Migration, pregnancy, and sexual and reproductive health

An outline of international standards, regional trends and good practices

International Labour Organization

Sexual and reproductive health and rights are key areas where gender and migration intersect. The sexual and reproductive health and rights of women migrant workers are often subject to regulation by both countries of origin and destination. Mandatory pregnancy testing and control of migrants' sexuality and reproduction by conditions of their employment are widespread discriminatory health practices in South-East Asia. Sending countries may restrict emigration based on pregnancy or maternity status. Pregnancy tests are sometimes mandatory before departure, often with disclosure to potential employers without proper informed consent. Many migrants may also have a limited or complete lack of sexual and reproductive health and rights education in their country of origin.

In destination countries, women migrant workers may face compulsory and regular pregnancy tests, lack of access to maternity health services or maternity benefits, or even deportation in the case of pregnancy. In some cases, if dismissal from employment on the basis of pregnancy occurs, women may fall into irregular migrant status. Due to a range of complex factors, women may not be able to exercise their sexual and reproductive rights, meaning that punitive measures in the workplace toward pregnant women often limits the socio-economic outcomes of already vulnerable women. Access to gender-specific preventative health care measures, such as screening for breast cancer, are also an important service that migrants may be unable to access.

Structural discrimination can make pregnancy and maternity a vulnerable time for migrant women and their families. Expectant and nursing mothers require protection to prevent harm to their or their infants' health, and they need adequate time to give birth, to recover and to nurse their children. At the same time, they also require protection to ensure that they will not lose their job or the right to remain in their country of employment, simply because of pregnancy or maternity leave. Controlling migrant women's freedom of movement in destination countries for the purpose of keeping them 'safe' from sexual contact is often used as an excuse for confinement and/or withholding of identity documents, especially for migrant domestic workers.

Restrictions on migrant workers' sexual and reproductive health and rights

While migration and overseas employment provide new opportunities for women, they can also perpetuate and reinforce traditional gender roles and inequalities, and expose women to new vulnerabilities. Immigration and employment regulations grant an inappropriate amount of power to employers, government and recruitment agencies over female migrant workers' 'morals', sexuality and health.

Restrictions on marriage and pregnancy are enforced through the Employment of Foreign Manpower Act in Singapore. The Act stipulates that foreign workers may not marry without prior approval. The Act also provides that "the foreign worker shall not indulge or be involved in any illegal, immoral or undesirable activities, including breaking up families in Singapore." These laws ensure there are no avenues for citizenship or permanent residency, and thereby emphasize migrants' status as temporary labourers.

M.L.S. Marin: *International labour migration, gender, and sexual and reproductive health and rights in East Asia, Southeast Asia and the Pacific* (Kuala Lumpur, ARROW, 2012)

International Labour Organization instruments

The **Maternity Protection Convention, 2000 (No. 183)**, which applies to "all employed women, including those in atypical forms of dependent work", states that benefits in respect of leave shall be provided through compulsory social insurance or public funds, or in a manner determined by national law and practice. The Convention also provides specific protection to pregnant and postnatal women making it unlawful for an employer to terminate the woman's employment during pregnancy or post-birth leave. Member States shall also adopt measures to ensure that maternity does not constitute a source of discrimination in employment, including prohibiting compulsory pregnancy tests when a woman is applying for employment.

The **Workers with Family Responsibilities Convention, 1981 (No. 156),** which applies to migrant workers, requires State members to make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities.

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United Nations Conventions

The **International Covenant on Economic, Social and Cultural Rights (1966)** states that "special protection should be accorded to mothers during a reasonable period before and after childbirth," a period during which mothers should be accorded paid leave and leave with adequate social security benefits.

The **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979** protects all women against sex-based discrimination, and enshrines the right to 'health care and family planning services, appropriate services related to pregnancy, confinement, postnatal care, nutrition during pregnancy and lactation' for all women.

CEDAW General Recommendation No. 26 on women migrant workers, 2008 contains responsibilities specific to countries of origin which requires States party to repeal sex-specific bans and discriminatory restrictions on women's migration on the basis of age, marital status, pregnancy or maternity status.

Regional instruments

The **ASEAN Socio-Cultural Community Blueprint** (adopted in 2009) aims to ensure access to adequate and affordable healthcare, medical services and medicine, and promote healthy lifestyles for the peoples of ASEAN. An identified action within this objective is to advocate for policy makers to accelerate actions to increase accessibility to sexual and reproductive health information and friendly health services; and educate society, especially parents and adolescents, on reproductive and sexual health education.

Good practices

Throughout August 2013, the **MAP Foundation in Thailand** held sexual and reproductive health and rights forums in eight locations. At these forums migrant women came together to discuss access to reproductive health services, domestic violence and unplanned and unwanted pregnancies. Along with the informal discussion and activities, the MAP Foundation also distributed a survey to the participants, the results of which were used to develop recommendations for Thai health authorities and the Ministry of Labour.

Solidaritas Perempuan (SP), an Indonesian NGO, conducts awareness raising and empowering activities among prospective women migrant workers and their families about their sexual and reproductive health and rights. SP holds regular discussions and disseminates information resources in several major migrant sending provinces under the Community Based Pre-Departure Programme. The NGO has also been involved in advocating for national policy development to protect migrant workers' health rights.

Adopted at the 19th ASEAN Summit in 2011, the **ASEAN Declaration of Commitment: Getting to Zero New HIV Infections, Zero Discrimination, Zero AIDS-Related Deaths** pledges to eliminate gender inequalities and gender-based abuse and violence by protecting and promoting the rights of women and adolescent girls; strengthening national social and child protection systems; empowering women and young people to protect themselves from HIV; and ensuring access to health services, including sexual and reproductive health, as well as full access to comprehensive information and education.

The **Ha Noi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children (2010)**, adopted by ASEAN Heads of State in 2010, agrees to foster concerted efforts for the enhancement of the welfare and development of women and children in ASEAN. The means to achieve this are outlined as, to address maternal and child mortality and poor reproductive health; to enable access to safe contraception, safe family planning methods and emergency maternal obstetrical care facilities; and to promote education and information activities to reduce the prevalence rate of HIV and AIDS among women and children and facilitate their access to HIV and AIDS treatment and care.

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