



SOLIDARITAS
MIGRAN
SCALABRINI



Shadow Report to 52nd Session of the Committee on the Elimination of Discrimination against Women

INDONESIA

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A. Introduction

HOME, SMS and Viva Wanita

1. The Humanitarian Organization for Migration Economics (HOME) is a non-governmental organization and registered charity based in Singapore which is dedicated to serving the needs of the migrant worker community in Singapore. HOME was established in 2004 and has since provided services to thousands of migrant workers in need through its provision of shelters, legal assistance, training and rehabilitative services, with up to 10,000 individuals being assisted each year. Roughly 60 per cent of those assisted by HOME are migrant domestic workers, and just under half of those migrant workers are Indonesian. There are currently estimated to be in excess of 80,000 Indonesian domestic workers in Singapore. Through its day-to-day interaction with the Indonesian migrant domestic worker community, HOME has a clear insight into the challenges and discrimination facing these women and the different ways in which the Indonesian government fails to comply with its obligations under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in order to prevent these women from being discriminated against both in Indonesia and in Singapore.
2. HOME works in close partnership with Solidaritas Migran Scalabrini (SMS) and Yayasan Dunia Viva Wanita (VIVA WANITA) which are based in Batam, Riau Islands, Indonesia. SMS is a grass root organization of women migrant domestic workers registered in Indonesia with members in Hong Kong, Taiwan and Singapore. SMS was established in 2007 to provide shelter for migrant returnees and trafficked survivors. Since then, SMS has provided shelter to some 300 women and 30 babies. VIVA WANITA is a non-profit foundation established in 2011 and dedicated to supporting grass root projects including shelter services, women's empowerment, youth training, HIV prevention educational outreach and research. VIVA WANITA and SMS jointly provide shelter, reintegration and rehabilitative programmes and services to migrant returnees from Singapore.
3. HOME, SMS and VIVA WANITA have worked together to research and draft this shadow report.

Focus of Report

4. This report focuses on two particular manifestations of discrimination against women in Indonesia:
 - i) the discrimination and inequality experienced by female Indonesian domestic workers who leave Indonesia to work in Singapore; and
 - ii) the trafficking of Indonesian women into domestic servitude in Singapore and into sexual exploitation in Batam.
5. The report firstly acknowledges the positive developments which have taken place during the reporting period (Section B) and then sets out specific concerns based on Indonesia's obligations under CEDAW (Section C). Finally, Section D sets out the list of HOME-SMS-VIVA WANITA's recommendations to the Indonesian government in relation to the protection of the rights of female Indonesian migrant workers and trafficked and potentially trafficked women.

6. Whilst the Combined Sixth and Seventh Periodic Reports to the Committee on the Elimination of Discrimination against Women (**State Report**)¹ refers to many developments regarding gender-mainstreaming in Indonesia and the activities of the Ministry of Women's Empowerment and Child Protection, HOME-SMS-VIVA WANITA's concern is that during the reporting period, inadequate attention has been given to the particular needs of female Indonesian migrant workers and trafficked and potentially trafficked women who suffer from extreme disadvantage which requires a specifically targeted response. This report analyses the current situation facing such women according to the obligations which Indonesia has assumed as a state party to CEDAW, particularly as such obligations are elaborated in General Recommendation No. 26 on Women Migrant Workers (General Recommendation No. 26).² Further, this report assesses the extent to which the Indonesian government has acted upon the concluding comments made by the Committee on the Elimination of Discrimination Against Women in August 2007 (Concluding Comments),³ and also the recommendations made by the Special Rapporteur on the Human Rights of Migrants in March 2007 (SR Report),⁴ which are relevant to the protection from discrimination of female Indonesian migrant workers and trafficked and potentially trafficked women. In summary, such recommendations included:
- i) Full implementation and enforcement of anti-trafficking legislation;⁵
 - ii) Identification and adoption of comprehensive approach to addressing root causes of trafficking and women's migration;⁶
 - iii) Provision of rehabilitation and reintegration services for trafficked women;⁷
 - iv) Cooperation with countries of destination for women migrant workers and trafficked persons in order to establish memoranda of understanding and/or bilateral agreements and eradicate exploitation;⁸
 - v) Establishment of procedure for monitoring recruitment and employment agencies and penalising those agencies which do not adequately protect the rights of migrant women workers;⁹
 - vi) Reduction in fees and administrative burdens imposed on women migrant workers at points of departure from or entry into Indonesia;¹⁰

¹ Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women – Combined sixth and seventh periodic reports of States parties – Indonesia*, CEDAW/C/IDN/6-7, 7 January 2011 (**State Report**).

² Committee on the Elimination of Discrimination against Women, *General Recommendation No. 26 on Women Migrant Workers*, CEDAW/C/2009/WP.1/R, 5 December 2008 (**General Recommendation No. 26**).

³ Committee on the Elimination of Discrimination against Women, *Concluding comments of the Committee on the Elimination of Discrimination against Women: Indonesia*, CEDAW/C/IDN/CO/5, 10 August 2007 (**Concluding Comments**).

⁴ Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants, Jorge Bustamante – Addendum – Mission to Indonesia*, A/HRC/4/24/Add.3, 2 March 2007 (**SR Report**).

⁵ Concluding Comments, Para 25.

⁶ Concluding Comments, Paras 25 and 33.

⁷ Concluding Comments, Para 25.

⁸ Concluding Comments, Paras 25 and 33.

⁹ Concluding Comments, Para 33; SR Report, Paras 68 and 70.

- vii) Improvement of employment conditions experienced by women migrant workers in destination countries through, for example, the formation of a standard contract that guarantees minimum standards;¹¹
- viii) Development of pre-departure training programmes which empower migrant women workers by educating them about their rights under international law and the domestic laws of their country of destination;¹²
- ix) Co-operation with civil society organizations prior to enacting national legislation and when engaging in bilateral agreements;¹³
- x) Development of public awareness-raising campaigns focussed on educating domestic workers and labour recruiters about domestic workers' rights;¹⁴ and
- xi) Expansion of services available to migrant women workers at Indonesian consulates in destination countries.¹⁵

Nature of Research

7. HOME-SMS-VIVA WANITA have collated the data to support the statements and recommendations set out in this report through the following:
 - a) A review of case files involving female Indonesian migrant workers;
 - b) A series of focus group discussions with female migrant workers in both Singapore and Indonesia;
 - c) 94 responses to a questionnaire issued to female Indonesian migrant workers in Singapore; and
 - d) A sex worker research programme conducted with 300 direct and indirect sex workers in Batam during April and May 2012.

¹⁰ Concluding Comments, Para 33; SR Report, Para 68.

¹¹ SR Report, Para 69.

¹² SR Report, Para 76.

¹³ SR Report, Para 74.

¹⁴ SR Report, Para 75.

¹⁵ SR Report, Para 77.

B. Positive Developments

8. HOME-SMS-VIVA WANITA welcome the positive steps taken by the Indonesian government to improve the situation of women in Indonesia, and particularly female Indonesian migrant workers overseas.

Ratification of International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention)

9. HOME-SMS-VIVA WANITA were delighted to note the ratification by Indonesia of the Migrant Workers Convention in April 2012.¹⁶ Along with the Philippines, Indonesia is one of only two ASEAN countries to have ratified the Migrant Workers Convention and it is hoped that other countries in the region, including Singapore, will soon follow suit. HOME-SMS-VIVA WANITA encourage the Indonesian government to take urgent steps to:
 - a) Incorporate its obligations under the Migrant Worker Convention into domestic law; and
 - b) Encourage other ASEAN member nations to sign and ratify the Migrant Worker Convention; and
 - c) Use its obligations under the Migrant Worker Convention as a basis for discussions and negotiations with destination countries, such as Singapore, through which conditions for female Indonesian migrant workers should be improved.

Action taken by Indonesian Government regarding Dangerous Working Conditions of Migrant Domestic Workers in Singapore

10. Following the deaths of 8 Indonesian migrant domestic workers in Singapore in the first 4 months of 2012 resulting from falls from high-rise apartments, HOME-SMS-VIVA WANITA welcomed the call from the Indonesian government for employment agencies to include a clause in all contracts prohibiting domestic workers from cleaning outside of windows or hanging laundry from high-rise apartments.¹⁷ The pressure from Indonesia is likely to have impacted on the recent decision by the Singapore government to tighten its laws and announce that domestic workers are no longer allowed to clean the outside of windows above ground level unless they are supervised, and window grills must be installed and locked during cleaning.¹⁸ HOME-SMS-VIVA WANITA encourage the Indonesian government to note the influence which it has on the actions of the Singapore government and use this influence to gain further protection from exploitation for Indonesian women migrant workers in Singapore.

¹⁶ Human Rights Watch, "Indonesia: Parliament Approves Migrant Workers Convention", 12 April 2012, available at: <http://www.hrw.org/news/2012/04/12/indonesia-parliament-approves-migrant-workers-convention>.

¹⁷ The Jakarta Globe, "Spate of Maid Deaths in Singapore Prompts Indonesia to Call for Ban on Window Cleaning", 8 May 2012, available at: <http://www.thejakartaglobe.com/home/spate-of-maid-deaths-in-singapore-prompts-indonesia-to-call-for-ban-on-window-cleaning/516645>.

¹⁸ The Jakarta Globe, "Singapore Curbs Window Cleaning Amid Maid Deaths", 5 June 2012, available at: <http://www.thejakartaglobe.com/news/singapore-curbs-window-cleaning-amid-maid-deaths/52237>.

Anti-Trafficking Developments

11. HOME-SMS-VIVA WANITA are encouraged by the steps which the Indonesian government has taken during the reporting period further to curb the existence of trafficking in Indonesia as identified in the State Report. These steps build upon the enactment of the Law on Anti-Trafficking in 2007. Particularly notable are the by-laws on human trafficking which have been passed in certain provinces of Indonesia,¹⁹ although HOME-SMS-VIVA WANITA would be interested to see the data which evidences the resulting decrease in trafficking referred to in the State Report.²⁰ It is also noted that whilst a positive first step, provincial responses to trafficking will most likely not be as successful as holistic nation-wide and regional responses to this frequently transnational violation of women's rights. The government is therefore encouraged to seek greater coordination between provinces and with neighbouring governments in order to ensure an effective response to the trafficking challenge. Further, it is urged to focus on potential trafficking "hotspots" such as in the "sex farms" of Batam.
12. HOME-SMS-VIVA WANITA are pleased to note that the government has worked with IOM Indonesia in order to incorporate data on trafficking as such evidence is a crucial starting-point to the development of focussed and effective legislative and policy responses.²¹ Whilst this data provides an interesting overview regarding the provinces of origin of trafficked women, the motives those women had to seek employment which resulted in them being trafficked, the types of employment into which they were trafficked and the nature of the exploitation which they experienced, this data fails to identify the gaps in the legal framework which are allowing trafficking to continue despite the enactment of legislation which, if effectively enforced, should curb this heinous practice. The government should consider focussing its data collection more on who is responsible for trafficking women and how the authorities are failing to restrict such activity.
13. HOME-SMS-VIVA WANITA praise the work which the government has carried out in relation to capacity-building amongst key duty-holders – such as immigration officers and the police - in relation to trafficking.²² It would be helpful for the government to produce information on how it has assessed the capacity of such duty-holders in order to design effective trainings and how it is monitoring the impact of such capacity-building programmes in order to establish whether such programmes are effective or in need of revision.
14. Finally, HOME-SMS-VIVA WANITA note the government's acknowledgement of the strong link between education and trafficking and hopes to see further information regarding the nature of such educational programmes and the monitoring of their impact in due course.²³

¹⁹ State Report, Paras 6 and 45.

²⁰ State Report, Para 6.

²¹ State Report, Paras 38-41.

²² State Report, Paras 44-45.

²³ State Report, Para 93.

Draft Law on Domestic Workers

15. HOME-SMS-VIVA WANITA are pleased that a draft Law on Domestic Workers is under discussion but notes with concern that such legislation has yet to be enacted.²⁴ HOME-SMS-VIVA WANITA encourage the government to ratify the ILO Convention Concerning Decent Work for Domestic Workers (ILO Domestic Workers Convention) and to proceed with enacting the obligations contained therein as domestic legislation as a matter of urgency.

Commitment to Collaboration with Civil Society

16. HOME-SMS-VIVA WANITA are pleased to note the government's recognition of the "importance of public oversight" and its commitment to continued collaboration between the State and civil society groups.²⁵ It hopes that the "various fields" in which such commitment will be developed will include that relating to migrant workers, given the reference in General Recommendation No. 26 to the "active involvement of women migrant workers and relevant non-governmental organizations" in "policy formulation, implementation, monitoring and evaluation".²⁶ Further, as elaborated below, HOME-SMS-VIVA WANITA recommend that the Indonesian government should collaborate fully with civil society organisations in destination countries such as Singapore.

²⁴ State Report, Para 108.

²⁵ State Report, Para 24.

²⁶ General Recommendation No. 26, Para 23(b).

C. Specific Concerns

17. This section of the report sets out the main concerns which HOME-SMS-VIVA WANITA have identified through research carried out with Indonesian migrant domestic workers, trafficked women and sex workers. It is structured in accordance with the relevant provisions of CEDAW.

Article 1

18. Article 1 of CEDAW describes “discrimination against women” as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”. CEDAW’s definition of “discrimination” has not been implemented by the Indonesian government either through a constitutional amendment or the enactment of relevant legislation. The constitution refers only to the right of children to be protected from “violence and discrimination”²⁷ and the right of every person “to be free from discriminative treatment based upon any grounds whatsoever”.²⁸ No definition of “discrimination” nor “discriminative treatment” is provided in the Constitution. Further, the long-promised Law on Gender Equality has still yet to reach the statute books, despite being referenced in the Concluding Comments of 2007.²⁹
19. It is therefore unsurprising that the Indonesian government reports that “[g]ender equality, as well as what constitutes discrimination against women is understood differently by different policymakers, and efforts to synchronize the perspective and paradigm are continuing”.³⁰ HOME-SMS-VIVA WANITA recommend that the Indonesian government should enact gender equality legislation which sets out a comprehensive definition of discrimination. Such definition should acknowledge practices which are discriminatory against women either in effect and/or purpose as this would aid the Indonesian authorities in identifying and eradicating the full range of discriminatory laws, policies and practices which impact upon migrant domestic workers and trafficked women in Indonesia.

Article 2 and Article 3

20. Article 2 of CEDAW imposes upon the Indonesian government an obligation to “pursue by all appropriate means and without delay a policy of eliminating discrimination against women” and lists the various ways in which this obligation may be complied with. Article 3 of CEDAW imposes upon the Indonesian government obligations to take “appropriate measures” to “ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men”. Article 3 therefore requires the government to go beyond the eradication

²⁷ Constitution of Indonesia, Article 28B(2).

²⁸ Constitution of Indonesia, Article 28I(2).

²⁹ Concluding Comments, Paras 10-11.

³⁰ State Report, Para 1.

of discriminatory laws, policies and practices and to take positive steps to enhance the ability of women to enjoy their human rights equally with men. General Recommendation No. 26 further develops these obligations in relation to the specific issues facing women migrant workers and it is against these expanded obligations that this section seeks to assess the progress made by the Indonesian government since 2007.

21. Indonesian migrant domestic workers face discrimination and inequality: (i) prior to their departure from Indonesia, and (ii) upon return to Indonesia. Based upon the research carried out by HOME, the patterns of discrimination set out below are prevalent.

Prior to departure

22. **Conditions and treatment in pre-departure training centres:** Many migrant domestic workers reported that they were subjected to very poor treatment in the pre-departure training centres which they were required to stay in for several months prior to departure. Some of the women interviewed stayed in the training centres for up to 11 months. The living conditions were often very cramped with many women sleeping in the same room with no mattresses or bedding. Inadequate food is provided and the trainees frequently suffer verbal abuse at the hands of the training centre staff. Whilst staying in the training centres, the women have no freedom of movement. They are generally forbidden from leaving the training centre. Participants in the focus groups described the training centres as having security guards and very high fences with only small holes through which the women could purchase items from street-sellers outside. Trainees are only released to visit their families on the provision of some form of financial/documentary guarantee. One interviewee spoke of being required to deposit either 5,000,000 rupiah or the title to her family's land before she would be able to make a home visit. These restrictions and requirements are imposed to ensure that women do not leave the training centre without fulfilling their obligations to their recruitment agents and, most specifically, repaying any recruitment debt which they have incurred. Several of the women also said that they were required to submit the originals of their key documentation (eg. birth certificate, academic certificates) to the training centre as security but that these have still not been returned to them even after their recruitment fee has been paid off. One domestic worker spoke of how the training centre was notified of "spot-checks" by the government authorities, allowing them to "prepare" which included hiding all under-aged girls. Despite the recommendation in the Concluding Comments that the Indonesian government must monitor effectively all recruitment agencies,³¹ these discriminatory violations of the rights of migrant domestic workers continue to take place in training centres in Indonesia.
23. **Inadequate training:** The migrant domestic workers who participated in the research agreed that the training provided in the training centres was inadequate both in terms of developing the skills required to fulfil the duties of a domestic worker but also in terms of preparing them for life in the destination country. The training was primarily focussed on ensuring that they had sufficient English to pass the entrance test on arrival in Singapore but this was not sufficient to enable them to communicate effectively with their employers. Those interviewed

³¹ Concluding Comments, Para 33.

by HOME explained that as language and domestic skills were the focus of the training, no information was provided about their rights as employees in the destination country.

24. **Recruitment fees:** Despite the recommendation in the Concluding Comments that the government should reduce the fees imposed upon migrant domestic workers,³² migrant domestic workers continue to be charged up to 11 months' salary as a recruitment fee. This is contrary to Article 15(1)(e) of the ILO Domestic Workers Convention which states that measures should be taken to ensure that "fees charged by private employment agencies are not deducted from the remuneration of domestic workers". Participants in the focus groups explained that whilst they were informed of the salary deduction process, this was presented more as an investment rather than a period during which they would be working for no pay. Further, the practice of lengthy salary deductions contributes to the acceptance by domestic workers of exploitative working conditions upon arrival in the destination country as they do not wish to complain and risk having an increase in their salary deductions and/or finding themselves in a position in which they are unable to pay the debt they owe to the agency. The standard practice is for migrant domestic workers to be charged an additional 2 months' salary deduction upon change of employer. They are often informed by their agent that if they fail to pay-off their fee prior to returning to Indonesia, they will have to pay their own airfare and pay the balance upon return. Concern was expressed by the focus group participants that the Indonesian government is contemplating a new system which will replace the salary deduction process. Under this new system, migrant domestic workers will borrow money from an Indonesian bank in order to pay the agency fees up-front and then repay the debt to the bank with interest over the course of the first year of employment. There is concern that banks will take collateral and that the financial position of the migrant domestic worker's family could still be at risk should she breach her employment contract and/or default on her loan.
25. **Travel documents:** The migrant domestic workers interviewed complained that the freedom of movement granted to them by virtue of the passports obtained during the recruitment process in Indonesia is restricted. The name and address of their recruitment agent is printed in the passport and they are unable to travel freely outside of their destination country without their employer.
26. **Information and documentation provided prior to departure:** Migrant domestic workers are frequently given inadequate and/or inaccurate information about the nature of the job which they will be carrying out on arrival in their destination country and the terms of their employment. Some reported being asked to work in much larger houses for much larger families than they were initially informed, whilst others explained that the salary deduction period was extended upon arrival in Singapore. Many did not understand the contract which they signed in Indonesia as it was in English and was not explained to them. Participants in the focus groups explained that they were discouraged by their recruiters and agents from asking too many questions. Further, most women interviewed were not given a copy of the employment contract which they signed. Many women are forced to sign a new contract upon arrival in Singapore.

³² Concluding Comments, Para 33.

27. **Recruitment of under-age girls:** HOME has represented a large number of Indonesian domestic workers who were recruited to work in Singapore when they were under the age of 18. Two such women have arrived at the HOME shelter since January 2012. The first arrived in Singapore in November 2009 aged 17 having been recruited by the Putra Sanjaya Perkasa agency in Jakarta, and the other arrived in Singapore in May 2011 aged 17 having been recruited by the Alkarim agency in Jakarta. Prior to their departure from Indonesia, both girls were given passports by their respective recruitment agents which showed their age to be 23. Their agents advised them both to confirm their age as 23 whenever asked. Another woman who participated in one of the focus groups explained that she recently went to the Indonesian Embassy in Singapore to have corrected the errors in her passport, which had previously concealed the fact that she was underage on arrival to work in Singapore. The Embassy asked no questions regarding these errors and did not initiate any investigation into the fraud. They simply amended the passport and sent her on her way.

Upon return to Indonesia

28. **Inadequate protection from discriminatory practices of recruitment agencies:** Migrant domestic workers who do seek to change employers as a result of the exploitative conditions under which they are being forced to work are often returned to Indonesia rather than being given the opportunity to continue to pay-off their recruitment fee by working for another employer. These women often return to Indonesia with a residual “debt” to their recruitment agency which they may be forced to repay through threats, violence and detention. One Indonesian migrant worker, who stayed in the HOME shelter in Singapore after leaving her employer due to ill-health, was met at the airport by her recruitment agent and taken to the training centre where she was held against her will until her family was able to pay the remaining recruitment fee. Whilst HOME endeavours to arrange from women to return home indirectly via an alternative airport to the one at which the recruitment agent will expect them, this is not always possible due to employers taking responsibility for purchasing flight tickets. Such practices make Indonesian domestic workers increasingly reluctant to seek change of employers before the end of their salary deduction period out of fear of what will happen to them on return.
29. **Treatment at Migrant Worker Terminal:** The experiences of those migrant domestic workers who have returned to Indonesia via the “migrant worker” terminal at Jakarta Airport are generally poor. Whilst it is understood that this terminal was established in response to incidents in which returning migrant workers were subjected to abuse due to inadequate protection, it is submitted that the “migrant worker” terminal serves only to make returning domestic workers more vulnerable to exploitation and abuse. Return to such a terminal makes such domestic workers very noticeable to either those who want to reclaim “unpaid” fees and/or to those who wish to take advantage of “wealthy” returning migrants. The families of such women are prevented from collecting them and they are forced rather to pay exorbitant amounts for pre-arranged transport to their home villages. Of the 17 questionnaire respondents who had travelled through the “migrant worker” terminal at Jakarta airport, 15 described the conditions as “poor” and two described them as “average”. Whilst the “migrant worker” terminal is intended to serve both male and female migrant workers, the fact that women make up the majority of the Indonesian migrant worker community means that this

practice has a particularly disadvantageous impact on women vis a vis men. Whilst the only specific “migrant worker” terminal is at Jakarta Airport, it is understood that similar terminals are being developed at Medan and Surabaya airports. In addition, reports were made to HOME of migrant domestic workers being required to provide their biodata and information about their onward travel plans to officials in the airports at Surabaya and Solo, enabling the authorities to monitor their movements. This is perceived as a restriction on the freedom of movement of returning migrant domestic workers which is discriminatory.

30. **Requirement to have KTKLN Card:** In 2004, the Indonesian government established a requirement for all migrant workers to hold a KTKLN identity card. It is only recently, however, that this requirement has been enforced and the perception amongst the Indonesian domestic workers in Singapore is that this is yet another administrative burden placed upon them for no reason. The understanding of these workers is that they must pay a fee of 290,000 rupiah for the card which lasts for two years. This card cannot be obtained in Singapore as the Indonesian Embassy does not have the equipment to issue the cards, informing some domestic workers that to do so would be too expensive, yet migrant workers understand that they are not able to return home to Indonesia and come back to Singapore without such a card. There is a lack of information available to domestic workers in Singapore regarding the purpose of the card and the benefits to which it entitles them. They view it as simply a requirement which will enable the Indonesian authorities to extort more money from them. One of the focus group participants explained that, to the extent that the card is intended to offer protection, this is protection which the government should already be providing to migrant domestic workers so it should not be necessary for them to pay for a card to demonstrate their entitlement to such protection.
31. **Lack of reintegration assistance:** Many of the migrant domestic workers interviewed by HOME expressed concern regarding their job opportunities upon return to Indonesia. Two-thirds of the questionnaire respondents rated their livelihood opportunities in Indonesia as “poor” or “average”. This is primarily a result of their low educational qualifications and also restrictive age requirements which reduce the number of available opportunities for those above 30 years of age. The perception is that the Indonesian government is not doing enough to assist migrant domestic workers in getting jobs upon their return. Whilst some interviewees were aware of the existence of government “reintegration programmes”, these are poorly advertised and it is the NGOs that are better known for providing the necessary assistance.

Summary

32. The overview above demonstrates that there are many different ways in which female Indonesian migrant workers experience discrimination throughout the recruitment, training and return process. The Indonesia government has taken some steps to protect migrant domestic workers through the enactment of Law No. 39/2004 on the Placement and Protection of Migrant Workers, yet there have been many complaints that this legislation is itself inadequate and is also poorly enforced by the National Agency for the Placement and

Protection of Indonesian Migrant Workers (BNP2TKI).³³ HOME-SMS-VIVA WANITA note the government's intention to review Law No. 39/2004 under the 2010-2014 National Legislation Programme,³⁴ and urges the Indonesian government to take into consideration its recommendations set out in Section D below when doing so.

Article 5

33. The Indonesian government has acknowledged that “there are still groups who attach the stereotype of women in supporting roles, servants, persons behind the screen, even as those who cannot (or are not allowed) to make an independent decision”.³⁵ Indonesian migrant domestic workers often experience treatment, particularly exploitation and verbal abuse, which is borne out of the persistence of such stereotypes. Indonesian domestic workers whom HOME has interviewed have reported being referred to with very derogatory terminology – such as “ayam” (meaning “chicken”) – by agents and employers.

Article 6

34. Article 6 of CEDAW requires the Indonesian government to “take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women”. When addressing issues of human trafficking, HOME-SMS-VIVA WANITA use the definition provided in Article 3 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Palermo Protocol) which states as follows:

- (a) *“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;*
- (b) *The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;*
- (c) *The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;*

³³ See, for example, complaints of Migrant Care, referred to in <http://www.thejakartapost.com/news/2012/01/03/house-overhaul-migrant-worker-law.html>.

³⁴ State report, Para 103.

³⁵ State Report, Para 31.

(d) "Child" shall mean any person under eighteen years of age.

35. HOME-SMS-VIVA WANITA and YDVW have identified trafficking occurring in Indonesia in the following ways:
- i) Trafficking of migrant domestic workers for labour exploitation in Singapore; and
 - ii) Trafficking of female sex workers for the purpose of exploitation of prostitution in the "sex farms" of Batam.

Labour trafficking of migrant domestic workers

36. HOME-SMS-VIVA WANITA have been carrying out extensive research into the patterns of trafficking amongst migrant domestic workers in Singapore and has identified numerous examples in which the following indicators of combine to present strong cases of labour trafficking:
- i) Recruitment from situations of severe financial difficulty in Indonesia which creates a financial vulnerability often abused by recruiters and employment agents.
 - ii) Deception upon recruitment regarding the nature of the work, the amount of salary, the amount of salary deductions and the entitlement to rest days.
 - iii) Coercion upon recruitment resulting from lack of freedom of movement and communication whilst staying in the training centre.
 - iv) Exploitative work practices in Singapore, including:
 - o Excessive working hours with no rest periods or rest day;
 - o Poor living conditions;
 - o Dangerous working practices;
 - o Low salary or salary non-payment; and
 - o Physical and verbal abuse.
 - v) Coercive practices at destination, including:
 - o Threats regarding repatriation prior to completion of salary deductions;
 - o Salary deductions themselves acting as a coercive practice to ensure migrant domestic worker does not leave within an initial period; and
 - o Lack of freedom of movement and communication.
37. HOME-SMS-VIVA WANITA submit that Indonesia's Law of Anti-Trafficking of 2007 is proving inadequate to eradicate the practice of trafficking of Indonesian women into domestic servitude in Singapore. Common practices of agencies and training centres in Indonesia – including deception upon the recruitment and the coercive practice of charging excessive recruitment fees – contribute to the process of trafficking to which many migrant domestic workers from Indonesia are subjected. Whilst Indonesian recruitment agencies and training centres continue to be insufficiently monitored and penalised for the use of such practices, the Law of Anti-Trafficking will also be ineffective.
38. Further, the absence of any provision in the Law of Anti-Trafficking which provides for extra-territorial effect means that it is not possible for the Indonesian authorities to use such legislation to address trafficking which takes place beyond their borders. Singapore does not have any specific anti-trafficking legislation. Whilst provisions relating to trafficking for sexual

exploitation are found in the Penal Code and the Women's Charter, there are no equivalent provisions recognising the offence of trafficking for labour exploitation. In March 2012, the Singapore government launched its National Plan of Action against Trafficking in Persons 2012-2015 in which it confirmed its commitment to working in partnership with neighbouring governments in order to eradicate human trafficking within the region.

Sex Trafficking into Batam

39. With a population of 1 million people, Batam has an estimated 6000 sex workers. In April and May 2012, HOME-SMS-VIVA WANITA carried out a joint sex worker research programme amongst 300 direct and indirect sex workers. This was done under the supervision of Professor Kayoko Ueno of the University of Tokushima. The research findings show that 7 % of the respondents were under 18 years of age and 30% were forced or deceived into sexual exploitation. These are strong indicators of the existence of sex trafficking in Batam. The research survey was conducted with direct sex workers operating in four of Batam's 8 sex farms (Teluk Padan, Teluk Bakau, Matbland and Marina) and indirect sex workers from two red light districts (Jodoh & Nagoya) which comprise of 175 bars, pubs, massage parlours and karaoke lounges.
40. At an onsite discussion with the head of the Sing Thai sex farm, HOME-SMS-VIVA WANITA discovered that this commercially run sex farm has been given free State land to operate their business. There are some 300 sex workers serving customers from the locality, including from Singapore, Malaysia and elsewhere. Women sex workers working in Sing Thai are referred to as 'ayam' or 'chicken' in a derogatory sense and kept in the farm under the supervision of their pimps. These sex workers would be seated outside the brothel huts every night waiting for customers. If they do not get customers, they will just have to wait the whole night through. Their earnings they receive from customers would go to the pimp earnings and for their ticket fare to return to their villages. Their freedom of movement is severely restricted due to the security measures at the sex farm, including high walls and barbed wire. Further, the head of the Sign Thai sex farm confirmed that women are not permitted to leave the sex farm enclosure without being accompanied by their pimp "for their own safety". It is HOME-SMS-VIVA WANITA's concern that this is further evidence of the coercion under which the women are working.
41. During HOME-SMS-VIVA WANITA's visit to Sing Thai sex farm, there was no indication that the government authorities have taken any precautions to ensure that trafficking for sexual exploitation does not occur. The head of Sing Thai explained that upon arrival in the enclosure, women are asked to sign a form confirming that they have come to the sex farm of their own free will and without force or coercion. HOME-SMS-VIVA WANITA consider this to be an inadequate measure to prevent trafficking given the influence which traffickers are able to exert over trafficked women during the recruitment and transportation process.
42. VIVA WANITA has case reports of two women who escaped from one of Batam's sex farms to take refuge in its shelter - Rumah Wanita. Both of these women were under the age of 18 and claimed to be trafficked for sexual exploitation. They were finally assisted financially to return home their villages in Java. Despite having in place an anti-human trafficking law, the presence

of sex farms supported by the Indonesian government – which make a mockery of this legislation - is of great concern to HOME-SMS-VIVA WANITA.

Article 7

43. As stated above, HOME-SMS-VIVA WANITA applaud the recognition by the Indonesian government of the importance of collaboration with civil society groups. Given the transnational nature of the discrimination faced by female Indonesian migrant workers, HOME-SMS-VIVA WANITA recommend that any such collaboration should also take into account the work which civil society organisations in neighbouring countries are doing in support of Indonesian citizens. For example, many Indonesian migrant domestic workers in countries such as Malaysia and Singapore are being assisted by civil society organisations in those destination countries and, as such, organisations such as HOME-SMS-VIVA WANITA have a valuable insight into the issues and suggestions regarding the solutions. HOME-SMS-VIVA WANITA recommend that the Indonesian government should formalise regular engagement with relevant non-Indonesian civil society organisations through Embassy officials.

Articles 10 and 11

44. Lack of education and employment opportunities in Indonesia are ever-present factors identified in the cases of Indonesian migrant domestic workers and trafficked women which HOME sees on a day-to-day basis. As stated above, HOME-SMS-VIVA WANITA acknowledge the Indonesian government's commitment to addressing the root causes of migration and trafficking, and specifically to improving education and employment opportunities for Indonesian women. It is recommended, however, that consideration should be given to how best to tailor such initiatives to meet the specific needs of those girls and women who are most at risk of becoming subject to labour exploitation and trafficking overseas. Generic gender mainstreaming and budget increases may not be sufficiently targeted to make a genuine and sustainable impact within the education sector. Further, it is not clear from the State Report what specific action is being taken to improve the employment opportunities for women in Indonesia as opposed to those initiatives addressed at improving the situation for migrant and non-migrant domestic workers (the inadequacies of which are discussed above in relation to Articles 2 and 3 of CEDAW).

Article 15

45. Article 15 of CEDAW seeks to ensure that women receive equal treatment to men before the law and that they have the same opportunities to exercise their legal rights. Irrespective of the Indonesian government's confirmation of the gender-neutrality of its national laws,³⁶ HOME-SMS-VIVA WANITA are concerned by the numerous factors which restrict the ability of migrant women workers and trafficked women to exercise their legal capacity in order to challenge the actions, for example, of their recruiters, agents and/or employers. Such factors include:

³⁶ State Report, Para 188.

- i) Lack of freedom of movement and communication whilst residing in training centres in Indonesia and whilst living in the homes of employers in destination countries;
 - ii) Threats from recruiters, agents and employers relating to the workers themselves and their families;
 - iii) Financial vulnerability which makes the earning of a salary (after the completion of an often lengthy salary deduction period) a priority over the physical and mental well-being of the worker;
 - iv) Lack of information regarding the options for redress which are available to the workers/trafficked women; and
 - v) Concerns about lengthy legal processes which will hinder the ability of the individual to move forward after an experience of exploitation and/or trafficking.
46. The above factors frequently combine to prevent and/or dissuade women from reaching out and seeking the legal assistance which they require, placing them in a position of inequality vis a vis those who are exploiting them.

D. Recommendations

International Legal Obligations

47. HOME-SMS-VIVA WANITA recommend that the Indonesian government should:
- i) Ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; and
 - ii) Ratify the ILO Domestic Workers Convention.

Domestic Legislation and Policy

48. HOME-SMS-VIVA WANITA recommend that the Indonesian government should:
- i) Incorporate its obligations under the Migrant Worker Convention into domestic law;
 - ii) Enact gender equality legislation which sets out a comprehensive definition of discrimination which acknowledges practices which are discriminatory against women either in effect and/or purpose;
 - iii) Formulate a comprehensive gender-sensitive and rights-based policy on the basis of equality and non-discrimination to regulate and administer all aspects and stages of the process of recruitment, training, employment and return of migrant domestic workers, to facilitate access to work opportunities abroad, promote safe migration and to ensure the protection of the rights of women migrant workers;
 - iv) Adopt regulations and design effective monitoring systems to ensure that recruiting agents, employment agencies and training centres respect the rights of all women migrant workers. The regulations should govern the conditions in training centres, the quality of training and the terms upon which recruitment agents can enter into agreements with recruits, including the prohibition of imposing recruitment fees upon the migrant worker rather than the employer. Accreditation of all employment and recruitment agencies should be a requirement of the regulations and should be subject to review annually. The monitoring systems should include regular unannounced inspections of training centres and sanctions for any agencies or centres which do not comply with the regulations. This system should also provide for an effective and efficient complaints mechanism whereby affected individuals and relevant third parties (such as family members and/or civil society organisations) can make complaints about employment agencies and training centres which fail to comply with the regulations. A list of accredited agencies should be publicly available as well as a list of those which have been blacklisted. Finally, it should always be possible for women to migrate for work without engaging the services of a recruitment agent and information on how to do this should be made available to potential migrant workers.
 - v) Ensure that women migrant workers have equal and independent access to travel documents which are not restricted in any way and are not tied to the employment agent;
 - vi) Review the operation of the “migrant worker” terminal at Jakarta Airport in order to assess whether the purpose for which it was established could be met through other means which do not violate the rights of returning migrant workers and which do not increase their vulnerability to abuse and exploitation upon such return;

- vii) Establish mechanisms to protect women against reprisals by recruiters, agents and/or employers upon return to Indonesia, including actions taken in relation to unpaid recruitment fees;
- viii) Conduct and support quantitative and qualitative research, data collection and analysis to identify the problems and needs faced by Indonesian women migrant workers in every phase of the migration process in order to promote the rights of women migrant workers and formulate relevant policies;
- ix) Develop and deliver pre-departure information and training programmes which are provided independently of recruiters and agents and which inform prospective women migrant workers of their rights and the options available to them if they experience any form of exploitation and/or ill-treatment at the hands of their recruiters, agents or employers;
- x) Provide free legal and administrative assistance to women migrant workers both prior to departure, during the period of employment overseas and upon return to Indonesia;
- xi) Facilitate the right of women migrant workers to return to Indonesia should they wish to do so, irrespective of the terms of their employment contract and any fees still owed to their recruiter, agent or employer;
- xii) Provide holistic and tailored reintegration and rehabilitation services to migrant women workers upon their return to Indonesia;
- xiii) Ensure the adequacy and availability of diplomatic and consular protection provided by the Indonesian Embassy in Singapore to Indonesian migrant women workers, including provision of interpreters, medical care, counselling, legal aid and shelter where necessary;
- xiv) Develop awareness-raising programmes aimed at the general public in Indonesia, including the families of women migrant workers, recruiters and potential employers which highlight the rights of women who engage in migrant domestic work and the key contribution which they make to Indonesia's economy;
- xv) Review the adequacy of implementation and enforcement of Law on Anti-Trafficking, particularly in known "hotspots" such as the sex farms and red light districts of Batam;
- xvi) Extend the scope of the Law on Anti-Trafficking to enable the extra-territorial application of its provisions so as to better protect Indonesian women and girls from trafficking into countries such as Singapore;
- xvii) Increase training of relevant duty-holders, such as police, immigration officials and employment agency licensing authorities to identify trafficked and potentially trafficked women based upon a common set of trafficking indicators;
- xviii) Raise awareness amongst the general public of the common set of trafficking indicators so as to encourage increased identification of trafficked and potentially trafficked women;
- xix) Collaborate with civil society organisations to carry out on-going research and data collection so as to identify the prevalent patterns of trafficking and to assess the effectiveness of anti-trafficking measures;
- xx) Engage in research to collate data from women migrant workers and trafficked women in order to establish the patterns of discrimination and/or inequality which they faced in education and employment in Indonesia so as to ensure that subsequent remedial initiatives are adequately informed and appropriately tailored to the evidenced needs; and
- xxi) Develop innovative and proactive approaches to ensure that migrant women workers and trafficked women have equal access to legal redress and that factors such as those listed above are overcome to enable them to be truly equal before the law.

International Co-operation

49. HOME-SMS-VIVA WANITA recommends that the Indonesian government should:
- i) Encourage other ASEAN member nations, including Singapore, to sign and ratify the Migrant Worker Convention;
 - ii) Urge the Singapore government to:
 - a. improve legislative protection for Indonesian domestic workers from exploitation based on the provisions of the Migrant Worker Convention and the ILO Domestic Workers Convention;
 - b. formalise all requirements by signing a Memorandum of Understanding with Indonesia and agreeing to a standard form contract in accordance with which all Indonesian migrant domestic workers should be recruited and employed;
 - c. demonstrate its commitment to eradicating trafficking into domestic servitude through the enactment of comprehensive anti-trafficking legislation and the restriction by legislation of exploitative employment practices; and
 - iii) Collaborate fully with civil society in destination countries such as Singapore in order to understand the challenges faced by Indonesian migrant workers and trafficked persons and the potential solutions.

APPENDIX

CASE STUDIES

“A”

“A” is from Jawa Tengah, Indonesia and she is 44 years old. She is married with a 24-year old daughter and a 10-year old son. Her husband is a government official in a small village and earns the equivalent of SGD100 per month. Her daughter is also a domestic worker in Singapore. “A” used to work on a farm but she did not earn enough to meet the financial needs of her family, including the costs associated with her son’s schooling and also the medical assistance he requires as a polio sufferer. This prompted her to find a job overseas that would pay her more money to help support the needs of her family.

In 2009, she approached an agency in Indonesia to help her make arrangements for her deployment for work in Singapore. She stayed in the agency’s training centre for four months and she courses while she was there.

The agent in Indonesia gave her some information about her prospective employer in Singapore. She was told what to expect in terms of household chores and daily duties in her employer’s house. She was told she would receive a monthly salary of SGD360 and that she would have 8 hours of rest each day. She was also informed of 8 months of salary deduction.

Upon arrival in Singapore, “A” discovered that she was expected to perform duties outside the house such as cooking for people in the mosque during prayer services. She also discovered that she was expected to start working at 5am and finish at 11pm which was more than she was told to expect while still in Indonesia. She therefore works 18 hours every day with almost no rest. She was only allowed very quick meal breaks for lunch and dinner. Her passport has been confiscated and is held by her employer. She was not permitted to leave the apartment of her employer other than when fulfilling her duties at the mosque and she does not have access to a telephone.

After 8.5 months with her employer, “A” ran away and sought HOME’s assistance.

“B”

“B” is from a small village near Solo in Central Java. She is 19 years old. She came to Singapore in November 2009 in order to assist her family with their financial needs. A friend recommended that she should contact the Putra Sanjaya Perkasa agency in Jakarta. She then stayed in the agency’s training centre for one month during which she received training in the English language and domestic skills.

On arrival in Singapore, Surati earned SGD350 per month. She had to endure a salary deduction period of 8.5 months and she was not entitled to a day off. She worked from 6am until 10pm with no rest. In addition to working in the home of her employer, she also worked for 3 hours each day at the stall which her employers ran in a food centre.

“B” was forced to massage her male employer for around one hour every day. After one year of working there, her male employer started to molest her during the massage sessions. His wife knew nothing of this, and when “B” contacted her employment agency to inform them, they scolded her and

did not care about her complaints. After two years, "B" did not want to renew her employment contract but her employer forced her to do so, threatening to send her back to Indonesia and to blacklist her if she refused.

Eventually, "B" ran away from her employer and sought HOME's assistance.

"C"

"C" is from Lampung in Sumatra. She is 26 years old and arrived in Singapore in March 2010 in order to earn money to support her family in Indonesia. She was recruited by the husband of her aunt who took her to the training centre in Tangerang – Rajasa Intama - where she stayed for 4 months prior to her deployment in Singapore. She was there with 700 other women and was not permitted to leave the centre for the duration of her stay.

Upon arrival in Singapore, "C" lived in a house with the mother and children of her employer as her primary role was to care for the two children. She also worked at the house of her employer. After a salary deduction period of 9 months, she would earn SGD350 per month. She worked from 7.30am until 11.30pm and did not have a single rest day throughout the 1.5 months that she stayed with this employer. She was eventually sent back to the agency as the grandmother of the children was not happy with her.

She subsequently stayed in the agency accommodation for 20 days during which time she was subjected to constant verbal abuse at the hands of her agent. She was then sent to the home of her second employer where she was responsible for cleaning a house in which 11 people lived. She was forced to share a bedroom with her employer, his wife and two children. She found it very difficult to sleep as it was so uncomfortable. She worked from 5.30am until midnight every day and was given no rest day.

The agent imposed a two month top-up to her salary deduction period when she changed to her new employer, so "C" then had to work for 10 months until April 2011 with no salary. Upon completion of her salary deduction period, she should have been receiving SGD350 per month but her employer has withheld her salary, telling her that he was keeping it safe for when she returns to Indonesia. Both her passport and work permit were held by her employer.

"C" became increasingly tired and stressed and tried to complain to her agent but was unable to reach them by telephone. She believes that the agency has closed down. "C" eventually ran away and sought the assistance of HOME.