Migrant Forum in Asia

FRAMEWORK SETTING AND INFORMATION PACKAGE ON

Migrants Right To Health

A Resource Reader

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by

Migrant Forum in Asia

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Migrants Rights International

Preface

This publication is meant to serve as an information and advocacy tool for non-governmental organizations working with migrant workers, and their advocates in the continual struggle to uphold the dignity and rights all migrant workers and members of their families.

It is an expression of the commitment of the Migrant Forum in Asia (MFA) to the securing of the right to health from a wider framework that upholds without discrimination or exclusion the right to health, dignity, and well-being of migrant workers and members of their families.

The information has been set out in V1 sections beginning with health as a basic human right and concluding with useful contacts of other groups and organizations working in the areas of migration and health. We would be happy to receive feedback on the sections and opinions additional sections that can be incorporated.

The publication is also an outcome of the 8th Regional Conference on Migration (RCM) of the MFA held in Dhaka, Bangladesh in October 2002. MFA participants at that Conference expressed the need to create greater awareness of the understanding and the right to health of migrant workers. Together with the MFA Training for Trainers Manual on "Migration, Heath and Gender (2004)" the information found in this publication can help further enhance capacity in advocating for the right to health of migrant workers and members of their families.

An ongoing health research being conducted by the Asian Migrant Center (AMC) and MFA in the region due in 2005 will further build on the resource material being made available on migration and health. It is our desire that these will be used extensively in the region.

We would like to thank the Ford Foundation for their support in this endeavor of ours and for the active collaboration they have extended and continue to extend in different ways. Our thanks are also due to the many migrant workers and members of their families whom we work with in the region for providing us with information that has helped us a network to crystallize our joint struggle into thematic areas one of which is migration and health.

We do hope that readers will find this publication useful and be able to decimate the information widely in our common goal for a just and humane world where the rights and dignity of every human being is upheld without exclusion.

William Gois
Regional Coordinator
Migrant Forum in Asia

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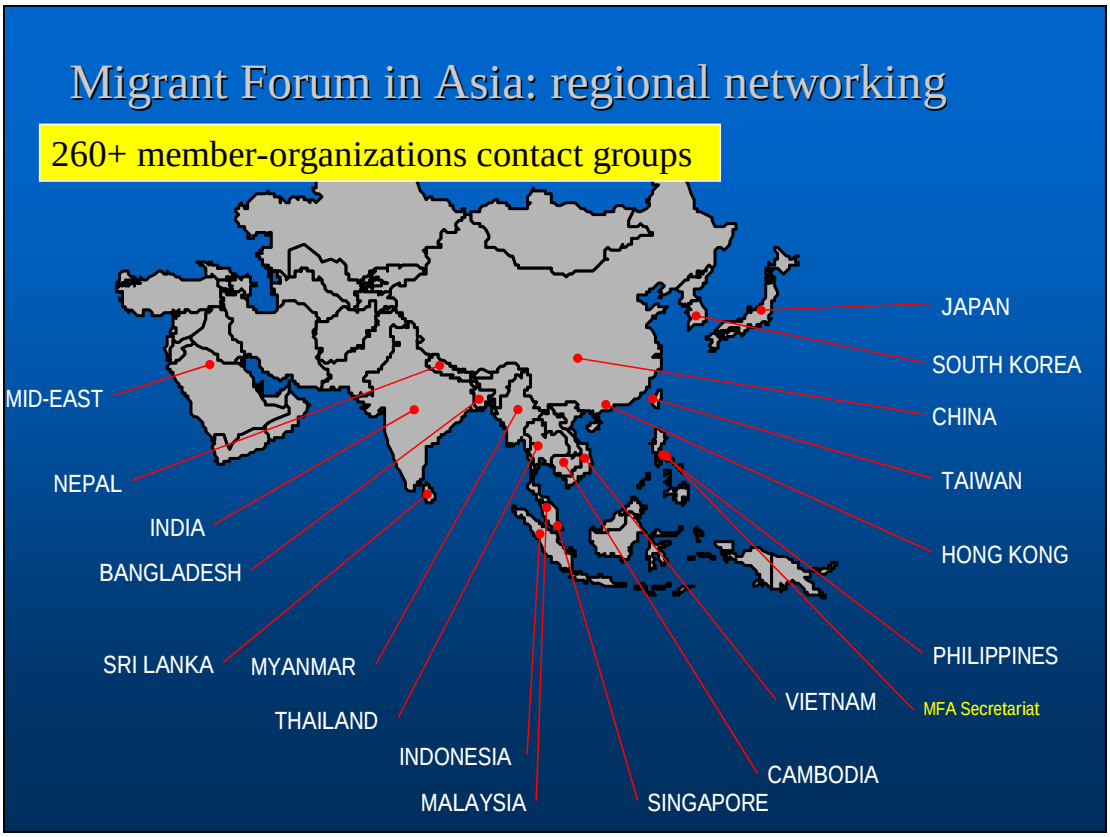
What is Migrant Forum In Asia (MFA)?

Migrant Forum in Asia is a regional network of non-government organizations (NGOs), associations and trade unions of migrant workers, and individual advocates in Asia committed to protect and promote the rights and welfare of migrant workers. It is guided by a vision of an alternative world system based on respect for human rights and dignity, social justice, and gender equity, particularly for migrant workers.

MFA acts as a facilitator, a regional communication and coordination point between member-organizations and advocates, forging concerted action to address discriminatory laws and policies, violence against women migrants, unjust living and working conditions, unemployment in the homeland, and other issues affecting migrant workers.



Why is MFA Focusing on Migrants' Health and Well-Being?

MFA members have witnessed how migrant workers' health is affected by the stress and hazards that they encounter during the different stages of migration. Overwhelmed by the desire to earn for the sake of their families, migrant workers place low priority to their health and personal well-being. This prompted MFA to dedicate its 8th Regional Conference on Migration, *"Migration and Migrant Workers' Health and Well-Being: Trends, Issues, Needs and Strategic Responses",* to discuss migrant workers health and well-being.

The Conference Declaration and Recommendations that came out of the 8th Regional Conference on Migration (Dhaka, Bangladesh; 9—11 October 2002) articulates MFA's commitment to pursue the advancement of migrant workers health and well-being and reads as follows:

MFA Dhaka Declaration, October 9-11, 2002

"We are 60 delegates representing migrant organizations, NGOs, trade unions, networks, international agencies, migration experts and advocates from 13 countries. We have gathered for the 8th Regional Conference on Migration (RCM) to specifically discuss the issue of "Migration and Migrant Workers' Health and Well-being." We are deeply concerned about the health and well-being of migrant workers and their families in Asia and in other parts of the world.

For many decades, migrant workers have made significant contributions to their own countries as well as in host countries. Without migrant workers, many of the migrant-sending countries' economies would have collapsed, and those of the receiving countries, not having attained their impressive economic performances. These significant roles and contributions have been made at an enormous cost to the life, health and well-being of the migrants and their families.

The present mode of mass labor migration is premised on "single-person migration," and the trade and commodification of human labor – treating migrants as mere economic tools, separating them from their families, uprooting them from the support systems of the family and the community, and negating the wholeness of their humanity. The types of jobs that are open to migrants are mainly the '3D' (dirty, demeaning, disdained) types. Because of these, the migrant workers suffer physical, mental and psychological ill-health. Foreigners, especially migrant workers, coming from poor countries are often subjected to various forms of discrimination, racism and xenophobia, and to multiple types of oppressions (class, gender, race). Women migrant workers in particular are faced with added vulnerabilities to all forms of violence against their bodily integrity and personhood.

The present political turmoil particularly in the Middle East and within the context of the US-led anti-terrorism campaign puts migrants at the greater risk to their life and security.

We, the participants of the 8th RCM, express grave concern over the continuing denial and erosion of the rights of migrant workers, particularly to life, health and well-being, as evidenced by the recent summary deportations and mass expulsion of migrants (e.g. Malaysia); the increasing incidence of HIV/AIDS; the high rates of occupational accidents and work-related diseases; the steady stream of migrant deaths; the high incidence of mental, emotional and psychological stress and distress; and the disintegration of many migrants' families.

Initiatives and efforts to address these health concerns have been inadequate and ad hoc. As a matter of justice, governments of both receiving and sending countries must now respond to the health and well-being of migrant workers and their families, and mobilize and allocate all the resources needed.

We call on the governments to fulfill their obligations to the Universal Declaration on Human Rights and various international human rights treaties. These international instruments set the basic standards in upholding migrants' health and human rights. We renew our long - standing call on all governments to ratify the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families – which now have 19 State-parties, and will become an international treaty after the 20th ratification.[1] We specifically met in Dhaka to call on the Bangladeshi government, which has already signed the convention, to become the historic 20th State-party and pave the way for the treaty's entry into force.

The right to health is the right to life. No migrant worker and migrant family should be deprived of this.

We, further commit ourselves, and call on other supporters and advocates, to undertake the attached recommendations on strategic action."

Adopted by the 8th Regional Conference on Migration, 9-11 October 2002 Dhaka, Bangladesh.

The participants of the 8th Regional Conference on Migration held from 9—11 October 2002 in Dhaka Bangladesh.

[1] The UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families entered into force as part of international human rights law on 1 July 2003. As at 24 November 2004, the Convention has 27 State Parties.

What is the use of this resource reader?

This resource reader aims to facilitate the process of addressing migrant workers' health and well being by:

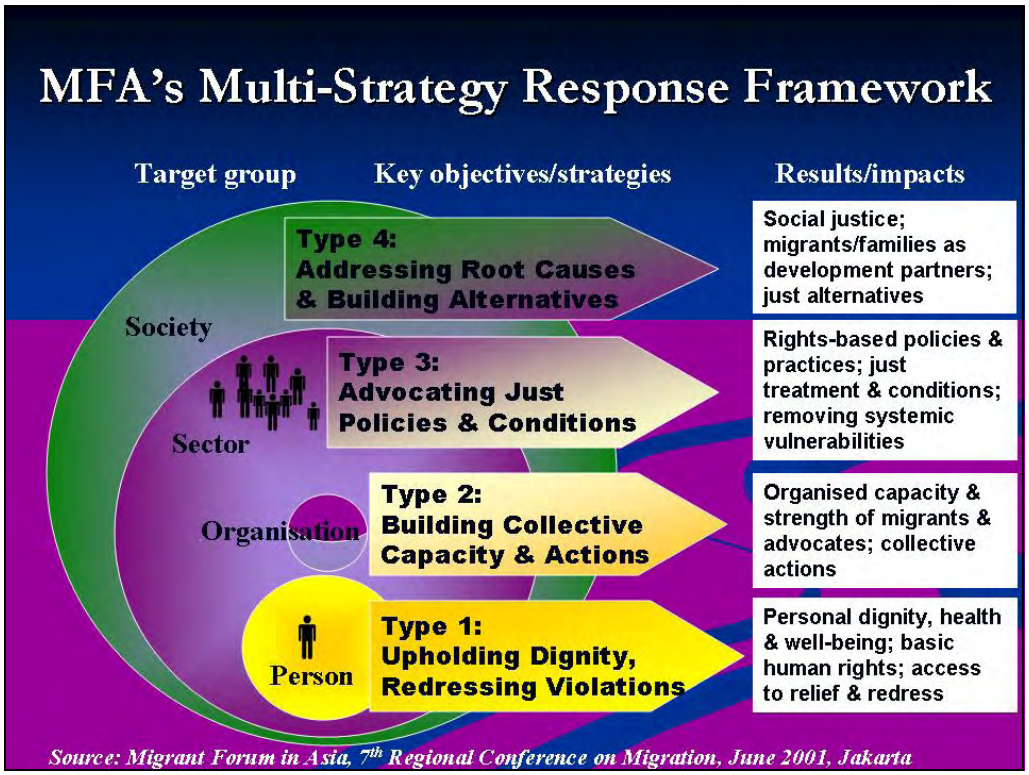
1. Setting the framework on the right to health, based on a rights-based approach and reflective of the realities that migrant workers and members of their families face in the whole migration process;

2. Identifying the various international legal instruments that promote and guarantee migrant workers' right to health;

3. Addressing the issues of migrant workers' health and well-being by offering perspectives towards strategies and advocacies at all levels of engagement.

4. Providing an information package that can be used by migrant workers, migrants' rights advocates, support groups, and non-governmental organizations in defending and promoting the basic human right to health of all migrant workers and members of their families.

5. This falls within the MFA's overall program of action as formulated in the 4-level strategy in addressing



"Effectively promoting the right to health will require identifying and analyzing the complex ways in which discrimination and stigma impact on the enjoyment of the right to health of those affected, with particular attention to women, children and marginalized groups such as racial and ethnic minorities, indigenous peoples, persons with disabilities, people living with HIV/AIDS, refugees and the internally displaced and migrants."

- Mr. Paul Hunt, UN Special Rapporteur on the Right to Health

Asian labour migration:

I. Health is a Basic Human Right

The Universal Declaration of Human Rights states that all human beings are born free and equal in dignity and rights and that these rights and freedoms are entitled to every person "without discrimination of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property or other status."

The right to health is a basic human right, inherent in all human beings, indivisible from the whole body of human rights, and is entitled to every human being without discrimination. Such right is guaranteed in the International Bill of Rights[2] and in the core human rights instruments of the United Nations, namely: the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), Convention Against Torture (CAT), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention on the Rights of the Child (CRC), and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW).

For migrant workers and their families, the right to health is entitled and guaranteed in international human rights law regardless of the migrant's immigration status. Such right is elaborated in the abovementioned international human rights conventions, and in the instruments by the International Labor Organization and the World Health Organization (see following section).

In international law, migrants are entitled to "the enjoyment of the highest attainable standard of physical and mental health."[3] The realities they face, however, are unfortunately different. The Special Rapporteur on the Rights of Non-citizens, Mr. David Weissbrodt, has concluded based on his review of international human rights law that "there is a large gap between the rights that inter-

[2] International Bill of Rights refers to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights.

[3] Universal Declaration of Human Rights, International Covenant on Economic, Social, and Cultural Rights, Convention on the Rights of the Child, Convention Against All Forms of Discrimination Against Women, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

national human rights law guarantee to non-citizens and the realities they must face."[4] Migrant workers and members of their families, who are among the more vulnerable group of non-citizens in the host countries, are often placed in situations where their right to health is violated or is deprived them. In many cases, the access to health care is simply absent due to their vulnerable situation. The case is even worse for undocumented migrant workers and many women migrant domestic workers, who by their migration status or lack of coverage of their work within domestic legislation,[5] are simply outside the protection of the law. These groups of people are often placed outside the basic social support systems, among which is health care. Moreover, in the current mode of globalization, a dominant scheme in moving workers across borders, often referred to as labor migration, favors seasonal or temporary work, which is essentially a "single person migration." Temporary-based single person migration exposes migrant workers to harsh working and living conditions, such as separating them from families back home, i.e. the absence of family reunification, discriminating them from full social security coverage, health care, education, and support for integration in the host country.

The local host organization of the 8th RCM, Welfare Association of Repatriated Bangladeshi Employees (WARBE), with some of their members.

Migrant Forum in Asia (MFA), in its 8th Regional Conference on Migration in Dhaka, Bangladesh on 9-11 October 2002, has identified this poor and discriminatory working and living condition among migrant workers and their families as contributing to the violation of their right and access to health. MFA asserts that the right to health is the right to life. No migrant worker and migrant family should be deprived of this right. Initiatives and efforts to address the health concerns of migrant workers and their family members have been insufficient and in many cases, the solutions that were provided are not durable. As a matter of justice, governments of both receiving and sending countries must urgently respond to the health and well-being needs of migrant workers and their families, and must support this with the necessary resources.

The UN Committee on Economic, Social, and Cultural Rights[6] in its General Comment No.14 reiterated that State parties have immediate obligations in relation to the right to health, such as guaranteeing that this right will be exer-

[4] UN Document, E/CN.4/Sub.2/2003/23 (2003). Final Report of the Special Rapporteur on the Rights of Non-Citizens, Mr. David Weissbrodt, under the UN Sub-Commission on the Promotion and Protection of Human Rights.

[5] In many host countries receiving migrant domestic workers, there is still the lack of proper legislation covering domestic work as work, therefore excluding from the coverage of basic labor standards, employment contracts, and other basic workers' rights. See also UN Document E/CN.4/2004/76 (2004), "The Human Rights of Migrant Domestic Workers," Report of the UN Special Rapporteur on the Human Rights of Migrants to the 60th Session of the Commission on Human Rights.

[6] The UN Committee on Economic, Social, and Cultural Rights is the Treaty Body monitoring the implementation of the International Covenant on Economic, Social, and Cultural Rights, adopted by the UN on 16 December 1966. The Covenant is currently ratified by 151 States.

cised without discrimination of any kind, as well as the obligation to undertake measures towards the full realization of this right.[7] The Committee identifies three types or level of obligations on States parties, namely: the obligations to respect, to protect, and to fulfill.

> *"The obligation to respect requires States to refrain from interfering directly or indirectly with the enjoyment of the right to health. The obligation to protect requires States to take measures that prevent third parties from interfering with article 12 guarantees (right to health). Finally, the obligation to fulfill requires States to adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures towards the full realization of the right to health."*[8]

Finally, all members of the international community must strive to ensure that these obligations to respect, protect, and fulfill the right to health are met. The full realization of the right to health for everyone, citizens and migrants alike, contributes to building strong and healthy societies, ensures respect, and promotes the sustainable development of every member of the human community.

[7] General Comment No. 14, Committee on Economic, Social, and Cultural Rights, UN Document No. E/C.12/2000/4 (2000).

[8] Ibid.

Box 1. MIGRANT WORKERS' RIGHT TO HEALTH AND WELL-BEING

Respect	Protect	Fulfill
Countries of origin: 1. Provide pre-departure briefing which includes the following: • migrant workers' right to health and well-being • adequate information on occupational hazards and ways to prevent occupation related accidents • adequate information on infectious and transmissible diseases e.g. SARS (Severe Acute Respiratory Syndrome), HIV/AIDS etc. 2. Ensure the privacy of workers who contracted infectious diseases. **Countries of employment:** Respect migrant workers' rights regardless of visa status.	**Countries of origin:** 1. Adopt national legislation/s to protect migrant workers health throughout the migration process in consonance with the International human rights standards. 2. Ensure the establishment of consulates/embassies in countries where there are many migrant workers with diplomatic staff trained to handle the problems/needs of migrant workers. 3. Train diplomatic staff to be gender sensitive. 4. Train diplomatic staff to take care of migrant workers health and well-being regardless of visa status. 5. Ensure the provision of local and well paying jobs so that workers do not have to cross borders to look for work. 6. Conduct and organize direct medical mission where appropriate e.g. in labor camps, detention camps, etc. 7. Stop/reform discriminatory policies towards migrants, e.g. ban on women from migrating. 8. Improve government policies/ practices on regulating and monitoring recruiters. 9. Forge bi/multilateral agreements protecting migrant workers. 10. Ensure mandatory health insurance for all migrant workers, which covers all phases of migration. **Countries of Employment:** Stop mandatory medical testing; properly treat instead of summarily deporting sick migrants. **All countries:** Ratify and implement international human rights instruments especially the UN Migrant Workers' Convention.	**All countries:** Ensure the fulfillment of all human rights instruments particularly the following: 1. Universal Declaration of Human Rights particularly Article 25(1) which states that "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. 2. International Covenant on Economic, Social and Cultural Rights (ICESCR), Art.12. 3. International Covenant on Civil and Political Rights 4. (ICCPR), Art. 6. 5. International Convention on the Elimination of All Forms of Racial Discrimination, Art.5. 6. Convention on the Elimination of All Forms of Discrimination Against Women. 7. Convention on the Rights of the Child. 8. International Labour Organization (ILO) Conventions, particularly. C97 (revised), 1949, and C143. 9. International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.
Prepared by Y.G. Ealdama, MFA Secretariat		

"The right to health is closely related to and dependent upon the realization of other human rights, as contained in the International Bill of Rights, including the rights to food, housing, work, education, human dignity, life, non-discrimination, equality, the prohibition against torture, privacy, access to information, and the freedoms of association, assembly and movement. These and other rights and freedoms address integral components of the right to health."

- General Comment No. 14, UN Committee on Economic, Social, and Cultural Rights
(Experts' Treaty Body to the International Covenant on Economic Social, and Cultural Rights)

II. Why Promote Migrants' Right to Health?

SARS infected many migrants in Hong Kong, Singapore, Taiwan and Canada and many migrant workers were discriminated in their home countries at the height of SARS outbreak. *(Courtesy of Asian Migrant Centre)*

ISSUES AND CHALLENGES

International human rights law and labor standards promote and guarantee the right to health for all migrants and members of their families. These human rights norms and labor standards are translated and reflected into national policies where the realization of such rights take place. However, due to the various realities that migrants must face in the whole migration process, i.e. in both sending and receiving countries, the right and the access to health for migrants remain as a challenge in the overall struggle to promote the recognition and respect for migrants' rights. The following are some key issues and challenges:

1. Public Health vis-à-vis Migration Health

The Constitution of the World Health Organization (WHO) defines health as "a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity." Within the context of migration, this translates into the physical, mental and social well-being of mobile populations and communities affected by migration.[9] In this day and age of global mobility, migration certainly has impacts on public health. Public health as defined, is "the science and art of promoting health, preventing disease, and prolonging life through the organized efforts of society."[10] However, over the last two decades, there has been a move towards a "new public health": one that relies less on exclusion and screening and moves more towards

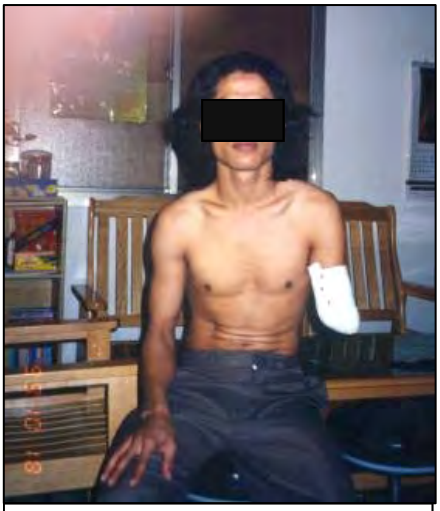
[9] International Organization on Migration, "Migrant Health for the Benefit of All", Geneva, 8 November 2004.

[10] Ibid.

[11] UNAIDS and the IOM, "Migrants' Right to Health," Geneva, March 2001, p. 22.

inclusion and cooperation with the relevant population.[11] Indeed, migrant workers, documented or undocumented, are part of society. Emotionally blaming migrants as a burden to society's health and social security system, thus ignoring their health and well-being needs, ultimately affects the overall situation of public health in host countries. As a UNAIDS report aptly illustrates by way of example in the experience of addressing the problem of HIV/AIDS: "As long as illegal and undocumented migration continues to be viewed only in relation to security and national interests, public health will be neglected." [12]

Thus, in the pragmatic view of public health, host countries' investment and attention on migrants' health and well-being will actually result to preserving the public health situation of the whole community. More importantly, public health is holistically dealt with, vis-à-vis migration health, which addresses the needs of individual migrants together with public health needs of host communities through policies and practices relating to the growing challenges faced by mobile populations today.[13] At the same time, such approach also incorporates basic human rights norms, such as the principle of non-discrimination, where host societies treat public health and migration health altogether, thus moving towards inclusion, equality, non-discrimination, and participation including by the migrants themselves, in ensuring health for all.



Thai migrant victim of a factory accident in Taiwan. (*Courtesy of Asian Migrant Centre.)*

2. Occupational Safety and Health

According to the International Labor Organization (ILO), there are two aspects of health issues for migrant workers: (a) occupational safety and health at the workplace, and (b) general health conditions of the workers and their families. These two aspects are closely interrelated.[14] Migrant workers, by their status as non-citizens and more often, as temporary workers in the host countries, are placed in situations of vulnerability and risk. These situations can include migrants' tendency to be employed in high-risk sectors (such as the 3D jobs – dirty, demeaning, and dangerous), language and cultural barriers in both working and living conditions, exploitative working conditions such as long hours, heavy menial work, and exposure to occupational injuries and other work-related diseases.

[12] UNAIDS, "Migration and HIV/AIDS", paper presented for UNAIDS Programme Coordinating Board Meeting, December 1998.

[13] IOM, Ibid.

[14] ILO, 'Towards a Fair Deal for Migrant Workers in a Global Economy," Report presented to the 92nd Session of the International Labor Conference, Geneva, June 2004, p.64-66.

An ILO Tripartite Meeting on Migration in Asia in 2003 draws the following summary:

> *"Safety and health issues for migrant workers are a major concern as they may be involved in hazardous and risky jobs. Language barriers, exposure to new technology, family disruption, poor access to healthcare and stress and violence, are the specific problems faced by migrant workers leading to higher vulnerability to safety and health risks at the workplace."*[15]

Particularly in the case of undocumented migrant workers, they accept these difficult and dangerous working and living conditions for fear of inviting attention to themselves, losing their jobs, and being deported.

The UN Migrant Workers Convention promotes and protects the basic human rights and labor standards for all migrant workers and members of their families regardless of migration status. It also prescribes a comprehensive set of rights and standards applying to regular migrant workers in all stages of the migration process, i.e. decision to migrate, information on rights and responsibilities, employment contracts, social security, education and learning, family reunification, compensation, health care, and transfer of remittances. The core ILO Conventions embodying the ILO's Fundamental Principles and Rights at Work, including the ILO Migrant Workers Conventions, No. 97 and 143, promote these rights and basic labor standards for migrant workers (See Section III).

Box 2. The Case of Chinese Migrant Workers

Employers throughout West Asia often refer to their "diligent and hard working Chinese workers." For Chinese migrants who land the jobs they are promised, the trip to Jordan or Israel can pay off. Most contracts are for two years, and the minimum going rate is USD740 per month for the 6,200 Chinese migrants in Jordan, and up to USD1,000 in Israel.

Most workers in Jordan are employed in garment factories owned by Hong Kong or Taiwanese companies, while in Israel, construction work is the main source of employment for the 30,000 regular and irregular migrant workers from China. Even for the 8,000 registered workers, accommodation usually comes in the form of a corrugated shed with limited running water and intermittent electricity. Language problems rule out any but the bare minimum contact with local people, and disputes with bosses often end with dismissals. For the many undocumented migrants, there is a constant fear of discovery. Even when Chinese migrant builders were hurt in a bomb attack in Tel Aviv, for example, the majority of those injured did not seek treatment in the hospital, despite assurances from the police of temporary amnesty.

Source: Asian Migrant Yearbook 2002-2003: "Migration Facts, Analysis, and Issues." Jointly published by the Asian Migrant Centre and the Migrant Forum in Asia, 2004.

[15] ILO, Summary and Conclusions, ILO Regional Tripartite Meeting on Challenges to Labor Migration Policy and Management in Asia, 30 June-2 July 2003. Cited in ILO, see note 14.

3. Asylum, Refugee Flows, and Migrants in Detention

These days, the response of States towards security concerns and terrorism is predominantly characterized by the imposition of stricter immigration policies and procedures, harsher punishments, and strong militarization of entry points. Consequently, these measures result in increasing numbers of migrant detentions and frequent cases of accidents and deaths involving migrants who have desperately resorted to clandestine means. Many of these flows are often a mix of refugees, asylum seekers, and economic migrants – all of whom are in desperate search for safety, security, and better lives in countries other than their own.

Increased incidents of border deaths, drowning, or suffocation by migrants who have traveled for long days in cramped transportations are now the unintended results of state policies merely oriented towards one direction, i.e. national security. Also as a consequence, the evils of trafficking continue to proliferate, with trafficking becoming a lucrative and much sought-for business in the absence of transparent, human rights-respecting, regular channels for migration. As is currently the case, the personal security and health situation of migrants are highly at risk, thus the need for urgent attention and international cooperation on this rising problem. Further, in response to influxes in migrants' arrival, host governments have set up migrant detention centers where they can process, screen, and administer migrants before deciding to allow them to settle in the host country. Towards irregular migrants already present in the country, governments implement massive crackdowns, detentions, and deportations, hoarding migrants in large numbers with very little or no respect for their dignity and human rights. In these actions, the primary casualty

Courtesy of Asian Migrant Centre

is the health and well-being of the migrants. Migrants in detention, or in summary deportation, experience gross violations of their basic human rights and dignity as persons. Rape, sexual harassment, physical abuse, absence of maternal and child health care, lack of sanitation, lack of medical treatment, and inhumane living conditions are commonly reported cases happening in detention centers and migrant prisons.

The UN Special Rapporteur on the Human Rights of Migrants presented in her 2003 report to the UN Commission on Human Rights the situation of "migrants deprived of their liberty." She enumerated the inhumane treatment and violations of migrants' basic human rights while in detention. She called on the attention of States to address these human rights violations and likewise made specific recommendations for immediate action. Her recommendations include: *emphasizing the duty of consular offices in ensuring the safety and well-being of their citizens who are the detained migrants in the host country; providing interpretation services to migrants in detention; facilitating access to legal services; providing the necessary physical, mental, maternal, and child health care (including attention to the detention of migrant children); and implementing human rights training for law enforcers, border police and immigration per-*

sonnel, among others. The Special Rapporteur also highlighted the role of non-governmental organizations in providing direct and urgent assistance to migrants in detention, such as access to lawyers, regular visits, counseling, and various other care services.[16]

4. Migration of Health Workers

The migration of health workers is a serious concern within the whole debate on international labor migration. Health workers, e.g. doctors, nurses, medical technicians, care givers, etc. migrate, often from the developing countries to industrialized countries, in order to provide services and to engage in permanent migration. It is estimated that more than 20% of physicians working in Australia, Canada, and the USA come from other countries.[17] This migration of health workers has serious impacts in both sending and receiving countries, and thus require critical policy decisions at the national, regional, and international level in order to effectively manage the growing phenomenon.[18] Two major impacts on the sending countries of this type of migration are "brain drain" and the deterioration of health service delivery particularly in the case of developing countries. Likewise, for migrant-sending countries where capacity for reinvesting in the education system is limited, losing health care personnel may result in serious deficiencies in health care services available to local communities and hindering progress of developing countries in their national health development plans,[19] and ultimately, the depletion of the human social capital that is critical in a nation's development.

In the same vein, the liberalization of health-related services under the General Agreement on Trade in Services (GATS) in the World Trade Organization (WTO) leading to the rapid privatization and commercialization of health services without regard to equity and accessibility issues, aggravated with pressures to reduce public spending in health, can be particularly harmful to human development.[20]

Furthermore, on the poverty-related migration of health workers, a recent study by Public Services International (PSI), a global federation of unions representing 20

[16] UN Document E/CN.4/2003/85 (2003).

[17] Diallo, Khassoum, "Data on the Migration of Health-Care Workers: Sources, Uses, and Challenges." Bulletin of the WHO, August 2004, 82 (8). Available at http://www.who.int/bulletin/volumes/82/8/en/601. Last accessed 3 December 2004.

[18] Ibid.

[19] WHO, "International Migration, Health and Human Rights", Geneva, 2003, p.11.

[20] UNDP, Making Global Trade Work for People, New York, 2003, p. 269.

million workers involved in the delivery of public services, conducted in the health sector in 13 countries, confirms that out-migration "has exacerbated understaffing and contributed to nursing shortages. The shortage of nursing staff has had adverse effects on the conditions of work, particularly with regard to increasing patient volumes and work overloads."[21] Consequently this also has negative impact on the ability to provide good quality care to patients. Meanwhile, migrant health care workers are also confronted with factors affecting their working and living conditions in the host countries. In the PSI study, it was found that the vast majority of the nurses would have preferred to remain in their home countries had decent wages been available. Migrant health care workers frequently encounter racial and gender discrimination in host countries. In the case of women health care workers, there is high social cost as regards to their families and to their children who are left behind. Likewise, it has also been found that the benefits for receiving countries are often underestimated vis-à-vis the real but "hidden training cost" for sending health workers abroad, the extent to which their skills are actually utilized, and the cost of integration. On the contrary, the cost of migration is even higher in instances where there is the "deskilling" of health professionals, e.g. the case of Philippine doctors training and working as nurses overseas in order to earn decent wages and to have better living conditions for themselves and for their families.[22]

5. Mobility and HIV/AIDS

In their response to the issue of migration and HIV/AIDS, the Joint UN Program on HIV/AIDS (UNAIDS), working together with the IOM, identifies the issue of HIV/AIDS and migration as a complex relationship. They state that: "although some people think that migrants mainly bring HIV when they enter countries, evidence usually shows the opposite, suggesting that migrants are more vulnerable than local populations."[23] Likewise, migrants' exclusion from health information and services also increases their vulnerability to HIV/AIDS. This myth that migrants are carriers of HIV has created the wrong public perception towards migrants, adding to their stigmatization and exclusion in the host society. This misconception should be rectified as with the UNAIDS and IOM's effort to make this complexity between HIV/AIDS and mobility clear in their programs and activities.[24]

Furthermore, the justification for mandatory AIDS testing, which forms part of the screening procedures for many prospective Asian migrant workers, needs to be questioned. Such procedure is actively opposed by many migrant workers organizations and migrants' rights advocates claiming that this violates basic human rights, i.e. right to freedom, privacy, and dignity of persons, and contributes to discrimination and stigmatization of migrants. The joint UNAIDS/IOM statement on HIV/AIDS-related travel restrictions has this to say:

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[21] Public Services International, "Women and International Migration in the Health Sector: Final Result of PSI Participatory Action Research 2003." Prepared by Kim van Eyck, Ph.D. PSI: France, June 2004.

[22] See reports, The Philippine Daily Inquirer, www.inquirer.int.

[23] UNAIDS and IOM, see note 11.

[24] Ibid.

> *"While recognizing that control of a country's borders and matters of immigration fall under the sovereign power of individual States, national laws and regulations should ensure that people living with HIV/AIDS are not discriminated against in their ability to participate equally to those without HIV in international travel, in seeking entry into a country not their own, and in seeking to remain in a country not their own. Not only is this justified from the point of view of the principle of non-discrimination, it is also justified from the point of view of sound HIV prevention and care strategies, as the greater involvement of people living with HIV/AIDS can increase the effectiveness of these strategies. People living with HIV can now lead long and productive working lives, a fact that modifies the economic argument underlying blanket restrictions: concerns about migrants' drain on health resources must be weighed with their potential contribution."*[25]

Indeed, the discriminatory treatment towards persons with HIV/AIDS, whether they are citizens or migrants, should be consciously addressed. In general, migrants should not be prevented to contribute socially and economically to societies by reason of their health conditions. Many host countries engage in the practice of dismissing or deporting sick migrants, often without providing the mandatory compensation, and utterly disregarding urgent health needs which will not be available if the migrant is sent home. ***This is comparable to the principle of non-refoulement, where no person should be returned to the country where his life or freedom would be threatened, or he will be subjected to torture.***[26] ***Likewise, it is also considered a violation of international law if the act of sending the person back would be tantamount to the deprivation of his right to life, protection of family unity, interest and right of the child, right as migrant worker, and other basic human rights, including the right to health.***[27]

6. Racism, Racial Discrimination, and Xenophobia

The UN Special Rapporteur on the Right to Health reports that social inequalities, driven by discrimination and marginalization of certain groups, shape both the distribution of diseases and health outcomes of those who are afflicted. He adds, "as a result, the burden of ill-health is borne by vulnerable and marginalized groups in society. " Migrant workers and their families are identified as among those "vulnerable and marginalized groups," deprived of access to health services and the entitlement to their basic human right to health. Undocumented migrant workers, in particular, suffer poor health conditions, are totally without health care, and in certain cases resort to self-treatment despite the gravity of their conditions. In international human rights law, migrant workers must be able to receive urgent health care, regardless of their status. As provided for in the UN Migrant Workers Convention:

> *"Migrant workers and members of their families shall have the right to receive any medical care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their health on the basis of equality of treatment with nationals of the Sate concerned. Such emergency medical*

[25] UNAIDS/IOM Statement on HIV/AIDS Related Travel Restrictions, June 2004, p. 10.

[26] Ibid., p. 6.

[27] Ibid..

care shall not be refused them by reason of any irregularity with regard to stay or employment." [28]

Furthermore, in the global fight against racism, racial discrimination, and xenophobia, the 2001 UN World Conference Against Racism has identified how migrants are denied of their basic right to health as a manifestation of racism, racial discrimination, and xenophobia. With about 45 paragraphs in the Durban Declaration and Program of Action addressing the human rights of migrants, the Conference has established specific recommendations urging States to prohibit discriminatory treatment against migrant workers concerning the granting of health care[29] and to take all possible measures to promote the full enjoyment by all migrants of all human rights, including those related to access to health care and social services.[30] Furthermore, the UN Commission on Human Rights and the Committee on Economic, Social, and Cultural Rights argue that "with respect to the right to health, States have an obligation to ensure that health facilities, goods and services - including the underlying determinants of health – are accessible to all, especially the most vulnerable or marginalized sections of the population, without discrimination.[31]

7. International Labor Migration

Of the 175 million international migrants today, more

than half, or about 86 million are economically active. Current international migration is driven by economic reasons, ranging from serious situations of extreme hunger and poverty to the quest of human beings to find better economic opportunities for themselves and for their families. Therefore, migration for work encompasses a huge portion of the current international migration. In this phenomenon, the right and access to health of migrants becomes a serious consideration that must be guaranteed so that migrants and societies can enjoy the full benefits of labor migration. However, the current reality is not always the case. Presently, labor migration, particularly from developing to developed countries largely consists of temporary work, such as those that are tied to agriculture, construction, manufacturing, health services, and domestic services. These are sectors of the economy that fail to attract native workers because they are characterized by seasonality of production, a large number of producers in highly competitive global production chains, low technology, and high firm turnover.[32] Naturally, these types of work

[28] Art. 28, UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

[29] Durban Program of Action, par. 81.

[30] Ibid, par. 30 (g).

[31] UN Document E/CN.4/2003/58 (2003), Report of the Special Rapporteur, Paul Hunt, submitted in accordance with Commission resolution 2002/31.

[32] ILO, "Towards a Fair Deal for Migrant Workers in the Global Economy," Geneva, June 2004, p.48.

are restricted to a single person migration, where entry and residence is strictly tied to the employment and/or the employer. In no case is family reunification allowed. In some cases, women domestic workers are discriminated from work if they are found to be married on the assumption that they will get pregnant during the period of stipulated contract. Many employers fire women migrant workers for becoming pregnant.

In general, the vulnerability of migrant workers is heightened in such temporary labor migration schemes. Temporary migrant workers are often excluded from wage protection and from social security programs as a result of strict residence requirements.[33] Likewise, temporary jobs that are disproportionately filled in by migrants may be excluded from the full coverage of wage laws and benefit program, including access to comprehensive health care. Temporary migrant workers are also placed in poor housing conditions with lack of clean water or sanitation. Often, they are placed in mass accommodation in solitary places called "labor camps" for the duration of their contract period.

In situations like this, primary health care and consideration for the mental and psychosocial health of the migrant worker borne out of pressure from separation from home and family and adjusting to new environment are absent or take low priority since the migrant worker is only welcomed mainly for the temporary labor that he or she can provide.

Therefore, the structural features of the sectors employing migrants dictated upon them by host countries need

Box 3. Migrant Women in "Kosian" (Korean-Asian) Families

Domestic violence is a serious problem in South Korea, and migrant women usually suffer more, as they do not have community support. In early 2003, a Filipina migrant fell to her death from her apartment as she was fleeing from attack by her husband. This case brought to prominence the issue of domestic violence within Kosian (Korean-Asian) families. According to figures form the Korea National Statistical Office, the number of marriages between Korean men and foreign women stood at 5,775 in 1999; this rose to 11,017 in 2002. The figures in 2002 show that 63.9% of these women were ethnic Koreans from China, 15% from Southeast Asia including the Philippines, and 8.7% from Japan. In a recent survey of 100 foreign women married to Koreans in Gwangju and South Joella provinces, 30 responded that they were suffering from violence at home, and 57 replied that they were physically abused. In order to prevent this situation from getting worse, a local women's organization, the Korea Women's Hotline, extended its services on domestic violence to migrant women.

Apart from domestic violence, Kosian families also suffered from discrimination in society. Kim Young-im, Director of the Kosian House at the Ansan Migrant Shelter, reported that some children born in Ansan are not even registered, so they don't receive proper protection or benefits. Some Kosian children even gave up going to school because their peers teased them for having a different appearance.

Source: Asian Migrant Yearbook 2002-2003: "Migration Facts, Analysis, and Issues." Jointly published by the Asian Migrant Centre and the Migrant Forum in Asia, 2004.

[33] Ibid.

to be seriously looked at, vis-à-vis their human rights situation and application of labor standards. This situation is expected to increase in the light of intensifying labor migration driven by globalization, trade liberalization, economic inequalities, and the demographics of the ageing population in many industrialized countries.

8. Feminization of Migration

International migration today is characterized by the increasing number of women migrating for work in sectors such as manufacturing, health care, and domestic services. This phenomenon is known as the "feminization of migration" identified with the growing number of women migrant workers as well as the increased participation of women in the labor economy. It is estimated that 49% of the world's international migrants are women and that they account for several billions of dollars of remittances received by developing countries.[34]

Nevertheless, the realities that women face in the whole migration process are utterly disturbing. Women tend to be marginalized as women and as migrant workers. They are often placed in working and living situations that expose them to vulnerabilities, violence and abuse. The UN Special Rapporteur on the Human Rights of Migrants highlighted this situation in the report that she presented to the 60th Session of the UN Commission in Human Rights in 2004. In the report, the Special Rapporteur examined the situation of women migrant domestic workers as belonging to the most vulnerable group of workers whose human rights and dignity are often violated. She identified problems such as the lack of coverage in labor legislation of domestic work in some countries, the withholding of passports, strict employee-tied residency rules, slavery-like working and living conditions, physical and verbal abuse, and sexual violence, as among the violations of women migrant domestic workers' basic human rights.[35]

Furthermore, mainly for reasons of economics and survival for their families, women also become easy prey to trafficking and forced prostitution. In general, within the migration cycle, women migrants' right to health is often neglected in the absence of gender-sensitive migration and labor legislations that fully take into account the special needs of women, such as: access to reproductive health, maternal health, right to privacy and personhood, family life, and basic health care, it is imperative that these must be made available to women migrant workers regardless of their migration status.

[34] IOM, World Migration 2003, (vol. 2, IOM World Migration Report Series, Geneva, 2003), 6-7.

[35] UN Document E/CN.4/2004/76, 2004.

III. International Legal Instruments Guaranteeing Migrants' Right to Health

Various international legal instruments promote and guarantee migrants' right to health. This section presents a collection of these instruments, together with specific provisions that migrants and migrants' rights advocates can use in their advocacy.

A. The International Bill of Rights

1. Universal Declaration of Human Rights

Adopted and proclaimed by the General Assembly on 10 December 1948, this is considered as the most fundamental human rights instrument and to a large extent forms part of customary international law.

Specific provisions:

> *Art. 22: Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.*
>
> *Art. 25(1): Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.*
>
> *Art. 25(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.*

2. International Covenant on Economic, Social and Cultural Rights (ICESCR)

Adopted by the General Assembly on 16 December 1966; Entry into force 3January 1976.

Specific provisions:

> *Art. 2(3): Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Con-*

vention to non-nationals.

Art. 9: The State Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Art. 12(1): The State Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

Art 12(2): The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

a. *The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;*
b. *The improvement of all aspects of environmental and industrial hygiene;*
c. *The prevention, treatment and control of epidemic, endemic, occupational and other diseases;*
d. *The creation of conditions, which would assure to all medical service and medical attention in the event of sickness.*

3. The International Covenant on Civil and Political Rights

Adopted by the UN General Assembly on 16 December 1966; Entry into force on 23 March 1976.

Specific provision:

Art. 6(1): Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

B. International Convention on the Elimination of All Forms of Racial Discrimination

Adopted on 21 December 1965; Entry into force on 4 January 1969.

Specific provisions:

Art. 5: In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: [...]

Art. 5(e)(iv): Economic, social and cultural rights, in particular the right to public health, medical care, social security and social services.

C. Convention on the Elimination of All Forms of Discrimination Against Women

Adopted on 18 December 1979; Entry into force 3 September 1981.

Specific provisions:

> *Art. 11(1): States Parties shall take appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights in particular: [...]*
>
> *Art. 11(1)(e): The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;*
>
> *Art. 11(1)(f): The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.*
>
> *Art. 11(2): In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties take appropriate measures:*
>
> *Art. 11(2)(a): To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;*
>
> *Art. 11(2)(b): To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;*
>
> *Art. 11(2)(c): To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;*
>
> *Art. 11(2)(d): To provide special protection to women during pregnancy in types of work proved to be harmful to them.*
>
> *Art. 12(1): States Parties shall take appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.*
>
> *Art. 12(2): Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.*

D. Convention on the Rights of the Child

Adopted by the General Assembly on 20 November 1989; Entry into force on 2 September 1990.

Specific provisions:

> *Art. 24(1): States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health services.*
>
> *Art. 24(2): States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:*
>
> 1. *To diminish infant and child mortality;*
> 2. *To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;*
> 3. *To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;*
> 4. *To ensure appropriate pre-natal and post-natal health care for mothers;*
> 5. *To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;*
> 6. *To develop preventive health care, guidance for parents and family planning education and services.*
>
> *Art. 26(1): States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.*
>
> *Art. 26(2): The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits by or on behalf of the child.*

E. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Adopted by the General Assembly on 10 December 1984, entry into force 26 June 1987.

- The Convention Against Torture applies to any individual who has been subjected to torture within the jurisdiction of each State Party.
- Under the Convention, no person shall be expelled, returned or extradited to another State where there are

substantial grounds for believing that he or she would be in danger of being subjected to torture (art. 3).

F. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Adopted by the General Assembly on 18 December 1990, entry into force 1 July 2003.

- Right to health is accorded to both documented and undocumented migrant workers and their family members.
- However, additional rights are guaranteed to documented migrant workers and their family members.
- Migrants' access to health, though reiterated in basic human rights instruments including the UN Migrants Convention, remains subject to national laws and domestic schemes.

Specific provisions for all migrant workers and members of their families, regardless of status:

> *Art. 25(1)(a): Migrant workers shall enjoy treatment not less favorable than that which applies to nationals of the State of employment in respect of remuneration and other conditions of work, that is to say, overtime hours of work, weekly rest, holidays with pay, safety, health, termination of the employment relationship and any other conditions of work which, according to national law and practice, are covered by these terms;*
>
> *Art. 25(3): States Parties shall take all appropriate measures to ensure that migrant workers are not deprived of any rights derived from this principle by reason of any irregularity in their stay or employment. In particular, employers shall not be relieved of any legal or contractual obligations, nor shall their obligations be limited in any manner by reason of such irregularity.*
>
> *Art. 27(1): With respect to social security, migrant workers and members of their families shall enjoy in the State of employment the same treatment granted to nationals in so far as they fulfill the requirements provided for by the applicable legislation of that State and the applicable bilateral and multilateral treaties. The competent authorities of the State of origin and the State of employment can at any time establish the necessary arrangements to determine the modalities of application of this norm.*
>
> *Art. 27(2): Where appropriate legislation does not allow migrant workers and members of their families a benefit, the States concerned shall examine the possibility of reimbursing interested persons the amount of contributions made by them with respect to that benefit on the basis of the treatment granted to nationals whore are in similar circumstances.*
>
> *Art. 28: Migrant workers and members of their families shall have the right to receive any medical care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their health on the basis of equality of treatment with nationals of the State concerned. Such emergency medical care shall not be refused by them by reason of any irregularity with re-*

gard to stay or employment.

Specific provisions guaranteeing the right to health for those documented or in regular situation:

> *Art. 43(1)(e): Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to access to social and health services, provided the requirements for participation in the respective schemes are met.*
>
> *Art. 45(1)(c): Members of the families of the migrant workers shall, in the State of employment, enjoy equality of treatment with nationals of that State in relation to access to social and health services, provided that requirements for participation in the respective schemes are met.*
>
> *Art. 70: States Parties shall take measures not less favorable than those applied to nationals to ensure that working and living conditions of migrant workers and members of their families in a regular situation are in keeping with the standards of fitness, safety, health and principles of human dignity.*

G. The International Labor Organization's Conventions on Migrant Workers

- Convention No. 97 (Revised 1949) lays the basis for the medical check-ups for migrant workers to ensure that they are in "reasonable health."
- Convention No. 97 provisions on access to health are limited only to migrants in regular situation ("lawfully within the territory") and are subject to national laws and schemes.
- Convention No. 143 (1975) focuses on measures to control and suppress illegal employment and clandestine movements. In line with Convention No. 97, it provides access to health to migrant workers in regular situation but subject to national laws and domestic schemes and without prejudice to State measures to control movements of migrants for employment.
- These two Conventions, No. 97 and No. 43, are supplemented in detail by a number of non-binding ILO Recommendations.

1. C97 Convention Concerning Migration for Employment (Revised), 1949

Specific Provisions:

> *Art. (1)(b): Each Member for which this Convention is in force undertakes to apply, without discrimination in respect of nationality, race, religion or sex to immigrants lawfully within its territory, treatment no less favorable than that which it applies to its own nationals in respect of social security (that is to say, legal provision in respect of employment injury, maternity, sickness, invalidity, old age, death, unemployment and family responsibilities, and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the*

following limitations: […]

(i) There may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;

(ii) National laws or regulations of immigration countries may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfill the contribution conditions prescribed for the award of a normal pension.

Art. 5: Each Member for which this Convention is in force undertakes to maintain, within its jurisdiction, appropriate medical services responsible for—

(a) ascertaining, where necessary, both at the time of departure and on arrival, that migrants for employment and the members of their families authorized to accompany or join them are in reasonable health;

(b) ensuring that migrants for employment and members of their families enjoy adequate medical attention and good hygienic conditions at the time of departure, during the journey and on arrival in the territory of destination.

Art. 8(1): A migrant for employment who has been admitted on a permanent basis and the members of his family who have been authorized to accompany or join him shall not be returned to their territory of origin or the territory from which they emigrated because the migrant is unable to follow his occupation by reason of illness contracted or injury sustained subsequent to entry, unless the person concerned so desires or an international agreement to which the Member is party so provides.

2. C143 Migrant Workers (Supplementary Provisions) Convention, 1975

Specific provisions:

(pp): Considering that further standards, covering also social security, are desirable in order to promote equality of opportunity and treatment of migrant workers and, with regard to matters regulated by laws or regulations or subject to the control of administrative authorities, ensure treatment at lease equal to that of nationals.

Art. 9(1): Without prejudice to measures designed to control movements of migrants for employment by ensuring that migrant workers enter national territory and are admitted to employment in conformity with the relevant laws and regulations, the migrant worker shall, in cases in which these laws and regulations have not been respected and in which his position cannot be regularized, enjoy equality of treatment for himself and his family in respect of rights arising out of past employment as regards remuneration, social security and other benefits.

Art. 10: Each Member for which the Convention is in force undertakes to declare and pursue a national policy designed to promote and to guarantee, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, of social security, of trade union and cultural rights and of individual and collective freedoms for persons who as migrant workers or as members of their families are lawfully within its territory.

Box 4. ILO Conventions and Recommendations Concerning Occupational Safety and Health

Occupational Safety and Health

- Occupational Safety and Health Convention, 1981 No. 155
- Occupational Safety and Health Recommendation, 1981, No. 164

Occupational Health Services

- Occupational Health Services Convention, 1985, No. 161
- Occupational Health Services Recommendation, 1985, No. 171

Major Hazard Control

- Prevention of Major Industrial Accidents Convention, 1993, No. 174
- Prevention of Major Industrial Accidents Recommendation 1993, No.181

Working Environment

- Working Environment Convention, 1977 No. 148
- Working Environment Recommendation, 1977, No. 156

Toxic Substances and Agents

- Anthrax Prevention Recommendation, 1919, No. 3
- White Lead (Painting) Convention, 1921, No. 13
- Radiation Protection Convention, 1960, No.115
- Radiation Protection Recommendation, 1960, No. 114
- Benzene Convention, 1971, No. 136
- Benzene Recommendation, 1971, No.144
- Asbestos Convention, 1986, No. 162
- Asbestos Recommendation, 1986, No. 172
- Chemicals convention, 1990, No. 170
- Chemicals Recommendation, 1990, No.177

Occupational Cancer

- Occupational Cancer Convention, 1974, No. 139
- Occupational Cancer Recommendation, 1974, No.147

Particular Branches of Activity

- Hygiene (Commerce and Offices) Convention, 1964, No. 120
- Safety Provisions (Building) Convention, 1937, No. 62
- Safety Provisions (Building) Recommendation, 1937, No. 53
- Safety and Health in Construction Convention, 1988, No. 167
- Marking of Weight (Packages transported by Vessels,Convention 1929,No.27
- Protection against Accidents (Dockers) Convention, 1929, no.28
- Protection against Accidents (Dockers) Convention (revised),1932,No.32
- Occupational Safety & Health (Dock Work) Convention, 1979, No.152
- Occupational safety & Health (Dock Work) Recommendation 1979, No.160
- Plantations convention, 1958, No.110

Guarding of Machinery

- Guarding of Machinery Convention, 1963, No.119
- Guarding of Machinery Recommendation, 1963, No. 118

Maximum Weight

- Maximum Weight Convention, 1967, No. 127
- Maximum Weight Recommendation, 1967, No. 128

Employment of Women

- Maternity Protection Convention, 1919, No.3
- Maternity Protection Convention (revised),1952, No.103
- Night Work (Women) Convention (revised), 1948, No.89
- Night Work (Women) Protocol, 1990
- Underground Work (Women) Convention, 1935, No. 45

Employment of Children and Young Persons

- Minimum Age Convention, 1973, No. 138
- Night Work of Young Persons (Non-industrial occupations), Convention,1946,No.79
- Night Work of Young persons (Industry) Convention (revised), 1948,No.90
- Medical Examination of Young Persons (Industry) Convention, 1946,No.77
- Medical Examination of Young Persons (Non-industrial occupation), Convention 1946, No.78
- Medical Examination of Young Persons (Underground Work) Convention, 1965, No.124

Migrant Workers

- Convention Concerning Migration For Employment (Revised 1949), No. 97
- Migrant Workers (Supplementary Provisions) Convention, 1975, No. 143

(Compiled by Sanjiv Pandita, Asian Monitor Resource Centre, for the 8th Regional Conference on Migration, Dhaka, Bangladesh)

IV. Existing Mechanisms and Cooperation in Promoting Migrants' Right to Health

Promoting migrants' right to health is becoming a core international concern within the global community. This section presents some of the important on-going international cooperation as well as existing institutional mechanisms that work towards achieving the highest attainable standard of physical and mental health for all, including migrant workers and members of their families.

World Health Organization

The World Health Organization (WHO) is the United Nations specialized agency for health. It was established on 7 April 1948. WHO's objective, as set out in its Constitution, is the attainment by all peoples of the highest possible level of health. Health is defined in WHO's Constitution as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity." The organization is governed by 192 Member States that gather through the World Health Assembly.

The WHO's work in international migration is guided by the fundamental principle that health is a fundamental human right to be enjoyed by every human being without discrimination. However, vulnerable and marginalized groups such as migrants, particularly undocumented migrants, require priority attention. Currently, the WHO is exploring the challenges to health and human rights in the context of international migration in partnership with the UN Office of the High Commissioner for Human Rights, the International Labor Organization, International Organization for migration, and other intergovernmental and non-governmental organizations. It has recently released a publication entitled "International Migration, Health, and Human Rights together in partnership with these organizations.

To know more about the WHO's work in migration, health, and human rights, contact:

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United Nations Office of the High Commissioner for Human Rights

The mission of the Office of the United Nations High Commissioner for Human Rights (OHCHR) is to protect and promote all human rights for all. It is guided by the Charter of the United Nations, the Universal Declaration

of Human Rights and subsequent human rights instruments, and the 1993 Vienna Declaration and Program of Action. The promotion of universal ratification and implementation of human rights treaties is at the forefront of OHCHR activities.

he High Commissioner for Human Rights is the official with principal responsibility for United Nations human rights activities. The currently named High Commissioner for Human Rights is Mrs. Louise Arbour from Canada.

OHCHR bases itself on the principle that human rights are universal, indivisible, interdependent and interrelated. All rights civil, cultural, economic, political and social - should be given equal emphasis, and promoted and protected without any discrimination. The realization and enjoyment of all rights for women and men must be ensured on a basis of equality.

In this regard, the OHCHR aims to ensure the practical implementation of universally recognized human rights norms, including the right to health. It is committed to strengthening the United Nations human rights program and providing the United Nations treaty monitoring bodies and special mechanisms established by the UN Commission on Human Rights with the highest quality support.

To reach the Office of the High Commissioner for Human Rights, contact:

Office of the High Commissioner for Human Rights

Palais des Nations, 1211 Geneva 20, Switzerland
Phone: +41 22 9179260
Fax: +41 22 9179059
Email: InfoDesk@ohchr.org
Website: http://www.ohchr.org

UN Commission on Human Rights

The UN Office of the High Commissioner for Human Rights provides the secretariat to the UN Commission on Human Rights.

The UN Commission on Human Rights (CHR), composed of 53 States, is the principal human rights organ of the United Nations. The CHR meets each year in regular session in March/April for six weeks in Geneva, where over 3,000 delegates from member and observer States and from non-governmental organizations are able to participate in its deliberations. The CHR examines the human rights situation all over the world and drafts statements and resolutions on matters of relevance to individuals in all regions and circumstances.

The Commission on Human Rights has established procedures and mechanisms that are mandated to examine, monitor and publicly report on human rights situations in specific countries or territories (known as country mechanisms or mandates) and on major phenomena of human rights violations worldwide, (known as thematic mechanisms or mandates). These procedures and mechanisms are collectively referred to as the Special Procedures of the Commission on Human Rights. Among the Special Procedures relevant to migrants' human rights to health are: the UN Special Rapporteur on the Human Rights of Migrants; UN Special Rapporteur on the Right of everyone to the enjoyment of the highest attainable standard of physical and mental health; UN Special Rapporteur on Trafficking in person, especially in women and children; and the UN Special Rapporteur on Violence Against Women, its causes and consequences.

UN Special Rapporteur on the Human Rights of Migrants

The mandate of the Special Rapporteur on the Human Rights of Migrants was created in 1999 by the Commission on Human Rights, pursuant to resolution 1999/44. The mandate was extended for a further three years by the Commission on Human Rights in 2002, at its 58th session (Res. 2002/62).

The Commission requested the Special Rapporteur to "examine ways and means to overcome the obstacles existing to the full and effective protection of the human rights of migrants, including obstacles and difficulties for the return of migrants who are undocumented or in an irregular situation".

The main functions of the Special Rapporteur are:

- To request and receive information from all relevant sources, including migrants themselves, on violations of the human rights of migrants and their families;
- To formulate appropriate recommendations to prevent and remedy violations of the human rights of migrants, wherever they may occur;
- To promote the effective application of relevant international norms and standards on the issue;
- To recommend actions and measures applicable at the national, regional and international levels to eliminate violations of the human rights of migrants;
- To take into account a gender perspective when requesting and analyzing information, as well as to give special attention to the occurrence of multiple discrimination and violence against migrant women.

In the discharge of these functions:

a) The Special Rapporteur acts on information submitted to her regarding alleged violations of the human rights of migrants by sending urgent appeals and communications to concerned Governments to clarify and/or bring to their attention these cases.

b) The Special Rapporteur conducts country visits (also called fact-finding missions) upon the invitation of the Government, in order to examine the state of protection of the human rights of migrants in the given country. The Special Rapporteur submits a report of the visit to the Commission on Human Rights, presenting her findings, conclusions and recommendations.

c) The Special Rapporteur participates in conferences, seminars and panels on issues relating to the human rights of migrants.

Annually, the Special Rapporteur, reports to the Commission on Human Rights about the global state of protection of migrants' human rights, her main concerns and the good practices she has observed. In her report the Special Rapporteur informs the Commission of all the communications she has sent and the replies received from Governments. Furthermore, the Special Rapporteur formulates specific recommendations with a view to enhancing the protection of the human rights of migrants. Upon request of the Commission on Human Rights the Special Rapporteur may also present reports to the General Assembly.

The currently named Special Rapporteur on the Human Rights of Migrants is Ms. Gabriela Rodríguez Pizarro from Costa Rica.

To contact the Special Rapporteur, send your communi-

cations to:

Special Rapporteur on the Human Rights of Migrants
Office of the High Commissioner for Human Rights
United Nations
8-14 Avenue de la Paix
1211 Geneva 10
Switzerland
Fax: (+41 22) 917 90 06
E-mail: urgent-action@ohchr.org
(Include in the subject box: Special Rapporteur HR Migrants)
http://www.ohchr.org/english/issues/migration/rapporteur/index.htm

UN Special Rapporteur on the Right to Health

In resolution 2002/31, the Commission on Human Rights decided to appoint, for a period of three years, a Special Rapporteur whose mandate will focus on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, as reflected in article 25 (1) of the Universal Declaration of Human Rights (UDHR), article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), article 24 of the Convention on the Rights of the Child (CRC) and article 12 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), as well as on the right to non-discrimination as reflected in article 5 (e) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

The Special Rapporteur is requested to:

a) Gather, request, receive and exchange right to health information from all relevant sources;

b) Dialogue and discuss possible areas of cooperation with all relevant actors, including Governments, relevant United Nations bodies, specialized agencies and programs, in particular the World Health Organization (WHO) and the Joint United Nations Programme on HIV/AIDS, as well as non-governmental organizations (NGOs) and international financial institutions;

c) Report on the status, throughout the world, of the right to health, including laws, policies, good practices and obstacles;

d) Make recommendations on appropriate measures that promote and protect the right to health.

The Special Rapporteur is further asked to apply a gender perspective and to pay special attention to the needs of children in the realization of the right to health, to take into account the relevant provisions, inter alia, of the Durban Declaration and Program of Action, and to bear in mind in particular General Comment No. 14 of the Committee on Economic, Social and Cultural Rights (CESCR) and General Recommendation No. 24 of the Committee on the Elimination of Discrimination against Women.

In resolution 2004/27 the Commission invited the Special Rapporteur:

- To continue to explore how efforts to realize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health can reinforce poverty reduction strategies;
- To continue his analysis of the human rights dimensions of the issues of neglected diseases and diseases particularly affecting developing countries, and also the national and

international dimensions of those issues.

The Commission also called upon Governments to co-operate fully with the Special Rapporteur in the implementation of his mandate, to provide all information requested and to respond promptly to his communications.

In the discharge of his mandate the Special Rapporteur:

a) Undertakes country and other visits;

b) Transmits communications to States with regard to alleged violations of the right to health; and

c) Submits annual reports on the activities carried out under the mandate to the Commission and the General Assembly.

The current Special Rapporteur on the Right to Health is Mr. Paul Hunt from New Zealand.

To contact the Special Rapporteur, send your communications to:

Special Rapporteur of the Commission on Human Rights on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health
c/o Office of the High Commissioner for Human Rights
United Nations Office at Geneva
8-14 Avenue de la Paix
1211 Geneva 10, Switzerland
Fax: +41 22 917 9003
e-mail: urgent-action@ohchr.org
Website: http://www.ohchr.org/english/issues/health/right/index.htm

UN Special Rapporteur on Trafficking

The mandate of the UN Special Rapporteur on trafficking in persons, especially in women and children was recently established in a Commission on Human Rights Resolution in 2004. The Special Rapporteur named was Ms. Ellen Johnson Sirleaf from Liberia.

For more information, contact:

Special Rapporteur on n trafficking in persons, especially in women and children
Office of the High Commissioner for Human Rights
United Nations
8-14 Avenue de la Paix
1211 Geneva 10
Switzerland
Fax: (+41 22) 917 90 06
E-mail: urgent-action@ohchr.org
Website: http://www.ohchr.org/english/issues/trafficking/index.htm

UN Special Rapporteur on Violence Against Women

The United Nations Commission on Human Rights in resolution 1994/45, adopted on 4 March 1994, decided to appoint a Special Rapporteur on violence against women, including its causes and consequences. The mandate was extended by the Commission on Human Rights in 2003, at its 59th session in resolution 2003/45.

According to her mandate the Special Rapporteur is requested to:

- Seek and receive information on violence against women, its causes and consequences from Governments, treaty bodies, specialized agencies, other special rapporteurs responsible for various human rights questions and intergovernmental and non-governmental organizations, including women's organizations, and to respond effectively to such information;

- Recommend measures, ways and means, at the national, regional and international levels, to eliminate violence against women and its causes, and to remedy its consequences;
- Work closely with other special rapporteurs, special representatives, working groups and independent experts of the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities and with the treaty bodies, taking into account the Commission's request that they regularly and systematically include in their reports available information on human rights violations affecting women, and cooperate closely with the Commission on the Status of Women in the discharge of its functions.

In the discharge of the mandate, the Special Rapporteur:

a) Transmits urgent appeals and communications to States regarding alleged cases of violence against women.

b) Undertakes fact-finding country visits.

c) Submits annual thematic reports to the Commission on Human Rights.

The currently named Special Rapporteur is Dr. Yakin Ertürk from Turkey (August 2003 to presnt). She followed Ms. Radhika Coomaraswamy from Sri Lanka, (1994 - July 2003).

Send your communications and individual complaints to:

The Special Rapporteur on Violence Against Women
OHCHR-UNOG
8-14 Avenue de la Paix
1211 Geneva 10, Switzerland
Fax: 00 41 22 917 9006
E-mail: urgent-action@ohchr.org
Website: http://www.ohchr.org/english/issues/women/rapporteur/index.htm

UN Treaty Bodies

The Office of the High Commissioner for Human Rights also provides the secretariat to the Treaty Monitoring Bodies of the core human rights instruments, except the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The secretariat for the Committee on the Elimination of Discrimination Against Women is found in the United Nations in New York.

All the core human rights Conventions deal with the right to health (see Section III). Therefore, for civil society organizations working on migrants' right to health, is also helpful to submit information and alternative or "shadow reports" to the treaty bodies for a comprehensive consideration of the right to health based on the Treaty being discussed from the level of national implementation.

However, the treaty body that is most directly relevant to migrants and their right to health is the Committee on Migrant Workers, which is the treaty monitoring body for the UN Migrant Workers Convention.

The following are the UN Treaty Monitoring Bodies relevant to migrants and migrants' right to health:

- UN Committee on Economic, Social, and Cultural Rights
- UN Human Rights Committee

- UN Committee on the Elimination All Forms of Racial Discrimination
- UN Committee on the Elimination of Discrimination Against Women
- UN Committee on the Rights of the Child
- UN Committee Against Torture
- UN Committee on Migrant Workers

UN Committee on Economic, Social, and Cultural Rights

The Committee on Economic, Social and Cultural Rights (CESCR) is the body of independent experts that monitors implementation of the International Covenant on Economic, Social and Cultural Rights by its States parties. All States parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially within two years of accepting the Covenant and thereafter every five years. The Committee examines each report and addresses its concerns and recommendations to the State party in the form of "concluding observations".

The Committee cannot consider individual complaints, although a draft Optional Protocol to the Covenant is under consideration, which could give the Committee competence in this regard. The Commission on Human Rights has established a working group to this end. However, it may be possible for another committee with competence to consider individual communications to consider issues related to economic, social and cultural rights in the context of its treaty.

The Committee meets in Geneva and normally holds two sessions per year, consisting of a three-week plenary and a one-week pre-sessional working group. The Committee also publishes its interpretation of the provisions of the Covenant, known as general comments.

For more information about the work of the Committee on Economic, Social and Cultural Rights, send your communications to:

Office of the High Commissioner for Human Rights
United Nations Office at Geneva
1211 Geneva 10, Switzerland
Fax: + 41 22 917 9022
(particularly for urgent matters)
E-mail: tb-petitions@ohchr.org
Website: http://www.ohchr.org/english/bodies/cescr/index.htm

UN Human Rights Committee

The Human Rights Committee is the body of independent experts that monitors implementation of the International Covenant on Civil and Political Rights by its State parties. All States parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially one year after acceding to the Covenant and then whenever the Committee requests (usually every four years). The Committee examines each report and addresses its concerns and recommendations to the State party in the form of "concluding observations".

In addition to the reporting procedure, article 41 of the Covenant provides for the Committee to consider inter-state complaints. Furthermore, the First Optional Protocol to the Covenant gives the Committee competence to examine individual complaints with regard to alleged violations of the Covenant by States parties to the Protocol.

The full competence of the Committee extends to the Second Optional Protocol to the Covenant on the abolition of the death penalty with regard to States who have accepted the Protocol.

The Committee meets in Geneva or New York and normally holds three sessions per year. The Committee also publishes its interpretation of the content of human rights provisions, known as general comments on thematic issues or its methods of work.

For more information about the work of the Human Rights Committee, contact:

Office of the High Commissioner for Human Rights
United Nations Office at Geneva
1211 Geneva 10, Switzerland
Fax: + 41 22 917 9022
E-mail: tb-petitions@ohchr.org
Website: http://www.ohchr.org/english/bodies/hrc/index.htm

UN Committee on the Elimination All Forms of Racial Discrimination

The Committee on the Elimination of Racial Discrimination (CERD) is the body of independent experts that monitors implementation of the Convention on the Elimination of All Forms of Racial Discrimination by its State parties.

All States parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially one year after acceding to the Convention and then every two years. The Committee examines each report and addresses its concerns and recommendations to the State party in the form of “concluding observations”.

In addition to the reporting procedure, the Convention establishes three other mechanisms through which the Committee performs its monitoring functions: the early-warning procedure, the examination of inter-state complaints and the examination of individual complaints.

The Committee meets in Geneva and normally holds two sessions per year consisting of three weeks each.

The Committee also publishes its interpretation of the content of human rights provisions, known as general recommendations (or general comments), on thematic issues and organizes thematic discussions.

For more information about the work of the Committee on the Elimination of Racial Discrimination, contact:

Office of the High Commissioner for Human Rights
United Nations Office at Geneva
1211 Geneva 10, Switzerland
Fax: + 41 22 917 9022
E-mail: tb-petitions@ohchr.org
Website: http://www.ohchr.org/english/bodies/cerd/index.htm

UN Committee on the Elimination of Discrimination Against Women

The United Nations Committee on the Elimination of Discrimination against Women (CEDAW), an expert body established in 1982, is composed of 23 experts on women's issues from around the world. The Committee's mandate is very specific: it watches over the progress for women made in those countries that are the States parties to the 1979 Convention on the Elimination of All Forms of Discrimination against Women. A country becomes a State party by ratifying or acceding to the Convention and thereby accepting a legal obligation to counteract discrimination against women. The

Committee monitors the implementation of national measures to fulfill this obligation.

At its meetings held twice annually, the Committee reviews national reports submitted by the States parties within one year of ratification or accession, and thereafter every four years. These reports, which cover national action taken to improve the situation of women, are presented to the Committee by Government representatives.

The Committee also makes recommendations on any issue affecting women to which it believes the States parties should devote more attention. For example, at the 1989 session, the Committee discussed the high incidence of violence against women, requesting information on this problem from all countries. In 1992, the Committee adopted general recommendation 19, which requires national reports to the Committee to include statistical data on the incidence of violence against women, information on the provision of services for victims, and legislative and other measures taken to protect women against violence in their everyday lives such as harassment at the workplace, abuse in the family and sexual violence. As of May 1999, the Committee has made 24 general recommendations.

For more information, contact:

Committee on the Elimination of Discrimination against Women
c/o Division for the Advancement of Women, Department of Economic and Social Affairs
United Nations Secretariat
2 United Nations Plaza, DC-2/12th Floor
New York, NY 10017, United States of America
Fax: + 1-212-963-3463
Website: http://www.un.org/womenwatch/daw/

UN Committee on the Rights of the Child

The Committee on the Rights of the Child (CRC) is the body of independent experts that monitors implementation of the Convention on the Rights of the Child by its State parties.

All States parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially two years after acceding to the Convention and then every five years. The Committee examines each report and addresses its concerns and recommendations to the State party in the form of "concluding observations".

The Committee meets in Geneva and normally holds three sessions per year consisting of a three-week plenary and a one-week pre-sessional working group. The Committee also publishes its interpretation of the content of human rights provisions, known as general comments on thematic issues and organizes days of general discussion.

For more information about the work of the Committee on the Rights of the Child, contact:

Office of the High Commissioner for Human Rights
United Nations Office at Geneva
1211 Geneva 10, Switzerland
Fax: + 41 22 917 9022
E-mail: tb-petitions@ohchr.org
Website: http://www.ohchr.org/english/bodies/crc/index.htm

UN Committee Against Torture

The Committee Against Torture (CAT) is the body of independent experts that monitors implementation of the Convention Against Torture by its State parties. All

States parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially one year after acceding to the Convention and then every four years. The Committee examines each report and addresses its concerns and recommendations to the State party in the form of "concluding observations".

In addition to the reporting procedure, the Convention establishes three other mechanisms through which the Committee performs its monitoring functions: the Committee may also, under certain circumstances, consider individual complaints or communications from individuals claiming that their rights under the Convention have been violated, undertake inquiries, and consider inter-state complaints.

An Optional Protocol to the Convention will, when it enters into force, create a sub-committee and allow in-country inspections of places of detention to be undertaken in collaboration with national institutions.

The Committee meets in Geneva and normally holds two sessions per year consisting of a plenary (of three weeks in May and two weeks in November) and a one-week pre-sessional working group.

The Committee also publishes its interpretation of the content of human rights provisions, known as general comments on thematic issues.

For more information about the work of the Committee Against Torture, contact:

Office of the High Commissioner for Human Rights
United Nations Office at Geneva
1211 Geneva 10, Switzerland
Fax: + 41 22 917 9022
E-mail: tb-petitions@ohchr.org
http://www.ohchr.org/english/bodies/cat/index.htm

UN Committee on Migrant Workers

The Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) is the body of independent experts that monitors implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families by its State parties. It is the newest treaty body, which held its first session in March 2004.

The UN Migrant Workers Convention entered into force only on 1 July 2003.

All States parties are obliged to submit regular reports to the Committee on how the rights are being implemented. These rights will include the right to health of all migrant workers and members of their families within the territory or subject to the jurisdiction of the reporting State. States must report initially one year after acceding to the Convention and then every five years. The Committee will examine each report and address its concerns and recommendations to the State party in the form of "concluding observations".

The Committee will also, under certain circumstance, be able to consider individual complaints or communications from individuals claiming that their rights under the Convention have been violated once 10 States parties have accepted this procedure in accordance with article 77 of the Convention.

The Committee meets in Geneva and normally holds one session every year.

The Committee will also publish its interpretation of the content of human rights provisions, known as general

comments on thematic issues.

For more information about the work of the Committee on Migrant Workers, contact:

Secretariat to the Committee on Migrant Workers
C/o Ms. Carla Edelenbos, Secretary to the Committee
or to Mr. Alessio Bruni, Treaty Implementation Team Leader
Support and Services Branch, Office of the High Commissioner for Human Rights
United Nations Office at Geneva, 1211 Geneva 10, Switzerland
Email: cedelenbos@ohchr.org or abruni@ohchr.org
Phone: +41 22 9179260/9316 Fax: +41 22 9179059
Website: http://www.ohchr.org/english/bodies/cmw/index.htm

International Labor Organization

The International Labor Organization (ILO) is the UN specialized agency which seeks the promotion of social justice and internationally recognized human and labor rights. The ILO formulates international labor standards in the form of Conventions and Recommendations setting minimum standards of basic labor rights: freedom of association, the right to organize, collective bargaining, abolition of forced labor, equality of opportunity and treatment, and other standards regulating conditions across the entire spectrum of work related issues. Within the UN system, the ILO has a unique tripartite structure with workers and employers participating as equal partners with governments in the work of its governing organs.

Within the ILO is the International Migration Branch (MIGRANT), which is the focal point within the organization that deals with international labor migration. Its main task is to assist countries in policy formulation, and in establishing or strengthening legislation, administrative measures, structures and practices for effective management of labor migration. The key component objectives of the MIGRANT branch are:

- Protecting the rights of migrant workers and promoting their integration in countries of destination and countries of origin;
- Forging an international consensus on how to manage migration;
- Improving the knowledge base on international migration.

For further information, contact the International Migration Branch at:

International Labor Office
4 route des Morillons, 1211 Geneva 20, Switzerland
Phone: +41 22 799.6667 Fax: +41 22 799 8836
E-mail: migrant@ilo.org
Website: http://www.ilo.org/public/english/protection/migrant/

Together with its advisory and technical assistance functions, the ILO also assists members States as well as employers' and workers' organizations in ratifying ILO Conventions and implementing international labor standards. The supervision of these international labor standards is entrusted mainly to the Committee of Experts, the Conference Committee on the Application of Standards, and the Committee on Freedom of Association. A representation or complaint may also be lodged against a State that does not observe a Convention it has ratified. The Standards Department is the secretariat for the supervisory bodies and ensures an efficient functioning of the supervisory system as a whole. In the framework of its active partnership policy, the

Department also ensures coordination between its standards activities and ILO activities in the field.

For more information on ILO Standards, visit http://www.ilo.org/public/english/standards/index.htm.

Furthermore, the ILO held the 92nd annual session of the International Labor Conference (ILC), its policymaking assembly, in June 2004 with the agenda on "Migrant workers." As an outcome of the ILC June 2004, the conference came up with an action plan on Migrant Workers, which contains the following elements:

- Development of a non-binding multilateral framework for a rights-based approach to labour migration;
- Identification of relevant action for a wider application of international labour standards and other relevant instruments;
- Support for the implementation of the ILO Global Employment Agenda at the national level;
- Capacity building, awareness raising, and technical assistance;
- Strengthening social dialogue;
- Improving the information and knowledge base on global trends in labour migration, conditions of migrant workers, and effective measures to protect their rights;
- Mechanisms to ensure ILO Governing Body follow-up on the plan of action and ILO participation in relevant international initiatives concerning migration.

With regard to the health and well-being of migrant workers and their families, this will clearly form an important part of the Action Plan, by virtue of the ILO being the standard-setting authority when it comes to workers' rights and labor standards. The guidelines for the non-binding multilateral framework will be considered by the ILO Governing Body in November 2005.

International Organization for Migration

Established in 1951, the International Organization for Migration (IOM) is an intergovernmental organization, outside the UN system, providing humanitarian responses to migration challenges. With 109 members, the IOM has offices and operations on every geographic continent. IOM's activities include: rapid humanitarian response to sudden migration flows; post-emergency return and reintegration programs; assistance to migrants in return and reintegration; facilitating labor migration; assisted voluntary returns for irregular migrants; recruitment of highly qualified nationals for return to their countries of origin; aid to migrants in distress; training and capacity building; counter-trafficking measures; migration medical and public health programs; mass information and education on migration; and migration policy research.

The IOM has a Migration Health Department, which seeks to ensure that the health of migrants is appropriately addressed throughout all IOM's activities. Its core functions include: Direct health assistance; Health Operations Coordination; Health Promotion and Advice; and Public Health Studies. In addition, the IOM keeps close coordination with principal partner agencies in the domain of health, namely, the World Health Organization (WHO) and the Joint United Nations Program on HIV/AIDS (UNAIDS).

For more information on the activities of the IOM and on

migrants' health, contact:

International Organization for Migration
17 route des Morillons, P.O. Box 71
1211 Geneva 19, Switzerland
Phone: +41 22 7179111 Fax: +41 22 7986150
Email: info@iom.int
Website: http://www.iom.int/en/what/migration_health_services.shtml

Joint United Nations Program on HIV/AIDS

The Joint United Nations Program on HIV/AIDS (UNAIDS) is a cooperation of seven UN agencies in a common effort to fight the epidemic. These agencies are: the United Nations Children's Fund (UNICEF); the United Nations Development Program (UNDP); the United Nations Population Fund (UNFPA); the United Nations International Drug Control Program (UNDCP); the United Nations Educational, Scientific, and Cultural Organization (UNESCO); the World Health Organization (WHO); and the World Bank.

UNAIDS both mobilizes the responses to the epidemic with its seven co-sponsoring organizations and supplements these efforts with special initiatives. UNAIDS' purpose is to lead and assist on expansion of the international response to HIV on all fronts: medical, public health, social, economic, cultural, political, and human rights. With regard to migration and migrants' right to health, UNAIDS usually cooperates with the World Health Organization and the International Organization for Migration.

For more information, contact:

Joint United Nations Program on HIV/AIDS (UNAIDS)
20 Avenue Appia, 1211 Geneva 27, Switzerland
Phone: +41 22 7914651 Fax: +41 22 7914187
Email: unaids@unaids.org
Website: www.unaids.org

UN Regional Task Force on Mobility and HIV Vulnerability Reduction

The UN Regional Task Force on Mobility and HIV Vulnerability Reduction was convened by the UNDP South East Asia HIV and Development Programme, in line with earlier commitments by various regional UN entities to convene task forces to address HIV-related issues in the region. The Task Force brings together partners including country governments, NGOs, donors, UN and other multilateral entities, and researchers. These partners work to develop more effective responses to the challenges of HIV vulnerability which are associated with mobility in South East Asia and China, particularly the southern provinces of China in which mobility systems are closely integrated with the mobility systems of South East Asia.

As the Task Force ended in 2004, the United Nations South East Asian Task Force on Mobility and HIV was created to continue the purposes of identifying priorities and gaps as well as proposing programmatic and policy actions to reduce mobility-related HIV vulnerability and address a broad range of research, analysis, policy and programme development including:

- HIV prevention and care
- Maintaining and developing enabling policy environments
- Identifying and encouraging appropriate human development strategies that will
- reduce HIV vulnerability associated with mobility.

The role of the Task Force is consistent with the role of

"coordination, monitoring and evaluation mechanism" of the existing Regional Strategy on HIV and Mobility The form and function of the Task Force is also consistent with those aspects of good governance that support people and governments of the region to engage in and develop:

- policy advice and dialogue
- advocacy at regional, national and local levels
- brokerage and coordination (of ideas, policy and programme development)
- technical support and integration

Having a formal membership system with a multisectoral mix of governments, NGOs, research organizations, multilateral organizations associated with mobility and/or governance, and donors, the Task Force has a work plan that is being associated with the ASEAN Task Force on AIDS. The role of the Task Force should review and collaborate its work plan with ASEAN's own initiatives on mobility related policy and programmes.

MFA is a member of the Task Force and is among the proposed Convener which will consist of one intergovernmental agency, one UN Agency and one NGO. MFA was identified to be the NGO representative.

For more information, contact:

Ms. Lee Nah Su

Convener, UN Regional Task Force on Mobility and HIV Vulnerability Reduction

UNDP South East Asia HIV and Development Programme

14F/A United Nations Building

Rajdamnern Nok Avenue

Bangkok 10200

Thailand

Tel: +66-2-288 1383

Fax: +66-2-280 1852

E-mail: seahiv@undp.org

United Nations Development Fund for Women

Created in 1976, UNIFEM is the women's fund at the United Nations. It provides financial and technical assistance to innovative program and strategies that promote women's human rights, political participation, and economic security. Within the UN system, UNIFEM promotes gender equality and links women's issues and concerns to national, regional and global agendas by fostering collaboration and providing technical expertise on gender mainstreaming and women's empowerment strategies. UNIFEM's mandate is to:

- Support innovative and experimental activities benefiting women in line with national and regional priorities.
- Serve as a catalyst, with the goal of ensuring the appropriate involvement of women in mainstream development activities, as often as possible at the pre-investment stage.
- Play an innovative and catalytic role in relation to the United Nations system of development cooperation.

In East and Southeast Asian region, UNIFEM has an on-going program on Empowering Women Migrant Workers. The program seeks to empower women migrant workers from a gender and rights-based development perspective. It does this by helping to create enabling policies, and institutional and socio-economic environments that ensure women equality of opportunity, and access to resources and benefits, throughout the migration process.

The program addresses legal migration of women migrant workers, with a special focus on domestic workers. Countries covered include Nepal, Indonesia, the Philippines and Sri Lanka, and Jordan as a destination site. For more information, contact:

Ms. Jean D'Cunha
Program Manager
UNIFEM East and Southeast Asia Regional Office
UN Building 5th Floor,
Rajdamnern Avenue, Bangkok 10200, Thailand
Phone: +662 288-2225 Fax: +662 280-6030
Email: jean.dcunha@unifem.un.or.th, unifem-bkk@mozart.inet.co.th
Website: www.unifem-eseasia.org / UNIFEM New York: www.unifem.org

V. Conclusion

The right to health is a basic human right and is legally guaranteed to all human beings without discrimination of any kind. International laws and existing international mechanisms are available towards the full realization of this right for all, including the migrant workers and members of their families. International instruments and cooperation are also available and are working towards promoting the right to health for all migrant workers. However, realities show that there exists a huge gap between these policies and instruments and the real situation that migrant workers and their families are faced with. The international community, members of civil society, and the public are therefore called upon to urgently respond to this existing gap. Meanwhile, migrant organizations and migrants' rights advocates such as the Migrant Forum in Asia remain steadfast in this daunting but not impossible task. Through concerted efforts, genuine concern on migrants' well being, and the fundamental respect for basic human rights, the global community is beginning to address migrants' health and well-being, while ensuring respect for fundamental principles such as non-discrimination, inclusion, and participation of all members of society, including the migrants themselves, in achieving the right to health for all.

VI. Additional Contacts and Resources

Below is a list of useful contacts of other intergovernmental agencies, non-governmental organizations, and resource organizations working in the areas of migration and health.

December 18

Contact: Myriam De Feyter
P.O. Box 22, B-9820 Merelbeke, Belgium
Phone: +32 (0)9 3240092 Fax: +32 (0)9 3519762
Email: info@december18.net
Website: www.december18.net

International Centre for Migration and Health

11, Route du Nant d'Avril
CH - 1214 Geneva
Switzerland
Phone: +41 22 7831080 Fax: +41 22 7831087
Email: admin@icmh.ch
Website: http://www.icmh.ch/

International Catholic Migration Commission

Contact: Ms. Mariette Grange
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