

**UN WOMEN ISSUE BRIEFS ON
WOMEN'S HUMAN RIGHTS IN THE ASEAN REGION**

LABOUR MIGRATION AND WOMEN MIGRANT WORKERS

Women represent almost half of the world's international migrants, totalling 95 million.ⁱ Migration within Southeast Asia has grown from 4 percent in the 1980s to nearly 40 percent in the late 1990s.ⁱⁱ

Poor and unskilled overseas migrant workers – women and men – face many challenges throughout the migration process. However, women migrant workers experience these challenges differently from men. **Women are disproportionately disadvantaged.** This disadvantage is grounded in gender inequality and gender stereotypes, and exacerbated for women migrant workers in the informal sector due to little or no legal protection.

Of the six million migrant workers in Asia,ⁱⁱⁱ around one third are “irregular” because they entered a foreign country without going through a formal immigration process or because they overstayed or do not have the appropriate work permit. Many of these irregular workers are women. Despite their irregular status, they, like all workers, are still entitled to basic rights at work (ILO C111). But they are the least likely to achieve them.

In many ASEAN countries, remittances are becoming an important contribution to the economy. Remittances sent by nationals of ASEAN member states employed in another country exceeded US\$10 billion in 2005 according to the International Labour Organization (ILO). The remittances are contributing significantly to the GDP of the sending countries, as high as 12.9 percent of GDP in the case of the Philippines.^{iv}

ASEAN Member States obligations

All ten ASEAN member states have ratified the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), which lays out the definition and standards for equality and non-discrimination for all women, including women migrant workers (Article 1).

The CEDAW Committee has further elaborated on the obligations of States Parties to protect and promote the human rights of women migrant workers. CEDAW General Recommendation 26 (2008) states that:

- States Parties should ensure that constitutional and civil law, as well as 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 migrants workers such as domestic work and some forms of entertainment, are protected by labour laws including wage and hour regulations, health and safety codes, holiday and vacation leave regulations.
- These laws should include mechanisms by which to monitor workplace conditions of migrant women especially in the kinds of jobs they dominate (articles 2a, f and 11).

Complementing CEDAW, a number of ASEAN countries have also ratified some ILO Conventions, which also address migrant

worker rights. These include conventions related to Freedom of Association and Collective Bargaining (C87), Elimination of Forced and Compulsive labour (C29, C105), Equal Remuneration (C100), Elimination in Discrimination in Respect of Employment and Occupation (C111), Minimum Age and Abolition of Worst Forms of Child Labour (C138, C182), Migration for Employment (C97), and Migrant Workers Supplementary Provision (C143).

ASEAN member states have signed the Declaration on the Protection and Promotion of the Rights of Migrant Workers.^v The obligations of ASEAN member states are:

- to provide migrant workers with adequate access to the legal and judicial system
- to facilitate the exercise of consular function by consular or diplomatic authorities of countries of origin when a migrant worker is arrested or committed to prison or custody or detained in any manner
- to set up policies and procedures for facilitating recruitment, preparation for deployment overseas and protection of migrant workers as well as repatriation and reintegration to the countries of origin, and other aspects of worker migration
- to establish and promote legal practices for regulating recruitment of migrant workers
- to adopt mechanisms for eliminating recruitment malpractices.

Facts on Women Migrant Workers

A feature of international migration for work in the last couple of decades is the **increase in the numbers of overseas women migrant workers in many ASEAN countries**. In Indonesia^{vi} and the Philippines,^{vii} the numbers of women migrant workers far exceed the numbers of male migrant workers. Figures for regularized migrants in Thailand show that women constitute 46 percent of migrants

from Myanmar and 53 percent for migrants from Lao PDR.^{viii}

While women migrant workers are recruited into both skilled and unskilled jobs, **the majority are concentrated in low status jobs at the lower end of the job hierarchy**. This often leads to:

- abuse
- exploitation such as low wages, long and poor working conditions
- lack of legal protection (many informal sector jobs are not recognized as “work” in national laws)
- violence at the hands of recruiters, employers and other agents during migration
- vulnerability to HIV/AIDs and other diseases
- loss of income earned due to illegal channels of remittances
- poverty and lack of income opportunities in home countries pushing them back into the cycle of migration.^{ix}

The majority of migrant women are usually young and poor, aged between 20 and 39 at the time of migration.^x

They tend to **work in unregulated sectors that do not always recruit through legal channels**. They are particularly clustered in “female” occupations such as domestic work, nursing and care work, cleaning, entertainment and the sex trade. They also work in agriculture, retailing and in labour-intensive manufacturing in small factories and sweatshops.

Women migrant workers are often “invisible” in official statistics.

Conventionally, women have long been perceived as “accompanying spouses” and not as independent labour migrants. Furthermore, statistics often capture only formalized jobs under temporary contract or other legal schemes. Women migrating through informal streams are not captured by official statistics. Data that is recorded is often not sex-disaggregated.

Migrant women often lack access to information about legal processes, formalities and labour laws in countries of employment. This makes them more vulnerable to abuse and exploitation.

The costs of labour migration are particularly high for women who either have no assets or fewer assets than men. Many women either borrow from relatives, friends or at high rates from money-lenders. Some women avail of “fly now, pay later” schemes, trapping them in debt bondage. Studies estimated that in 2003 prospective Indonesian migrant workers (more than 50 percent of Indonesian migrants are women) paid a total of US\$193.5 million to agencies involved in the business of recruiting, certifying and placing them overseas.^{xi}

Gender discrimination against women and girls is a denial of human rights. Such discrimination is both a cause of migration to meet survival needs and a consequence of rights violations throughout the migration process. Providing protection for, and empowering, women migrant workers promotes gender equality, upholds human rights, and ensures human development and good governance. Continued discrimination, violence and exploitation of women migrant workers thwarts human development. It is detrimental not only to the victims of exploitation but also to the productivity of the economies of the sending and receiving countries.

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