidays, and end-of-work compensation. The only regulation foreign female domestic workers fall under is the immigration law, which considers them more from a State-controlled perspective, a security perspective than from a developmental or human perspective.”⁸

Box 4.4. National legislation excluding domestic workers from its application

Costa Rica: While an employer under the Labour Code shall not require an employee to work for more than 40 hours a week, he/she is allowed to require a 12-hour working day of a domestic helper, and 4 additional daily working hours if considered necessary.

Croatia: Safety and Health Protection at the Workplace Act, 1996 states: “the provisions of this Act do not apply to domestic servants.

Grenada: The Employment Act of 1999 specifies that while an agricultural worker, construction worker or industrial worker should not work more than 40 hours a week, a domestic workers is by law required to work a 60-hour working week.

Japan: Labour Standards Law, 1995 stipulates: This Law applies to the enterprises and places of business listed in each of the items below; provided, however, that it does not apply to any enterprise or place of business employing only relatives living with the employer as family members nor to domestic employees”.

Jordan: The Labour Code 1996 states “the provisions of this Code shall apply to all workers and employers, except domestic servants, gardeners, cooks and the like.

Korea: The Labour Standards Act, 1997 states: “This Act shall not apply to any business or workplace which employs only relatives living together, and to a worker who is hired for domestic work.

Malaysia: The Employment Act, 1955 stipulates that the provisions on Rest Days, Hours of Work, Holidays and other Conditions of Service are not applicable to persons engaged as domestic servants.

Norway: Working Environment Act, 1977 specifies: “The Crown shall decide whether and to what extent this Act shall be applicable to work performed in the employee’s home. The Crown may further decide that the rules of this Act shall apply, wholly or in part, to workers who carry out domestic work, care or nursing in the home or household of private employers, and may in this connection stipulate particular regulations for such employees”.

Qatar: The Labour Act, 1962 states: “The provisions of this Act do not apply to persons employed as domestic help in private homes such as drivers, governesses, cooks, gardeners and similar workers.

Sudan: The Labour Code, 1997 cites: “domestic workers shall be excluded from the application of the provisions of this Code”.

United States of America: The National Labour Relations Act cites that “the term employee shall not include any individual employed as an agricultural worker, or in the domestic service of any family or person at his home”.

Source: J.M. Ramirez-Machado, *Domestic Work, Conditions of Work and Employment: A Legal Perspective* (Geneva, ILO Conditions of Work Branch, 2000, unpublished document).

☑ ***Discriminatory immigration policies:***

The terms of their entry, residence and employment are often such as to ensure that they represent a cheap, regulated and temporary work force.

The immigration rules of the labour importing country can, either overtly or covertly, be biased against female migrants in a number of ways:

- Women may be allowed entry as autonomous labour migrants only for certain categories of jobs, viz. those at the bottom end of job hierarchy. The terms of their entry, residence and employment are often such as to ensure that they represent a cheap, regulated and temporary work force;
- Migrant workers may not be allowed to change employers or to change type of employment. The “one-employer” rule means that a migrant worker is deterred from seeking redress for abuses for fear of losing her job and being deported. The ruling that migrant workers cannot change type of employment means that a university graduate working as a domestic maid or an entertainer cannot take up another occupation that would make more appropriate use of her education or skills, even if there is a job opening;
- The imposition of levies or security bonds on employers hiring women migrant workers, in particular migrant domestic workers. The aim of the levy is supposedly to reduce the employer’s demand for blue-collar or unskilled workers or to wean them from using such labour. The aim of the security bond is to serve as a deterrent so that the migrant workers do not abscond on their employment contracts. However, such monetary requirements, especially if the sums fixed are very high, can have the effect of prompting employers to reduce the wages of the migrant domestic workers to recover the cost of the levy and to restrict their freedom of movement to ensure that they do not forfeit the security bond;
- Women migrant workers may have to undergo compulsory periodic medical examinations, including tests for pregnancy, sexually transmitted diseases and HIV / AIDS. The majority of migrants are not even aware that their blood samples are taken for HIV / AIDS testing. If a migrant worker is tested positive for one of the many infectious diseases identified by the government, including HIV / AIDS, or is found to be pregnant, she is deported immediately⁹;
- Women who have been trafficked are often treated as “illegal migrants” and dealt with as criminals rather than as victims of a crime committed against them [👁️ **Booklet 6**];
- There is often no functional legal complaints mechanism available to migrant workers who have suffered exploitation or abuse.

☑ ***Legal illiteracy and fear of the authorities:***

Even when women migrant workers are subject to exploitation, most refrain from filing legal complaints because of their lack of knowledge of the legal system of the country of destination. Because of their lack of access to information, many women migrants do not know their legal rights, do not know where they can go for

help and do not know how to go through a legal process of seeking redress. Many do not trust the authorities in the destination country and, in fact, are afraid that if they file complaints against their employer they will be deported. Of course, if they have irregular migration status, they are even more likely to want to avoid the authorities.

☑ **Dependent employment relationship:**

They are almost completely dependent on the employer, who may take advantage of their dependence to treat them as a docile workforce and to exploit them.

The nature of the employment of women migrant workers, in particular those in domestic work, is normally regulated by a relationship heavily in favour of the employer. Hence, they are almost completely dependent on the employer, who may take advantage of their dependence to treat them as a docile workforce and to exploit them. The employer may also rationalize the employment of women migrants as a favour to the migrants; this can offset the normal standards of treatment of employees: “Several countries’ administrations have effectively created a labour market where they are captive: domestics can work and live in private households but have to leave the country if their relationship with the employer becomes untenable”.¹⁰ The migrant domestic worker is almost totally dependent on the employer for job, accommodation, food and protection – for her very survival [👁️ **Boxes 4.5 and 4.6**]. The relationship is a very unequal one for the women migrant domestic workers because:

- They may be in debt to the employer;
- Their wages may have been withheld;
- Their stay in the receiving country is dependent on the visa sponsorship of the employer [👁️ **Box 4.6**];
- Their passport or travel documents are held by the employer;
- They live-in with the employer and his/her family;
- They may be unable to communicate effectively in the language of the country of destination;
- They may not be allowed under the law to change employers;
- They fear being reported to the authorities especially if they are undocumented migrants.

Box 4.5. The dependent relationship

Usually, foreign women working as housekeepers in Italy live with the “family-employer”. This implies that the same person provides migrant women with all they need to legally reside and to “survive” in Italy: job, housing, food and protection. In addition, the family-employer is frequently the only link these women have with the Italian society, as the employer takes care of preparing documents required for regular status, and deals with all other bureaucratic procedures pertaining to social and civil rights (medical service card, enrolment at the Employment Office, etc.). This situation is unfortunate in that the women rely on the family-employer for handling all matters “outside”. If all roles played by the family (employer, housing, etc.) are regarded together, it becomes evident that this situation of profound dependence deprives migrant women of any power of negotiation and makes them dependent and extremely vulnerable to threats and pressure. Consequently, migrant women often accept unplanned over-time work and activities not implied in their duties; moreover, aware that in case of conflict with the family-employer, they would lose salary, shelter and all they have in Italy, they are unable to react against breaches of their rights and severe abuse, such as sexual harassment. So, aggressions and other ill treatment are more common than believed.

Source: G. D’Alconzo, S. La Rocca and E. Marioni, *Italy: Good Practices to Prevent Women Migrant Workers from Going into Exploitative Forms of Labour* (Geneva, ILO GENPROM Series on Women and Migration, 2002), p.12

Box 4.6. The “kafala” or sponsorship system

The “kafala” or sponsorship system in the Oil States is one of the most peculiar systems developed affecting migrant labour. In the United Arab Emirates, as well as other oil monarchies, the laws requires that each foreign labourer has a sponsor, *kafil*, holding citizenship of that State. This system extends to business and all economic and merchant activities, and has become an opportunity for nationals to make easy money out of providing sponsorship to businesses and foreign workers. It has encouraged the economic non-productivity of the local population and increased the class gap between nationals and expatriates. It has also led to attitudes of “insiders vs. outsiders”, “dogs vs. watchdogs”, “workers vs. policy makers”.

Under the “kafala” system, foreign female domestic workers are at the mercy of their sponsors. Legally, once a foreign female domestic worker enters her employer’s house, she is totally under his/her control, since the employer is usually her visa sponsor. The employer bears total responsibility for his/her domestic workers. He/she holds the foreign female domestic worker’s passport and all official papers until the day of departure. During the first three or four months of the contract, both the employer and the employee have the right to report problems to the recruiting agency or to seek changes in the status or employment of the foreign female domestic worker. The laws governing the status of domestic workers and the practices towards foreign female domestic workers in the United Arab Emirates enslave them to their employers until the duration of their contract ends.

Source: R. Sabban, *United Arab Emirates: Migrant Women in the United Arab Emirates the Case of Female Domestic Workers* (Geneva, ILO GENPROM Series on Women and Migration, 2002), pp.35-36.

☑ ***Individualized and isolated work situations:***

Migrant women are further vulnerable because they are often engaged in individualized labour in isolated work environments. Their workplaces, in particular other people's homes, brothels, small factories and sweatshops, are away from the public eye and therefore from official monitoring or inspection.

Some of the migrant domestic workers are not allowed to use the telephone or to contact friends. They are sometimes not allowed to write letters home or their letters are censored by the employer. Many do not have any days off work to meet other migrant workers. Therefore, there are limited opportunities to build networks of information and social support. They tend to be socially and culturally cut off from support structures. Their contact is severely restricted with people other than the employer and his/her family.

☑ ***Lack of organization and representation:***

An important reason for the vulnerability of women migrant workers is that they are in sectors where workers are normally not organized and therefore have little or no bargaining power or representation vis-à-vis employers or the public authorities. Only two countries in Asia (Hong Kong and Japan) have legally registered independent migrant trade unions. In some countries, migrant workers in domestic service are specifically barred from joining trade unions. In Malaysia, for example, while migrant workers in other sectors are allowed to join unions (although they are not allowed to hold union posts), migrant domestic workers do not have such rights. They are not even allowed to join social clubs. In addition to their employment contracts, women migrant workers are made by their employment agencies to sign a statement of undertaking that stipulates among other things that they "will not make any arrangement to form a social club or to participate in any activities of such club established in this country".¹¹ In many parts of Europe, the United States and Latin America the situation is slightly different. A growing number of trade unions have inclusive policies and migrant workers have also been able to establish their own networks and organizations.¹²

☑ ***Xenophobia and stigmatisation:***

Women migrant workers are vulnerable not only because they are foreigners and female but also because their work often is viewed by nationals as demeaning. **Box 4.7** illustrates some of the prejudiced and negative attitudes that nationals have of women migrant workers. These xenophobic attitudes especially when coupled with traditional gender biases represent an important explanation for the frequency and severity of discrimination and abuse cases.

"By and large migrant workers are seen as labourers or economic entities and not as social entities or as individuals who have rights. As such, they are not deemed deserving of the same respect and consideration given other human beings".¹³

"Xenophobia...leads many in receiving countries to view migrant women workers as aliens: as inferiors – culturally and socially; as a potential threat to stability; as 'fair game', especially if they are women; without rights, or an

ability to obtain redress; with ignorance – about the worker’s culture; as people apart – isolated by language and culture, segregated because of differences which increase a sense of threat; as commodities and therefore subject to different standards of treatment in general – there is widespread reporting of migrant workers being ill-treated, starved, locked up and so on; because of different ways of relating to women arising out of religion and culture – making female workers more vulnerable to exploitation and sexual abuse”.¹⁴

Box 4.7. Xenophobic perceptions of women migrant workers

United Arab Emirates: The argument that foreign domestic workers were a threat to UAE society was brought up by some researchers and sociologists. They argued that domestic workers had a negative influence on the upbringing of children, on local traditions, culture and language. The Dubai police also said that domestic workers were found to be responsible for 60 per cent of family related crimes. Dubai’s top policeman even claimed that foreign domestic workers were responsible for everything from teaching children bad behaviour to the mistreatment of children.

Source: *Asian Migrant Yearbook 2000 Migration Facts, Analysis and Issues in 1999*, p.192.

United States of America: Until recently, the rhetoric surrounding immigration has emphasized the charge that male migrant labourers steal jobs from “native” workers. This concern has now changed by the rhetoric that immigrants impose a heavy welfare burden. This new emphasis signals an implicit shift in the main target of anti-immigrant attacks. Men as job stealers are no longer seen as the major problem. Instead, immigrant women who are perceived as idle, welfare dependent mothers are seen as the menace.

Source: Chang, Grace *Disposable Domesticity* (Southend Press, Boston 2000)

<http://www.southendpress.org/books/disposableexc.shtml>

Singapore: There is great concern over the insidious influence that foreign maids might have on values transferred to the young. Nationals point repeatedly to the way in which the foreign maids spend their days off congregating in specific areas, depending on their nationality: “.. you see what happens is that [in] one place [Zhujiu Market], you have all these girls [Indian and Sri Lankan maids] and then there are also many labourers, these are all guys. It is quite natural because both sides are alone and want to be friendly... But the density of population [leaves much to be desired]... you are rubbing against each other.. sometimes they break out in fights, especially the girls over boys and things like that.....”

Source: *Asian Migrant Yearbook 2000 Migration Facts, Analysis and Issues in 1999*, p.223.

Malaysia: A survey of media articles, opinion polls and letters written by readers between September 1997 to September 1998 found the following main views:

- *Maids take advantage of the employers by running away at the first opportunity:* Domestic workers are lazy and do not want to work and run away the first chance they get. The employer is portrayed as a victim of the untrustworthiness of the domestic workers;
- *Gender: Maids have lots of boyfriends, sleep around/are diseased:* This perception is often used to justify abuse, confinement of the domestic maids and invasive medical testing for STDs, HIV / AIDS and pregnancy;
- *Gender: Foreign domestic maids steal the husbands:* This perception is related to the notion that the migrant women are promiscuous and flirtatious;
- *Xenophobia: The foreign worker’s culture is inferior to Malaysian culture and her influence will corrupt the family:* Employers fear that their children will pick up aspects of another culture and that this may lead to a rift between children and parents.

Source: Women’s Aid Organisation (WAO), *WAO’s Response to the Abuse of Foreign Domestic Workers (FDWs) in Malaysia*. (Petaling Jaya Malaysia, WAO, August 2001), pp. 15-16.



For women who are undocumented migrants, who have been trafficked and/or who are in prostitution, the vulnerability to all forms of forced labour and slavery is especially great [👁️ Booklet 6] because:

- They are at the mercy of their agents, employers or traffickers;
- Prostitution may be illegal in the country of destination;
- They are treated as contravening the laws of the destination country and are often dealt with as criminals rather than for an immigration offence;
- Many countries do not have legislation that would allow the perpetrators to be prosecuted directly for the crime of trafficking or to protect the victims;
- They are denied the right of access to justice;
- Even those who enter a country on a legal contractual basis could end up viewed as “illegal” by the destination country for reasons beyond the woman’s control. An example is when a woman migrant worker runs away from an abusive employer but the regulations do not allow her to change employers.

“The worker, in an irregular situation, has limited access to recourse, giving an employer the opportunity to withhold pay, of maltreatment, easy dismissal and denial of basic working rights”.¹⁵

4.3.1. Types of discrimination, exploitation and abuse



The main forms of discrimination, exploitation and abuse that women migrant workers may face in the destination countries are:

- ☑ *Violation of employment contract, or no contracts;*
- ☑ *Poor working and living conditions;*
- ☑ *Limited freedom of movement;*
- ☑ *Harassment and violence;*
- ☑ *Health and safety risks and lack of social protection;*
- ☑ *Forced labour and debt bondage.*

☑ **Violation of employment contracts:**

The *ILO Migration for Employment Convention, 1949 (No.97)* addresses the issue of employment contracts:

Migration for Employment Convention, 1949 (No.97)

Annex 1, Article 5.

1. *Each Member for which this Annex is in force which maintains a system of supervision of contracts of employment between an employer, or a person acting on his behalf, and a migrant for employment undertakes to require –*
 - (a) *that a copy of the contract of employment shall be delivered to the migrant before departure, or, if the Governments concerned so agree, in a reception centre on arrival in the territory of immigration;*
 - (b) *that the contract shall contain provisions indicating the conditions of work and particularly the remuneration offered to the migrant;*
 - (c) *that the migrant shall receive in writing before departure, by a document which relates either to him individually or to a group of migrants of which he is a member, information concerning the general conditions of life and work applicable to him in the territory of immigration.*
2. *Where a copy of the contract is to be delivered to the migrant on arrival in the territory of immigration, he shall be informed in writing before departure, by a document which relates either to him individually or to a group of migrants of which he is a member, of the occupational category for which he is engaged and the other conditions of work, in particular the minimum wage which is guaranteed to him.*

Women migrant workers can arrive in the destination country with no clear idea of the terms and conditions of the job they will actually be engaged in. This is especially the case when they do not have a formal employment contract before they go abroad. Ideally, migrant workers should have employment contracts signed by themselves and their employers before they go abroad. The employment contract should be in a language the worker understands and should clearly set out the terms and conditions of migration and employment [👁 **Section 3.5.1 and Boxes 3.6, 3.7 and 3.8 in Booklet 3**]. But even when migrant workers have formal contracts offered to them in a legal recruitment process, they can still find that their contracts have been substituted upon arrival in the destination country.



There are various fraudulent and abusive practices regarding employment contracts, including:

- *Non-issuance of employment contracts.* A worker may be recruited by an agent or directly by an employer but is not given an employment contract, and does not have a real picture of the nature of work she will be doing. She may be told half-truths or be completely duped about the nature of employment and arrive in the destination country to find that she is forced to do work to which she had not previously agreed and about which she has little or no choice [👁️ **Box 4.8**];
- *Contract between the recruitment agent/agency and the employer.* Sometimes, the deal is made between the recruiter and the employer; they may negotiate the terms and conditions without consulting the worker and without requiring the signature of the worker on the contract. The local agent may not even provide a copy of the contract to the migrant worker before she leaves her home country. [In some cases, the contract between the onsite recruitment agency and the employer is separate and additional to the employment contract signed with the migrant worker. Such contracts spell out the duties of agents and employers];
- *Hiring for non-existent jobs.* Often women are recruited for supposedly legitimate jobs, such as in manufacturing or domestic service and have employment contracts setting out attractive terms. But once they arrive in the destination country, their papers are confiscated. They find that the promised jobs do not exist and they are forced into other jobs that they had not expected to perform, such as prostitution. Since many women incur debt to pay for the recruitment and journey, they become trapped and have no choice;
- *Clauses added to the employment contract between the employer and migrant worker:* Model employment contracts are described in **Boxes 3.6, 3.7 and 3.8 in Booklet 3**. But often, additional clauses are added that restrict the human rights of the migrant worker. For example, the contracts of foreign domestic workers may contain stipulations such as: “she must promise not to use the telephone without prior permission; she will not steal or lie; she will not marry a national; if she is cheated by anyone or caught by the police it will be entirely her responsibility”.¹⁶
- *Contract substitution:* Even if the women sign authorized contracts before departure (including having their contracts checked by the relevant authorities in their home country), they may be forced upon arrival in the country of employment to sign another contract. The new contract may be in a language the worker does not understand, and may specify lower terms of work, lower pay or conditions that are prejudicial to the worker. If the migrant worker refuses to sign the new contract, she may end up being stranded, “illegal” or deported;¹⁷
- *Statement of undertaking:* Upon arrival, many women migrant workers are required by the employment agency to sign an additional form known as a “Statement of Undertaking” [👁️ **Box 4.9**] which often has the effect of

restricting freedom of association and of movement. There are also clauses touching on the issue of “immoral activities” which reflect the negative perceptions held by nationals of women migrants. Although these Statements of Undertaking are not legally binding documents, they do carry force in so far as the women are heavily dependent on their agents [👁️ **Box 2.10 in Booklet 2**, which provides an extreme example of the kinds of information and instructions given by the employment agency in the country of destination to the newly arrived migrant domestic workers];

- *Arbitrary termination of contracts:* The contracts of migrant workers often are arbitrarily terminated. One form of malpractice by employers is to allow the migrant to take a vacation back in her origin country. The employer then reports to the immigration authorities that they have terminated the contracts, using false reasons such as “unsatisfactory work” or that the worker has “stolen things”. When the migrant worker returns to country of employment, they find that they do not have work and could end up being arrested. Another insidious tactic by some employers is to terminate the foreign domestic worker in the fourth year to avoid paying the mandated separation pay or long service payment.¹⁸



Even when the women migrant workers have employment contracts, compliance and enforcement of the contracts is a problem. The contracts may be substituted once the migrants get to the jobsite. In many cases, the contracts are wantonly disregarded by employers and onsite brokers. Especially since their work is normally not covered by the labour laws of the destination country, there is no labour inspection and no appropriate complaints or redress mechanism. Monitoring is hardly undertaken by the embassies and consulates of the origin countries.

☑️ ***Poor working and living conditions:***

The working conditions of women migrant workers often do not meet minimum labour standards and, in fact, violate their human rights. The evidence abounds of the poor working and living conditions of many women migrant workers

[👁️ **Box 4.10 and Section 4.3.2 below**]. The most common forms of exploitation are:

- *Very low wages*, often below the country’s minimum wage levels;
- *Unequal pay for work of equal value* – not only between women and men and not only between nationals and migrants but also between migrant workers from different countries of origin. For example, in Singapore the wage structure for foreign domestic workers is tiered, with Filipinos receiving higher wages than Indonesians or Indians. In Hong Kong too, Indonesians receive lower wages than Filipinos or Thais. In Malaysia, Filipino domestic workers earn a minimum of RM\$450 per month while Indonesian domestic workers earn an average of RM\$350 on the grounds that the former generally possess a higher level of education and are able to converse in English;

Box 4.8. Employment contract abuses

A study of women migrant workers from Ethiopia going to the Middle East found that in many cases, they did not sign employment contracts before departure. The only information they have is that they will work as housemaids and will earn monthly salaries between US\$100-125. The agents paint a picture of relatively easy working and living. Once they reach their destination, some are made to sign contracts in languages they do not understand, thereby unknowingly forfeiting their rights. They sign contracts based on what their agent tells them are included, quite often, not the real terms of the contract. For example, an employment contract, that was found in a travel agency that had been conducting labour trafficking from Ethiopia, clearly stated that the worker was not allowed to leave the house of employment for the entire duration of two to three years.

There are also reports that employees do not necessarily sign a contract of employment upon arrival at the country of destination but, rather, that the deal is made between the employer and the agent. "Anyone who walks into the housemaids' recruitment office as an individual walks out as a slaver when he has not signed a contract with his employee directly, but a dealer whom he paid". Contracts made by agencies trafficking in Sri Lanka, Ethiopian and Malagache workers put the salary at US\$75, US\$100 or US\$125 and these salaries may be negotiated between the agency and the employer without even the signature of the employee. The latter anyway does not have a choice. Returnees affirmed this fact in group discussions by stating that they did not sign contracts and did not participate in negotiations with employers.

Source: E. Kebede, *Ethiopia: An Assessment of the International Labour Migration Situation The Case of Female Labour Migrants* (Geneva, ILO GENPROM Series on Women and Migration, 2002), pp.6-7.

Box 4.9. Statement of undertaking by a migrant domestic worker

Upon arrival in Malaysia, many migrant domestic workers are required by their employment/placement agency to sign a form known as a Statement of Undertaking. A typical Statement of Undertaking reads as follows:

"I hereby give my undertaking as follows:

- My presence in Malaysia is strictly for the purpose of my employment as a domestic servant with the above-mentioned employer only;
- I will not seek for a change of employment or employer;
- I will not engage in immoral activities and always maintain my good conduct during my stay in Malaysia;
- I will not get married to any Malaysian or any Permanent Resident in this country;
- Upon termination of my employment under any circumstances, I will immediately surrender my passport and VP(TE) card to my employer for cancellation of my Pass by the Immigration Department. I further undertake that I will return to my country of origin as soon as possible after termination of my employment;
- I will not leave the premises of my employer without his or her consent;
- I will not make any arrangement to form a social club or to participate in any activities of such club established in this country."

Source: I. Josiah, S.F. Lee and J. Kee, "Protecting foreign domestic workers in Malaysia: Laws, policies, implications and intervention" Paper prepared by the Women's Aid Organisation for the Programme Consultation Meeting on the Protection of Domestic Workers against the Threat of Forced Labour and Trafficking, Hong Kong SAR, February 16-19 2003, p.7.

- *Withholding of wages:* Employers withhold the wages of women migrants working as domestic workers or entertainers. They may work for several months without receiving any wages. This is seen as a means of control by the employer so that the worker will not “run away”. Or the employer may justify the non-payment on the grounds that the worker owed money for her recruitment. In effect, these circumstances amount to slavery-like conditions. In fact, several case studies from Jordan, Kuwait, Japan, United Arab Emirates and USA indicate that a great number of complaints by women migrant workers to their embassies were related to non-payment of wages or the partial payment of wages.¹⁹ Ethiopian women going to work in the Middle East reported that it is quite common that they do not get paid for the first three months because their employers insist that they have to find out whether they are suitable for the post or not before they start paying them their salaries. Some also reported that once their employers pay them their salary, they immediately borrow it back and then deny that they borrowed it;²⁰
- *Very long hours of work/work overload:* As highlighted in **Box 4.4** above, even the hours of work specified in labour legislation are longer for those working as domestic workers than in other occupations. A very common situation is for domestic workers to work more than 15 hours a day and to be on call to members of the household at any time of the day or night. [ **Box 2.9 in Booklet 2**, which illustrates the typical work day of a migrant domestic worker];
- *Doing two or more jobs:* It is not uncommon for women migrants hired as domestic workers to be put to work also in the businesses of their employers, serving in restaurants, acting as sales girls, cleaning up in shops, pumping gas, etc. They are often also expected to provide domestic service not only to their direct employer but also to the relatives and friends of their employer without any extra payment;
- *No rest days or holidays:* Many women migrant workers report not getting any days off work or holidays. Some placement agents specifically advise employers not to give the migrant workers days off, but rather to compensate them monetarily. For example, migrant domestic workers in Malaysia are supposed to receive RM\$370 per month without days off and RM\$330 with days off;
- *Inadequate food:* Some employers forbid their employees to eat the same food as the family members. The migrant women are forced to eat left-over food and very few employer families respect the tastes and eating habits of the migrant workers.

Box 4.10. Exploitation and discrimination against Bolivian migrant women by receiving country and occupation

Place of Departure	Receiving Country	Occupation	Labour Exploitation	Discrimination
Cochabamba	Argentina	Farm labourer Domestic worker Greengrocers Labourer in apparel factory Hairstylists Seamstresses, nannies	Abuse; Difficulties to return home; No rest periods, even on Sundays; Women will work under conditions of slavery to avoid deportation	Discriminated against because they are Bolivians; Nationals think Bolivians are dumb and dirty; Argentine children discriminate against people for the colour of their skin; Generally, Argentines have more respect for women and children Contemptuously call us <i>bolitas</i>
Riberalta	Japan	Labourers Karaoke escorts (no prostitution)	Hard work	
	Spain	Domestic labour Cleaning Agricultural labour	Have to do any work without any option to choose	
Tarija	Argentina	Agricultural farm labour Domestic work Office cleaning by the hour	Left alone with a key; Not paid wages	
Potosi	Argentina	Agricultural labour Domestic labour Worker in old folk's home Salespersons Hairstylists Labourers in the apparel industry	Sometimes not paid wages; Working overtime; The whole family works but employers only recognize person whose name in the contract; Youths of 13 and below working	Cowhands proffer insults, saying that the migrants are taking away their work; Police take money for everything; Make migrants undress to see if they are carrying drugs or seeds; Fearful of talking about sexual harassment or abuse because of fear of reprisals.

Source: I. Farah H. and C. Sanchez G. assisted by N. Bejarano, *Bolivia: An Assessment of the International Labour Migration Situation The Case of Female Labour Migrants* (Geneva, ILO GENPROM, 2002), pp.26-27, based on focus group interviews.



The accommodation arrangements for migrant women differ depending on the kind of work they perform but most are inadequate:

- Live-in domestic workers are often provided with sub-standard accommodation, such as a mattress on the kitchen floor, the living room or sharing the room with the children. This practice is a clear violation of the employment contract, which usually includes a clause on the necessity of providing suitable adequate, sanitary living space. Such accommodation also means that the worker has no privacy;
- Workers in other types of jobs, such as in restaurants and hotels or in manufacturing industries: are provided with crowded dormitory type accommodation, which is often lacking in space, privacy and hygiene;
- Women migrants who have to find their own accommodation face additional problems, as homeowners tend to discriminate against them and not want to rent to them or to charge them higher rents. This can be especially a problem for undocumented migrant workers who can be threatened with being reported to the authorities unless they pay higher rents;
- Women migrants working as entertainers or prostitutes: are often held in virtual prisons, in guarded houses or rooms with bars to prevent them from escaping;
- Women migrants who have been victims of violence or trafficking: The women who have run away or have been rescued need short or long term accommodation, especially if they are to be able to go through the process of seeking redress from their aggressors in the country of destination. However, shelters and safe houses are not always available to these women.²¹

☑ *Limited freedom of movement:*

*“Migrant women [...] are often subjected to arbitrary and enforced deprivation of liberty at the hands of both non-State and State actors. Women’s movement is either overtly impeded through locks, bars and chains or less conspicuously (but no less effectively) restricted by confiscation of their passports and travel documents, stories of arrest and deportation or threats of retaliation against family members”.*²²

The right to freedom of movement is a human right. The *International Covenant on Civil and Political Rights (ICCPR), 1966* protects the right to freedom of movement and the United Nations Human Rights Committee has recognized the importance of protecting this right from “not only public but also from private interference” noting that in the case of women, this obligation to protect is particularly pertinent. It is incompatible with the ICCPR that the right of a woman to move freely be made subject by law or practice to the decision of another person. The ICCPR also provides that everyone shall be free to leave any country. The *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990* also specifically proscribes limitation of freedom of movement through passport confiscation (Article 21).

However, it is very common practice for employers to withhold the passports or travel documents of the migrant workers. In destination countries all over the world this is the (mal)practice – in Europe,²³ the Middle East,²⁴ East and South East Asia.²⁵ Many employers do not even consider that they are violating the basic rights of the migrant worker. Without their official papers, the migrant worker is effectively tied to the employer: “After the initial three-month period, employers become fully responsible for the servant. If the woman leaves, the employer perceives it as an investment loss. Consequently, many employers lock their Sri Lankan maids in the house and control their freedom of movement by confiscating their passports [...] Many abused women feel they have no choice but to escape [...] Since all of the runaways have left their passports behind with their employers, they must obtain new ones. But Lebanese authorities demand \$900 for every new passport – a mandatory fee for processing travel documents for non-Lebanese who lose their passports while in the country”.²⁶

Many employers also restrict and keep a tight control on the movement of the women migrant workers, especially those in domestic work and the entertainment industry. The restrictions placed on free movement of the women migrant workers reflect in part the negative perceptions that nationals have of them – that they need to be controlled so that they are not lured into or participate in “immoral activities”. The restrictions also reflect, on the one hand, the control that employers have, and, on the other hand, the dependent situation of women migrant workers.

In the Middle East, some Ethiopian women migrant workers reported that they had not been allowed to leave the house alone the whole time of their employment and most were not allowed any paid leave.²⁷ In the United Arab Emirates, “none of the foreign female domestic workers interviewed, or any others encountered in United Arab Emirates households, reported being allowed a day off per week. Domestic service is the only paid job where employees are not allowed a day-off. For employers, giving foreign female domestic workers a day-off means relinquishing control of them, giving them opportunities to date or have a private life”.²⁸ In Lebanon, a United Nations review of human rights abuses in April 1998 “noted with concern the difficulties faced by many foreign workers in Lebanon whose passports were confiscated by their employers”.²⁹ In Malaysia, some employment agencies specifically advise employers to hold the passports of the migrant domestic worker and not to allow them “to talk or converse with others, walk alone, open the door to anyone, especially when they are alone in the house” and not to give them any days off.³⁰

In Malaysia and Singapore, the governments charge a levy for hiring a migrant worker and in addition impose a security bond on the employers to “serve as a deterrent so that the migrant workers do not abscond on their employment contracts”. In Singapore, the bond is Singapore \$5,000, in Malaysia RM\$500. However, both the levy and the security bond can have the effect of encouraging employers who do not want to lose their money to place heavier restrictions on the personal freedoms of migrant domestic workers. Using the pretext of safeguarding and protecting the migrant worker from being lured into running away, the

employers subject her to confinement to the home, restrict her freedom of movement and mobility, and give her no rest days to minimize her opportunity of communication with others. ³¹

☑ **Harassment and violence:**

Cases of ill treatment and violence which can often be life threatening against migrant women have been systematically reported. There are the extreme cases: in the year 2000, as many as 173 Filipino migrant women died while working abroad, mostly as a result of some sort of violence.³² There are the reports of sexual harassment: the Sri Lanka Bureau of Foreign Employment reported that 20 per cent of the complaints received were for harassment at work. Of the 793 migrants harassed, 227 were subjected to severe sexual harassment. ³³ There are the sordid but unfortunately all too common tales of migrant domestic workers subjected to repeated sexual assault and rape by members of their employer family. There are also the countless reports of beatings and other forms of physical violence and torture inflicted by employers on their migrant workers – some of which are so serious that they make headlines in the local news and the destination country authorities are pressured into taking legal action. ³⁴ Migrant women fleeing abusive employers often end up being arrested, imprisoned and convicted of dubious crimes and subjected to irregular legal processes.



Women migrant workers, irrespective of the nature of employment, are highly vulnerable to harassment, abuse and violence not only in the workplace but also in the street and public places and by the local authorities while in detention – as a result of their migrant status, gender, class, race. The various forms of harassment, abuse and violence include:

- Verbal abuse;
- Psychological abuse;
- Physical abuse and violence;
- Sexual harassment and
- Sexual violence and rape.



Women migrants are much less likely than men migrants to report abuses by their employers for a number of reasons:

- They are so dependent on their employer that they are afraid of losing their jobs and their ability to stay in the country of destination;
- They lack knowledge of the legal system in the country of destination, which is caused by and/or exacerbated by their social and cultural isolation;
- They lack freedom of movement; they may not even be able to get away from the employer to make a complaint;
- They do not trust the authorities and fear that they will be further harassed or abused;
- Traditional attitudes discourage women who suffer domestic violence from reporting it;
- Certain forms of abuse and violence are very hard for the women to report. For example, once it is known that a woman has been abused

sexually, she often becomes a pariah within her own community and country of origin.

☑ ***Health and safety risks and lack of social protection:***

The physical health of the women migrant workers often suffers due to the conditions of the worksite and the informal, unprotected nature of their work. Many also suffer emotional and psychological stress related to the separation from home and family and the isolation in a strange land.³⁵

While health tests are a major component of the entry requirements for migrant workers, there are normally no provisions for the maintenance of their health and “fitness” to work.

Women in domestic work can experience high levels of physical stress not just from the very long hours of work but also from having to perform a large number of tasks by herself. Sometimes she is even made to do two jobs, such as working for two families or working also in the employer’s business. On top of this, she is given inadequate food, poor accommodation and insufficient rest hours. There are also many reports of women migrants exposed to strong cleaning chemicals without realizing the risks and ending up with serious skin infections.³⁶ Those working in sweatshops and small factories have to endure very poor environmental conditions and are often exposed to serious safety risks related to the kinds of materials they work with and the lack of protective equipment. Work accidents and injuries are common.

Women migrant workers are in the high-risk group for sexually transmitted diseases (STDs), unwanted pregnancies and HIV/AIDS – because they lack information, have limited or restricted access to counselling and health care services and are vulnerable to sexual violence and rape. Workers in the entertainment industry, including prostitution, are especially vulnerable, particularly as they are not able to negotiate condom use. Yet, all too often, the irony is that women migrant workers are blamed as either causes or contributors of communicable diseases, STDs and HIV/AIDS, unwanted babies and abortions, in addition to social ills, including alcoholism.³⁷

Compounding the poor health status of the migrant workers is the lack of social protection; they do not have access to affordable and easily available health care in the destination country. In Japan, for example, undocumented migrants are disqualified from the national health insurance scheme. They are also not allowed to receive medical benefits under the Life Protection Law, the most basic form of public assistance for people who are in need but cannot afford medical services.³⁸ In Malaysia, migrant workers pay two times as much for medical treatment in public hospitals and normally do not receive the quality of treatment accorded to nationals.³⁹

The health problems experienced by women migrant workers are worsened since they tend to hide their illnesses from their employers for fear of being

terminated and deported. They therefore resort to ignoring their health problems or to self-medication. Furthermore, many of the women are simply not aware of where to seek medical help, nor are they informed whether their contract covers health insurance. Also, since most of them do not have regular days off, they are not able to go to clinics for preventive checks. They tend to be taken for medical treatment by their employers only when their health poses a threat to the employer's family.

While health tests are a major component of the entry requirements for migrant workers, there are normally no provisions for the maintenance of their health and "fitness" to work. Thus, when migrant workers fall ill, especially of diseases that are included in the medical testing, they face termination and often times, immediate deportation.

☑ **Forced labour and debt bondage:**

The *ILO Forced Labour Convention, 1930 (No.29), Article 2* defines forced labour as:

All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

Many women migrant workers, in particular those who were

"Running away evokes the era of slavery, you leave your job, but you run away only when enslaved."

trafficked and those with irregular migration status, are to some degree subject to forced labour. The descriptions of the working and living conditions of the women migrant workers in the sections above and in Section 4.3.2, in particular those in domestic service and in prostitution, reflect in many cases forced labour situations.

This "modern form of slavery" is extremely widespread. The ILO Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights on Stopping Forced Labour highlighted the situation of domestic workers in forced labour situations and emphasized, "When domestic workers are international migrants, the problems are compounded further".⁴⁰ In Europe, for example, the Council of Europe Parliamentary Assembly has called on the Committee of Ministers to draw up a domestic workers' charter of rights to address the problem of "domestic slavery". The Assembly drew particular attention to the fact that a considerable number of victims work for diplomats or international civil servants who, under the Vienna Convention of 1961, enjoy immunity.⁴¹ In the United Kingdom, an NGO, KALAYAAN (which means "freedom" in Tagalog, the national language of the Philippines) has taken care of over 4,000 domestic workers from 29 different countries; 84 per cent had suffered psychological duress, 54 per cent had been locked up, 38 per cent beaten and 10 per cent sexually abused.⁴² In the United States of America, the Institute for Policy Studies has been campaigning for migrant domestic worker rights and helping to raise awareness that such workers are "entitled to comfortable, humane treatment, free from any conditions resembling slavery or forced servitude."⁴³ In East and Southeast Asia and the Middle East, the numbers of women migrant workers who "run away" from their employers and seek refuge or

lodge complaints at their embassies or at social support organizations are alarmingly high ⁴⁴ - so high that in countries like Malaysia and Singapore, the government has imposed security bonds on employers. As expressed by a human rights lawyer in Lebanon, “running away evokes the era of slavery, you *leave* your job, but you *run away* only when enslaved.”⁴⁵

4.3.2. The situation of different groups of women migrant workers in the destination countries

- This section presents some examples to illustrate the situation of women migrant workers in different types of employment in destination countries: domestic workers, factory workers, agricultural workers, technical trainees and entertainers and prostitutes. The vulnerability to discrimination, exploitation, abuse and forced labour is evident in the text boxes 4.11 to 4.18 below. Box 4.19 shows that for professional workers (nurses) the conditions can be considerably better.

Box 4.11. Migrant domestic workers and forced labour

“Rita (not her real name) arrived in the UK with her employer in May 2000. She was forced to work from 6.30 am to 11.30 pm and was not given any time off apart from one hour each Sunday to attend church. Rita’s employers would pull the plug out of the phone if she tried to contact her friends and locked her into the house when they went out to prevent her from leaving. She was forced to sleep on the floor of the kitchen and subjected to constant verbal abuse. Her employers also took her passport and told her that if she left her job she would be deported back to India.

While recent changes to UK legislation allow domestic workers to leave their employers for any reason and seek work elsewhere, many migrants do not know this. Domestic workers applying for visas to work abroad should be interviewed separately from their employers and informed of their rights, but this is rarely done. In Rita’s case, her employer was present when she was interviewed for a visa in India and told her what she should say. In these circumstances, it is difficult, if not impossible for migrants to ask questions about their immigration status or their right to change employers once in the UK. However, even if Rita had known what her rights were, without her passport she could not prove that she had a visa and permission to work as a domestic in the UK, thereby making her vulnerable to deportation.

Rita was told that she would receive \$150 per week while working in the UK. In reality her employers only agreed to pay her \$75 per month, which they claimed they were sending to an account in India. However Rita is not yet sure if any money has been paid into that account and KALAYAAN (an organization set up to assist migrant domestic workers) says that based on their previous experience of similar situations, it is extremely unlikely that any payments have been made.

Government regulations concerning the employment of foreigners often make the situation worse by only allowing domestic workers into the country to accompany their employer. The fact that the migrant does not have a work permit in their own right makes it impossible for them to change employers. Employers can also withhold wages until they have accumulated several months of back pay, thereby making it much more difficult for the worker to leave. This, combined with their isolation and precarious legal status, leaves migrant workers extremely vulnerable and many are subjected to a range of human rights violations, including physical and sexual abuse as well as forced labour. It is not uncommon for migrant workers caught in this situation to be children.

Source: Anti-Slavery International and ICFTU, *Forced Labour in the 21st Century*

Websites: www.antislavery.org, www.icftu.org

Box 4.12. The working conditions of migrant domestic workers

A survey based on scientific random sampling of 2,500 foreign domestic workers (FDH) in Hong Kong found that:

- Violations of contract in respect of minimum wage, days off and annual leave are prevalent, affecting at least a quarter of all FDH in Hong Kong;
- At least 15 per cent of all FDH are paid less than the minimum set by the Government. As many as 48 per cent of the Indonesians and 4 per cent of the Thais are underpaid. More women than men are underpaid (15 as compared to 8 per cent), and women are paid lower than men (HK\$3,619 as compared to HK\$4,758);
- At least 22 per cent of all FDH are not given the mandated 1 rest day per week. At least 61 per cent of the Indonesians did not get the mandated rest days, and more women than men are affected (22 as compared to 9 per cent);
- At least 26 per cent of all FDH are not given the 12 statutory holidays per year;
- 26 per cent of FDH – or some 52,700 persons - suffer from verbal and physical abuses;
- Some 4.5 per cent of the FDH are subjected to sexual abuses, including rape;
- There is a clear association between the violations and gender and racial discrimination, with women and Indonesians suffering much higher levels of violation.

Source: Asian Migrant Centre and Coalition for Migrants' Rights, *Highlights of the Research on Racial and Gender Discrimination towards Foreign Domestic Helpers in Hong Kong* (Hong Kong, AMC, 2001), p.11.

Box 4.13. Domestic workers: a modern-day "slave trade"

Sri Lankan women are usually recruited to work overseas by local agents who promise riches in exchange for jobs abroad. Those who respond to the offer are then required to pay a fee to the local agent – up to \$500, an overwhelming sum for most. Many borrow the money, incurring a debt, which, in the future, may prevent them from returning to their country if their Lebanese employer denies them their wages.

At the other end of the labour migration chain are various Lebanese agencies constituting an unregulated – and highly lucrative – industry. At a cost ranging from \$1,500 to \$3,000 a Lebanese family can "buy" a Sri Lankan domestic worker whose monthly salary will range from \$100 to \$150. The agency draws up the contract committing the domestic worker to her employer for two to three years. Since the contract and negotiations are in Arabic, the Sri Lankan woman usually has little understanding of what she has committed herself to. The contract stipulates that the agency's responsibility for the woman expires after three months. The employer and the employees must then resolve any problems. If a dissatisfied employer brings the maid back to the agency, she will likely be beaten to render her obedient. After the initial three-month period, employers become fully responsible for the domestic worker. If the woman leaves, the employer perceives it as an investment loss. Consequently, many employers lock their Sri Lankan maids in the house and control their freedom of movement by confiscating their passports.

Source: R. Haddad, "A Modern-Day 'Slave Trade' Sri Lankan Workers in Lebanon", Middle East Report 211 – Summer 1999. Website: http://www.merip.org/mer211/211_haddad.html

Box 4.14. Women migrant workers in factories

Bolivian women and children work in apparel factories in Argentina and Brazil. Their working conditions have been documented as:

- Labour shifts from 18 to 20 hours per day. These plants generally belong to nationals of these countries and also to Bolivians who have settled in Argentina and Brazil;
- “The mass of Bolivian seamstresses working like slaves in Sao Paolo, Brazil probably is greater than 150,000 persons who cannot leave their sewing machines for 16 hour stretches. The lack of legality in their documentation generates their exploitation” (La Razón, 02/13/01);
- “During pay-week, each worker has to deliver 650 dozen underclothes. The labour shift was from 8.00am through 12.00 midnight” (Testimony given by children returned through institutional action);
- “... in the Pari and Brass neighbourhoods, there are children aged 14 and 17. The Koreans are employers that pay one *real* for sewing a pair of slacks. Most of the children work in informal sweatshops owned by Koreans and Bolivians. They work in narrow underground workshops with little circulation of air or ventilation”.

Source: I. Farah H. and C. Sanchez G. assisted by N. Bejarano, *Bolivia: An Assessment of the International Labour Migration Situation The Case of Female Labour Migrants* (Geneva, ILO GENPROM, 2002), pp.31-32.

Table 4.15. Hazardous working conditions in banana plantations

In Belize, virtually all workers on the banana plantations are from Honduras, El Salvador and Guatemala. Often migrant workers have no official documents and cannot benefit from any medical or social services. They mostly live in overcrowded accommodation, where drugs, violence and alcoholism flourish. They earn less than 1% of the final price of the bananas and work as long as 13 hours a day. Their job and living arrangements expose them to serious health hazards primarily from pesticides which are often applied by hand. Women workers stand at least between 11 and 12 hours per day with their hands constantly in tanks full of chemicals to clean the bananas and preserve it for the long journey.

Source: http://www.bananalink.org.uk/impact/human_impact.htm

Box 4.16. Female migrant workers as “trainees”

Some countries such as Japan and the Republic of South Korea have instituted pseudo-importation schemes of low-paid workers, calling them “trainees”, thus effectively circumventing their own ban and thus creating a cheap and severely exploited pool of migrant workers. In 1999, there were some 29,632 women among the 98,410 trainees in the Republic of South Korea. In practice, trainee workers are legitimate workers in that they have similar jobs and responsibilities as non-trainee workers. Nonetheless, they are still distinguished from regular workers by being labelled “trainee-students”. This form of categorization ensures that their rights and benefits are more curtailed than other workers. A trainee’s wage, for example, is only 30-40 per cent of that of Korean workers and 70 per cent of that of an undocumented worker, and trainees do not receive any overtime allowances. Trainees in South Korea are hired through private brokers. The private broker called the “onward managing agency” introduces the trainees to workplaces only when they pay about 5 per cent of their income to the broker, although this is illegal. In addition, another 10 per cent is deducted from the trainee’s salary as reserve fund. These reserve funds, which are kept by the Korea Federation of Small and Medium Businesses, are in many cases not returned to the trainee when they leave Korea or when they run away and become undocumented.

Sri Lankan women working as trainees in South Korea have to pay about US\$1,250 to the agent for commission. Many had to take loans to pay this amount. Since their wages are so low, they are not able to pay back the loans during the period of their contracts (normally two years). Therefore, they often do not want to go home, and have no option but to become undocumented migrants. The agencies know this and unscrupulous ones advise newly arrived trainees to run away when their contracts expire. There is a high incidence of runaways, who then become undocumented migrants.

Another problem that has been noted is that the incidence of industrial accidents is seventeen to nineteen times higher among undocumented than documented workers and more than twice as high among industrial trainees than even undocumented workers.

Source: Asian Migrant Centre and Migrant Forum in Asia, *Asian Migrant Yearbook 2000 Migration Facts, Analysis and Issues in 1999*, pp. 71, 233-234, and *Asian Migrant Yearbook 1999 Migration Facts, Analysis and Issues in 1998*, pp.184-186. (Hong Kong, Asian Migrant Centre Ltd).

Box 4.17. Female migrant workers in entertainment and prostitution

The demand for female migrant workers in Japan is concentrated in the sex industry offering services and entertainment. Also brokers and agents both in sending countries and in Japan are quite organized. It is noticeable that Japan entertainment establishments employ women without any skills or education. Many female migrant workers are working in bars, snack bars and clubs as hostesses, singers, dancers, entertainers and strippers, for who forced prostitution is often a part of their “work”. In many cases, these workers are confined together in a small place, being watched and limited in their activities. They cannot understand Japanese and it is difficult for a female foreigner to rent a place to live. Even though they are employed, they face various violations of their human rights including having their passports or return tickets taken away from them; being in debt bondage and not being paid for their work; not getting paid monthly or being paid in a lump sum only when they return to their countries of origin; having penalties including wage deductions imposed on them for a variety of reasons; being subject to various forms of physical abuse and violence; being forced to work overtime or in jobs not specified in their contracts.

Furthermore, many migrant women are “resold” to more than one establishment, even in various cities. Quite often, they are not aware of who their actual employer is, making it impossible for them to claim their rights or to even have medical insurance if they fall ill or have an accident.

For Filipino women, most agencies have an age limit allowing only women below 30 years to come to Japan on an entertainment visa. Many Filipino women therefore become overstayers voluntarily before they reach the age limit. More and more entertainers have been overstaying in Japan beyond their visa period (more than 13,000 every year since 1997). Among those who originally came to Japan on entertainment visas, some Filipino women say they have overstayed more than ten years. There are also increasing cases where they have married Japanese men after they have renewed their entertainment visas several times.

Source: M. Matsuda, *Japan: An Assessment of the International Labour Migration Situation The Case of Female Labour Migrants* (Geneva, ILO GENPROM Series on Women and Migration, 2002), p.4.

Table 4.18. A trafficked prostitute

“My name is Lyuba. I am 21 years old. Three years ago I came to Kiev from Kherson to study at one of the institutes in Kyiv. I had a wonderful family in Kherson and lots of friends. Then hardship struck our family: my father died. My mother stayed with my two sisters and I returned to Kyiv to get a job and to continue my education as a part-time student. One of my fellow students introduced me to Edik who emigrated to Germany three years ago. Edik seemed sympathetic to my problem and promised to help me. Several days later, he told me about a well-paying job as a waitress in a German restaurant. He agreed to help me to obtain my foreign passport and visa. We agreed that I would repay these expenses from my future wages. It seemed too good to be true. Together with Edik and two other Ukrainian girls, I travelled to Germany. In Frankfurt, we stayed in a one-person hotel room. Edik took our passports for registration. The next day we were taken to a place where they told us in broken Russian that we were in a brothel and were to serve clients in bed. At first, I refused. Then, they told me that I had no chance to escape. I had no passport and no knowledge of German. Moreover, I had to repay a debt of US\$3,000. If I tried to escape, they told me they would kill me and nobody would ever know. Then, they locked me alone in a dark room for several days without food, beat, raped me and threatened to hurt my family. I spent more than seven months in that brothel. At night, we had to entertain clients at their tables and have sex with them afterwards. There were many clients and we had no right to refuse any of them. Then, one evening, the police raided the brothel and I found myself in jail. After what I have experienced, it is very difficult for me to be at home with my family. Besides, my health is not that good anymore”

Source: International Organization for Migration, *Do You Want to Trade Your Dignity, Your Freedom and Your Health for a Cage* (Geneva, IOM, 1998).

Box 4.19. Migrant nurses

In January 2002, the Philippine and British Governments signed a pioneering agreement that assures the fair employment of nurses from the Philippines in London’s National Hospital Services trusts. The agreement is intended:

- To ensure an equitable and ethical approach to the employment of medical professionals following the publication of the UK National Health Services’ Code of Practice on International Recruitment in October 2001, and
- To set out exact standards in terms of recruitment, selection and employment, and cover the induction process, including pre-departure orientation seminars, living and working in England, and detailed supervisory practice arrangements.

The agreement is supposed to “benefit both nurses and patients by ensuring rigorous standards for the recruitment and employment of internationally qualified nurses”. The Code of Practice on International Recruitment was developed in partnership between NHS employers, professional bodies, trade unions and commercial recruitment agencies.

The Code says there must be no fees charged for registration in the UK. The Code also has a stipulation that candidates should have occupational health assessment and similar access to further education and training as UK trained employees.

The UK-Philippine agreement also assures that nurses hired in the UK will not have to pay for airfare and repatriation, which are among the responsibilities of their employers.

Source: http://cyberdyaryo.com/features/f2002_0327_03.htm

4.4. Preventing discrimination, exploitation and abuse of women migrant workers in the destination countries

4.4.1. What can destination country governments do

"[...] there is a need to formulate and strengthen measures at the national level to ensure respect for and protection of the human rights of migrants, migrant workers and their families, to eliminate the increasing acts of racism and xenophobia in sectors of many societies, and to promote greater harmony and tolerance in all societies". ⁴⁶

"And for the host community, particularly those who pride themselves on equality of opportunity for all, the presence of an immigrant underclass is an uncomfortably close reminder that much of their prosperity is based on the hard work of others – who do not share equally in the rewards". ⁴⁷



Perhaps the first and most important step is for the governments of destination countries to link immigration policies and administrative procedures for regulating migration to systematic and realistic assessments of the labour market demand for migrant labour. Such assessments should be done by the competent government authorities – normally the ministry of labour rather than the ministry of interior or ministry of justice – in close consultation with employers' and workers' organizations.



Women migrant workers play essential roles in the labour markets and the development process of receiving countries. They make valuable contributions to the economies and societies of the receiving countries. They provide human resources in the paid economy – in jobs that nationals do not want but that are essential and that allow a country to maintain its global competitiveness. They also play key roles in the care economy – in terms of household chores and the care of dependent children, the elderly, the infirmed and the disabled – freeing national women to take up higher status, better paying jobs in the national economy.



Receiving countries should recognize and value the contributions of women migrant workers and respect and uphold the human rights, labour rights and migrant rights of these workers, promote their economic and social integration and not treat them merely from the perspective of the management of migration and national security controls. The governments of receiving countries should:

- Conclude bilateral or multilateral labour agreements with sending countries;
- Ensure that immigration policies are gender-sensitive;
- Provide adequate labour protection to migrant workers;
- Consider specific legislation to cover domestic workers;
- Regulate and supervise the activities of recruitment agencies;

- ☑ *Provide adequate checks on employers;*
- ☑ *Protect the health and occupational safety and improve social security for migrant workers;*
- ☑ *Improve assistance and support facilities and services for migrant workers;*
- ☑ *Allow freedom of association and facilitate organization and representation of migrant workers;*
- ☑ *Take measures to promote gender equality and end xenophobia and racism.*

☑ ***Conclude bilateral or multilateral labour agreements with sending countries:***

Such agreements can be an effective means to regulate migration processes, control abuses in recruitment, placement and employment, and undercut illegal recruitment and trafficking [👁️ **Box 1.8 in Booklet 1**]. These agreements should aim to ensure the rapid and orderly matching of employers' requests with migrant candidates for employment. They should cover key aspects such as vacancy notification, selection and recruitment, employment contracts, transport, terms and conditions of employment, grievance and disputes settlement procedures, protection of basic rights and social security. There could be agreement that the destination country will not issue visas or work permits for applications that have not been checked and authenticated in the sending countries [👁️ **Section 3.5.1 and Box 3.5 in Booklet 3**].

Even when formal agreements have not been signed, close cooperation between receiving and sending countries could promote the exchange of information especially with respect to degrading, fraudulent or abusive practices on the part of private recruitment or placement agencies as well as on the part of employers. Procedures could also be set up to investigate and take action against abuses.

☑ ***Ensure that immigration policies are gender-sensitive:***

As discussed in **Sections 1.4.2 and 1.4.3 in Booklet 1**, countries, by virtue of their membership in the international community and in particular if they have ratified the key human rights instruments, are obliged to refrain from violating the rights of individuals, national or non-national, and to take positive actions to ensure that individual women and men are able to enjoy these rights. There are also specific instruments to protect the rights of migrant women and men. It is not enough to grant rights to migrant workers; they should have the possibility of claiming adherence to such rights if they believe that they have been violated. Therefore, grievance and dispute settlement procedures have to be open to migrants – on the same terms as they should be open to national workers – and they should have access to the destination country's labour and other courts.

The *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990*, which has now come into force provides a comprehensive legal framework for the treatment of migrant workers

[👁️ **Box 1.16 in Booklet 1**]. Importantly, it stipulates that regardless of legal status, migrant workers have inalienable human rights. It also regards the rights of migrants as determining their living and working conditions and establishes minimum standards of protection.



With specific reference to immigration legislation and the rights of migrant workers, destination countries should review the rules and regulations to ensure that there is no overt or covert discrimination against women in entry, residence and employment:

- Where migrants are being granted entry into the country to work in a range of occupations where it has been determined (in consultations involving the ministry of labour and employers' and workers' organizations) that there is need for foreign labour, the government should ensure that women migrants have equality of opportunity and treatment as men migrants;



The Canadian Government has been integrating gender concerns into its national immigration programme. A model of gender directed immigration policy-making has been developed. Following a "gender based analysis" matrix, every new immigration policy and legislative issue is subjected to the test of potential gender impacts.⁴⁸

- Where the law allows for migrant workers to be accompanied by their members of their families, it should apply equally to male and female migrants;
- Women migrant workers should not be discriminated against in terms of their entry, stay or employment being made dependent on compulsory periodic medical tests for pregnancy, infectious diseases, HIV / AIDS and other sexually transmitted diseases. Such tests can be made freely and voluntarily available to all workers, migrants and nationals and appropriate counselling and medical assistance provided to those in need;
- Review legislation relating to employment restrictions to ensure that the rules do not become a source of abuse by employers;
- Those who are victims of trafficking should not be treated as criminals or prostitutes but should be given the necessary assistance and support to seek redress from their traffickers, to be able to stay in the country during the period of on-going redress and voluntarily to be able to return to their home countries [👁️ **Booklet 6**].

The *Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143) Article 14 (a)* provides for employment restrictions, stating that a Member State may

"make the free choice of employment, while assuring migrant workers the right to geographical mobility, subject to the conditions that the migrant worker has resided lawfully in its territory for the purpose of employment for a prescribed period not exceeding two years or, if its laws or regulations provide for contracts for a fixed term of less than two years, that the worker has completed his first work contract".

But when a country puts such restriction into practice in terms of visa sponsorship by an employer or in terms of the stipulation that a migrant worker cannot change employers without facing the threat of deportation, she/he becomes heavily dependent on the employer. As described in the Sections above, this dependence can be a serious source of abuses. There should be a review of the visa sponsorship system. There should also be more careful assessment of the “one employer” ruling; for example, where it can be proven that the reason for wanting a change is abuse or forced labour by the employer, the migrant worker should not be penalized in terms of deportation. Such review may help to deal also with the problem of “runaways”, which is quite serious in some countries.

 *Taiwan has changed its regulations to allow a worker to be transferred to a new employer where there is adequate evidence of the employer’s wrongdoing. Such wrongdoing covers not only withholding of passports, bodily harm or violation of the legal rights of the migrant worker but also non-payment of salary for three months or non-observance of the salary stipulation of the contract.⁴⁹*

 **Provide adequate labour protection to migrant workers:**



Migrant workers, as an essential part of the labour market of destination countries, should be covered under the country’s Labour Code. Governments ought to urgently review their labour legislation to:

- Ensure that migrant workers are entitled to at least the minimum standards enjoyed by nationals regarding working conditions, basic benefits and protections [ **Box 4.20**];
- Ensure that the working conditions of migrant workers are regularly monitored by the country’s inspection/enforcement mechanisms;
- Ensure that migrant workers have recourse to labour courts or other forms of labour arbitration or dispute settlement.

 *The United States follows the recommendations of the ILO and provides the same wage and hour labour market protections to all workers regardless of their legal status. To encourage migrants to report violations of their rights, the US Department of Labour does not report suspected unauthorized workers to the INS if the workers initiate a complaint. Further the Equal Employment Opportunity Commission will investigate and, if appropriate, apply penalties to US employers who discriminate against workers on the basis of race, nationality or gender, even if the workers are unauthorized. The Office of the Special Counsel for Immigration Related Unfair Employment Practices in the Department of Justice is devoted to the enforcement of laws that prohibit discrimination in hiring and employment-based immigration status or origin.⁵⁰*

In this context it is worth recalling the *Migration for Employment Convention (Revised), 1949 (No.97)*:

Migration for Employment Convention (Revised), 1949 (No.97)

Article 6

1. *Each Member for which this Convention is in force undertakes to apply, without discrimination in respect of nationality, race, religion or sex, to immigrants lawfully within its territory, treatment no less favourable than that which it applies to its own nationals in respect of the following matters:*
 - (a) *In so far as such matters are regulated by law or regulations, or are subject to the control of administrative authorities –*
 - (i) *Remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age for employment, apprenticeship and training, women’s work and the work of young persons;*
 - (ii) *Membership of trade unions and enjoyment of the benefits of collective bargaining;*
 - (iii) *Accommodation;*
 - (b) *Social security (that is to say, legal provision in respect of employment injury, maternity, sickness, invalidity, old age, death, unemployment and family responsibilities, and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations:*
 - (i) *There may be appropriate arrangements for the maintenance of acquired rights and rights in the course of acquisition;*
 - (ii) *National laws or regulations of immigration countries may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension;*
 - (c) *Employment taxes, dues or contributions payable in respect of the person employed; and*
 - (d) *Legal proceedings relating to the matters referred to in this Convention.*

Text Box 4.20. Special contract for migrant domestic workers 👍

The Ministry of Labour in Jordan endorsed a *Special Working Contract for non-Jordanian Domestic Workers* in early 2003. The contract is the result of joint efforts by UNIFEM and the Ministry of Labour under the project: “Empowering Migrant Women Workers in Jordan.” The Steering Committee of the project which includes the Ministries of Planning, Interior, Police department, Family Protection Unit, the International Labour Organisation, the Jordanian National Commission for Women and the Jordanian Women’s Union and the Embassies of Sri Lanka, Indonesia and the Philippines, reflects an attempt to diversify migration as a security and border control matter.

The contract is the first of its kind in Jordan, and is expected to become a model for other countries in the Arab region. The “*Special Working Contract for Non-Jordanian Domestic Workers*” augments coordination between the sending countries and Jordan, as a destination country, guarantees migrant workers’ rights to life insurance, medical care, rest days, repatriation upon expiration of the contract, and reiterates migrant women’s right to be treated in compliance with international human rights standards.

The contract will be considered as a requirement for obtaining residency, working permit and visa to enter Jordan. The contract comes with the amendment of the new law to register the recruiting agencies. This law will allow the Ministry of Labour to monitor the work of these agencies and take serious actions if they violate the regulations that aim at protecting the migrant workers and employers as well.

Source: Sahtha Amin, “Empowering Migrant Women Workers in Jordan.” A Presentation during ILO Programme Consultation meeting on the protection of domestic workers against the threat of forced labour and trafficking, Hong Kong 16-19 February 2003.

☑ **Consider specific legislation to cover migrant domestic workers:**

In almost all destination countries, the needs of migrant domestic workers deserve special attention – because they generally represent the single largest group of women migrants and because of the specificity of their employment relationship that makes them highly vulnerable to exploitation, abuse and forced labour.

As early as 1965 the International Labour Conference adopted a resolution concerning the conditions of employment of domestic workers, which recognized the “urgent need” to establish minimum living standards, “compatible with the self-respect and human dignity which are essential to social justice”.⁵¹ Sadly, almost four decades later, domestic workers remain invisible in international standards and are excluded or treated differently from other categories of workers in the labour legislation of many countries. This legal stigmatisation occurs in two ways:

- Passively, when they are explicitly excluded from the scope of basic labour standards applicable to other categories of workers and are thus deprived of the basic protection afforded to those other categories. In some countries, even nationals working in domestic service are not covered by the labour code; and
- Actively, when special laws or rules in the basic labour legislation are specifically enacted which, on the grounds of the particular nature of domestic work, grant to domestic workers a lower protection than other categories of workers are offered by general labour laws.⁵²



Governments should respond to the growing number of calls for specific legislation that would cover both nationals and migrants in domestic work⁵³

[👁️ Box 4.21]. Such specific regulation would serve a number of important purposes:

- Recognize domestic workers and the work that they perform For all intents and purposes, general regulation ignores domestic workers and, as a result, fails to protect them;
- Identify problems that arise from domestic workers’ living conditions and dependent relationship and facilitate the adoption of concrete solutions to resolve them;
- Testify to a level of recognition of the social importance of domestic work and attempt to value it:

“One certainly cannot overlook the inherently exploitative nature of hiring an economically less favoured person, usually a woman, who is likely to come from an historically disadvantaged racial group and/or from a country in the South to do work that remains socially undervalued. However, specific regulation starts a different dynamic process. It begins to expose the actual nature of the work, the workplace and the worker. It forces those who pay for the work, those who regulate the work, and even those who do the work to think about it in a radically different manner. Through that dynamic process, specific and ultimately more accurate regulation has the potential to restore some respect and dignity to domestic work”.⁵⁴

Box 4.21. A charter of rights for migrant domestic workers 🇺🇦

RESPECT is the European network of migrant domestic workers' organizations, individuals and supporters, that campaigns for the rights of women and men working in private households in European Union countries. RESPECT supports its members' campaigns and facilitates the sharing of experience and expertise in campaigning, organizing and lobbying. It has published and disseminated the Migrant Domestic Workers Charter of Rights:

"Domestic work in private households is important to European family life, to European economies and to European support systems. It is demanding work, which requires a variety of skills and is often done by women who have migrated to Europe. Many have left their families in an attempt to find a way out of poverty. Their dignity and their rights as people and workers must be protected.

We call for justice and equity for all migrant domestic workers; whether they are documented or undocumented; whether they are live-in or live-out; whether first or second generation; whether they are born in Africa, Asia, South America or Europe. Member states of the European Union must recognise the intrinsic dignity and crucial importance of domestic work and seek to educate their citizens accordingly. Relevant organizations in the European Union have a duty to ensure that migrant domestic workers have information and means to access the following rights:

- The right to an immigration status that recognizes that domestic work in private households is proper work;
- The right to an immigration status for the worker independent of any employer;
- The right to travel both within the host country and between countries of the EU;
- The right to full and non-discriminatory employment rights and social protection, including minimum wages, sickness and maternity pay, and pension;
- The right to change employer;
- The right to a legally enforceable contract of employment setting out minimum wages, maximum hours and responsibilities;
- The right to work free from fear of physical, sexual or psychological abuse;
- The right to join a trade union;
- The right to live and work free from racism;
- The right to family life, including health, education and social rights for the children of migrant domestic workers;
- The right to recognition of qualifications, training and experience obtained in the home country;
- The right to personal and leisure time."

Source : <http://www.solidar.org/Document.asp?DocID+162&tod+12257>

👍 *In Italy, domestic employment is a particular type of employment regulated by articles 2240 to 2246 of the Civil Code, by Act No. 2940 of 27 December 1953, by Decree of the President of the Republic No.339 of April 1958 (extending insurance to domestic workers against accidents, for unemployment and family benefits) as well as general national collective agreements for domestic employment. Under the Act No. 339 of 1958, the hiring of domestic servants is direct, with the employer obligated to communicate to the competent office for unemployment the engagement, during the trial period, which cannot exceed 30 days. Domestic workers should receive a normal wage, have the right to a full day of rest during the week, the right to annual paid holidays, marriage permits, thirteenth month salaries, and financial treatment at the end of the contract. A new general national contract for domestic employment of March 8, 2001, introduced an important new provision against the dismissal of pregnant women workers from the moment of pregnancy (with the only exception of dismissal for lawful cause).⁵⁵*

👍 *In South Africa, legislation which covers domestic workers, gardeners, drivers and persons who take care of children, the old and the disabled, became effective in 2003. It provides domestic workers with all labour rights and standards including minimum wage setting, working hours, overtime, annual leave, maternity leave, sick leave etc. The legislation includes a mandatory wage increase of 8% from all employers. It also obligates employers to register workers with the Unemployment Insurance Fund and pay a monthly contribution.⁵⁶*

👍 *In Costa Rica, the National Institute for Women, which is the national mechanism for women established by law, has been working closely with ASTRADOMES (the organization for domestic workers in the country) and with the cooperation of the Office of the Ombudsperson and other women's NGOs to change the current labour legislation as well as immigration legislation to better protect domestic workers.⁵⁷*

☑ **Regulate and supervise the activities of recruitment agencies:**

Since much of the exploitation and abuse of women migrant workers starts with the employment agent/agency, there has to be proper regulation and supervision of their activities and operations. ILO instruments provide guidance for such regulation and supervision. The main ILO Conventions are [👁 **Section 1.4.3.1 in Booklet 1, also Section 3.5.1 in Booklet 3**]:

- *Migration for Employment Convention (Revised), 1949 (No.97) (Annex 1);*
- *Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143);*
- *Private Employment Agencies Convention, 1997 (No.181).*



Regulation of the operations of private recruitment agents/agencies should cover the relationship between the agents/agencies and the migrant workers and the relationship between the agents/agencies and the employers. There could be specific regulations to cover the following:⁵⁸

- The testing and selection criteria used to select and place migrant workers;

- The veracity of the job offers made by the agencies;
- The nature of employment contracts that the agencies offer migrant workers – particularly to ensure that there is no contract substitution;
- The nature of the contracts made between the agencies and the employers;
- The fees charged for various services and who should be responsible for paying the fees;
- The treatment of personal information on the migrant held by the agencies;
- The recognition of the acquired rights of workers recruited by agencies in the event of such agencies defaulting.



Regulation and supervision of recruitment agents/agencies can take the following forms:

- Establishing *minimum standards* of training, competence and conduct to be met by practising or aspiring professionals both in public and private agencies;
- Instituting a *licensing system* for private recruitment agents/agencies to operate. As specified in Article 3 of Annex I and Article 3 of Annex II to the *ILO Convention on Migration for Employment (Revised), 1949 (No. 97)*, the right to engage in recruitment shall be subject to the approval and supervision of the competent authority. The use of a licensing system has the following advantages:⁵⁹
 - It allows the State to identify agents operating in the market;
 - It makes it easy to collect information when granting of approval is linked to the obligation of regularly reviewing data on the way private agents are carrying out their activities;
 - It ensures close monitoring of the application of regulations;
 - It allows prior screening of individuals or enterprises wishing to operate as agents, thus making it easier to avoid problems by barring entry to those that seem dubious;
- Using *security bonds* to encourage proper operations of employment agencies. The agencies can be made to deposit a financial bond with the competent government authority as a condition for obtaining a licence. The bond could be forfeited and the agency licence revoked in the event the agency is found guilty of serious fraud or malpractices. However, an important lesson can be learned from the experience of imposing levies or security bonds on employers:



Where levies or security bonds have been imposed on employers, and where employers forfeit the money should their employees run away, the measure has had the unintended effect of encouraging employers to confiscate the documents of the migrant workers and to greatly restrict their freedom of movement.

- Where the recruitment agency has branches, partners or links with other agencies in the countries of origin, *checking on the credentials and operations of these agencies in the countries of origin*. Such checking could be done within the context of the bilateral labour agreements and/or by the embassies of the destination country;

- Ensuring *non-discrimination* by the agencies in their treatment of migrant workers as provided for in the *ILO Convention on Private Employment Agencies, 1997 (No.181)*:

ILO Convention on Private Employment Agencies, 1997 (No.181)

Article 5:

1. *In order to promote equality of opportunity and treatment in access to employment and to particular occupations, a Member shall ensure that private recruitment agencies treat workers without discrimination on the basis of race, colour, sex, religion, political opinion, national extraction, social origin, or any other form of discrimination covered by national law and practice, such as age or disability.*

Article 7

1. *Private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers.*
2. *In the interest of the workers concerned, and after consulting the most representative organizations of employers and workers, the competent authority may authorize exceptions to the provisions of paragraph 1 above in respect of certain categories of workers, as well as specified types of services provided by private employment agencies.*
3. *A Member which has authorized exceptions under paragraph 2 above shall, in its reports under article 22 of the Constitution of the International Labour Organization, provide information on such exceptions and give the reasons therefor.*

Article 8

1. *A member shall, after consulting the most representative organizations of employers and workers, adopt all necessary and appropriate measures, both within its jurisdiction and, where appropriate, in collaboration with other Members, to provide adequate protection for and prevent abuses of migrant workers recruited or placed in its territory by private recruitment agencies. These shall include laws or regulations which provide for penalties, including prohibition of those private employment agencies which engage in fraudulent practices and abuses.*
2. *Where workers are recruited in one country for work in another, the Members concerned shall consider concluding bilateral agreements to prevent abuses and fraudulent practices in recruitment, placement and employment.*

Provide adequate checks on employers:



In addition to regulating and supervising the operations of employment agencies to avoid fraud and malpractices, the governments of receiving countries can also institute measures to promote the ethical conduct of employers and ensure that they do not exploit or abuse their migrant workers:

- Insist on the use of standard employment contracts by employers seeking to employ migrant workers. In the context of bilateral labour agreements with the sending countries, these employment contracts could be made mandatory, in a language clearly understood by the migrant worker and checked by the competent authorities in both destination and sending countries to ensure that there is no contract substitution;
- Impose clear penalties, including where warranted criminal sanctions, on employers who engage in forced labour or in other forms of violation of the rights of migrant workers:

👍 In Taiwan, a new regulation came into effect in November 2001 stating that if an employer withholds or occupies the passport, Alien Resident Certificate, salary or any property of a foreign worker, or does bodily harm, or violates any other legal rights and benefits of a foreign worker, the Council of Labour Affairs (CLA) will no longer give permission to that employer to employ foreign workers.⁶⁰

👍 In March 1998, a Singapore court convicted a mother and her teenage son for abusing their 15-year old Indonesian domestic worker. Following the conviction, the Parliament revised the existing penal code for abuse of women migrant workers, imposing stiffer penalties. For example, the penalty for wrongful confinement of the migrant domestic worker for ten or more days is up to 3-year imprisonment and fine and the penalty for rape is imprisonment of not less than 8 years and not more than 20 years and caning with not less than 12 strokes. Convicted employers and their spouses will also no longer be able to hire migrant domestic workers. The Minister of Home Affairs emphasized that the revision of the penal code was to send a stronger warning to employers who abused their migrant workers.⁶¹

👍 The State of Maine Department of Labour in the United States of America monitors agricultural employers of migrant workers for compliance with the Seasonal Agricultural Workers Protection Act and the Fair Labour Standards Act. To do this they conduct field check visits, provide information for migrant workers on wages, housing and discrimination and ensure that migrant workers receive the same services as non-agricultural and non-migrant workers.⁶²

- Carefully review regulations such as the *levies and security bonds* imposed on employers to ensure that they do not have the unintended effect of encouraging employers to exercise strict control on the freedom of movement of the migrant workers and/or of exacerbating the dependence of the migrant workers on their employers;
- Provide adequate information and encourage employers to respect the rights of migrant workers [👁️ **Box 4.22**]:

Box 4.22. Employing foreign domestic workers: A guide for employers 👍

The Ministry of Manpower of Singapore has issued a guide in the four main languages to enable employers “to develop a close and cordial working relationship with your foreign domestic worker” and also to highlight some important work permit requirements. The guide has sections on:

- Approved source of hiring
Foreign Domestic Worker Scheme from approved sources such as Malaysia, the Philippines, Indonesia, Thailand, Myanmar, Sri Lanka, India and Bangladesh.
- Employers’ responsibilities:
Understand and train them
Allow open communication
Family integration
“As an employer, you are also responsible for the worker’s general well-being, including food, accommodation, basic necessities and medical care. She should be treated fairly and reasonably when you assign household duties to her. A happy and well-looked after worker will give you less trouble than one who is unhappy”.

- **Employment Contract**
See proposed guidelines quoted in Box 3.6 in Booklet 3.
- **Wages**
“Wages should reflect the scope of work agreed upon. You can either pay your worker by cash or credit her wages directly into her bank account.... Where appropriate, you should consider giving your worker a periodic wage adjustment. This is to reward her for good performance and loyalty in service. Apart from monthly wages, you could also consider offering your domestic worker a contract gratuity”.
- **Medical care**
“As an employer, you are responsible for the medical benefits of your worker. Should she require medical treatment, including hospitalisation, you are required to bear the full cost of medical care. You are also required to provide personal accident insurance coverage for your worker. The minimum sum insured is S\$10,000 and the beneficiary of the insurance should either be the worker herself or her next of kin”.
- **Accommodation**
“Where possible, your worker should be given a separate room of her own.Some examples of improper accommodation include: making the worker sleep on make-do beds at the corridor or in the living room with little privacy; and sharing a room with an adult of the opposite sex”.
- **Rest**
“A well-rested worker is more productive and better adjusted. Hence, you should ensure that your worker has sufficient rest, especially during the night, and sufficient rest days, which is mutually agreed upon between you and the worker”.
- **Employment Disputes**
“Even if there is suspicion that the worker has committed a misdeed or crime, you should not take matters into your own hands to mete out physical or other punishment.The Foreign Worker Unit helps to conciliate and resolve employment disputes between foreign workers and their employers. The conciliation service is provided free of charge”.
- **Abuse of foreign domestic workers**
“Foreign domestic workers are entitled to human dignity as well as fair treatment. The Government takes a serious view of employers who ill-treat or abuse their foreign workers. ... Employers are reminded that those found guilty of committing an offence against their domestic workers face heavier penalties under the amended Penal Code. Employers and their spouses will also be blacklisted permanently from employing foreign domestic workers in the future”. A list of offences and penalties is provided. For voluntarily causing hurt, the penalty is up to 1-year imprisonment or up to S\$1,500 fine or both. For rape, the penalty is imprisonment of not less than 8 years and not more than 20 years, and caning with not less than 12 strokes.
- **Illegal employment/deployment of foreign domestic workers**
“The foreign domestic worker is only permitted to work for the employer at the address as specified in her work permit. Under the Employment of Foreign Workers’ Act, employers can be charged for illegally employing or illegally deploying a foreign domestic worker”.
- **Foreign Missions’ Requirements**
“The Work Permit Department will process and consider the approval of a work permit application so long as the foreign domestic worker has a valid travel document, is 18 years or older and satisfies the employment requirements. Some embassies however, impose further conditions/requirements on the employment of their nationals Employers may also be required to put up a security bond with the embassy, which could be forfeited if employers fail to comply with the provisions of the contracts”.
- **Repatriation/Missing Workers**
“To ensure that employers repatriate their foreign domestic workers, employers are required to execute a security bond with the Work Permit Department for this purpose. Under the bond, you are required to post a security deposit of S\$5,000 per worker. ... If your foreign worker has absconded, you are advised to cancel her work permit to stop your levy liability”.
- **Decide carefully before recruiting a foreign domestic worker**
“Keep in mind that there are other alternatives such as childcare centres, play schools, and homes for the old or invalid sick..... Please note that the foreign worker levy of S\$345 per month will be reviewed annually and adjusted if necessary. There is also the additional risk that the worker may abscond and your losing the S\$5,000 security bond”.
- **Final advice**

Source: Singapore Ministry of Manpower, *Employing Foreign Domestic Workers A Guide for Employers*.
Website: <http://www.mom.gov.sg>

☑ **Protect the health and occupational safety and improve social security for migrant workers:**

The *ILO Migrant Workers Recommendation, 1975 (No.151)* covers the issue of occupational safety and health:

Migrant Workers Recommendation, 1975 (No.151)

20. *All appropriate measures should be taken to prevent any special health risks to which migrant workers may be exposed;*
21. (1) *Every effort should be made to ensure that migrant workers receive training and instruction in occupational safety and occupational hygiene in connection with their practical training and other work preparation, and, as far as possible, as part thereof.*
(2) *In addition, a migrant worker should, during paid working hours and immediately after beginning his employment, be provided with sufficient information in his mother tongue or, if that is not possible, in a language with which he is familiar, on the essential elements of laws and regulations and on provisions of collective agreements concerning the protection of workers and the prevention of accidents as well as on safety regulations and procedures particular to the nature of the work.*
22. (1) *Employers should take all possible measures so that migrant workers may fully understand instructions, warnings, symbols and other signs relating to safety and health hazards at work;*
(2) *Where, on account of the migrant workers' lack of familiarity with processes, language difficulties or other reasons, the training or instruction given to other workers is inadequate for them, special measures which ensure their full understanding should be taken.*
(3) *Members should have laws or regulations applying the principles set out in this Paragraph and provide that where employers or other persons or organizations having responsibility in this regard fail to observe such laws or regulations, administrative, civil and penal sanctions might be imposed.*

Healthcare is essential. Governments should ensure that:

- Basic healthcare is available to all, regardless of immigration status;
- There are provisions in the employment contracts of migrant workers to cover medical care: employers should be responsible for contributing to medical insurance coverage for their migrant workers;



In Lebanon, the government has imposed the regulation that employers must show proof of health insurance for their employees every year to renew work permits.⁶³

- Healthcare providers do not seek proof of a person's address or travel and legal documentation before providing medical attention;
- There is no tiered system of medical charges. Nationals and non-nationals should be charged the same rates;
- Migrant workers are reassured that health services are not linked to the immigration authorities – if undocumented workers fear that they will be reported to the immigration authorities they are not likely to seek medical attention;
- Especially in countries where the national public health insurance system is weak, governments should encourage and facilitate the establishment of

mutual aid schemes for migrant workers or their contribution to private insurance schemes.

The question of **social protection** is critical [👁️ **Box 4.23**]. ILO Conventions provide for social security for migrant workers; the relevant standards are highlighted in the box below:

Migration for Employment Convention (Revised), 1949 (No.97)

Article 6

1. *Each Member for which this Convention is in force undertakes to apply, without discrimination in respect of nationality, race, religion or sex, to immigrants lawfully within its territory, treatment no less favourable than that which it applies to its own nationals in respect of the following matters....*
 - (b) *Social security (that is to say, legal provision in respect of employment injury, maternity, sickness, invalidity, old age, death, unemployment and family responsibilities, and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations;*
 - (i) *there may be appropriate arrangements for the maintenance of acquired rights and rights in the course of acquisition;*
 - (ii) *national laws or regulations of immigration countries may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension.*

Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143)

Article 9

1. *Without prejudice to measures designed to control movements of migrants for employment by ensuring that migrant workers enter national territory and are admitted to employment in conformity with the relevant laws and regulations, the migrant worker shall, in cases in which these laws and regulations have not been respected and in which his position cannot be regularized, enjoy equality of treatment for himself and his family in respect of rights arising out of past employment as regards remuneration, social security and other benefits.*

Article 10

Each Member for which the Convention is in force undertakes to declare and pursue a national policy designed to promote and to guarantee, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, of social security, of trade union and cultural rights and of individual and collective freedoms for persons who as migrant workers or as members of their families are lawfully within its territory.

Equality of Treatment (Social Security Convention), 1962 (No.118)

Article 2

1. *Each Member may accept the obligations of this Convention in respect of any one or more of the following branches of social security for which it has in effective operation legislation covering its own nationals within its own territory: (a) medical care; (b) sickness benefit; (c) maternity benefit; (d) invalidity benefit; (e) old-age benefit; (f) survivors' benefit; (g) employment injury benefit; (h) unemployment benefit; and (i) family benefit.*

Article 3

1. *Each Member for which this Convention is in force shall grant within its territory to the nationals of any other Member for which the Convention is in force equality of treatment under its legislation for its own nationals., both as regards coverage and as regards the right to benefits, in respect of every branch of social security for which it has accepted the obligations of the Convention.*

Article 4

1. *Equality of treatment as regards the grant of benefits shall be accorded without any condition of residence: Provided that equality of treatment in respect of the benefits of a specified branch of*

social security may be made conditional on residence in the case of nationals of any Member the legislation of which makes the grant of benefits under that branch conditional on residence on its territory.

Maintenance of Social Security Rights Convention, 1982 (No.157)

Part IV. Maintenance of Acquired Rights and Provision of Benefits Abroad

Article 9

1. *Each Member shall guarantee the provision of invalidity, old-age and survivors' cash benefits, pensions in respect of employment injuries and death grants, to which a right is acquired under its legislation, to beneficiaries who are nationals of a Member or refugees or stateless persons, irrespective of their place of residence, subject to measures for this purpose to be taken, where necessary, by agreement between the Members or with the States concerned.*

Article 10

1. *Members concerned shall endeavour to participate in schemes for the maintenance of rights acquired under their legislation, taking into account the provisions of Part III of this Convention, as regards each of the following branches of social security for which each of these Members has legislation in force: medical care, sickness benefit, maternity benefit and benefit in respect of employment injuries, other than pensions and death grants. These schemes shall guarantee such benefits to persons resident or temporarily resident in the territory of one of these Members other than the competent Member, under conditions and within limits to be determined by mutual agreement between the Members concerned.*

Table 4.23. Social security provisions for migrant workers 👍

Italy has made several provisions in its legislation to cover migrant workers, observing the principle that social security for foreigners should not be at a level inferior to that of nationals:

Article 41 of the Immigration Act establishes a general principle of equal treatment for nationals and aliens holding a sojourn permit that is valid for at least one year or a sojourn card, in reference to the benefits of social security allocations.

Article 25 of the Immigration Act regulates in detail social security benefits for seasonal workers. In this case the employer should contribute to the national institute for social security the amount of family allocations and insurance against non-voluntary unemployment. Such amounts finance the national fund for migrant policies, established by Article 45 of the Immigration Act.

Article 49 of Act No. 488 of 23 December 1999 grants social allocations to pregnant alien women workers holding a sojourn card (issued after five years of legal residence in the territory of the State). Such a provision discriminates against migrant women bearing sojourn permits as compared to those bearing sojourn cards.

Source: D'Alconzo, G., S. La Rocca and E. Marioni, *Italy: Good Practices to Prevent Women Migrant Workers from Going into Exploitative Forms of Labour* (Geneva, ILO GENPROM Series on Women and Migration, 2002), p.31.

☑ *Improve assistance and support facilities and services for migrant worker:*

Receiving country governments should provide support facilities and services to ease the adaptation and integration of migrant workers into the society and local traditions. Such services can include [👁 **Boxes 4.24 to 4.26**]:

- Language training,
- Information on rights and access to basic services,
- Skills training,
- Counselling centres, and
- Assistance with accommodation.



In providing such support facilities and services, governments should work closely with workers’ and employer’s organizations and civil society groups. These private sector and non-governmental organizations often provide many of the services that are unmet by the government; they have close networks with the migrant workers and are competent in identifying their needs and in providing appropriate services.

Table 4.24. Public support for having foreign trainees to learn the local language

“The Japanese Government – in other words, the taxpayers – should foot the bill for the language education of foreign workers, as part of the nation’s educational ODA, for several reasons. First, there is the humane reason that the ability to speak Japanese will make living and working in Japan safer and more pleasant for foreign workers. Second, it will be of economic benefit, by helping to increase their work capacity and efficiency. Third, there is a public merit in that acquiring the ability to speak Japanese can be considered an investment in public goods. Clearly Japanese language ability does have the character of private goods, in being of benefit to both the individual trainees and their employers. But, in contrast to visiting foreign students, whose chief objective in coming to Japan is study and research, foreign workers come mainly to work, and therefore lack the freedom, ability, or inclination to master Japanese on their time and at their own expense. Again, there is very little economic incentive for employers to help trainees acquire more than the most basic working knowledge of the language. But if the government, through foreign aid, were to support an overall improvement in the ability of foreign workers to speak Japanese, this would bring significant social benefits by increasing the effectiveness and improving the results of the Work – and -Learn Programme. Hence, any investment in improving foreign workers’ standard of Japanese could be seen as a public investment. Finally, an overall improvement in the ability of foreign workers to speak the language would have significant social and economic utility in the sense of raising the profile and usefulness of Japanese in international business and in workplaces”

Source: H. Shimada, *Japan’s “Guest Workers”: Issues and Policies* (Tokyo, University of Tokyo Press, 1994), p.97.

Table 4.25. Informing migrant domestic workers of their rights 👍

In Costa Rica, the official organization responsible for promoting gender equality and protecting women’s rights was the National Centre for Women and Family (CMF). Between 1994-1998 the CMF formed a strategic alliance with ASTRADOMES, the only organization for household maids in the country. Together they prepared a series of six information and training modules in popular format with pictures and captions and in language easily understood by the migrant domestic workers on:

- | | |
|---|--|
| Module 1: Hiring | Module 4: My right to health |
| Module 2: Wages and Christmas bonus | Module 5: Migrant household maids |
| Module 3: Work shift and vacations earned | Module 6: Right to life without violence |

The modules were validated for four months in La Merced Park, a public area where many Nicaraguans (approximately 1,500) gather during the week and especially on weekends. A tent was set up in the park and three CMF experts were responsible for giving informative lectures and answering questions from both women and men. The strategy combined the use of modules and on site training with posters representing each topic and radio announcements via La Voz Nica.

The CMF also promoted coordination with different public organizations, including the Nicaraguan Embassy in Costa Rica, the General Directorate of Migration and Alien Status, and the Ministry of Public Security. Coordination was particularly important with the Ministry of Public Authority, since its agents allowed the migrants to approach the CMF tent with confidence even when they did not have their migration documents in order.

Source: A. I. Garcia, M. Barahona, C. Castro and E. Gomariz, *Costa Rica: Female Labour Migrants and Trafficking in Women and Children* (Geneva, ILO GENPROM, 2002), p.47-48.

Box 4.26. “Your guide to services in Hong Kong”

The Hong Kong Home Affairs Bureau has published a guide in different languages for migrants coming to work in Hong Kong, mainly as domestic workers. The contents include:

- Introduction
- Arriving in Hong Kong
 - Immigration*
 - Customs*
 - Getting into town*
- ID Cards and Visas
 - Applying for a Hong Kong ID card*
 - Keeping your ID card handy*
 - When will my visa expire*
 - How do I apply for an extension of stay*
 - Where do I make a complaint about the quality of Immigration Service*
- Working in Hong Kong
 - Conditions of employment*
 - Employment agencies*
 - What are your rights as a foreign domestic helper*
 - Ill treatment, physical or sexual abuse*
 - Getting along with your employer*
 - Applying for visa extension*
 - Completion of employment contract*
 - Termination of employment contract*
 - Assistance from the Labour Department*
 - Your rights to organize and other labour rights*
 - Employment Contract (for a domestic helper recruited from outside Hong Kong)*
- Getting Around Hong Kong
- Banks and Money
- Health Care in Hong Kong
- Legal Assistance
 - Labour Relations Division Office of the Labour Department*
 - Non-governmental organizations*
 - Legal information by telephone*
 - Duty Lawyer Scheme*
 - Legal aid services*
 - Getting access to a lawyer*
- The Hong Kong Police Force
- Preventing Corruption
 - Bribery and corruption*
 - The Independent Commission against Corruption*
- Consumer Rights
- Social Activities, Culture and Entertainment
- Places of Worship
- Postal Services
- Social Services
- Tropical Cyclone and Rainstorm Warning Signals
- Government Structure
- Public Enquiries and Hotlines
- Local and International Telephone Calls
- Organisations just for You
 - The Consulate General of the Country of Origin*
 - Migrant organizations, unions and NGOs*
- Returning Home
- Helpful Chinese Place Names and Cantonese Phrases

Source: Hong Kong SAR Home Affairs Bureau, *Your Guide to Services in Hong Kong English Version* (3rd. Edition), January 2002.

☑ **Allow freedom of association and facilitate organization and representation of migrant workers**

In the employment field, the *ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No.87)* and the *Right to Organize and Collective Bargaining Convention, 1949 (No.98)* have become part of customary international law that prohibits discrimination on the basis of nationality or irregularity of status as regards both the membership of trade unions and the establishment of unions. Article 10 of the *Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143)* binds governments to pursue a policy designed to promote and guarantee equality of opportunity and treatment in relation to “trade union rights” [👁️ **Section 1.4.3.1 in Booklet 1**].

Governments should review and revise laws that currently restrict migrant workers in general or particular groups of migrant workers from joining existing trade unions or establishing their own trade unions, holding elected positions within trade unions or claiming the rights accorded to trade union members. **Box 4.27** illustrates the value of migrant associations:

Table 4.27. The role of migrant associations

Research in Italy has shown that migrant associations can play an important role in the lives of migrant workers at different levels:

- **Identity:** Originating from national groups of migrants, these associations make an essential contribution to the preservation and promotion of the culture of countries of origin. By creating occasions for meeting among nationals, celebrating the main religious and civil festivals, maintaining frequent contacts with the countries of origin, migrant associations raise awareness of one’s own roots as well as the re-interpretation and integration of values and rules;
- **Protection:** They protect migrants’ rights through information exchange and solidarity among migrant workers. Self-help associations aimed at helping migrants claim their rights are especially strong among organisations of Italian and migrant women. Several of these associations have projects in favour of women;
- **Representation:** Migrant associations operating within Italian society and interacting with institutional and private organizations are about the only political way that migrant workers in Italy have to make themselves visible and defend their rights;
- **Integration:** Thanks to contact with various Italian counterparts (private institutions, associations, media), members of migrant associations have the possibility to interact with different components of Italian society. Their activities give immigrants a certain visibility among the general public, thereby contributing to a better awareness of their conditions. From this point of view, migrant associations can be regarded as a powerful means of integration.

Source: D’Alconzo, G., S. La Rocca and E. Marioni, *Italy: Good Practices to Prevent Women Migrant Workers from Going into Exploitative Forms of Labour* (Geneva, ILO GENPROM Series on Women and Migration, 2002), pp.43-44.



Take measures to promote gender equality and end xenophobia and racism:

There has to be a general environment of respect for gender equality and women's rights in the country of destination. If a country does not afford its own women equality of opportunity and treatment vis-à-vis men, traditional gender stereotypes are prevalent and national women are discriminated against in law or practice, it is not likely that the rights of women migrant workers will be upheld and that they will be protected from discrimination, exploitation and abuse. It is therefore crucial that governments:

- First and foremost, ensure that all women have a legal status equal with men and are able to enjoy, exercise and defend their basic rights equally with men;
- Have in place effective legislation and enforcement of such legislation against all forms of discrimination by race, colour, sex, religion, political opinion, national extraction or social origin;
- Promote a positive image of women and their contributions to the society and economy;
- Adopt and enforce a policy of non-tolerance of all forms of violence against women;
- Economic and social policies and legal provisions that perpetuate or reinforce gender inequality or discrimination in a country should be looked at. For example, policies that deny women equal rights with men to education, information, property and other resources would entrench sex-based divisions in the labour market – and if national women are discriminated against, then migrant women are likely to be doubly disadvantaged.



Governments should also take all measures possible to address the trend of growing racism and xenophobia by implementing the relevant provisions of the *Durban Declaration and Programme of Action of the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, 2001* [👁️ Section 1.4.2.2 in Booklet 1]. Some specific practical measures for governments to consider are to:

- Work with the popular media to promote greater understanding and acceptance of migrant workers. Use positive and negative sanctions to ensure that the popular media does not contribute to racism and xenophobia by, for example, vilifying migrants, and in particular women migrants – such as portraying them as responsible for “social diseases”, the spread of HIV/AIDS, providing a bad influence for children and young persons, “stealing the local men”, etc.
- Conduct special awareness raising and sensitisation programmes for officials – the impact is very serious when it is a high level official who makes racist remarks or whose dealings with migrants is based on his/her prejudices or preconceptions;

- Sponsor special social events that will bring together nationals and migrants and give them the chance to gain a better understanding of each other and opportunities for social and cultural integration;
- Treat cases of racism or xenophobia with severity so as to send the message that such treatment will not be tolerated and will be punished.

4.4.2. What can governments of sending countries do

- **Booklets 2 and 3 describe the measures that sending governments can take to protect their migrant workers, in particular women migrant workers from discrimination, exploitation and abuse. In this Booklet, the focus is only on the measures that governments of sending countries can take in terms of their representation in the countries of destination, in particular through their embassies, consulates or missions.**



The embassies, consulates or missions of the countries of origin can play an important role in preventing discrimination, exploitation or abuse of their nationals working abroad through:

- Monitoring the observance of the bilateral/multilateral labour agreement that their country may have signed with the country of destination;
- Being alert to developments in the destination country, which affect the interests of their nationals. Individual migrants are rarely in a position to defend or advance their interests, so it is up to their embassies to lobby or make formal representation with the destination country:

👍 *The case of Mexico is notable in terms of consular protection with 43 consulates in the United States. These consulates provide legal defence programmes for victims of human rights violation and programmes aimed at migrant minors.⁶⁴*

- Keeping and regularly updating a register of all their nationals who are working in destination country:

👍 *Several Latin American countries, notably Chile, El Salvador, Mexico, Peru and Venezuela have established linkage programmes with nationals abroad.⁶⁵*

- Posting a labour attaché in those destination countries where a large number of their nationals are working. The labour attachés should be gender-sensitive and well familiarized with the problems of women migrant workers. The ILO offers courses for labour attaches to prepare them for dealing with the problems of their nationals working abroad:

👍 *At work sites, particularly where there are large concentrations of female migrant workers, the Philippines government has posted female Filipino Overseas Labour Officers, who are labour attaches, welfare officers and centre coordinators. There are female attaches assigned in places such as Hong Kong, the Republic of South Korea, Singapore, Saipan, Taiwan, Spain, Italy, Abu Dhabi and Dubai.*

- Checking on the credentials of employment agencies and employers wishing to hire their nationals and also verifying the employment contracts that are offered to their nationals. Emigration clearance for the migrant to leave the country of origin may be given only after the embassy has completed the checks;
- Keeping in regular contact with the migrant workers, including providing them information about events and developments in their home country and organizing special functions in the country of destination that will offer migrants the opportunity to network:

👍 *During the Philippine presidential and parliamentary elections of 2004, some seven million Filipinos residing abroad will have a chance to vote for the first time ever at diplomatic missions all over the world. Voter registration will be totally computerised including a biometric identification through fingerprinting.*⁶⁶

- Providing advice and counselling services for women migrant workers;
- Supporting their nationals in the organization of recreational and other social activities. Physical distance as well as cultural and other barriers may adversely affect workers' ability to use locally available avenues for socialization. Women migrant workers in particular may need to create their own social support networks abroad:

👍 *The Overseas Workers Welfare Administration of the Philippines maintains recreational centres in Singapore and Hong Kong for the benefit of Filipino domestic workers.*

- Assist their nationals to form migrant associations. Labour attaches in many countries have found it necessary to take an active part in organizing migrant associations, which in turn can prove to be of immense value to the performance of their own functions;
- Providing classes and training programmes for migrant workers during their days off:

👍 *In the United Arab Emirates, the Embassy of the Philippines offers programmes for educating female domestic workers and helping them to move out of the unskilled labour category. The programme carried out at the Dubai Consulate on weekends is exemplary as self-sustained community work. Under the programme, the embassy provides classes ranging from computing to cooking and sewing, to photography and other skills free of charge. Filipinos from the Dubai and UAE community themselves sustain these lessons, teaching and organizing the classes free of charge. Filipino men and women, sometimes accompanied by their children, go in and out of the classes, registering, chatting and asking for information, often in the atmosphere of a fair.*⁶⁷

- In cases of problems such as disputes over contracts, issues of crime or violation of local laws, representing their nationals and assisting in negotiations with agents, employers, the police and law courts;
- Providing specific assistance to women migrant workers who have run away from abusive employers:

👍 *In Lebanon, the Sri Lankan Embassy regularly sends an employee to the Office of General Security to request names and addresses of employers of runaways so that they can mediate negotiations for retrieval of passports, payment of wages and funds for repatriation. In an attempt to improve the conditions of work of Sri Lankan domestic workers, the Sri Lankan ambassador notifies the agent concerned when faced with a woman who has run away. When the agent arrives at the embassy to "collect" the domestic worker, the ambassador does not release her to the agency but insists to the agent that he (the ambassador) interviews the future employer to ascertain whether he or she will respect his/her obligations as employer.*⁶⁸

- Arranging for the repatriation of nationals who are stranded in the destination country, including, where needed, providing them monetary assistance to cover their essential expenses:

 *The Migrant Workers' Welfare Fund, which was established by the Sri Lankan Bureau of Foreign Employment, has allocated some Rs.2 million to Sri Lankan embassies in Saudi Arabia, Qatar, Jordan, Singapore, UAE, Lebanon, Kuwait and the Maldives. The funds are allocated for the accommodation and travel costs of stranded workers and board and lodging for deported workers.⁶⁹*

4.4.3. What can workers' and employers' organizations, migrant associations and NGOs do



First and foremost, the social partners should lobby for a regulated and orderly labour migration system and ensure that they have a voice in the management of migration. They should lobby for destination countries to adopt a migrants admission system that is based on systematic and realistic assessment of the labour market situation and that “responds to measured, legitimate needs, taking into account domestic labour concerns as well”.⁷⁰ Workers' and employers' organizations should be closely involved in determining the current and emerging demand for migrant workers at all levels of the skills spectrum, which should then form the basis for determining the admission of migrant workers.

4.4.3.1. Workers' organizations



Trade unions do face a number of constraints and problems in organizing migrant workers and in protecting their rights.⁷¹ But international trade union organizations have always worked towards the goal of ensuring full protection of migrant workers' rights [👁️ Box 4.30]. At national level in destination countries, a growing number of trade unions are actively championing the rights of migrant workers and recruiting them as members or assisting them to form their own organizations. Trade union action is based on:

- The solidarity of all workers: Migration for work is a labour issue, therefore trade unions have a direct responsibility to organize and assist all workers, national or migrant, documented or undocumented;
- The recognition that “all workers – immigrant, native-born, documented or undocumented – should have the full protection of our system of workplace rights and freedoms”⁷²;
- The recognition that abuse of the rights of migrant workers will also erode the rights of native workers;
- The social role of trade unions – for the promotion of gender equality, the elimination of violence against women, the fight against racism and xenophobia, etc.



Trade unions in destination countries can consider the following guidelines to assist migrant workers, in particular women migrant workers:

- Defend the right to freedom of association and the right to collective bargaining for all workers, national and migrant (Give particular attention to the right of migrant domestic workers to freedom of association). Migrant workers should be able to join existing trade unions or to form unions of their own;

- Lobby to ensure that governments do not deal with immigration policies and administrative procedures for migrant workers as separate from labour market issues;
- Represent migrant workers, whether they are union or non-union members, in advocating for laws that prevent discrimination, exploitation and abuse, including trafficking of women migrant workers;
- Develop a clear trade union policy for addressing migrant workers issues, especially in workplaces that are known to be problematic to migrant workers. Where appropriate, establish migrants desks/units within national trade unions that can assume specific responsibility for organizing migrant workers and dealing with migrant workers issues;
- Conduct awareness raising among union members, so as to sensitize them about the role and contributions of migrant workers and the problems that migrant workers, in particular women migrant workers, encounter. Trade unions can do much to dispel some xenophobic and fallacious notions about migrant workers, including:
 - The notion that “migrants steal our jobs” – in reality, migrant workers, especially women migrant workers, commonly take the 3D jobs which national workers shun. In fact, migrant domestic workers relieve national women of their household responsibilities and enable them to take up better paying jobs in the labour market;
 - The notion that migrant workers depress wage levels – since women migrant workers are in segmented labour markets, there is normally no discernable impact on wage levels;
 - The notion that migrant workers place an intolerable burden on the public purse owing to their demands for social services – this argument totally disregards their contribution to the national economy;
- Mount campaigns to recruit migrant workers as union members and/or support the efforts of migrant workers to organize themselves. Provide training, guidance and, where necessary, resources to enable them to organize themselves [👁️ **Boxes 3.12 and 3.13 in Booklet 3**];
- Provide support services and facilities for migrant workers, in particular for women migrant workers [👁️ **Boxes 4.28 and 4.29**]. Widely publicize these services, so that migrant workers know where to go for assistance;
- Work with other civil society groups to promote the rights of migrant workers and to fight racism and xenophobia [👁️ **Boxes 4.30**];
- Strengthen networking and solidarity between unions in destination and source countries, so as exchange information on recruitment practices, the modus operandi of traffickers, labour market developments, problems of women migrant workers, etc [👁️ **Boxes 4.31 and 4.32**].

Table 4.28. Providing services for migrant workers 🍌

In Costa Rica, the Household Workers Association (ASTRADOMES) was established as a labour union in 1991. It has some 400 members, most of them Nicaraguan, although there are also Salvadorans, Hondurans and Guatemalans. It is affiliated to the Latin American and Caribbean Female Household Workers Confederation. ASTRADOMES offers the following services [👁️ also Box 4.25]:

- Telephone inquiries by domestic workers and employers;
- Advice, support and legal and social guidance for female migrant workers with labour problems;
- Temporary shelter for dismissed workers;
- Training workshops on subjects such as labour rights and duties, self-esteem, sexuality and reproductive health. Training activities take place on Sundays, so that female workers can attend;
- Social events intended to maintain the cultural identity of the migrant workers, such as offering typical dishes of the source countries and theatrical plays portraying the problems of migrant women;
- ASTRADOMES, with the support of other organizations, has also promoted a proposal for a law to reform the labour code regulations dealing with employment in domestic service.

The main limitations identified by ASTRADOMES in its work with migrants are:

- Migrants' fear to fight for their rights because of Costa Rican xenophobia, discrimination, and lack of sensitivity towards migrants;
- Migrants' fear of dismissal from their jobs if they participate in activities organized by workers' organizations. This fear is due to ignorance about their rights.

Source: A. I. Garcia, M. Barahona, C. Castro and E. Gomariz, *Costa Rica: Female Labour Migrants and Trafficking in Women and Children* (Geneva, ILO GENPROM Series on Women and Migration, 2002), p.51-52.

Box 4.29. Assisting migrant prostitutes 🍌

The Italian trade union, Confederazione Generale Italiana del Lavoro (CGIL) set up a department on migration policies in the late 1980s. The department works closely with NGOs representing the migrants. For example, it organized together with the associations of Filipino and Sri Lankan women a course to inform migrants of the national collective agreement on domestic work. It also developed a project "Via Amica" to protect migrant prostitutes, involving NGOs and local and national authorities. NGOs work with the union and train special educators called "Street Units" who work in the areas where prostitutes operate, making contact and winning their trust. Some of these educators are cultural mediators, meaning that they know the languages, cultural habits and ways of thinking of the nationalities and ethnic groups of migrant prostitutes.

Migrant prostitutes are given information on healthcare, work and residency permits, and housing. They are taught hygiene and reproductive health and are provided with condoms. They are also provided information on their rights under the law to prevent abuse and exploitation. CGIL also plays an important role mediating between the prostitutes and the local community, the public authorities and the police. The project offers shelter to those migrant prostitutes who want to change jobs, until they find new work and accommodation. While the goal is not to turn prostitutes into other occupations, the union does, when asked, assist the women to find new jobs.

Source: ILO, *Promoting Gender Equality A Resource Kit for Trade Unions Booklet 4 Organizing the Unorganized: Informal Economy and Other Unprotected Workers* (Geneva, ILO GENPROM, 2002), p.37.

Table 4.30. No to Racism and Xenophobia! Plan of Action for Trade Unions

The International Confederation of Free Trade Unions (ICFTU), which has a membership of more than 125 million workers worldwide, has a section specifically on migrant workers in its No to Racism and Xenophobia! Plan of Action. The Plan states that trade unions should:

- Urge governments to legalize undocumented workers;
- Lobby for legislation to protect those working in the underground economy;
- Work with communities to provide support and legal assistance for undocumented workers;
- Undertake special campaigns to organize migrant workers, including those who are undocumented;
- Be actively involved in shaping immigration and migration policies in order to protect the interests of working people and their families;
- From both sending and receiving countries, work jointly to protect and defend the rights of migrant workers.

Source: Website: <http://www.icftu.org>

Box 4.31. The Immigration Rights Advocacy, Training and Education Project

The Immigration Rights Advocacy, Training and Education Project (IRATE) is a coalition of 10 trade unions in the Boston area of the United States, working to help immigrant workers and promote organizing among them. The main goal of IRATE is to bring together unions and immigrant workers. IRATE established the Immigrant Workers' Resource Centre in Boston to provide information, referrals and direct services, from filing claims to workplace abuse problems.

Through its advocacy work, IRATE has been able to create goodwill among immigrant workers' communities towards the labour movement. The Centre has also initiated workers' committees in different communities to campaign for retraining programmes. The idea behind such "core groups" is for the unions to participate in training workplace advocates in each of these communities which means that those workers will be leaders in their workplaces and potential contacts for workplace organizing.

Source: ILO, *Promoting Gender Equality A Resource Kit for Trade Unions Booklet 6 Alliances and Solidarity to Promote Women Workers' Rights* (Geneva, ILO GENPROM, 2002), p.14.

Box 4.32. Cooperation across countries

The **National Workers' Congress (NWC) in Sri Lanka** commenced training programmes for migrant workers in 1990. It opened union membership to migrant workers five years later and maintains a migrant workers' branch. In order to provide a reliable outreach service, the NCW entered into an accord with an affiliate of the World Confederation of Labour (WCL), the DEOK of Cyprus, which agreed to undertake a joint programme for overseas Sri Lankan workers who are members of NWC. The accord is an achievement that symbolizes trade union solidarity and commitment to the protection and welfare of migrant workers. NCW has also reached an understanding with NGOs focusing on migrant workers in Singapore, Hong Kong, Taiwan and the United Kingdom.

Source: World Confederation of Labour, *Protecting Women Migrant Workers Making it Work for Trade Unions* (Brussels, WCL, 1999), p.8.

Public Services International (PSI) have been focussing on "twinning unions" from sending and receiving countries in order to pressure government to develop bilateral agreements for migrant workers protection. One example relates to the agreement between the Philippines and the United Kingdom on the fair employment of nurses from the Philippines [ Box 4.19].

Source: Information provided by the International Confederation of Free Trade Unions.

4.4.3.2. Employers' organizations



Since many migrant women work in individualized work situations, such as in domestic work, it is difficult to galvanize employers to take action to promote the rights of migrant workers. However, one way would be to strengthen the involvement of employers' organizations, particularly of those employers who hire large numbers of migrant workers. Employers' organizations in destination countries have a responsibility to raise the awareness of their membership regarding hiring practices and working conditions of migrant workers and to promote the principle of non-discrimination between national and migrant labour. Some guidelines for employers' organizations are:

- Employers' organisations could provide model employment contracts to be adopted by employers;
- Employers' organizations could develop a standard code of practice or good practice guidelines for employers [👁️ **Box 4.33**];
- Employers' organisations could set up separate committees or structures to deal with equal opportunities issues. If these structures already exist, their functions should extend to explicitly address the issue of migrant workers;
- At the enterprise level, public policy statements on equal opportunities for employment and the promotion for migrant workers rights could be adopted. These statements could be accompanied with specific action plans and practical steps that assign responsibilities and promotes integration of migrant workers [👁️ **Box 4.34**].

Box 4.33. Corporate good practice 👍

Corporate good practice can be introduced within governmental and private institutions and can also serve as a model to raise the awareness of other employers. An example is the American University in Beirut, Lebanon. In 1999, a severe case of abuse of a migrant domestic worker by a university employee was widely reported in the Lebanese media. Afterwards, the University enacted its own "Rules and Procedures with Respect to Household Help". This requires the University staff members to register the workers with the University and based on this, the worker retains possession of all documents and identity papers; the staff member/employer is obliged to pay the worker on time; to treat her/him with dignity and respect all rights "as an equal". These rules also state that in the event of any threat by the employer on the worker such as assault, injury, ill-treatment and sexual or physical abuse, the University has the right to take legal proceedings on behalf of the household help against the responsible employer. The University will also take disciplinary measures against the staff member/employer through verbal reprimand, written warning, termination of household assignment and termination of employment.

Source: R. Jureidini, *Women Migrant Domestic Workers in Lebanon* International Migration Papers No. 48 (Geneva, ILO International Migration Programme, 2002), pp.25-26.

Box 4.34. Valuing diversity at the workplace 🍷

INTERACT is a project in Ireland that seeks to address some of the barriers at enterprise level that will ensure the establishment of effective support for both the employers of migrants and the migrants themselves and consequently develop the conditions that will enable the Irish labour market to support a multicultural workforce. The project has two related elements of language support and multicultural awareness management. The focus is on the three sectors of food processing, health and hotels and catering. The project is being implemented with the partnership of the following bodies: the Irish Business Employers Confederation, the Irish Congress of Trade Unions and the National Training Authority

Source: <http://www.fairer.info/irelandproj.html>.

4.4.3.3. Migrant associations and other NGOs



In many destination countries, migrant associations and NGOs play a critical role, making up for the deficiencies in government support and services:

Example: *In Italy, according to the Italian Foundation for Voluntary Service, some 1,000 associations work in the field of migration. Fifty percent of these associations have Italian leadership, while the rest are led by migrants.*



NGOs working with migrant workers, in particular women migrant workers, have learnt that at least three levels of strategy are important: ⁷³

- **“Compassion and defence” strategies:** providing crisis intervention and welfare service, exposing and defending against abuses and rights violations, lobbying for rights protection at local up to international levels;
- **“Empowerment and enabling” strategies:** building, organizing and training grassroots migrants as well as support groups/NGOs to respond to migrant issues; building migrant trade unions; training migrants and NGOs to campaign, organize and address issues; forming migrant networks at the local, regional and international levels; building migrants’ movements;
- **“Social justice” strategies:** collectively challenging the root causes of migration and trafficking (poverty, national policies, unemployment, corruption, etc.); advocating for social justice, including changing social roles/relationships which result in class, gender, and social exploitation/oppression; promoting social, economic and political participation of migrants; mobilizing migrants’ resources for economic and political empowerment; establishing reintegration programmes and building migration alternatives.



A very important form of empowerment for women migrant workers is to establish their own organizations. Setting up and running their own migrant organizations can, for example:

- Greatly enhance the self-esteem and confidence of migrant women;
- Enable them to share and exchange information;
- Have a platform for voicing issues of concern to them;
- Develop services and facilities that directly address their needs;
- Provide them the solidarity and social networks they need being away from their own home supports.



The guidelines for NGOs in destination countries include:

- An appropriate responsibility for civil society actors is the advocacy for adherence to international instruments and standards and the elaboration for anti-discrimination legislation. All civil society actors should work

towards achieving these goals through the establishment of national committees and/or coalitions;

- NGOs and civil society actors should develop institutions and personnel, which are capable of carrying out the various activities and support services which are needed;
- NGOs can document and share best practices;
- Creative initiatives which link different types of civil society actors, such as bar associations, human rights associations and trade unions, are important;
- NGOs should be able to implement appropriate measures in the campaigns on violence against women and support innovative partnerships with public agencies and private business sectors, as well as with employers;
- Civil society actors in both receiving and sending countries should develop effective networking and information sharing;
- NGOs should lobby for the signature, ratification and compliance with relevant international instruments for the protection of migrant workers;
- NGOs can assist governments in developing proper care, protection and assistance for women migrants who are in difficult circumstances. In many ways NGOs can sensitise the authorities with regards to migrant rights.

Migrant associations, NGOs and other civil society groups can have a very wide range of activities targeting migrant workers. **Box 4.35** illustrates some of these services and facilities.

Box 4.35. Types of NGO support to migrants in destination countries 🍷

A holistic approach: Italy:

Organizations seeking to address the problems of women migrant workers should adopt a holistic approach aimed at integration. In Turin, Italy, an NGO, ALMATERRA, has activities covering several fields to address all the main needs of migrant women. ALMATERRA was founded in 1994 by Italian and migrant women of different nationalities, to create a focal point for migrant women. Initiatives of ALMATERRA are mainly carried out at the Centre Alma Mater, where several permanent support services are placed.

Among the initiatives carried out at the Centre, particular reference can be made to: the reception and cross-cultural mediation, documentation centre, space for children serving as a cross-cultural kindergarten, legal support, workshops and vocational courses. Many initiatives promoting migrant women enterprises have also been undertaken, in particular a cooperative and a traditional “hammam” managed by migrant women. The activities of ALMATERRA and the Centre Alma Mater are considered successful even by Italian institutions, which have funded many of them.

Source: D’Alconzo, G., S. La Rocca and E. Marioni, *Italy: Good Practices to Prevent Women Migrant Workers from Going into Exploitative Forms of Labour* (Geneva, ILO GENPROM Series on Women and Migration, 2002), p.51.

Awareness raising on migrant workers rights: USA

The Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA) runs a community education and outreach programme as one of its activities. It assists multiethnic, low-waged migrant workers through providing them with the necessary information when laws are passed, when documentation procedures change or when people need to know their rights at work. The community education and outreach programme informs migrants and their community leaders of their immigration and civil rights via face-to-face seminars and training.

Source: CHIRLA <http://chirla.org/programs.htm>

Welfare services and crisis intervention: Lebanon

The Pastoral Committee of Asian and African Migrants (PCAAM), established by Caritas, an international confederation of Catholic organisations, administers social and legal assistance to migrant workers. The Committee, which caters through 3 centres for the needs of African and Asian migrant domestic workers, undertakes the following: assist women in detention centers and prisons (mostly because they do not have valid documents); provide lawyers and legal aid, initiate contact with embassies of sending countries, administer a safe house for victims of abuse and arrange alternative employment or repatriation.

Source: R. Jureidini, R., *Women Migrant Domestic Workers in Lebanon*. International Migration Papers No. 48 (Geneva, ILO International Migration Programme, 2002).

Employment assistance and preventing discrimination: Costa Rica

The Foundation for Assistance and Progress of Nicaraguan Migrants in Costa Rica, which has been operating since 1999, has two major objectives. The first is to eliminate discrimination against migrant workers and the second is to provide Nicaraguan migrants with equitable labour conditions. Some of the activities are: an educational project so that migrants, who are mostly Nicaraguan women domestic workers can earn their basic school degrees; an employment office where migrants are assisted in obtaining appropriate jobs; legal assistance so that migrants understand the procedures related to their legal residence. This is in addition to other services such as medical attention and a radio newscast which acts as a communication medium between the migrants in Costa Rica with their families in Nicaragua.

Source: Garcia, A.I., M. Barahona, C. Castro and E. Gomariz, *Costa Rica: Female Labour Migrants and Trafficking in Women and Children* (Geneva, ILO GENPROM Series on Women and Migration, 2002).

Administrative and legal assistance: Hong Kong

The United Migrant Workers Interim Trust was established in 1992 by migrants and for migrants. It provides assistance and advice in matters dealing with immigration, such as obtaining extensions of stay, changing employers, help for people who overstayed their visas etc. It also provides legal aid and representation in filing and following up on claims and labour tribunals and also assists those migrants facing legal accusations of criminal acts.

Source: Hong Kong SAR Home Affairs Bureau, *Your Guide to Services in Hong Kong* English Version (3rd. Edition), January 2002.

Health services: Japan

Minatomachi Foreign Migrant Workers' Mutual Aid Scheme for Health(MF-MASH) initiated by the staff of the Minatomachi Medical Centre in Kanagawa Prefecture is specifically intended to serve migrants who are unable to join the public health insurance scheme. It allows members to receive treatment at 30 per cent of the actual cost. MF-MASH works together with another NGO, SHARE, to provide free medical consultation and counselling for foreign workers. The staff of public hospitals in Kanagawa Prefecture, some eight years ago, took the lead in refusing to follow a government policy not to admit non-members of the public health insurance scheme. Today, public hospitals generally uphold the right of anyone to receive medical treatment and many refuse to report undocumented workers. Medical NGOs in Japan recently convened the Nationwide Meeting on Guaranteed Medical Care to All Foreigners, and resolved to lobby for the coverage of all migrants by the National Insurance Law and Life Protection Law.

Source: <http://www.isiswomen.org/pub/wia/wiawcar/migrant.htm>

Protection under the labour law: Republic of South Korea

The Joint Committee for Migrants in Korea (JCMK), a network of 36 counselling centres and NGOs, began organizing migrant workers in Korea along nationality lines in the 1990s. It made representations to the government authorities for their legitimate grievances. JCMK members staged hunger strikes and protests and submitted proposals that lead to the government granting undocumented workers compensation and other protection under the Labour Standard Law. The Association of Foreign Workers for Human Rights based in Pusan is fighting a test case in court for retirement pay claim for trainees. The Association works closely with Kanlungan Centre in the Philippines to protect the plaintiff's family from harassment by the recruitment agency.

Source: <http://www.isiswomen.org/pub/wia/wiawcar/migrant.htm>

Capacity building for migrants organizations: Example from a Regional Network

The Asian Migrant Centre (AMC) is a regional NGO based in Hong Kong established in 1989. The AMC promotes migrants' empowerment by building and strengthening migrants' organisations, and supporting efforts to organise and unionise migrants in various Asian countries. AMC helps to build the capacity of these organizations to dialogue and lobby governments in destination and source countries for promotion of migrants' human rights issues, adoption of national protection laws and ratification of UN human rights conventions. Some of the activities of the AMC are data collection, training and education for groups particularly in organising, lobbying and sensitisation, reintegration programmes and providing alternatives for migrants.

Source: <http://www.asian-migrants.org>

4.4.4. What can migrant women themselves do

An important means for protecting women migrant workers is to equip them with the necessary information and self-confidence to exercise their rights and to take advantage of the facilities that are offered to them in the destination country. Government agencies, trade unions, NGOs or others providing advice, counselling or capacity building may find the following guidelines useful to give to individual women migrant workers:



Arriving in a new country among people whose lifestyle, culture, language and working habits are different is never easy. Guidelines for adaptation and settling in a new job are:

- ☑ Learn to speak the language of the destination country, even if it is only a basic understanding. This is one way to avoid isolation, adapt to the new environment and be better able to communicate, including with the authorities should the need arise;
- ☑ Learn about the destination country in terms of socio-cultural conditions in order to ease adaptation and avoid miscommunication based on cultural differences. In fact, cultural awareness and adequate knowledge of the language may facilitate a better working relationship with your employer. Your employer may also have a better understanding of your cultural needs, such as practising your own religion or your dietary restrictions, etc.;
- ☑ Feelings of isolation, loneliness, anxieties and depression after arrival in a new country and working environment are normal. It is important that you develop your own support network. There are many women who share your experience and will understand what you are going through. Developing your own support network is possible through your embassy, church/religious groups or other social organizations. It is also important that you maintain close contact with your family and friends at home.
- ☑ If you have access to any information regarding the legislation within the country which addresses your rights, read it carefully and keep your own copy for future reference. If you do not have access to such documents you can ask your embassy or acquaintances whether such information exists and how to obtain it;
- ☑ You should be aware not only of your rights but also of the administrative procedures that exist. Examples are: what to do if you want to change your employer or move into another type of job; what to do if you want to extend your stay; what to do if your contract is unwillingly terminated etc.;
- ☑ It is important to recognize your own strength and, that in spite of the difficulties you might be facing, you have the power and the capacity to adapt to your new circumstances.



Guidelines to help individual migrant workers understand employment conditions and avoid violations of employment contract are:

- ☑ Do not sign any document if you do not understand the language;
- ☑ If you have already signed an employment contract in your home country, do not sign another one in the destination country;
- ☑ Do not sign any document if you do not agree with it;
- ☑ In case the employer or agency attempts to force you into signing any document, you should resort to your embassy;
- ☑ Make sure that the terms of employment are clearly specified in the contract. This applies to all aspects of your working conditions, such as wages, working hours, days off, decent accommodation, health insurance, repatriation responsibility and so on;
- ☑ If you are told by your employer or agent that you owe them money, insist on a clear accounting of exactly what you owe. If you feel that additional charges or interest have been added to your debts, seek legal help, such as with your embassy;
- ☑ Make sure that your duties as a worker are clearly stated in the contract. You should know that your employer has no right to require you to perform additional duties nor to request you to work for other people;
- ☑ Make sure you have your own copy of the signed employment contract;
- ☑ Do not sign for wages you have not received;
- ☑ If you have paid any agency fees or commission, make sure you ask for a receipt;
- ☑ Ask for a receipt for your wages from your employer and avoid a situation where your employer is the one transferring your wages to your home country;
- ☑ Insist that your wages are paid on a monthly basis and in cash. Do not accept that your employer retains your wages until the end of your contract or that she/he “saves” your wages for you.



Guidelines to help individual migrant workers avoid vulnerability and abuses of human rights are:

- ☑ Firstly and importantly, remember you have rights. Any form of verbal, psychological and/or physical abuse should not be tolerated and you should not be afraid or ashamed to report it;
- ☑ Register with your embassy after arrival and provide the full and correct name and address of your employer;
- ☑ Always remember the address and telephone contact of your embassy in case you need any support;
- ☑ Remember the full name and address of your employer so that you are able to report him/her in case of any violation of your basic rights;
- ☑ Always make sure that you keep your passport and personal documents and never hand them over to your employer or agent;
- ☑ In case your documents are confiscated, you should have a copy of all essential documents and keep another copy with a trusted friend or with relatives in your home country;

- ☑ Know where to go for help. In most countries, there are many organizations that can provide support and refuge;
- ☑ If you have been subject to any form of physical abuse, go immediately to the police or to the embassy. Ask for a physical check-up and keep a copy of the medical certification.



Guidelines to help individual migrant workers to improve ability to maximize savings and competency in money management are:

- ☑ Try and not remit your entire earnings home for family spending. Make sure that you keep some as your own savings. Your family may spend all the remittances so that when you return there is no money to fall back on. You should also inculcate in your family the value of spending wisely and saving for the future;
- ☑ Try to save part of your earnings regularly. Seek advice on how you can ensure that your savings are secure either in a financial institution in the country where you are working or your home country. Open a bank account in your own country before going abroad and remit your money regularly to the bank;
- ☑ In remitting money home, make use of proper, safe financial channels. Always find out what a fair exchange rate is – especially if you are using informal channels, so that you do not lose on the transaction and your family ends up getting less;
- ☑ If you are able to save some money through your work, try to avoid the temptation to spend your money on gifts and shopping. This way you can ensure that your savings will accumulate faster;
- ☑ Start doing some financial planning. Think about the aims you need to achieve with your savings, how much money you need in order to achieve these aims and/or how to budget your savings to make it last. There are trade unions, cooperatives and NGOs that can help you with this type of planning;
- ☑ You need to start thinking about how you will use your money to earn an income when you go back home. Often Departments of Labour or Migration provide training and services to help you to start a business. Find out what is available since it could be the answer to making sure that you are able to stay in your home country upon return and do not have to look for work abroad again;
- ☑ Find out about savings schemes and group savings cooperatives that may be operating in the country where you are working. This can help to ensure that not all of your money will be spent at once;
- ☑ Be careful with your savings. Unfortunately, there are people who will try to cheat you of your precious earnings. Never give your savings over to anyone unless you are sure that it is a legitimate savings scheme. Also be alert to strangers who may approach you in drop-in centres, shopping malls, airports, etc.



The migration experience for women can be an empowering and enriching one. So what is gendered migrant empowerment?⁷⁴

- *Empowered women migrants* recognize and work towards changing the internal conditions and the external environments that oppress them;
- *Personal dimension of empowerment*: women migrants develop a sense of their individual capacity to undo the effects of internalized oppression;
- *Relational aspect of empowerment*: women migrants develop the ability to negotiate and change the nature of relationships (for example, with the employer, within their own families);
- *Collective dimension of empowerment*: women migrants develop their power to do things together, and with others in the same situation, to achieve greater impact – the power of cooperation (at local, regional and international levels);
- *Gendered empowerment* means helping build the “power within” of migrant workers, especially women; letting them see their inherent and internal strengths and power to overcome weaknesses;
- *Gendered empowerment* gives importance to the support of family and community (in both home and destination countries), enabling the family and community to understand the situation/issues of migrants and society;
- *Gendered empowerment* involves influencing governments (at national and international levels) to develop/reorient policies to be more gender sensitive to addressing migrant issues.

Box 4.36. A voice of empowerment

On arriving in Paris in 1987 Françoise, as we will call her, already had many years of experience behind her as a ‘domestic worker’. Looking after children, cleaning, ironing, cooking, is all what Françoise had done since leaving school around the age of 12 years in Mauritius. When she came to Paris as a migrant worker at the age of 30 she had no illusions as to her job prospects. Nevertheless, having set up the first trade union for domestic workers in her own country, Françoise was ready to stick to her rights. “ I wanted to know the price of a loaf of bread, the cost of a maid’s room and my hourly wage. In Mauritius I had learnt how to look after myself and I was determined to do the same in France and to fight to get rid of my clandestine status.” She quickly contacted the *Confederation Francaise Démocratique du Travail* (CFDT) who helped her sort out her legal status. She soon became an active member, thanks to a collective agreement which was signed to cover domestic workers. However, Françoise would like the union to meet more of the needs of the domestic workers. “ Often the union is only able to help us based on the letter of the law, however, migrant domestic workers have many other needs. They need help coping with their isolated living conditions, with training and education needs and accommodations.” Françoise is now trying to help her compatriots through an association she has set up called “Mauritian Solidarity in Europe”. Although limited in resources the association aims to help women arriving and who do not want to remain as domestic workers all their lives. The association also fights for the rights of domestic workers in terms of wages, working hours, sick leave, pension rights etc.

Source: ICFTU, “In Mauritius and Paris alike, Françoise defends the rights of female domestic workers”, *Trade Union World*, Dec. 2002. p.6.

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Useful websites:

Amnesty International

<http://www.web.amnesty.org>

Anti-Slavery International

<http://www.antislavery.org>

Asian Migrant Centre

<http://www.asian-migrants.org>

Asian Monitor Resource Centre

<http://www.amrc.org.hk/>

Asian Pacific Forum on Women, Law and Development

<http://www.apwld.org/lm.htm>

Asia-Pacific Migration Research Network

<http://www.unesco.org/most/apmrn.htm>

Asian Partnership on International Migration

<http://apim.apdip.net>

Asian Research Centre for Migration

<http://www.chula.ac.th/INSTITUTE/ARCM/main.htm>

Bangkok Declaration on Irregular Migration

<http://www.thaiembdc.org/info/bdim.html>

Coalition Against Trafficking in Women (CATW)

<http://www.catwinternational.org/>

Charter for the Rights of Migrant Domestic Workers in Europe

<http://www.philsol.nl/of/charter-domestics-oct99.htm>

Collection of resource and links on initiatives against trafficking in persons

http://www.hrlawgroup.org/initiatives/trafficking_persons/

Coordination of Action Research on AIDS and Mobility –Asia (CARAM Asia)

<http://www.caramasia.gn.apc.org>

Council of Europe

http://www.coe.int/T/E/Committee_of_Ministers/Home/

Domestic Workers

<http://www.asylumsupport.info/news/domesticworkers.htm>

Domestic Workers Association in British Columbia

<http://vcn.bc.ca/wcdwa>

Economic Commission for Europe (ECE)

<http://www.unece.org>

European Commission Justice and Home Affairs

http://europa.eu.int/comm/justice_home

European Monitoring Centre on Racism and Xenophobia

http://europa.eu.int/agencies/eumc/index_en.htm

European Strategy on Trafficking in Women

http://europa.eu.int/comm/justice_home/news/8mars_en.htm

European Union policy documents

http://europa.eu.int/index_fi.htm

Femmigration

<http://www.femmigration.net/>

Filipino laws and Overseas Employment

<http://www.chanrobles.com/republicactno8042.htm>

Global Alliance Against Trafficking in Women (GAATW)

<http://www.thai.net/gaatw>

Global Campaign for the Ratification of the Convention on the Rights of Migrants

<http://www.migrantsrights.org>

Global Programme against Trafficking in Human Beings, UN Office for Drug and Crime Control Prevention, Vienna

http://www.odccp.org/trafficking_human_beings.html

International Human Rights Law Group

<http://www.hrlawgroup.org/>

Human Rights Watch (HRW)

<http://www.hrw.org>

Information for Domestic Workers Arriving in UK – Government Website

<http://www.ind.homeoffice.gov.uk/>

International Confederation of Free Trade Unions (ICFTU)

<http://www.icftu.org/>

International Labour Office (ILO)

<http://www.ilo.org>

<http://www.ilo.org/public/english/standards/decl/>

<http://www.ilo.org/genprom>

<http://www.ilo.org/childlabour>

<http://www.ilo.org/asia/child/trafficking>

<http://ilolex.ilo.ch:1567>

<http://natlex.ilo.org>

International Movement Against Discrimination and Racism

<http://imadr.org>

International Organization for Migration (IOM)

<http://www.iom.int>

Kalayaan. Justice for Overseas Domestic Workers

<http://ourworld.compuserve.com/homepages/kalayaan/home.htm>

Kanlungan Centre Foundation Inc.

<http://www.kanlungan.ngo.ph>

Link to anti-trafficking websites

<http://stop-traffic.org/Countries.html>

Migration Forum in Asia (MFA)

<http://www.migrantnet.pair.com>

Migrant Rights International

<http://migrantwatch.org>

Mission for Filipino Migrant Workers (MFMW)

<http://www.migrants.net>

Network of Migrant Workers Organisations

<http://www.solidar.org>

Network Women's Program (La Strada Foundation)

http://www.soros.org/women/html/info_trafficking.htm

Office of the High Commissioner for Human Rights (OHCHR)

<http://www.unhchr.ch/women/focus-trafficking.html>

<http://www.unhchr.ch/html/menu2/7/b/mwom.htm>

Office of the UN High Commissioner for Refugees (OUNHCR)

<http://www.unhcr.ch>

Organization for Security and Cooperation in Europe (OSCE): Europe Against Trafficking in Persons

www.osce.org/europe-against-trafficking

Organization for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR)

<http://www.osce.org/odihr/democratization/trafficking>

Palermo Convention on Transnational Organized Crime and its Protocols

<http://www.unodc.org/palermo/convmain.html>

Promotion of the rights of migrants (December 18)

<http://www.December18.net/intro.htm>

RESPECT European Network of Migrant Domestic Workers

<http://www.solidar.org>

Scalabrini Migration Center

<http://www.scalabrini.asn.au/philsmc.htm>

STOP-TRAFFIC

<http://www.stop-traffic.org>

Stop traffic listserv and archives

<http://www.friends-partners.org/partners/stop-traffic/>

Trafficking Directory

http://www.yorku.ca/iwrp/trafficking_directory.htm

United Nations Crime Commission documents on the Trafficking Protocol

http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents/index.htm

United Nations Development Fund for Women (UNIFEM)

<http://www.unifem.org>

United Nations Division for the Advancement of Women (UNDAW)

<http://www.un.org/womenwatch/daw>

United Nations Interregional Crime Prevention Institute (UNICRI)

<http://www.unicri.it>

United Nations Secretariat

<http://www.un.org>

United Nations Treaty Collection

<http://www.un.org/Depts/Treaty/>

United States Break the Chain Campaign (Campaign for migrant domestic workers rights)

<http://www.ips-dc.org>

USA Government

<http://usinfo.state.gov/topical/global/traffic/>

<http://www.state.gov/g/tip>

<http://cia.gov/csi/monograph/women/trafficking>

US Anti-trafficking initiatives

<http://www.state.gov/documents/organization/21555.pdf>

<http://secretary.state.gov/www/picw/trafficking/region.htm>

UNICRI Global Programme Against Trafficking in Human Beings

http://www.unicri.it/trafficking_in_human_beings.htm

Women's Aid Organisation, Malaysia (WAO)

<http://wao.org.my>

Women in Action: Combatting Racism against Migrant Workers

<http://www.isiswomen.org/pub/wia/wiawcar/migrant.htm>

World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance

<http://www.unhcr.ch/html/racism/>

World Wide Web Virtual Library (WWWVL)- Migration and Ethnic Relations

<http://www.ercomer.org/wwwvl/>

Endnotes

¹ It is worth noting, however, that the anti-immigration backlash in the wake of the terrorist attacks of September 11, 2001 in the United States has appeared to be more discriminatory for male than female migrants.

² See, for example, P. Boonpala and J. Kane, *Trafficking of children: the problem and responses worldwide* (Geneva, ILO, International Programme on the Elimination of Child Labour, 2001). Also ILO, *Unbearable to the human heart Child trafficking and action to eliminate it* (Geneva, ILO International Programme on the Elimination of Child Labour, 2002).

³ Some of the background materials used to develop the Guide came from case studies in sending and receiving countries of the situation of the women migrant workers within their families, workplaces, communities and societies. The case studies also looked at the initiatives, policies and programmes, “good” and “bad” practices implemented by government, private recruitment and employment agencies and a wide range of social actors to assist and protect women migrants against discrimination, exploitation and abuse and to assist those vulnerable to being trafficked. See ILO Gender Promotion Programme (GENPROM), Working Paper Series on Women and Migration.

⁴ W. R. Bohning, “Conceptualizing and simulating the impact of the Asian crisis on Filipinos’ employment opportunities abroad” in *Asian and Pacific Migration Journal*, Vol.7, Nos.2-3, 1998, pp.339-367.

⁵ RESPECT European Network of Migrant Domestic Workers, *Migrant Domestic Workers in Europe A Case for Action*. Website: <http://www.solidar.org>

⁶ See also J.M. Ramirez-Machado, *Domestic Work, Conditions of Work and Employment: A Legal Perspective* (Geneva, ILO Conditions of Work Branch, 2000, unpublished document); and Lin Chew, “Discussion Paper” prepared for the Programme Consultation Meeting on the Protection of Domestic Workers against the Threat of Forced Labour and Trafficking, Hong Kong SAR, February 16-19 2003 (Paper prepared for Anti-Slavery International, in cooperation with the ILO’s Special Action Programme to Combat Forced Labour), p.18.

⁷ A. I. Garcia, M. Barahona, C. Castro and E. Gomariz, *Costa Rica: Female Labour Migrants and Trafficking in Women and Children* (Geneva, ILO GENPROM Series on Women and Migration, 2002), p.18.

⁸ R. Sabban, *United Arab Emirates: Migrant Women in the United Arab Emirates the Case of Female Domestic Workers* (Geneva, ILO GENPROM Series on Women and Migration, 2002), pp.35-36.

⁹ I. Fernandez, *Health and HIV/AIDS Vulnerability of Foreign Migrant Domestic Workers*. Paper presented at the Regional Summit on Foreign Migrant Domestic Workers 26-28 August 2002, Colombo, Sri Lanka.

¹⁰ W.R. Bohning, *Employing Foreign Workers A Manual on Policies and Procedures of Special Interest to Middle- and Low-Income Countries* (Geneva, ILO, 1996), p.63.

¹¹ I. Josiah, S.F. Lee and J. Kee, “Protecting foreign domestic workers in Malaysia: Laws, policies, implications and intervention” Paper prepared by the Women’s Aid Organisation for the Programme Consultation Meeting on the Protection of Domestic Workers against the Threat of Forced Labour and Trafficking, Hong Kong SAR, February 16-19 2003, p.7.

¹² Examples are in the United States Break the Chain Campaign (Campaign for migrant domestic workers rights) <http://www.ips-dc.org>; In Europe, RESPECT the European network of migrant domestic workers organizations, individuals and supporters <http://www.solidar.org>; In Canada, the West Coast Domestic Workers Association in British Columbia <http://vcn.bc.ca/wcdwa>.

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- ¹³ Women's Aid Organisation (WAO), *WAO's Response to the Abuse of Foreign Domestic Workers (FDWs) in Malaysia*. (Petaling Jaya Malaysia, WAO, August 2001). Website: www.wao.org.my
- ¹⁴ D. Cox, L. Owen and C. Picton, *Asian Women Migrant Workers: Maximizing the Benefits of their Experiences* (Bundoora, Victoria Australia, Graduate School of Social Work La Trobe University, November 1994), p.29.
- ¹⁵ RESPECT European Network of Migrant Domestic Workers, *Migrant Domestic Workers in Europe A Case for Action*. Website: <http://www.solidar.org>
- ¹⁶ I. Josiah, S.F. Lee and J. Kee, "Protecting foreign domestic workers in Malaysia: Laws, policies, implications and intervention" Paper prepared by the Women's Aid Organisation for the Programme Consultation Meeting on the Protection of Domestic Workers against the Threat of Forced Labour and Trafficking, Hong Kong SAR, February 16-19 2003, p.4
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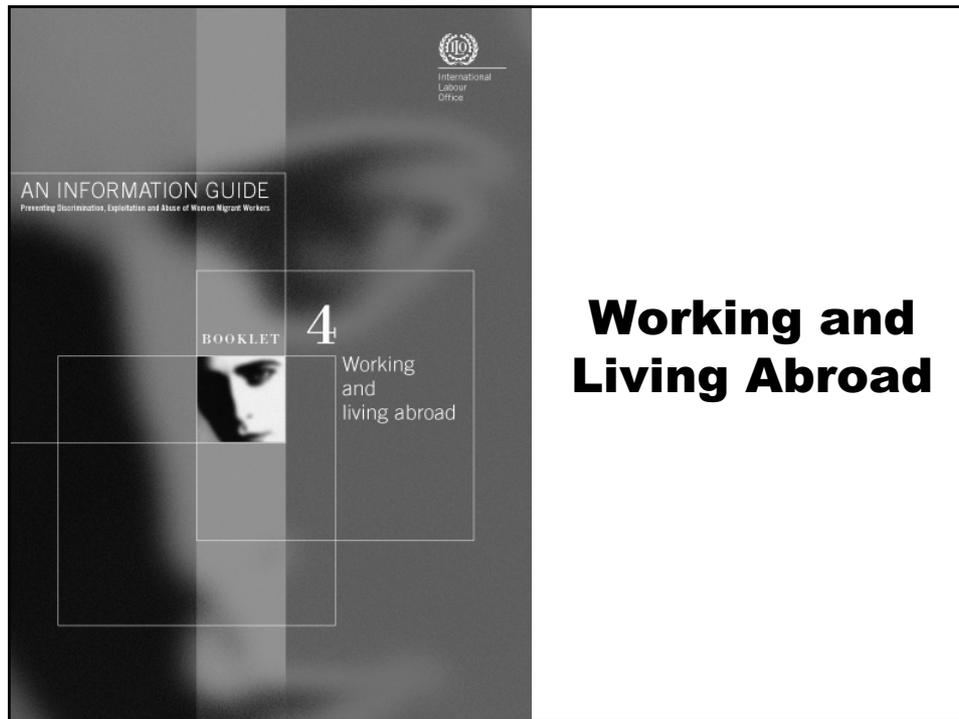
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AIMS OF BOOKLET 4

- To highlight the main forms of discrimination, exploitation and abuse that women migrant workers may face in destination countries;
- To draw attention to the root causes of migrant women's vulnerability in destination countries;
- To provide guidelines for governments, workers' and employers' organizations and NGOs to prevent such discrimination, exploitation and abuse;
- To provide guidelines on how women themselves can ease their adjustment, improve their situation and avoid or prevent violation of their basic labour rights.



WHY ARE WOMEN MIGRANT WORKERS VULNERABLE IN DESTINATION COUNTRIES?

- The persistence of gender stereotypes and occupational segregation in the labour market;
- The lack of labour and social protection;
- Discriminatory, gender-insensitive immigration policies;
- Legal illiteracy and fear of the authorities;
- Dependent employment relationship;
- Individualized and isolated work environments;
- Lack of organization and representation;
- Xenophobia and stigmatisation.



MAIN FORMS OF DISCRIMINATION, EXPLOITATION AND ABUSE

- Violation of employment contracts;
- Poor working and living conditions;
- Limited freedom of movement;
- Harassment and violence;
- Health and safety risks;
- Lack of social protection;
- Forced labour and debt bondage.



PREVENTING DISCRIMINATION, EXPLOITATION AND ABUSE: WHAT CAN DESTINATION COUNTRY GOVERNMENTS DO?

- Conclude bilateral and multilateral labour agreements;
- Ensure that immigration policies are gender-sensitive;
- Provide adequate labour protection to migrant workers;
- Consider specific legislation to cover domestic workers;
- Regulate and supervise activities of recruitment agencies;
- Institutionalize checks on employers;
- Improve assistance and support facilities and services;
- Protect health and occupational safety and improve social security for migrant workers;
- Allow freedom of association of migrant workers;
- Take measures to promote gender equality and end xenophobia and racism.



WHAT CAN ORIGIN COUNTRY GOVERNMENTS DO?

- Post qualified and gender-sensitive labour attachés;
- Keep and regularly update data on nationals working in the destination country;
- Check credentials of employment agencies and employers wishing to hire their nationals;
- Keep in regular contact with nationals;
- Assist nationals to form migrant associations;
- Represent nationals and provide assistance in legal matters;
- Arrange repatriation of stranded nationals;
- Monitor observance of bilateral labour agreements.



WHAT CAN TRADE UNIONS DO?

- Defend the right to freedom of association and collective bargaining for all workers, national and non-national;**
- Lobby for immigration policies that take into account the realities of the labour market;**
- Sensitize union members about contributions of migrant workers and problems of discrimination;**
- Organize migrant workers and enable them to defend their rights;**
- Provide support services and facilities for migrant workers;**
- Strengthen networking and solidarity between unions in destination and source countries, as well as with migrant associations.**



WHAT CAN EMPLOYERS' ORGANIZATIONS DO?

- Develop model employment contracts to be adopted by employers;**
- Develop good practice guidelines for employers;**
- Set up separate committees or structures within employers' organizations which address equal opportunities issues and ensure that they cover migrant workers;**
- Encourage adoption of public policy statements and action plans at enterprise level on equal employment opportunities and promotion of migrant workers' rights.**



WHAT CAN MIGRANT ASSOCIATIONS AND NGOs DO?

- “Compassion and defence” strategies:**
 - Crisis intervention and welfare services;
 - Lobbying for rights protection at local up to international levels;
- “Empowering and enabling” strategies:**
 - Building migrant unions, associations and networks;
 - Training migrants and NGOs to organize and campaign;
- “Social justice” strategies:**
 - Collectively challenging root causes of migration;
 - Promoting social, economic and political participation of migrants;
 - Advocating for social justice;
 - Mobilizing migrants’ resources for empowerment;
 - Establishing reintegration programmes and livelihood schemes.



WHAT CAN MIGRANT WOMEN THEMSELVES DO?

Information to help migrant women workers to build their self confidence, exercise their rights and avoid discrimination, exploitation and abuse should cover:

- How to ease adaptation and integration into a new country and new job;
- How to ensure proper employment conditions and avoid contract violation;
- How to avoid violations of human rights;
- How to “earn well, save well and make a better life for self and family”;
- How to make the migration experience enriching and empowering.