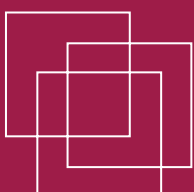


Towards achieving decent work for domestic workers in ASEAN

10th ASEAN Forum on Migrant Labour (AFML) – Thematic background paper

25–26 October 2017, Manila, Philippines



Towards achieving decent work for domestic workers in ASEAN

10th ASEAN Forum on Migrant Labour (AFML)

Thematic background paper

25–26 October 2017, Manila, Philippines

Copyright © International Labour Organization 2018

First published 2018

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Licensing), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: rights@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with a reproduction rights organization may make copies in accordance with the licences issued to them for this purpose. Visit www.ifro.org to find the reproduction rights organization in your country.

ISBN 978-92-2-131630-5 (print), 978-92-2-131631-2 (web pdf)

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

Information on ILO publications and digital products can be found at: www.ilo.org/publns.

All photos: © ILO

Printed in Thailand



Foreword

Often called the largest invisible workforce, there are about 9 million domestic workers in South-East Asia and the Pacific. More than 2 million of them are migrant domestic workers, constituting nearly 20 per cent of all migrant workers in the region. While there's an increasing demand for domestic workers, this predominantly female group of workers is among the most vulnerable. Around the world, domestic workers often work longer and more unpredictable hours than others. Many are given no days off and are paid below the minimum wage. Globally, and in ASEAN alike, domestic workers are often excluded from labour laws and labour protection available to other groups of workers.

This report was prepared as a technical background paper for the 10th ASEAN Forum on Migrant Labour (AFML) hosted by the Government of the Philippines in Manila from 25 to 26 October 2017, with the theme "Towards Achieving Decent Work for Domestic Workers in ASEAN". This was the first time the AFML focused on a specific sector of employment. The ILO commends the Government of Philippines for selecting this important topic for discussion, and for its commitment to lead ASEAN Member States in making decent work a reality for domestic workers.

This background paper was prepared based on a literature review, supplemented by inputs received from participants to the national preparatory meetings for the 10th AFML organized in Cambodia, Indonesia, the Lao People's Democratic Republic, Malaysia, Myanmar, the Philippines, Thailand, and Viet Nam. It was prepared by the TRIANGLE in ASEAN programme, a partnership between the Australian Department of Foreign Affairs and Trade (DFAT), the Global Affairs Canada (GAC), and the International Labour Organization (ILO).



Ms Tomoko Nishimoto

Assistant Director-General and Regional Director for Asia and the Pacific
ILO Regional Office for Asia and the Pacific

Table of contents

Foreword	iv
Acknowledgements	vii
Abbreviations and acronyms	viii
1. Introduction and background	1
2. The 10th ASEAN Forum on Migrant Labour (AFML)	2
3. Migrant domestic workers in ASEAN	4
3.1 Situation of migrant domestic workers in ASEAN: Regional and national figures	5
3.2 Demand for migrant domestic workers in ASEAN	7
3.3 Conditions of work and employment for migrant domestic workers	7
4. International and national standards for the protection of domestic workers	12
4.1 International and regional legal and policy frameworks	12
4.2 Bilateral MOUs	16
4.3 National legal and policy frameworks	16
4.3.1 Extending labour law protection to migrant domestic workers	17
4.3.2 Regulating recruitment agencies and fees	19
4.3.3 Migration policies	20
4.3.4 Social protection, including maternity protection	23
4.3.5 Labour inspection	23
4.3.6 Access to justice	24
4.3.7 Right to organize	25
5. Implementation of policies and support services	26
5.1 Pre-departure and post-arrival orientation	26
5.2 Pre-employment orientation for employers	27
5.3 Promotion of fair recruitment practices	27
5.4 Promotion of fair employment practices	28
5.5 Support services	29
5.6 Return and reintegration	29
5.7 Embassy support	30
5.8 Skills recognition and training	30
5.9 Awareness-raising campaigns	31
5.10 Data collection	32
5.11 Social dialogue and collaboration	32
6. Recommendations	34
Bibliography	36
Appendices	39
Appendix I. Practical guides to develop empowering and rights-protective policy and practice	39
Appendix II. Terminology	40

List of boxes

Box 1:	Past AFML Recommendations covering migrant domestic work	3
Box 2:	Who is a domestic worker?	4
Box 3:	Gender norms: Inequality for women domestic workers	11
Box 4:	Fictive kin or employment relationship?: Attitudes towards domestic workers impact their labour protection in ASEAN	11
Box 5:	What does ILO Convention No. 189 require?	13
Box 6:	Key elements of the Cebu Declaration	15
Box 7:	Ratification of the Domestic Workers' Convention helps countries of origin negotiate better conditions for their migrant domestic workers abroad	16
Box 8:	Country example: Migrant domestic work in Hong Kong (China) general labour law	17
Box 9:	Country examples: Working time in South Africa, Germany, Denmark	18
Box 10:	Country examples: Days off and live-out arrangements	18
Box 11:	Country examples: Protecting domestic workers nationally in countries of origin	18
Box 12:	Country example: Prohibiting recruitment fees in the Philippines	19
Box 13:	International standards: Medical testing of domestic workers (ILO Recommendation No. 201)	20
Box 14:	Bans on domestic workers' migration in ASEAN: Time for alternative means of protection?	21
Box 15:	Country examples: Maternity and non-discrimination protections in Brazil, Hong Kong (China), and South Africa	23
Box 16:	Country examples: Labour inspection and alternatives in South Africa	24
Box 17:	Country example: Trade union organizing allowed in Hong Kong (China)	25
Box 18:	Country examples: Pre-departure orientation and workers' priorities in ASEAN	27
Box 19:	Country example: Codes of conduct in Myanmar and Viet Nam	28
Box 20:	Government officials as employers: India requiring good employment practice by officials	29
Box 21:	Country examples: Support services by and for domestic workers	29
Box 22:	Country example: Assistance and enforcement of legislation by Philippines embassies	30
Box 23:	Country examples: Professionalization of domestic work in Indonesia and the United Arab Emirates	31
Box 24:	International Domestic Workers Day, "My Fair Home", and "Open Doors" campaigns	31
Box 25:	International Labour Migration Statistics Database in ASEAN (ILMS)	32
Box 26:	Country example: Employer organizations in Italy	32
Box 27:	Country example: Collective negotiation in Hong Kong (China) and Indonesia	33
Box 28:	Country examples: Collaboration among stakeholders in the Philippines and Tanzania	33

List of tables

Table 1:	ASEAN Member States' date of ratification of fundamental rights at work, applicable to migrant domestic workers (by ILO Convention number)	15
----------	--	----

List of figures

Figure 1:	Documented migrant domestic workers in main ASEAN countries of destination	5
Figure 2:	Key figures on domestic workers in the region	6
Figure 3:	Monthly wages of migrant domestic workers in Malaysia, by nationality	8
Figure 4:	Monthly wages of migrant domestic workers in Thailand, by nationality	8
Figure 5:	Sectors wherein workers experience forced labour, 2017 (by percentage)	9
Figure 6:	Root causes for domestic workers' vulnerability	10
Figure 7:	Timeline of gender-based migration bans and restrictions in ASEAN	22

Acknowledgements

This paper was prepared for the ILO by independent consultant Rebecca Napier-Moore, in close collaboration with Anna Engblom, Marja Paavilainen, and Anna Olsen from the ILO TRIANGLE in ASEAN programme. The report was commissioned as a technical background paper for the 10th ASEAN Forum on Migrant Labour (AFML) hosted by the Government of the Philippines from 25 to 26 October 2017 in Manila.

The completion of this report would not have been possible without contributions of participants to the national preparatory meetings organized in Cambodia, Indonesia, the Lao People's Democratic Republic, Malaysia, Myanmar, the Philippines, Thailand, and Viet Nam in the run up to the 10th AFML. The authors are grateful for all inputs provided by representatives of governments, employers' and workers' organizations, civil society, and international organizations during these meetings. We also thank Lara White and Nissara Spence from the International Organization for Migration, Asa Torkelsson from UN Women, and ILO colleagues, including Nilim Baruah, Jackie Pollock, Ben Harkins, Anjali Fleury, and Catherine Laws for comments and guidance on preparation of this paper.

A draft version of this paper was distributed for discussion during the 10th AFML. The authors are grateful for comments provided by ASEAN Member States, through the ASEAN Committee on the Implementation of the Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW), during and after the forum. Thanks are also due to John Maloy for editing the text, and Narrawarath Hengviriyapanich for layout and graphic design.

Abbreviations and acronyms

AFML	ASEAN Forum on Migrant Labour
ASEAN	Association of Southeast Asian Nations
Cebu Declaration	ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women, 1979
CWDH	Care for Women and Domestic Helper Department
CSO	civil society organization
DOLAB	Department of Overseas Labour [Viet Nam]
FADWU	Federation of Asian Domestic Workers' Unions [Hong Kong (China)]
FAST	Foreign Domestic Worker Association of Social Support and Training [Singapore]
IDWF	International Domestic Workers Federation
ILMS	International Labour Migration Statistics Database in ASEAN
ILO	International Labour Organization
IOM	International Organization for Migration
ITUC	International Trade Union Confederation
M&E	monitoring and evaluation
MOEAF	Myanmar Overseas Employment Agency Federation
MOM	Ministry of Manpower [Singapore]
MOU	memorandum of understanding
MRC	Migrant Worker Resource Centre
MYR	Malaysian ringgit
NGO	non-governmental Organization
POEA	Philippines Overseas Employment Administration
RMCS	Regional Model Competency Standards
SSA	social security agreement
STOE	standard terms of employment
SUMAPI	<i>Samahan at Ugnayan ng Manggagawang Pantahanan sa Pilipinas</i> (Association and Linkage of Domestic Workers in the Philippines)
THB	Thai baht
UN	United Nations
UNITED	United Domestic Workers of the Philippines
VAMAS	Viet Nam Association of Manpower Supply





1. Introduction and background

This paper was prepared as a background paper for the 10th ASEAN Forum on Migrant Labour (AFML) to be held from 25 to 26 October 2017 in the Philippines. The AFML is the only known migration forum in Asia that is carried out in a tripartite manner with additional involvement of civil society organizations (CSOs). The AFML brings together key stakeholders in labour migration in the ASEAN, including the International Labour Organization’s (ILO) tripartite constituents – government, employers’ organizations, and workers’ organizations – as well as the ASEAN Secretariat, CSOs, and international organizations. The Forum gathers annually to discuss and share experiences, as well as to build consensus on the protection of migrant workers’ issues committed under the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, 2007 (Cebu Declaration). It concludes with the adoption of Recommendations that bring life to the provisions of the Cebu Declaration. The 10th AFML carries the overall theme “Towards Achieving Decent Work for Domestic Workers in ASEAN”.¹

*Throughout the ASEAN region, migrant domestic workers provide indispensable care to their own families and to families in countries of destination. The care economies of ASEAN origin and destination countries are highly co-dependent, and therefore all ASEAN Member States have a common interest in working towards high-quality care work under good conditions. While progress has been made and new protections afforded to migrant domestic workers in ASEAN in recent years, severe gaps in protection, both *de jure* and *de facto*, remain. To be classified as “decent work”, domestic work, as performed by both migrants and nationals, must involve opportunities for work that provide full and productive employment, rights at work, social protection, and the promotion of social dialogue.*

¹ This thematic background paper focuses on policies and initiatives in ASEAN countries of origin and destination for migrant domestic workers. Due to scope limitations, there is minimal focus on countries of destination outside the region to which ASEAN migrant domestic workers also move.



2. The 10th ASEAN Forum on Migrant Labour (AFML)

The 10th AFML will be held on 25–26 October 2017 in the Philippines. It will be hosted by the Government of the Philippines as the current chair of ASEAN and the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW).

The 10th AFML, with the theme “Towards Achieving Decent Work for Domestic Workers in ASEAN”, is being organized to support the implementation of the Cebu Declaration. The 10th AFML aims to:

- (a) share stakeholder experiences, challenges, and good practices in the implementation of Recommendations from previous AFMLs, with a focus on the 9th AFML;
- (b) sustain momentum in the efforts to protect the rights and promote the welfare of domestic workers in view of the adoption of ILO Domestic Workers Convention, 2011 (No. 189);
- (c) take stock of the existing government policies and programmes, as well as initiatives of social partners among workers, employers, and civil society for the protection of domestic workers in the ASEAN region;
- (d) identify measures to strengthen protection of migrant workers, particularly domestic workers in the ASEAN region; and
- (e) adopt Recommendations to ensure decent work for domestic workers.

The 10th AFML theme “Towards Achieving Decent Work for Domestic Workers in ASEAN” covers two thematic sessions, which also form the basis of this paper:

- Theme 1: International and national standards for the protection of migrant domestic workers; and
- Theme 2: Implementation of policies and support services.

Previous AFML meetings discussed themes and sub-themes selected from the obligations of sending and receiving ASEAN Member States as outlined in the Cebu Declaration, or other topics of mutual interest. This year's 10th AFML for the first time focuses on a specific sector of employment – domestic work.

Migrant domestic work is not a new issue for the AFML; the sector has been part of discussions and recommendations since the 5th AFML in 2012. In total, five Recommendations that targeted migrant domestic work have been developed by ASEAN delegations to previous AFMLs, as summarized in box 1. Some Recommendations, including those targeting women migrant workers, informal sectors, and hard-to-reach sectors, are also applicable to migrant domestic workers.

Box 1

Past AFML Recommendations covering migrant domestic work

Past AFML Recommendations on migrant domestic work have included that:

- Domestic workers fully access social protection benefits (Recommendation 6, 9th AFML);
- Labour inspection reaches hard-to-reach sectors, including domestic work (Recommendation 8, 8th AFML; Recommendation 5, 7th AFML);
- Government cooperates with employer organizations, trade unions, civil society organizations, and other relevant entities in hard-to-reach sectors, including domestic work (Recommendation 8, 8th AFML);
- Standard employment contracts and grievance mechanisms extend to domestic work (Recommendation 2, 7th AFML); and
- ILO Domestic Work Convention, 2011 (No. 189) is ratified and aligned with national labour laws and legislations (Recommendation 5, 5th AFML).



3. Migrant domestic workers in ASEAN

Throughout ASEAN, people migrate to provide for themselves and their families. Women comprise nearly half of migrant workers in ASEAN (UNDESA, 2016), yet they have fewer options for regular migration, and work more often in the unprotected informal economy, including in domestic work (ASEAN, Friedrich Ebert Stiftung, and UN Women, 2015; 2017). (See box 2 for a definition of domestic work.)

Box 2

Who is a domestic worker?

ILO Convention No. 189 defines a domestic worker as “any person engaged in domestic work within an employment relationship”. Domestic work is defined as “work performed in or for a household or households”. Domestic workers may have various job titles and scopes of work: cook, cleaner, child carer, elder carer, carer for the disabled, gardener, chauffeur, or security guard.

Of note in the ASEAN region is an initiative by the Indonesian Government, among others, to specify the particular roles of a domestic worker to ensure that domestic workers at home or abroad are not expected to perform all of the above roles at the same time.¹ This works both to professionalize the sector and to prevent overwork and exploitation.

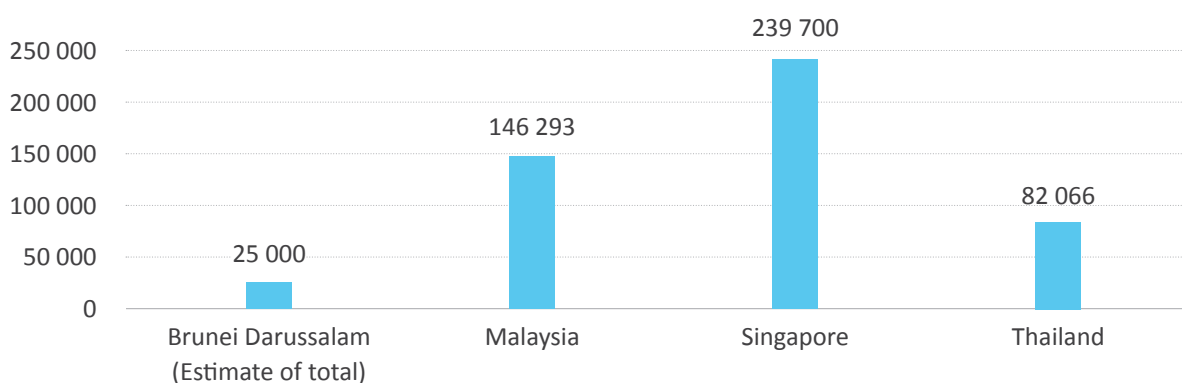
1 Decree of Minister of Manpower, Number 354 of 2015: “Specific Occupations for Indonesian Overseas Workers for Individual Users” (Domestic Work), signed on 28 August 2015 by Minister Hanif Dhakiri. The Decree Annex lists seven occupations that can be held by Indonesian migrant domestic workers: 1. Housekeeper, 2. Babysitter, 3. Family Cook, 4. Elderly Caretaker, 5. Family Driver, 6. Gardener, 7. Child Care Worker.

3.1 Situation of migrant domestic workers in ASEAN: Regional and national figures

Among all migrant workers in the South-East Asia and Pacific region, migrant domestic workers comprise 19 per cent of migrants (ILO, 2015b).² In South-East Asia and the Pacific, 83 per cent of domestic workers are women, while 17 per cent are men (ILO, 2016b). Just as the sector is dependent on women workers, it is also dependent on migrants: approximately 2.24 million of the 9.1 million domestic workers working in the South-East Asia and Pacific region are migrants (ILO, 2015a). In Asia and the Pacific more broadly, the number of domestic workers has increased over time, growing by 58 per cent from 1995 to 2010 (ILO, 2013a). Migrant children are also employed in domestic work in the region, however their number is not systematically monitored. ILO global estimates on child labour indicate that some 6.3 million children aged 5 to 14 years were engaged in domestic work in 2012 (Etienne, Diallo, and Mehran, 2014).

Countries of destination in South-East Asia and the Pacific host 24 per cent of the global total of migrant domestic workers (ILO, 2015b). Brunei Darussalam, Malaysia, Singapore, and Thailand are the primary ASEAN countries of destination for migrant domestic workers. The majority of migrant women moving to Malaysia are employed as domestic workers, and primarily come from Cambodia, Indonesia, and the Philippines. In Singapore the majority of migrant domestic workers have migrated from Indonesia, Myanmar, and the Philippines. Thailand hires migrant domestic workers from Cambodia, the Lao People's Democratic Republic, and Myanmar. See figure 1 for data on documented migrant domestic workers in each of these countries of net immigration. Figures do not take into account undocumented workers, a number believed to be significant particularly in Malaysia and Thailand.

Figure 1. Documented migrant domestic workers in main ASEAN countries of destination



Source: Brunei Darussalam as of 2010 estimate: US DOS, 2010; Malaysia as of Oct 2015: Immigration Department of Malaysia; Singapore as of end 2016: MOM, 2017; Thailand as of 2011: ILO, 2013c.

ASEAN includes major countries of origin for migrant domestic workers moving both within ASEAN and to other regions such as the Persian Gulf and East Asia. These countries of origin primarily include Cambodia, Indonesia, Myanmar, the Philippines, and Viet Nam, with outward migration patterns as follows: Cambodia has had a ban on migration for domestic work to Malaysia, and officially only sends several hundred domestic workers to other countries, such as with recent pilots to Hong Kong (China) and Singapore (ILO, 2017c). Indonesian migrant domestic workers make up a third of Indonesians working abroad, totalling 2 million (Yi, 2017). Myanmar has a ban on migration for domestic work, however, the Government estimates there are about 40,000 Myanmar domestic workers in Singapore and 28,000 in Thailand, as well as more in other destinations (Zaw, 2016). In May 2015, the Philippines recorded a relative decrease from past numbers to a total of 55,961 domestic workers abroad.³ Data for Viet Nam suggests that in 2011 about 7,000 women had migrated for domestic work to Macau (China), Taiwan (China), and elsewhere. By 2015, Saudi Arabia also hosted 5,000 Vietnamese domestic workers. Other Vietnamese domestic workers go to Thailand and China (ILO, 2015i). Note that the official figures are not inclusive of undocumented migrants. (See figure 2 for further details.)

² Note that the ILO does not geographically disaggregate data further to South-East Asia only.

³ POEA cited in Gonzalez, 2015. Further, POEA figures listed in the article include disaggregation by destination in 2015: Saudi Arabia employed 20,949 Philippines migrant domestic workers in 2015; United Arab Emirates 215; Hong Kong (China) 5,825; Singapore 3,798; Bahrain 1,982; Malaysia 1,725; Cyprus 322; Brunei Darussalam 147; and Macau (China) 75.

Figure 2. Key figures on domestic workers in the region



**IN SOUTH-EAST ASIA
AND THE PACIFIC THERE ARE :**

9 million
domestic workers

2 million
of them are migrant domestic workers



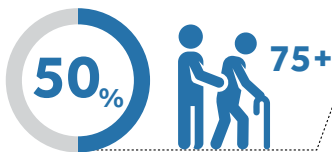
Domestic workers make up nearly **20%** of all migrant workers in the region¹



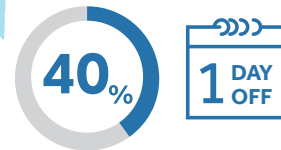
According to an ILO study, average working hours for domestic workers were

 **12 hours**
in Thailand

 **14 hours**
in Malaysia



50% of Singaporeans over 75 years old are dependent on migrant care workers, including domestic workers, for daily care.²



Only 40% were given one day off per week³

IN ASIA AND THE PACIFIC IN 2010⁴,



Only 3%

of domestic workers were covered by general labour laws to the same extent as other workers



61%

were excluded from any labour legislation



97%

had no right to one day off per week



99%

had no normal weekly hours limit



88%

were excluded from minimum wage coverage

¹ 2015b

² Ostbye, et. al. 2013.

³ ILO. 2016e

⁴ 2013a

3.2 Demand for migrant domestic workers in ASEAN

A 2012 Singapore national survey found that among persons aged 75 and over, 50 per cent were dependent on migrant care workers, including domestic workers, for their daily care (Ostbye et al., 2013). In Singapore, one in five households hires a domestic worker (Hui and Tai, 2015), and it is estimated that the demand for domestic workers throughout ASEAN will rise further in coming years as a result of an ageing workforce, lower fertility, and an increase of women in the workforce (ILO, 2016d; Tan and Gibson, 2013). In Thailand, the working age population is expected to contract by 11 per cent as a share of the total population by 2040, with the World Bank (2016) estimating that a large migrant labour workforce will be needed. Multi-generational households have declined in the region as well as in major destination regions such as East Asia, meaning fewer grandparents are looking after their grandchildren and fewer elderly persons are being looked after by their adult children (ILO, 2016d, p. 8). Not all people in need of care can afford it, whether in origin or destination countries in ASEAN, and the need for domestic workers along with robust state-sponsored care is needed.

Domestic work is a part of this broader care economy, which ranges from carers of children, the elderly, and the disabled, to nurses, teachers, cleaners, and beyond. Care is particularly labour intensive because it is face-to-face, often requires hands-on contact, and is “emotional work” not replaceable with technology (ILO, forthcoming a). The wider care economy includes formal and informal workers in public and private institutions or homes who provide care for children, sick, injured, disabled, and elderly persons. In ASEAN, much of the care economy is informal and reliant on unpaid family members and informal domestic workers. This traditional familial mode of care delivery in Asia is one model for the care economy.

As ASEAN’s care economy develops, it requires development of national policies looking at other care economy models, moving to reduce and redistribute family and particularly women’s care responsibilities to state-supported services and well-regulated market interventions to provide women with choices in terms of time use. Costs of quality care are too high for many ASEAN citizens, who either go without care or accept a low quality of care, or who force domestic workers to work for wages lower than their skill level and lower than is appropriate for the job requirements (ILO, forthcoming a).

A lesson learnt from the Philippines’ implementation of Convention No. 189 is that it is difficult for many local employers of domestic workers to fulfil Convention No. 189 standards. Thus, part of the strategy to upgrade conditions for domestic workers must also be to upgrade the social support services offered to working mothers and to encourage the private sector to be more family-friendly.

Development of care economies also requires an eye to “care chain” patterns. Care chains involve (primarily) women entering employment abroad or in their home country, who then must outsource their care duties to other women or children from their family or from even poorer households. Women and children at the bottom of the care chain are typically unpaid and/or have double care burdens, providing care for their own families and those of others.

3.3 Conditions of work and employment for migrant domestic workers

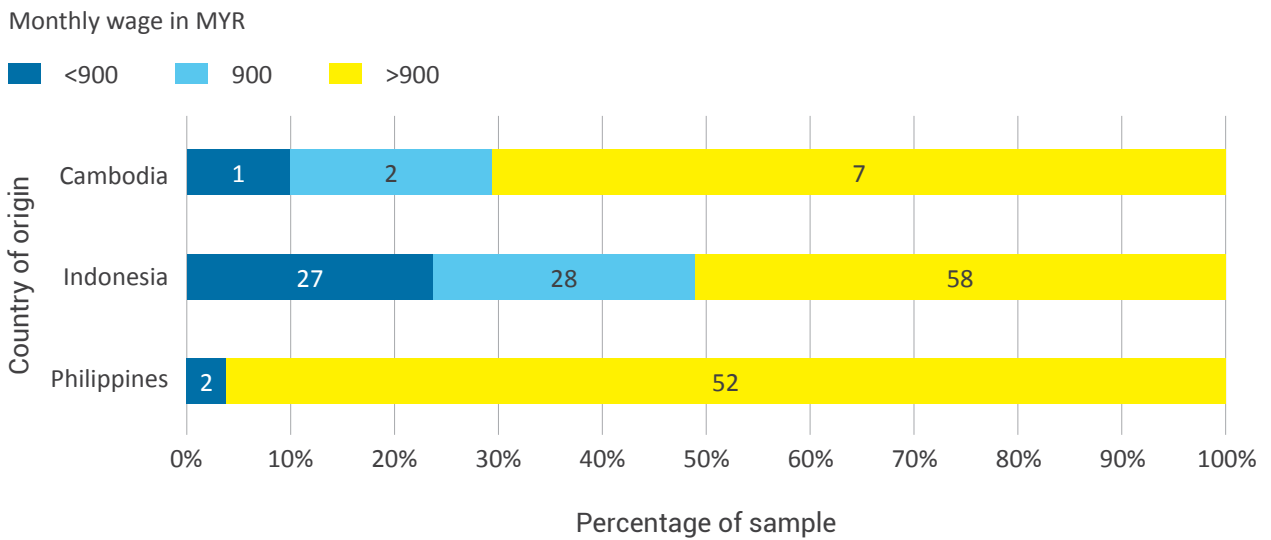
Many ASEAN migrant domestic workers find work in good conditions and are able to earn and save significantly. Yet, the rights of many others are regularly violated, with some in situations of forced labour, gender-based violence, physical and/or mental abuse, exploitation, and human trafficking.

Wages: In study after study, migrant domestic workers reiterate that pay is their top priority issue (ILO, 2017c; 2016e). Convention No. 189, Article 11 requires that domestic workers should enjoy minimum wage coverage, where such coverage exists. Yet in reality this remains a challenge. A study carried out by the ILO in Malaysia and Thailand in 2016 found out that only 10 per cent of 400 migrant domestic workers surveyed were paid above the minimum wages in those countries, when minimum wage per hour is taken into account (2016e; see also figures 3 and 4).

The ILO’s survey found wages differ significantly depending on the nationality of the migrant domestic workers. These differences are partly a result of the different wage rates set in bilateral memoranda of understanding (MOUs), or a result of origin countries’ regulations on migrants’ wages. For instance, the 2006 Philippine Overseas Employment Administration (POEA) Governing Board Resolution 5 set the minimum salary for Filipina domestic workers overseas

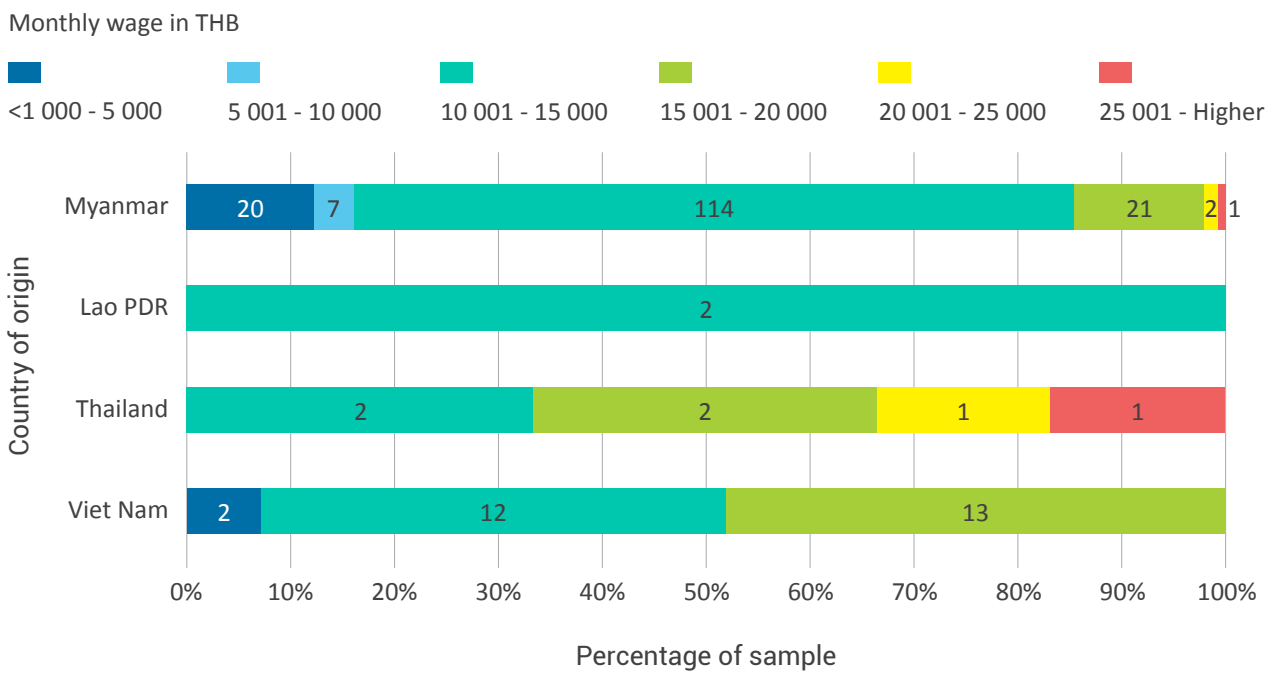
at US\$400 per month, but other countries agree to or have legislated differing rates. However, not all workers receive the rates set by the MOUs or the governments of origin countries. In the 2016 ILO survey, more than half (N=38) of the 62 Filipinas interviewed in Malaysia earned below 1,548 Malaysian ringgit (MYR) (\$368.09); 11 earned MYR1,549–1,999 (\$368.32–475.32); and three earned above MYR2,000 (\$475.57). At the time of this study, bilaterally agreed wages for Indonesians in Malaysia were significantly lower than for Filipinas, set at MYR900 (US\$214.01). Of the 129 Indonesians interviewed, 30 received MYR899 (\$213.77) or less, (below the MOU-stated minimum); 68 earned MYR900–1,200 (\$214.01–285.34); and 31 earned above MYR1,200 (\$285.34). The study concluded that these results “suggest that the MOU is not ensuring wages” (ILO, 2016e).

Figure 3. Monthly wages of migrant domestic workers in Malaysia, by nationality



Source: ILO, 2016e.

Figure 4. Monthly wages of migrant domestic workers in Thailand, by nationality



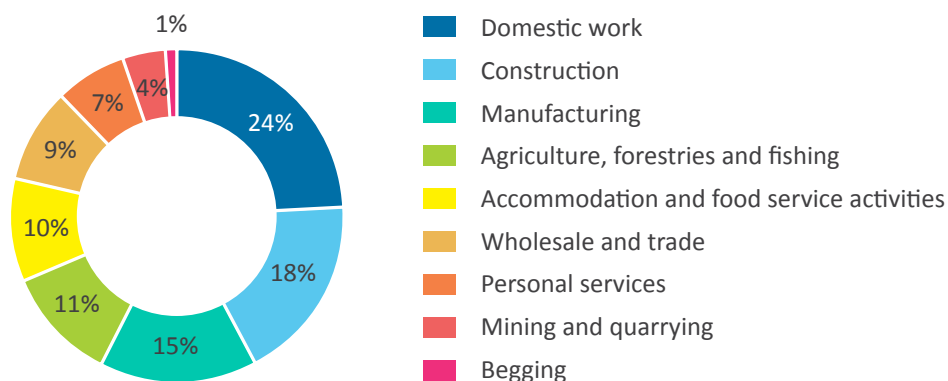
Source: ILO, 2016e.

Working hours: Around the world, domestic workers’ hours are among the longest and most unpredictable among all workers (ILO, 2013a). Legislation on working hours often particularly excludes domestic workers. For instance, Thailand sets the “normal hours of work” at an eight-hour day in labour law, but this does not apply to domestic workers. The 2016 ILO survey of 400 domestic workers in Malaysia and Thailand found that care workers’ average daily working hours were 15 hours in Malaysia and 13 in Thailand. Many domestic workers in these two countries work on-call or on stand-by 24 hours a day, and a global study found that domestic workers in Malaysia work the longest days in the world (ILO, 2013a). In a 2016 survey of employers in Thailand and Malaysia, employers said that their opinion an eight-hour workday (as is standard for other categories of workers in both countries) was not appropriate for domestic workers (ILO, 2016e). As with pay (see above), there is a correlation between working hours and the nationality of the worker. For instance, Cambodian migrant domestic workers in Malaysia work on average 15.78 hours per day; Indonesians 14.82 hours; and Sri Lankans and Filipinas 13.29 hours (ILO, 2016e). Convention No. 189, Article 10 requires States to take measures to ensure equal treatment between domestic workers and workers generally in relation to normal hours of work, overtime compensation, periods of daily and weekly rest, and annual paid leave.

Weekly rest period: Convention No. 189, Article 10 requires domestic workers to be provided with a weekly rest period of at least 24 consecutive hours. However, only one fifth of employers in Malaysia participating in the ILO 2016 survey thought that workers should have a full, consecutive 24 hours of rest per week (ILO, 2016e). In Singapore, domestic workers increasingly report employer surveillance through closed circuit TV cameras, some of which are linked to remote computers at employers’ places of work and some of which even film inside workers’ bathroom and bedroom areas, violating their right to privacy (Hui and Tai, 2015). Nonetheless, under the Employment of Foreign Manpower (Work Passes) Regulations, Singapore’s Ministry of Manpower (MOM) requires employers to provide acceptable accommodation for their migrant domestic workers (including providing them with privacy) and should not commit any act detrimental to their welfare. Migrant domestic workers are entitled to a weekly rest day or compensation in lieu. The number of rest days is determined through mutual consent between the migrant domestic workers and her employer (ILO, 2017c). (ILO, 2017c). Much of this restriction relates to a fear of women domestic workers getting pregnant or absconding if they are allowed out (ILO, 2017c). These and other gender norms (see boxes 3 and 4) contribute to a situation where domestic work has particularly high decent work deficits.

Dependence and isolation: Migrant domestic workers have a high dependence on recruiters and employers, the result of workplace isolation and a lack of social networks, as well as visas legally tying them to employers and making it hard for them to leave an exploitative situation. There is a pronounced power imbalance between domestic workers and employers, exacerbated by migration status and even more so when that status is irregular. These are some of the reasons why domestic work is the top sector globally where forced labour is found, accounting for nearly a quarter of all forced labour incidents (ILO, Walk Free, and IOM, 2017; see figure 5). Workplace isolation has negative effects on domestic workers’ health as well, including loneliness, depression, and mental illness.

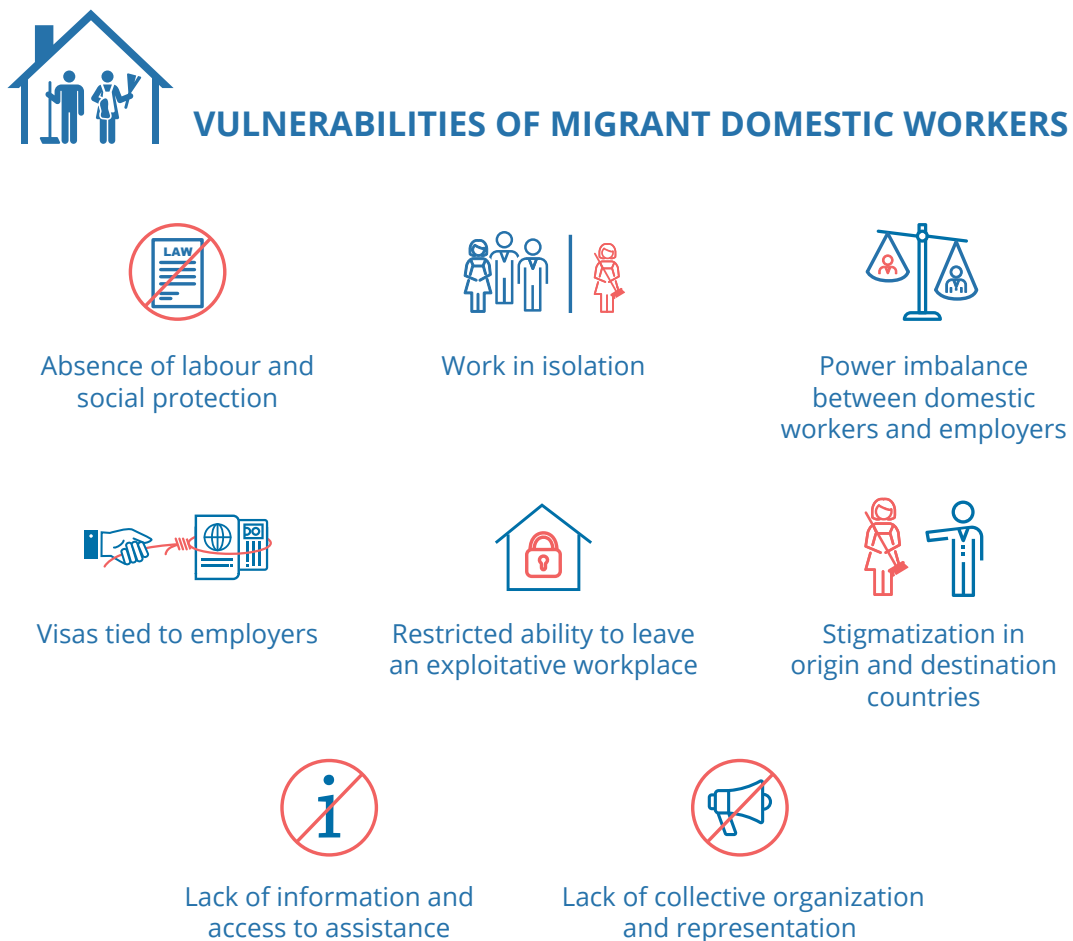
Figure 5. Sectors wherein workers experience forced labour, 2017 (by percentage)



Source: ILO, Walk Free, and IOM, 2017.

Living conditions: Many ASEAN domestic workers also live in the workplaces where they are employed. Some workers in the region do not have their own room or bed, meaning their right to privacy is highly restricted (TWC2, 2016, see alternatives in box 20). Employers in the region commonly withhold migrant domestic workers' personal belongings, such as mobile phones, and passports, making it hard for workers to even leave the house during free time. And because domestic workers are effectively constrained to the house, risk of physical or sexual abuse increases, as does the employment practice of asking workers to work during the night or to do jobs not mentioned in the contract. Convention No. 189, Article 6 states, "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."

Figure 6. Root causes for domestic workers' vulnerability



Box 3

Gender norms: Inequality for women domestic workers

Because domestic work is seen as work that women “naturally” do, gender-specific hiring is common in ASEAN, meaning that employers or governments specify that domestic workers must be women. Sectoral gender segregation also specifies that some sectors are reserved for men. This leaves women with little chance of equally benefitting from economic growth in ASEAN (ASEAN, Friedrich Ebert Stiftung, and UN Women, 2015; 2017), as they have limited options but to primarily enter underpaid and undervalued sectors traditionally associated with women’s unpaid work in the home. Unequal and unjust sharing of unpaid care work between men and women at home also “spills over” to the labour market, systematically affecting women’s employment opportunities and distribution of income between men and women.

Paternalistic policies and employer attitudes about women result in restrictions on freedom of movement from accommodation and the workplace. Migrant domestic workers face discrimination based on gender, but discrimination is compounded by age, ethnicity, class, religion, political affiliation, disability, nationality, migration status, marriage status, etc.

While the vast majority of migrant domestic workers in the region are women, men (17 per cent) are also employed in the domestic work sector (ILO, 2016b). The irregular nature of the work and the invisibility of this group of workers also make them vulnerable to exploitation and abuse.

Box 4

Fictive kin or employment relationship?: Attitudes towards domestic workers impact their labour protection in ASEAN

Two models typically govern domestic work in private households: fictive kin and/or an employment contract relationship. A “fictive kin” or “imaginary family” relationship is bound up in affectual relations, mutual dependence, and duty. In a 2016 ILO survey of 105 employers and 400 migrant domestic workers in Malaysia and Thailand, domestic workers were primarily seen as “part of the family” rather than workers, and this was often used to justify their low salaries (ILO, 2016e). Similarly, many employers of domestic workers do not consider themselves employers, and in ASEAN, officials have also stated that domestic workers are part of the family, saying therefore that labour authorities cannot inspect their employers and that social security is not appropriate (ILO, 2016d).

On the other hand, an “employment contract” relationship acknowledges that both parties are equal and individual actors. While this should offer labour rights, contractual relationships in ASEAN are not always among equal actors, and contracts often are designed to restrict workers from leaving employment, entrenching an unequal balance of power in the employers’ favour.



4. International and national standards for the protection of domestic workers

International, regional, bilateral, and national laws and policy establish frameworks that protect rights of migrant domestic workers. Much is being done in the region to fill existing protection gaps. Yet, some gaps are being entrenched with new laws, as there is a tendency to design policy for domestic workers that is separate from other sectors, building in exceptions to their protection. Domestic work is work like any other, deserving of the general protection available under labour laws. Sector specifics need to be taken into consideration, and result in added protective measures, not exceptions to labour law.

4.1 International and regional legal and policy frameworks

On 16 June 2011, workers, employers, and governments adopted the ILO Domestic Workers Convention (No. 189) (see box 5). Under Convention No. 189, domestic workers should enjoy rights equal to those enjoyed by workers generally. The accompanying Domestic Workers Recommendation, 2011 (No. 201) outlines additional guidance on the implementation of effective protections.¹ Within six years, 70 countries have taken action to advance decent work for domestic workers, including 24 that have ratified Convention No. 189. In Asia, the Philippines has ratified Convention No. 189 with positive effect on its protection of migrant domestic workers (see box 7). Several other ASEAN countries have begun dialogues internally about ratification. The 5th AFML Recommendation 5 suggests that Convention No. 189 should be ratified and aligned with national labour laws and legislations.

¹ Recommendation No. 201 was also adopted by the International Labour Conference of 2011. It is not open for ratification. It provides practical guidance on legal and other measures to implement the rights and principles in Convention No. 189.

Convention No. 189 offers specific protection to domestic workers, defined as “any person engaged in domestic work within an employment relationship”. It lays down basic rights and principles, and requires States to take a series of measures with a view to making decent work a reality for domestic workers.

Box 5

What does ILO Convention No. 189 require?

The minimum standards set by Convention No. 189 for domestic workers include:

Basic rights of domestic workers

- Promotion and protection of the human rights of all domestic workers (Preamble; Article 3).
- Respect and protection of fundamental principles and rights at work: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) elimination of all forms of forced or compulsory labour; (c) abolition of child labour; and (d) elimination of discrimination in respect of employment and occupation (Articles 3, 4, 11).
- Effective protection against all forms of abuse, harassment, and violence (Article 5).
- Fair terms of employment and decent living conditions (Article 6).

Information on terms and conditions of employment

- Domestic workers must be informed of their terms and conditions of employment in an easily understandable manner, preferably through a written contract (Article 7).

Hours of work

- Measures aimed at ensuring equal treatment between domestic workers and workers generally with respect to normal hours of work, overtime compensation, periods of daily and weekly rest, and annual paid leave (Article 10).
- Weekly rest period of at least 24 consecutive hours (Article 10).
- Regulation of stand-by hours (periods during which domestic workers are not free to dispose of their time as they please and are required to remain at the disposal of the household in order to respond to possible calls) (Article 10).

Remuneration

- Minimum wage if a minimum wage exists for other workers (Article 11).
- Payment of wages must be paid cash, directly to the worker, and at regular interval of no longer than one month. Payment by cheque or bank transfer – when allowed by law or collective agreements, or with worker’s consent (Article 12)
- In-kind payment is allowed under three conditions: 1) only a limited proportion of total remuneration; 2) monetary value is fair and reasonable; and 3) the items or services given as in-kind payment are of personal use by and benefit to the workers. This means that uniforms or protective equipment are not to be regarded as payment in-kind, but as tools that the employer must provide to the workers at no cost to them for the performance of their duties (Article 12).
- Fees charged by private employment agencies are not to be deducted from the remuneration (Article 15).

Occupational safety and health

- Right to safe and healthy working environment (Article 13).
- Measures are put in place to ensure workers’ occupational safety and health (Article 13).

Social security

- Social security protection, including maternity benefits (Article 14).
- Conditions that are not less favourable than those applicable to workers generally (Article 14).

Standards concerning child domestic workers

- Requirement to set a minimum age for entry into domestic work (Article 4).
- Domestic workers aged 15 years old but less than 18 years old – their work should not deprive them of compulsory education, or interfere with their opportunities for further education or vocational training (Article 4).

Box 5 (cont.)
What does ILO Convention No. 189 require?

Standards concerning live-in workers

- Decent living conditions that respect the workers' privacy (Article 6).
- Freedom to reach agreement with their employers or potential employers on whether or not to reside in the household (Article 9).
- No obligation to remain in the household or with its members during their periods of rest or leave (Article 9).
- Right to keep their identity and travel documents in their possession (Article 9).
- Regulation of stand-by hours (Article 10).

Standards particularly concerning migrant domestic workers

- A written contract that is enforceable in the country of employment, or a written job offer, prior to traveling to the country of employment (Article 8).
- Clear conditions under which domestic workers are entitled to repatriation at the end of their employment (Article 8).
- Protection of domestic workers from abusive practices by private employment agencies (Article 15).
- Cooperation among sending and receiving countries to ensure the effective application of the provisions of the Convention to migrant domestic workers (Article 8).

Private employment agencies

Measures to be put in place (Article 15):

- Regulate the operation of private employment agencies.
- Ensure adequate machinery for the investigation of complaints by domestic workers.
- Provide adequate protection of domestic workers and prevention of abuses, in collaboration with other Members where appropriate.
- Consider concluding bilateral, regional, or multilateral agreements to prevent abuses and fraudulent practices.

Dispute settlement, complaints, enforcement

- Effective access to the court, tribunals, or other dispute settlement mechanisms, including accessible complaint mechanisms (Article 17).

Labour inspection

- Measures to be put in place to ensure compliance with national laws for the protection of domestic workers, including labour inspection measures. In this regard, the Convention recognizes the need to balance domestic workers' right to protection and the right to privacy of the households' members (Article 17).

Source: Adapted from ILO, 2011

Other key international legal standards applicable to migrant domestic workers include the Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW), which has been ratified by all ASEAN Member States. CEDAW General Recommendation No. 26 promotes gender-sensitive and rights-based migration policies, including the active involvement of women migrant workers and non-governmental Organization (NGO) in policy formulation, implementation, monitoring, and evaluation. Also of noted relevance is the ILO Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), which recommends extension of labour laws and policies to informal economy workers.

The ILO identifies eight conventions as “fundamental”, covering the following principles and rights at work:

- freedom of association and the effective recognition of the right to collective bargaining – Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and Right to Organize and Collective Bargaining Convention, 1949 (No. 98);
- the elimination of all forms of forced or compulsory labour – Forced Labour Convention, 1930 (No. 29) and Abolition of Forced Labour Convention, 1957 (No.105);
- the effective abolition of child labour – Minimum Age Convention, 1973 (No. 138) and Worst Forms of Child Labour Convention, 1999 (No. 182); and

- the elimination of discrimination in respect of employment and occupation – Equal Remuneration Convention, 1951 (No. 100) and Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

The latter particularly establish basic equality principles for all workers. All of the fundamental Conventions are applicable to migrant domestic workers, per Article 3 of Convention No. 189. Table 1 below details ratification of these fundamental rights Conventions in ASEAN.

Table 1. ASEAN Member States' date of ratification of fundamental rights at work, applicable to migrant domestic workers (by ILO Convention number)

	29	87	98	100	111	105	138	182
Brunei Darussalam	–	–	–	–	–	–	2011	2008
Cambodia	1969	1999	1999	1999	1999	1999	1999	2006
Indonesia	1950	1998	1957	1958	1999	1999	1999	2000
Lao PDR	1964	–	–	2008	2008	–	2005	2005
Malaysia	1957	–	1961	1997	–	Denounced	1997	2000
Myanmar	1955	1955	–	–	–	–	–	2013
Philippines	2005	1953	1953	1960	1953	1960	1998	2000
Singapore	1965	–	1965	2002	–	Denounced	2005	2001
Thailand	1969	–	–	1999	–	1969	2004	2001
Viet Nam	2007	–	–	1997	1997	–	2003	2000

– = Not yet ratified

At the ASEAN regional level, the Cebu Declaration enshrines the below mentioned protections for migrant workers (see box 6). Furthermore, in November 2017 the leaders of ASEAN signed the Consensus on the Protection and Promotion of the Rights of Migrant Workers at the 31st ASEAN Summit in Manila.²

Box 6 **Key elements of the Cebu Declaration**

- Promote decent, humane, productive, dignified, and remunerative employment for migrant workers (para. 15);
- Promote fair and appropriate employment protection, payment of wages, and adequate access to decent working and living conditions for migrant workers (para. 8);
- Provide migrant workers, who may be victims of discrimination, abuse, exploitation, violence, with adequate access to the legal and judicial system of the receiving States (para. 9);
- Establish and promote legal practices to regulate recruitment of migrant workers and adopt mechanisms to eliminate recruitment malpractices through legal and valid contracts, regulation and accreditation of recruitment agencies and employers, and blacklisting of negligent/unlawful agencies (para. 14).

² <http://asean.org/asean-leaders-commit-safeguard-rights-migrant-workers/>

4.2 Bilateral MOUs

Countries in the ASEAN region commonly address labour migration through MOUs. Standard terms of employment can be helpful in setting minimum standards and protections where none or few existed before. In the Philippines' experience, having ratified Convention No. 189 helped their negotiation of protections (see box 7). Some bilateral MOUs include standard contracts, such as those Malaysia has signed with Indonesia (amended 2011), Bangladesh (2016), Viet Nam (2015), and Cambodia (2017).

Recent research has found, however, that MOUs agreed in the Greater Mekong Subregion have had "limited success in reaching their objectives" (ILO, 2015g; 2013b). MOUs have not resulted in fundamental changes to working conditions for migrants and at times have resulted in migrants incurring insurmountable debt. Research in Thailand suggests recruiters have captured the MOU process, benefitting financially, "with some even establishing themselves as the de facto employer for foreign workers and contracting out their labour to larger companies" (ILO, 2013b).

Box 7

Ratification of the Domestic Workers' Convention helps countries of origin negotiate better conditions for their migrant domestic workers abroad

The Philippines protects domestic workers at home, and because it has committed to protecting them through ratification of Convention No. 189, when Philippines officials approach negotiations, other countries cannot fault them for demanding protections that they provide to the domestic workers in the Philippines.

Source: Correspondence, ILO Geneva, 23 Jan 2016, in ILO, 2017c.

Several ASEAN countries have signed two MOUs with bilateral partners: one governing migrant domestic work and another governing all other migrant labour. The separate MOUs may be justified by the unique characteristics of the domestic work sector (e.g., "on-call", around-the-clock duties; live-in accommodation; and employment in private homes) if they are designed to provide particular, sector-specific protections. However, in practice it seems that separate agreements further enable the exclusion of domestic workers from protections granted to other sectors, such as labour inspection or similar compliance mechanisms, rights to a family life, maternity leave, set hours of work, minimum wage, and overtime pay. This leaves the MOUs for migrant domestic workers weak and failing to meet migrant domestic workers' needs, while favouring the interests of employers who wish to pay little for workers available 24 hours a day. Domestic work is work, and there is no reason that migrant domestic workers do not deserve the same working conditions and same level of protections afforded other workers. Singapore, on the other hand, does not have bilateral agreements on labour migration with any country of origin.

The lack of a common regional framework, and the resulting reliance on bilateral agreements, create wage inequalities among migrant domestic workers in the region, as some countries of origin are more successful in negotiating terms, including wages, recruitment fees, and mandatory days off (see section 3.3). This creates social discord in countries of destination, and is unfair – as well as discriminatory – to migrant domestic workers from different countries of origin who share the same skill set yet receive different pay and conditions.

4.3 National legal and policy frameworks

Countries of origin play a crucial role in ensuring nationals' rights are protected abroad and that recruitment is fair.³ Protecting domestic workers working in countries of origin has also proven key to leveraging protections abroad (see boxes 6 and 11). Similarly countries of destination have a high stake in passing and implementing regulations enabling a positive working relationship between domestic workers and employers. In most ASEAN countries there is low compliance with existing laws related to migrant domestic work; little enforcement of existing laws due in part to

3 See MMN, 2017, for a comprehensive recent study on the roles of countries of origin in South-East Asia in ensuring safety of citizens abroad, including domestic workers.

difficulties in labour inspection for the sector; and high barriers for migrant domestic workers to access redress and assistance when needed.

4.3.1 Extending labour law protection to migrant domestic workers

Migrant domestic workers are systematically excluded from labour law and social protection in countries of origin or destination. In Asia in 2010, 61 per cent of domestic workers were entirely excluded from labour protection, and only 3 per cent enjoyed equal protection with other general workers (ILO, 2013a). In Gulf countries – a major destination for ASEAN migrants – 99 per cent of domestic workers are not covered by labour laws (ILO, 2013a). Throughout history, domestic work has been provided primarily by women for free in homes, or for payment in-kind by neighbours. Domestic work is typically not classified as “productive” labour, justifying exclusion from labour law and social protections. However, similar tasks performed outside households receive different treatment (ILO, 2016d). As domestic work is now becoming increasingly marketized, national laws need to be brought in line with market realities and international law (see box 11 for how this has been done in ASEAN countries of origin).

The lack of policy and regulation of this sector not only reinforces the undervaluing of the economic and social contribution of domestic work, but also exacerbates abuse and exploitation of workers. Conversely, the inclusion of migrant domestic workers in labour law and social protection makes a substantial contribution to creation of decent work opportunities and professionalization of the sector – an agenda priority for ASEAN countries. Labour rights protection are components of responsible governance and can avert economic and human costs to workers, families, and communities (UN Women and ITUC, 2013).

No ASEAN country of destination fully includes domestic workers in labour law. The Brunei Darussalam 2009 Employment Order excludes domestic workers from labour law protection. In Malaysia, domestic work is currently excluded from the Employment Act of 1955, except for the right to a notice period upon termination of employment. New legislation has been drafted, entitled the Regulation (Terms and Conditions of Employment) on Domestic Servants 2014. Drafts sighted fall considerably short of full compliance with Convention No. 189 and Recommendation No. 201 (ILO, 2016f). Malaysia is alone in not granting migrant domestic workers a day off in law, but a rest day is provided under a standard employment contract for employment of domestic workers.⁴ Thailand’s 2012 Ministerial Regulation No. 14 on the Protection of Domestic Workers extended some – but not all – of the full labour protections under the Thai 1998 Labour Protection Act, namely a weekly rest day, traditional public holidays, 30 days sick leave, six days of paid annual leave after one year of work, payment of unused leave days in case of termination, and minimum age of work, which are to be recognized with or without a written contract. Domestic workers remain excluded from working-hour limits and a minimum wage. In Singapore, domestic workers are not covered under the Employment Act, however, under the Employment of Foreign Manpower Act they are accorded protection for payment of salaries, provision of proper food, rest days, accommodation, medical care, and safe working conditions. (See boxes 8–11 for examples of legislative protections elsewhere.)

Box 8

Country example: Migrant domestic work in Hong Kong (China) general labour law

In Hong Kong (China) domestic work is considered as an employment relationship, and migrant domestic workers are covered under general labour law. Employment Ordinance 1968 guarantees a standard employment contract, minimum wage (though lower than statutory minimum for other sectors), free food, accommodation, and health care. Migrant domestic workers are guaranteed equality of treatment with other workers. Wage deductions are strictly regulated.

⁴ In 2009 Malaysia’s Minister of Human Resources announced that an amendment to the Employment Act of 1955 would allow for a mandatory rest day per week for domestic workers, but this did not come to fruition (ILO and UN Women, 2016).

Box 9

Country examples: Working time in South Africa, Germany, Denmark

Minimum wages relate to wage rates over a specific and limited working time. When working time is not defined, it is impossible to establish hourly minimum rates.

To address this issue, countries like South Africa set working time at nine-hour days for five-day weeks; or eight-hour days if workers work more than five days per week. Further, the applicable 1993 South Africa Basic Conditions of Employment Act allows a maximum of 45 work hours per week. Germany and Denmark use a different approach, allowing more flexibility by limiting the total working hours (both normal and overtime) in a week to 48 hours (ILO, 2013a).

Box 10

Country examples: Days off and live-out arrangements

In ASEAN, while Thailand and Singapore laudably grant workers a day off and some freedom with this, workers do not always get a day off in practice. The absence of a day off for most domestic workers throughout the region (be it by policy or a de facto situation) results in restrictions of personal freedom and freedom of movement from workplaces/accommodation.

Increasingly, countries of origin, like Indonesia, are trying to send domestic workers abroad in “live-out” accommodation conditions. In 2016, Japan began recruitment of live-out migrant domestic workers for some areas. Workers under the scheme are employed by agencies (SCMP, 2017).

Convention No. 189, Article 9 includes the following guidance on accommodation: “Each Member shall take measures to ensure that domestic workers ... are free to reach agreement with their employer or potential employer on whether to reside in the household.”

Box 11

Country examples: Protecting domestic workers nationally in countries of origin

Protecting the rights of domestic workers employed in the country of origin sets precedents and establishes minimum standards for when countries set conditions for their nationals abroad. In some ASEAN countries, national domestic workers are partially covered in law. In Myanmar, for instance, Myanmar nationals engaged in domestic work are covered by national legislation on minimum wage, deductions, and collective bargaining, but not labour inspection, occupational safety and health, or working hours and leave (ILO, forthcoming c). Domestic workers who remain in countries of origin can face grave conditions that can contribute to their decision to migrate. ILO research in Myanmar found that 40 per cent of interviewed domestic workers who migrated within Myanmar were in a situation of forced labour, and nearly a quarter had been trafficked (ILO, 2015d). Improving the labour law coverage and establishing a wage for domestic workers in the country of origin can help prevent domestic workers from migrating out of necessity and aid in securing better conditions in destination countries.

In 2013 the Philippines passed the Act Instituting Policies for the Protection and Welfare of Domestic Workers (Republic Act 10361). It extends labour rights, benefits, and protection to an estimated 1.9 million national domestic workers in the Philippines. It provides protection against abuse, debt bondage, and worst forms of child labour, as well as establishes minimum wages, hours, and 24 consecutive hours of rest per week. The Act provides for social security, public health insurance, response mechanisms to abuses, and means to access redress.

In Viet Nam, Decree 27 and accompanying Circular No. 19 require domestic workers and employers to sign and each keep two copies of employment contracts, and governs minimum wages, bonuses, insurance, rest, annual leave, public holidays, and occupational safety and health. Accommodation and living expenses are allowed to be included when totalling minimum wage, however, thereby reducing take-home pay, and sick leave is not paid. The legislation allows for 24 consecutive hours of rest a week and 12 days of paid leave per year plus national holidays.

The above legislative changes in the Philippines and Viet Nam, while laudable, maintain domestic work policy as separate from law applicable to other sectors, exempting the sector from full protection.

4.3.2 Regulating recruitment agencies and fees

Because private recruitment agencies facilitate the majority of documented movement of migrant domestic workers in ASEAN, regulating these actors is a key protection measure. The ILO's Private Employment Agencies Convention, 1997 (No. 181) firmly prohibits worker-paid recruitment fees or related costs. The "zero fee" principle in Convention No. 181 requires that States regulate so that recruiters "shall not charge directly, or indirectly, in whole or in part, any fees or costs to the workers" (Article 7.1⁵). Convention No. 189, Article 15 aligns with this by also requiring national governments to ensure recruitment fees are not charged or deducted from the pay of migrant workers. In September 2016, ILO tripartite stakeholders further confirmed their commitment to the "zero fee" principle by agreeing to the ILO General Principles and Operational Guidelines on Fair Recruitment. It is important to note that even when there is no recruitment fee, travel costs are often charged, and at times cash advances are given to workers or their families. Both of these have high debt bondage risks. Convention No. 181 and the agreed Principles and Guidelines support the strengthening of regulatory and enforcement mechanisms to address fraudulent and unfair recruitment practices.

Recruitment has been a focus of repeated AFML discussions: the 5th AFML recommended the establishment of transparent and streamlined recruitment procedures, fee limits, and specifying actors responsible for various costs. Convention No. 189, Article 8 requires that in recruitment processes migrant domestic workers receive a written and enforceable job offer or contract with clear terms and conditions of employment before crossing borders, and there must be clear conditions governing entitlements to repatriation. Convention No. 189, Article 15 further states that States should govern the operation of recruitment agencies; ensure processes for investigation of complaints; prevent abuses of recruited domestic workers; and ensure that any fees charged are not deducted from workers' pay.

Most countries in the region have legislation on recruitment that covers workers to varying degrees. With regard to regulating fees, while the Philippines prohibits recruitment fees for the domestic work sector (see box 12), several other countries in the region tend to apply fee ceilings rather than abolish them. Viet Nam has a fee ceiling of one month's wages; Thailand allows two months' wages to be charged; and Singapore has a two-month wage ceiling for domestic workers on two-year contracts.⁶

In Viet Nam, the law on recruitment regulates fees, certification, the obligations of recruitment agencies and Vietnamese embassies in receiving countries, contracts, medical check-ups, penalties, and the use of the Overseas Employment Support Fund. Vietnamese recruitment agencies are mandated by law to receive complaints (ILO, 2015i). Deployment of migrant domestic workers remains restricted in Cambodia and Myanmar, though Cambodia finalized a new MOU with Malaysia in 2015. When domestic workers are allowed to migrate, Cambodia's Sub-Decree 190 will apply, requiring recruitment agencies to verify job conditions and prevent the misleading of jobseekers with regard to conditions in destination workplaces.

Box 12

Country example: Prohibiting recruitment fees in the Philippines

In 2006, the Philippines Government prohibited charging migrant domestic workers placement or recruitment fees, as per ILO Convention 181.⁷ The Government's objective is for the recruitment business model to be one where the employer pays the recruitment cost, thus reducing domestic workers' debt bondage risks. Enforcement remains a challenge, yet the POEA is firm in suspending or revoking the private employment agency licenses of offenders (ILO, 2015f). The Philippines also takes firm enforcement measures in cases of "reprocessing" or "contract substitution". Philippines law also requires employment contracts showing wages at or over the legislated minimum to be submitted to the nearest Philippines Overseas Labour Office before recruitment is permitted.

5 The next sub-article (7.2) allows the competent authority to authorize exceptions after consultation with employers' and workers' organizations.

6 For Viet Nam and Thailand see IOM, 2015. In Singapore, clause 12 of the 2011 Employment Agencies Rules states workers can be charged one month's salary for each year of their contract, up to a maximum of two months for two years.

7 The 2006 Household Service Worker Reform Package.

4.3.3 Migration policies

Countries of origin in ASEAN typically facilitate and administer outward migration, with mandates on recruitment agencies, migrants, and sometimes employers and destination countries to meet certain requirements. Restrictions and bans on migration for domestic work are common. Requirements are facilitated through bilateral MOUs along most ASEAN migration corridors. Countries of origin in the region typically keep registers of migrants who have left the country through official channels. Before being allowed to depart, migrants – or more typically recruiters – engage with state bureaucracies for the acquisition of documents and certification, processes that are typically costly and lengthy enough to prompt many migrant domestic workers to eschew them for irregular channels of migration. Cambodia, Indonesia, the Lao People’s Democratic Republic, the Philippines, and Viet Nam have restrictions on women’s outward migration, based on occupation, gender, pregnancy status, age, and/or parental permission (see more in box 14; figure 7; and ILO, 2017c).

ASEAN destination countries’ immigration policies govern recruitment and visa terms, with aims to meet labour market demands and to govern recruitment agency–worker relationships. Thailand’s 2016 Royal Ordinance Concerning Rules on Bringing Migrant Workers to Work with Employers in the Kingdom applies the zero worker-borne recruitment cost principle. Recruitment agencies must deposit 5 million Thai baht (US\$140,600), from which compensation can be requested by employers or workers (ILO, 2017a). All documented migrants have visas tied to their employers and their movement is restricted to the area of employment. The Singaporean Government caps recruitment fees at two months of a migrant domestic workers’ salary. Migrant domestic workers in Singapore must be between 23–50 years old, with eight years of formal education, and from approved sources such as Bangladesh, Cambodia, Hong Kong (China), India, Indonesia, Macau (China), Malaysia, Myanmar, the Philippines, the Republic of Korea, Sri Lanka, Taiwan (China), or Thailand (MOM, 2016b). Once admitted to Singapore, women must pass a medical check (see international guidance on medical checks in box 13).⁸ All visas are tied to employers and dependent on the workers not becoming pregnant (among other factors), with pregnancy tests administered every six months (ILO, 2017c).⁹ Migrant domestic workers who are convicted of employment-related offenses may similarly have their work passes revoked. Employers pay a government levy of SGD60–265 (US\$42–187).¹⁰

Convention No. 189, Articles 8 and 15 provide additional guidance on migration policies related to domestic workers.

Box 13

International standards: Medical testing of domestic workers (ILO Recommendation No. 201)

Medical testing can lead to discrimination against migrant domestic workers. The ILO Domestic Workers Recommendation, 2011 (No. 201) specifically recommends that member States should:

- Make sure that work-related medical testing respects the principle of confidentiality of personal data and the privacy of the worker;
- Prevent any discrimination related to such testing;
- Ensure that domestic workers are not required to undertake HIV or pregnancy testing or to disclose HIV or pregnancy status.

Both origin and destination countries in the region have put in place various policies restricting women’s migration, particularly for domestic work. According to 2017 ILO research, these restrictions and bans have not had the protective effects intended by policy-makers (see box 14).

⁸ Interview, Singapore Government, Aug. 2016, as part of ILO, 2017b.

⁹ Foreign domestic workers may be married to a Singapore citizen or permanent resident with the prior approval of the Singapore Government.

¹⁰ Work permit holders (including migrant domestic workers) are required to obtain prior approval from the Singapore Government before they marry Singapore Citizens or Permanent Residents.

Box 14

Bans on domestic workers' migration in ASEAN: Time for alternative means of protection?

When women experience exploitation abroad, both countries of origin and countries of destination in the region tend to opt for restrictions on women's labour migration (see figure 7). Some governments lack sufficient resources to put in place rights-protective and empowering measures. Bans are imposed on men's migration with much less frequency, however, and if action is taken to counter exploitation of men migrant workers, it is often in the form of an effort to negotiate for better conditions.

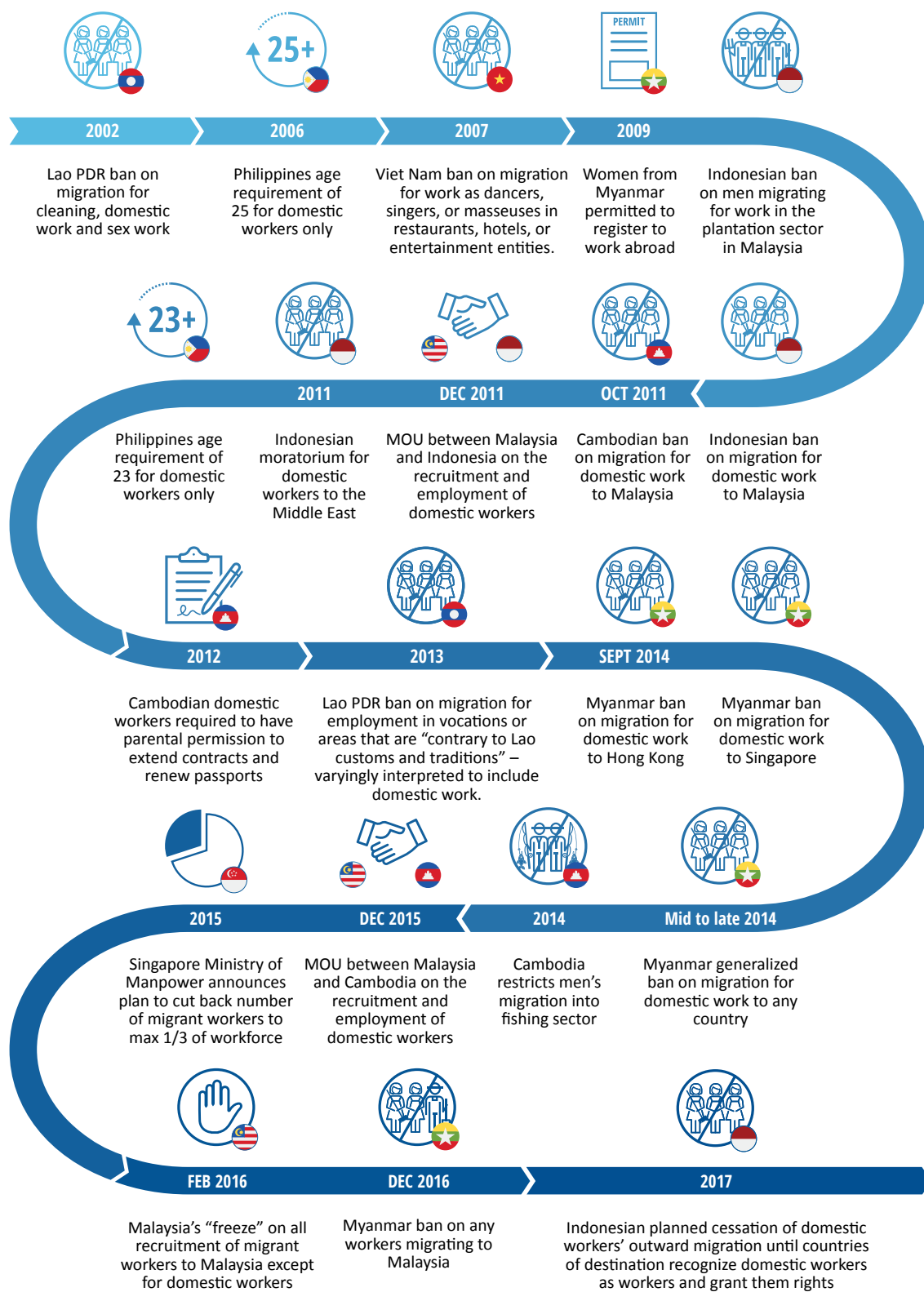
The ILO's 2017 interview-based study of domestic worker bans along the Cambodia–Malaysia migration corridor and the Myanmar–Singapore corridor showed that these restrictions result in several effects counter to policy-makers' intentions. Putting in place alternative policies to migration restrictions can be difficult. Measures must both adequately protect migrant domestic workers and be within the means available to state resources. All ten ASEAN Member States have signed CEDAW, which obligates States to repeal sex-specific bans and discriminatory restrictions on women's migration.

Countries of destination place further restrictions on women's – and specifically domestic workers' – labour migration, limiting their access to jobs based on their age, country of origin, spousal permission, pregnancy status, religion, or education (ILO, 2017c).

Effects from ASEAN bans on migration for domestic work include:

- Women migrated for domestic work despite the Cambodian and Myanmar bans.
- Migration restrictions limited women to irregular channels for exiting their countries of origin. This left no “legal trail” for accountability in country of origin recruitment systems.
- Small, unregulated recruiters increased in Myanmar and Cambodia, as did deception in recruitment and contract substitution.
- Migration costs increased, as informal payments had to be paid at exit ports and when domestic workers transited through third-party countries.
- Migrant domestic workers did not have access to protective elements afforded by regular migration, including pre-departure training, standard employment contracts, access to complaints mechanisms, or recourse to regulated recruitment agency or origin government assistance.
- Due to the combination of continued high employer demand for domestic workers and a country of origin ban on recruiting them, Cambodian migrant domestic workers in Malaysia reported that recruiters did not allow them to return home and employers forced them to sign contract extensions under penalty (ILO, 2017c).

Figure 7. Timeline of gender-based migration bans and restrictions in ASEAN



Source: ILO, 2017c.

4.3.4 Social protection, including maternity protection

Domestic workers are rarely covered by social security, not to mention portable social security with which they can return to their home countries. The ILO estimates 90 per cent of domestic workers globally are legally excluded from social security systems (ILO, 2016c). In Thailand, Thai nationals employed in domestic work are partially covered under Section 40 of the Social Security Act, while migrant domestic workers are excluded and covered by the Workmen's Compensation Act instead. This means that by law migrant domestic workers can receive compensation for an injury or violation, but they do not have access to various other social protections, such as maternity leave pay. Even undocumented migrants enjoy protection under the Workmen's Compensation Act, though in practice there are barriers to access. In Malaysia, migrant domestic workers are excluded both from the 1969 Employee Social Security Ordinance applicable to nationals and the 1952 Workmen's Compensation Act, which provides limited protection to migrant workers in non-domestic work sectors. In Singapore, migrant domestic workers are excluded from social security, but their employers must purchase a medical insurance and personal accident insurance (for minimum sum assured of S\$60,000) policy for them. Employers are also required to bear all medical costs of their migrant domestic workers in Singapore.

Exclusion from social security also means an absence of maternity protections for migrant domestic workers (see alternatives in box 15). Indeed, many country of destination policy measures go further by requiring pregnancy testing – on an annual basis in Malaysia and biannually in Singapore. Migrant domestic workers' work permits and visas become invalid if they are pregnant in Malaysia and Singapore. In Singapore women migrant workers are further explicitly not allowed to deliver a child in the country (ILO, 2017c). Convention No. 189, Article 14 states that domestic workers should enjoy social security protection, including maternity protection, in conditions not less favourable than those applicable to workers generally. The 9th AFML Recommendation 6 suggested providing domestic workers full access to social protection benefits.

Box 15

Country examples: Maternity and non-discrimination protections in Brazil, Hong Kong (China), and South Africa

Brazilian Act No. 11.324 prohibits dismissal of a domestic worker without just cause from the time a pregnancy is discovered until five months after the delivery.

The Hong Kong (China) Government guarantees migrant domestic workers ten weeks of maternity leave. Further, an Equal Opportunities Commission complaint system works to ensure that workers do not face pregnancy-based discrimination. The complaint system provides free investigation and conciliation. Employers must prove dismissals are not based on maternity.

In South Africa dismissal of a migrant domestic worker on account of her pregnancy is illegal. In the 1995 Labour Relations Act this includes refusal to allow an employee to resume work after she has taken maternity leave (ILO, 2013a).

4.3.5 Labour inspection

Labour inspection rarely takes place in the domestic work sector because: (1) the domestic work sector is not covered (or fully covered) by most national labour legislation; (2) the sector does not fall within labour inspectorates' mandates; (3) national inspectorates do not receive direct complaints; or (4) when migrant workers are undocumented, inspectorates do not know where they are (ILO, 2016a). Convention No. 189, Article 17 requires development and implementation of measures for labour inspection, enforcement, and penalties with due regard for the special characteristics of domestic work. The 7th AFML Recommendation 5 also suggests labour inspection reach hard-to-reach sectors, including domestic work.

As domestic work in ASEAN is heavily reliant on migrant workers, governments may link labour inspections to immigration enforcement. The ILO 2006 General Survey on labour inspection pointed out that cooperation between

the labour inspectorate and immigration authorities should be carried out cautiously, keeping in mind that the main objective of the labour inspection system is to protect the rights and interests of all workers, and to improve their working conditions, rather than the enforcement of immigration law (ILO Committee of Experts, 2016, para. 482; ILO Committee of Experts, 2006, paras 78, 161f). Only separation of these government functions can ensure access to remedy, including compensation for abuses of the rights of migrant workers.

In Singapore, MOM has powers to inspect premises where migrant domestic workers are employed or accommodated within. This includes residential homes as well as boarding houses used by employment agencies. Employment agencies are also required to update MOM of the premises used to house any migrant domestic workers under their care, within five working days of using these premises. MOM also actively reaches out to migrant domestic workers on their rights and responsibilities and how to seek help. Inspections of boarding houses used by employment agencies are conducted regularly, and housing of migrant domestic workers at unregistered premises constitutes a breach of employment agency licence conditions. Unfortunately, this has reportedly resulted in agencies “scattering workers to other places” (ILO, 2017c). Therefore, in Singapore, as in the rest of ASEAN, more inspection mechanisms are needed, including in employers’ households or with employers and workers in a third location, and crucially these need associated mechanisms to account for agencies pushing practices underground as a result. (See box 16 for initiatives in challenging labour inspection contexts.)

Box 16

Country examples: Labour inspection and alternatives in South Africa

In South Africa, access to a home is permitted with owner/occupier consent or labour court authorization. Police can enter when child or forced labour offences are reported. The Department of Labour also works with some alternatives for expedited methods of inspection:

1. Labour inspectors summon employers and migrant domestic workers to neutral places for interviews, primarily when investigating complaints.
2. Door-to-door campaigns.
3. Distributing letters in mailboxes requesting employers to grant access to their households. However, response level is low.
4. A five-day inspection and follow up campaign in January 2011 involved inspections of 215 households, only 46 per cent of which were fully compliant with regulations. Follow-up inspections showed that 84 of the 93 employers had become fully compliant (ILO, 2016a).

4.3.6 Access to justice

Origin and destination country complaint mechanisms, legislation, and access to justice vary across the region. Data compiled from 7,643 women and men complainants who resolved complaints through ILO-supported Migrant Worker Resource Centres (MRCs) shows that in Cambodia, Myanmar, and Viet Nam more than 67 per cent of the migrant complainants assisted were men, reflecting the challenges faced by women in accessing government mechanisms. Furthermore, as higher numbers of women migrate irregularly, they are less likely to seek formal assistance or work in sectors that trade unions prioritize in organizing. This gender imbalance particularly presents a problem for women migrant domestic workers aiming to access justice from their home countries. Administrative hearings were used in 59 per cent of cases to resolve migrant grievances regionally. In Cambodia, administrative mechanisms have been used for 82 per cent of closed cases, which indicates responsiveness in settlements (ILO, 2017a). Convention No. 189, Article 16 states that domestic workers should have effective access to courts, tribunals, or other dispute resolution mechanisms.

In Malaysia, because migrant domestic workers’ protection in the Employment Act is limited to notice of termination and payment of wages, and because undocumented migrants are subject to immediate arrest for violation of the Immigration Act, most migrant domestic workers do not have access to these mechanisms in practice (ILO, 2017a). In Malaysia, 40 per cent of complainants are women, while in Thailand this ratio flips and 60 per cent of complainants are women. MRCs in Thailand particularly provide gender-responsive services for hard-to-reach sectors, accounting

for this differential (ILO, 2017a). Further, as noted above, Thailand’s complaint mechanisms in law are open to undocumented migrants, a category into which many migrant domestic workers fall. In Singapore, migrant domestic workers do report that they trust in and feel that they can register complaints through MOM. Should employers complain about their migrant domestic workers, MOM will investigate these complaints and has only debarred the migrant domestic workers if they were found to have committed offences or breached the conditions of their work pass (ILO, 2017c).

4.3.7 Right to organize

In Thailand, domestic workers are not allowed to join trade unions, as they are not technically classified as “workers” under national labour law. The Malaysian Trade Union Act states that migrant workers are allowed to join unions but not hold official positions or form their own unions. The Malaysian Trades Union Congress has twice applied to register a Domestic Workers Association, however, the applications have been rejected without explanation, and a 2014 appeal has not received a response (ILO, 2016a).

In many ASEAN countries, domestic workers – nationals and migrants – organize in parallel to trade union movements, through solidarity groups and associations. In Thailand, migrant domestic workers organize informally through HomeNet. In the Philippines, nationals in domestic work are organized in the group United Domestic Workers of the Philippines (UNITED), which was formed in 2012 and now has over 1,050 members. Members pay dues, and the organization is key in mediating worker–employer conflicts (Montenegro and Viajar, 2017). At a global level, domestic workers from 54 countries are organized together through the International Domestic Workers Federation (IDWF).

Yet, trade union organizing remains restricted in ASEAN. In addition to legal restrictions against freedom of association and collective bargaining, migrant domestic workers face many other barriers to organizing: long working hours, lack of days off, isolated workplaces, language, and limited knowledge of rights. Many also fear being fired or facing sanctions from local authorities.

Recommendation No. 201, Article 2 recommends measures toward ensuring domestic workers’ freedom of association and the effective recognition of their right to collective bargaining through: (a) allowing them to establish or join unions; and (b) strengthening the capacity of workers’ organizations. Examples of contexts where migrant domestic workers do have the right to organize and are able to negotiate agreements among government, employers, and migrant domestic workers can be found outside ASEAN (see box 17).

Box 17

Country example: Trade union organizing allowed in Hong Kong (China)

In Hong Kong (China), migrant domestic workers have the right to form and join a union. Six organizations of migrant domestic workers from various countries have created the Federation of Asian Domestic Workers’ Unions (FADWU). In 2011, the FADWU affiliated with the Hong Kong Trade Union Confederation (ILO, 2013a).



5. Implementation of policies and support services

While the previous section focused on government policy and practice, this section looks at initiatives by other stakeholders – migrant domestic workers, unions, recruitment agencies, employers, and other civil society organizations. It also looks at efforts by these stakeholders in conjunction with government. The initiatives highlighted are – or have the potential to – contribute to turning the sector into one that provides decent work opportunities.

5.1 Pre-departure and post-arrival orientation

Within the region, origin countries tend to mandate that migrant domestic workers undergo orientation before departure. These orientations range from one or two days to several months, and are provided by government agencies, or more typically in ASEAN, by recruitment agencies. Compulsory pre-departure orientation is often an additional cost passed on to migrant domestic workers. This regularly results in migrant domestic workers borrowing money to pay for orientation, which is then added to workers' "debt" to the recruitment agent and/or employer, creating a situation of debt bondage. Repaying the debt often means significant reductions in pay – or no pay – until the debt is paid. Being in debt also reduces the likelihood of the worker leaving their employment situation, even where they are suffering abuse or exploitation. Debt means that domestic workers are less likely to be able to remit money home, which negates or reduces the development benefits of migration.

Furthermore, the concept of migrant workers having to borrow money to cover orientations costs or spend months paying back the costs is in direct conflict with the protective aim of these orientations. Domestic workers learn about their rights in these pre-departure orientations, yet many find it nearly impossible to access their rights because of the debt bondage created by having to pay for these compulsory trainings.

Investment from other stakeholders is needed in this process to avert exploitation stemming from high migrant-paid costs and debts acquired as a result of mandatory courses. According to Recommendation 16 of the 7th AFML: “The pre-employment, pre-departure and post-arrival orientation programmes should be conducted mandatorily and free of charge for all men and women migrant workers.”

Language, culture, rights, and vocational orientation and trainings (see section 5.8) can equip domestic workers with skills and knowledge to facilitate positive worker–employer relationships, and for them to claim their rights in destination countries (see box 18).

Box 18

Country examples: Pre-departure orientation and workers’ priorities in ASEAN

In 2014, Viet Nam’s Department of Overseas Labour (DOLAB) and the ILO developed a curriculum for workers going to Malaysia that covers Malaysian customs and laws, as well as topics on workers’ health, financial management, and communication strategies. The Philippines’ mandatory pre-departure programme teaches coping mechanisms; how to obtain essential information to prevent welfare problems; and skills training. In 2002, the Philippines mandated that NGOs deliver this training for domestic workers in order to ensure that the training delivery included protective elements (Asis and Agunias, 2012).

In a recent ILO study with ASEAN migrant domestic workers in Malaysia and Singapore, workers particularly prioritized language skills in pre-departure training, saying that if they are without the ability to adequately communicate with employers, the work relationship breaks down (ILO, 2017c).

Post-arrival orientation programmes for migrant domestic workers are also facilitated by destination countries (Malaysia and Singapore) and by the embassies and consulates of origin countries (Indonesia and the Philippines). These programmes may be delivered by governments, workers’ organizations, employers, civil society organizations, or a combination of these key stakeholders. Post-arrival orientations reinforce and contextualize pre-departure orientation training. Singapore has a mandatory one-day settling-in programme conducted in the migrant domestic workers’ native languages. Training content includes conditions of employment; safety at home; safety in other areas; relationship and stress management; work permit conditions; and rights and responsibilities (ILO, 2015h). Employers may also send their migrant domestic workers for other training programmes such as those organised by NGOs such as the Foreign Domestic Worker Association of Social Support and Training (FAST).

5.2 Pre-employment orientation for employers

Countries of destination play a part in working to ensure that employers are aware of legislation, obligations, and rights. The ILO 2006 Multilateral Framework on Labour Migration adopted by tripartite partners notes the importance of “providing information to employers’ and workers’ organizations concerning the rights of migrant workers” (ILO, 2006). Recommendation 2A of the 4th AFML noted that in order to promote a positive image, as well as the rights and dignity of migrant workers, ASEAN Member States should “conduct post-arrival orientation programmes in receiving countries, to be performed by the government, employers, trade unions, civil society, and should adopt a rights-based approach in orientating both migrant workers, employers and government for them to understand what their rights and responsibilities are.”

In ASEAN, Singapore requires that employers attend an Employer’s Orientation Programme to understand their responsibilities and be supplied with basic skills to develop and maintain a healthy working relationship with migrant domestic workers. The course is limited in duration, however, involving a total of three hours.

5.3 Promotion of fair recruitment practices

Aside from laws regulating recruitment agencies (see section 4.3.2), recruitment agency bodies in some ASEAN Member States have been active in forming industry codes of conduct aimed at governing their members (see box 19). These self-regulation mechanisms work best when there are independent monitoring mechanisms and sanctions, as well as public transparency about the code itself and about non-complying agencies (UNGA, 2015, p. 20).

Box 19

Country example: Codes of conduct in Myanmar and Viet Nam

In 2010, the Viet Nam Association of Manpower Supply (VAMAS) Code of Conduct was adopted, with 108 recruitment agencies committing to its principles and guidelines, which cover contracts, pre-departure training, and settlement of disputes among other processes in recruitment. On the latter, disputes are to be resolved in accordance with employment contract terms, Vietnamese and destination country legislation, and international agreements. Further, workers are to be provided with support from recruitment agencies, embassy officials, and interpreters during resolution of grievances (VAMAS, 2010).

A monitoring and evaluation (M&E) mechanism was developed together with the ILO in 2011. In Phase I (2012–13) of the M&E mechanism, 20 Vietnamese recruitment agencies were assessed on their application of the Code of Conduct, and a further 27 were assessed in Phase II (2013–14). Phase III will include an assessment of 70 agencies responsible for sending almost 60 per cent of Vietnamese migrant workers (including domestic workers) abroad. VAMAS also organizes trainings for recruitment agency staff and provincial labour officers, and has signed collaboration agreements with local authorities, inspection agencies, Vietnamese labour management sections in receiving countries, as well as the Vietnam General Confederation of Labour in order to enhance awareness and understanding of the Code and strengthen collaboration in its monitoring (ILO, 2015e).

In Myanmar, the Myanmar Overseas Employment Agency Federation (MOEAF) launched a voluntary Code of Conduct in 2016 that provides protection for migrants beyond currently legislated provisions, including clearly informing migrants of their rights and providing them with a breakdown of fees. In August 2016, 129 of Myanmar's 260 registered agencies signed an agreement with the Government to abide by national legislation and be subject to a Code Compliance Monitoring Committee, though monitoring planned for 2017 was not completed.

5.4 Promotion of fair employment practices

In addition to pre-employment orientations for employers (see section 5.2), countries of destination can promote good employment practices through country-specific publications as an aid to employers, or for instance through requiring government employees to follow guidelines on hiring of domestic workers. Malaysia's Ministry of Human Resources, for instance, has published the 2017 *Guidelines and tips for employers of foreign domestic helpers*, a resource for employers that includes information on accommodation, meals, hours, rest days, freedom of movement, home leave, insurance, relationships, communication, skills building, and contact numbers for relevant stakeholders. Text of the 1955 Malaysian Employment Act is appended, as well as a sample standard employment contract, making it easy for employers to write a contract for domestic workers in their homes.

Efforts have also been made in the region to establish standard terms of employment (STOE) for women migrant domestic workers specifically. As part of the "My Fair Home" initiative, the ILO, the IDWF, and Homenet Thailand developed a standard employment contract for domestic workers in Thailand.¹ UN Women initiated development of a gender-responsive STOE that adheres to international standards for women migrant domestic workers (UN Women, 2016). The 7th AFML Recommendation 2 also suggests that standard employment contracts extend to the domestic work sector.

Recommendation No. 201, Article 21 guides stakeholders by recommending "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."

1 See <http://idwfed.org/myfairhome/myfairhome/download/employment-contract>. The website contains samples of standard employment contracts for several ASEAN countries.

Box 20

Government officials as employers: India requiring good employment practice by officials

In 1997, India's National Human Rights Commission recommended federal and state governments prohibit officials from employing children under 14 years old as domestic workers. After follow-up pressure from the Commission and CSOs, in 1999 a provision was added to the Central Civil Services (Conduct) Rules stating: "No government servant shall employ to work any child below the age of 14 years" (ILO, forthcoming c).

This requirement is an effort by the Indian Government to ensure that its workers are not complicit in child labour. By doing so it promotes good employment practice among its own workforce and beyond.

5.5 Support services

Support services have been set up across the region by a variety of actors, including by migrant and returnee domestic workers themselves (see box 21). MRCs have been particularly effective in the Greater Mekong Subregion. Job centres within provincial labour departments, trade unions, and civil society organizations have developed the MRCs along with ILO and the International Organization for Migration (IOM). In countries of origin, MRCs are focal points for potential migrants to access accurate information and counselling on safe migration and rights at work, as well as for filing complaints against recruitment agents and employers. In destination countries, MRCs provide legal assistance, serve as a bridge to local authorities, and deliver trainings. MRCs also share information with migrant communities. For example, the Migrant Action Programme (MAP) Foundation in Thailand produces a weekly radio programme "Organising for Justice" in the Burmese and Shan languages. Recommendation No. 201, Article 21 calls for support and protection of domestic workers, and migrant domestic workers in particular, suggesting hotlines, pre-placement visits, emergency housing, and public outreach, among other services.

Box 21

Country examples: Support services by and for domestic workers

Migrant and returnee domestic workers have set up their own support services, including but not limited to: HomeNet in Thailand; UNITED in the Philippines; and Care for Women and Domestic Helper Department (CWDH) at the Yangon Kayin Baptist Women Association in Myanmar. The latter, CWDH, was founded in 1918 and provides access to employment, model contracts, support for a voluntary employer code of conduct, follow-up visits, complaint investigation, skills training, as well as an annual retreat with over 150 domestic workers (Larlee, 2014; ILO, forthcoming c). These groups and others are also active in organizing workers in worker associations and also in community organizing (see section 5.9).

5.6 Return and reintegration

Efforts on creating policies to enable return and reintegration of migrant domestic workers remain weak and under-prioritized across ASEAN. Nonetheless, some return and reintegration policies do exist in the region, though most are yet to be implemented or assessed for effectiveness. Policy goal 16 of Cambodia's Policy on Labour Migration, for instance, requires that "productive return and reintegration of women and men migrant workers is enabled". Myanmar's National Action Plan for the management of International Labor Migration 2013–2017 commits to supporting job creation and access to financing for returnees, among other measures for reintegration. In Indonesia the Government and NGOs have attempted to establish monitoring systems to screen returning migrant workers (including domestic workers), inform them of their rights, and identify those needing medical attention. Return and reintegration efforts are strongest for migrant domestic workers returning from situations of trafficking and forced labour, with programmes across the region led by international organizations, governments, and CSOs.

Recommendation No. 201, Article 21 in particular has robust and concrete recommendations for support services that are appropriate for the sector, including (in origin countries) legal assistance funds, social services, and consular services.

5.7 Embassy support

Most ASEAN countries employ dedicated labour attachés or welfare officers in embassies and consulates in main destination countries (see box 22). Yet, country of origin embassy officials report being understaffed for the rights protection work necessary (ILO, 2017c). Governments of countries of origin say they welcome all migrants for embassy assistance, however, domestic workers who migrate under a country of origin ban are hesitant to approach their embassies for assistance, fearing repercussions for having contravened the law (ILO, 2017c). Recommendation No. 201, Article 21 recommends that countries of origin establish specialized consular services to assist migrant domestic workers.

Box 22

Country example: Assistance and enforcement of legislation by Philippines embassies

Best practice in the region is for country of origin embassy officials to verify contracts of domestic workers, ensuring they meet national standards or rules agreed in bilateral MOUs; verify the employer and job; monitor recruitment agencies, suspending or blacklisting those found to be exploitative; mediate in disputes between employers and employees; monitor workplaces; and/or run helplines and shelters.

Philippines embassies work to ensure the Philippines' demands – including the Philippines-mandated minimum wage of US\$400 per month and days off for domestic workers – are actually provided in destination countries. The embassies also mediate disputes and provide shelter where possible. In practice, the minimum wage regulation is challenging to enforce. Unless a worker reports a violation, the POEA has no way of confirming that the agreed upon salary is being paid out.

5.8 Skills recognition and training

Many women who worked as professionals in health care, education, or business in countries of origin often find work as domestic workers in countries of destination, where they can earn significantly higher wages. Professionalizing domestic work can open skilled job opportunities for migrant workers (see box 23). ILO Regional Model Competency Standards (RMCS) are benchmarks that define the skills, knowledge, and attributes needed to perform a work role, thereby providing a basis for developing national training programmes, skills assessment, and certification. The RMCS for domestic workers include generic, vocational, and technical competencies, for instance, effective communication, management and organization, and assisting clients with mediation. Recommendation No. 201, Article 25 suggests States establish policies and programmes to encourage the continuing development of the competencies and qualifications of domestic workers, including literacy training as appropriate.

Box 23

Country examples: Professionalization of domestic work in Indonesia and the United Arab Emirates

Skills training and recognition systems can empower migrant domestic workers and benefit employers by easing recruitment, thereby facilitating a shift towards decent work.

In Indonesia, the Institute for Societal Development Studies, the provincial manpower office of East Java, and the ILO lead a 200-hour course, in which all the instructors are domestic workers certified by the National Authority for Profession Certification. The course is in compliance with Indonesia's 2015 National Work Competence Standard for Individual Service Serving Households (ILO, 2017b).

In the United Arab Emirates, one Dubai-based recruitment agency categorizes domestic work by skill level. A worker classified as a "trainee housekeeper" can enrol in a one-day-a-week training programme with classroom teaching, English language tuition, and site visits. After completion of four modules within two years, the domestic worker receives certification and progresses to the category of "housekeeper", with a built-in wage increase (ILO, 2015c; ILO, forthcoming b).

5.9 Awareness-raising campaigns

The low status and stigma often attached to domestic work is regularly used to justify low pay, lack of safety, and other poor working conditions. Recognition of domestic work as work, and improving working conditions, is highly dependent on promoting a positive image of migrant domestic workers, as well as changing employers' attitude about their roles as employers (see box 24). Recommendation No. 201, Article 21 recommends raising employers' awareness of their obligations by providing them with information on good practices in the employment of domestic workers, employment and immigration law obligations, enforcement arrangements, and assistance services available to domestic workers and their employers.

Box 24

International Domestic Workers Day, "My Fair Home", and "Open Doors" campaigns

In ASEAN as elsewhere, many stakeholders hold public education events on 16 June, the anniversary of the adoption of the Domestic Workers Convention, 2011 (No. 189), now recognized as International Domestic Workers Day.

"My Fair Home" is an ongoing multi-stakeholder campaign spearheaded by the IDWF. It targets employers to develop understanding of the obligations they have and to showcase that domestic work is a valid profession deserving recognition and dignity. Employers pledge the following:

- I will ensure fair wages are paid to domestic workers in my home (at least the minimum wage) and that domestic workers in my home have reasonable work hours and time to rest.
- I will negotiate the terms and conditions of employment with any domestic workers in my home, ensuring a mutual understanding through a written agreement.
- I will ensure that domestic workers in my home have access to decent health care.
- I will actively ensure a work environment that is free from abuse, harassment, and violence.
- I will ensure that domestic workers in my home enjoy decent living conditions and a safe, secure, and private bedroom.
- I will ensure that domestic workers in my home are able to spend their free time wherever and however they choose.

"Open Doors" is a video campaign launched by IOM X. The three-part drama about families and the domestic workers they employ shows employment situations in Malaysia, Singapore, and Thailand. The videos ask employer audiences to reflect on working conditions, open communication, and respect of domestic workers in their homes.

5.10 Data collection

Though estimates exist, the total number of migrant domestic workers in ASEAN is unknown, largely because many migrate through irregular channels not counted in official statistics (see box 25 for efforts to collect data). CEDAW General Recommendation 26 urges governments to ensure adequate data collection, research, and analysis on the particular problems and needs faced by domestic workers. Data sharing can help particularly in return and reintegration processes, as stakeholders in destination countries can communicate with those in origin countries about returnees' special needs. Any data sharing needs to be governed by principles ensuring the individual's consent.

Box 25

International Labour Migration Statistics Database in ASEAN (ILMS)

The ILMS Database gathers government data on international migrant workers' stocks and flows within ASEAN and migration destinations. Policy-makers and others can profile and monitor the international migrant labour force within the region. The ILMS Database was developed through extensive collaboration with ASEAN Member States, the ASEAN Secretariat, and the ILO.

5.11 Social dialogue and collaboration

The aim of decent work in domestic work can only be achieved through social dialogue, giving an equal voice to workers, employers, and governments. This is difficult, but not impossible, in domestic work, where there are low worker-to-employer ratios; where withholding labour is not an effective source of bargaining power (if domestic workers strike, employers will find another worker); and where collective representation is lacking among both workers and employers. In addition to workers organizing, employers' organizations are urgently needed in ASEAN (see box 26). Recommendation No. 201, Article 2 not only recommends that States ensure domestic workers enjoy freedom of association and the effective recognition of the right to collective bargaining, but also that States strengthen the capacity of workers' and employers' organizations and their independence and autonomy within the law.

Unions in Hong Kong (China) and Indonesia have shown that creative collective negotiation can take place even without organized employers with whom to bargain; workers unions in both countries have set standards and jointly talked to employers (see box 27). Workers have also successfully tackled the problem of not having an employer body to negotiate with by collaborating with governments to set and enforce standards through policy. Having migrant domestic workers' voices at decision-making tables is thus vitally important – more so than for other sectors with high-functioning social dialogue mechanisms.

Box 26

Country example: Employer organizations in Italy

Employers in Italy began organizing in the 1960s, at the same time as the organization of domestic workers. In 1974 the National Federation of the Italian Clergy signed a collective agreement that covered domestic workers. The establishment of two federations of employers of domestic workers followed – the *Federazione Italiana Datori di Lavoro Domestico* (FIDALDO) and the *Associazione Nazionale Famiglie Datori di Lavoro Domestico* (DOMINA). Both have signed a terms of agreement that includes wage rates, rest, paid holidays, sick pay, and severance pay. The agreement is compulsory for employers who are members of the organizations, and also for other non-member employers whose contracts refer to it. When workers who are not formally covered by the agreement bring cases to court, judges use the provisions on wages and social security as standards by which to adjudicate (ILO, 2015c).

Box 27

Country example: Collective negotiation in Hong Kong (China) and Indonesia

In Hong Kong (China), the Hong Kong Confederation of Trade Unions brought together domestic workers to discuss establishment of a wage depending on job scope (apartment size, family size, tasks, etc.) In Indonesia, domestic workers in the union *Tunas Mulia* drafted model contract terms.

In both Hong Kong (China) and Indonesia, following these processes, the unions negotiated the standards with individual employers of their union members (ILO, 2015a).

Collaboration among tripartite partners tends to be weaker in domestic work than in other sectors. The coordinated multi-sector response of key government agencies as well as the sustained participation of domestic workers' organizations and their support groups, recruitment agencies, and employers are needed at all stages of policy development and implementation of protections (see box 28). Work with CSOs such as migrant workers' organizations, faith-based groups, and domestic workers' networks can enable governments and unions to reach domestic workers. Synergies with CSOs and religious congregations at the local level can help labour inspectorates, for instance, to partially overcome gaps in information on locations of domestic workers and cases of abuse or exploitation (ILO, 2016a).

Box 28

Country examples: Collaboration among stakeholders in the Philippines and Tanzania

In the Philippines, *Samahan at Ugnayan ng Manggagawang Pantahanan sa Pilipinas* (SUMAPI), an organization of domestic workers, mobilizes constituents annually for a celebration, and organizes trips to social security centres, counselling centres, and other government agencies – thus helping the government extend its services to domestic workers (ILO and IDWN, 2012).

In Tanzania, the Conservation, Hotels, Domestic and Allied Workers Union mobilizes with other unions to oversee domestic worker recruitment through establishment of a placement service. It cooperates with recruitment agencies that agree to operate within the law. Employers are asked to sign a contract with both the worker and the organization. The contract authorizes the union to visit the house/place of employment to check working conditions (ILO, 2016a).



6. Recommendations

Labour and migration policies should provide empowering and rights-protective environments for migrant domestic workers. Without tripartite support for migrant domestic workers in countries of origin and destination, the sector faces high rates of exploitation and abuse, low efficiency in job matching, as well as a large undocumented workforce (largely because of breakdowns in employment relationships) (ILO, forthcoming b). Decent work in domestic work is possible, especially if effective and evidence-based policy reform includes social dialogue among governments, migrant domestic workers, and their employers.

In light of the background review completed by the ILO, key recommendations have been identified and are put forward for consideration by ASEAN Member States.

- 1. Recognize that domestic work is work:** ASEAN Member States should jointly declare that domestic work is work, and work to progressively establish legislation and policies that guarantee domestic workers equal protection compared to other workers. Information campaigns should be implemented to promote respect for domestic workers and the contribution they make to ASEAN economy and individual households.
- 2. Ratify the Domestic Workers Convention, 2011 (No. 189) and other migration-related conventions:** ASEAN Member States should consider ratifying the ILO Domestic Workers Convention, 2011 (No. 189). This Convention should be used as a reference point and guide when ASEAN Member States develop legislation, policies, and programmes to realize decent work for domestic workers. ASEAN Member States should also ratify the Private Employment Agencies Convention, 1997 (No. 181), the Migration for Employment Convention (Revised), 1949 (No. 97), and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143).
- 3. Improve bilateral MOUs and establish social security agreements (SSAs):** ASEAN Member States should ensure availability of safe and legal migration channels for those migrating for domestic work, including through MOUs where helpful. Bilateral MOUs should ensure equal treatment between migrant domestic workers and workers generally, and provide all migrant workers with effective protection and access to remedies. SSAs should be established in the region to enhance portability of social protection.

4. **Progressively extend national labour law coverage and social protection:** ASEAN Member States should establish legislation and policies to extend labour law protection and social protection to domestic workers, including migrant domestic workers. These laws and policies should ensure equal treatment between domestic workers and workers generally in relation to normal hours of work; minimum wages; overtime compensation; limits on payments in-kind; periods of daily and weekly rest; paid annual leave; clear information on the terms and conditions of employment; respect for the fundamental principles and rights at work, including freedom of association and the right to collective bargaining; and social protection, including maternity protection. Means of ensuring compliance with national laws for the protection of domestic workers should also be established.
5. **Establish effective and accessible complaints mechanisms:** ASEAN Member States should establish effective complaint mechanisms that are accessible to domestic workers. Legal assistance and support services should be made available in both countries of origin and destination to facilitate domestic workers' access to remedies.
6. **Reduce domestic workers' dependency on their employers:** ASEAN Member States should ensure that domestic workers can change employers when problems arise. The option for domestic workers to live outside the homes of their employers should also be provided, as well as sufficient temporary shelter facilities for those facing abuse. As a matter of priority, all ASEAN Member States should urgently ensure that all domestic workers have one day off per week (24 consecutive hours), and that they are able to leave the house that day. One day off is needed to allow sufficient weekly rest, but also to enable domestic workers to seek information, network, organize, and access support services, when needed.
7. **Promote and enforce fair recruitment and employment practices:** ASEAN Member States should improve employers' and recruitment agencies' understanding of what are acceptable practices in recruitment and employment of domestic workers. Legal compliance should be strictly monitored and sanctions enforced on violations, including the charging of recruitment fees on workers or failing to respect national overtime or minimum wage regulations.
8. **Provide pre-employment orientation for domestic workers and their employers:** ASEAN Member States should provide domestic workers and their employers with orientation programmes that clearly outline their respective roles, rights, and responsibilities in the employee–employer relationship. Pre-employment orientation programmes should be free of charge for migrant domestic workers.
9. **Develop competencies and qualifications of domestic workers:** ASEAN Member States should establish skills training programmes and skills recognition systems to promote professionalization of the domestic work sector. Competency standards should be developed for different domestic work roles, such as cook, cleaner, child carer, elder carer, gardener, chauffeur, etc.
10. **Consider domestic work in the context of broader care economy:** ASEAN Member States should ensure the availability of different care options for children, sick, disabled, and elderly persons, ranging from state-supported services and private institutions to care provided by domestic workers. Policies on domestic work should be considered in the broader context of developing ASEAN care economies.

Bibliography

Asis, M.; Agunias, D. 2012. *Strengthening pre-departure orientation programmes in Indonesia, Nepal, and the Philippines* (IOM and MPI).

Association of Southeast Asian Nations (ASEAN); Friedrich Ebert Stiftung; UN Women. 2015. *Projected gender impact of the ASEAN Economic Community* (Jakarta).

—. 2017. *Women migrant workers in the ASEAN Economic Community* (Jakarta).

ASEAN Secretariat. 2017. "ASEAN leaders commit to safeguard the rights of migrant workers", in *ASEAN Secretariat News*, 14 Nov. [Available at: <http://asean.org/asean-leaders-commit-safeguard-rights-migrant-workers/>].

Etienne, A.; Diallo, Y.; Mehran, F. 2014. *Global estimation of child labour trends: 2008 to 2012* (Geneva, ILO).

Gonzalez, Y. 2015. "Deployment of Filipino domestic workers down by 20%, says POEA", in *Global Nation Inquirer*, 16 Jun.

Hui, K.X.; Tai, J. 2015. "Do 'maid cameras' cross the line?", in *The Straits Times*, 1 Nov.

International Labour Organization (ILO). 2006. *Multilateral framework on labour migration* (Geneva).

—. 2007. *Toolkit for mainstreaming employment and decent work* (Geneva).

—. 2011. "Convention No. 189: Decent work for domestic workers", brief (Geneva).

—. 2013a. *Domestic workers across the world: Global and regional statistics and the extent of legal protection* (Geneva).

—. 2013b. *Regulating recruitment of migrant workers: An assessment of complaint mechanisms in Thailand* (Bangkok).

—. 2013c. "Thailand: New ministerial regulation offers better protection of domestic workers' rights", *Developments in Law and Practice* (Geneva).

—. 2015a. "Domestic workers organize – but can they bargain? Mapping collective bargaining and other forms of negotiation in the domestic work sector", ILO's Work in Progress (Geneva).

—. 2015b. *ILO global estimates on migrant workers: Results and methodology: Special focus on migrant domestic workers* (Geneva).

—. 2015c. "Improving working conditions for domestic workers: Organizing, coordinated action and bargaining", *Labour Relations and Collective Bargaining Issue Brief*, No. 2 (Geneva).

—. 2015d. *Internal labour migration in Myanmar: Building an evidence-base on patterns in migration, human trafficking and forced labour* (Yangon).

—. 2015e. "Monitoring the application of the Vietnam Association of Manpower Supply (VAMAS) Code of Conduct (COC-VN)", *ILO MIGRANT Good practices database*.

—. 2015f. *Regulating labour recruitment to prevent human trafficking and to foster fair migration: Models, challenges and opportunities* (Geneva).

—. 2015g. *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (Bangkok).

—. 2015h. "Strengthening post-arrival orientation programmes for migrant workers in ASEAN", *ASEAN TRIANGLE Policy Brief*, no. 2 (Bangkok).

- . 2015i. “The growing trend of Vietnamese domestic workers”, Viet Nam Country Brief, June (Hanoi).
 - . 2016a. *Labour inspection and other compliance mechanisms in the domestic work sector* (Geneva).
 - . 2016b. *Migrant domestic workers across the world: Global and regional estimates* (Geneva).
 - . 2016c. “Social protection for domestic workers: Key policy trends and statistics”, Social Protection Policy Papers, No. 16 (Geneva).
 - . 2016d. *Transnational migration of domestic and care workers in Asia Pacific* (Geneva).
 - . 2016e. *Worker, helper, aunty, maid? Working conditions and attitudes experienced by migrant domestic workers in Thailand and Malaysia* (Bangkok).
 - . 2017a. *Access to justice for migrant workers in South-East Asia* (Bangkok).
 - . 2017b. “How better skills can boost recognition of domestic work”, in *ILO News*, 31 Aug.
 - . 2017c. *Protected or put in harm’s way? Bans and restrictions on women’s labour migration in ASEAN countries* (Bangkok).
 - . Forthcoming a. *Gender, labour migration, and care economy* (Geneva).
 - . Forthcoming b. “Good practices and innovative models for a productive working relationship between domestic workers and employers in the Arab States”, ILO White Paper (Beirut).
 - . Forthcoming c. “Organising domestic workers: Addressing stigma and promoting legal protection”, ILO Briefing Paper (Yangon).
- International Labour Organization (ILO) Committee of Experts. 2006. General Survey on the labour inspection instruments, ILC. 95/III.
- . 2016. Promoting fair migration: General Survey concerning the migrant workers instruments, ILC. 105/III.
- International Labour Organization (ILO); International Domestic Workers Network (IDWN). 2012. *Decent work for domestic workers in Asia and the Pacific: Manual for trainers* (Bangkok).
- International Labour Organization (ILO); Walk Free; International Organization for Migration (IOM). 2017. *Global estimates of modern slavery: Forced labour and forced marriage* (Geneva).
- Larlee, P. 2014. “Women’s organisation negotiates fair contracts, safe conditions”, in *Mizzima*, 28 Jun.
- Mekong Migration Network (MMN). 2017. *Safe from the start: The roles of countries of origin in protecting migrants* (Chiang Mai). Mekong Migration Network (MMN).
- Ministry of Human Resources. 2017. *Guidelines and tips for employers of foreign domestic helpers* (Putrajaya).
- Ministry of Manpower (MOM). 2017. “Foreign workforce numbers: Dec 2012–Dec 2016” (Singapore).
- Montenegro, H.; Viajar, V. 2017. “The Filipino Kasambahay’s long struggle against invisibility”, in G. Geymonat, S. Marchetti, and P. Kyritsis (eds): *Domestic workers speak: A global fight for rights and recognition* (Open Democracy), pp. 120–25.
- Ostbye, T.; Malhotra, R.; Arambepola, C.; Chan, A. 2013. “Does support from foreign domestic workers decrease the negative impact of informal caregiving? Results from Singapore survey on informal caregiving”, in *The Journals of Gerontology*, Vol. 68, No. 4, pp. 609–21.
- Tan, P.; Gibson, J. 2013. “Impact of foreign maids on female labor force participation in Malaysia”, in *Asian Economic Journal*, Vol. 27, No. 2, pp. 163–83.
- Transient Workers Count Too (TWC2). 2016. Foreign domestic workers’ living conditions survey (Singapore).

UN Department of Economic and Social Affairs (UNDESA). 2016. *Trends in International Migrant Stock: The 2015 Revision*.

UN Women. 2016. "Template on standard terms of employment (STOE) for women migrant domestic workers" (Bangkok).

UN Women; International Trade Union Confederation (ITUC). 2013. *Domestic workers count too: Implementing protections for domestic workers* (New York and Brussels).

Viet Nam Association of Manpower Supply (VAMAS). 2010. *Code of conduct: Applied to Vietnamese enterprises sending workers for overseas employment* (Hanoi).

World Bank. 2016. *Closing the health gaps for the elderly: Promoting health equity and social inclusion in Thailand* (Washington, DC, World Bank).

Yi, B.L. 2017. "In U-turn, Indonesia says will continue to send maids abroad", in *Reuters*, 20 Mar.

Zaw, H.N. 2016. "Government seeks work permits for undocumented domestic workers abroad", in *The Irrawaddy*, 4 Aug.

Appendices

Appendix I. Practical guides to develop empowering and rights-protective policy and practice

ILO. 2016. *Formalizing domestic work* (Geneva). [Available at: http://www.ilo.org/travail/whatwedo/publications/WCMS_536998/lang--en/index.htm].

UN Women. 2016. “Template on Standard Terms of Employment (STOE) for Women Migrant Domestic Workers” (Bangkok). Available at: [<http://asiapacific.unwomen.org/en/digital-library/publications/2016/12/template-on-standard-terms-of-employment-for-women-migrant--domestic-workers>].

ILO. 2015. *Labour inspection and other compliance mechanisms in the domestic work sector* (Geneva). [Available at: http://www.ilo.org/labadmin/info/pubs/WCMS_429836/lang--en/index.htm].

ILO. 2012. *Effective protection for domestic workers: A guide to designing labour laws* (Geneva). [Available at: http://www.ilo.org/travail/areasofwork/domestic-workers/WCMS_173365/lang--en/index.htm].

ILO. *Domestic work policy brief series* (Geneva). [Available at: http://www.ilo.org/travail/info/WCMS_155773/lang--en/index.htm]. Particularly see:

- Remuneration in domestic work (Policy Brief No. 1)
- Working hours in domestic work (Policy Brief No. 2)
- Coverage of domestic workers by key working conditions laws (Policy Brief No. 5)
- “Meeting the needs of my family too”, maternity protection and work-family measures for domestic workers (Policy Brief No. 6)
- Domestic work voice and representation through organizing (Policy Brief No. 8)
- Making decent work a reality for migrant domestic workers (Policy Brief No. 9)

Appendix II. Terminology

Ban/restriction: In this paper, the terms refer to a barrier to movement and/or work. Restrictions on labour migration in the region are called many names, including moratorium, ban, freeze, suspension, restriction, and embargo. This paper primarily uses the terms “ban” and “restriction”, and uses them interchangeably.

Decent work: Productive work for women and men in conditions of freedom, equity, security, and human dignity. Decent work involves opportunities for work that is productive and delivers a fair income; provides security in the workplace and social protection for workers and their families; offers better prospects for personal development and encourages social integration; gives people the freedom to express their concerns, to organize, and to participate in decisions that affect their lives; and guarantees equal opportunities and equal treatment for all (ILO, 2017, p. vi).

Domestic work: Work performed in or for a household or households, within an employment relationship (Convention No. 189).

Domestic worker: Any person engaged in domestic work within an employment relationship (Convention No. 189).

Gender: Socially constructed differences between women and men, and the social roles and relationships between them. These can change over time and are not biologically determined.

Maternity protection: Protections ensuring equality of opportunity for women and enabling women to combine productive and reproductive roles. Protections in ILO Convention No. 183 and Recommendation No. 191 include: maternity leave, cash and medical benefits, health protection, employment protection, non-discrimination in employment, and rights to breastfeed. ILO Convention No. 189 calls on Member States to ensure domestic workers enjoy social protection, including with respect to maternity.

Migrant worker: A person who is to be or has been engaged in a remunerated activity in a State of which he or she is not a national.¹

Productive work: In the context of this paper, domestic work is productive in that it is socially necessary to maintain household members’ well-being. Nonetheless, domestic work falls outside the traditional and official definitions of “work” and remains unaccounted for statistics of work and economy.

Paternalism: An approach of control over another person as if by a benevolent parent. Paternalistic measures direct, interfere with, or limit a person’s choices, and takes care of women, children, or other perceived “subordinates” who presumably cannot or do not know how to act in their own best interests.

Recruitment: The advertising, information dissemination, selection, transport, placement into employment and – for migrant workers – return to the country of origin where applicable. This applies to both jobseekers and those in an employment relationship.

Recruitment agency/recruiter: Employment agencies and all other intermediaries or subagents that offer labour recruitment and placement services. Labour recruiters can take many forms, operating within or outside legal and regulatory frameworks.²

Unpaid care work: Unremunerated home management and housekeeping, care of children, the old, the sick and disabled household members, and voluntary and community services. Women spend a considerable amount of time on unpaid care work alongside paid work, while men are more likely to focus exclusively on paid work.

1 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990.

2 See ILO, 2016e.

Towards achieving decent work for domestic workers in ASEAN

10th ASEAN Forum on Migrant Labour (AFML) – Thematic background paper

25–26 October 2017, Manila, Philippines

There are an estimated 9 million domestic workers in South-East Asia and the Pacific. Over 2 million of these are also migrants, meaning that migrant domestic workers constitute a fifth of all migrant workers in the region. While there is an increasing demand for domestic workers, there is also growing recognition of the lack of protection for the majority of domestic workers, who are overwhelmingly women. Globally, and in ASEAN, domestic workers are often excluded from labour laws and labour protection available to other groups of workers. Consequently, around the world, domestic workers regularly work excessively long and unpredictable hours. Many domestic workers do not receive any rest days and are paid below the minimum wage.

This report reviews the current situation for domestic workers in ASEAN and makes recommendations to ASEAN Member States. It was prepared as a technical background paper for the 10th ASEAN Forum on Migrant Labour (AFML) that was themed “Towards Achieving Decent Work for Domestic Workers in ASEAN” and hosted by the Government of the Philippines in October 2017.

This report was prepared by the TRIANGLE in ASEAN programme, a partnership between the Australian Department of Foreign Affairs and Trade (DFAT), the Global Affairs Canada (GAC), and the International Labour Organization (ILO).

ILO Regional Office for Asia and the Pacific

United Nations Building Rajadamnern Nok Avenue

Bangkok 10200, Thailand

Tel.: +662 288 1234

Fax: +662 280 1735

Email: BANGKOK@ilo.org

www.ilo.org/asia

ISBN 978-92-2-131630-5 (Print)
ISBN 978-92-2-131631-2 (web pdf)