

# Ending Violence against Women Migrant workers in Asia and the Pacific

FACTSHEET

## WHAT IS VIOLENCE

against women and girls and how  
does it affect women migrant  
workers?

Violence against women and girls is one of the most pervasive and systemic human rights violations in the world. Up to seven in ten women worldwide report having experienced physical and/or sexual violence at some point in their lifetime,<sup>2</sup> and up to 50 percent of sexual assaults are committed against girls under 16.<sup>3</sup> In several countries across Asia and the Pacific the rates of violence against women and girls are disproportionately high, indicating that the situation requires urgent attention in these two regions. Violence against women is 'any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women [or girls], including threats of such acts, coercion or arbitrary deprivation of

<sup>1</sup> Much of this section is taken from an analysis undertaken for UN Women by Lara Fergus, "Prevention of Violence against Women and Girls", background Paper, UN Women Expert Group Meeting on Prevention of Violence against Women and Girls, Bangkok, Thailand, 17-20 September 2012, available from "<http://www.unwomen.org/wp-content/uploads/2012/09/cs557-EGM-prevention-background-paper.pdf>".

<sup>2</sup> Between 15% and 76% of women in different countries, *ibid* p. 5.

<sup>3</sup> World Health Organisation (2002) *World Report on Violence and Health*, cited in United Nations Population Fund (2005) *State of World Population 2005*, p.66. It should also be noted that the experience of abuse as a child is also a risk factor for later perpetration by men of violence against women and girls, - approximately 5-10% of men report being sexually abused as children, while 25-50% of all children report being physically abused: World Health Organisation (2006) *Preventing Child Maltreatment: A Guide to Taking Action and Generating Evidence*, cited in *ibid.gus* (2012), p. 5.

Violence against women and girls is manifested in a continuum of multiple, interrelated and sometimes recurring forms, encompassing, but not limited to:

- A. Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women and girls, non-spousal violence and violence related to exploitation;
- B. Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and girls, and forced prostitution of women and sexual exploitation of girls;
- C. Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

*Excerpted from the Declaration on the Elimination of Violence against Women*

liberty, whether occurring in public or in private life.<sup>4</sup> Girls and young women under the age of 18 years are further subject to violence when they suffer the ‘neglect or negligent treatment, maltreatment or exploitation’ that is part of the broader definition of violence against children. In Asia, women represent half of all migrant workers, and two-thirds of the poor.<sup>5</sup> For some Asian countries these figures are even higher – for instance Nepal has the most feminized migrant workforce in South Asia, with women representing over 68 percent of international migrants.<sup>6</sup> Women also constituted 83 percent of all migrant workers from Indonesia in 2009.<sup>7</sup> In the Pacific, women are affected not only by poverty and socio-economic disadvantages, but also by climate change and environmental degradation that propel their migration overseas in search of decent work and sustainable livelihoods.<sup>8</sup> Across the two regions, most women migrant workers are concentrated in low-wage, low-status jobs, especially in the informal economy. Many are employed in woman-centered jobs in feminized sectors of employment such as domestic and care work, sex work, entertainment and hospitality work, and garment and manufacturing work.<sup>9</sup> These women encounter unique and intersecting forms of discrimination, including violence, which is recognized as discrimination under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979), also known as the Bill of Rights for Women.<sup>10</sup> Almost all countries across Asia and the Pacific are States Parties of CEDAW, which is one of the most widely ratified core human rights treaties.<sup>11</sup> The Committee on the Elimination of Discrimination Against Women (CEDAW Committee), the monitoring body for the CEDAW Convention, adopted a General Recommendation No. 26 on Women Migrant Workers (CEDAW GR. No. 26) in 2008 recognizing

<sup>4</sup> Fergus (2012), p. 5

<sup>5</sup> UN Women, *Gender Aspects of Migration in Asia: A Factsheet* (Bangkok, available from: <http://www.migration-unifemapas.org/Publications/>)

<sup>6</sup> UNDESA (2011), cited in UN Women and V V Giri (2012).

<sup>7</sup> International Organization for Migration and Migration Policy Institute, *Labour Migration from Colombo Process Countries* (Bangkok, 2011), p. 24.

<sup>8</sup> UN Women, “Rio+20 and Women’s Migration in Asia and the Pacific: Mainstreaming gender concerns in migration to achieve sustainable development: Factsheet” (Bangkok, 2012), available from: <http://www.migration-unifem-apas.org/Publications/>

<sup>9</sup> Committee on the Elimination of Discrimination against Women, *General Recommendation No. 26 on Women Migrant Workers*, CEDAW/C/2009/WP.1/R.

<sup>10</sup> See Jean D’Cunha, *Claim and Celebrate Women Migrants’ Human Rights through CEDAW: A UNIFEM Briefing Paper* (Bangkok, 2005).

<sup>11</sup> As of February 2013, Palau among the Asian and Pacific countries was not a state party to CEDAW.

that women migrant workers experience a particular risk of violence at various stages throughout the migration cycle (pre-departure, in transit, on-site in countries of destination, and on return to countries of origin).

## THE CONTEXT

### The Need for Preventive, Multi-Sector, Multi-Stakeholder Strategies

Ending violence against women and girls remains one of the most serious and ongoing challenges for the international system, regional organizations, Governments and civil society in the Asia-Pacific region. Sustained and robust advocacy by women's, children's, and migrants' organizations has ensured that the goal of ending violence against women and girls, including against women migrant workers, is prioritized on national and international human rights and development agendas. For instance, UN Women supports a biannual report of the Secretary-General on violence against women migrant workers, most recently published in 2011, that records the efforts of United Nations Member States and agencies to tackle the issue at global, regional and country levels, in line with a biannual General Assembly resolution on violence against women migrant workers.<sup>12</sup> The Asia Pacific and Arab States Regional Programme on Empowering Women Migrant Workers, that includes nine countries across South and Southeast Asia as well as Jordan, also integrates the goal of ending violence against women into its policy and programming work with women migrant workers, especially domestic and care workers.

There have been substantial gains made across the globe in recent years, particularly on improving justice and service responses for survivors. However, multi-sector, multi-stakeholder strategies are urgently needed to stop violence from occurring in the first place. These strategies must operate across sectors

that affect different groups of women, including women migrant workers, girl-children and young women, rural women, indigenous women, women living with HIV, and other marginalized groups. A multi-sector approach would involve inter-ministerial coordination within Governments including ministries of women's affairs, social and economic development, immigration and diaspora affairs, child and youth development, labour, health, education, foreign affairs, planning, national human rights and other relevant government agencies. Truly, multi-stakeholder strategies would also engage civil society, especially women's groups, children's advocates and migrants' organizations, international and regional organizations, development partners, academics, and experts.

Preventing violence against women migrant workers is both a human rights obligation and an achievable goal. However, effective prevention requires sustained, coordinated and systematic action by Governments, the international community, regional organizations across Asia and the Pacific and civil society.<sup>13</sup> The importance of political will, information sharing, and exchange of good practices and lessons learned, and cooperation at bilateral, regional and international levels cannot be overstated.

*Women migrant workers are active contributors to development in countries of origin and destination. Violence and discrimination against them constitute a human rights violation, and imposes costs on individual women migrant workers, their families, communities and States, thereby adversely affecting economic and social development and the achievement of gender equality and women's empowerment.*

**Report of the Secretary-General on Violence against Women Migrant Workers, 2011.**

<sup>12</sup> United Nations Secretariat. *Violence against women migrant workers: Report of the Secretary-General on violence against women migrant workers (A/66/212)* (New York, 2011).

<sup>13</sup> Fergus (2012).

## THE CHALLENGES-

Posed by Violence against Women Migrant Workers from Asia and the Pacific<sup>14</sup>

The challenges that women migrant workers encounter related to violence are summarized in the CEDAW GR. No. 26. The Recommendation highlights women migrant workers' vulnerability to physical and sexual violence by their employers, and the added risk of domestic violence, as well as economic abuse and exploitation, to which those with an irregular immigration status are particularly vulnerable. The GR. No. 26 also notes that access to justice for women migrant workers may be limited, which prevents them from obtaining remedies for employment discrimination or violence. Even where remedies and services are available, they may be gender-blind and culturally and/or linguistically inappropriate. As a result, women migrant workers may face barriers to accessing them, the available remedies. Migrant workers may begin employment in destination countries in a state of debt, financial hardship and dependency owing to high recruitment fees. Poor reintegration services, especially those that are gender-blind or even discriminatory to women, may lead to further hardship for women migrant workers after they return to their country of origin.

Women migrant domestic workers often experience human rights violations because of the isolation and dependence associated with the nature of their work, which takes place in private homes which may also be their accommodation, and the low value attached to domestic work which is imbued with gendered stereotypes and seen as "women's work". The legal and practical gaps in protecting these migrant workers were highlighted by the Committee on the

Protection of the Rights of All Migrant Workers (CMW) and Members of Their Families in its General Comment No. 1 on Migrant Domestic Workers (CMW GC. No. 1) in 2010. Both the CEDAW and CMW Committees have addressed recommendations to States Parties with respect to ensuring compliance with treaty obligations. Several countries across the Asia-Pacific regions have ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) (1991). Although it enjoys a lower level of support than CEDAW as of February 2013, the ICRMW remains one of the core UN human rights conventions along with CEDAW and other treaties. These core human rights obligations, together with a growing number of international and regional standards, form a human rights and labour framework of protections to end violence against women migrant workers. The standards in the framework, outlined below, are complementary and mutually reinforcing.

UN Women's assessments of regional trends on violence against women migrant workers in Asia and the Pacific confirm that there are a widespread and systematic human rights violation that must be addressed immediately. A UN Women report published in 2013 recognizes violence as a major human rights concern across Southeast Asia, especially for at-risk groups such as domestic workers and sex workers.<sup>15</sup> This reinforces national level UN Women reports - for instance a 2012 situation analysis by UN Women and the Ministry of Labour, Invalids and Social Affairs of the Government of Viet Nam surveyed several women migrant workers who sought information on the risks of violence prior to migration,<sup>16</sup> and similar reports on Cambodia and Lao PDR indicated that violence was a major issue facing by women migrant workers.<sup>17</sup> A 2012 report by UN Women and the V V Giri National Labour Institute of India on Migration of Women Workers from South Asia to the Gulf,

<sup>14</sup> This section is mostly taken from paras 6-7 of the: Report of the Secretary-General on violence against women migrant workers (2011).

<sup>15</sup> See UN Women, *Managing Labor Migration within ASEAN: Concerns for Women Migrant Workers* (Bangkok, 2013).

<sup>16</sup> UN Women and the Ministry of Labour, Invalids and Social Affairs, Government of Viet Nam, *Women in International Labour Migration from Viet Nam: a Situation Analysis* (Hanoi, 2012), p. 35.

<sup>17</sup> See UN Women, *Cambodian Women Migrant Workers: Findings from a Migration Mapping Study* (Bangkok, 2003); UN Women, *Gender concerns in Migration in Lao PDR* (Vientiane, 2007).

states that “[a]part from physical and mental violence, sexual abuse and exploitation of women working in the Gulf are major problems that female migrants continue to face.”<sup>18</sup> Another review of violence against women in the Pacific found that pockets of the region experience specific forms of violence that are interlinked with migration, HIV and AIDS and cultural clashes with rapid urbanization (among other factors), all issues affecting women migrant workers and their families.<sup>19</sup>

*State responsibility for prevention of violence against women and girls through social and behavioural change is supported by the foundational treaty on women’s human rights, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which establishes signatories’ legal obligation to take ‘all appropriate measures [to] modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.’ General Recommendation 19 of the CEDAW Committee establishes the obligation of States to act with ‘due diligence’ to prevent and respond to violence against women and girls. The further responsibilities of the State to prevent violence, abuse and neglect of girls are supported by the Convention on the Rights of the Child, requiring States parties to ‘take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse’ including ‘forms of prevention,’ along with its two Optional Protocols.*

**Lara Fergus, “Prevention of Violence against Women and Girls”, Background Paper, UN Women Expert Group Meeting on Prevention of Violence against Women and Girls, Bangkok, Thailand, 17-20 September 2012.**

## THE HUMAN RIGHTS and Labour Law Framework to Prevent and End Violence against Women Migrant Workers in Asia and the Pacific

Under international law, the State has primary responsibility for preventing violence against women and girls, including women migrant workers.<sup>20</sup> This responsibility is outlined in the human rights and labour law framework to prevent and end violence against women migrant workers. This framework consists of diverse and interlinked standards that include UN human rights conventions and jurisprudence, including CEDAW General Recommendations and CMW General Comments; ILO core labour and migration-specific conventions, recommendations and fundamental principles and rights at work; and regional instruments from across Asia and the Pacific including those by the Association of Southeast Asian Nations (ASEAN) and the South Asian Association for Regional Cooperation (SAARC). The framework represents both the obligations of Governments and best practice standards to be implemented at country level. It consists of:<sup>21</sup>

- » The core UN human rights conventions, including CEDAW, the ICRMW, and the International Bill of Rights (the Universal Declaration of Human Rights (UDHR) (1948)); the International Covenant on Civil and Political Rights (ICCPR) (1965); and the International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966)). The framework also includes accompanying jurisprudence, especially the CEDAW General Recommendations No. 19 on Violence against Women and No. 26 on Women Migrant Workers, and the CMW General Comment No. 1 on Migrant Domestic Workers.

<sup>18</sup> UN Women and V V Giri National Labour Institute of India, *Migration of Women Workers from South Asia to the Gulf* (New Delhi, 2012), p. 37.

<sup>19</sup> UN Women, *Ending Violence against Women* (2011).

<sup>20</sup> Fergus (2012) p. 16.

<sup>21</sup> This framework is based on UN Women and other reports including: Fergus (2012); UN Women, *Managing Labour Migration in ASEAN: Concerns for Women Migrant Workers* (2013), and the Report of the Secretary-General on violence against women migrant workers (2011).

- » The UN Convention against Transnational Organized Crime (2000); the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (2000); and the Protocol Against the Smuggling of Migrants by Land, Sea and Air (2004).
- » ILO standards including :
  - Convention No. 97 concerning Migration for Employment
  - Convention No. 111 concerning Discrimination in Respect of Employment and Occupation
  - Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour
  - Convention No. 189 and Recommendation No. 201 concerning Decent Work for Domestic Workers
  - Fundamental Principles and Rights at Work
- » The ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ASEAN Migrant Workers Declaration) (2007) and the ASEAN Declaration Against Trafficking in Persons Particularly Women and Children (ASEAN Trafficking Declaration) (2004). The Plan of Action for operationalizing the ASEAN Migrant Workers Declaration covers three themes: protecting migrant workers against discrimination and violence; labour migration governance; and the fight against trafficking in persons.<sup>22</sup>
- » The SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution

## IMPLEMENTING THE FRAMEWORK:

### Suggested Next Steps for Governments and Decision- Makers<sup>23</sup>

Collectively, the framework obligates and recommends that Governments and decisionmakers across Asia and the Pacific undertake the following key actions to prevent and end violence against women migrant workers:

1. **Enhance** gender-responsive data collection, research, analysis and dissemination on migration profiles, and on violence and violations of migrant women's rights at all stages of the migration process; on migrant women workers' contribution to development; on remittances (based on macro data); and on costs of violence against women migrant workers, for appropriate policy and programme formulation and implementation.
2. **Ensure** that women migrant workers, including domestic workers, are included in national labour laws and policies, which should also incorporate robust monitoring and inspection mechanisms.
3. **Incorporate** gender perspectives in national immigration laws and policies, to prevent discrimination against women, particularly with regard to independent migration, and should permit migrant women victims of violence to apply for residence permit independently of abusive employers and spouses.

<sup>22</sup> UN Women, *Women in International Labour Migration from Viet Nam* (2012).

<sup>23</sup> These recommendations are taken from the *Report of the Secretary-General on violence against women migrant workers* (2011).

4. **Ensure** policy coherence among migration, labour and anti-trafficking laws, policies and programmes that are gender-responsive and rights-based. They should promote safe and legal migration, prevent violence and protect the human rights of all women migrant workers throughout the migration process. Such laws and policies should be based on good data and analysis the institutionalized engagement of women migrant workers throughout the policy process; should be adequately resourced; should include measurable targets and indicators, timetables, and monitoring and accountability measures, in particular for recruiting and employment agencies, employers and public officials; and should provide for impact assessments and ensure multisector coordination within and among countries of origin, transit and destination through appropriate mechanisms.
5. **Implement** bilateral and multilateral agreements to ensure the protection of the rights of all women migrant workers and facilitate effective action in law enforcement and prosecution, prevention, capacity-building, victim protection and support, exchange of information and good practices that combat violence and discrimination against women migrant workers.
6. **Reduce** the transaction costs of remittances; facilitate woman-friendly, safe, convenient and efficient modes of transfer and receipt; and encourage the establishment of gender-responsive channels of productive investment.
7. **Expand** the availability of comprehensive reintegration and support services for women migrant workers and their families.

8. **Conduct** education programmes, awareness-raising and other prevention efforts directed at migrant women, recruiting and employment agencies, employers, the media, public officials and the population in general, in origin and destination countries, in ways that are appropriate to the target groups. They should include a focus on promoting and protecting the rights of women migrant workers, draw attention to existing laws and support for migrant women, highlight the opportunities and risks of migration, and be multilingual where appropriate. Pre-departure orientation and training for potential women migrant workers should be gender-responsive and rights-based, and should focus on rights protection and obligations. Gender-responsive and rights-based training programmes for police, immigration officials, judicial personnel, and social and health workers should be strengthened and institutionalized to ensure effective responses to violence and discrimination against women migrant workers, with full respect for their human rights. Such programmes should be governed by standardized procedures, and include gender-responsive and rights-based performance criteria, for greater impact.
9. **Strengthen** support systems for victims of violence and ensure their access to support systems in accordance with human rights standards, irrespective of their immigration status. Such support should be linguistically and culturally appropriate, and should include provision of information on women migrant workers' rights, their access to redress, legal, psychological, medical and social assistance, access to shelters and compensation for damages. Women migrant workers should not be penalized for lodging complaints.

## UN WOMEN'S ROLE— Regional Programme on Empowering Women Migrant Workers in Asia

UN Women's work with women migrants draws upon international human rights standards, including CEDAW and the GR. No. 26 on Women Migrant Workers, and encompasses countries of origin, transit and destination. Working with governments, civil society and the private sector, efforts focus on promoting safe migration for women, eliminating trafficking, and enabling policy, institutional and socio-economic environments that ensure women's equal opportunities and benefits from migration. Specific support programme goes towards establishing laws and practices that protect women migrants' human rights, drawing connections between gender concerns in migration and development including plans and national poverty reduction strategies, strengthening migrants' organizations, and brokering exchanges between source and destination countries to advance labour and social protections.



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United Nations Entity for Gender Equality  
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