

Policy Brief: Women's Mobility and Domestic Work

Decent Work Team for South Asia | January 2016

The ILO estimates that there are 150.3 million migrant workers in the world. Of these 11.5 million are domestic workers (ILO, 2015). While domestic workers have the same rights to benefit from social and labour protection as other workers, the unique nature of their work means domestic workers face particular vulnerabilities (ILO, 2013). Vulnerabilities extend from abusive working conditions, including long working hours without rest, excessive deduction from pay for food and accommodation, physical and sexual violence and also trafficking (ILO, 2013).

Why do some States ban women from migrating into domestic work?

The practice of barring women from migrating and finding employment in certain occupations which are perceived to be risky is an old one. The purported purpose of such policies is always to protect women from publicized abuses such as violence, human trafficking or forced labour. Bans take many forms, with restriction specifying age, educational profile, destination country and other variables.

Bans barring women from migrating into domestic work are premised on the observation that domestic work in certain countries is likely to involve unacceptable working and living conditions for which adequate protection measures are difficult to put in place.

Are Bans Effective?

There is no evidence that bans are successful

While bans are often discussed and referred to in the media, there is no documented evidence that they reduce vulnerability to violence, human trafficking or forced labour. There are, on the contrary, studies that demonstrate their ineffectiveness (ILO, 2015). Media focuses on the negative experience of women abroad, however it rarely focuses on how migration is also an empowering experience. According to conservative

estimate of the ILO, there are currently 3.3 million migrant domestic workers in Asia (ILO, 2015) and numbers are actually increasing (ILO, 2013). The care economy is a feature of global labour markets responding to supply and demand in multiple regions of the world.

Bans on women migrating into domestic work do not address the compelling motives that prompt those very women to migrate. They fail to recognize the value of having options for women to migrate such as the effect of remittances on their household incomes, the social pressure that migration relieves by allowing people to go abroad, and other.

It is worth noting that bans are usually abandoned after a couple years depending on labour market pressures, political vicissitudes and variable media attention, however the abandonment of bans is never based on evidence of the ban having had an effect in reducing human trafficking or forced labour.

Bans on women's migration prompt irregular migration and heighten risks of migration

As bans on women migrating into domestic work ignore the motives that prompt them to migrate, short of a total closure of borders, women still migrate through non-official and more risky channels. Bans make women take greater risks to exit by exposing themselves to smugglers and traffickers. In many countries, bans have led to passport fraud and corruption (ILO, 2015).

Since bans are in place, migrants do not reach out to registered and authorized recruitment agencies, instead they go through agents who profit from these circumstances. The proliferation of irregular agents creates conditions for human trafficking to flourish.

Bans deprive the State and other actors of the opportunity to interact with potential women migrants before they leave. In practice this means the

women migrants who leave despite the ban usually have no skills training, pre departure training let alone knowledge on their basic human and labour rights.

Bans discriminate against women’s rights and violate international standards and norms

Most constitutions of Asian countries guarantee the equal rights of men and women including freedom of women. Bans that bar women from migrating often contradict domestic law.

With two exceptions almost all countries in Asia have signed and ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which obligates States to take steps to eliminate discrimination against women on the basis of gender and to realise women’s rights through equal access and opportunities.

CEDAW Ratification in GCC Countries	
<i>Country</i>	<i>Year</i>
Bahrain	2002
Kuwait	1994
Oman	2006
Qatar	2009
Saudi Arabia	2000
United Arab Emirates	2004

CEDAW Ratification in South Asia	
<i>Country</i>	<i>Year</i>
Afghanistan	2003
Bangladesh	1984
India	1993
Maldives	1993
Nepal	1991
Pakistan	1996
Sri Lanka	1981

CEDAW also has specific provisions related to non-discrimination in work, including the right to equal employment opportunities and selection criteria for work. CEDAWs General recommendation 26 prompts States to “...formulate a gender-sensitive, rights-based policy on the basis of equality and non-discrimination to regulate and administer all aspects and stages of migration, to facilitate access of women

migrant workers to work opportunities abroad, promoting safe migration and ensuring the protection of the rights of women migrant workers (articles 2 (a) and 3)”.

The recommendation specifically calls on origin countries to ensure the “lifting of discriminatory bans or restrictions on migration: States parties should repeal sex-specific bans and discriminatory restrictions on women’s migration on the basis of age, marital status, pregnancy or maternity status. They should lift restrictions that require women to get permission from their spouse or male guardian to obtain a passport or to travel (article 2 (f)).” For further information also see OHCHR recommendations (Crepeau, 2014) (OHCHR, 2010).

ILO’s Discrimination (Employment and Occupation) Convention, 1958 (No. 111), also requires governments to ensure “equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination” and “repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy”.

C. 111 Ratification in GCC Countries	
<i>Country</i>	<i>Year</i>
Bahrain	2000
Kuwait	1966
Qatar	1976
Saudi Arabia	1978
United Arab Emirates	2001

C. 111 Ratification in South Asia	
<i>Country</i>	<i>Year</i>
Afghanistan	1969
Bangladesh	1972
India	1960
Maldives	2013
Nepal	1974
Pakistan	1961
Sri Lanka	1998

Since bans barring women from migrating are discriminatory, they do not produce gender equity and can be counter- productive to what is actually intended.

Alternative policies to explore

1. Advocacy for receiving countries to uphold rights of migrant domestic workers, advocate for signing and ratifying of migrant worker conventions and treaties
2. Negotiate enforceable contractual entitlements protecting the right of migrant domestic workers in receiving countries.
3. Strengthening capacity of labour attaches and offices to monitor and uphold rights of migrant domestic workers. Improve access to justice: complaint mechanisms, non-criminalization measures for victims of forced labour and human trafficking.
4. Promote women empowerment policies in sending countries that address the reasons why women migrate such as access to rights and entitlements, freedom from gender based violence, access to education and programmes that enhance employability including competency diversification, information and vocational skills.

For further information please contact

ILO Country Office for India and Decent Work
Team for South Asia
India Habitat Centre, Core 4b, Lodi Road
New Delhi 110-003, India
Tel: +91 11 2460 2101
E-mail: bosc@ilo.org ; sharma@ilo.org

References

- Crepeau, F. (2014). *Report of the Special Rapporteur on the human rights of migrants*. Retrieved from http://www.ohchr.org/Documents/Issues/SR_Migrants/A.HRC.26.35.pdf.
- ILO. (2013). *Domestic workers across the world: Global and regional statistics and the extent of the legal problem*. Geneva: International Labour Office.
- ILO. (2013). *Snapshot: ILO in action, domestic workers*. Geneva: TRAVAIL.
- ILO. (2015). *ILO Global Estimates on Migrant Workers*. Geneva: International Labour Office.
- ILO. (2015). *No Easy Exit: Migration Bans Affecting Women from Nepal*. Geneva: International Labour Organisation.
- Kapur, R. (2010). *Makeshift Migrants and Law: Gender, Belonging, and Postcolonial Anxieties*. Routledge India.
- OHCHR. (2010). *Committee on Migrant Workers*. Retrieved from First General Comment: http://www2.ohchr.org/english/bodies/cmwr/cmw_migrant_domestic_workers.htm.