

Universal Periodic Review (UPR) Singapore
Mid-term report on follow-up of the recommendations of the United Nations
Human Rights Council under the UPR by H.O.M.E.
January 2014

**1. GENERAL REMARKS, BACKGROUND AND LEGISLATIVE
FRAMEWORK**

A. General remarks

H.O.M.E. (Humanitarian Organization for Migration Economics) is a non-governmental organization and registered charity which is dedicated to serving the needs of the migrant community in Singapore¹.

H.O.M.E., under a coalition of NGOs called Solidarity for Migrant Workers, submitted its Universal Periodic Review report to the United Nations Human Rights Council on 1 November 2010². Singapore was reviewed by the Council on 6 May 2011. H.O.M.E. regrets that the civil society has not been consulted in the follow-up process to work on the implementation of the recommendations made in the UPR.

Our mid-term report focuses on the recommendations accepted by Singapore and related to migrant workers and victims of trafficking.

B. Background

Over 1.1 million migrant workers are currently working in Singapore, making up more than one-third of the labor force. The majority of them are un-skilled or low-skilled workers working in construction, domestic services, and other service industries, including sex work. Their countries of origin include China, India, Bangladesh, and South East Asian countries such as the Philippines and Indonesia.³

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¹ www.home.org.sg

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Joint submission by members of Solidarity for Migrant Workers for the 11th Session of the Universal Periodic Review, May 2011, <http://home.org.sg/research/upr.html>

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US Department of State, *Trafficking in Persons Report 2013*.

C. Legislative Framework

Although migrant workers in general are covered under the Employment Act, foreign domestic workers (FDWs) and seamen are excluded from the protection of this law. Instead, FDWs are covered by the Employment of Foreign Manpower (Work Passes) Regulations (EFMRs). In the employment process, the Employment of Foreign Manpower Act (EFMA) and EFMRs govern employers of foreign workers. Employment agencies, which play a critical role in matching the workers with the employers, are governed by laws such as the Employment Agencies Act (EAA).

2. MIGRANT WORKERS IN GENERAL

A. New measures implemented since the 2011 review

Reform of Employment Agencies Act

This reform is one of the improvements made within the New Employment Agencies Framework. The new framework creates additional requirements, including mandating relevant employment agency personnel to be certified and registered, and by introducing stricter requirements for personnel involved in agency-related work including fee caps, and fee refunds in case the workers' employment is terminated within 6 months of its commencement. The amended Employment Agencies Act, specifically, strengthens deterrence by making it an offence for employers to use the service of any unlicensed agency. In line with this, the EFMA was also amended in 2012 to raise the penalties for employers up to S\$5,000.⁴

Employment Legislation Reviews

In 2012, the government underwent a review of the Employment Legislation, and is currently in a second phase of review of the EA and the EFMA. The result of these efforts has been the implementation of measures that benefit migrant workers to a certain extent.

In its amendment of the Employment Act, the government has included measures to improve employment standards without imposing too much rigidity on the market,

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Ministry of Manpower (MOM), Press Release, <http://www.mom.gov.sg/newsroom/Pages/PressReleasesDetail.aspx?listid=490>; MOM, FAQ - Penalties and Offences, <http://www.mom.gov.sg/foreign-manpower/employment-agencies/Pages/FAQ-PenaltiesAndOffences.aspx>

including mandating pay slips and detailed employment records. Sub-caps to prevent excessive salary deductions, and shorter qualifying periods for retrenchment benefits were introduced as well.⁵

The government's review of the Employment of Foreign Manpower Act resulted in amendments meant to deter EFMA contraventions by increasing penalties and providing MOM with greater investigatory power. Some of the amendments are aimed at preventing middlemen from exploiting the workers in return for securing jobs, and employers from recovering fees from workers illegally.⁶ Moreover, employers are now required to send an In-Principle Approval letter to workers in their native language prior to their departure. After employment, employers will also need to provide upkeep for workers waiting for resolution of statutory claims before repatriation.⁷

B. Human Rights Situation on the Ground

Despite some efforts toward improvements on the part of the Singaporean government, foreign workers in Singapore continue to face a variety of human rights violations. In spite of the rights and freedoms set forth in the Constitution of Singapore, the State continues to deny these workers their basic human rights and fundamental freedoms of movement, religion, association, and equal protection for pregnancy, health, education, social security, job mobility, marriage, and family, as stated in our first UPR submission.⁸

With regard to the terms of their employment, these vulnerable low-wage workers may find themselves disadvantaged from the start of their employment in Singapore, as the contract they agreed to in their home country may be replaced with one offering them less favorable terms, or they may be left with no contract at all. They may also be subjected to forced labor through debts owed to recruitment agents, non-payment of

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MOM, Press Release, Better Protection for More Workers with Changes to the Employment Act, <http://www.mom.gov.sg/newsroom/Pages/PressReleasesDetail.aspx?listid=487>

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MOM, Changes to EFMA, <http://www.mom.gov.sg/documents/foreign-manpower/efma/efma-info-guide.pdf>

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Ibid.

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Joint submission by members of Solidarity for Migrant Workers for the 11th Session of the Universal Periodic Review, May 2011, <http://home.org.sg/research/upr.html>

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salary, limitations on movement, confiscated work passes and travel documents, and physical and sexual abuse.⁹

Foreign workers who wish to seek redress for claims against their employers encounter significant challenges. For example, employers may cancel a work permit and repatriate a worker as soon as a claim has been filed, or to prevent a worker from doing so. There have been numerous reports of intimidation and forced repatriation by repatriation companies hired by employers, some of which use violence and wrongful confinement of the workers to ensure that they leave the country, even though the worker has a legal claim against the employer.¹⁰ Some workers also fear bringing their claims because of threats by their employer to have their name placed on the MOM “blacklist” of workers who have violated the terms of their work pass, making it impossible for them to obtain a work pass here in the future. Those workers who do have the opportunity to bring their claims, and make the decision to do so, may have difficulty substantiating them, as employers may not provide workers with important employment records, such as contracts, salary slips, or time cards. Those workers who make a successful claim may then be faced with a new set of difficulties as they seek to have the court orders enforced, which can be a costly and protracted process, especially given that migrant workers have limited access to *pro bono* legal services.¹¹

Recent events in Singapore have brought a great deal of attention, both locally and internationally, to the plight of migrant workers in Singapore, who are generally viewed as a critical pillar in the country’s economic success. In November 2012, 171 bus drivers who are Chinese nationals went on strike, alleging that they received lower pay than Singaporean and Malaysian drivers, and that the conditions in the dormitories in which they were housed were poor. While the drivers’ claims were met with some positive changes, including a small pay increase and accommodation improvements, the strike resulted in the deportation of 34 drivers and the imprisonment of 4 of those drivers for instigating the illegal labor action.¹² Last month, a riot involving an

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Human Rights Watch, *World Report, Rights of Migrant Workers and Human Trafficking*, 2013.

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² Joint submission by members of Solidarity for Migrant Workers for the 11th Session of the Universal Periodic Review, May 2011, <http://home.org.sg/research/upr.html>

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H.O.M.E. and TWC2, *Justice Delayed, Justice Denied. The experiences of migrant workers in Singapore*, 2010, p.5.

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The Wall Street Journal, *Singapore Strike Chapter Five: The Gavel Falls*, Aug. 2013.

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estimated 300 migrant workers¹³ broke out in the Little India neighborhood of Singapore following the death of an Indian migrant worker who had been struck by a bus. While the cause of the riot has not yet been officially determined, it has been widely assumed that it was in reaction to the poor treatment of foreign laborers.¹⁴ Fifty-seven of the men involved have been deported, and 25 are awaiting trial and could face prison sentences and caning. Another 200 foreign workers said to have been at the scene but not having directly participated were issued advisories against further misconduct and allowed to stay on condition of good behavior.¹⁵ It should be noted that 30 of the men involved in the bus strike who were repatriated, as well as the men who were repatriated following the Little India riot, were deported without having stood trial. It is not publicly known what evidence was used to determine that they were not fit to remain in the country.

3. FOREIGN DOMESTIC WORKERS

A. New measures implemented since the 2011 review

Weekly rest day

FDWs who acquired or renewed their contracts from January 2013 onward are now entitled to a weekly day off. It is up to negotiations between the employer and the worker as to which day of the week is the rest day.

Amendments in the Employment of Foreign Manpower Regulations

The EFMRs were also revised and updated in November 2012, and as noted above, the key changes include a requirement that foreign workers receive a copy of an In-

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The Straits Times, *Riot: 28 face charges, 53 to be deported*, Dec. 2013.

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International Business Times, *Riot in Little India: Underpaid Migrant Workers Form the Foundation of Singapore's Wealth and Power*, 10 Dec. 2013; The New York Times, *Singapore's Angry Migrant Workers*, 27 Dec. 2013.

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CNN.com, *Singapore to deport foreign workers over 'Little India' Riot*, 18 Dec. 2013.

Principle Approval letter prior to their departure, so that they have a better understanding of the terms of on their employment before entering Singapore.¹⁶

Prohibition of window cleaning

Alarmed by a number of fatality cases¹⁷ and upon the request of H.O.M.E. and the Indonesian government to raise safety standards,¹⁸ MOM has prohibited domestic workers from cleaning windows unless certain safety conditions are met.¹⁹

B. Human Rights Situation on the Ground

Foreign domestic workers continue to be excluded from the protection of the Employment Act, which specifies the minimum terms and conditions of employment for rest days, hours of work, overtime entitlements, annual leave, and medical leave. Although the government took an important step forward by requiring that contracts renewed or commenced as of 2013 provide a weekly day of rest to domestic workers, the provision allowing workers to be paid in lieu of rest so long as the worker agrees opens the worker up to coercion by the employer. Moreover, the worker is not guaranteed a full 24 hour day of rest. According to Ministry of Manpower guidelines, the employer may still request a worker to perform 'light duties' and the number of hours of time off allowed on rest days is left to the employer and the worker to decide.²⁰ Some employers are reluctant to grant a day off as they fear losing the \$5,000 SGD security bond they were required to pay as an employer of a Work Pass holder, should the FDW violate the conditions of her work permit during her day off.

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MOM, Amendments to EFMRs,
[http://www.mom.gov.sg/MOMDoc/FAQs_revised_EFMR\(2012\).pdf](http://www.mom.gov.sg/MOMDoc/FAQs_revised_EFMR(2012).pdf)

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MOM, 9 deaths from January to June 2012, 4 in 2011, and 8 in 2010,
<http://www.mom.gov.sg/newsroom/Pages/PressReleasesDetail.aspx?listid=431>

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The Wall Street Journal, *Indonesia Demands High-Rise Safety for Maids in Singapore*, 9 May 2012.

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MOM, Press Release, <http://www.mom.gov.sg/newsroom/Pages/PressReleasesDetail.aspx?listid=431>

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MOM, *FDW weekly rest day: a guide for employers*, 2013.

Furthermore, domestic workers are also excluded from the *Work Injury Compensation Act*, which provides for compensation for workplace injuries and occupational illnesses, and instead receive more limited coverage under compulsory medical insurance.

Existing regulations and practices limit foreign domestic workers' job mobility, leaving them vulnerable to forced labor and exploitation. Domestic workers must obtain permission from their employer in order to change employers, who may choose to repatriate or retain a worker against her wishes for the length of the contract. If an employer chooses to terminate a worker, they may simply cancel the work permit and repatriate her.

Foreign domestic workers also continue to face a set of restrictions on their personal freedoms, including the requirement that they live in the homes of their employers, cannot get married without permission from the government, and if they become pregnant, they must have an abortion or they may be deported. Domestic workers must submit to periodic medical exams, which include a screening for HIV and other infectious diseases; if the result is positive, they are deported.

4. VICTIMS OF TRAFFICKING

A. New measures implemented since the 2011 review

Inter-Agency Taskforce on Trafficking in Persons

To tackle the problem of human trafficking the Singapore Inter-Agency Taskforce on Trafficking in Persons was established in 2010. Launched in 2012, its National Plan of Action lists agreed upon strategies to combat human trafficking over the next four years using “the four P’s”: prevention, prosecution, protection and partnership. Recently, the Taskforce has granted NGOs funding to be used for public education on the topic.²¹ It also has developed a case referral form for NGOs.

B. Human Rights Situation on the Ground

As discussed above, many foreign workers arriving in Singapore owe significant debts to recruitment agencies in Singapore and in their home countries, leaving them

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MOM, Press Release, <http://www.mom.gov.sg/newsroom/Pages/PressReleasesDetail.aspx?listid=515>

vulnerable to forced labor. Foreign workers have reported confiscation of their passports, limitations on movement, non-payment of wages, and physical and sexual abuse, all of which may be indicators of trafficking.²²

The government of Singapore is not in compliance with minimum standards for the elimination of trafficking.²³ Singapore is still lacking a specific and comprehensive anti-trafficking law, though it is anticipated that a Private Member's bill to combat trafficking will be introduced in Parliament in 2014. The State has inadequate capacity to interview potential victims, leaving victims with little access to the government protections which do exist, such as ability to change employer.²⁴ Furthermore, migrant workers remain unlikely to report offences as they frequently are not permitted to work while their claim is investigated, nor can they leave the country, yet they are provided little services for their protection, security and sustenance during the investigation and court proceedings.

In 2012, 151 foreign domestic worker residents of the HOME shelter were interviewed to determine the extent to which indicators of trafficking were present; in all but two cases, the women's experiences included all three elements (action, means, and purpose) of the definition of trafficking.²⁵ The flaws in Singapore's current system for identifying and addressing trafficking are highlighted by the fact that of the 77 women in the study who were referred to either MOM or the police or both, none of them were flagged as victims or potential victims of trafficking.²⁶

5. CONCLUSION

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US Department of State, *Trafficking in Persons Report 2013*.

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US Department of State, *Trafficking in Persons Report 2013*; Human Rights Watch, *World Report, Rights of Migrant Workers and Human Trafficking*, 2013.

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US Department of State, *Trafficking in Persons Report 2013*.

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H.O.M.E., *FDW Trafficking Research Report*, 2012, p.2.

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H.O.M.E., *FDW Trafficking Research Report*, 2012, p.2.

H.O.M.E. acknowledges and welcomes the measures taken to improve the protection of migrant workers and fight human trafficking. However, to date, migrants in general, foreign domestic workers and victims of human trafficking still face discrimination and human rights violations. H.O.M.E. urges the government to take further steps to fully implement the recommendations accepted under the UPR and ensure practical and

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