



United Nations Entity for Gender Equality
and the Empowerment of Women



International
Labour
Organization

International standards related to domestic workers and women migrant workers

With the support of



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Swiss Agency for Development
and Cooperation SDC

**Australian
Aid** 

This publication contains:

Introduction	1
Domestic Workers Convention C189	3
Domestic Workers Recommendation R201	12
CEDAW General Recommendation No. 26 on Women Migrant Workers	20

Introduction

Globally, there are an estimated 53 million domestic workers, 83 per cent of whom are women. Domestic work accounts for 7.5 per cent of women's total wage earnings.¹ Migrant domestic workers transfer billions of dollars in remittances annually typically to developing nations that benefit greatly from these inward financial flows. Further, domestic work enables many women in particular to participate in the labour market and improve their own economic situation by accessing employment outside the home.²

Despite the clear social and economic contributions domestic workers make, they remain vulnerable to abuse and exploitation, primarily as a result of gaps in legal protection and isolation through their work in private homes.

On 16 June 2011, the International Labour Conference of the International Labour Organization (ILO) adopted the Decent Work for Domestic Workers Convention, 2011 (No. 189) along with the accompanying Recommendation (No. 201).

This Convention is the first international instrument to recognize domestic work as *work*. The Convention lays down basic rights and principles and requires ratifying states to take a series of measures to ensure decent work becomes a reality for domestic workers. By ratifying and implementing the Convention, states promote fair terms of employment and decent conditions such as regular working hours, adequate remuneration, occupational health and safety standards, freedom of association, and access to social security for domestic workers.

Evidenced by the development of numerous legislative instruments that govern labour migration, including regulations, policies and several MoUs, the Royal Government of Cambodia has demonstrated a commitment to protect Cambodian migrant domestic workers. This is a step forward in applying key provisions outlined in CEDAW General Recommendation No. 26 on Women Migrant Workers. At this time, increasing protection for migrant domestic workers should encourage the improvement of national protection mechanisms for the much larger number of domestic workers working in Cambodia who, currently, are not protected by the Labour Law.

From January 2015 until May 2015, the Ministry of Labour and Vocational Training (MOLVT), with support from UN Women and in collaboration with the ILO, convened a tripartite consultation process to begin the development of a roadmap of the key actions and required steps that could lead to the ratification of the Convention No. 189.

Including domestic work in the scope of Cambodia's Labour Law and working towards the ratification of Convention No. 189 will create the legal foundation necessary to provide rights and protection for domestic workers in Cambodia. This will ultimately lead to increased gender equality in the labour market, as well as the economic empowerment of women.

The publication of Convention 189 and Recommendation 201 in Khmer and English is an important step to developing the roadmap towards ratification of the Convention.

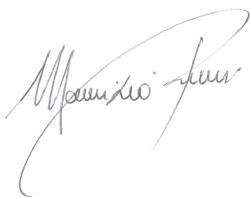
¹ International Labour Office (ILO), *Domestic workers across the world: Global and regional statistics and the extent of legal protection*, 2013, p.19

² International Labour Office (ILO), *Snapshot ILO in Action Domestic Workers*, 2013

In addition, the reproduction of the CEDAW General Recommendation No. 26 on women migrant workers in English and Khmer is essential because of the high number of Cambodian women who migrate to work as domestic workers and in other sectors, and for the ongoing and increasing demand of their services. Recommendation No. 26 aims to support States Parties in both countries of origin and destination to respect, protect and fulfill the human rights of women migrant workers, thus supporting the provisions on migrant domestic workers outlined in Convention 189.

We believe that this booklet will serve as an educational and informational tool for domestic workers, employers and policymakers to gain a better understanding of the provisions in Convention No. 189 on Domestic Work and the importance of its ratification.

June 2015

A handwritten signature in black ink, appearing to read 'Maurizio Bussi', with a large, sweeping flourish at the end.

Mr Maurizio Bussi
Officer in Charge
ILO Country Office for Thailand, Cambodia
and Lao People's Democratic Republic

A handwritten signature in black ink, appearing to read 'Wenny Kusuma', with a long, horizontal flourish extending to the right.

Ms Wenny Kusuma
Country Representative
UNWOMEN Cambodia

Domestic Workers Convention C189

Convention concerning decent work for domestic workers (Note: Date of coming into force: 2012)

Convention: C189

Place: Geneva

Date of adoption: 16/06/2011

Session of the Conference: 100

Preamble

The General Conference of the International Labour Organization, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 100th Session on 1 June 2011, and

Mindful of the commitment of the International Labour Organization to promote decent work for all through the achievement of the goals of the ILO Declaration on Fundamental Principles and Rights at Work and the ILO Declaration on Social Justice for a Fair Globalization, and

Recognizing the significant contribution of domestic workers to the global economy, which includes increasing paid job opportunities for women and men workers with family responsibilities, greater scope for caring for ageing populations, children and persons with a disability, and substantial income transfers within and between countries, and

Considering that domestic work continues to be undervalued and invisible and is mainly carried out by women and girls, many of whom are migrants or members of disadvantaged communities and who are particularly vulnerable to discrimination in respect of conditions of employment and of work, and to other abuses of human rights, and

Considering also that in developing countries with historically scarce opportunities for formal employment, domestic workers constitute a significant proportion of the national workforce and remain among the most marginalized, and

Recalling that international labour Conventions and Recommendations apply to all workers, including domestic workers, unless otherwise provided, and

Noting the particular relevance for domestic workers of the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Workers with Family Responsibilities Convention, 1981 (No. 156), the Private Employment Agencies Convention, 1997 (No. 181), and the Employment Relationship Recommendation, 2006 (No. 198), as well as of the ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration (2006), and

Recognizing the special conditions under which domestic work is carried out that make it desirable to supplement the general standards with standards specific to domestic workers so as to enable them to enjoy their rights fully, and

Recalling other relevant international instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the United Nations Convention against Transnational Organized Crime, and in particular its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and its Protocol against the Smuggling of Migrants by Land, Sea and Air, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and

Having decided upon the adoption of certain proposals concerning decent work for domestic workers, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

adopts this sixteenth day of June of the year two thousand and eleven the following Convention, which may be cited as the Domestic Workers Convention, 2011.

Article 1

For the purpose of this Convention:

- (a) the term *domestic work* means work performed in or for a household or households;
- (b) the term *domestic worker* means any person engaged in domestic work within an employment relationship;
- (c) a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker.

Article 2

1. The Convention applies to all domestic workers.
2. A Member which ratifies this Convention may, after consulting with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, exclude wholly or partly from its scope:
 - (a) categories of workers who are otherwise provided with at least equivalent protection;
 - (b) limited categories of workers in respect of which special problems of a substantial nature arise.

3. Each Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the application of the Convention under article 22 of the Constitution of the International Labour Organisation, indicate any particular category of workers thus excluded and the reasons for such exclusion and, in subsequent reports, specify any measures that may have been taken with a view to extending the application of the Convention to the workers concerned.

Article 3

1. Each Member shall take measures to ensure the effective promotion and protection of the human rights of all domestic workers, as set out in this Convention.

2. Each Member shall, in relation to domestic workers, take the measures set out in this Convention to respect, promote and realize the fundamental principles and rights at work, namely:

(a) freedom of association and the effective recognition of the right to collective bargaining;

(b) the elimination of all forms of forced or compulsory labour;

(c) the effective abolition of child labour; and

(d) the elimination of discrimination in respect of employment and occupation. 3. In taking measures to ensure that domestic workers and employers of domestic workers enjoy freedom of association and the effective recognition of the right to collective bargaining, Members shall protect the right of domestic workers and employers of domestic workers to establish and, subject to the rules of the organization concerned, to join organizations, federations and confederations of their own choosing.

Article 4

1. Each Member shall set a minimum age for domestic workers consistent with the provisions of the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), and not lower than that established by national laws and regulations for workers generally.

2. Each Member shall take measures to ensure that work performed by domestic workers who are under the age of 18 and above the minimum age of employment does not deprive them of compulsory education, or interfere with opportunities to participate in further education or vocational training.

Article 5

Each Member shall take measures to ensure that domestic workers enjoy effective protection against all forms of abuse, harassment and violence.

Article 6

Each Member shall take measures to ensure that domestic workers, like workers generally, enjoy fair terms of employment as well as decent working conditions and, if they reside in the household, decent living conditions that respect their privacy.

Article 7

Each Member shall take measures to ensure that domestic workers are informed of their terms and conditions of employment in an appropriate, verifiable and easily understandable manner and preferably, where possible, through written contracts in accordance with national laws, regulations or collective agreements, in particular:

- (a) the name and address of the employer and of the worker;
- (b) the address of the usual workplace or workplaces;
- (c) the starting date and, where the contract is for a specified period of time, its duration;
- (d) the type of work to be performed;
- (e) the remuneration, method of calculation and periodicity of payments;
- (f) the normal hours of work;
- (g) paid annual leave, and daily and weekly rest periods;
- (h) the provision of food and accommodation, if applicable;
- (i) the period of probation or trial period, if applicable;
- (j) the terms of repatriation, if applicable; and
- (k) terms and conditions relating to the termination of employment, including any period of notice by either the domestic worker or the employer.

Article 8

1. National laws and regulations shall require that migrant domestic workers who are recruited in one country for domestic work in another receive a written job offer, or contract of employment that is enforceable in the country in which the work is to be performed, addressing the terms and conditions of employment referred to in Article 7, prior to crossing national borders for the purpose of taking up the domestic work to which the offer or contract applies.

2. The preceding paragraph shall not apply to workers who enjoy freedom of movement for the purpose of employment under bilateral, regional or multilateral agreements, or within the framework of regional economic integration areas.

3. Members shall take measures to cooperate with each other to ensure the effective application of the provisions of this Convention to migrant domestic workers.

4. Each Member shall specify, by means of laws, regulations or other measures, the conditions under which migrant domestic workers are entitled to repatriation on the expiry or termination of the employment contract for which they were recruited.

Article 9

Each Member shall take measures to ensure that domestic workers:

(a) are free to reach agreement with their employer or potential employer on whether to reside in the household;

(b) who reside in the household are not obliged to remain in the household or with household members during periods of daily and weekly rest or annual leave; and

(c) are entitled to keep in their possession their travel and identity documents.

Article 10

1. Each Member shall take measures towards ensuring equal treatment between domestic workers and workers generally in relation to normal hours of work, overtime compensation, periods of daily and weekly rest and paid annual leave in accordance with national laws, regulations or collective agreements, taking into account the special characteristics of domestic work.

2. Weekly rest shall be at least 24 consecutive hours.

3. Periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls shall be regarded as hours of work to the extent determined by national laws, regulations or collective agreements, or any other means consistent with national practice.

Article 11

Each Member shall take measures to ensure that domestic workers enjoy minimum wage coverage, where such coverage exists, and that remuneration is established without discrimination based on sex.

Article 12

1. Domestic workers shall be paid directly in cash at regular intervals at least once a month. Unless provided for by national laws, regulations or collective agreements, payment may be made by bank transfer, bank cheque, postal cheque, money order or other lawful means of monetary payment, with the consent of the worker concerned.

2. National laws, regulations, collective agreements or arbitration awards may provide for the payment of a limited proportion of the remuneration of domestic workers in the form of payments in kind that are not less favourable than those generally applicable to other categories of workers, provided that measures are taken to ensure that such payments in kind are agreed to

by the worker, are for the personal use and benefit of the worker, and that the monetary value attributed to them is fair and reasonable.

Article 13

1. Every domestic worker has the right to a safe and healthy working environment. Each Member shall take, in accordance with national laws, regulations and practice, effective measures, with due regard for the specific characteristics of domestic work, to ensure the occupational safety and health of domestic workers.

2. The measures referred to in the preceding paragraph may be applied progressively, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

Article 14

1. Each Member shall take appropriate measures, in accordance with national laws and regulations and with due regard for the specific characteristics of domestic work, to ensure that domestic workers enjoy conditions that are not less favourable than those applicable to workers generally in respect of social security protection, including with respect to maternity.

2. The measures referred to in the preceding paragraph may be applied progressively, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

Article 15

1. To effectively protect domestic workers, including migrant domestic workers, recruited or placed by private employment agencies, against abusive practices, each Member shall:

(a) determine the conditions governing the operation of private employment agencies recruiting or placing domestic workers, in accordance with national laws, regulations and practice;

(b) ensure that adequate machinery and procedures exist for the investigation of complaints, alleged abuses and fraudulent practices concerning the activities of private employment agencies in relation to domestic workers;

(c) adopt all necessary and appropriate measures, within its jurisdiction and, where appropriate, in collaboration with other Members, to provide adequate protection for and prevent abuses of domestic workers recruited or placed in its territory by private employment agencies. These shall include laws or regulations that specify the respective obligations of the private employment agency and the household towards the domestic worker and provide for penalties, including prohibition of those private employment agencies that engage in fraudulent practices and abuses;

(d) consider, where domestic workers are recruited in one country for work in another, concluding bilateral, regional or multilateral agreements to prevent abuses and fraudulent practices in recruitment, placement and employment; and

(e) take measures to ensure that fees charged by private employment agencies are not deducted from the remuneration of domestic workers.

2. In giving effect to each of the provisions of this Article, each Member shall consult with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

Article 16

Each Member shall take measures to ensure, in accordance with national laws, regulations and practice, that all domestic workers, either by themselves or through a representative, have effective access to courts, tribunals or other dispute resolution mechanisms under conditions that are not less favourable than those available to workers generally.

Article 17

1. Each Member shall establish effective and accessible complaint mechanisms and means of ensuring compliance with national laws and regulations for the protection of domestic workers.

2. Each Member shall develop and implement measures for labour inspection, enforcement and penalties with due regard for the special characteristics of domestic work, in accordance with national laws and regulations.

3. In so far as compatible with national laws and regulations, such measures shall specify the conditions under which access to household premises may be granted, having due respect for privacy.

Article 18

Each Member shall implement the provisions of this Convention, in consultation with the most representative employers and workers organizations, through laws and regulations, as well as through collective agreements or additional measures consistent with national practice, by extending or adapting existing measures to cover domestic workers or by developing specific measures for them, as appropriate.

Article 19

This Convention does not affect more favourable provisions applicable to domestic workers under other international labour Conventions.

Article 20

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 21

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification is registered.

Article 22

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention within the first year of each new period of ten years under the terms provided for in this Article.

Article 23

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and denunciations that have been communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification that has been communicated, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention will come into force.

Article 24

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and denunciations that have been registered.

Article 25

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 26

1. Should the Conference adopt a new Convention revising this Convention, then, unless the new Convention otherwise provides:

(a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 22, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 27

The English and French versions of the text of this Convention are equally authoritative.

Domestic Workers Recommendation R201

Recommendation concerning Decent Work for Domestic Workers

Recommendation: R201

Place: Geneva

Session of the Conference: 100

Date of adoption: 16/06/2011

Status: Up-to-date instrument This Recommendation was adopted after 1985 and is considered up to date.

Preamble

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 100th Session on 1 June 2011, and

Having adopted the Domestic Workers Convention, 2011, and

Having decided upon the adoption of certain proposals with regard to decent work for domestic workers, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Domestic Workers Convention, 2011;

adopts this sixteenth day of June of the year two thousand and eleven the following Recommendation, which may be cited as the Domestic Workers Recommendation, 2011.

1. The provisions of this Recommendation supplement those of the Domestic Workers Convention, 2011 (“the Convention”), and should be considered in conjunction with them.

2. In taking measures to ensure that domestic workers enjoy freedom of association and the effective recognition of the right to collective bargaining, Members should:

(a) identify and eliminate any legislative or administrative restrictions or other obstacles to the right of domestic workers to establish their own organizations or to join the workers’ organizations of their own choosing and to the right of organizations of domestic workers to join workers’ organizations, federations and confederations;

(b) give consideration to taking or supporting measures to strengthen the capacity of workers’ and employers’ organizations, organizations representing domestic workers and those of employers of domestic workers, to promote effectively the interests of their members, provided that at all times the independence and autonomy, within the law, of such organizations are protected.

3. In taking measures for the elimination of discrimination in respect of employment and occupation, Members should, consistent with international labour standards, among other things:

(a) make sure that arrangements for work-related medical testing respect the principle of the confidentiality of personal data and the privacy of domestic workers, and are consistent with the ILO code of practice “Protection of workers personal data (1997)”, and other relevant international data protection standards;

(b) prevent any discrimination related to such testing; and

(c) ensure that no domestic worker is required to undertake HIV or pregnancy testing, or to disclose HIV or pregnancy status.

4. Members giving consideration to medical testing for domestic workers should consider:

(a) making public health information available to members of the households and domestic workers on the primary health and disease concerns that give rise to any needs for medical testing in each national context;

(b) making information available to members of the households and domestic workers on voluntary medical testing, medical treatment, and good health and hygiene practices, consistent with public health initiatives for the community generally; and

(c) distributing information on best practices for work-related medical testing, appropriately adapted to reflect the special nature of domestic work.

5. (1) Taking into account the provisions of the Worst Forms of Child Labour Convention, 1999 (No. 182), and Recommendation (No. 190), Members should identify types of domestic work that, by their nature or the circumstances in which they are carried out, are likely to harm the health, safety or morals of children, and should also prohibit and eliminate such child labour.

(2) When regulating the working and living conditions of domestic workers, Members should give special attention to the needs of domestic workers who are under the age of 18 and above the minimum age of employment as defined by national laws and regulations, and take measures to protect them, including by:

(a) strictly limiting their hours of work to ensure adequate time for rest, education and training, leisure activities and family contacts;

(b) prohibiting night work;

(c) placing restrictions on work that is excessively demanding, whether physically or psychologically; and

(d) establishing or strengthening mechanisms to monitor their working and living conditions.

6. (1) Members should provide appropriate assistance, when necessary, to ensure that domestic workers understand their terms and conditions of employment.

(2) Further to the particulars listed in Article 7 of the Convention, the terms and conditions of employment should also include:

- (a) a job description;
- (b) sick leave and, if applicable, any other personal leave;
- (c) the rate of pay or compensation for overtime and standby consistent with Article 10(3) of the Convention;
- (d) any other payments to which the domestic worker is entitled;
- (e) any payments in kind and their monetary value;
- (f) details of any accommodation provided; and
- (g) any authorized deductions from the worker's remuneration.

(3) Members should consider establishing a model contract of employment for domestic work, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers. (4) The model contract should at all times be made available free of charge to domestic workers, employers, representative organizations and the general public.

7. Members should consider establishing mechanisms to protect domestic workers from abuse, harassment and violence, such as:

- (a) establishing accessible complaint mechanisms for domestic workers to report cases of abuse, harassment and violence;
- (b) ensuring that all complaints of abuse, harassment and violence are investigated, and prosecuted, as appropriate; and
- (c) establishing programmes for the relocation from the household and rehabilitation of domestic workers subjected to abuse, harassment and violence, including the provision of temporary accommodation and health care.

8. (1) Hours of work, including overtime and periods of standby consistent with Article 10(3) of the Convention, should be accurately recorded, and this information should be freely accessible to the domestic worker.

(2) Members should consider developing practical guidance in this respect, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

9. (1) With respect to periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls (standby or on-call periods), Members, to the extent determined by national laws, regulations or collective agreements, should regulate:

- (a) the maximum number of hours per week, month or year that a domestic worker may be required to be on standby, and the ways they might be measured;
 - (b) the compensatory rest period to which a domestic worker is entitled if the normal period of rest is interrupted by standby; and
 - (c) the rate at which standby hours should be remunerated.
- (2) With regard to domestic workers whose normal duties are performed at night, and taking into account the constraints of night work, Members should consider measures comparable to those specified in subparagraph 9(1).
10. Members should take measures to ensure that domestic workers are entitled to suitable periods of rest during the working day, which allow for meals and breaks to be taken.
11. (1) Weekly rest should be at least 24 consecutive hours.
- (2) The fixed day of weekly rest should be determined by agreement of the parties, in accordance with national laws, regulations or collective agreements, taking into account work exigencies and the cultural, religious and social requirements of the domestic worker.
- (3) Where national laws, regulations or collective agreements provide for weekly rest to be accumulated over a period longer than seven days for workers generally, such a period should not exceed 14 days for domestic workers.
12. National laws, regulations or collective agreements should define the grounds on which domestic workers may be required to work during the period of daily or weekly rest and provide for adequate compensatory rest, irrespective of any financial compensation.
13. Time spent by domestic workers accompanying the household members on holiday should not be counted as part of their paid annual leave.
14. When provision is made for the payment in kind of a limited proportion of remuneration, Members should consider:
- (a) establishing an overall limit on the proportion of the remuneration that may be paid in kind so as not to diminish unduly the remuneration necessary for the maintenance of domestic workers and their families;
 - (b) calculating the monetary value of payments in kind by reference to objective criteria such as market value, cost price or prices fixed by public authorities, as appropriate;
 - (c) limiting payments in kind to those clearly appropriate for the personal use and benefit of the domestic worker, such as food and accommodation;
 - (d) ensuring that, when a domestic worker is required to live in accommodation provided by the household, no deduction may be made from the remuneration with respect to that accommodation, unless otherwise agreed to by the worker; and

(e) ensuring that items directly related to the performance of domestic work, such as uniforms, tools or protective equipment, and their cleaning and maintenance, are not considered as payment in kind and their cost is not deducted from the remuneration of the domestic worker.

15. (1) Domestic workers should be given at the time of each payment an easily understandable written account of the total remuneration due to them and the specific amount and purpose of any deductions which may have been made.

(2) Upon termination of employment, any outstanding payments should be made promptly.

16. Members should take measures to ensure that domestic workers enjoy conditions not less favourable than those of workers generally in respect of the protection of workers' claims in the event of the employer's insolvency or death.

17. When provided, accommodation and food should include, taking into account national conditions, the following:

(a) a separate, private room that is suitably furnished, adequately ventilated and equipped with a lock, the key to which should be provided to the domestic worker;

(b) access to suitable sanitary facilities, shared or private;

(c) adequate lighting and, as appropriate, heating and air conditioning in keeping with prevailing conditions within the household; and

(d) meals of good quality and sufficient quantity, adapted to the extent reasonable to the cultural and religious requirements, if any, of the domestic worker concerned.

18. In the event of termination of employment at the initiative of the employer, for reasons other than serious misconduct, live-in domestic workers should be given a reasonable period of notice and time off during that period to enable them to seek new employment and accommodation.

19. Members, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, should take measures, such as to:

(a) protect domestic workers by eliminating or minimizing, so far as is reasonably practicable, work-related hazards and risks, in order to prevent injuries, diseases and deaths and promote occupational safety and health in the household workplace;

(b) provide an adequate and appropriate system of inspection, consistent with Article 17 of the Convention, and adequate penalties for violation of occupational safety and health laws and regulations;

(c) establish procedures for collecting and publishing statistics on accidents and diseases related to domestic work, and other statistics considered to contribute to the prevention of occupational safety and health related risks and injuries;

(d) advise on occupational safety and health, including on ergonomic aspects and protective equipment; and

(e) develop training programmes and disseminate guidelines on occupational safety and health requirements specific to domestic work.

20. (1) Members should consider, in accordance with national laws and regulations, means to facilitate the payment of social security contributions, including in respect of domestic workers working for multiple employers, for instance through a system of simplified payment.

(2) Members should consider concluding bilateral, regional or multilateral agreements to provide, for migrant domestic workers covered by such agreements, equality of treatment in respect of social security, as well as access to and preservation or portability of social security entitlements.

(3) The monetary value of payments in kind should be duly considered for social security purposes, including in respect of the contribution by the employers and the entitlements of the domestic workers.

21. (1) Members should consider additional measures to ensure the effective protection of domestic workers and, in particular, migrant domestic workers, such as:

(a) establishing a national hotline with interpretation services for domestic workers who need assistance;

(b) consistent with Article 17 of the Convention, providing for a system of pre-placement visits to households in which migrant domestic workers are to be employed;

(c) developing a network of emergency housing;

(d) raising employers' awareness of their obligations by providing information on good practices in the employment of domestic workers, employment and immigration law obligations regarding migrant domestic workers, enforcement arrangements and sanctions in cases of violation, and assistance services available to domestic workers and their employers;

(e) securing access of domestic workers to complaint mechanisms and their ability to pursue legal civil and criminal remedies, both during and after employment, irrespective of departure from the country concerned; and

(f) providing for a public outreach service to inform domestic workers, in languages understood by them, of their rights, relevant laws and regulations, available complaint mechanisms and legal remedies, concerning both employment and immigration law, and legal protection against crimes such as violence, trafficking in persons and deprivation of liberty, and to provide any other pertinent information they may require.

(2) Members that are countries of origin of migrant domestic workers should assist in the effective protection of the rights of these workers, by informing them of their rights before departure, establishing legal assistance funds, social services and specialized consular services and through any other appropriate measures.

22. Members should, after consulting with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, consider specifying by means of laws, regulations or other measures, the conditions under which migrant domestic workers are entitled to repatriation at no cost to themselves on the expiry or termination of the employment contract for which they were recruited.

23. Members should promote good practices by private employment agencies in relation to domestic workers, including migrant domestic workers, taking into account the principles and approaches in the Private Employment Agencies Convention, 1997 (No. 181), and the Private Employment Agencies Recommendation, 1997 (No. 188).

24. In so far as compatible with national law and practice concerning respect for privacy, Members may consider conditions under which labour inspectors or other officials entrusted with enforcing provisions applicable to domestic work should be allowed to enter the premises in which the work is carried out.

25. (1) Members should, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, establish policies and programmes, so as to:

(a) encourage the continuing development of the competencies and qualifications of domestic workers, including literacy training as appropriate, in order to enhance their professional development and employment opportunities;

(b) address the work life balance needs of domestic workers; and

(c) ensure that the concerns and rights of domestic workers are taken into account in the context of more general efforts to reconcile work and family responsibilities.

(2) Members should, after consulting with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, develop appropriate indicators and measurement systems in order to strengthen the capacity of national statistical offices to effectively collect data necessary to support effective policy-making regarding domestic work.

26. (1) Members should consider cooperating with each other to ensure the effective application of the Domestic Workers Convention, 2011, and this Recommendation, to migrant domestic workers.

(2) Members should cooperate at bilateral, regional and global levels for the purpose of enhancing the protection of domestic workers, especially in matters concerning the prevention of forced labour and trafficking in persons, the access to social security, the monitoring of the activities of private employment agencies recruiting persons to work as domestic workers in another country, the dissemination of good practices and the collection of statistics on domestic work.

(3) Members should take appropriate steps to assist one another in giving effect to the provisions of the Convention through enhanced international cooperation or assistance, or both, including support for social and economic development, poverty eradication programmes and universal education.

(4) In the context of diplomatic immunity, Members should consider:

(a) adopting policies and codes of conduct for diplomatic personnel aimed at preventing violations of domestic workers' rights; and

(b) cooperating with each other at bilateral, regional and multilateral levels to address and prevent abusive practices towards domestic workers.

CEDAW General Recommendation No. 26 on Women Migrant Workers

Introduction

1. The Committee on the Elimination of Discrimination against Women (the Committee), affirming that migrant women, like all women, should not be discriminated against in any sphere of their life, decided at its thirty-second session (January 2005), pursuant to article 21 of the Convention on the Elimination of All Forms of Discrimination against Women (the Convention), to issue a general recommendation on some categories of women migrant workers who may be at risk of abuse and discrimination.³

2. This general recommendation intends to contribute to the fulfilment of the obligations of States parties to respect, protect and fulfil the human rights of women migrant workers, alongside the legal obligations contained in other treaties, the commitments made under the plans of action of world conferences and the important work of migration-focused treaty bodies, especially the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families.⁴ While the Committee notes that the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families protects individuals, including migrant women, on the basis of their migration status, the Convention on the Elimination of All Forms of Discrimination against Women protects all women, including migrant women, against sex- and gender-based discrimination. While migration presents new opportunities for women and may be a means for their economic empowerment through wider participation, it may also place their human rights and security at risk. Hence, this general recommendation aims to elaborate the circumstances that contribute to the specific vulnerability of many women migrant workers and their experiences of sex- and gender-based discrimination as a cause and consequence of the violations of their human rights.

3. While States are entitled to control their borders and regulate migration, they must do so in full compliance with their obligations as parties to the human rights treaties they have ratified or acceded to. That includes the promotion of safe migration procedures and the obligation to respect, protect and fulfil the human rights of women throughout the migration cycle. Those obligations must be undertaken in recognition of the social and economic contributions of

³ The Committee on the Elimination of Discrimination against Women acknowledges and seeks to build on the important work on the rights of migrants completed by the other human right treaty bodies, the Special Rapporteur on the Human Rights of Migrants, the United Nations Development Fund for Women, the Division for the Advancement of Women, the Commission on the Status of Women, the General Assembly, and the Sub-Commission on the Promotion and Protection of Human Rights. The Committee also refers to its earlier general recommendations, such as general recommendation No. 9 on the gathering of statistical data on the situation of women, especially general recommendation No. 12 on violence against women, general recommendation No. 13 on equal remuneration for work of equal value, general recommendation No. 15 on the avoidance of discrimination against women in national strategies for the prevention and control of acquired immunodeficiency syndrome (AIDS), general recommendation No. 19 on violence against women and general recommendation No. 24 on women's access to health care, as well as the concluding comments made by the Committee when examining the reports of States parties.

⁴ Besides treaties and conventions, the following programmes and plans of action are applicable. The United Nations Vienna Declaration and Programme of Action approved at the 1993 World Conference on Human Rights (part II, paras. 33 and 35). Programme of Action of the Cairo International Conference on Population and Development (chapter X). Programme of Action of the World Summit for Social Development (chap. 3). Beijing Declaration and Platform for Action, Fourth World Conference on Women, World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance August-September 2001. International Labour Organization Plan of Action for Migrant Workers, 2004.

women migrant workers to their own countries and countries of destination, including through caregiving and domestic work.

4. The Committee recognizes that migrant women may be classified into various categories relating to the factors compelling migration, the purposes of migration and accompanying tenure of stay, the vulnerability to risk and abuse, and their status in the country to which they have migrated, and their eligibility for citizenship. The Committee also recognizes that these categories remain fluid and overlapping, and that therefore it is sometimes difficult to draw clear distinctions between the various categories. Thus, the scope of this general recommendation is limited to addressing the situations of the following categories of migrant women who, as workers, are in low-paid jobs, may be at high risk of abuse and discrimination and who may never acquire eligibility for permanent stay or citizenship, unlike professional migrant workers in the country of employment. As such, in many cases, they may not enjoy the protection of the law of the countries concerned, at either *de jure* or *de facto* levels. These categories of migrant women are:⁵

- (a) Women migrant workers who migrate independently;
- (b) Women migrant workers who join their spouses or other members of their families who are also workers;
- (c) Undocumented⁶ women migrant workers who may fall into any of the above categories.

The Committee, however, emphasizes that all categories of women migrants fall within the scope of the obligations of States parties to the Convention and must be protected against all forms of discrimination by the Convention.

5. Although both men and women migrate, migration is not a gender-neutral phenomenon. The position of female migrants is different from that of male migrants in terms of legal migration channels, the sectors into which they migrate, the forms of abuse they suffer and the consequences thereof. To understand the specific ways in which women are impacted, female migration should be studied from the perspective of gender inequality, traditional female roles, a gendered labour market, the universal prevalence of gender-based violence and the worldwide feminization of poverty and labour migration. The integration of a gender perspective is, therefore, essential to the analysis of the position of female migrants and the development of policies to counter discrimination exploitation and abuse.

⁵ This general recommendation deals only with the work-related situation of women migrants. While it is a reality that in some instances women migrant workers may become victims of trafficking due to various degrees of vulnerability they face, this general recommendation will not address the circumstances relating to trafficking. The phenomenon of trafficking is complex and needs more focused attention. The Committee is of the opinion that this phenomenon can be more comprehensively addressed through article 6 of the Convention which places an obligation on States parties “to take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women”. The Committee emphasizes however, that many elements of the present general recommendation are also relevant in situations where women migrants have been victims of trafficking.

⁶ Undocumented workers are those migrant workers who are without a valid residence or work permit. There are many circumstances under which this could have happened. For example, they may have been given false papers by unscrupulous agents or they may have entered the country with a valid work permit, but may have subsequently lost it because the employer may have arbitrarily terminated their services, or become undocumented because employers may have confiscated their passports. Sometimes workers may have extended their stay after the expiry of the work permit or entered the country without valid papers.

Applying principles of human rights and gender equality

6. All women migrant workers are entitled to the protection of their human rights, which include the right to life, the right to personal liberty and security, the right not to be tortured, the right to be free of degrading and inhumane treatment, the right to be free from discrimination on the basis of sex, race, ethnicity, cultural particularities, nationality, language, religion or other status, the right to be free from poverty, the right to an adequate standard of living, the right to equality before the law and the right to benefit from the due processes of the law. These rights are provided for in the Universal Declaration of Human Rights and the many human rights treaties ratified or acceded to by States Members of the United Nations.

7. Women migrant workers are also entitled to protection from discrimination on the basis of the Convention, which requires States parties to take all appropriate measures without delay to eliminate all forms of discrimination against women and to ensure that they will be able to exercise and enjoy *de jure and de facto* rights on an equal basis with men in all fields.

Factors influencing women's migration

8. Women currently make up about one half of the world's migrant population. Various factors, such as globalization, the wish to seek new opportunities, poverty, gendered cultural practices and gender-based violence in countries of origin, natural disasters or wars and internal military conflicts determine women's migration. These factors also include the exacerbation of sex-specific divisions of labour in the formal and informal manufacturing and service sectors in countries of destination, as well as a male-centred culture of entertainment, the latter creating a demand for women as entertainers. A significant increase in the number of women migrating alone as wage earners has been widely noted as part of this trend.

Sex- and gender-based human rights concerns related to migrant women

9. Because violations of the human rights of women migrant workers occur in countries of origin, countries of transit and countries of destination, this general recommendation will address all three situations in order to facilitate the use of the Convention, further the rights of women migrant workers and advance substantive equality of women and men in all spheres of their lives. It is also recalled that migration is an inherently global phenomenon, requiring cooperation among States at multilateral, bilateral and regional levels.

10. In countries of origin before departure⁷

Even before they leave home, women migrant workers face myriad human rights concerns, including complete bans or restrictions on women's out-migration based on sex or sex combined with age, marital status, pregnancy or maternity status, occupation-specific restrictions or requirements that women must have written permission from male relatives to obtain a passport to travel or migrate. Women are sometimes detained by recruiting agents for training in preparation for departure, during which time they may be subject to financial, physical, sexual or

⁷ Paragraphs 10 and 11 describe some of the sex- and gender-related human rights concerns that women experience in their countries of origin, both before departure and upon return. Concerns related to transit and life abroad are discussed in paragraphs 12 to 22. These sections are illustrative and are not meant to be exhaustive. It should be noted that certain human rights concerns described here may render a woman's decision to migrate involuntarily under relevant international law; in such cases, reference should be made to those norms.

psychological abuse. Women may also suffer the consequences of restricted access to education, training and reliable information on migration, which may lead to increased vulnerability in relation to employers. Exploitative fees may be charged by employment agents, which sometimes cause women, who generally have fewer assets than men, to suffer greater financial hardships and make them more dependent, for example, if they need to borrow from family, friends, or moneylenders at usurious rates.

11. In countries of origin upon return

Women migrant workers may face sex- and gender-based discrimination, including compulsory HIV and AIDS testing for women returnees, moral “rehabilitation” for young women returnees and increased personal and social costs compared to men, without adequate gender-responsive services. For example, men may return to a stable family situation, whereas women may find disintegration of the family upon their return, with their absence from home regarded as the cause of such disintegration. There may also be a lack of protection against reprisals from exploitative recruiting agents.

12. In countries of transit

Women migrant workers may face a variety of human rights concerns when transiting through foreign countries. When travelling with an agent or escort, women migrants may be abandoned if the agent encounters problems in transit or upon arrival in the country of destination. Women are also vulnerable to sexual and physical abuse by agents and escorts when travelling in countries of transit.

13. In countries of destination

Once they reach their destinations, women migrant workers may encounter multiple forms of de jure and de facto discrimination. There are countries whose Governments sometimes impose restrictions or bans on women’s employment in particular sectors. Whatever the situation, women migrant workers face additional hazards compared to men because of gender-insensitive environments that do not allow mobility for women, and that give them little access to relevant information about their rights and entitlements. Gendered notions of appropriate work for women result in job opportunities that reflect familial and service functions ascribed to women or that are in the informal sector. Under such circumstances, occupations in which women dominate are, in particular, domestic work or certain forms of entertainment.

14. In addition, in countries of destination, such occupations may be excluded from legal definitions of work, thereby depriving women of a variety of legal protections. In such occupations, women migrant workers have trouble obtaining binding contracts concerning terms and conditions of work, causing them sometimes to work for long hours without overtime payment. Moreover, women migrant workers often experience intersecting forms of discrimination, suffering not only sex- and gender-based discrimination, but also xenophobia and racism. Discrimination based on race, ethnicity, cultural particularities, nationality, language, religion or other status may be expressed in sex- and gender-specific ways.

15. Because of discrimination on the basis of sex and gender, women migrant workers may receive lower wages than do men, or experience non-payment of wages, payments that are delayed until departure, or transfer of wages into accounts that are inaccessible to them. For example, employers of domestic workers often deposit the worker’s wages into an account in the employer’s name. If a woman and her spouse both have worker status, her wages may be paid

into an account in the name of her spouse. Workers in female-dominated sectors may not be paid for weekly days of rest or national holidays. Or, if they are heavily burdened by debt from recruitment fees, women migrant workers may not be able to leave abusive situations since they have no other way to repay those debts. Such violations may of course be faced by non-migrant local women in similar female-dominated jobs. However, non-migrant local women have better job mobility. They have the choice, however limited, of leaving an oppressive job situation and obtaining another job, whereas, in some countries, a woman migrant worker may become undocumented the minute she leaves her job. Non-migrant local women workers may, moreover, have some economic protection by way of family support if they are unemployed, but women migrant workers may not have such protection. Women migrant workers thus face hazards on the basis of sex and gender, as well as on the basis of their migrant status.

16. Women migrant workers may be unable to save or transmit savings safely through regular channels due to isolation (for domestic workers), cumbersome procedures, language barriers, or high transaction costs. This is a great problem since in general they earn less than men. Women may further face familial obligations to remit all their earnings to their families to a degree that may not be expected of men. For example, single women may be expected to support even extended family members at home.

17. Women migrant workers often suffer from inequalities that threaten their health. They may be unable to access health services, including reproductive health services, because insurance or national health schemes are not available to them, or they may have to pay unaffordable fees. As women have health needs different from those of men, this aspect requires special attention. They may also suffer from a lack of arrangements for their safety at work, or provisions for safe travel between the worksite and their place of accommodation. Where accommodation is provided, especially in female-dominated occupations such as factory, farm or domestic work, living conditions may be poor and overcrowded, without running water or adequate sanitary facilities, or they may lack privacy and hygiene. Women migrant workers are sometimes subjected to sex-discriminatory mandatory HIV/AIDS testing or testing for other infections without their consent, followed by provision of test results to agents and employers rather than to the worker herself. This may result in loss of job or deportation if test results are positive.

18. Discrimination may be especially acute in relation to pregnancy. Women migrant workers may face mandatory pregnancy tests followed by deportation if the test is positive; coercive abortion or lack of access to safe reproductive health and abortion services, when the health of the mother is at risk, or even following sexual assault; absence of, or inadequate, maternity leave and benefits and absence of affordable obstetric care, resulting in serious health risks. Women migrant workers may also face dismissal from employment upon detection of pregnancy, sometimes resulting in irregular immigration status and deportation.

19. Women migrant workers may be subjected to particularly disadvantageous terms regarding their stay in a country. They are sometimes unable to benefit from family reunification schemes, which may not extend to workers in female dominated sectors, such as domestic workers or those in entertainment. Permission to stay in the country of employment may be severely restricted, especially for women migrant workers in domestic work when their time-fixed contracts end or are terminated at the whim of the employer. If they lose their immigration status, they may be more vulnerable to violence by the employer or others who want to abuse the situation. If they are detained, they may be subject to violence perpetrated by officials in detention centres.

20. Women migrant workers are more vulnerable to sexual abuse, sexual harassment and physical violence, especially in sectors where women predominate. Domestic workers are particularly vulnerable to physical and sexual assault, food and sleep deprivation and cruelty by their employers. Sexual harassment of women migrant workers in other work environments, such as on farms or in the industrial sector, is a problem worldwide⁸. Women migrant workers who migrate as spouses of male migrant workers or along with family members face an added risk of domestic violence from their spouses or relatives if they come from a culture that values the submissive role of the women in the family.

21. Access to justice may be limited for women migrant workers. In some countries, restrictions are imposed on the use of the legal system by women migrant workers to obtain remedies for discriminatory labour standards, employment discrimination or sex- and gender-based violence. Further, women migrant workers may not be eligible for free government legal aid, and there may be other impediments, such as unresponsive and hostile officials and, at times, collusion between officials and the perpetrator. In some cases, diplomats have perpetrated sexual abuse, violence and other forms of discrimination against women migrant domestic workers while enjoying diplomatic immunity. In some countries, there are gaps in the laws protecting migrant women workers. For example, they may lose their work permits once they make a report of abuse or discrimination and then they cannot afford to remain in the country for the duration of the trial, if any. In addition to these formal barriers, practical barriers may prevent access to remedies. Many do not know the language of the country and do not know their rights. Women migrant workers may lack mobility because they may be confined by employers to their work or living sites, prohibited from using telephones or banned from joining groups or cultural associations. They often lack knowledge of their embassies or of services available, due to their dependence on employers or spouses for such information. For example, it is very difficult for women migrant domestic workers who are scarcely ever out of sight of their employers to even register with their embassies or file complaints. As such, women may have no outside contacts and no means of making a complaint, and they may suffer violence and abuse for long periods of time before the situation is exposed. In addition, the withholding of passports by employers or the fear of reprisal if the women migrant worker is engaged in sectors that are linked to criminal networks prevent them from making a report.

22. Undocumented women migrant workers are particularly vulnerable to exploitation and abuse because of their irregular immigration status, which exacerbates their exclusion and the risk of exploitation. They may be exploited as forced labour, and their access to minimum labour rights may be limited by fear of denouncement. They may also face harassment by the police. If they are apprehended, they are usually prosecuted for violations of immigration laws and placed in detention centres, where they are vulnerable to sexual abuse, and then deported.

Recommendations to States parties⁹

23. Common responsibilities of countries of origin and destination

Common responsibilities of countries of origin and destination include:

⁸ United Nations Commission on Human Rights. Measures to Improve the Situation and Ensure the Human Rights and Dignity of All Migrant Workers. Report of the Secretary General on Violence Against Women Migrant Workers. E/CN.4/1998/74/Add.1 15 January 1988.

⁹ The articles listed for each recommendation refer to the articles of the Convention on the Elimination of All Forms of Discrimination against Women

(a) Formulating a comprehensive gender-sensitive and rights-based policy

States parties should use the Convention and the general recommendations to formulate a gender-sensitive, rights-based policy on the basis of equality and non-discrimination to regulate and administer all aspects and stages of migration, to facilitate access of women migrant workers to work opportunities abroad, promoting safe migration and ensuring the protection of the rights of women migrant workers (articles 2 (a) and 3);

(b) Active involvement of women migrant workers and relevant non-governmental organizations

States parties should seek the active involvement of women migrant workers and relevant non-governmental organizations in policy formulation, implementation, monitoring and evaluation (article 7 (b));

(c) Research, data collection and analysis

States parties should conduct and support quantitative and qualitative research, data collection and analysis to identify the problems and needs faced by women migrant workers in every phase of the migration process in order to promote the rights of women migrant workers and formulate relevant policies (article 3).

24. Responsibilities specific to countries of origin

Countries of origin must respect and protect the human rights of their female nationals who migrate for purposes of work. Measures that may be required include, but are not limited to, the following:

(a) Lifting of discriminatory bans or restrictions on migration

States parties should repeal sex-specific bans and discriminatory restrictions on women's migration on the basis of age, marital status, pregnancy or maternity status. They should lift restrictions that require women to get permission from their spouse or male guardian to obtain a passport or to travel (article 2 (f));

(b) Education, awareness-raising and training with standardized content

States parties should develop an appropriate education and awareness-raising programme in close consultation with concerned non-governmental organizations, gender and migration specialists, women workers with migration experience and reliable recruiting agencies. In that regard, States parties should (articles 3, 5, 1 and 14):

(i) Deliver or facilitate free or affordable gender- and rights-based pre-departure information and training programmes that raise prospective women migrant workers' awareness of potential exploitation, including: recommended contents of labour contracts, legal rights and entitlements in countries of employment, procedures for invoking formal and informal redress mechanisms, processes by which to obtain information about employers, cultural conditions in countries of destination, stress management, first aid and emergency measures, including emergency telephone numbers of home embassy, and services; information about safety in transit, including airport and airline orientations and information on general and reproductive health, including HIV/AIDS prevention. Such training programmes should be targeted to women who are prospective migrant workers through an effective outreach programme and held in decentralized training venues so that they are accessible to women;

(ii) Provide a list of authentic, reliable recruitment agencies and create a unified information system on available jobs abroad;

(iii) Provide information on methods and procedures for migrating to work for women workers who wish to migrate independently of recruitment agencies;

(iv) Require recruitment agencies to participate in awareness-raising and training programmes and sensitize them on the rights of women migrant workers, the forms of sex- and gender-based discrimination, the exploitation women could experience and responsibilities of agencies towards the women;

(v) Promote community awareness-raising concerning the costs and benefits of all forms of migration for women and conduct cross-cultural awareness raising activities addressed to the general public, which should highlight the risks, dangers and opportunities of migration, the entitlement of women to their earnings in the interest of ensuring their financial security and the need to maintain a balance between women's familial responsibility and their responsibility to themselves. Such an awareness-raising programme could be carried out through formal and informal educational programmes;

(vi) Encourage the media, information and communication sectors to contribute to awareness-raising on migration issues, including on the contributions women migrant workers make to the economy, women's vulnerability to exploitation and discrimination and the various sites at which such exploitation occurs;

(c) *Regulations and monitoring systems*

(i) States parties should adopt regulations and design monitoring systems to ensure that recruiting agents and employment agencies respect the rights of all women migrant workers. States parties should include in their legislation a comprehensive definition of irregular recruitment along with a provision on legal sanctions for breaches of the law by recruitment agencies (article 2 (e));

(ii) States parties should also implement accreditation programmes to ensure good practices among recruitment agencies (article 2 (e));

(d) *Health service*

States parties should ensure the provision of standardized and authentic health certificates if required by countries of destination and require prospective employers to purchase medical insurance for women migrant workers. All required pre-departure HIV/AIDS testing or pre-departure health examinations must be respectful of the human rights of women migrants.

Special attention should be paid to voluntariness, the provision of free or affordable services and to the problems of stigmatization (articles 2 (f) and 12);

(e) *Travel documents*

States parties should ensure that women have equal and independent access to travel documents (article 2 (d));

(f) *Legal and administrative assistance*

States parties should ensure the availability of legal assistance in connection with migration for work. For example, legal reviews should be available to ensure that work contracts are valid and protect women's rights on a basis of equality with men (articles 3 and 11);

(g) *Safeguarding remittances of income*

States parties should establish measures to safeguard the remittances of women migrant workers and provide information and assistance to women to access formal financial institutions to send money home and to encourage them to participate in savings schemes (articles 3 and 11);

(h) *Facilitating the right to return*

States parties should ensure that women who wish to return to their countries of origin are able to do so free of coercion and abuse (article 3);

(i) *Services to women upon return*

States parties should design or oversee comprehensive socio-economic, psychological and legal services aimed at facilitating the reintegration of women who have returned. They should monitor service providers to ensure that they do not take advantage of the vulnerable position of women returning from work abroad, and should have complaint mechanisms to protect the women against reprisals by recruiters, employers or former spouses (articles 2 (c) and 3);

(j) *Diplomatic and consular protection*

States parties must properly train and supervise their diplomatic and consular staff to ensure that they fulfil their role in protecting the rights of women migrant workers abroad. Such protection should include quality support services available to women migrants, including timely provision of interpreters, medical care, counselling, legal aid and shelter when needed. Where States parties have specific obligations under customary international law or treaties such as the Vienna Convention on Consular Relations, those obligations must be carried out in full in relation to women migrant workers (article 3);

25. Responsibilities specific to countries of transit

States parties through which migrant women travel should take all appropriate steps to ensure that their territories are not used to facilitate the violation of the rights of women migrant workers. Measures that may be required include, but are not limited to, the following:

(a) *Training, monitoring and supervision of Government agents*

States parties should ensure that their border police and immigration officials are adequately trained, supervised and monitored for gender-sensitivity and non-discriminatory practices when dealing with women migrants (article 2 (d));

(b) *Protection against violations of migrant women workers' rights that take place under their jurisdiction*

States parties should take active measures to prevent, prosecute and punish all migration-related human rights violations that occur under their jurisdiction, whether perpetrated by public authorities or private actors. States parties should provide or facilitate services and assistance in

situations where women travelling with an agent or escort have been abandoned, make all attempts to trace perpetrators and take legal action against them (articles 2 (c) and (e));

26. Responsibilities specific to countries of destination

States parties in countries where migrant women work should take all appropriate measures to ensure non-discrimination and the equal rights of women migrant workers, including in their own communities. Measures that may be required include, but are not limited to, the following:

(a) Lifting of discriminatory bans or restrictions on immigration

States parties should repeal outright bans and discriminatory restrictions on women's immigration. They should ensure that their visa schemes do not indirectly discriminate against women by restricting permission to women migrant workers to be employed in certain job categories where men predominate, or by excluding certain female-dominated occupations from visa schemes. Further, they should lift bans that prohibit women migrant workers from getting married to nationals or permanent residents, becoming pregnant or securing independent housing (article 2 (f));

(b) Legal protection for the rights of women migrant workers

States parties should ensure that constitutional and civil law and labour codes provide to women migrant workers the same rights and protection that are extended to all workers in the country, including the right to organize and freely associate. They should ensure that contracts for women migrant workers are legally valid. In particular, they should ensure that occupations dominated by women migrant workers, such as domestic work and some forms of entertainment, are protected by labour laws, including wage and hour regulations, health and safety codes and holiday and vacation leave regulations. The laws should include mechanisms for monitoring workplace conditions of migrant women, especially in the kinds of jobs where they dominate (articles 2 (a), (f) and 11);

(c) Access to remedies

States parties should ensure that women migrant workers have the ability to access remedies when their rights are violated. Specific measures include, but are not limited to, the following (articles 2 (c), (f) and 3):

(i) Promulgate and enforce laws and regulations that include adequate legal remedies and complaints mechanisms, and put in place easily accessible dispute resolution mechanisms, protecting both documented and undocumented women migrant workers from discrimination or sex-based exploitation and abuse;

(ii) Repeal or amend laws that prevent women migrant workers from using the courts and other systems of redress. These include laws on loss of work permit, which results in loss of earnings and possible deportation by immigration authorities when a worker files a complaint of exploitation or abuse and while pending investigation. States parties should introduce flexibility into the process of changing employers or sponsors without deportation in cases where workers complain of abuse;

(iii) Ensure that women migrant workers have access to legal assistance and to the courts and regulatory systems charged with enforcing labour and employment laws, including through free legal aid;

(iv) Provide temporary shelters for women migrant workers who wish to leave abusive employers, husbands or other relatives and provide facilities for safe accommodation during trial;

(d) *Legal protection for the freedom of movement*

States parties should ensure that employers and recruiters do not confiscate or destroy travel or identity documents belonging to women migrants. States parties should also take steps to end the forced seclusion or locking in the homes of women migrant workers, especially those working in domestic service. Police officers should be trained to protect the rights of women migrant workers from such abuses (article 2 (e));

(e) *Non-discriminatory family reunification schemes*

States parties should ensure that family reunification schemes for migrant workers are not directly or indirectly discriminatory on the basis of sex (article 2 (f));

(f) *Non-discriminatory residency regulations*

When residency permits of women migrant workers are premised on the sponsorship of an employer or spouse, States parties should enact provisions relating to independent residency status. Regulations should be made to allow for the legal stay of a woman who flees her abusive employer or spouse or is fired for complaining about abuse (article 2 (f));

(g) *Training and awareness-raising*

States parties should provide mandatory awareness-raising programmes concerning the rights of migrant women workers and gender sensitivity training for relevant public and private recruitment agencies and employers and relevant State employees, such as criminal justice officers, border police, immigration authorities, border police and social service and health-care providers (article 3);

(h) *Monitoring systems*

States parties should adopt regulations and design monitoring systems to ensure that recruiting agents and employers respect the rights of all women migrant workers. States parties should closely monitor recruiting agencies and prosecute them for acts of violence, coercion, deception or exploitation (article 2 (e));

(i) *Access to services*

States parties should ensure that linguistically and culturally appropriate gender-sensitive services for women migrant workers are available, including language and skills training programmes, emergency shelters, health-care services, police services, recreational programmes and programmes designed especially for isolated women migrant workers, such as domestic workers and others secluded in the home, in addition to victims of domestic violence. Victims of abuse must be provided with relevant emergency and social services, regardless of their immigration status (articles 3, 5 and 12);

(j) *The rights of women migrant workers in detention, whether they are documented or undocumented*

States parties should ensure that women migrant workers who are in detention do not suffer discrimination or gender-based violence, and that pregnant and breastfeeding mothers as well as women in ill health have access to appropriate services. They should review, eliminate or reform laws, regulations, or policies that result in a disproportionate number of women migrant workers being detained for migration-related reasons (articles 2 (d) and 5);

(k) *Social inclusion of women migrant workers*

States parties should adopt policies and programmes with the aim of enabling women migrant workers to integrate into the new society. Such efforts should be respectful of the cultural identity of women migrant workers and protective of their human rights, in compliance with the Convention (article 5);

(l) *Protection of undocumented women migrant workers*

The situation of undocumented women needs specific attention. Regardless of the lack of immigration status of undocumented women migrant workers, States parties have an obligation to protect their basic human rights. Undocumented women migrant workers must have access to legal remedies and justice in cases of risk to life and of cruel and degrading treatment, or if they are coerced into forced labour, face deprivation of fulfilment of basic needs, including in times of health emergencies or pregnancy and maternity, or if they are abused physically or sexually by employers or others. If they are arrested or detained, the States parties must ensure that undocumented women migrant workers receive humane treatment and have access to due process of the law, including through free legal aid. In that regard, States parties should repeal or amend laws and practices that prevent undocumented women migrant workers from using the courts and other systems of redress. If deportation cannot be avoided, States parties need to treat each case individually, with due consideration to the gender-related circumstances and risks of human rights violations in the country of origin (articles 2 (c), (e) and (f));

27. Bilateral and regional cooperation

Measures that are required include but are not limited to the following:

(a) *Bilateral and regional agreements*

States parties who are sending or receiving and transit countries should enter into bilateral or regional agreements or memorandums of understanding protecting the rights of women migrant workers as elaborated in this general recommendation (article 3);

(b) *Best practices and sharing of information*

(i) States parties are also encouraged to share their experience of best practices and relevant information to promote the full protection of the rights of women migrant workers (article 3);

(ii) States parties should cooperate on providing information on perpetrators of violations of the rights of women migrant workers. When provided with information regarding perpetrators within their territory, States parties should take measures to investigate, prosecute and punish them (article 2 (c)).

28. Recommendations concerning monitoring and reporting

States parties should include in their reports information about the legal framework, policies and programmes they have implemented to protect the rights of women migrant workers, taking into consideration the sex- and gender-based human rights concerns listed in paragraphs 10 to 22 and guided by the recommendations given in paragraphs 23 to 27 of this general recommendation. Adequate data should be collected on the enforcement and effectiveness of laws, policies and programmes and the de facto situation of women migrant workers, so that the information in the reports is meaningful. This information should be provided under the most appropriate articles of the Convention, guided by the suggestions given against all the recommendations.

29. Ratification or accession to relevant human rights treaties

States parties are encouraged to ratify all international instruments relevant to the protection of the human rights of migrant women workers, in particular, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.