

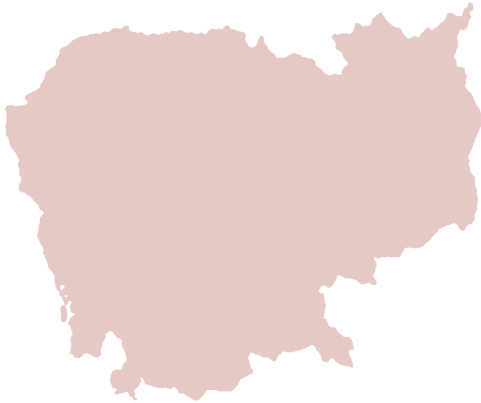


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SENDING COUNTRIES: SOUTHEAST ASIA

Kingdom of Cambodia



A. COUNTRY CONTEXT

Cambodia is located on the South-East Asian peninsula, bordered by Thailand, Lao Peoples Democratic Republic, Viet Nam, and the Gulf of Thailand. The population is almost 15 million, 80 percent of whom live in rural areas. Over 95 percent of Cambodians are Khmer-speaking Buddhists, and over half of the population is less than 25 years old. Cambodia is a post-conflict country having survived decades of civil war, when at least 1.5 million people died at the hands of the Khmer Rouge. Since the late 1990s it has been politically stable, and national elections held in July 2008 were relatively peaceful. However, long-term development after decades of war remains a challenge. Most rural areas are in need of basic infrastructure, and much of the population lacks education and productive skills.¹ Cambodia is a low-income country² with medium human development.³ Gross National Income was placed at 830 dollars per capita in 2011.⁴

Recent improvements in agricultural production, strong growth in construction and services, and expansion of the garment sector have led to economic development. Between 2004 and 2008 the economy grew about 10 percent per year, however it contracted slightly in 2009 as a result of the global economic slowdown. Increased tourism and renewed exports helped the economy to regain momentum and in 2011 it grew by 6.5 percent. The garment industry is an important part of the economy contributing more than 70 percent

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- 1 US Central Intelligence Agency, *The World Factbook 2011 – Cambodia* (Webpage, 2011). Available from: <https://www.cia.gov/library/publications/the-world-factbook/geos/th.html>
 - 2 Available from: <http://data.worldbank.org/country/cambodia>
 - 3 Available from: <http://hdrstats.undp.org/en/countries/profiles/KHM.html>
 - 4 Available from: <http://data.worldbank.org/country/cambodia>

of Cambodia's exports. The industry employs more than 300,000 people - about 5 percent of the work force.⁵

Human Development Index (2011)	Medium human development ⁶
Stock of migrants from Cambodia 2009	210,000 ⁷
Share of population migrating for work (2009)	1.4%
Estimated proportion of female migrants (2010)	50% ⁸

Cambodia is primarily a sending country for migrant labour. Low wages, chronic poverty, landlessness, unemployment, lack of access to markets, debt, and natural disasters such as droughts and floods all serve as push factors for Cambodians to emigrate for work. At the same time, increasing demand for low-skilled workers on the international labour market, along with higher wages, act as a pull factors for unemployed and underemployed Cambodians. The vast majority of Cambodians migrating for work emigrate to neighbouring Thailand. The International Labour Organization (ILO) has pointed out that: "The movement of labour from Cambodia to Thailand has long been characterized by the irregular migration as the legal channel for going abroad is relatively new, costly and inconvenient for most of the workers. Since labour emigration from Cambodia is expected to rise due to a number of internal and external reasons, the government is faced with the challenge to develop and strengthen its legal framework and institutions to manage it."⁹

B. KEY GENDER AND HUMAN RIGHTS

Cambodia has ratified or acceded to six of the nine core human rights conventions, including the Convention on Elimination of All Forms of Discrimination against Women (CEDAW) and its optional protocol. It has signed, but not yet ratified, the Convention on the Protection of the Rights of All Migrant Workers and members of their Families (CMW). In its 2006 Concluding Observations on Cambodia, the CEDAW Committee noted that States' adherence to major international human rights instruments "enhances the enjoyment by women of their human rights and fundamental freedoms in all aspects of life." The Committee therefore urged the Government of Cambodia to consider ratifying the Convention on Migrant Workers.¹⁰

5 US Central Intelligence Agency, *The World Factbook 2011*.

6 Available from: <http://hdrstats.undp.org/en/countries/profiles/KHM.html>

7 International Labour Organization, *Review of Labour Migration Management, Policies and Legal Framework in Cambodia*, (Geneva, May 2009), p. 4. Available from: www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_106497.pdf

8 Cambodia Committee for Women (CAMBOW) and Cambodian NGO Committee on CEDAW, *Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women In Cambodia*, (Phnom Penh, 2010), p. 55. Available from: www2.ohchr.org/english/bodies/cedaw/docs/ngos/JointNGOSubmission_Cambodia56.pdf

9 International Labour Organization, *Review of Labour Migration Management*, p. ix.

10 CEDAW Committee, *Concluding Observations of the Committee on the Elimination of Discrimination against Women – Cambodia* (CEDAW/C/KHM/CO/3) (Thirty-fourth session, 2006), para. 40. Available from: www2.ohchr.org/english/bodies/cedaw/

Although Cambodia has ratified many human rights conventions, application and implementation have been slow. Human rights concerns include: high levels of corruption in all branches of government; a culture of impunity for violations of the law; lack of access to justice for the poor; restrictions on freedom of expression; and forced evictions.¹¹ To address human rights concerns, the Government has established Commissions for the Protection of Human Rights and Receipt of Complaints in the National Assembly and the Senate. Both Commissions are mandated to facilitate, receive and address all complaints made by citizens who believe their rights have been violated. Additionally, the Cambodian Human Rights Committee was established to assist the Government in the development of human rights policies and to coordinate investigation and resolution of human rights abuses.¹² The Government has also initiated several policy measures to promote and protect the legal, political and social rights of women, including: gender mainstreaming action plans; gender-responsive planning and budgeting; affirmative action to increase women's political participation; and educational programmes that promote the principle of equality between men and women in private and public life.¹³

Despite progress in developing human-rights mechanisms and legal frameworks, large disparities remain between men and women with respect to health, literacy, political participation and access to resources.¹⁴ Women migrants are particularly vulnerable to human rights abuses. In its 2012 World Report, Human Rights Watch described the conditions faced by Cambodian women and girls recruited as domestic workers. "Recruitment agents often forge fraudulent identity documents for children, offer cash and food incentives as 'loans' that leave migrants deeply indebted, confine recruits in training centres in Cambodia for months and intimidate those who try to escape. Many recruitment centres have inadequate food, water, and access to medical care. In 2011 three women recruits died while confined in the centres, and authorities failed to undertake thorough investigations into their deaths or hold anyone accountable."¹⁵

In addition to being exploited by recruitment agencies, Cambodian women also face a host of human rights abuses upon arrival in destination countries. Some report being subjected to trafficking, forced labour and pressure to engage in prostitution, while others are subject to harassment by immigration and law enforcement officials, employers who confiscate their travel documents, and dangerous working conditions.¹⁶ In its Concluding Observations for Cambodia, the CEDAW Committee noted its concern that "Cambodian women, especially young women who migrate in neighbouring countries in search of work opportunities, are extremely vulnerable to becoming victims of various forms of violence, exploitation and trafficking". The Committee called upon the Government to "focus on the causes of women's migration and to develop policies and measures to protect migrant women against exploitation and abuse".¹⁷

11 CAMBOW and Cambodian NGO Committee, *Implementation of the CEDAW*, p. 6.

12 Cambodia, *Combined Fourth and Fifth Periodic Reports of Cambodia to the CEDAW Committee* (Phnom Penh, 11 August 2011), paras. 12-13.

13 *Ibid*, paras. 43 and 51.

14 CAMBOW and Cambodian NGO Committee, *Implementation of the CEDAW*, p. 2.

15 Human Rights Watch, *World Report 2012 – Cambodia*, (New York, 2012). Available from: www.hrw.org/world-report-2012/world-report-2012-cambodia

16 CAMBOW and Cambodian NGO Committee, *Implementation of the CEDAW*, p. 55.

17 CEDAW Committee, *Concluding Observations*, paras. 21 and 22.

C. KEY STAKEHOLDERS

The Ministry of Labour and Vocational Training (MoLVT), in cooperation with the Ministry of Foreign Affairs and the Ministry of the Interior, manages the sending of Cambodian workers abroad. Its mandate includes: selecting and licensing employment agencies; monitoring and evaluating recruitment agencies; withdrawing licenses from employment agencies who do not follow relevant laws, issuing sub-decrees and other regulations; providing medical checks to migrant workers prior to departure; resolving labour disputes between migrant workers and domestic employment agencies and between migrant workers and their employers; supporting the employment agencies in sending workers abroad; and preventing illegal recruitment.

The Manpower Training and Overseas Sending Board, under the Ministry of Labour and Vocational Training, acts as a public recruitment agency to manage the migration of Cambodian workers abroad. The Board is composed of three units: 1) administrative and finance, 2) recruiting and training, and 3) sending and management.

NGOS¹⁸

CARAM Cambodia focuses on empowering migrant workers and their communities. Through research, training, advocacy and provision of services it aims to promote and protect the rights of migrants and reduce vulnerabilities related to labour migration.

Legal Support for Children and Women (LSCW) aims to prevent violence and abuse against women and children through: advocacy- and capacity-building initiatives; provision of free legal advice; rights-awareness campaigns; training for law students; technical support to government; and participation in national, regional and international efforts to counter trafficking and protect the human rights of migrants.

Cambodia Working Group for Domestic Workers (CWGDW) is a network of civil society stakeholders founded in November 2011 to collaborate and unite advocacy efforts and resources to respond to issues affecting domestic workers, and to encourage the Royal Government of Cambodia to ratify the new ILO Convention 189 concerning decent work for domestic workers.

Cambodian Women's Crisis centre (CWCC) provides shelter, counselling, skills training and legal assistance to women victims of domestic violence, rape and human trafficking. CWCC also conducts research, awareness-raising campaigns and community-based education, and lobbies the government for greater protection for victims.

Cambodian Women for Peace and Development (CWPD) contributes to improving the quality of life of Cambodian women and their families by focusing on four key areas, namely: reproductive health and HIV/AIDS prevention; community development and economic

18 IOM, Review of Labour Migration Dynamics in Cambodia available at <http://piasdgserver.usp.ac.fj/apmrn1/fileadmin/files/docs/cambodia/LMReportCambodia.pdf>

empowerment; law enforcement and good governance; and natural environment protection and management.

LICADHO, a national Cambodian human rights organization established in 1992, aims to promote respect for the civil, political, economic and social rights of Cambodian people through: monitoring, collecting and investigating human rights violations perpetrated by the State and violations made against women and children; providing legal advice by a paralegal team; providing legal representation by human rights lawyers; conducting rights-awareness campaigns; engaging in advocacy efforts; and conducting outreach to vulnerable populations.

D. RATIFICATION RECORD

The following table illustrates Cambodia's ratification status of international treaties related to women migrant workers.

TREATIES	RATIFICATIONS
ICERD	28 November 1983
MWC	27 September 2004 s
CEDAW	15 October 1992 a
ICCPR	26 May 1992 a
ICESCR	26 May 1992 a
ILO C29 Forced or Compulsory Labour	24 February 1969
ILO C87 Freedom of Association	1999
ILO C97 Migration for Employment	23 August 1999
ILO C98 Right to Organize and Collective Bargaining	23 August 1999
ILO C100 Equal Remuneration	23 August 1999
ILO C105 Abolition of Forced Labour	-
ILO C111 Discrimination in Employment	-
ILO C138 Minimum Age for Admission to Employment	14 March 2006
ILO C143 Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers	-
ILO C181 Private Employment Agencies	-
ILO C182 Prohibition of the Worst Forms of Child Labour	14 March 2006

D. COMPLIANCE WITH CEDAW

The CEDAW Committee has noted that article 31.1 of Cambodia's Constitution "stipulates recognition of and respect for international human rights agreements, that article 45.1 calls for the abolition of all forms of discrimination against women, and that the Convention takes precedence over domestic law." However, it expressed concern that the CEDAW is not self-executing and is not directly applicable in court proceedings. Thus the Committee urged the Government to "take immediate measures to ensure that the Convention becomes fully applicable in the domestic legal system".¹⁹ To address some of these concerns, in July 2007, the Constitutional Council in Cambodia issued a ruling, which made clear that all international Conventions like CEDAW or CRC, along with all other international laws ratified by Cambodia, are directly applicable in Cambodian courts.

However, experts note that despite this Constitutional imperative, many judges and legal officers are not aware of CEDAW's existence, and thus judges rarely take it into account when adjudicating cases.²⁰ Thus the Government must do more to comply with the CEDAW Committee's recommendation, and raise awareness among legal professionals including judges, prosecutors and lawyers, so that the CEDAW and other human rights conventions to which Cambodia is a party become well known and used in judicial processes.²¹

DISCRIMINATION

Additionally, the CEDAW Committee expressed concern that there is no specific definition in Cambodian law of the nature and forms of discrimination against women. Accordingly, it urged Cambodia to include in domestic law a definition of discrimination against women that encompasses both direct and indirect discrimination in line with article 1 of CEDAW.²² An effective anti-discrimination clause must prohibit discrimination against women "by public and private actors in all areas of their lives and in the exercise of all fundamental rights and freedoms. It should also explicitly prohibit discrimination across a range of intersections including but not limited to race, class, disability, and sexual orientation".²³

While the Constitution and domestic laws do not include a specific definition of discrimination, Cambodia has enacted policy measures for achieving equality and has created regulations that punish acts of discrimination against women. For example, the Penal Code punishes those that refuse to give property or services to anyone based on sex, and the law prohibits making employment decisions on the basis of sex.²⁴

19 Ibid, paras. 9 and 10.

20 Ke Bunthoeurn, "Legal Framework of NGOs in Cambodia", in *International Journal of Not-for-profit Law*, vol. 13, issues 1-2 (April 2011), p. 9. Available from: www.icnl.org/research/journal/vol13iss1/art_1.htm

21 CEDAW Committee, *Concluding Observations*.

22 Ibid, paras. 11 and 12.

23 UNIFEM, *Gender Equality Laws - Global Good Practice and a Review of Five Southeast Asian Countries*, (March 2010), p.3. Available from: http://cedaw-seasia.org/docs/Aw_GEL_incover050609Feb10.pdf

24 Cambodia, *Combined Fourth and Fifth Periodic Reports*.

Despite this de jure equality, in fact discrimination remains a reality for most women. Discriminatory moral codes and social practices mean that the rights and freedoms articulated in the Constitution and other laws and policies do not necessarily benefit women as intended. For example, according to gender advocates, “social pressure and poverty means that most girls do not receive the same level of education as boys. This lack of education prevents women from participating in political life, as they often lack confidence to work in the public sphere. Women deprived of educational opportunities are also less likely to reach key positions in the private sector ... Consequently, Cambodian women are more vulnerable to poverty than men. Women not only have lower incomes, but also lack access to certain economic opportunities due to discriminatory attitudes which limit their occupational choices.”²⁵

The failure of the Government to adequately address stereotyping of women and girls is in violation of article 5 of the CEDAW, which calls upon States parties 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.”

POLICY MEASURES

Cambodia has several policies that aim to regulate labour migration, including Sub-decree 57 issued in 1995, which regulates migration abroad for work. Its focus is mainly on the responsibilities of recruitment agencies, conducting pre-departure trainings for migrants, and coordination efforts regarding the return of migrant workers. It is not enforceable in destination countries. Sub-decree 57 does not cover standard contracts that can be enforced in destination countries, nor does it provide minimum standards for specific labour rights that migrant workers are entitled to. It does however obligate recruitment agencies to sign written contracts with workers.²⁶

Recently a new Sub-decree, no. 190 on the Management of Sending of Cambodian Workers Abroad through Private Recruitment Agencies, was enacted which supercedes some provisions of Sub-decree 57. This new regulation includes some positive changes by requiring that: recruitment agencies are periodically inspected by the Ministry of Labour; lawyers are provided for migrants engaged in legal proceedings abroad; contracts between agencies and workers are written in the Khmer language; and training centres ensure a “decent” standard of living.²⁷ These are good practices that promote the rights of migrant women to information and access to justice.

25 CAMBOW and Cambodian NGO Committee, *Implementation of the CEDAW*, p. 3.

26 CARAM Asia, *Reality Check! Rights & Legislation for Migrant Domestic Workers across Asia*, (Kuala Lumpur, 2011). p. 8. Available from: www.caramasia.org/reports/FDWlegislationAsia.pdf

27 Human Rights Watch, “Cambodia: New Regulation Short-Changes Domestic Workers”, (webpage, 30 August, 2011). Available from: www.hrw.org/news/2011/08/30/cambodia-new-regulation-short-changes-domestic-workers

However, critics charge that in many ways, the new Sub-decree 190 actually represents a step backwards as it eliminates some of the rights previously afforded to workers, and fails to address serious problems raised over the years by NGOs and migrant worker advocates. For example, under the old Sub-decree 57, workers were entitled to at least 1.5 days of paid holidays per month. Sub-decree 190 eliminates that provision and now merely specifies that employment contracts must specify working conditions and benefits. Article 9 of Sub-decree 57 required that information regarding salary, repatriation provisions, transport expenses and insurance premiums be included in the contract, however Sub-decree 190 no longer requires this. Sub-decree 57 required that disputes must be resolved according to the contract signed by involved parties, but Sub-decree 190 removed this requirement.²⁸ Additionally, Sub-decree 190 fails to address several major gaps in the original Sub-decree 57. LICADHO has said the problems still faced by Cambodian migrant workers include those related to: “i) debt bondage through the provision of enticement loans to workers, ii) recruitment of underage girls, iii) illegal detention and mistreatment of workers in pre-departure training centres, iv) the facilitation and use of forged legal documents (passports, birth certificates), v) failure to provide copies of contracts to workers, vi) failure to pay workers their full salaries and/or not paying any salary until the end of the contract, and viii) recruitment agencies preventing and obstructing contacts between workers and their relatives”.²⁹

According to the CEDAW Committee’s General Recommendation 26, States parties must formulate a gender-sensitive rights-based policy to regulate and administer all aspects and stages of migration, to promote safe migration and ensure the protection of the rights of women migrant workers. Specifically, with respect to recruitment agencies, the CEDAW Committee has urged the Government to ensure women migrant workers receive appropriate gender- and rights-based pre-departure information and training that raise their awareness of potential exploitation. The General Recommendation also urges governments to “seek the active involvement of women migrant workers and relevant NGOs in such policy formation, implementation, monitoring and evaluation.”³⁰ Cambodia’s policies on migration fail to address several serious human rights violations regularly faced by women migrant workers, including debt bondage and mistreatment and confiscation of documents. Although these issues have been well documented and shared by NGOs and migrant worker advocates over the past few years, the policies on migration still contain many gaps and thus are not in compliance with the CEDAW.

In October 2011, the Government of Cambodia banned recruitment, training and sending of domestic workers to Malaysia, following many reports of abuse exploitation, and in some cases deaths. The ban has been put in place temporarily in order to give the Government time to enact new laws, and initiate processes and mechanisms that will ensure safe migration.³¹ States parties to the CEDAW are obligated to ensure that women receive equal protection

28 LICADHO, *Comments on the Sub Decree on “the Management of the Sending of Cambodian Workers Abroad through Private Recruitment Agencies”*, (Phnom Penh, August 2011), pp. 2-4. Available from: www.licadho-cambodia.org/reports.php?perm=160

29 Ibid.

30 CEDAW Committee, *General recommendation No. 26 on women migrant workers*, (CEDAW/C/2009/WP.1/R) (UN Doc A/64/38 at 15 2008) (Forty-second session, 2008), paras. 23 (a) and (b), and 24(b)(i). Available from: www2.ohchr.org/english/bodies/cedaw/docs/GR_26_on_women_migrant_workers_en.pdf

31 Cambodian Working Group for Domestic Workers (CWGDW), “Cambodia’s Ban on Domestic Workers to Malaysia is an Opportunity for Change to Protect the Rights of Migrant Workers”, (Phnom Penh, 12 February 2012). Available from: <http://atnc.asia/wp/2012/02/cambodias-ban-on-domestic-worker/>

under the law, thus regulations to protect the rights of women migrant workers to be free from abuse and exploitation are good practices. However, imposing a ban on domestic workers migrating for employment in Malaysia has a discriminatory impact on women, as it is mainly women who fill these jobs. Additionally, research has shown that such bans often drive women who are desperate to work to migrate through informal channels, thus increasing their risk of exploitation and trafficking.³² For these reasons, General Recommendation 26 calls upon States parties to the CEDAW to lift discriminatory bans or restrictions on migration.³³ Instead, Cambodia should ensure that domestic workers can migrate safely through better regulation of recruitment agencies, promoting the use of contracts with minimum standards, and ensuring domestic workers have access to justice mechanisms for obtaining redress when violations occur. Since the ban, the Government has begun negotiating a Memorandum of Understanding (MoU) with the Malaysian Government to protect the rights of Cambodian migrant workers in Malaysia.³⁴ This is a step in the right direction and hopefully will make the domestic worker ban unnecessary and ensure women equal opportunities in employment.

TRAFFICKING AND FORCED LABOUR

The anti-trafficking legislative framework in Cambodia includes the 2008 Law on the Suppression of Human Trafficking and Sexual Exploitation, which provides the definitions and sentences applicable to unlawful recruitment, cross-border transfer of persons and the act of buying, selling, or exchanging a human being for the purposes of exploitation. The Penal Code addresses the unlawful confinement of people as well as forgery of official documents, bribery of officials and identity fraud.³⁵ The 2009 Policy on National Minimum Standards for the Protection of the Rights of Victims of Human Trafficking includes guidelines to improve victim treatment and protection; and the 2011-2013 National Plan of Action on Trafficking is the Government's policy framework for combating trafficking.

Despite these legislative efforts, according to the US State Department, Cambodia remains a source, transit, and destination country for men, women and children who are subject to forced labour and sex trafficking. The Report notes that many women who voluntarily choose to migrate to Thailand, Malaysia, and other destinations for work become victims of forced labour, sex-trafficking, domestic servitude, and debt bondage.³⁶

Prosecution

In its 2006 Concluding Observations, the CEDAW Committee observed that Cambodia should seek to properly implement its trafficking policy. Since that time the Government has taken several steps to address this issue. In 2008, the Government enacted the Law on Suppression of

32 Human Rights Watch, "Nepal: Protect, Don't Ban Young Women Migrating to Gulf", (New York, 14 August 2012). Available from: www.hrw.org/news/2012/08/14/nepal-protect-don-t-ban-young-women-migrating-gulf

33 CEDAW Committee, *General recommendation No. 26*.

34 US State Department, *Trafficking in Persons Report 2012*, p. 107.

35 Asia Foundation, *Cambodia's labour Migration - Analysis of the Legal Framework*, (San Francisco, April 2011). Available from: <http://asiafoundation.org/resources/pdfs/LegalFrameworkLabourTrafficking.pdf>

36 US State Department, *Trafficking in Persons Report 2012*, p. 106-7.

Human Trafficking and Commercial Sexual Exploitation which prohibits all forms of trafficking and prescribes sufficiently stringent penalties for those convicted. Pursuant to this law, in 2011 the Government convicted eight owners, staff members, and managers from three licensed labour recruitment agencies for trafficking-related offenses. Cambodia's anti-trafficking law conforms with the CEDAW Committee's General Recommendation 26 which urges Governments to include in their legislation the provision of legal sanctions for breaches of the law by recruitment agencies.³⁷

Despite this progress however, widespread corruption continues to impede Cambodia's anti-trafficking efforts. For example, the US State Department's report notes that "In December 2011, the former head of the Phnom Penh Municipal Police's Anti-Human Trafficking and Juvenile Protection Department was convicted in absentia and sentenced to seven years' imprisonment on complicity charges, including accepting payments from brothels in exchange for protection and information on future raids. However, corruption allegations were never addressed by the Phnom Penh Municipal Court or the Anti-Corruption Unit and the convicted offender fled prior to being apprehended and remains at large."³⁸ Observers note that it is this culture of impunity that allows employment agencies to engage in illegal recruitment practices that contribute to trafficking.³⁹ Lack of enforcement of anti-trafficking laws is in violation of article 6 of the CEDAW, which obligates States parties to "take all appropriate measures ... to suppress all forms of traffic in women and exploitation of prostitution of women."

Protection

Cambodia has put into place systematic procedures to identify and protect victims of trafficking. In 2009, it issued its Policy and National Minimum Standards for the Protection of the Rights of Victims of Human Trafficking. The government also signed agreements with Viet Nam and Thailand regarding victim identification and repatriation, and a MoU with Malaysia was recently approved.^{40,41} These MoUs represent good rights-based policies that comply with the CEDAW Committee's recommendation to Cambodia that it further strengthen bilateral, sub-regional and multi-lateral cooperation to combat trafficking.⁴²

The National Task Force on Anti-Human Trafficking, Smuggling, Labour Exploitation and Sexual Exploitation of Women and Children is mandated to oversee the implementation of these policies at both the national and sub-national level in each of the provinces. Policies related to victim protection dictate that women and girls who are identified as trafficking victims be referred to shelters run by NGOs, or to the government-run shelter in Phnom Penh. Policies also afford victims the right to seek legal action against their traffickers and encourage them to assist in investigations.⁴³ These are good rights-based practices in line with the CEDAW committee's Concluding Observations, which urged Cambodia to ensure that victims of trafficking are not prosecuted for crimes related to their having been trafficked.⁴⁴

37 CEDAW Committee, *General recommendation No. 26*, para. 24(c)(i).

38 US State Department, *Trafficking in Persons Report 2012*, p. 108

39 US State Department, *Trafficking in Persons Report 2012*, p. 108.

40 US State Department, *Human Rights Report 2011 – Cambodia*, (2011). Available from: www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper

41 Asia Foundation, *Cambodia's labour Migration*.

42 CEDAW Committee, *Concluding Observations*, para. 20.

43 US State Department, *Trafficking in Persons Report 2012*, p. 108.

44 CEDAW Committee, *Concluding Observations*, para. 20.

In its 2006 Concluding Observations the CEDAW Committee also requested that Cambodia collect comprehensive information and data on trafficking of women and girls. However, the TIP Report noted that while several ministries contributed statistics to the trafficking database, the information was inaccurate and incomplete. Because women migrant workers are particularly vulnerable to being trafficked, General Recommendation 26 urges the Government to ensure adequate data collection, research and analysis on the particular problems and needs faced by this group.⁴⁵

Prevention

Recently, the Government has undertaken several initiatives to prevent human trafficking, including sponsorship of anti-trafficking awareness day in December 2011, when approximately 40,000 participants, and three million TV viewers heard testimonies from sex-trafficking victims and commitments from senior government officials to intensify the fight against human trafficking.⁴⁶ This is an example of a good practice in line with General Recommendation 26 which encourages States parties to use “the media, information and communication sectors to contribute to awareness-raising on migration issues, including ... women’s vulnerability to exploitation and discrimination and the various sites at which such exploitation occurs”.⁴⁷

While media campaigns and rights-awareness initiatives are important strategies in preventing trafficking, they must be backed by effective government policies aimed at prevention. To that end, Cambodia recently enacted Sub-decree 190 on regulating recruitment agencies. However, critics charge that this new sub-decree fails to prohibit actions that often lead to trafficking and forced labour, and thus is not a meaningful prevention strategy. For example, the policy does not address the amount in pre-departure fees that recruitment agencies may charge, nor does it provide for adequate monitoring of agencies to avoid abuse, prevent corruption, and enforce criminal penalties.⁴⁸ These omissions, as well as other significant gaps fail to prevent trafficking and forced labour of migrant women and thus are in violation of articles 2 and 6 of the CEDAW, which obligate governments to take all appropriate measures to ensure promotion and protection of women’s human rights, and to suppress the trafficking and exploitation of women.

EMPLOYMENT

Article 36 of Cambodia’s Constitution states that, “citizens of either sex shall enjoy the right to choose any employment according to their ability and to the needs of society.” Article 3 of the 1997 Labour Law defines labourers as “every person of any sex and nationality, who has signed an employment contract in return for remuneration, under the direction and management of another person, whether that person is a natural person or legal entity, public or private.”⁴⁹

45 CEDAW Committee, *General recommendation No. 26*, para. 23(c).

46 US State Department, *Trafficking in Persons Report 2012*, p.108.

47 *Ibid*, para. 24(b)(vi).

48 US State Department, *Trafficking in Persons Report 2012*, p. 108.

49 Cambodia, *Combined Fourth and Fifth Periodic Reports*, para. 139.

This law covers all who are employed in the formal sector, however those employed in the informal sector, such as street traders and domestic workers, are not entitled to rights and benefits under this law.⁵⁰

Benefits afforded to employees under the Labour Law include: a maximum 48-hour work week; prohibition of a seven-day-a-week work; prohibition of termination due to pregnancy; 90 days of maternity leave at half the normal wage; breastfeeding breaks during work hours; provision of a nursing room and day care centre for children of women working in establishments with more than 100 employees – for smaller establishments, employed mothers must reimburse day-care expenses; six months sick leave; one-and-a-half days per month paid annual leave; compensation and medical assistance for work-related illnesses and accidents; and the prohibition of sexual harassment.⁵¹ These provisions of the Labour Law represent good rights-based practices that recognize the contributions of women in the workplace. Specifically, the Labour Law’s prohibition of pregnancy-based discrimination and its provisions for breastfeeding and day care are in compliance with article 11 of the CEDAW which obligates governments to prevent discrimination against women on the grounds of maternity and provide necessary services to enable parents to combine family obligations with work responsibilities.

In addition to enacting legislation to promote gender equality in the workplace, various government ministries have developed strategic plans aimed at promoting the role of women in economic development. For example, the National Strategic Development Plan (NSDP) includes several priority actions “aimed at reducing gender-based discrimination in the labour market and encouraging greater entry by women into higher level jobs”. Additionally, Gender Mainstreaming Action Plans implemented within the Ministry of Commerce and the Ministry of Industry, Mines and Energy include “building the capacity, skills and confidence of women in the informal economy; increasing women’s access to microfinance; promoting registration of businesses owned by women; and increasing women’s access to information, trade and services”.⁵² These initiatives are in line with article 11 of the CEDAW which obligates States parties to promote and protect women’s rights to free choice of profession and employment, promotion, job security and all benefits and conditions of service as well as the right to receive vocational training.

Despite this, the fact remains that most Cambodian women are employed in informal sector and thus are not protected by these positive legislative and policy efforts. According to some estimates, only 17 percent of Cambodian women are employed in the formal sector, while 83 percent participate in the informal economic sector, including self-employment (mainly small-scale farming and household business operations) or family work without remuneration.⁵³ Wages for women in the informal economy are on average 30 percent lower than wages for men doing similar work.⁵⁴ Factors contributing to this disparity include gaps in education and literacy rates between men and women. Other factors include women’s lack of experience and enterprise skills, lack of awareness about marketing, social discrimination,

50 Cambodia, *Labour Law 1997*. Available from: www.mekongmigration.org/labourlaw/images/labourlaw/pdf/cambodia/1%20Labour%20Law%20of%20Cambodia%201997.pdf

51 Ibid.

52 CAMBOW and Cambodian NGO Committee, *Implementation of the CEDAW*, pp.49-50

53 Ibid, pp. 48.

54 Ibid, p. 55.

lack of resources such as credit, and lack of production means.⁵⁵

The CEDAW Committee commented on this in its 2006 Concluding Observations, where it noted its concern “about occupational segregation and the concentration of women in the low-wage and unskilled labour sectors.” It urged Cambodia to “ensure equal participation for women and men in the labour market” and enact measures to “ensure that women receive equal pay for both equal work and work of equal value, and equal social benefits and services.” Excluding informal sector jobs, in particular domestic help, from the protection of the Labour Law is discriminatory as these jobs are largely filled by women. Thus, in order to comply with obligations under the CEDAW Cambodia must enact legislation and policies that protect the rights of this segment of the workforce.

Because women have limited economic opportunities in Cambodia, many look to migration for employment as a viable way out of poverty. Thus the CEDAW Committee has also called upon Cambodia to “focus on the cause of women’s migration and to develop policies and measures to protect migrant women against exploitation and abuse.”⁵⁶

EMPLOYMENT CONTRACT

Migrant workers are required by law to enter into a contract with their recruitment agency in Cambodia, which is often a sub-agency to the principle recruiting agency in the destination country. Contracts must specify working conditions, job status, types of work to be done, and benefits. However, the law does not specify minimum standards for specific labour rights that migrant workers are entitled to, and there is no standardized employment contract which can be enforced in Cambodia or the destination countries.⁵⁷

One study that analysed a sample of contracts between Cambodian migrant domestic workers and their recruitment agencies noted that “while the rights of the recruitment agencies were clearly delineated, no mention was made of the recruitment agency’s obligations vis a vis the domestic worker.”

“Instead, the substantive terms of contracts focus almost entirely on various aspects of the burden of debt incurred by the migrant worker, including the: obligation of the domestic worker to repay the agency for debts incurred; terms of how the money is to be repaid to the agency; liability of a guarantor, and liability of the migrant and/or their guarantor to reimburse the recruitment agency for all charges in the event of breach or non-fulfillment of contract by the migrant.”⁵⁸

Advocates have also reported that fraud is rampant in the recruitment system and that the terms and conditions of contracts signed between workers and agencies in Cambodia are

55 Ibid, p. 48.

56 CEDAW Committee, *Concluding Observations*, para. 22.

57 CARAM Asia, *Reality Check!*, p. 8.

58 UN Inter-Agency Project on Human Trafficking (UNIAP), *Recruitment Agencies and the Employment of Cambodian Domestic Workers in Malaysia*, (Bangkok, 2011), p. 33. Available from: www.no-trafficking.org/reports_docs/uniap_cb_recruitment_agency_report.pdf

often not the same as the terms in contracts between the migrant workers and employers in destination countries. One report found that, “usually, the contracts signed in Cambodia provide higher wages promising rest days, etc. but when the worker arrives in destination countries, they receive lower wages than what the agents had promised them.”⁵⁹ Additionally, many migrant workers complain that they do not understand the terms of their contracts, and are not allowed to keep a copy, which makes it difficult to pursue legal action in cases where there are disputes.

The lack of standardized employment contracts and legal minimum standards, combined with the limited oversight of recruitment agencies, makes many women migrating for work vulnerable to abuse and exploitation. This violates article 11 of the CEDAW regarding equal rights in employment, as well as article 15 on equality before the law. In line with General Recommendation 26, Cambodia must do more to ensure that prospective women migrant workers understand the contents of their labour contracts, as well as their legal rights and entitlements and procedures for invoking redress mechanisms.⁶⁰

BILATERAL AGREEMENTS

Cambodia concluded a MoU on employment cooperation with Thailand in 2002. One of the primary purposes of the agreement was to address the two countries’ concerns over human trafficking, and address safe migration issues for Cambodian citizens. The MoU details the governments’ commitments to: ensuring appropriate procedures for employment, and effective return of migrant workers who have completed their work assignment; sharing information and collaborating on the prevention of undocumented cross-border labour practices and employment; and introducing measures for labour protection.

According to the agreement, governments will apply national laws to protect the rights of those covered by the MoU, workers will receive the same wages and benefits as national workers, and labour disputes are to be governed by the national laws in the country of employment. This is an example of gender-sensitive, rights-based good practice. The creation of bilateral agreements between countries of origin and countries of employment that are in line with international standards, specify methods of migration management to be jointly implemented, and guarantee coverage under labour laws of the country of employment, help to ensure the promotion and protection of women’s human rights.⁶¹ The CEDAW Committee has commented on the importance of bilateral cooperation and agreements regarding migration, and the important role they play in encouraging governments to share experiences of best practices and relevant information to promote the full protection of the rights of women migrant workers.⁶²

59 CARAM Asia, *Reality Check!*, p. 9.

60 CEDAW Committee, *General recommendation No. 26*, para. 24(b)(i).

61 UNIFEM, *Good Practices to Protect Women Migrant Workers, report from high-level government meeting of countries of employment* (2005), p. 7. Available from: www.unwomen-eseasia.org/projects/migrant/Docs/GdPracticesReportWebPubV1.pdf

62 CEDAW Committee, *General recommendation No. 26*, para. 27(b).

MINIMUM AGE AND MINIMUM WAGE

Minimum Age

Sub-decree No. 57, article 3 sets the official minimum age for work abroad at 18 years, but there are many reports of underaged girls and boys having been illegally recruited for work abroad.⁶³ The minimum age to migrate as a domestic worker is 21, however Cambodian girls as young as 14 have sought help for abuse suffered by their employers in Malaysia.⁶⁴ In a recent UN study in Malaysia, over 20 percent of Cambodian domestic workers interviewed by researchers were under 18 at the time of pre-departure training, and an additional 25 percent were between the ages of 18 and 21.⁶⁵ Article 32 of the UN Convention on the Rights of the Child (CRC) obligates States parties to protect children, defined as anyone below the age of 18, from economic exploitation. The Government's failure to adequately enforce child labour laws and effectively monitor recruitment agencies is therefore in violation of Cambodia's international legal obligations under the CRC. Additionally, the fact that many women below the age of 21 are migrating through formal channels in violation of regulations indicates a severe lack of oversight and monitoring of recruitment agencies. This is not in compliance with the CEDAW Committee's General Recommendation 26 which urges governments to design good monitoring systems that ensure good practices among recruitment agencies.⁶⁶

Minimum Wage

Cambodia's Labour Law specifies that the minimum wage must ensure every worker a decent standard of living compatible with human dignity. However, the government has not set a national minimum wage, with the exception of the garment industry where, as of January 2012, the minimum wage for workers was 66 dollars a month.⁶⁷ Low wages in the garment industry, and other sectors where women are the majority of employees, contribute to poverty and are one of the major factors driving women to migrate abroad for work. The CEDAW Committee has noted that sex-specific divisions of labour, in the formal and informal manufacturing and service sectors, are factors influencing women's migration.⁶⁸ Thus, Cambodia should enact a national minimum wage that ensures workers a decent standard of living, and make migration for work a choice rather than a necessity for women.

REGULATION OF EMPLOYMENT AGENCIES

The Ministry of Labour and Vocational Training (MLVT) is mandated with regulating the process of Cambodians migrating abroad for employment purposes. Sub-decree No. 190, chapter 3, articles

63 Cambodia, Ministry of Labour and Vocational Training, and the International Labour Organization, *Policy on Labour Migration for Cambodia*, (Phnom Penh, 2005). Available from: www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_145704.pdf

64 International Labour Organization, *Cambodian Domestic Workers in Malaysia, Challenges in Labour Migration Policy, and Potential Mechanisms for Protection*, (Geneva, 15 January 2012),, ps. 5, 8 and 10.

65 UNIAP, *Recruitment Agencies*, p. viii.

66 CEDAW Committee, *General recommendation No. 26*, para. 24(c).

67 Available from: [www.betterfactories.org/content/documents/1/Synthesis%20Report%2027th%20\(En\).pdf](http://www.betterfactories.org/content/documents/1/Synthesis%20Report%2027th%20(En).pdf)

68 CEDAW Committee, *General recommendation No. 26*, para. 8.

6 to 9 describe the requirements that recruitment agencies must meet, including an office address, sufficient staff, office materials, communication and transportation means and a training centre in accordance with specifications. Additionally, once authorized, recruitment agencies must be able to deposit a guarantee of 100,000 US dollars in riel into the account of the MLVT.

Recruitment agencies are responsible for the workers they represent for the stages from recruitment to the commencement of their employment. For example, Sub-decree 190, chapter 7, article 19 states that the recruitment agencies shall be responsible for the application forms and health check-up for Cambodian workers to be sent abroad, as required by the receiving country. Additionally, Prakas (or Declaration) 108 of 2006 on Education of HIV/AIDS, Safe Migration, and Labour Rights for Cambodian Workers Abroad states that recruitment agencies are responsible for training workers on the work system, customs, and traditional and basic laws of the country in which they will be working, as well as health issues, safe migration and labour rights.

The MLVT is charged with inspecting and monitoring the recruitment agencies. According to article 40 of the Sub-decree, those agencies found to be in violation of the law will be penalized and punished. However, a recent study by the UN Interagency Project on Human Trafficking (UNIAP) found that a lack of oversight and monitoring resulted in recruitment agencies violating laws and regulations with impunity. For example, the study found that: most women did not receive the training they were entitled to under the law; most contracts did not meet the minimal requirements of the law; exorbitant fees led to migrant women working between 4.5 and 12 months without pay to reimburse debts to the agency; and mechanisms for complaining about abuse were onerous and limited.⁶⁹

The lack of oversight and monitoring of recruitment agencies results in violations of the law that increase women's vulnerability to exploitation and abuse. Therefore, the government must do more to comply with the CEDAW Committee's General Recommendation No. 26 and ensure that women migrant workers receive "rights-based pre-departure information and training programmes that raise prospective women migrant workers' awareness of potential exploitation, including: recommended contents of labour contracts, legal rights and entitlements in countries of employment, procedures for invoking formal and informal redress mechanisms, processes by which to obtain information about employers, cultural conditions in countries of destination, stress management, first aid and emergency measures, including emergency telephone numbers of home embassy, and services; information about safety in transit, including airport and airline orientations and information on general and reproductive health, including HIV/AIDS prevention."⁷⁰

OCCUPATIONAL SAFETY AND HEALTH

A large percentage of Cambodian women who migrate abroad for work go to Malaysia where they are employed as domestic help.⁷¹ Many of these women are subjected to dangerous

69 UNIAP, *Recruitment Agencies*, p. ix.

70 CEDAW Committee, *General recommendation No. 26*, para. 24 (b) (i).

71 UNIFEM, *Cambodian Women Migrant Workers, Findings from a Migration Mapping Study* (2006).

working conditions that threaten their safety and health.⁷² These positions were previously filled by women from Indonesia, which used to be the main supplier of domestic workers to Malaysia. However, a number of high-profile cases of abuse led Indonesia to suspend sending workers to Malaysia until it could secure a bilateral agreement on the rights of migrant workers. It is during this time that Malaysia began recruiting domestic help from Cambodia.⁷³ Subsequently in 2011, at least nine Cambodian women died in Malaysia while performing domestic work.⁷⁴ As a result, Cambodia's Prime Minister imposed a temporary ban similar to Indonesia's.

Since that time, Indonesia and Malaysia have entered into a MoU to guarantee domestic workers a weekly day of rest, the ability to keep their passports and the right to communicate with their families, and again Indonesian women have begun to migrate to Malaysia for work. Critics argue however, that the agreement is insufficient and offers less protection than those afforded to other workers under the Labour Law,⁷⁵ and they point out that the week the MoU was finalized, another Indonesian worker died of alleged abuse in the workplace.⁷⁶

Cambodia is in the process of negotiating a MoU with Malaysia that is similar to Indonesia's. In its Concluding Observations the CEDAW Committee called upon Cambodia to develop measures to better protect migrant women from exploitation and abuse, and to establish sanctions for discrimination.⁷⁷ To that end, Cambodia's MoU with Malaysia should not only address minimum standards for working in domestic settings, but also contain mechanisms requiring better monitoring of workplaces where women predominate. Failure to monitor female-dominated workplaces and impose sanctions for violations of health and safety laws contravenes the CEDAW. As a State party to the CEDAW, the Cambodian Government is obligated to ensure that agreements with countries where Cambodian women migrate for work reflect the Convention's legal guarantee of the right to equal protection of health and safety in working conditions.

EQUALITY BEFORE THE LAW

Women's Access to Justice: Redress for Violations of Workers' Rights

Women migrant workers face many challenges in accessing justice mechanisms and seeking redress. The lack of employment contracts, fear of arrest, detention and deportation for reporting employer abuse, and lack of awareness about existing complaint mechanisms make it difficult for women to claim their rights.⁷⁸ Additionally, a 2009 report by the Government found that most women migrants from Cambodia have little formal education or knowledge of foreign languages. "Their limited ability to make themselves understood by their employers

72 Asia Foundation, *Cambodia's labour Migration*, p. 38.

73 International Labour Organization, *Cambodian Domestic Workers in Malaysia*, p. 3.

74 Mathew Rullo, "An Abhorrent Trail of Abuse", *Phnom Penh Post*, 24 January 2014. Available from: www.phnompenhpost.com/plans/form.

75 International Labour Organization, *Cambodian Domestic Workers in Malaysia*, p. 3

76 Mathew Rullo, "An Abhorrent Trail of Abuse"

77 CEDAW Committee, *Concluding Observations*, paras. 22 and 28.

78 CARAM Asia, *Reality Check!*

has been a major source of frustration and isolation for some of the women, especially those working as domestic workers. Domestic workers tend to work in private homes and are dependent on their employers for shelter, food, and other support. With limited knowledge of the local language and limited protection under the labour law, they have little or no recourse in making claims regarding their legitimate rights at work.”⁷⁹

Despite these difficulties, some women migrant workers and their family members have lodged complaints against recruitment agencies with the local police in Cambodia. As a result, in 2010 the Ministry of the Interior and the General Commissariat of the Cambodian National Police Force launched an investigation which resulted in findings against six agencies and the arrests of eight people for the illegal detention of prospective migrant domestic workers, the production of false documents and for hiring underage girls as migrant domestic workers.⁸⁰ However, it is rare that migrant workers ever receive compensation from recruitment agencies that have violated the law. Agencies dissuade workers from pursuing claims by arguing that the workers or their families had knowledge of, or were complicit in, an element of the irregularity, for example by providing false identification documents. Recruitment agencies also often allege that families still owe them money, and thus they claim they are the ones who have the claim for compensation.⁸¹ In its Concluding Observations the CEDAW Committee encouraged Cambodia to ensure that women have access to means of redress for rights violations, including legal aid, and disseminate information about labour legislation among women to make them aware of their rights.⁸²

Chapter 9 of Cambodia’s 2011 Sub-decree 190 states that any dispute between recruitment agencies and the workers prior to the departure shall be resolved in accordance with the Labour Law and other applicable regulations of Cambodia. For disputes arising between foreign employers and workers who are working abroad, both the recruitment agency as well as the embassy or representative mission of Cambodia to the receiving country shall participate in the resolution process. However, while the section refers to the Labour Law, it does not refer to the employment contract signed by the involved parties, thus making it difficult to claim contractual rights.⁸³ Additionally, without dissemination of regulations and laws governing migration, adequate pre-departure training that explains to migrant workers how to claim their rights and seek redress, and adequate legal aid, true access to justice will remain out of reach for many women.

F. ANALYSIS AND CONCLUSIONS

Since the 2006 CEDAW Concluding Comments, Cambodia has enacted many legal reforms that evidence increasing responsiveness to gender and human rights issues. Additionally, the

79 Cambodia and the International Labour Organization, *Policy on Labour Migration*, p. 15.

80 CARAM Asia, *Reality Check!*, p. 14.

81 Asia Foundation, *Cambodia’s labour Migration*, p. 48.

82 CEDAW Committee, *Concluding Observations*, para. 28.

83 LICADHO, *Comments*, p.4.

Government has made significant efforts to increase protection for women migrant workers by: enacting new policies to better regulate recruitment agencies; signing the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; and concluding bilateral labour migration and trafficking agreements with destination countries. Other gender-sensitive rights-based good practices that benefit Cambodian women migrant workers have also been undertaken, including:

- Ratification of most core international human rights treaties including the Convention on Elimination of Discrimination against Women (CEDAW).
- Article 31.1 of Cambodia's Constitution stipulates recognition of and respect for international human rights agreements, and article 45.1 calls for the abolition of all forms of discrimination against women.
- The Penal Code punishes those that refuse to give property or services to anyone based on sex, and the law prohibits making employment decisions on the basis of sex.
- The law establishes that the legal minimum age for work abroad is 18 years.
- Commissions have been established for the Protection of Human Rights and Receipt of Complaints in the National Assembly and the Senate, which are mandated to facilitate, receive and address all complaints made by citizens who believe their rights have been violated.
- The Cambodian Human Rights Committee is mandated to assist the Government in the development of human rights policies and coordinates investigation and resolution of human rights abuses.
- Several policy measures have been initiated to promote and protect the legal, political and social rights of women, including: gender-responsive planning and budgeting, affirmative action to increase women's political participation, and educational programmes that promote the principle of equality between man and women in private and public life.
- The National Strategic Development Plan (NSDP) includes several priority actions "aimed at reducing gender-based discrimination in the labour market and encouraging greater entry by women into higher level jobs".
- Gender Mainstreaming Action Plans implemented within the Ministry of Commerce and the Ministry of Industry, Mines and Energy include "building the capacity, skills and confidence of women in the informal economy; increasing women's access to microfinance; promoting registration of businesses owned by women; and increasing women's access to information, trade and services.
- The Labour Law provides good protection for women employed in the formal sector including: a maximum 48-hour work week; prohibition of seven-day-a-week work; prohibition of termination due to pregnancy; 90 days of maternity leave at half of normal wages; breastfeeding breaks during work hours; provision of a nursing room and day care centre for children of their females who work in establishments with more than 100 employees – for smaller establishments, employees must reimburse day-care expenses; 6 months sick leave; 1.5 days per month paid annual leave; compensation and medical assistance for work-related illnesses and accidents; and prohibition of sexual harassment
- Sub-decree 190 includes some positive changes related to migration by requiring that: recruitment agencies are periodically inspected by the Ministry of Labour; lawyers are provided for migrants engaged in legal proceedings abroad; contracts between agencies and workers are written in the Khmer language and must specify working conditions, job status, types of work to be done, and benefits; and training centres must ensure a decent

standard of living.

- A MoU on employment cooperation with Thailand addresses concerns over human trafficking, and addresses safe migration issues for Cambodian citizens. The MoU details the governments' commitments to: ensuring appropriate procedures for employment, and effective return of migrant workers who have completed their work assignment; sharing information and collaborating on the prevention of undocumented cross-border labour practices and employment; and introducing measures for labour protection.
- Cooperation between Cambodia's recruitment agency association, the government, and UN Women resulted in production of a pre-departure training manual and a code of conduct for recruitment agencies.
- Safe migration campaigns in several provinces, as well as on radio and television, raised awareness of trafficking.
- Enactment of the Law on the Suppression of Human Trafficking and Sexual Exploitation and National Minimum Standards for the Protection of the Rights of Victims of Human Trafficking, including guidelines to improve victim treatment and protection, and training for officials on the use of these standards.
- Penal Code provisions address the unlawful confinement of people as well as forgery of official documents, bribery of officials and identity fraud.
- Owners, staff members, and managers from licensed labour recruitment agencies have been convicted for trafficking related offences.
- Systematic procedures are in place for identifying and protecting victims of trafficking.
- Agreements have been negotiated with Viet Nam and Thailand regarding identification of trafficking victims and repatriation.
- Policies were enacted that afford trafficking victims the right to seek legal action against their traffickers and encourage them to assist in investigations.

These are all examples of good policies and programmes that aim to promote and protect the human rights of women migrant workers. However, Cambodia's labour-migration policies have only been formulated very recently and need further elaboration and coherence. Effective implementation of regulations and oversight and monitoring of recruitment agencies and employers must be bolstered.

Additionally, improved data collection and information on migrants, their characteristics, needs and impact in both receiving and sending countries is severely needed.

G. RECOMMENDATIONS

- Ratify the UN Convention on Migrant Workers, and ILO Conventions on Discrimination in Employment and Abolition of Forced Labour.
- Include in domestic law a definition of discrimination against women that encompasses both direct and indirect discrimination in line with article 1 of CEDAW.
- Conclude bilateral and multilateral agreements with all destination countries where women migrate for work, that ensure the promotion and protection of their human rights.

- Adopt stronger and more comprehensive regulations and design monitoring systems to ensure that recruiting agencies respect the rights of all women migrant workers.
- Make further efforts to address the root causes of women's migration.
- Implement gender-sensitive poverty reduction strategies.
- Ensure women migrants receive gender- and rights-based pre-departure information and training programmes that raise awareness of potential exploitation. Training should include: recommended contents of labour contracts, legal rights and entitlements in countries of employment; procedures for invoking formal and informal redress mechanisms; processes by which to obtain information about employers; cultural conditions in countries of destination; stress management; first aid and emergency measures, including emergency telephone numbers of home embassy, and services; information about safety in transit, including airport and airline orientations; and information on general and reproductive health, including HIV/AIDS prevention.
- Ensure the provision of standardized and authentic health certificates if required by countries of destination and require prospective employers to purchase medical insurance for women migrant workers.
- Ensure that all required pre-departure HIV/AIDS testing or pre-departure health examinations are respectful of the human rights of women migrants. Particular attention must be paid to voluntariness, the provision of free or affordable services and to the problems of stigmatization.
- Safeguard the remittances of women migrant workers and provide information and assistance to women to access formal financial institutions to send money home and to encourage them to participate in savings schemes.
- Ensure women migrant workers are able to access justice mechanisms and can seek redress for rights violations. Provide legal assistance in connection with migration for work, including legal reviews of employment contracts to ensure they are valid and protect women's rights on a basis of equality with men.
- Enact programmes that facilitate the reintegration of women who have returned from work abroad.
- Raise awareness among legal professionals including judges, prosecutors and lawyers, so that the CEDAW and other human rights conventions to which Cambodia is a party are well known and used in judicial processes.
- 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.
- Revise provisions of Sub-decree 190 to provide better protection to migrant workers and address issues related to pre-departure fees that lead to: debt bondage; recruitment of underaged girls; forged documents; failure to provide copies of contracts to workers; and failure to pay salaries.
- Require recruitment agencies to ensure migrant workers receive contracts with minimum standards that specify: adequate rest days, annual and sick leave; salary to be paid; repatriation provisions; transport expenses; and insurance premiums. Additionally, require that contracts be referred to during dispute resolution.
- Adequately monitor recruitment agencies to prevent abuse and corruption, and enforce criminal penalties when laws are violated.

- Seek the active involvement of women migrant workers and relevant NGOs in such policy formation, implementation, monitoring and evaluation.
- Lift discriminatory bans or restrictions on migration.
- Address the culture of impunity that allows employment agencies to engage in illegal recruitment practices.
- Ensure adequate data collection, research and analysis on the particular problems and needs faced by women migrant workers.
- Amend the Labour Law to include coverage of domestic workers and enact measures to ensure that women receive equal pay for both equal work and work of equal value, and equal social benefits and services.
- Ensure migrant workers are allowed to keep a copy of their contract so that they may pursue legal action in cases where there are disputes.
- Establish a minimum wage for all workers, including domestic help, that provides for a decent standard of living.
- Ensure the MoU being negotiated with Malaysia regarding Cambodian domestic workers addresses minimum standards for working in domestic settings, and contains mechanisms requiring better monitoring of workplaces where women predominate.

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