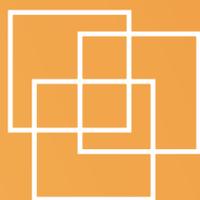




International
Labour
Organization

Gender equality in labour migration law, policy and management

GEM Toolkit



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GEM Toolkit

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Foreword

Migration is a key feature of today's world of work and one which raises complex policy challenges. Labour migration can support economic growth and human development, because remittances are a driver of poverty reduction in countries of origin and migrant workers fill critical labour shortages in countries of destination. However, at present, there is an unequal distribution of costs and benefits.

The international consensus is that equality and fair migration for women and men are both a matter of social justice and essential for sustainable economic and social development. The 2030 Agenda for Sustainable Development reaffirmed the importance of achieving gender equality and empowering women, and underlined that effective gender equality is needed if we are to achieve all 17 Sustainable Development Goals (SDGs).

The ILO and its constituents support fair migration that respects the fundamental rights of migrant workers and offers them real opportunities for decent work. This means making sure that the prosperity women and men migrants help to create is shared fairly, and that migration systems are created that respond equitably to the interests of migrant workers, their employers, and countries of origin and destination.

Labour migration has been high on the policy agenda of the 10 members of the Association of Southeast Asian Nations (ASEAN). In ASEAN, as in other parts of the world, women migrate to find employment and better wages in significant numbers. Women migrants are more likely to migrate in an irregular way and to find a job in the informal economy - in female-dominated occupations that remain outside labour and social protection frameworks. As a result, a large number of women migrant workers face considerable challenges related to protection and development.

The Secretary-General of ASEAN, H.E. Le Luong Minh, said in 2013 that gender equality is central to achieving the goals of the ASEAN community and that the promotion of gender equality should be an integral part of ASEAN's policies and programmes. Since then the ASEAN Secretariat has been working with the ASEAN Committee on Women (ACW) to make gender mainstreaming standard practice in the three ASEAN communities that deal with economic, political and security, and socio-cultural matters.

In 2014 representatives of ASEAN's women and labour migration bodies adopted a Conference Statement on Strengthening the Protection and Empowerment of Women Migrant Workers, in support of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers. The Statement called for a binding, gender-responsive instrument that considered and addressed gender-related issues and concerns of migrants related to the policies and measures contained in the Declaration. It also underlined the importance of promoting decent work and the application of the fundamental principles and rights at work through the ratification and implementation of fundamental international labour standards and the Domestic Workers' Convention, 2011 (No. 189).

The statement was submitted to the relevant ASEAN sectoral bodies for their consideration.

In order to support these initiatives, the ILO project on Tripartite Action for the Protection and Promotion of the Rights of Migrant Workers in the ASEAN Region, developed the GEM Toolkit, to promote gender equality in labour migration. The Toolkit will assist ILO constituents and partner organizations in the ASEAN Member States in shaping gender-responsive labour migration laws and policies, and ensuring fair and effective labour migration governance in the region.

I hope that this Toolkit will support all those working on labour migration policy development and management, including those in government ministries, departments, and embassies; in employers' and workers' organizations, migrant and domestic workers' organizations and associations; and in research and training institutions. Its aim is to promote decent work and respect for the rights of all migrant workers from ASEAN Member States.

Gender equality in labour migration is both the right and the smart thing to do. Every human being has a fundamental right to enjoy equal opportunity and treatment in life and at work. Gender equality is vital for fair migration, efficient labour markets and competitive economies. Families, workplaces, and societies are more productive and prosperous when they reap the full potential and talents of all workers. Let us remember that gender equality is about creating a win-win situation for men and women, and realizing it requires contributions from them both.

Together, let's make it happen.



Tomoko Nishimoto

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Introduction: About the GEM Toolkit

“Men are gold – Women are gems”

Ministry of Women’s Affairs, Cambodia, 2005.

“As the world undergoes deep changes and global challenges which affect both women and men, urgent and transformative action is needed in order to translate commitments into reality. There can be no excuse for discrimination and other violations of fundamental human rights. Countries, whether high or low income, cannot any longer afford to lose out on the social and economic potential of gender equality. Ambitious policies that succeed in transforming gender norms and relationships in society and at work, and hence in addressing structural inequality, are required.”

Guy Ryder, Director General (ILO, 2016b).

1. What is the GEM Toolkit?

The GEM Toolkit – Gender Equality in labour migration laws, policy and management – is a set of nine practical tools, developed by the International Labour Organization (ILO) to facilitate the implementation of gender mainstreaming strategies in labour migration and related employment, social protection, and equality laws, policies, institutions, programmes, projects, as well as in day-to-day labour migration management practices.¹

The overall purpose of the GEM Toolkit is to contribute to:

- eliminating discrimination against low-income women migrant workers in employment and occupation, because women migrant workers experience more disadvantages and discrimination at all stages of the migration process;
- shaping more gender-responsive labour migration laws, policy, and management in ASEAN for the benefit of both women and men migrant workers, their families, and their employers, and leading to more fair and efficient labour migration processes that benefit all migrant workers and countries of origin and destination alike. The GEM Toolkit aims to share knowledge, skills, and tools with ILO constituents and partners engaged in labour migration laws, policy, governance and service delivery, and the protection of migrant workers’ rights in ASEAN on how to:

¹ This GEM Toolkit is loosely modeled upon an earlier ILO publication: Gender mainstreaming strategies in decent work promotion: Programming tools, or GEMS Toolkit (ILO, 2010b) by the same authors. The earlier Toolkit proved popular for day-to-day use and reference. This GEM Toolkit therefore uses a similar modular structure with practical tools to address gender equality in labour migration.

- carry out a gender analysis of labour migration laws, policies, institutions, programmes, projects, and practices;
- integrate gender equality measures systematically in labour migration laws, policy, and management; and
- undertake specific measures to eliminate discrimination and redress gender inequalities.

In brief, the Toolkit provides an overview of key concepts and definitions concerning gender equality and key gender mainstreaming strategies in labour migration (Tool 1) and guidance on gender equality in labour migration as laid down in international treaties and standards (Tool 2). It explains how to promote GEM in data collection and research (Tool 3); in law and policy (Tool 4); in bilateral agreements and MOUs (Tool 5); in the design, monitoring, and evaluation of programmes and projects (Tool 6); in institutions and in human resource management (Tool 7); in preventing, detecting, stopping, and redressing violence, harassment, and forced labour of migrant workers (Tool 8); and in ensuring the participation and representation of women and men in labour migration mechanisms and meetings and in media messages and processes (Tool 9).

Although workers and their families in ASEAN move both internally and internationally in search of better work and livelihood options, this Toolkit focuses on women and men international migrant workers who have crossed national borders to work in low- and semi-skilled sectors and occupations that are often poorly paid, undervalued, and under protected. They are often engaged in informal employment, either as documented workers under temporary migration schemes or as undocumented workers. It is in these sectors and occupations that the majority of men and women migrant workers from ASEAN Member States are found, and where there will continue to be a demand for migrant workers within ASEAN in the future. It is also where “the rule of law”, and even a minimum of labour and social protection, are most notably absent. Most migrant workers in ASEAN are young and come from countries with rapidly growing working-age populations and where many citizens remain poor, especially in rural areas. Many of these migrants move to countries with ageing work forces, but the most attractive markets remain out of reach for many potential migrants from ASEAN, especially if they are women, come from remote areas, or belong to ethnic or religious minority groups with low education levels (ILO, 2015a).

The specific situation of migrant domestic workers will run as a thread through each tool, as domestic work is an occupation in which many gender challenges come to the fore. There is a large demand for migrant workers in domestic and care work, which, if recognized as work, included in labour laws, and properly regulated and paid, could create many decent jobs for many women and men migrant workers, and provide quality care to their employers’ families. Gender equality concerns in other occupations and sectors will also be addressed.

2. Who can use it?

This GEM Toolkit is designed for ILO constituents and partner organizations engaged in labour migration in ASEAN. These include:

- ASEAN ministries of labour, manpower, human resources, interior or home affairs, justice, foreign affairs, social security and welfare, planning and finance, and women’s affairs and gender equality;
- employers’ organizations, including associations of employment agencies;
- trade unions and other workers’ organizations, including migrant and domestic workers’ organizations and associations;

- women’s rights, human rights, legal aid, and other civil society organizations, including community-based organizations;
- research institutions;
- consultancy firms; and
- other UN agencies.

Intended users are policy-makers, managers, professionals, specialists, and practitioners in labour migration fields in countries of origin and destination, including those responsible for labour migration in employment, equality, industrial relations, social protection, justice, and law enforcement and security agencies. They may include, for example: directors; division heads; office, programme, and project managers; technical officers; programme officers; lawyers; labour inspectors; trade unionists; employment agency staff; and officers in charge of personnel, training, labour, equality promotion, social, and women’s affairs; ILO and UN staff; and migrant and domestic workers, their leaders, and their employers.

3. Why do we need it?

Both women and men migrant workers face discrimination on the grounds of their sex, race, ethnicity, social and national origin, religion, social and economic class, and nationality. However, the discrimination that women migrant workers encounter is more structural and systemic. As women are increasingly migrating for work, they face more constraints and challenges than men migrant workers, due to pervasive gender stereotypes in countries of origin and destination that accord a lower status to women and undervalue their work. Discrimination against women migrant workers, which tends to be manifold, is based on prejudices deeply embedded in people’s perceptions and in the way organizations function, laws and rules are applied, and workplaces operate. Traditional sex segregation in labour markets and labour migration, which excludes a disproportionate number of women from legal protective mechanisms, also systematically puts women migrant workers in a disadvantaged position.

According to recent ILO (2015b) estimates, there were over 150 million migrant workers² in the world in 2013, more than 44 per cent (over 66 million) were women and almost 56 per cent (almost 84 million) were men.³ Labour migration, particularly of low-skilled workers, tends to be highly gendered, with more occupations available to men than to women. Women migrants typically work in a few female-dominated service occupations: in domestic work, care giving, and nursing; in hotels and restaurants; and in the entertainment and sex industry. They are also assembly-line workers in the garment, footwear, or electronics industries, and work alongside men migrants in construction and agriculture.

Labour migration is an established feature of ASEAN labour markets and a significant factor in stability and continued economic growth in the region; growth that is dependent on the effective management of the movement of millions of migrant workers within and from ASEAN. In 2013 the UN Department of Economic and Social Affairs estimated that there were 14 million migrant workers from ASEAN Member

² The term “migrant worker” refers to all international migrants who are currently employed or are unemployed and seeking employment in their present country of residence.

³ Worldwide, the majority – over 71 per cent – were engaged in services, with 7.7 per cent in domestic work, and 63.4 per cent in other services. Almost 18 per cent worked in industry, including manufacturing and construction, and 11 per cent in agriculture. The same proportion of women and men were engaged in agriculture; men were more often engaged in industry than women (19.8 per cent versus 15.3 per cent), and less in the service sector (69.1 per cent versus 73.7 per cent). The difference in the service sector is explained by markedly more engagement of women in domestic work – 12.7 per cent of the 73.3 per cent of migrant women in the service sector are in domestic work, as compared to 3.7 per cent of the 69.1 per cent of migrant men in the service sector. There are in fact, in relative terms, a higher proportion of male migrant workers engaged in services other than domestic work compared to female migrant workers (65.4 per cent of men versus 61.0 per cent of women).

States, 6 million of whom moved within South-East Asia. Much of the intra-ASEAN migration is irregular and temporary, and not captured in these data (UNDESA, 2013). More than 90 per cent of intraregional migrants within ASEAN work in Malaysia, Singapore, and Thailand, and the main sending countries are Cambodia, Indonesia, the Lao People's Democratic Republic, and Myanmar. Due to the scale of the movement of workers in ASEAN, and its catalytic role in economic development, more effective labour migration management is a clearly identified priority of the ASEAN Member States.

The proportion of women migrants in ASEAN is rising, and they face multiple protection and development challenges. Informal estimates suggest a discrepancy between the proportion of women among regular and irregular migrants. Women are overrepresented among migrant workers in an irregular situation.⁴ At the same time, across ASEAN, a higher proportion of women migrant workers (approximately 65 per cent) are engaged in vulnerable employment, meaning they are less likely to have formal working arrangements and more likely to lack decent work conditions (ILO, 2013b). This indicates that women are more likely to migrate irregularly and into informal work (ILO and UN Women, 2015a). Women also earn less as a result of the jobs available to women and the lack of wage protection in these largely informal sectors, and also because of women's broader lack of recognized skills or access to resources (ILO and ADB, 2011). In ASEAN, domestic work, care work, and work in the entertainment and sex industry are mostly performed by women, but remain outside many protective mechanisms (including social security, labour rights, or government-to-government agreements) afforded to workers in other sectors (ILO, 2013a).

There are a range of institutional challenges that constrain labour management institutions and mechanisms in the ASEAN Member States from effectively addressing the needs of both men and women migrant workers. A 2015 ILO project design mission on labour migration in ASEAN concluded that migration policies often appear gender neutral, using language devoid of any gender, but they tend to have a direct or indirect differential impact on women and men, and on gender relations, even if such effects were neither intended nor envisaged (ILO, 2015a). However, there has been increasing recognition that women migrate as workers and in significant numbers, and some acknowledgement that the causes and impacts of migration are gendered. Nevertheless there has been very little attempt to mainstream gender concerns into migration policies and management.

Many key stakeholders still struggle to understand or accept the concept of gender equality and different needs of women and men. Some still do not accept that women's experiences differ from men's, or remain unaware of the challenges facing "invisible" women working in private households or in traditionally male-dominated sectors like construction. Concurrently, policies restricting women's regular migration by country and sector are often the reason that women migrate without the protection afforded by regular channels. Where the issues of women have been addressed, it has most often been in the form of protection policies for the most vulnerable women, particularly women who have been trafficked or displaced due to armed conflict (ILO, 2015a). However, lack of understanding of the situations, perspectives, and agency of women can result in misdirected policies and scenarios in which underlying unequal conditions persist and discriminatory policies have not been transformed.

⁴ In Thailand in 2015, 43 per cent of the Myanmar migrants who had entered the country irregularly and applied for nationality verification were women, but only 37 per cent of the 112,614 Myanmar migrants who applied for regular migration through the Memorandum of Understanding (MOU) system were women. See <http://wp.doe.go.th/wp/images/statistic/sm/58/sm0358.pdf> for more information (document is written in Thai).

Changes in gender policies do not happen overnight, and the translation of policy commitments aiming to achieve gender equality goals into real-world changes in organizational practices continues to be challenging. For many, a migrant worker is typically a man, and a migrant woman worker is considered as somehow exceptional (Anderson, 2015a). Labour migration institutions, be they in government or representing employers and workers, are – like many other organizations – largely dominated by unequal power relations between men and women. Institutional culture in these agencies is characterized by ingrained attitudes and organizational practices that hamper gender equality and make it difficult for women to progress in job hierarchies. Women are under-represented at the decision-making levels, and for this reason their priorities and interests are oftentimes not included on policy agendas and are marginalized in day-to-day implementation practices.

The 2013 Declaration of the UN General Assembly High-Level Dialogue on International Migration and Development reaffirmed the contribution of migration to growth and development around the world. Migration contributes to economic growth and poverty reduction in both countries of origin (primarily through remittance flows) and destination (through filling labour shortages and ensuring private sector economic growth). Concurrently, the continued movement and presence of unprotected (irregular) migrants creates instability in industries heavily reliant on migrant labour, and increases instances of human trafficking, as well as labour and sexual exploitation of migrant workers, mostly but not exclusively women.

Fair migration requires regulated and well-planned, orderly cross-border movement of workers and the protection of the human and labour rights of all migrants. Gender equality in labour migration is a matter of social justice but also of smart economics (see section 1.2.8 below). Migration laws, policies, institutions, programmes, projects, and practices should include a gender perspective; redress gender discrimination; and respond to the needs, concerns, and interests of all migrants, whether they are women, men, or transgender persons.

Since early 2013, gender equality has been put on the ASEAN policy agenda, and the ASEAN Secretariat has been working with the ASEAN Committee on Women (ACW) in making gender mainstreaming a standard practice in ASEAN's policies and programmes across its economic, political and security, and socio-cultural communities (ASEAN, 2013). The draft ASEAN Labour Ministers' work programme for 2016–2020 contains a work item on gender mainstreaming of the labour sector, envisaging a study on the gender dimensions in the labour sector towards the development of regional strategies to mainstream gender in ASEAN cooperation on labour (ASEAN–SLOM, 2015).

Gender-responsive migration policies and management in ASEAN will make a significant difference to the living and working conditions of women and men migrant workers, and their families. Labour migration also has the potential to provide significant opportunity for women's economic empowerment, in jobs and occupations, traditionally performed by women, such as in skilled jobs in domestic and care work, and in construction and manufacturing. Women's economic and social empowerment alongside men's is widely recognized as one of the key foundations for promoting gender equality and sustainable and inclusive economic growth and development. Therefore, improving employment and working conditions in sectors dominated by women migrant workers is vital to the broader picture of migration and development.

4. How to use it

The GEM Toolkit is intended for use as a self-learning tool and quick reference guide for policy-makers and practitioners in the labour migration fields, and the protection of migrant workers' rights. The tools explain main concepts and strategies, and provide practical tips to guide law and policy development and to learn how to increase the gender responsiveness of migration programmes and management in operational activities at the various stages of the programming cycle. From the checklists, users can find out whether they are on the right track or whether there are gender concerns, inequalities, or gaps that need to be addressed.

The Toolkit can also be used for awareness raising, training, and advocacy on how to promote gender equality and fair migration in labour migration-related law, policy, management, and service delivery. Several case study exercises are provided throughout the Toolkit to facilitate active learning and experience sharing. However, this Toolkit has not been designed as a comprehensive training manual.⁵ Any training should be delivered by a team with gender equality and labour migration expertise. Finally, the Toolkit can be used to assess the gender responsiveness of labour migration interventions, and to undertake gender audits of labour migration management institutions (ILO, 2012a).

The first two tools provide the analytical and normative framework, and form the foundation of the Toolkit. They need to be read and used first by any reader, self-learner, or trainer/facilitator. GEM tools 3–9 can be used independently from one another, depending on the immediate tasks or concerns of the users, for example, when developing research or legal or policy advice, or when designing, monitoring, or evaluating a programme⁶ or organizing a meeting or media campaign.

Throughout the Toolkit, guidance is provided on how to involve the concerned stakeholders at the policy-making and institutional levels – including women and men migrant workers – and when to call in the help of gender experts to develop tailor-made solutions to the situation at hand. The Toolkit will also provide guidance on how to set clear aims, indicators, and targets to measure progress towards more equitable outcomes along the way. Such consultative processes are vital for success, as men and women at all levels – from the highest policy-making bodies to the public and private migration management agencies to the migrant workers and their families – need to “buy in” and become committed in order to achieve change toward more just and equal gender relations, and secure a fair sharing of the resources and benefits accruing from labour migration.

5. Structure and content of the nine GEM tools

The GEM Toolkit contains nine practical tools organized by topic. With the exception of Tools 1 and 2, each tool typically contains the following sections:

- About this tool;
- Key concepts and rationale;
- Tips;
- Checklist(s); and
- Exercise(s).

⁵ See UN Women, 2013a for more in-depth exercises on gender equality and labour migration, and ILO, 2012d for exercises on gender equality and non-discrimination at work.

⁶ The terms “programmes” and “projects” are used interchangeably throughout the Toolkit as a group name for programmes, projects, and all other types of operational activities, including major programmes, sub-programmes, “umbrella” projects, sub-projects, etc.

Below is a brief description of each of the nine tools:

Tool 1 GEM: Concepts, approaches, and strategies:

Quick reference guide on key gender equality concepts and definitions, key gender mainstreaming approaches, strategies and steps in the labour migration arena, with a summary GEM checklist, a quiz, and an exercise on gender, care, and migrant domestic work.

Tool 2 GEM: International and regional standards on gender equality and migrant workers:

Guidance on gender equality in labour migration as laid down in international human rights treaties and international labour standards, as well as the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers. An exercise on the rationale for standards to promote gender equality and fair migration is also included.

Tool 3 GEM: Data collection and research:

Guidance on when to have a clear gender focus in the research design and how to identify the early warning signs of gender inequalities in labour migration. Includes a checklist and tips to design gender-responsive Terms of Reference, select the research team, and conduct gender analysis in the research, as well as an exercise to analyse gender variables in ASEAN economic sectors with many migrant workers.

Tool 4 GEM: Law and policy:

Guidance on how to integrate gender into labour migration laws and policy, and pointers on how to promote gender equality in legislative and policy instruments in countries of origin and destination. Includes a checklist to assess gender mainstreaming in law and policy, and an exercise to discuss protection and equality for migrant workers.

Tool 5 GEM: Bilateral agreements and MOUs:

Guidance on how to develop and negotiate for gender responsiveness and avoid pitfalls in labour migration bilateral agreements (BLAs) and Memoranda of Understanding (MOUs). Includes an exercise to discuss examples of gender-responsive provisions in these instruments.

Tool 6 GEM: Programme design, monitoring, and evaluation:

Guidance on how to mainstream gender in the design, monitoring, and evaluation of labour migration programmes and projects. Includes a checklist and tips to integrate GEM in the programming cycle of migration management institutions and agencies, and tips on gender-responsive indicators and gender budgeting. There is also an exercise to make a labour migration project in ASEAN gender responsive.

Tool 7 GEM: Human resources management:

Guidance for labour migration institutions and human resource management and development (HRD) units to assess and strengthen institutional capacity to implement gender mainstreaming in labour migration, with examples of successful GEM-HRD measures and procedures, gender equality standard clauses in Terms of Reference (TOR), and external collaborator contracts.

Tool 8 GEM: Action against violence:

Guidance on how to prevent and stop violence, and (sexual) harassment of migrant workers, and learn about indicators of forced labour. Includes information boxes and tips on how to act against workplace harassment and violence, and forced labour, as well as a checklist and exercise on how to identify, prevent, and remedy violence against migrant workers.

Tool 9 GEM: Voice, visibility, services, and organization:

Guidance on how to ensure the representation and empowerment of women and men migrant workers in labour migration laws and policy development, in migration management in media messages, and in processes, with good practices by ILO constituents and migrant and domestic workers' organizations on promoting gender equality and empowering migrant workers.



Abbreviations and acronyms

| | |
|----------------|---|
| ACE | ASEAN Confederation of Employers |
| ACMW | ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers |
| ACW | ASEAN Committee on Women |
| ADB | Asian Development Bank |
| AFML | ASEAN Forum on Migrant Labour |
| AQRF | ASEAN Qualification Reference Framework |
| ASEAN | Association of Southeast Asian Nations |
| ASEAN TRIANGLE | Tripartite Action for the Protection and Promotion of the Rights of Migrant Workers in the ASEAN Region |
| ATP | ASEAN TRIANGLE Project |
| BLA | Bilateral agreement |
| CEACR | Committee of Experts on the Application of Conventions and Recommendations of the ILO |
| CEDAW | Convention on the Elimination of all Forms of Discrimination Against Women |
| CEO | Chief Executive Officer |
| CIDA | Canadian International Development Agency |
| COMPAS | Centre on Migration, Policy, and Society |
| DAC | Development Assistance Committee [OECD] |
| DFAT | Department of Foreign Affairs and Trade [Australia] |
| ECOSOC | UN Economic and Social Council |
| EPS | Employment Permit System [Republic of Korea] |
| FADWU | Federation of Asian Domestic Workers Unions |
| FAO | Food and Agriculture Organization of the UN |
| GAATW | Global Alliance Against Traffic in Women |
| GEM | Gender Equality in labour Migration |
| HRD | human resource management and development |
| IDR | Indonesian rupiah [currency] |
| IDWF | International Domestic Workers Federation |
| ILMS | International Labour Migration Statistics [database] |

| | |
|-----------|--|
| ILO | International Labour Organization |
| ILO-CEACR | ILO Committee of Experts on the Application of Conventions and Recommendations |
| ITCILO | International Training Centre of the ILO |
| ITUC | International Trade Union Confederation |
| MTUC | Malaysian Trades Union Congress |
| M&E | monitoring and evaluation |
| MOU | Memorandum of understanding |
| MRA | Mutual Recognition Agreement |
| MRC | Migrant Worker Resource Centre |
| MRS | Mutual Recognition of Skills |
| MYR | Malaysian ringgit [currency] |
| NGO | Non-governmental organization |
| OECD | Organisation for Economic Cooperation and Development |
| OSH | occupational safety and health |
| RMCS | Regional Model Competency Standards |
| SDG | Sustainable Development Goal |
| THB | Thai baht [currency] |
| TOR | Terms of reference |
| TVET | technical and vocational education and training |
| UN | United Nations |
| UNDESA | UN Department of Economic and Social Affairs |
| UN Women | UN organization dedicated to gender equality and the empowerment of women |

Tool 1. GEM: Concepts, approaches, and strategies

1.1 About this tool

This tool is a quick reference guide on key gender concepts and definitions, as well as on the key approaches, strategies, and steps for achieving gender equality in labour migration laws, policy, and management. It is the first tool to use in any awareness-raising or training event to introduce the basics of gender equality promotion in labour migration. It can also serve as a quick refresher to establish a common foundation for analysis and action. This tool concludes with a summary checklist on the “What” and the “How” of gender equality promotion in labour migration, and two exercises, one on basic concepts and strategies for promoting gender equality and fair migration, and the other on gender, care, and migrant domestic work.

1.2 Key concepts and definitions

1.2.1 What is “gender”?

Gender refers to the socially constructed differences and relations between men and women that:

- are learned;
- change over time; and
- vary widely within and across cultures.

Gender is different from sex, which refers to the biological differences between women and men. These are universal and are generally difficult to change.

Gender is not about women only. Gender is about both women and men. Being a man or a woman creates differences in experiences linked to the different roles, attributes, and behaviour that societies deem socially appropriate for either sex. Gender roles and relations influence the division of labour between men and women, as well as the extent of their access to and control over resources, benefits, and decision-making.

Gender differences are not neutral, but asymmetrical and hierarchical. This creates power imbalances and inequalities between the sexes. Gender differences have been used to promote the rights of one sex, and restrict the rights of the other sex. Gender relations and differences exist throughout societies, at the micro (family, household), meso (institutional), and macro (national, international) levels.

Sex and gender are social identity markers in society and they intersect with other markers, such as race or ethnicity, colour, national or social origin, religion, health condition, age, nationality, marital, socio-economic or migrant status, or sexual orientation.



These markers easily become grounds of bias and discrimination because people generalize and often have preconceived ideas about the abilities a person has, depending on the group they belong to. Discrimination in employment and occupation occurs when a person (or group of persons) is excluded from an opportunity, preferred over another one, or treated differently on the basis of personal characteristics that are not related to the genuine occupational requirements of a job (ILO, 2011a). This results in unequal opportunities, treatment, and outcomes in labour markets and in societies.

Gender cuts across and intersects with other social identity markers and often reinforces vulnerabilities and differences due to bias and discrimination on other grounds, leading to a vicious circle of cumulative disadvantage.

Note that in recent years the term “gender” has started to replace the term “sex”. For example, lesbian, gay, bisexual, transgender, and intersex (LGBTI) communities and their advocates commonly use the term gender only to differentiate among groups with different sexual orientations and gender identities. However, it remains useful to distinguish between sex – biological functions that generally do not change – and gender – social roles and relations that can and do change all the time. Data collection systems usually refer to sex when counting men and women, but research will often study gender variables. Most legal texts continue to prohibit discrimination based on sex, but examples also exist of laws prohibiting gender discrimination.

Gender-based discrimination is one of the most prevalent forms of discrimination, preventing women, people with different gender identities, and sometimes also men from developing to their full potential.

1.2.2 How does gender affect the types of jobs of migrant women and men?

People from different cultures and traditions usually have different ideas and expectations about the characteristics, abilities, and likely behaviour of women and men – or femininity and masculinity:

- Gender values and norms on masculinity and femininity in society refer to ideas that people have on what men and women should be like. For example, in many societies femininity means soft, weak, and obedient women, and masculinity means strong, brave men.
- Gender stereotypes are the ideas that people have on what men and women are capable of doing. For example, women are better housekeepers and men are better leaders. While stereotypes may sometimes be true, they are often proven false.

Gender roles refer to the activities that men and women traditionally perform in a given society/ community or other social group and actually do. Gender roles are influenced by gender norms and stereotypes on what men and women can and cannot do. In some societies, gender roles may be flexible, among other societies they are rigid. They may also vary according to individual characteristics of people. For example, in some societies, women still tend exclusively to carry out the reproductive roles within the home and men the productive roles outside the home, while the division of labour in other societies is more fluid and flexible, with men and women sharing reproductive and productive tasks.

Ideas on femininity and masculinity may be restrictive and limit the potential of both women and men. They may not be in line with reality and may not reflect the actual contributions men and women make.

All labour markets are characterized by occupational sex-segregation with men doing certain types of work and women doing other, usually fewer types of work and at lower pay levels than men.

Occupational sex-segregation is even more prevalent for migrant workers, as employers in countries of destination generally are allowed to specify the sex, age, and sometimes nationality of the migrant workers, in addition to their skill levels.⁷⁷ In many countries this type of “taste discrimination” of employers is prohibited when they select national workers unless they can prove that such personal characteristics are genuine job requirements:

- Low- and semi-skilled jobs available to migrant men generally include work with machines and technology, work requiring heavy lifting, and hazardous jobs, such as construction of high buildings, working with chemicals, and working underground.
- Low- and semi-skilled jobs available to women reflect women’s traditional roles in the household, like cooking, cleaning, and caring in the household, or focus on the provision of entertainment and sexual services. In manufacturing, women are often preferred workers because of their “nimble” fingers, their ability to carry out repetitive tasks for many hours, and because they have been socialized to be obedient.

1.2.3 What are “gender equality”, “gender equity”, and “gender justice”?⁸

Equality at work is a fundamental value and principle enabling workers to claim a fair share of the wealth that they help generate. Everybody needs to be given freedom to reach their full potential and enjoy success in life and in work.

Equality between men and women, or gender equality, refers to the enjoyment of equal rights, opportunities, responsibilities, and treatment by men and women of all ages and gender identities in all spheres of life and work. It implies that all human beings are free to develop their personal abilities and make choices without the limitations set by stereotypes and prejudices about gender roles or the characteristics of men and women. It means that the different behaviour, aspirations, and needs of women and men are considered, valued, and favoured equally. It does not mean that women and men are the same or have to become the same, but that their rights, responsibilities, social status, and access to resources do not depend on whether they are born male or female.

In sum, gender equality is the goal defined as equal opportunity, treatment, and outcomes for both sexes, so that women and men can participate in, decide on, and benefit from development on equal footing. Gender equality is both a matter of human rights and social justice, and of economic efficiency. It is essential for sustainable development and poverty reduction.

Gender equity is about equality of outcomes and results. It is a means to ensure that women and men, girls and boys have an equal chance not only at the starting point but also when reaching the finishing line. It is about **fairness** in the distribution of costs, benefits, and opportunities. It is also about **fair and just treatment** that takes into account the different needs and interests of men and women, cultural barriers, and (past) discrimination of specific groups.

⁷⁷ For example, the 2016 ILO-CEACR General survey on the migrant workers instruments reports that the American Federation of Labor and Congress of Industrial Organizations (AFL–CIO) of the United States stated that foreign labour recruiters routinely sorted workers into jobs and visa categories based on racial and gendered notions of work, with particular discrimination faced by women migrant workers (ILO, 2016a, para. 543).

⁸ ILO, 2007a, 2010b, 2011a; DFID, 2002; World Bank, 2011.

Gender justice is about the ending of inequalities between women and men that result in the subordination of women to men. The gender justice approach pursues gender equality with an emphasis on transforming unequal power relations between the sexes. Priorities include advancing women's rights and access to resources on an equal footing with men; building women's voice and "agency" – the ability to make choices; creating women's access and influence in policy and decision-making institutions; sharing reproductive and productive tasks between men and women; recognizing gender diversity; and making social, economic, and political institutions responsive and accountable to people of all genders.

Promoting gender equality is not a "women's concern" but the **responsibility of all in society**. Gender equality is not about taking something away from men and giving it to women. It is about upgrading the position of the disadvantaged sex, not downgrading the position of the advantaged sex. Gender equality should lead to win-win situations and a higher quality of life and work for all.

1.2.4 What is decent work?

Economic growth in and of itself is not enough to end poverty. Achieving this requires development that is equitable, inclusive, and sustainable. Decent work provides a path to this and is crucial to reducing poverty.

Decent work is productive work performed in conditions of freedom, equity, security, and human dignity, to which women and men have access on equal terms. Decent work is about:

- ✓ respect for the rights at work laid down in international labour standards;
- ✓ access to employment with decent income and working conditions;
- ✓ social protection: safe work and social security;
- ✓ representation and voice in decision-making through social dialogue; and
- ✓ addressing both women's and men's needs, perspectives, and priorities.

Decent work sums up the aspirations of people in their working lives. It involves opportunities for work that is productive and delivers a fair income. It includes safe work and social protection for families; better prospects for personal development and social integration; freedom to express concerns, organize, and participate in decision-making; as well as non-discrimination and equality of opportunity and treatment for women and men.

Promoting gender equality and decent work means:

- ✓ equal opportunity of girls and boys to access quality education and training;
- ✓ equal opportunity and treatment for all men and women workers, and fair and just outcomes for both sexes;
- ✓ the same human and workers' rights for men and women; and
- ✓ equal value and fair distribution between women and men of responsibilities and opportunities, paid and unpaid work, decision-making, and income.

Gender equality in the ILO decent work agenda is about:

- ✓ equality of opportunity and treatment in employment and in job recruitment;
- ✓ equal remuneration for work of equal value;
- ✓ protection from discrimination stemming from women's reproductive function;
- ✓ equal participation and representation in governance and decision-making processes and mechanisms in the economic, social, and labour fields;
- ✓ freedom of association and protection of the right to organize;
- ✓ equitable sharing of care work, such as child care services, between women and men, and between the family and society at large;
- ✓ equal access to safe work and to social security, including maternity protection; and
- ✓ equality in obtaining a meaningful career development.

1.2.5 What is discrimination in employment and occupation?

Any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.

– ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), Article 1(1)(a).

Discrimination⁹ at work means a different, usually less favourable, work-related treatment or opportunity for which there is no objective or legitimate justification. For example, wage discrimination occurs when two people of the same merit but of a different race, colour, or sex are paid different wages or treated differently for the same job or a job of equal value. The only legitimate reason for pay differences reflect differences in productivity or prior qualifications and skill levels of workers.

Discrimination originates from bias; perceptions and subjective views; and opinions, preconceptions, or prejudices about the abilities or attitudes ascribed to individuals belonging to particular groups, rather than objective facts. Examples include generalizations about abilities of men, women, persons with disabilities, or persons of different ages or backgrounds; presumptions about “men's jobs” and “women's jobs”; and stereotyped ideas about the kinds of jobs suitable and not suitable for migrant or ethnic minority workers.

Discrimination is not an exceptional or aberrant occurrence resulting from the isolated acts of an individual employer or worker, but a systematic phenomenon woven into many spheres of work and life, and deeply embedded in the way organizations function, laws and rules are applied, and workplaces operate. This is known as **structural** (systemic, systematic, or institutional) **discrimination**.

⁹ The differences between “de jure” and “de facto” and direct and indirect discrimination are vital when outlawing and taking legal action against discrimination in workplaces. They are provided here for audiences already familiar with gender equality and fair migration, lawyers, legal aid workers, and international human and labour rights students. It is recommended to skip these in introductory awareness raising, training and advocacy events on gender equality and fair migration. For further information and exercises on the application of international labour standards against discrimination in employment and employment on migrant workers, see Tool 2 in this toolkit and see ILO, 2011a and 2011b.

Discrimination can exist in laws or regulations (de jure) and in practice (de facto). For example, a labour code stipulating that women shall receive less pay than men for the same job or a job of equal value is discrimination in law. The actual practice of paying men more than women for the same job or a job of equal value is discrimination in practice.

Another useful distinction to make is the difference between direct and indirect discrimination. **Direct discrimination at work** occurs when a prohibited ground of discrimination is used for differential treatment in laws, rules, or practices in the job market. Direct discrimination continues to be common in actual employment practices. Explicit or direct “taste discrimination” often occurs when employers prefer to select a specific sex where they consider that this sex has a competitive advantage, for example women in care jobs as women are “natural carers”, and men in construction as they are “stronger”.

Indirect discrimination at work refers to rules and practices that appear neutral but in practice lead to disadvantages primarily suffered by people of one gender, race, colour or other characteristics, and that cannot be justified by the inherent requirements of a job. For example, setting a certain level of physical height for management jobs amounts to indirect discrimination against women who are usually less tall than men, because management skills are not related to a person’s length.

Excluding domestic workers from the right to a minimum wage or other labour and social protection can amount to indirect discrimination on the grounds of sex if most domestic workers are women, or to indirect discrimination on the grounds of ethnicity if most domestic workers in a certain area come from a certain ethnic group.

1.2.6 What forms of discrimination can women migrant workers face?

For many women, as for men, migration can be a positive and empowering experience. But often women migrants become vulnerable through gender-specific discrimination in the migration process and in their employment. Women migrant workers often face multiple forms of discrimination, disadvantage, marginalization, and vulnerability. These can manifest in the following ways.

As women vs. men workers – During every stage of their migration experience, women migrant workers tend to be more exposed to human and workers’ rights violations compared to their male counterparts because they lack access to and control over resources and decision-making. For example, women are more likely than men to lack access to realistic and accurate information on recruitment and the migration process, as well as the economic and social costs and benefits of employment abroad. This occurs for a variety of reasons, such as: girls are more likely to be taken out of school at an early age, and are thus illiterate or semi-literate; they cannot access the mass media that are broadcasted in teashops or bars where men go, but not women; and because women must depend on the family to make the decision about their migration.

The crowded, insecure living conditions that many migrants are put in make women vulnerable to violence and abuse. Women are more likely to be sexually harassed by their employers, by immigration and police, and by their co-workers.

Like their male counterparts, women migrant workers frequently have to deal with difficult living and working conditions, increased health risks, lack of access to social services, and various forms of abuse; however women face further constraints. Labour markets and occupations in countries of origin and destination remain largely segregated by sex, with fewer job choices for women as compared to men. Women are typically concentrated in a few low-paid feminized jobs. For example, domestic and care

work are performed within the private sphere of the home where abuse and poor labour practices are hidden and the support of peers is largely unavailable. A key source of vulnerability of women migrant workers is that their jobs are informal and they often lack labour and social protection. They are less likely than men to be aware of the laws and regulations of the destination country and less likely to seek legal redress in case of violation of their rights. Returnee migrant women tend to face stigma and community disapproval if they are seen to be independent and empowered. For example, it is often difficult for them to marry while returnee migrant men are perceived as attractive marriage partners.

As foreigners vs. nationals – Both women and men migrants are vulnerable, as they are outside the jurisdiction and protection of the laws of their home country, and they may not be entitled to or able to access the full range of protection and benefits in the destination country. Xenophobia and racism against migrant workers exist in many destination countries, especially in unstable and poor economic times, but women migrants need to cope with sexism as well. Women workers have a lower status than men workers in both countries of origin and destination. Women migrant workers have to cope with the accumulated disadvantages this entails.

As dependent vs. autonomous migrants – Strong dependency on a specific employer is one important source of vulnerability for migrants, especially for women migrants, as their dependent status can be exploited by the employer or by co-workers. Migrant workers are often not allowed to change employers or are required to have their visas sponsored by a national. The “one employer rule” common in Asia and the visa sponsorship (kafala) system in the Arab States tend to put migrants almost totally under the control of their employer or sponsor, which can be particularly challenging for women due to their relative weaker power positions.

The specific situation of live-in domestic workers brings this dependency situation to its extreme, as employers and workers have to share the same work and living space, and tensions can easily build up. Some employers foster the dependency of a worker by isolating her; confiscating her passport, work, or residency papers; limiting her contact to the outside world; or evoking fear in her that any complaint will result in job loss and/or deportation.

Finally, women may face specific barriers when their migration status is linked to the consent of a male family member who “signs off” on their migration (and hence restricts their decision-making power), or when they migrate as accompanying family members and depend on their spouse/father for the renewal of their residence/work permits.

As undocumented migrants – Some migrants enter and work in a country without proper residence or working documents, or they may have become undocumented because they failed to comply with relevant requirements in the country of destination, for example, if they lose their regular job. In some cases, restrictive policies introduced by countries of origin or destination on women’s mobility (e.g., age bars, consent from spouses, or pregnancy testing prior to departure or in the destination country) leave no or limited legal migration channels open to women. This can push many of them into irregularity, with higher risk of abuse.

In some cases national legislation at destination criminalizes any migrants who leave their job, arguably forcing them to stay in exploitative workplaces. Women can be more vulnerable than men as undocumented or irregular migrants. Those who are in irregular situations in the destination country tend to have informal jobs and have even less recourse to the law in case of violation of their rights. They

may also be too scared to complain or even to approach the authorities for any kind of official assistance. In cases of trafficking, even when they are rescued by the authorities from those exploiting or abusing them, they are often maltreated as “bad or loose women” and “criminals” because they are women and undocumented migrant workers.¹⁰

1.2.7 What are the three fundamental rights dimensions in migration?

This Toolkit follows the **rights-based approach** as pursued in international human rights treaties and international labour standards, and translates this into the labour migration policy and management fields (UNIFEM, n.d.; OSCE, 2009). The three key **rights dimensions for safe, fair, and just labour migration** are:

- ✓ Equal **rights to legal migration opportunities** for women and men: Ensure equitable access to and participation in safe and legal migration opportunities and their protection from exploitation and violence.
- ✓ Equal **rights within the migration process** for women and men: Ensure safe and secure recruitment, transit, remuneration, control over earnings, decent working conditions, a right to personal and family life, access to legal services, decision-making, and relevant health care and information.
- ✓ Equal **rights realized through migration**: Facilitate and encourage the potentially positive outcomes of migration for women and men. For women, this means, for example, increased autonomy and power to negotiate employment conditions in the destination country; having control over earnings and more decision-making power in the family in the origin country; and having an increased capacity to build and maintain social networks.

1.2.8 Gender equality and fair migration are smart economics¹¹

Experience over recent decades demonstrates that gender equality, economic growth, and development are mutually reinforcing and significantly correlated. Evidence has been mounting that gender equality is an essential prerequisite for effective poverty reduction, and for sustainable social and economic development. The World Bank (2011) has long concluded that women’s economic participation helps to drive growth at the national level and to reduce poverty within communities and households; societies that make better use of the skills, talents, and time of all members are more likely to prosper; and women are often more likely than men to use income to support development outcomes within their families. Evidence proving the business case for gender equality and diversity and pointing to increased organizational effectiveness and profitability has been mounting in companies and public institutions alike, and is, by now, well-documented.

The economic benefits of labour migration for the development of countries of destination and origin have also long been recognized. In countries of destination, migrant workers contribute significantly to the profitability of the companies for which they work. Where they are engaged in domestic and household work, they bring economic benefits by providing care and facilitating the reproductive work in employer households, whose members can then engage in paid work. Migrant workers also contribute to development in countries of destination by paying into social security and tax systems, and creating jobs as consumers of goods and services.

¹⁰ Updated from ILO, 2003a, booklet 1.

¹¹ ILO, 2011a; ILO and UN Women, 2015c; DFAT, 2016; Moreno-Fontes Chammartin (forthcoming); UN Women, 2012; UN 2015a; World Bank, 2011; 2015.

Remittances remain a key source of funds for countries of origin, far exceeding official development assistance and even foreign direct investment (excluding China). They have proven to be more stable than private debt and portfolio equity flows. Remittances are also less volatile than official aid flows (World Bank, 2015). Regarding the economic contribution of women migrant workers, while they are likely to earn less than men, they have been found to remit higher proportions of their earnings, and at more stable and regular intervals when compared to men (ILO and UN Women, 2015c). In general, whether as remitters or receivers, when women have control over money, they will invest in the wellbeing of the household and its members (UN Women, 2013a).

However, the profits of migration accrue in the wrong hands by underpaying migrant workers – especially women in undervalued female-dominated occupations – by allowing employment agencies to charge excessive fees; by condoning illicit fee-charging by other labour migration intermediaries; and by allowing financial intermediaries to charge high costs of transmitting remittances. The contribution of migration to development could potentially be much higher if the migration process was better regulated. Respect for the rights of women and men migrant workers alike, regulation and enforcement of recruitment agencies, and effective labour and social protection, including arranging for the portability of skills and social security, would go a long way in harnessing this potential.

1.3 Tips

1.3.1 Progress in main approaches to achieve gender equality

Over the years, different strategies have been developed and applied to eliminate sex discrimination and promote equality between men and women. The decision on which strategy to use has depended on the underlying perspectives and assumptions as to what causes inequalities and on the goals set to achieve. Overall, four main perspectives to gender equality can be distinguished:

- **Sameness perspective:** Women and men are considered the same, and therefore should be treated in the same manner regardless of the biological and gender differences between the two. This approach disadvantages women as it is “gender blind”. Women are overly burdened in trying to achieve male standards, when in fact the social and economic reality of women is not similar to that of men. Disadvantaged by subordinate gender roles, multiple responsibilities, and lack of access to education and resources due to gender discrimination against women in many societies, only a few privileged women are able to compete with men on an equal footing. In practice, this “sameness” perspective has proven to further burden women, as male and female realities are not the same in societies where equal opportunities and treatment for women do not or hardly exist.
- **Protectionist perspective:** This perspective recognizes the differences between men and women, but aims to protect women, who are perceived as “the weaker sex”, from areas which are considered to be “unsafe”, “unsuitable”, or “inappropriate” for them. In practice this results in barring women from certain opportunities “for their own good”. The first ILO Conventions adopted in the early twentieth century aimed exclusively at protecting women. Early standards contained provisions on prohibiting the employment of women at night, in underground work, and with dangerous substances. In later years, it was found that the protectionist perspective of barring women from certain types of employment tends to perpetuate sex discrimination in the guise of protection and reinforce the subordination of women.
- **Equality in law or “formal equality”:** Gender equality was expressed formally and explicitly for the first time in international law in 1948 when the Universal Declaration of Human Rights recognized equality, non-discrimination, and equal remuneration as human rights that all human beings should

enjoy regardless of their sex. The adoption of the Equal Remuneration Convention, 1951 (No. 100) and Discrimination (Employment and Occupation) Convention, 1958 (No. 111) marked a shift in international labour standards from an exclusive concern with the protection of women to the promotion of equality between men and women in employment and occupation.

- **Equality in outcomes:** By the early 1980s, it had become clear that removal of legal barriers to women's equality was necessary but not sufficient to realize equal outcomes and substantive equality for women. This led to a renewed emphasis on analysing possible differences and seeking to eliminate discrimination of disadvantaged groups through corrective, positive measures. This perspective recognizes the differences between men and women and at the same time underlines the importance of equality between the two. It analyses why these differences exist and what the inequalities are. It aims at equality of outcomes, and seeks to eliminate discrimination of the disadvantaged groups through corrective and positive measures at the individual, institutional, and societal levels.

1.3.2 Key strategies for promoting gender equality and women's empowerment

Achieving substantive equality requires moving to equality of opportunities, treatment, and outcomes, including through additional investments and measures to take account of differences, inequities, and structural disadvantage due to (past) discrimination. Two key concepts are gender mainstreaming and positive action:

Gender mainstreaming was adopted as the main strategy for promoting gender equality at the global and national levels at the Fourth World Conference on Women in Beijing in 1995. The United Nations Economic and Social Council (ECOSOC) defined gender mainstreaming as:

- The process of assessing the implications for women and men on any planned action, including legislation, policies or programmes, in any area and at all levels.
- A strategy for making the concerns and experiences of women as well as of men an integral part of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres, so that women and men benefit equally, and inequality is not perpetuated.
- The ultimate goal of mainstreaming is to achieve gender equality (ECOSOC, 1997, p.24).



Affirmative action – also known as positive discrimination or positive measures – are usually temporary, special measures designed to redress the effects of past or continuing discrimination. The principle of special positive measures is reflected in ILO Convention No. 111 (Article 5) adopted in 1958, and reconfirmed in 1996 and 2009, as well as in the 1979 United Nations (UN) Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Affirmative action measures are needed to put everybody on an equal footing, especially where ingrained social, political, and economic inequalities are rooted in tradition and arise out of a history of oppression of one group by another. Positive action does not imply that its beneficiaries have something wrong with them or are disadvantaged by nature. Positive action is based on the recognition that inequalities have become entrenched in institutions and societies. In such cases positive action aims to address the failure of labour market institutions to provide equal and fair opportunities to all. A common means of affirmative action is setting specific goals, targets, or quotas for the participation of the disadvantaged or under-represented groups.

Another **strategic dimension** that needs to be taken into account is to identify and address both the practical and strategic gender needs of all migrant workers:

- **Practical gender needs** are basic needs or survival needs, e.g., food, water, shelter, income, clothing, and health care. Meeting practical needs is about improving immediate shortcomings in living and working conditions of men and women.
- **Strategic gender needs** refer to the needs for equality and empowerment of both women and men, e.g., sharing of family care and decision-making, equal access to education and training. Meeting strategic needs is about redressing unequal power relations, and addressing the root causes of inequalities.

Given the lack of progress in achieving gender equality since 1995 (see box 1 below), and mounting concerns about the overall widening income and social capital inequalities between and within countries, there have been renewed calls for gender-transformative action in the preparations for the sustainable development agenda and the sustainable development goals. Gender-transformative action is rooted in the gender justice approach: Gender inequality is a result of unequal power distributions between women and men, as evidenced by ongoing discrimination, weaknesses in laws, policies and institutions, and social relations that normalize inequality. The goal of gender-transformative action is achieving gender equality and women's empowerment through the twin-track approach of:

- mainstreaming (integrating and incorporating) gender concerns in all aspects of work, no matter what the sector or focus; and
- taking specific measures to tackling gender inequalities.

In the world of work this will require “integrated and transformative measures, guided by the ILO international labour standards that put the elimination of discrimination and the achievement of gender equality at home and at work at the very heart of policy interventions” (ILO, 2016b, p. 94).¹²

¹² ILO, 2016b; ILO, 2007a, pp. 17-19; ILO, 2009; DFAT 2016.

Box 1

Persisting gender inequalities for women at work over the past two decades

Throughout their working lives, women continue to face significant obstacles in gaining access to decent work. Only marginal improvements have been achieved since the Fourth World Conference on Women in Beijing in 1995, leaving large gaps to be covered in the implementation of the 2030 Agenda for Sustainable Development, adopted by the United Nations in 2015. Inequality between women and men persists in global labour markets in respect to opportunities, treatment, and outcomes.

Over the last two decades, women's significant progress in educational achievements has not translated into a comparable improvement in their opportunities at work. In many regions in the world women are more likely than men to

become and remain unemployed, have fewer chances to participate in the labour force, and – when they do – often have to accept lower quality jobs.

Progress in surmounting these obstacles has been slow and is limited to a few regions across the world. Even in many of those countries where gaps in labour force participation and employment have narrowed, the quality of women's jobs remains a matter of concern. The unequal distribution of unpaid care and household work between women and men and between families and the society is an important determinant of gender inequalities at work. (ILO, 2016b).

1.3.3 Gender-responsive and transformative labour migration laws, policy and management

Labour migration laws and policy are not indifferent to gender. They can be gender biased, gender blind, gender neutral, or gender responsive:

- **Gender biased** – discriminates and has negative impact on specific gender groups. Examples are excluding women or men from migrant recruitment programmes, or confining women to migrate for work in particular sectors or types of work, or paying different wages to men and women migrants for jobs of the same value. Gender-biased migration measures include prohibiting or restricting women's migration for their "protection". These types of measures tend to have negative consequences, e.g., pushing women and girls into seeking illegal migration channels and making them more vulnerable to human trafficking, and/or taking on unskilled and informal jobs.
- **Gender blind** – fails to recognize gender as a key factor. For example, a household is taken as one economic unit in migration studies, when in fact it is made up of men and women with different tasks, needs, and decision-making power. Gender-blind migration measures may appear to be unbiased, but they are often based on men's perspectives and/or the assumption that all persons have the same needs and interests. Gender-blind measures may result in reinforcing gender inequalities and exacerbating exploitation of women migrant workers. For example, gender-neutral workplace policies that do not acknowledge sexual harassment and violence perpetrated by men against women, mean that women are not provided with safe mechanisms to make complaints, or women's only places to support each other.
- **Gender neutral** – is not aimed specifically at either women or men, and is assumed to affect both sexes equally. For example, using gender-neutral language such as "migrant worker", or setting quotas or targets for migrants may appear to be neutral in letter and spirit. Gender-neutral measures may benefit men and women equally but they may also have a differential impact on women or men even if this was neither intended nor expected. Given that the migrant man is assumed to be the "normal" migrant and the migrant woman is considered as the exception, gender-neutral measures may result in outcomes that are detrimental to women migrant workers.

In contrast to the above three types of measures:

- **Gender responsive** – integrates gender concerns and factors rooted in the gender division of labour and unequal power relations between men and women. Gender-responsive measures are based on sex-disaggregated data and gender analysis. They take into account men’s and women’s needs, constraints, and opportunities, as well as the possible differential effects and impacts of migration measures on men and women. Where gender inequalities exist, they will contain gender-specific measures targeting specific gender groups (women, men, people with non-conforming gender identities) to bring about substantive equality, meaning equitable opportunity, treatment, benefits, rights, and obligations that result in equal outcomes for men and women.

In 2014, at the ASEAN Regional Conference of Senior Officials on Strengthening the Protection and Empowerment of Women Migrant Workers, held in the Philippines, the representatives of the ASEAN women and labour bodies developed policy recommendations for incorporation in the Instrument being crafted by the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW), calling for a binding Instrument among all ASEAN Member States and ensuring that “all the provisions of the Instrument are gender responsive, where gender responsive means that the policies, actions, or measures in the Instrument consider and address gender-related issues and concerns of migrants.”

As explained in the previous section, since the adoption of the Sustainable Development Goals in 2015, the use of the term gender-transformative action has gained in popularity. In this Toolkit, therefore, gender-responsive and gender-transformative action are used interchangeably.

Gender-responsive and transformative strategies in labour migration aim at promoting fair migration and providing equitable employment opportunity, treatment, and outcomes to both migrant men and women. This includes:

- ✓ Integrating gender equality into the mainstream of labour migration laws, policy, and management by:
 - collecting and analysing sex-disaggregated data, and doing further gender analysis, if discrepancies or inequalities have been identified;
 - assessing the implications for women and men on any planned action, including legislation, policies, or programmes, in any area and at all levels; and
 - including the priorities, interests, and needs of men and women migrant workers systematically and explicitly in all labour migration policies, programmes, projects, institutional mechanisms, and budgets.
- ✓ Designing and implementing gender-specific positive action measures to redress the effects of past or continuing discrimination until equality of outcomes for both sexes has been achieved.
- ✓ Addressing both the practical and strategic gender needs of men and women migrant workers, so that they have choices, can access resources and benefits, and claim rights.

Gender concerns and inequalities in labour migration that require attention are highly likely in:

- ✓ sectors, industries, and occupations where the majority of workers are women migrant workers;
- ✓ productive economic sectors and higher value jobs where women migrant workers are virtually absent;
- ✓ relation to issues that especially concern and affect women workers (e.g., reproductive health and rights); and in relation to
- ✓ (sexual) violence.¹³

¹³ ASEAN, 2014; ILO, 2007b; OSCE, 2009, pp. 19–20; Anderson, 2015a.

1.3.4 Key steps in promoting gender equality in labour migration

Two main **steps** need to be taken to ensure equal, fair, and just participation, representation, distribution of resources and benefits, and achieving equal outcomes for women and men:

| | |
|--------|--|
| Step 1 | Gender analysis. |
| Step 2 | Gender-specific measures to bring gender issues into the mainstream in all labour migration laws, policies, programmes, and activities and to redress any gender inequalities. |

1. Gender analysis includes:

- ✓ collecting and analysing labour migration data that are broken down by sex and other relevant variable such as ethnicity, age, and nationality, and carrying out further research if needed;
- ✓ assessing the implications for women and men on any planned labour migration action, including legislation, policies, or programmes in any area and at all levels;
- ✓ identifying the division of labour and labour market outcomes, and access to and control over resources and benefits of men and women migrant workers;
- ✓ reviewing women and men migrant workers' needs, interests, constraints, and opportunities;
- ✓ identifying challenges and opportunities in the larger legislative, policy, and institutional environment;
- ✓ reviewing the capacities of migration management organizations to promote gender equality;
- ✓ seeking and identifying more skilled work opportunities in countries of destination, and reviewing and identifying appropriate skills training in countries of origin; and
- ✓ developing gender-specific conclusions and recommendations for further action.

2. Gender-specific measures include:

- ✓ conducting positive measures to redress inequalities;
- ✓ giving women and gender experts a voice in labour migration laws and policy-making management, implementation, and evaluation;
- ✓ starting a process of change in organizational procedures and processes of labour migration management institutions; and
- ✓ carrying out gender budgeting and auditing.

These gender-specific measures are further explained below.

- **Positive measures** may include one or a combination of the following:
 - **Affirmative action:** temporary measure(s) to eliminate the effects of past or current discrimination. Examples are setting specific goals, targets, or quotas for women in activities, sectors, or levels where they have previously been excluded or under-represented; measures to foster greater sharing of occupational, family, and social responsibilities between men and women, such as public–private sector support for workers with family responsibilities; or recognition and skills certification for occupations mostly performed by women.

- **Women-specific activities:** needed when cultural norms and values restrict women’s equal participation in activities for both sexes; and used to enable women to develop and strengthen their self-esteem, to identify their constraints, and to jointly develop means to overcome them (e.g., reproductive health training and/or services for women; career counseling and mentoring programmes for women).
- **Men-specific activities:** needed because men’s inputs and participation are essential to advance gender equality in partnership with women (e.g., reproductive health training for men; engaging men and men’s networks to address violence against women and children).
- **Giving women and gender experts a voice:**
 - In labour migration programmes, increase the participation of women migrant workers, and increase the representation of women and gender experts in labour migration governance and decision-making mechanisms and at all stages of the programming cycle (design, management, implementation, and evaluation).
 - In mixed labour migration programmes, increase the participation of women:
 - » Include two-thirds women in training and decision-making – if they have been excluded from training and leadership positions – to redress the effects of (past) discrimination, and for role model purposes.
 - » Ideally, the male/female ratio of representation should be 50/50, but a range between 40 and 60 per cent is acceptable for equal representation. Avoid tokenism.
 - » The “minimum” rule: Ensure a representation rate of about 30 per cent of each sex, otherwise it is difficult for those in the minority to voice their concerns. (See also Tool 9.)
- **Organizational change processes:** Mainstream gender throughout migration management institutions by:
 - adopting explicit policy, programme, and budget procedures for the promotion of equality in labour migration;
 - training staff and make them accountable at all levels;
 - setting targets for gender-balance in staff recruitment and promotion; and
 - allocating sufficient human and financial resources to finance equality promotion in labour migration.
- **Gender budgeting and auditing:**
 - aims to analyse the possible different impact of revenue and expenditure on men and women, boys and girls;
 - may involve re-allocation of revenues and expenditures and restructuring of budgetary processes to promote gender equality; and
 - focuses on both the contents of the budget and the budgetary processes, involving both men and women at all stages.
- **Participatory gender audits:** Promote organizational learning at the individual, institutional and policy levels on how to mainstream gender effectively in practice. A participatory gender audit enhances the collective capacity of organizations to:
 - examine strategies and activities with a gender perspective;
 - identify strengths and weaknesses in promoting gender equality;
 - identify whether internal practices and related support systems for gender mainstreaming are in place and operational; and
 - highlight good practices and make recommendations for gender equality promotion.¹⁴

¹⁴ For more information about participatory gender audits see ILO. 2007. A manual for gender audit facilitators (Geneva, ILO).

1.4 Checklist

1.4.1 Summary to-do list for promoting gender equality in labour migration

This summary to-do list is handy for users who have gone through and utilized some of the tools in the GEM Toolkit in practice. It can help identify whether you are on the right track in promoting gender equality in a labour migration interventions (research, legislation, policy, programme, project, training, meeting, media, lobbying campaign, or any other action). If most of the answers in this to-do list are “Yes”, it means gender equality concerns are being taken into account in the planned intervention. If more than half of the answers are “No” or “Not sure”, more work is needed to integrate the gender dimension into the intervention.

| What to do: Did you... | Yes | No | Not sure |
|---|-----|----|----------|
| 1 Consult with both women and men who are policy-makers, gender and labour migration experts, migrant and non-migrant workers, and their families? | | | |
| 2 Carry out a gender analysis? (For example: Disaggregate all relevant labour migration data by sex; assess the gender implications of any planned labour migration action; carry out further research if gender imbalances or inequalities have been identified to find out what needs to be done to redress these.) | | | |
| 3 Take gender equality concerns into account at the highest levels of policy, programme, and budget formulation, and at the earliest stages of the programming cycle? | | | |
| 4 Plan and undertake gender-specific interventions to redress inequalities, and incorporate explicit promotion of gender equality in labour migration laws, policies, programmes, and other means of action, and in migration management institutions? | | | |
| 5 Address both practical (short-term and immediate needs) as well as more long-term, political, and strategic needs (redressing inequalities) of women and men migrant workers? | | | |
| 6 Target economic sectors and occupations where many women migrant workers are found working? | | | |
| 7 Redress inequalities in access of (potential) women migrant workers to quality education, training, and decent job opportunities? | | | |
| 8 Stimulate the provision of alternative livelihood strategies to families prone to or already resorting to migrant labour exploitation of their children or other family members through the economic and social empowerment of all family members? | | | |

| How to do it: Did you... | | Yes | No | Not sure |
|--------------------------|---|-----|----|----------|
| 9 | Assess and strengthen the capacity of migration policy development and management organizations to address the needs of men and women migrant workers and to promote gender equality in labour migration laws, policies, and programmes, as well as in institutions? | | | |
| 10 | Take measures to redress gender inequalities, for example, through gender-specific measures and direct action. Start with pilot projects to try out innovative new approaches, and expand successful initiatives into policies and programmes? | | | |
| 11 | Increase gender awareness and provide gender training to enhance capacity and expertise on promoting gender equality among all stakeholders? | | | |
| 12 | Seek the views and perspectives of gender experts and mobilize women migrant workers' groups and organizations in any labour migration-related decision-making processes and mechanisms? | | | |
| 13 | For long-term action, develop a network of organizations with expertise in both labour migration and gender to share experiences and tools? | | | |
| 14 | Ensure that labour migration managers have the capacity to manage the process of gender mainstreaming within their organization? | | | |
| 15 | Assign responsibility for the promotion of equality to all those involved and make all parties accountable, for example, in Terms of Reference and job descriptions? | | | |
| 16 | Ensure to plan, budget, and utilize specific gender expertise in the labour migration work of your organization, to redress any gender gaps, imbalances , or inequalities? | | | |
| 17 | Analyse the different impact of labour migration programmes on men and women migrant workers at the monitoring and evaluation stages and develop appropriate follow-up action? | | | |
| 18 | Avoid linguistic and visual biases and gender stereotyping in labour migration reports, media messages, and advocacy materials. (For example: using men only as examples, portraying women as weak and in submissive, dependent positions and men as strong and in powerful positions)? | | | |

1.5 Exercises

1.5.1 Quiz on key GEM concepts and strategies

Exercise guide

Aims

- To introduce the main GEM concepts and strategies to audiences new to GEM or to refresh participants' GEM knowledge for other audiences
- To create a common understanding on GEM concepts and strategies.

Methods

The introduction of the main GEM concepts and strategies can be made livelier by doing it in the form of a question and answer session or quiz that introduces the key concepts one-by-one. The quiz can also be done as a refresher exercise after the introduction of the Tool.

The quiz format enables information sharing between participants with and without gender expertise, and will bring out differences in perspectives of participants of different sex, ethnicity, income class, religion, or other characteristics. The discussion outcomes will enable the trainer/facilitator (hereafter referred to as trainer) to identify the gender awareness levels and expertise within the group and tailor-make further sessions to participants' needs and interests.

In case participants are new to gender, small group work can precede the quiz. For example, divide the participants in pairs or groups of three. Give each small group one question to discuss (several groups will receive the same question) and then do the quiz in plenary. This is useful to give participants more time to share experience and get to know one another.

Training tips

- Make the session animated. It should not resemble an examination.
- Elicit several responses for each question from everybody. Encourage shy participants to speak up, and stop participants who start to dominate the discussion. Ensure a 50–50 response rate by women and men, as possible, and ensure adequate voice of any under-represented group(s).

Time

60–90 minutes, depending on the level of gender awareness, interest, and experience of participants.

Training preparation and materials

- Select all (or some) of the questions below for the quiz, or develop other (easier or more difficult) questions depending on the level and interest of participants.
- Prepare a flipchart or slide presentation with the questions (and key answers).
- Optional: Prepare some small prizes (candies, postcards) for the winners of the quiz or for all participants.



Session plan

Step 1

Introduce the following questions and discuss the answers one-by-one:

1. What is sex – gender?
2. What is masculinity – femininity?
3. What forms of discrimination can women migrant workers face?
4. What are the three fundamental rights dimensions for women and men in migration?
5. What is gender equality?
6. What is gender mainstreaming – what is affirmative action?
7. What are practical and strategic gender needs?
8. What is the meaning of gender-responsive and gender-transformative labour migration laws and policy?
9. What is the difference between equality in law and equality in outcomes?
10. What can be positive effects and negative effects of migration for men and women migrant workers?

Step 2

Provide participants with the right answers, as needed. Rectify any mistakes or misconceptions during the discussion of each answer. Conclude the session with 3–5 key messages (5 minutes). Ask if there are any main points left. Select a few winners or winning team as appropriate, or announce everybody as a winner, alluding to the importance of making gender equality a win–win situation for everybody.

Answers to the questions and example key messages

- Sex refers to bodily functions and physical differences between women and men. Gender is about the socially constructed differences and relations between men and women that are learned, change over time, and vary widely within and across cultures. Masculinity and femininity refer to the norms, values, and stereotypes that exist in every society on what men and women: can and cannot do; should and should not do; what men and women are capable of doing; and what they are allowed to do.
- Women migrant workers are subject to discrimination on the grounds of their sex and gender, nationality, documented or undocumented migrant status, often also on the grounds of their race, ethnicity or colour, religion, class, and age. They are often also dependent rather than autonomous migrants, for example, when they are tied to their employer or are indebted.
- The three fundamental rights dimensions for women and men in migration include: the equal rights to legal migration opportunities; equal rights within the migration process; and equal rights realized through the migration process.
- Gender equality is about equal opportunities and treatment and equal rights and responsibilities for women and men, girls and boys. It does not mean that men and women are the same, but that they have equal chances to succeed in life and have equal access to resources and benefits. Gender equality benefits women and men and requires contributions from both sexes.
- Gender mainstreaming and affirmative action refer to the two-track approach to achieving gender equality: Integrating gender into all work, in all sectors, at all levels and at all stages and carrying out specific actions to redress gender inequalities and discrimination
- Practical needs refer to the immediate basic and survival needs of men and women in life and at work. Strategic gender needs are the needs for equality and empowerment of both women and men, e.g., sharing of family care and decision-making, equal access to education and training. Meeting strategic needs is about redressing unequal power relations, and addressing the root causes of inequalities.

- Gender-responsive or gender-transformative labour migration laws and policy means that labour migration and related (e.g., employment, labour, and social protection) laws, policies, actions, and measures consider and address gender-related issues and concerns of migrants. Gender-responsive and transformative strategies in labour migration aim at promoting fair migration and providing equitable employment opportunity, treatment, and outcomes to both migrant men and women.
- For many women, as for men, migration can be a positive experience and be empowering. But women migrants are made vulnerable through gender-specific discrimination in the migration process and in their employment. For example, women migrants come from situations of poverty and deprivation; they are more often employed in work that is undervalued and in informal jobs without labour and social protection; have less access to information; are less well educated; and are prone to being subjected to violence and abuse.

1.5.2 Structural gender and care imbalances: The case of migrant domestic work¹⁵



Exercise guide

Aims

Participants will be able to:

- re-evaluate the economic contribution of domestic workers and of caregiving in the family, economy, and society;
- explain what the global care chain is; and
- understand why there is a need for decent work for domestic workers, and for reorganizing work and family responsibilities and paid and unpaid work as a shared household responsibility, and as a public policy and investment priority.

Methods

The exercise is best done in small working groups, followed by a plenary discussion.

Time

60–90 minutes

Training preparation and materials

- Read Handout 1 and prepare a slide presentation on the questions for the group work and the key messages, or prepare copies of Handout 2 for distribution.
- Read the questions for group work, and adapt them to suit the level and interest of the participants. If the audience is not familiar with the “global care chain”, explain it when introducing the exercise.
- Prepare copies of Handout 2, one copy for each participant, for distribution at the end of the session.

¹⁵ Anderson, 2015a, and ILO, 2016b; ILO, 2015b; ILO, 2015c; ILO, 2013a; ILO, 2010a; UN Women, 2013a.



Session plan

Step 1

Briefly explain the aims of the session. Divide participants into smaller groups, and explain the assignment. Give the groups about 30–45 minutes to finish their assignment.

Step 2

When the groups are ready, start the plenary session for about 30–40 minutes by asking the groups to briefly report back, and stimulate dialogue when groups bring up new points.

Step 3

Summarize with 3–5 key messages.

Example key messages

- Migrant domestic workers often face poor employment and living conditions: low wages; excessive working hours; little rest; risks of human, labour, and women’s rights violations at all stages of the migration process; unequal power relations with their employers; high levels of isolation and discrimination, often on multiple grounds; and lack of information, support networks, and access to justice. All these vulnerabilities increase manifold when they are undocumented; tied to one employer; and must live with their employer.
- All work and all migration are gendered: sectors like construction, assembly-line manufacturing work, and white-collar jobs as much as domestic work. However, many gender (and often racial or colour) biases and myths exist around domestic work, which is considered the traditional domain and duty of women.
- There is a huge demand for domestic work. If decent work for migrant domestic workers can be achieved, this will be a win–win situation for millions of migrant workers and their employer households.
- There is a need to rebalance work and family responsibilities and paid and unpaid work for all workers. Migrant domestic work is a private solution to the “global care crisis” that is affordable only to the more affluent. Public care policies are needed to rectify this situation for the fair, just, and productive functioning of people, workplaces, labour markets, and societies.



Handout 1 for participants

Assignment for small group work

This exercise discusses why domestic work is an undervalued and invisible female-dominated occupation, and why there are so many migrant women in domestic work.

- You can use the questions below to guide your discussions.
- Assign a rapporteur and a spokesperson in your group.
- The rapporteur can use a flipchart or slide presentation to note down the main points.
- The spokesperson will briefly present the outcome of your discussions in plenary.

Questions for discussion

1. From your experience, what are the most common problems that women migrant domestic workers face?
2. For audiences new to gender equality: What ideas about the role of women and men in society influence the position and status of domestic workers from ASEAN Member States? Are these ideas based on facts or opinions/stereotypes? For audiences with some gender knowledge: What gender perspectives, stereotypes, and discriminatory attitudes influence the position and status of domestic workers from ASEAN Member States?
3. What is the global care chain, and what are your views on its causes and effects in countries of origin and destination?



Handout 2 for participants

Case study: Structural gender and care imbalances: The case of migrant domestic work¹⁶

Trends in domestic work and the emergence of the global care chain

Cooking, cleaning, and caring are vital for the well-being of families, communities, and societies at large.

Domestic work in homes has been done by mostly women for millennia, and it is one of the oldest occupations on earth. However, when done for one's "own household" it is mostly been done as unpaid work, and this continues to be the case in most countries around the world, with the bulk of cooking, cleaning, and family care duties assigned mainly to women. Traditionally, in many countries, poor family members, mostly children and women migrated from rural areas to work in the households of their more affluent family members or the latter's networks in urban areas. Domestic work and migration share a long history, with roots in servitude, slavery, and colonization (ILO, 2010a).

While unpaid, reproductive, domestic, and care work precede wage employment, the latter became the prerogative of men. With the emergence of industrialized wage labour, the male income earner became the norm in the labour market and unpaid reproductive labour became even more exclusively the domain of women in many societies. For many, "ideal families" still consist of extended or nuclear families with men as "breadwinners" and women as "home makers", even though this division of labour has become the exception rather than the norm in most modern societies, except among more affluent families.

Over the past decades, eroding wage levels for larger and larger population groups at the low- and the middle-income levels have meant that one income earner per nuclear family was not sufficient and women have started to earn income in the labour market in increasing numbers. Higher levels of education have also stimulated women to earn an income outside of the home. The gendered division of labour, however, has not changed and, by and large, women have also continued to shoulder the unpaid household duties and care work in their family, unless they employ other workers to do the household and care work in their homes. Across the globe, in contemporary society, care work at home is vital for the economy outside the household to function. In the new millennium, demand for care work has been on the rise everywhere. The massive incorporation of women in the labour force, the ageing of societies, the intensification of work, and the frequent lack or inadequacy of policy measures to facilitate the reconciliation of family life and work – often exacerbated by the unavailability, unaffordability, or decline of public care services by States – underpin this trend and the creation of a global care chain. In this chain, due to prevailing gender norms, women are usually the providers and/or managers of care, while men are generally the beneficiaries of care. Men also provide care, but usually only on a temporary basis or when it is a paid job.¹⁷

As the social organization of care in affluent nations and families in the North and the South is increasingly being privatized, individual families resort to outsourcing domestic work and caregiving to migrant domestic workers. In turn, these women organize the care work of their own family, by relying on other female members of the family, or by outsourcing the work to a (young) domestic worker from a rural area or an otherwise underprivileged household in their country of origin.

The scale of the global care chain is considerable. Of the total of 150.3 million international migrant workers, 11.5 million, or 17.2 per cent are domestic workers. There are more than 55 million domestic workers who work within their own country, and many of these are internal migrants. Thus, one of every six domestic

¹⁶ Adapted from Anderson, 2015a, and ILO, 2016b; ILO, 2015b; ILO, 2015c; ILO, 2013a; ILO, 2010a; UN Women, 2013a.

¹⁷ International men domestic and household workers are very prevalent in the Arab States, where more than half of them work as caretakers of other men or in the male-dominated occupations of gardener or driver.

workers worldwide was an international migrant in 2013. Actual numbers of domestic workers are higher, as many remain invisible and are not counted, for example, when the workers are young or work in informal employment or without proper documentation. Of every four international domestic migrant workers, three are women and one is a man. Among domestic and household workers employed in their own country, there are even more women: four of every five of these domestic workers are women and one is a man (ILO, 2015b).

South-East Asia and the Pacific hosted 24 per cent of international women migrant domestic workers, followed by Europe (22 per cent, excluding East Europe) and the Arab States (19 per cent), and Northern America (almost 7 per cent) (ILO, 2015b). The demand for women migrants in care work continues to be on the rise. For example, in Asia and the Pacific, the number of domestic workers increased from approximately 33.2 million in 1995 to 52.6 million in 2010 (ILO, 2013a). Almost all domestic workers in Malaysia and Singapore and a large proportion in Thailand are migrant women.

Culture of discrimination of domestic workers

While domestic work is in demand, and employers demand quality services and care, it continues to be seriously undervalued and underpaid. Various gender and other biases and myths exist around domestic work:

- Domestic work is considered a typical women's task, and paid domestic work for others is rarely perceived as employment or "real work". Some argue that women's contribution to the home and general social good is immeasurable – this "labour of love" is valuable and precious, and any effort to put a price tag on its value or regulate the employment relation only demeans the contribution.
- Others consider that women are "naturally suited" or born with the innate skills to carry out domestic and care work. These duties and responsibilities are considered to be unskilled work, "worth little", and wages are often well below the minimum wage, if one exists.
- Growing inequalities within and between countries are increasingly driving women into migrating for domestic work. Migrant domestic work is often performed by women who belong to groups that are discriminated along the lines of race, colour, ethnicity, religion, national or social origin, class/caste, and nationality. This adds another layer to the undervaluation and low status of domestic work and lack of respect for the worker.
- It has also been observed that the domestic worker and her employer are often of the same sex. Any difficulty in the employment relationship is often characterized as a personal problem between two women that is to be blamed on a "lazy" or otherwise inadequate domestic worker, and/or an abusive or morally reprehensible employer, rather than the result of a blurry employment relationship.
- In many societies migrant women workers are often considered "bad mothers", as if fathers were not equally responsible for children. Migrant women workers are also often considered to be "loose women"; this increases occurrences of sexual harassment, for example, on their way to and from work and/or they may be ostracized when they return to their communities of origin. There are no equivalent prejudices against migrant men.

These biases and myths hide uneasy truths. If domestic work were to be valued and regulated like any other work, it would become unaffordable for many employers, who are not necessarily middle class. This includes migrant domestic workers themselves, who often need to employ domestic workers to look after their families in their countries of origin. Domestic work is not decent work for the majority of women and men performing this occupation, because it is not regulated or poorly regulated, and is one of the least protected sectors in national labour and social security legislation. There is a clear employment relationship, but the home is often understood as a space that should be free from state regulation. So there is no clear employment contract, and no dispute or complaint mechanism to turn to for solving problems while they are still manageable. Instead tensions mount and eventually escalate.

Decent work for domestic workers, and responsibilities for unpaid work

The demand for migrant domestic work is high, and is expected to grow in the coming years. On the supply side, women migrant workers will continue to seek employment as domestic workers as long as there are large wage differences between countries of origin and destination. Many countries of origin in ASEAN include migration as an integral part of their national development and employment strategies, while ASEAN countries of destination welcome circular migration of domestic workers in considerable numbers. From the gender equality, fair migration, and smart economic perspectives, it does make sense to promote decent work for domestic workers both within and beyond ASEAN. This will require substantive changes in mindsets, in laws, policies, in labour management institutions, in organizations advocating migrant workers' rights, and in workplaces.

However, the global care chain is not a structural solution to the global care crisis. Societies must recognize that both men and women have a right and a responsibility to work and care. States have a duty to enable all workers to reconcile work and family responsibilities. States must do more to eliminate gender inequalities at work stemming from women's reproductive functions as well as the social and gender norms reinforcing women's duty to provide the bulk of unpaid care. This requires public policy and financial commitments.

Worldwide, realizing a sustainable, gender-equitable global economy requires a paradigm shift where finance and production serve the realm of reproduction and care that is core to human well-being (Elson, 2014 in ILO, 2016b). Ensuring that migration, labour, and social protection laws and policies are harmonized to protect the rights to care and to be cared for will be vital in this respect.



Tool 2. GEM: International and regional standards

2.1 About this tool¹⁸

This tool presents the key international standards vital for protecting migrant workers and promoting gender equality and migrant workers' rights. These include international human rights treaties and international labour standards that promote decent work and fair labour migration through ensuring fundamental principles and rights at work and promoting equality and non-discrimination for women and men migrant workers. An exercise on "Who is a migrant" concludes the tool.

Aims:

- To understand what are the fundamental principles and rights of migrant workers, and how the rights of women and men migrant workers are protected under international human rights and labour standards.
- To become familiar with the international labour standards on decent work for domestic workers.

2.2 Key international standards for gender equality in labour migration

2.2.1 Building international consensus

Non-discrimination and equality are fundamental principles of international human rights law and essential to the exercise and enjoyment of civil, cultural, economic, political, and social rights. The UN's 1948 **Universal Declaration of Human Rights** emphasizes, "All human beings are born free and equal in dignity and rights" and prohibits discrimination based on "race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." The inclusion of "other status" in the Universal Declaration of Human Rights indicates that this list is not exhaustive and international human rights mechanisms have since specified that the Covenant **also prohibits** discrimination on the basis of age, **nationality**, marital and family status, sexual orientation and gender identity, health status (including HIV), place of residence, economic and social situation, and civil, political, or other status, which has the intention or effect of nullifying or impairing the equal enjoyment or exercise of a human right (UN, 2015a, p. 11).

Within the ILO, the seeds of equality in employment and the protection of all migrant workers are found in the **Declaration of Philadelphia**, which was adopted by the ILO member States in 1944. The

¹⁸ Main sources: ILO, 2011a; 2014a; 2015a, 2016a; UN Women, 2013a.



Declaration states: “Labour is not a commodity” and “All human beings whatever their race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity.” These are key guiding principles for the governance of migration, the elimination of discrimination, and the promotion of gender equality in employment and occupation.

Since then, labour migration has increased exponentially, first only of men, but increasingly also of women who migrate across borders for paid work. This is not without controversy. There is a marked divergence between the widely demonstrated economic benefits of migration and the commonly held public opinion regarding its negative impact in countries of destination. For example, people tend to believe that there are more migrants in their countries than is really the case, or that migrants generally obtain more benefits from social protection systems than they contribute, when the reverse is actually true (ILO, 2014a). The provision of reliable data and information on labour migration and who benefits from it, and the establishment of labour market governance systems that are fair to both national and migrant workers are therefore essential.

In relation hereto it is important to keep in mind that all governments exercise the prerogative of national sovereignty to restrict migration, and to refuse entry of non-citizens into their labour markets by issuing or renewing residence or work permits. However, the legitimacy of the sovereignty principle becomes problematic when governments and the private sector operate schemes that distinguish between migrant workers and nationals by applying different regulations to their involvement in labour markets. This is where unacceptable labour exploitation of migrant workers is bound to appear, and where nationals become concerned about the misuse of migration resulting in undercutting existing terms and conditions of work.

The consensus in the international community is that globalization can only be fair and sustainable, if: (i) it increases opportunities for decent work in both home and host countries; (ii) the income from labour keeps pace with income from other productive assets, such as capital or technology; and (iii) the income from labour of migrant workers is not allowed to undermine income from labour of citizens. The latter can happen when migrant work is valued differently from citizens’ work, or when irregular migration for employment and/or human trafficking are tolerated, as all these infringe upon the fundamental principles and rights accorded to all workers irrespective of whether they are national or migrant workers (both regular and irregular) (De Meyer, 2011).

2.2.2 Human rights treaties on gender equality and fair migration

Under international human rights law, everyone, without discrimination, must have access to the protection of basic human rights. Differences of treatment between citizens and non-citizens, or between different groups of non-citizens, can be made only if they are consistent with international human rights obligations, justified by a legitimate objective, and proportional to the achievement of that objective. (ILO, 2016a, para. 279)

Important human rights treaties for gender equality and fair migration include the **UN International Convention on the Protection of the Rights of All Migrant Workers and their Families (ICRMW), 1990** and the **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979**. See box 2 below with information on the ICRMW.

Box 2 UN International Convention on the Protection of the Rights of All Migrant Workers and their Families (ICRMW), 1990

The Convention provides for:

- The human rights of all migrant workers and members of their families, including those in an irregular situation: right to life; protection against inhumane or degrading treatment; non-discrimination with respect to rights; freedom of movement; freedom of forced and compulsory labour; freedom of thought, conscience, and religion; migrant's property, liberty, and security; equality with nationals before the courts and tribunals; diplomatic or consular assistance and protection; social security; and
- Other rights of migrant workers and members of their family who are documented or in a regular situation: right to form associations and trade unions; right to participate to the public life of their country of origin (elections for example); equal treatment with nationals for example in terms of vocational guidance and training, social and health services, housing, etc.
- Its provisions are applicable to particular categories of migrant workers and members of their families, such as: frontier workers; seasonal workers; project-tied workers; and self-employed workers.

CEDAW is the human rights treaty devoted to an understanding of the impacts of unequal gender relations on women's enjoyment of their human rights. CEDAW provides a series of recommendations to clarify certain aspects of women's rights that warrant special consideration. In 2008, the CEDAW Committee adopted **General Recommendation (GR) 26** on women migrant workers, which sharpens and enriches the analysis of migration through a critical discussion of its gender dimensions. This Recommendation identifies three categories of immigrant workers that require protection:

1. women migrant workers who migrate independently;
2. women migrant workers who join their spouses or other members of their families who are also workers; and
3. undocumented women migrant workers who may fall into any of the above categories.

Recommendation 26 encourages State parties to develop laws and policies to protect their rights as women, as workers, and as migrants. The Recommendation also specifies that sex- and gender-based human rights concerns related to migrant women need to be addressed by States as a matter of obligation and in compliance with the provisions of CEDAW, and that rights and obligations of States under CEDAW apply to all women, including migrant women living in the same territory. GR 26 includes the different situations that foster discrimination against migrant women in the labour migration process, in the sending, transit, and destination countries (see box 3 below).

Box 3

CEDAW General Recommendation No. 26 on women migrant workers

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) provides a critical framework to unravel the gender specificities of issues around migration from the pre-departure state throughout the migration process and migrating experiences of women. The CEDAW Committee recognizes that “although both men and women migrate, migration is not a gender-neutral phenomenon. The position of female migrants is different from that of male migrants in terms of legal migration channels, the sectors into which they migrate, the forms of abuse they suffer and the consequences thereof.

To understand the specific ways in which women are impacted, **female migration should be studied from the perspective of gender inequality, traditional female roles, a gendered labour market, the universal prevalence of gender-based violence and the worldwide feminization of poverty and labour migration.** The integration of a gender perspective is, therefore, essential to the analysis of the position of female migrants and the development of policies to counter discrimination, exploitation and abuse.”

Constraints faced by women migrant workers:

- **In origin countries**, women lack reliable information on migration, which may lead to increased vulnerability and suffering stigma associated with women’s migration or gender-based discrimination upon return.
- **In transit countries**, migrant women are more vulnerable to sexual and physical violence and abandonment by their escort.
- **In destination countries**, migrant women may be subject to multiple forms of discrimination, including:

- being channelled toward familial and care services in the informal sector, including highly vulnerable domestic work and sex work;
- difficulties in obtaining a work contract;
- poor and abusive working conditions with difficult access to reproductive health services;
- dismissal from job when pregnant, sometimes resulting in irregular migration status and deportation;
- increased vulnerability to sexual abuse, sexual harassment, and physical violence in the workplace, especially in domestic work;
- practical and formal barriers in access to justice (gaps in legal protection of women migrant workers); and
- High vulnerability to exploitation, including forced labour, due to informality of work and being undocumented migrants.

Specific recommendations include:

- lifting or abolition of discriminatory laws on women, including migrant women;
- ensuring gender sensitive safe, informed, and non-discriminatory gender policies on migration for origin and destination countries;
- diplomatic and consular protection, including for undocumented migrants;
- access to social services and legal remedies in destination countries;
- social inclusion policies; and
- bilateral cooperation, including for reporting and monitoring to prevent cases of abuse.

Source: *CEDAW General Recommendation 26 on Women Migrant Workers, para. 5.*; UN Women, 2013a, pp. 192–193; Haspels, 2013.

2.2.3 What are international labour standards and how do they apply to migrants?

International labour standards are agreed at the international level by governments, employers' organizations, and workers' organizations within the tripartite governance structure of the ILO. They provide the minimum standards that are agreed at the international level and give authoritative guidance on how to govern the world of work. The two main types of standards are:

- **Conventions or Protocols**, which are binding under international law if they have been ratified by ILO member States, and influence national law and policy if they are not ratified.
- **Recommendations**, which are not open to ratification and provide guidelines on how to implement a convention or higher standards.

International labour standards guide the design of equitable labour migration policies and practices at the country, regional, and international levels. In principle, all international labour standards cover both nationals and non-nationals alike, irrespective of nationality and immigration status unless otherwise stated. At the same time these instruments respect and do not impinge on the sovereign right of States to regulate access to the territory or to the national labour market. Examples include¹⁹:

- Once a migrant worker (regular or irregular) works in a country that has ratified one of the minimum-wage fixing standards – e.g., the Minimum Wage Fixing Convention, 1970 (No. 131) – they are entitled to the same minimum wage as national workers.
- In a country that has ratified Maternity Protection Convention, 2000 (No. 183), a migrant worker (regular or irregular) is entitled to the same protection against pregnancy testing and maternity benefits as citizen workers.
- In a country that has ratified the ILO Protection of Wages Convention, 1949 (No. 95), migrant workers (regular or irregular) may not be paid in kind if citizen workers have to be paid in cash.

Further information on the specific provisions in international labour standards that are of particular relevance to migrant workers is given in ILO, 2008d²⁰. An overview of international labour standards of relevance to gender equality and fair migration is given in Annex II.

2.2.4 Fundamental principles and rights at work

In order to enable ILO member States to cope with the competitive pressures of global economic integration and ensure that fundamental equality and non-discrimination principles are recognized, respected, and realized everywhere, the ILO constituents, governments, and employers' and workers' organizations, adopted a **Declaration on Fundamental Principles and Rights at Work and its Follow-up** in 1998.²¹

These fundamental principles and rights at work are universal and must be respected even in ILO member States whose governments have not ratified the Conventions concerned. Respect for these fundamental principles and rights at work is critical for both human dignity and economic development. In the case of labour migration they serve to prevent a downward spiral in labour conditions and build sustainable

¹⁹ De Meyer, 2011.

²⁰ This publication also explains the ILO supervisory mechanisms on the application of ratified ILO conventions and gives examples of its actions of complaints by its constituents on violation migrant workers' rights.

²¹ See: <http://www.ilo.org/declaration/lang--en/index.htm> (accessed 24 Nov. 2015).

economies. They apply to all human beings, nationals, and regular and irregular migrant workers. ILO member States must adhere to these principles and rights at all stages of migration. They concern:

- freedom to collectively defend and further work-related interests (right to organize, bargain collectively, strike);
- freedom from coercion at work (the right to be protected against forced labour);
- freedom from child labour; and
- freedom from discrimination on the basis of race, colour, sex, religion social origin, national extraction, and political opinion.

See box 4 for the eight fundamental Conventions that underlie the fundamental principles and rights at work.

| Box 4 Fundamental principles and rights at work and the fundamental Conventions | |
|--|---|
| Freedom of association and the right to bargain collectively | <ul style="list-style-type: none"> • Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87). • Right to Organize and Collective Bargaining Convention, 1949 (No. 98). |
| Elimination of all forms of forced and compulsory labour | <ul style="list-style-type: none"> • Forced Labour Convention, 1930 (No. 29), and Protocol of 2014 to the Forced Labour Convention, 1930. • Abolition of Force Labour Convention, 1957 (No. 105). |
| Effective abolition of child labour | <ul style="list-style-type: none"> • Minimum Age Convention, 1973 (No. 138). • Worst Forms of Child Labour Convention, 1999 (No. 182) |
| Elimination of discrimination in employment and occupation | <ul style="list-style-type: none"> • Equal Remuneration Convention, 1951 (No. 100). • Discrimination (Employment and Occupation) Convention, 1958 (No. 111). |

The ILO Committee of Experts on the Application of Conventions and Recommendations (hereafter referred to as the CEACR) in its recent general survey on the migrant worker instruments notes that member States must respect the fundamental rights at work for all migrant workers, including migrants in an irregular situation, in particular those who are embodied in the ILO fundamental Conventions and recognized in universal and regional human rights instruments. (ILO, 2016a, para. 300). In this respect the CEACR also notes that ASEAN adopted a non-binding Declaration on the Protection and Promotion of the Rights of Migrant Workers in 1997 (ILO, 2016a, para. 40). See section 2.3.1 below.

However, in practice, the fundamental rights of migrant workers are often curtailed on the basis that they are foreigners in the destination countries. For example, migrant workers must enjoy equal pay for work of equal value, but migrant workers are often paid lower than the minimum wage guaranteed to national workers, and women migrant workers often receive even lower wages than men migrant workers.

In its survey report the CEACR notes that many countries reported legal provisions or policies aimed at protecting migrant workers from the worst forms of child labour and forced labour, including trafficking in persons. Many counties also emphasized the principle of non-discrimination with respect to human rights. However, difficulties continue to exist in ensuring respect of fundamental rights, particularly, the

right to freedom of association, the protection from discrimination and freedom from forced labour, for all migrant workers. (ILO, 2016a, paras. 285 and 286).

Regarding **trade union rights**, the right to organize should be guaranteed to all workers, whether or not they have a residence permit, without any distinction based on nationality or discrimination of any kind. (ILO, 2016a, para. 287). This means that they must be allowed to join or form unions or stand for union office, and that all migrant workers should be entitled to trade union assistance, for example, in the case of labour disputes. The CEACR notes that legislation remains unclear as to whether migrant workers irrespective of their status, can form and join trade unions in some countries (ILO, 2016a, para. 289). Legal obstacles also exist, for example, in Hong Kong (China) only migrant workers who are “ordinarily residents” (that is, are lawfully in the country and have residence status) can form and join trade unions.

Within ASEAN, for instance in Malaysia, migrant workers have the right to join trade unions under the Trade Union Act, but often this right is violated through explicit prohibitions in workers’ employment contracts. According to the Malaysian Trades Union Congress (MTUC) the unionization of migrant workers, while a key MTUC strategy, is a significant and constant struggle. For example, it can take between five and seven years to achieve official government recognition of a new trade union. In attempting to organize domestic workers, the MTUC has faced numerous challenges. A proposal to officially register a group of domestic workers has failed twice – with no sufficient reason offered. (Marks and Olsen, 2015). And while migrant workers can legally join unions in Thailand, they frequently work in jobs or regions that are not traditionally unionized. Moreover, the Labour Relations Act B.E. 2518 (1975) states that only Thai nationals can serve as union leaders and committee members, thus prohibiting migrants’ active involvement in existing unions or establishment of their own trade union to serve their needs (Marks and Olsen, 2015). In Singapore, too, migrant workers may join national trade unions but not form their own unions nor hold a position within the union (ITUC, 2010).

With regard to **forced labour**, the newly adopted Protocol PO29 of 2014 to the Forced Labour Convention, 1930, recognizes that migrants have a higher risk of becoming victims of forced or compulsory labour and provides that victims should have access to remedies, such as compensation, and should be protected from punishment for unlawful activities that they were compelled to commit.

2.2.5 The fundamental Conventions on non-discrimination and equality at work

The goal of fighting discrimination and promoting equality in the labour market

The elimination of discrimination through the promotion of equality of treatment and opportunities is not about nullifying all differences in the labour market. The goal of these policies is to make sure that differences in labour market outcomes reflect a free choice in the selection of occupations, an absence of bias in the way merit is defined and valued, and equal opportunities in the acquisition and maintenance of market-relevant skills. (ILO, 2003b, p. 26).

The **Equal Remuneration Convention, 1951 (No. 100)** and the **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** set the fundamental standards for the elimination of discrimination and the promotion of equality in all workplaces. Together these two Conventions provide for equal opportunity, remuneration, and treatment and prohibit discrimination on the grounds listed in Convention No. 111 (see box 5 below) and any other grounds as provided in national legislation or policies.

Convention No. 111 does not strictly prohibit discrimination on the basis of nationality; that is, nationality itself is not a prohibited ground under the Convention, unless countries have included nationality as a prohibited ground in their national legislation, such as in the Republic of Korea. However, both nationals and non-nationals within countries enjoy protection against discrimination on the seven grounds explicitly prohibited by the Convention, including discrimination based on race, colour, sex, religion, political opinion, national extraction, and social origin. This implies that Convention No. 111 prohibits paying migrant and national domestic workers – a profession traditionally dominated by women – substantively less than male nationals working in jobs of comparable value. In similar vein, the Convention also prohibits periodical pregnancy testing for female migrant and national workers alike. Another example is when migrant workers from various countries are paid different wages coinciding with their ethnic origin – a phenomenon sometimes called “shading” in reference to the various complexions of the migrant workers concerned. Because of the sovereignty principle, irregular or undocumented migrant workers do not automatically acquire rights to residence as a result of their employment, but they should be entitled to equal treatment in respect of rights arising out of **past employment** as regards remuneration, social security, and other benefits (ILO, 2011a).²²

The key provisions of Convention No. 100 and Convention No. 111 are provided in box 5 below.

| Box 5 ILO Conventions No. 100 and No. 111 | |
|---|---|
| <p>Convention No. 100 (1951)</p> <p>Equal Remuneration Convention</p> | <ul style="list-style-type: none"> • The Convention’s purpose is to ensure that the work done by women and men is valued fairly and to eliminate pay discrimination on the ground of sex. With the adoption of Convention No. 111, discrimination in remuneration is to be prohibited not only on the basis of sex, but on all seven grounds in Convention No. 111 and as provided in national legislation and policies. • Remuneration covers all payments and benefits: the ordinary, basic or minimum wage, salary or earnings, and any other benefits arising out of the worker’s employment, such as: <ul style="list-style-type: none"> ◦ overtime and bonus payments; ◦ allowances related to cost of living, marital or family status, housing, transportation, or seniority; and ◦ shares in profit and payments in kind. • Equal remuneration is also known as equal pay or pay equity. • Equal pay for work for equal value applies to cases where men and women undertake the same work and also to the common situation where men and women carry out work that is different in content but of equal value. • The value of jobs can be measured by comparing job characteristics, such as: <ul style="list-style-type: none"> ◦ qualifications and skills needed; ◦ physical, mental, and psycho-social effort; ◦ responsibility for equipment, money, and people; and ◦ working conditions, including stress. |

²² See also Article 9 of the Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143).



Convention No. 111
(1958)

Discrimination
(Employment and
Occupation)

- The Convention's purpose is the elimination of all discrimination in employment and occupation through the progressive development of equality of opportunity and treatment in law and practice.
- The Convention sets out seven grounds of discrimination: race, colour, sex, religion, political opinion, national extraction, and social origin, and foresees the inclusion of any other grounds, after consultation with representative employers' and workers' organizations and other appropriate bodies.
- It applies to all sectors of activity and covers all occupations and employment in both the public and private sectors, as well as in the informal economy. It covers not only wage-employment, but also unpaid, contributing family work, and independent and own-account work.
- It protects not only those who are employed or engage in an occupation, but also those who prepare for work, seek work, or risk losing their work. The protection covers all stages of the employment cycle.
- Special measures of protection or assistance designed to meet the particular requirements of people recognized to require such measures due to, for example, sex, age, disablement, family responsibilities, or social or cultural status, are not deemed to be discrimination.
- Harassment based on any of the grounds in the Convention or in national legislation or policy, is discrimination. Actions constituting harassment may be physical, verbal, or non-verbal that create an intimidating, hostile, or humiliating working environment for the recipient.

In its recent general survey, the CEACR notes that xenophobia against non-nationals, in particular migrants, constitutes one of the main sources of contemporary racism and the CEACR has emphasized the importance of specific steps being taken against social and cultural stereotypes that contribute to discrimination against migrants (ILO, 2016a, para. 290). In addition, the CEACR notes that while migrants in an irregular situation are normally not permitted to work, in practice, many are employed in hazardous conditions and are subject to harassment, including sexual harassment, and poor conditions of work, including low or non-payment of wages. Examining the government reports on the application of fundamental Conventions, the Committee has noted the particular vulnerability of women migrant workers, especially those employed in occupations such as domestic work, agriculture, manufacturing and the entertainment industry, to violations of their basic human rights (ILO, 2016a, para. 280). Moreover, the International Trade Union Confederation (ITUC) indicated that women migrant workers in an irregular situation were particularly prone to gender-based violence, multiple discrimination in the labour market, and exclusion from social protection, including access to sexual and reproductive health facilities (CEACR, 2016a, para. 296).

In order to achieve real equality at work and in life, protection of the reproductive functions of men and women is required. Women's reproductive function of child bearing, however, is a main cause of discrimination against women workers, including women migrant workers, who may face instant dismissal upon pregnancy and have to undergo pregnancy testing upon entry and regularly thereafter. Convention No. 111 does not directly prohibit discrimination based on maternity. However, considering that only women become pregnant, discrimination based on maternity can be considered to amount to discrimination based on sex. For this reason, the jurisprudence of the European Court of Justice

recognizes any: pejorative treatment related to maternity and breastfeeding as discrimination against women (ILO, 2011a). The minimum standards on maternity protection are covered in the ILO Maternity Protection Convention, 2000 (No. 183) as highlighted in box 6 below.

Box 6

Maternity Protection Convention, 2000 (No. 183)

- Covers all employed women workers, including those in atypical forms of dependent work.
- Employment protection during maternity:
 - Prohibits termination of women’s employment during pregnancy, maternity leave, or the period following their return from work, except on grounds unrelated to pregnancy, child birth, or nursing.
 - Women returning to work must be returned to the same position or an equivalent position at the same pay.
- Workers not to be excluded from migration on the basis of real or perceived pregnancy.
- No “forced” or involuntary pregnancy testing.
- For pregnant and breastfeeding women: no work that harms their health or that of their child.

2.2.6 International Labour Conventions to protect migrant workers

The ILO Conventions geared at specifically protecting migrant workers include the Migration for Employment Convention (Revised), 1949 (No. 97) and the Migrant Workers (supplementary provisions) Convention, 1975 (No. 143). Highlights of the two Conventions are given in box 7 below.

Box 7

Migration for Employment Convention (Revised), 1949 (No. 97) and the Migrant Workers (supplementary provisions) Convention, 1975 (No. 143)

Convention No. 97 aims to facilitate the movement of surplus labour and regulate labour migration conditions while providing for protection, non-discrimination, and equality of treatment between regular migrant and national employees in relation to wages and working conditions; trade union rights; accommodation; social security; employment taxes; and access to courts. The annex to Recommendation No. 86 accompanying Convention No. 97 contains a model bilateral labour migration agreement.

Convention No. 143 aims to (i) facilitate and regulate labour migration flows, combat irregular migration flows, and suppress activities of organizers of clandestine movements of migrant workers; and (ii) provide minimum protection and respect for basic rights to all migrant workers, including irregular migrants, and equality of opportunity and treatment for regular migrant workers. The Convention provides for protection of the regular status of migrant workers in case of loss of employment; this should not automatically lead to loss of residence or work permit, although this does not imply “a right to stay.”

Both instruments respect the prerogative of States to determine admission for employment and are relevant for both countries of destination and origin. Taken together, Conventions No. 97 and No. 143 recognize that:

- migrant workers, including those in an irregular situation, have basic human and labour rights;
- once admitted to employment, regular migrant workers should enjoy equal treatment with nationals;
- social consequences need to be addressed; and
- the labour migration process needs to be regulated within a rights-based rule of law framework.

Noting the almost universal acceptance of the generally applicable principles of equality and discrimination, and the emphasis on the relation between migration and development and the benefits of migration for countries of origin and destination, the 2016 CEACR report on the general survey on the migrant worker instruments suggests to use these instruments to protect migrant workers' rights through social dialogue, human rights, and enhanced cooperation (ILO, 2016a, para. 611–650), and eliminate discrimination against migrant workers in law and in practice by means of:

- **Involvement of employers' organizations and workers' organizations** in the provision of services to migrant workers and in consultations on international labour migration.
- **Multi-faceted national policies** to promote equality for migrant workers, in line with other policies, such as employment policies.
- **Impactful international and bilateral cooperation.** Given the increased use of bilateral agreements, especially for specific categories of (low-skilled) migrant workers, it is important to ensure that the protections and rights in such agreements are at least equivalent to guarantees in national legislation and do not undermine the protection provided by international standards.
- **Fair recruitment services** for migrant workers as a key means to improve the right to equality of opportunity and treatment in line with the provisions of the **Private Employment Agencies Convention, 1997 (No. 181)**. (See box 8 below and Tool 4 for further information).
- **Guarantees of basic human rights and minimum standards in law and in practice.** This requires (i) amendments in discriminatory legal provisions; (ii) ensuring that migrant workers in irregular situations can effectively claim their rights arising from past employment, and (iii) enabling migrant workers to exercise their rights in practice.
- **Effective enforcement of rights and access to justice.** Migrant workers should be able to access legal proceedings and enjoy the enforcement of their rights; and adequate sanctions should be available and implemented in respect of labour migration in abusive conditions.
- **Effective measures for migrant workers who are at particular risk,** including women migrant workers; migrant workers from certain ethnic groups, indigenous or rural populations; migrant workers employed in vulnerable or hazardous occupations or economic sectors, such as domestic work, agriculture, the fisheries sector, construction or manufacturing (textiles or electronics), or entertainment. These groups face particular difficulties, especially in the context of temporary migration programmes restricting labour mobility and flexibility regarding change of employer or workplace. Governments are encouraged to utilize available technical assistance, knowledge and good practices.
- **Data collection disaggregated** by sex, origin, and age as appropriate.

Finally box 8 below highlights key provisions of the most recent Convention on private employment agencies.

Box 8

Private Employment Agencies Convention, 1997 (No. 181)

- Applies to private employment agencies that place workers domestically and abroad.
- Licensing and monitoring:
 - Governance of the operations of private employment agencies through a system of licensing and certification, or regulated by law and other means
 - Establishment of adequate mechanisms for the investigations of complaints, alleged abuses, and fraudulent practices
- No charge of direct or indirect recruitment fees or costs to workers.
- Protection of the workers using their services:
 - Right to freedom of association and to bargain collectively
 - Equality of opportunity and treatment.
 - Adequate protection in relation to minimum wages, working time, social security benefits, occupational safety and health, including efforts to prevent abuses
 - Processing of migrants' personal data.
- Cooperation between public and private employment services.

2.2.7 Decent work for domestic workers

The ILO **Domestic Workers Convention, 2011 (No. 189)** offers specific protection to domestic workers. It lays down basic rights and principles, and requires States to take a series of measures to make decent work a reality for domestic workers. Convention No. 189 is accompanied by the **Domestic Workers Recommendation No. 201**, which provides practical guidance to implement the rights and principles stated in the Convention. In adopting Convention No. 189 and Recommendation No. 201, the ILO member States gave a clear message that domestic workers, like other workers, have the right to decent working and living conditions.

Article 8 of the Convention draws attention to the particular situation of migrant domestic workers, stipulating that they be offered a written contract or job offer before migrating, and that they enjoy the same rights as non-migrant domestic workers. Boxes 9 and 10 provide more details about key provisions contained in the Convention.

Box 9

Key provisions of ILO Convention No. 189

Basic rights

- Promotion, respect, and protection of the human rights of domestic workers and the fundamental principles and rights at work, such as:
 - freedom of association and the right to collective bargaining;
 - no forced labour;
 - no child labour – minimum age for entry into work and education and training for 15–18 year olds; and
 - elimination of discrimination in employment and occupation.
- Effective protection against all forms of abuse, harassment, and violence.
- Fair terms of employment and decent living conditions.

| | |
|---|---|
| Employment terms and conditions | <ul style="list-style-type: none"> • Domestic workers to be informed about employment terms and conditions, preferably through written contracts (see box 10). |
| Hours of work | <ul style="list-style-type: none"> • Equal treatment between domestic workers and other workers: normal hours of work, overtime compensation, periods of daily and weekly rest, and annual paid leave. • Weekly rest period of at least 24 consecutive hours. • Regulation of stand-by hours. |
| On remuneration | <ul style="list-style-type: none"> • Minimum wage coverage where this exists. • No discrimination based on sex. • Regular payment of wages in cash to worker. • Only limited in-kind payment. • Fees charged by private employment agencies not to be deducted from the remuneration of domestic workers. |
| International migrant domestic workers | <ul style="list-style-type: none"> • Written contract, enforceable in country of work, or a written job offer, prior to migration. • Clear conditions on entitlement to repatriation at end of the contract. • Protection from abusive practices by private employment agencies. • Cooperation between sending and receiving countries to ensure the effective application of the Convention to migrant domestic workers. |
| Live-in workers | <ul style="list-style-type: none"> • Decent living conditions with respect to privacy. • Freedom to agree with employers whether or not to reside in the household. • No obligation to stay in the house during rest periods or leave. • Right to keep identity and travel documents. |
| Private employment agencies | <ul style="list-style-type: none"> • Regulate operation of these agencies. • Ensure adequate machinery to investigate complaints. • Provide adequate protection to workers and prevent abuses. • Consider concluding bilateral, regional, or multilateral agreements to prevent abuses and fraudulent practices. |
| Social security and safe work | <ul style="list-style-type: none"> • Social security protection, including maternity benefits at conditions not less favourable than those for other workers. • Right to safe and healthy working environment. • Measures to ensure workers' occupational safety and health. |
| Dispute settlement, complaints, and enforcement | <ul style="list-style-type: none"> • Effective access to the court, tribunals, or dispute settlement and complaint mechanisms. • Measures to be put in place to ensure legal compliance. |

Box 10

Convention No. 189: Key content of employment contracts

Convention No. 189 (Article 7) states that member States shall take measures to ensure that domestic workers are informed of their terms and conditions of employment in an appropriate, verifiable, and easily understandable manner, and preferably through written contracts specifying the:

- name and address of employer and worker;
- address of the usual workplace or workplaces;
- starting date of contract and its duration, as applicable;
- type of work to be performed;
- remuneration, method of calculation, and periodicity of payments;
- normal hours of work,
- paid annual leave and daily and weekly rest periods,
- provision of food and accommodation, if applicable,
- probation or trial period, if applicable,
- terms of repatriation, if applicable, and
- terms and condition of job termination and notice period by domestic worker and the employer.

A standard contract on domestic work in Thailand can be found at: <http://www.idwfed.org/myfairhome/download/employment-contract/thailand>

2.3 ASEAN instrument on the rights of migrant workers

2.3.1 ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers

The Heads of State of the ASEAN Member States adopted the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (Cebu Declaration) at the 12th ASEAN Summit on 13 January 2007 in Cebu, the Philippines. While recognizing the contributions of migrant workers to the society and economy of both receiving and sending States, the Cebu Declaration also affirms the sovereignty of States in determining their own migration policy relating to migrant workers, including determining entry into their territory and under which conditions migrant workers may remain. The Declaration includes:

- promoting the full potential and dignity of migrant workers, as well as their fundamental rights and those of their family members;
- cooperation between States regarding migrant workers who have become undocumented;
- obligations of receiving States: protect migrant workers' rights and promote their welfare; harmony and tolerance toward migrant workers; access to resources, remedies, justice, and social welfare services; fair and appropriate employment protection; payment of wages; access to decent working and living conditions; access to the legal and judicial system; facilitation of the exercise of consular functions to consular or diplomatic authorities of states of origin, etc.;
- obligations of sending States: promotion and protection of migrant workers' rights; ensure access to employment and livelihood opportunities for their citizens as sustainable alternatives to migration of workers; set up policies and procedures to facilitate aspects of labour migration (recruitment, preparation, protection, repatriation and reintegration); regulate recruitment and adopt mechanisms to eliminate recruitment malpractices.

- commitments of ASEAN: promote decent work; implement human resources development programmes and reintegration programmes; prevent or curb human trafficking and smuggling; facilitate data sharing; promote capacity building and assistance to migrant workers outside ASEAN.

An ASEAN Committee on the Implementation of the Declaration on the Protection and promotion of the Rights of Migrant Workers (ACMW) was set up in 2008 to step up the protection and promotion of the rights of migrant workers against exploitation and mistreatment; to enhance labour migration governance within ASEAN; to increase regional cooperation to fight human trafficking in ASEAN; and to draft an Instrument to give effect to the Declaration.

In addition, in order to advance the principles of the Cebu Declaration, the ASEAN Forum on Migrant Labour (AFML) was established and incorporated in the ACMW work plan in 2009 to provide an open platform for governments, employers' organizations, workers' organizations, and civil society organizations to discuss the complex regional labour migration issues in South-East Asia. Eight AFMLs have been held to date. The recommendations adopted at the 3rd–8th AFMLS show progress being made towards the implementation of the Cebu Declaration through practical and increasingly specific gender-responsive measures.²³

2.4 Exercise

2.4.1 Who counts as a migrant worker?²⁴



Exercise guide

Aims

- To enable participants to:
- To recognize that migration is a common human experience and that personal biases on the grounds of race, ethnicity, colour, sex, national and social origin, political religion, social and economic class commonly lead to discrimination of migrant women and men at work and in life.
- To realize the importance of international, regional, and national normative frameworks to protect and promote the rights of women and men migrant workers.

Methods

Individual reflection, work in small groups, and sharing and round-up in plenary.

Time and timing

- Exercise duration: 60–90 minutes
- The exercise can be done before, during, or after the introduction of the international and regional standards. It can also be done at the start of awareness-raising or training events on gender equality and fair labour migration.

Training preparation and materials

- Prepare two slides or flipcharts with the questions for individual work in step 1 and small group work in step 2.

²³ ILO, 2015d.

²⁴ Adapted from: Anderson, 2015b; ILO, 2011b.



Session plan

Step 1

Introduce the session by explaining that there are many definitions of who counts as a migrant worker in law, data collection, and public opinion. This exercise, therefore, explores who are migrant women and migrant men, and the values of their economic and social contributions.

Step 2

Individual work for around 10 minutes: Ask participants to individually think about migration in their own family. They can think about one or two of their family members living or dead or about themselves and consider their histories of mobility. Ask them to reflect on:

- Who moved and why? For how long?
- In your own language, what words were used to describe their movement? What are the associations of these words? Any difference for men or women, or other differences?
- Does the word “migrant” apply to their movement? Why or why not?
- Does the term “migrant worker” fit or not fit their social/economic activity?

Step 3

Small group discussion for 20–30 minutes: Ask the group to select a rapporteur to write the most important points on a flipchart or computer, and to discuss their stories and the following questions:

- What did you learn about the different terms used in different languages for people who move? Are these terms positive or negative, are there any differences for men or women?
- Who counts as a migrant and who does not? Why or why not?
- Are there prejudices or biases? How do these influence the debate around migrant work?

Step 4

Plenary discussion for 30–45 minutes: Ask each group to highlight the most interesting points in their discussion (about 5 minutes per group). Then ask the group what did you learn? Make the sure the following key points are raised in the discussion:

- Migration is as old as human history and people have migrated voluntarily and involuntarily for many reasons. Many different words are used for different categories of migrant workers depending on their income, class, education, and skill levels. The terms for well-to-do, educated, and skilled migrant workers generally have a positive meaning while the terms for low-skilled migrant workers often are pejorative.
- Race, colour, ethnicity, nationality, as well as the sex migrant workers have, also play an important role in how they are “branded” and treated. Some nationalities are preferred to others, and employers of migrant workers have clear preferences for which jobs they want men and for which they want women. Nationals of foreign origin may continue to be considered as migrant worker outsiders even though they (and even their parents) may have been citizens for decades.
- In the public debate in destination countries, the use of the term migrant is very loose, but often means something negative, especially to nationals who fear migrant workers may take something away from them or their society. In such instances, the term migrant often conflates issues of immigration, race/ethnicity, and asylum for refugees.

- All human beings distinguish between different groups of people. People commonly favour the group to which they belong, and develop biases against people who are “different” and belong to another group, like migrant workers. All human beings have biases, as it enables them to quickly jump to conclusions when faced with new information. However, bias often hampers people’s ability to take fair decisions based on evidence.
- Once bias and prejudice start to inform decisions that negatively affect migrant workers’ livelihoods and chances to earn a decent living through a decent job, it easily leads to discrimination in employment and in society.
- International human rights and labour standards are minimum standards to ground and guide formulation of national labour migration laws and policy at various levels. They have been designed to protect men and women, migrant workers and national workers – irrespective of their race or colour – from human rights and labour violations while respecting States’ prerogative to regulate access to their territory and labour market.



Tool 3. GEM: Statistics and research

3.1 About this tool²⁵

This tool explains why it is important to collect and analyse sex-disaggregated data; what gender statistics are; what gender-responsive research is; what a gender impact assessment is; and how to carry out such assessments of labour migration laws, policy, and management. It provides tips and a checklist on how to ensure that a gender dimension is well integrated in terms of research content and processes in quantitative and qualitative studies.

The tips provide guidance on where to look for sex-disaggregated labour migration data; when to have a clear gender focus in statistics and research design; and what are the early warning signs of gender inequalities in labour migration. The checklist enables a quick review to assess the gender responsiveness of research. This includes reviewing the research Terms of Reference (TOR) and related research instruments such as questionnaires.

Aims:

- To understand the rationale for gender statistics in labour migration, including the regular and systematic collection of labour migration data by sex (and other variables as relevant).
- To make sure labour migration research includes a gender dimension and captures possible existing gender inequalities in the research content and processes.

3.2 Concepts and rationale

3.2.1 What are gender statistics and why are they important in labour migration research?

Gender analysis in labour migration starts with the **collection and analysis of sex-disaggregated data** that is, data collected and tabulated separately for women and men in all labour migration-related quantitative surveys. But gender statistics is more than just data disaggregated by sex (box 11 below).

Gender statistics include:

- Data are collected and presented by sex as a primary and overall classification (and other relevant social markers like race, ethnicity) to reveal differences or inequalities.
- Data must reflect gender issues, problems, and concerns, including the specific needs, opportunities,

²⁵ This tool is based on ILO, 2010b, pp. 32–36; ILO and UN Women, 2015a; OSCE, 2009.



and contributions of men and women. In every society, differences exist between what is expected, allowed, and valued for a woman and what is expected, allowed, and valued for a man. These differences affect women's and men's lives and determine differences in, for example, health, education, work, family life, or well-being.

- Data are based on concepts and definitions that adequately reflect the diversity of women and men and capture all aspects of their lives.
- Data collection methods take into account stereotypes and social and cultural factors that may induce gender bias in the data, such as under-reporting of women's economic activity, and of violence against women.

Sex-disaggregated statistics refer to the first requirement in the list above, and **gender statistics** incorporate all four requirements. Disaggregating data by sex does not guarantee, for example, that the data collection instruments involved in the data production were conceived to reflect gender roles, relations, and inequalities in society. Furthermore, some statistics that incorporate a gender perspective are usually, but not always, disaggregated by sex. For example, national accounts statistics that incorporate a gender perspective may not take into account both women's and men's contribution to all social and economic areas, including unpaid work, as it is not possible to disaggregate household poverty data to the individual level. right (UN, 2015a, p. 11).

Box 11

Sex vs. gender in statistics

Confusion between “sex” and “gender” still persists among producers and users of statistics. The term “gender” is often incorrectly used in association with data. “Gender disaggregation” or “data disaggregated by gender” are incorrect terms. Gender statistics are disaggregated by sex, an individual-level characteristic commonly recorded in censuses, surveys, and administrative records, not by gender, a social concept relevant at the level of a population. When data on demographic, social, or economic characteristics are collected in the field, it is the sex of a person that is recorded, as female (woman) or male (man), not the gender. Sex-disaggregated data, however, when analysed, have the capacity to reveal differences in women's and men's lives that are the result of gender roles and expectations.

Current quantitative and qualitative research is not about “men only” or “women only” but about “women and men”, both in terms of statistics and in terms of policies. In terms of statistics, it became clear that the situation of one sex could be adequately described and analysed only by comparing it to that of the other sex. In terms of policies, the change of focus from women to gender stemmed from a recognition that isolating women's concerns from mainstream development policies and strategies limits the impact of such policies and strategies, whereas paying more attention to the roles and responsibilities of both women and men and their interrelationships can make policies and strategies more effective.

Source: UN Statistics Division, 2015.

Gender statistics provide an evidence base for developing and monitoring law, policies, and programmes oriented towards increased investments in human capital and the labour force. Gender statistics can show whether women and men have equal or unequal access to education, health, or economic resources – like regular labour migration channels – and can orient policies towards improving opportunities for the disadvantaged sex and finding a more effective use of both female and male human resources. Furthermore, gender statistics can promote understanding of the causes of gender inequality in access to all types of resources. This aspect is important, because policies tend to be more effective when they look beyond the outcome of gender inequalities to target the causes of gender inequality and the structures and practices that perpetuate these inequalities.

Sex-disaggregated and gender statistics have a crucial role in mainstreaming gender in labour migration and development policies. When not adequately tailored to existing gender differentials, policies and measures tend to perpetuate and exacerbate inequalities. One of the first steps in the gender mainstreaming strategy of a policy is the assessment of how and why gender differences and inequalities are relevant. Gender statistics in labour migration provide information on sex segregation in the destination countries' labour markets due to “taste” discrimination by employers; information on the responsibilities, activities, and priorities of women and men migrant workers and how their experience of problems may differ; information on the role of gender-differentiated access to economic resources and decision-making in deciding to migrate or in sending remittances; and information on how women and men respond to labour migration laws and policy changes.²⁶

3.2.2 What is gender-specific research and what is a gender impact assessment in labour migration?

If quantitative labour migration research shows significant gender differences in labour migration, or when gender inequalities are known to be pronounced in the research topics or areas, there is a need for labour migration research with a **gender-specific focus**, or in-depth gender analysis, to investigate and address gender-related issues and concerns of migrants. The design of in-depth gender-specific research requires consultations with women and men (ex-) migrant workers and key informants on the research contents and data collection methods from the start. Care should be taken to “do not harm” at the minimum, and respect for respondents' privacy is a must. Follow-up assistance must be provided to respondents who have suffered from human and workers' rights abuses. And the findings and recommendations should always be discussed and validated with the study's target groups and relevant stakeholders prior to publication.

Gender impact assessment refers to the systematic evaluation of the effect of a law, policy, or other intervention on the situation of men and women. Applied to labour migration, a gender impact assessment looks at the effects and impact of these interventions on women and men migrant workers and whether these measures have different or similar effects on men and women migrants. It also looks at whether the policy and institutional environment facilitate or hinder gender equality in labour migration.

Collection and analysis of sex-disaggregated data and in-depth studies on gender gaps in labour migration are essential to:

- develop evidence-based laws, policies, and programmes that optimize labour migration governance and address the needs of men and women workers;
- monitor the impact of labour migration laws, policies, and programmes to ensure equitable effects and access to support services for both sexes;

²⁶ UN Statistics Division, 2015.

- identify gender gaps in labour migration laws, policy, and management and how these gaps may be closed;
- quantify the economic and social contribution of both women and men migrant workers to development in countries of origin and destination;
- understand what jobs women and men migrants have access to; their employment, working, and living conditions; the ways they are recruited; the status they have; their access to information and support services; and understanding about the specific vulnerabilities of women as well as men with a view to create equitable access to decent work for both women and men in migration; and
- identify risks of labour exploitation, violence, and forced labour and human trafficking at an early stage, enabling early action to stop, prevent, and redress such abuse.

3.3 Tips

Box 12

Where to look for sex-disaggregated data on labour migration?

There are three key global data sources that provide global estimates on the stocks of international migrants by host country and country of destination:

- The World Bank's global bilateral migration database estimates international migrant stocks from some 230 countries by sex and country of origin, available at: <http://data.worldbank.org/data-catalog/global-bilateral-migration-database>
- The United Nations Department of Economic and Social Affairs (UNDESA) international migrant stock database provides estimates for some 230 countries by migrants' sex, age, and country of origin, available at: <http://esa.un.org/unmigration/>
- The Organisation for Economic Cooperation and Development (OECD) keeps a database of immigrants (DIOC-E) by sex in OECD and non-OECD countries, available at: <https://data.oecd.org/>.

Within ASEAN it remains difficult to find reliable sex-disaggregated data related to labour migration of men and women as there is no standardized methodology or categorization for data collection on women and men migrants across ASEAN Member States. Most States do disaggregate data on the numbers of migrant workers by sex. However, they rarely provide sex-disaggregation on the destination, occupation, or age of the migrant worker. Labour force surveys do not all include migrant data, and, if they do, they rarely reflect the temporary or cyclical nature of migration. Data is often only collected and recorded where migration occurs through regular channels into formal employment sectors. Thus, there is considerable under-reporting on the large group of the most vulnerable migrant workers, many of them women, who migrate irregularly into informal jobs.

In late 2014, the ILO launched the International Labour Migration Statistics (ILMS) database to gather statistical information in the 10 ASEAN Member States. The database collects the official government data on international migrant workers' stocks and flows within the region, as well as on countries' nationals living and working abroad. Sex-disaggregated data was collected, where possible. Current sex-disaggregated tables include:

- Mean and median monthly employment-related income of employed persons by sex, total and migrants (Table 8);
- Inflows of migrants by sex and country of origin (Table 9);
- Inflows of working-age migrants by sex and level of education (Table 10);
- Stock of nationals abroad by sex and country of residence (Table 13);
- Outflows of nationals by sex and country of destination (Table 14);
- Outflows of nationals for employment by sex and country of destination (Table 15); and
- Outflows of nationals for employment by sex and level of education (Table 16).

The ILMS is accessible to the public through three portals:

- www.ilo.org/ilostat/
- <http://apmigration.ilo.org/asean-labour-migration-statistics>
- <http://www.asean.org/resource/statistics/asean-statistics/>

3.3.1 Pointers for carrying out gender-responsive research and gender impact assessments in labour migration

When designing and implementing gender-responsive labour migration research, including gender impact assessments, it is important to pay attention to both the research **content** and **processes**. Questions to ask and answer are:

- Are the available data broken down by sex?
- Are there other important intersecting variables, such as race, colour, ethnicity, religion, class, or age that need to be taken into account?
- Is the distribution of female and male respondents in the research sample equivalent to the proportions of men and women migrant workers in specific industries or occupations?
- Will the research collect and take into account concerns of women and men migrant workers throughout its design and analysis?
- Is the research methodology suitable to investigate and reveal the concerns of men and women migrant workers?
- How will confidentiality be ascertained?
- Is expertise on gender roles, relations, and dynamics in labour migration available and used in the research team (among researchers, assistants, enumerators, and data analysts)?
- Is it necessary to employ women and men enumerators to interview women and men migrant workers respectively to collect sensitive information, such as on health, violence, and abuse? In such cases is necessary immediate follow-up (e.g., in the form of trauma counseling, access to support services) provided for?
- What gender-specific findings and recommendations can be drawn from the analysis?
- Are the gender-specific findings and recommendation systematically highlighted in data presentation and dissemination?

3.3.2 What are “early warning signs” of gender inequalities in labour migration?

It is helpful to check for **early warning signs** of gender concerns in the labour migration research field. If two or more early warning signs are found, the research needs a clear gender focus and a detailed gender analysis. Some warning signs to check for include the following:

- There is clear sex segregation in the types of occupations or economic sectors or in the wage levels that are being made available to men and women migrant workers.
- Unemployment, underemployment, or informal employment is disproportionately high among (young) men and/or women in countries of origin.
- Laws and regulations prohibit or limit regular migration of women and irregular migration to neighbouring countries is relatively easy due to porous borders, and very attractive because wages in neighbouring countries of destination are (much) higher than in countries of origin.
- Women’s reproductive rights are compromised because women migrant workers are subjected to pregnancy tests upon entry and prohibited from starting a relationship, marrying, or becoming pregnant.
- The work, views, and perspectives of women and/or men migrant workers are invisible and not known.
- Women and/or men migrant workers work in isolated work and living places, such as in domestic work, on plantations, or on fishing boats.
- Power relations between men and women, and/or between employers and workers in migrant workers’ work and living places are highly unequal.

- Access to reliable recruitment agencies, regular migration channels for productive jobs, labour and social protection, wage levels, and access to services and social networks in countries of destination is unequal between women and men migrant workers within the same or across different occupations and economic sectors.
- Support services for women migrant workers restrict mobility and the exercise of rights, and/or there are no or very few women staff in labour migration management and enforcement institutions (embassies, police, immigration, or local authorities).
- There are few women leaders in formal or informal decision-making structures and processes in labour migration laws and policy-making or at the higher managerial levels in labour migration development and management institutions.
- Unionization is prohibited or restricted in occupations and sectors where many women and men migrants are working.

3.4 Checklist

3.4.1 Is gender included in the labour migration research?

If most of the answers to the following questions are “Yes”, it means the research takes into account gender equality concerns in its design and analysis. If more than half of the answers are “No” or “Not sure”, more work is needed to integrate a gender dimension into the labour migration research design and analysis.

| Designing Terms of Reference (TOR) for research | | Yes | No | Not sure |
|---|---|-----|----|----------|
| 1 | <p>Is a clear gender and rights dimension included in the problem analysis for the labour migration research?</p> <p> For example, are labour migration statistics of (potential) migrant workers broken down by sex and occupation? Is information available on existing inequalities, constraints, and opportunities of men and women migrant workers; and/or possible differences in the impact of labour migration policies, programmes, and the work of migration management institutions on migrant workers of all genders? If this information is not available, ensure that the TOR include the collection of relevant gender-specific data.</p> | | | |
| 2 | <p>Are there marked signs of gender differences between men and women migrant workers to warrant a clear gender focus in the research design?</p> <p> See tips 3.3.1 and 3.3.2 above.</p> | | | |
| 3 | <p>If the research design requires a detailed gender analysis, does the TOR provide for gender expertise in labour migration among the research team?</p> | | | |

| | | | |
|--|------------|-----------|-----------------|
| <p>4 Is guidance provided in the TOR on how to conduct reliable gender-responsive labour migration research? In other words, what needs to be done to ensure that the research will identify needs, perspectives, and priorities of women and men migrant workers?</p> <p> For example, if girls and women cannot speak freely in mixed groups, does the research design provide for female or male researchers when carrying out women-only or men-only interviews or group discussions respectively. This may be important when the research covers sensitive health-related issues or violence and abuse situations, or migrant occupations that are considered to be illegal.</p> | | | |
| <p>Selecting the research team</p> | <p>Yes</p> | <p>No</p> | <p>Not sure</p> |
| <p>5 Do all members of the research team have adequate understanding of gender issues and skills to conduct gender-responsive labour migration research?</p> | | | |
| <p>6 If the research is carried out by a team of researchers, are both women and men represented in the team?</p> | | | |
| <p>7 Have the researchers, assistants, enumerators, and data analysts been trained on recognizing gender differences in labour migration?</p> | | | |
| <p>8 Have gender experts been involved in the research design, implementation, and data analysis processes?</p> <p> This is obligatory if significant gender differences between women and men migrant workers are known to exist, or if existing labour migration laws, policies, or programmes are known to be gender biased, gender blind, or gender neutral.</p> | | | |
| <p>Conducting gender analysis in the research</p> | <p>Yes</p> | <p>No</p> | <p>Not sure</p> |
| <p>Data collection (both quantitative and qualitative research):</p> | | | |
| <p>9 Is there a balanced distribution of men and women migrant worker respondents in the research sample?</p> | | | |
| <p>10 Will the research data be broken down by sex, age, and occupation (and other intersecting key variables such as race, ethnicity, colour, religion, class, migrant status, sexual orientation)?</p> | | | |
| <p>11 Does the team have the ability to cross-tabulate data and to identify differences among the research population, (e.g., by sex, age, race or colour, income, and migrant status)?</p> | | | |

Gender differences in the labour market:

12 Is there pronounced sex segregation (division between male- and female-dominated jobs for migrant workers) in the labour market in the countries of destination?



If so, what are the types of occupations and/or economic sectors in which men and women are typically found?

13 Do men and women migrant workers have different employment or working conditions in specific occupations or economic sectors?



For example, identify gender differences in terms of:

- working hours and income;
- employment and pay;
- hazards and risks;
- coverage by labour and social protection;
- access to support services; and
- access to complaint mechanisms and to justice.

Analysis of access to and control of resources and benefits and decision-making:

14 Have the research questions and methodological tools been developed to analyse to what extent men and women migrant workers may have different access to services and control over resources and benefits?



For example, identify available:

- **Services:** e.g., Level of access to pre-departure information, orientation, training, reliable employment agencies, regular migration channels, safe means of transit to destination countries.
- **Resources:** e.g., finance, information technology, chances to meet other migrant workers, access to migrant or domestic worker organizations, trade unions, or other relevant support group.
- **Benefits:** e.g., wage levels, time-off.

15 Are there any differences on how men and women (potential) migrant workers have been socialized in terms of decision-making power in the family, in the workplace, and in the community? What are common views of outsiders in countries of origin and destination on men and women migrant workers (e.g., negative gender stereotyping of women migrant workers as “bad’ women”)?

Analysis of gender-specific needs, constraints, and opportunities:

16 Has the research identified the practical needs – needs linked to immediate or short-term survival (food, water, shelter, job, health care, etc.) – and living and working conditions of men and women migrant workers?

| | | | | |
|--|--|--|--|--|
| 17 | Has the research identified the strategic needs of women and men migrant workers related to equality, empowerment, equitable access to decent work, and opportunities for advancement? | | | |
| 18 | Has the research identified other critical factors that influence gender differences and relations in the immediate environment of men and women migrant workers as well as in the larger environment (e.g., the fertility rate and other demographic variables, the poverty rate, economic opportunities and performance, labour supply and demand, climate and other environmental variables, cultural values, political situation)? | | | |
| Analysis of gender impact of labour migration policies, programmes, and institutional responses | | | | |
| 19 | Are the effects and impact of labour migration policies and programmes similar or different for men and women migrant workers? | | | |
| 20 | Do men and women benefit equally from relevant labour migration laws, policies, and programmes? | | | |
| 21 | Are labour migration management institutions capable of reaching out to both migrant men and women workers and addressing their needs by providing adequate services to each group? | | | |
| 22 | In case of specific gender constraints, are gender-specific measures being taken in law, policy, or practice? | | | |
| 23 | Is additional support provided to women migrant workers to address the vulnerabilities that they face due to gender discrimination? | | | |

3.5 Exercise

3.5.1 Gender-responsive statistics and research on migrant workers in low-income occupations in ASEAN²⁷



Exercise guide

Aims

- Analyse gender differentials in specific occupations and sectors where many women and/or men migrant workers are found within ASEAN.
- Identify what further gender statistics or in-depth gender research would be needed to develop policy that addresses the needs of men and women migrants.
- Understand why it is necessary to ground law and policy development on sound and reliable sex-disaggregated statistics and gender analysis of labour migration in national, regional, and international frameworks.

Methods

Introduction in plenary, small working groups, followed by discussion and round-up in plenary.

Time

60–90 minutes.

Training preparation and materials

- Read the cases and select which one(s) to use depending on the aims of the training event. The first two cases on domestic work and the entertainment and sex work industries are based on gender-specific research. The other four cases cover labour migration in agriculture; construction; fishing and the seafood industry; and manufacturing. These four cases provide no or hardly any information on gender differentials.
- The exercise can be done in two ways, depending on the level of participants and time availability: (i) every small working group will analyse and discuss one of the six case studies only; or (ii) every small group will analyse and discuss two case studies. In the latter case, give all small groups one case based on gender-specific research (either case 1 or case 2); and one of cases 3–6 for analysis.
- Provide photocopies of the handouts explaining the group work assignment, one for each participant for Handout 1 and one of the case studies from Handout 2 for each small working group participant as appropriate.

²⁷ Based on ILO, 2015a.



Session plan

Step 1

Introduce the exercise topic as guided in Handout 1. Distribute Handout 1 with the instructions for group work, divide participants in smaller groups, and explain the assignment. Give each group one of the case studies in Handout 2 for analysis and give them about 30–45 minutes to finish their assignment.

Step 2

When the groups are ready, hold the plenary session (about 30–40 minutes). Start the plenary session by asking the groups to briefly report back, and stimulate dialogue when groups bring up new points. Stimulate discussion on gender-specific information from the three gender-blind cases that participants bring up based on their own experience (or because they found gender-specific information on the Web).

Step 3

Summarize with a few key points, for example:

- Most of the data is not disaggregated by sex and only a few studies explicitly specify gender differentials. Cases 1 and 2 highlight gender differentials. Case 4 (Construction) provides some gender-specific information and the others are gender blind.
- All economic sectors and occupations are gendered: sectors like agriculture, construction, assembly-line manufacturing work have men and women migrant workers, and while most fishers out at sea are men, many women and children work in sea food processing. Research on sectors where both men and women migrants work tend to mainly study the situation of men unless the TOR specify the need for gender analysis. Where gender-specific information is made available, it is usually in studies on occupations where many women are found.
- The cases show that there is a need for more sex-disaggregated data and gender-specific research in labour migration. Many low-skilled migrant workers face serious decent work deficits; and vulnerabilities increase manifold when they are undocumented and have informal jobs, or work in an occupation that is considered illegal.
- Besides sex disaggregated data on migrant workers stocks and flows, important information to collect includes: nature and scope of national legal and social protection extended to men and women migrant workers and how these are implemented in practice, such as issuance of employment contracts to migrant workers, retention of travel and identity documents.
- If individual countries opt for protective measures, such as banning women to migrate to other countries to perform domestic work, women from other countries with even less protection will fill the jobs. This points to the importance of regional and international cooperation, as individual country action may protect workers from one country, but is insufficient to protect vulnerable migrant domestic workers in general.
- Policy decisions affecting women's livelihoods should be made only after evidence-based research has been undertaken. This includes studies and consultations with women, for example, in countries of origin solutions to abuse in migrant domestic work should be discussed with returned domestic workers and women's rights organizations.
- Information about the productivity and profitability of the companies and the situations of employers is also important in order to make the business case, encourage good employers to improve working conditions for migrants throughout their supply chain, and gradually improve compliance with national and international labour standards.



Handout 1 for participants

Assignment for small group work

In this exercise you will investigate gender issues in a specific occupation analysing labour migration statistics and research in ASEAN.

- Read the case study and discuss.
- You can use the questions below to guide your discussions. You can also use Checklist 3.4.1 for ideas on what type of information is needed. If you have access to Wi-Fi, you can also search for more gender-specific data and information.
- Assign a rapporteur and a spokesperson in your group.
- The rapporteur can use a flipchart or slide presentation to note down the main points.
- The spokesperson will briefly present the outcome of your discussions in plenary.

Questions for discussion

1. From the case study and your experience, what is the situation of women and men migrant workers in the economic sector or occupation under review, and are there any gender differences?
2. Discuss what sex-disaggregated statistics are needed in the sector or occupation and whether in-depth gender-specific research is needed to adequately capture the gender dimension.
3. Discuss the extent to which law, policy and programme development in your country is evidence-based, and the advantages and disadvantages of sharing sound and reliable research findings within national, regional, and international settings.

Handout 2 for participants: Outcomes of surveys and studies on labour migration in ASEAN

Case 1. Domestic work

As demographic and employment patterns of families living in urban areas in Malaysia and Thailand continue to change, the need to employ workers to help maintain the household has increased. This work was traditionally done by poor relatives, often from rural areas, and the relationship was rarely considered in terms of employer and employee. Today, rural relatives have access to better education and better-paid jobs and no longer work as domestic workers. To fill the gap, women from poorer neighbouring countries are brought in as domestic workers. It is now a paid job and both Thailand and Malaysia issue work permits for the workers. But traditional attitudes change slower and the labour laws of both countries only provide limited protection for domestic workers. There is no legislative response for a wide range of abuses against domestic workers and household workers, including underpayment and exploitative hours of work.

In Thailand, as of February 2015, there were more than 38,000 workers, mostly women, from Cambodia, the Lao People's Democratic Republic, and Myanmar registered to work as household workers. No breakdown by jobs is available for the 1.6 million migrants who have registered through the One Stop Service Centres. There are an unknown number of undocumented migrant domestic workers. An ILO study²⁸ found that 60 per cent of domestic workers in Thailand were expected by their employers to work over 14 hours a day, and a similar share did not have a day of rest each week. In November 2012, Thailand issued Ministerial Regulation No. 14 to the Labour Protection Law providing some protections, including annual holidays and one day off a week for domestic workers, but failing to regulate working hours and pay. The estimated 300,000 foreign domestic workers in Malaysia are not fully protected under the Employment Act No. 265 of 1955.

Several governments in countries of origin have aimed at restricting the recruitment of migrant domestic workers through legal channels. Myanmar has expressly suspended this movement, and it is not encouraged through Lao People's Democratic Republic Government policy. Serious diplomatic tensions have been provoked by the ill-treatment of migrant domestic workers. In 2009 the Government of Indonesia issued a moratorium on sending domestic workers to Malaysia after reports of an Indonesian worker being abused by her employer. Negotiations followed and in 2011, Malaysia and Indonesia signed a protocol amending the 2006 MOU with better protection for domestic workers, setting standard recruitment fees and detailing days off, and outlining the roles and responsibilities of recruitment agencies, employers, and domestic workers.²⁹ Following a long list of abuses and legal problems of Indonesian domestic workers in the Middle East, Indonesia's Ministry of Manpower issued a decree (no. 260/2015) to prohibit the placement of overseas workers who are working for individual employers (domestic workers) to 21 countries in the Middle East.³⁰

When Indonesia stopped sending domestic workers to Malaysia, the number of Cambodian domestic workers in Malaysia increased from about 3,300 in 2008 to almost 12,000 in 2010. In October 2011 the Cambodian Government prohibited the deployment of additional domestic workers to Malaysia because of recurring problems prior to departure and in Malaysia. In Malaysia, Human Rights Watch estimates that a total of 40,000–50,000 Cambodian domestic workers have migrated to Malaysia since 2008 despite the suspension. An MOU has been drafted between Malaysia and Cambodia on the deployment of domestic workers, which was signed in early 2016.

²⁸ V. Boontinand: *Domestic workers in Thailand: Their situation, challenges and the way forward* (Bangkok, ILO, 2010); See also E. Pearson, et al.: *The Mekong challenge, underpaid, overworked and overlooked: The reality of young migrant workers in Thailand*, Vol. 2 (Bangkok, ILO, 2006).

²⁹ "South East Asia", *Migration News*, 2009. <http://migration.ucdavis.edu/mn/more.php?id=3558> [accessed 15 Nov. 2015]; "Government lifts ban on migrant worker transfer", *The Jakarta Post*, 2011, <http://www.thejakartapost.com/news/2011/12/02/govt-lifts-ban-migrant-worker-transfer.html> [accessed 1 Apr. 2016]; "Indonesia: Ban on sending workers to Malaysia lifted". Law Library of Congress, Global Legal Monitor, 2011, <http://www.loc.gov/law/foreign-news/article/indonesia-ban-on-sending-workers-to-malaysia-lifted/> [accessed 1 Apr. 2016].

³⁰ "National scene: RI stops sending workers to Middle East", *The Jakarta Post*, 2015, <http://www.thejakartapost.com/news/2015/05/28/national-scene-ri-stops-sending-workers-middle-east.html> [accessed 6 Apr. 2016]; "Indonesia bans maids from working in Middle East", *Bangkok Post*, 2015, <http://www.bangkokpost.com/news/asia/551799/indonesia-bans-maids-from-working-in-mideast> [accessed 15 Nov. 2015].

Handout 2 for participants: Outcomes of surveys and studies on labour migration in ASEAN

Case 2. Entertainment and sex work industry

Workers in the entertainment and sex industries are made vulnerable through the exclusion from labour and social protection and lack of recognition of their work as real work. Many of them have migrated for work within their country or across borders. Entertainment work (singing, dancing, serving beverages and food, drinking and eating with customers in bars and restaurants, massage) is legal but employment in the sector is mostly informal. Entertainment workers are often criminalized as providers of sexual services provided through entertainment venues.

The provision of sexual services is outlawed in many countries in ASEAN, although it exists everywhere in practice. With sex work being criminalized, regulation of the entertainment and underground sex industry is difficult, and prone to corruption. Sex workers and the owners of entertainment and sex establishments regularly pay “protection money” to the police. Lack of legal documents such as work permits renders foreign migrant entertainment and sex workers particularly vulnerable to abuse by their employers and police, and to poor working conditions.

Without protection mechanisms for workers in the entertainment and sex industries there are no regulations on their work, no standards for health and safety, no parameters for exploitation, and no avenues for redress. The majority of entertainment and sex workers are women. For example, in Thailand over 80 per cent of around 200,000–300,000³¹ sex workers are estimated to be women, the others are men serving men and women clients, and transgender persons serving men. Many countries and regions of destination such as Hong Kong (China), Japan, Singapore, and Thailand have a significant proportion of foreign migrant sex workers. Besides legal punishment, women, men, and transgender sex workers often face stigma and discrimination. In Viet Nam, for example, sex work is often branded as a “social evil” in society. Due to the frequent conflation between trafficking and sex work in the region, these workers are also the target of harmful anti-trafficking interventions such as raids and abuse in shelters. Especially women sex workers may be “rescued” against their will, and held in centres where they receive vocational training and/or moral rehabilitation training.

While it is difficult to determine the actual size of the sex industry, by most estimates this economic sector is sizable – a multi-billion dollar industry and a significant source of income in many countries. A 1998 ILO study indicated significant numbers of sex workers in many Asian countries, from hundreds of thousands to over a million in some countries, contributing to revenues equivalent to 1 to over 10 per cent of the national income.³² More recently, Havocscope, a website providing estimated values of black market economies by country estimates the sex industry at US\$6.4 billion in Thailand, US\$6 billion in the Philippines, US\$2.25 billion in Indonesia, US\$511 million in Cambodia, US\$8.4 billion in India, US\$12 billion in the Republic of Korea, US\$24 billion in Japan, US\$73 billion in China, US\$18 billion in Germany (legal industry), US\$26.5 billion in Spain, and US\$800 million in the Netherland (legal industry).³³

³⁰ Empower Foundation: *Hit & Run: The impact of anti trafficking policy and practice on sex workers' human rights in Thailand* (Bangkok, Empower Foundation, 2012);

C. Kamolvisit: ธุรกิจนอกกรอบ: ศึกษากรณีการค้าบริการทางเพศในสังคมไทย [Informal business: A case study of commercial sex business in Thai society] Master's thesis, Thammasat University (Bangkok, 2008);

P. Guest et al.: *2007 survey of sexual and reproductive health of sex workers in Thailand* (Bangkok, Nakhon Pathom: Institute for Population and Social Research, Mahidol University, 2007).

³² L. Lim: *The sex sector, The economic and social bases of prostitution in Southeast Asia* (Geneva, ILO, 1998), p. 10

³³ "Global black market information: Prostitution revenue by country", Havocscope, n.d. <http://www.havocscope.com/prostitution-revenue-by-country/> [accessed 6 Apr. 2016].



Handout 2 for participants: Outcomes of surveys and studies on labour migration in ASEAN

Case 3. Agriculture

Large numbers of migrant workers work on the rubber and palm plantations in Malaysia. The sector provides employment to close to one million people. On the plantations themselves, 82 per cent of the 455,000 workers are foreign workers. Some of the risks that migrants face include exposure to pesticides, working at night tapping rubber in isolated areas, exposure to extreme weather conditions, and diseases carried by livestock. Agricultural work is excluded from protective labour legislation, making the conditions unregulated and restricting the workers' access to redress in cases of abuse. This also excludes workers from access to comprehensive social security.

According to a presentation of the Malaysian Agricultural Producers' Association, export earnings of commodities in the plantations sector in 2013 was 160.1 billion Malaysian ringgit (MYR) – equivalent to US\$44 billion – and palm oil alone was MYR61.3 billion (US\$16.9 billion). A Finnwatch report in 2014 has highlighted severe abuses of migrant workers in the Malaysian palm oil sector.³⁴ Consumers around the world are linked to this industry through the myriad uses of palm oil in cosmetics, foods, soaps, biodiesel, and more.

In Thailand, by February 2015, almost 185,000 foreign migrant workers were working for more than 42,000 employers in agriculture and husbandry.³⁵ Agriculture accounts for large numbers of registered migrant workers in Thailand, and this probably only represents a small percentage of the actual number of workers. The range of work and conditions is extremely varied: from flower and vegetable farming in fairly well established but extremely poor and underserved communities in Tak Province's Phop Phra District; to rubber plantations in Phang Nga Province that employ anywhere between 10 and 1,000 workers; to the fruit orchards of Fang District in Chiang Mai Province.

³⁴ Finnwatch: *The law of the jungle: Corporate social responsibility in Finland's palm oil purchases* (Helsinki, Finnwatch, 2014), <http://www.finnwatch.org/images/palmoil.pdf>

³⁵ Thailand Department of Employment statistics, available at <http://wp.doe.go.th/wp/images/statistic/sm/58/sm0258.pdf>



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Case 4. Construction

There are more than 80,000 registered construction companies in Thailand with an estimated 2–3 million people – both skilled and low-skilled, Thai and migrant – employed in the industry.³⁶ Government mega-projects underpin around half of the Thai construction industry. In 2014, there was an estimated labour shortfall in the construction industry of 100,000.³⁷

In Thailand, construction has a large number of registered migrant workers (more than 211,000 as of February 2015³⁸), but also probably has the highest number of undocumented workers. Since then, numbers have reportedly swelled. Many migrant construction workers come from Cambodia and Myanmar. Both men and women work on construction sites, but men are generally better paid than women and have more opportunities to skilled work. Occupational health and safety conditions are of a particularly low standard on construction sites that employ a large number of migrants.³⁹

Some of the upcoming construction projects in Thailand will require large numbers of workers in the north-east of Thailand, with manufacturers such as Siam Cement and Panasonic setting up operations and stimulating associated construction of homes, shopping malls, and leisure facilities for the workers. The growth in the construction sector and the demand for migrant workers in this sector is common to net countries of destination in ASEAN. In Singapore, the total construction demand in 2014 set a new record of US\$27.7 billion, fueled by a higher volume of institutional and civil engineering construction contracts.⁴⁰

³⁶ Oxford Business Group: "Labour pains: Contractors start to look further for construction workers" (2014), <http://www.oxfordbusinessgroup.com/overview/labour-pains-contractors-begin-look-further-afield-construction-workers> [accessed 15 Nov. 2015].

³⁷ Ibid.

³⁸ Statistics from Department of Employment, Government of Thailand.

³⁹ Information provided by migrant women at *Women Exchange Get Together* event, MAP Foundation, 7 Mar. 2015

⁴⁰ Government of Singapore, Building and Construction Authority: "Public Sector projects to sustain construction demand in 2015", press release (2015, 8 January), http://www.bca.gov.sg/Newsroom/pr08012015_BCA.html [accessed 15 Nov. 2015].



Handout 2 for participants: Outcomes of surveys and studies on labour migration in ASEAN

Case 5. Fishing and seafood processing

The Thai fisheries industry is of vital importance to Thailand's economy. Thailand ranked third (behind China and Norway) in 2012 in the top 10 exporters of fish and fisheries products, with a value of US\$8 billion (up from US\$3.6 billion in 2000).⁴¹

The fisheries sector is labour intensive. Overall it is estimated that the fisheries sector generates employment for more than 2 million workers in fishing, processing, and related economic sectors. This includes large numbers of migrant workers from neighbouring countries, especially from Cambodia, the Lao People's Democratic Republic, and Myanmar. The vast majority of migrant workers in the sector are irregular migrants, although specific efforts to regularize their status are gradually taking hold. As of February 2015, there were some 18,000 migrant fishers working for almost 3,000 employers; and there were more than 98,000 working in the "relating fishing industry for over 7,000 employers".⁴²

Research on the employment practices and working conditions in Thailand's fishing sector found that 17 per cent of fishers worked in conditions akin to forced labour and slavery.⁴³ Global attention became focused on the labour conditions when a series of reports and media pieces, including a BBC documentary⁴⁴, a report by the US State Department,⁴⁵ and one by Environmental Justice Foundation⁴⁶ exposed the harsh conditions faced by fishermen.

The Thai Government has sought the cooperation of various public organizations, private agencies, and non-government organizations (NGOs) in its efforts to prevent, mitigate, and address labour issues in the fishing, shrimp, and seafood industry in Thailand. A new Ministerial Regulation on Protection in Sea Fishery Work was passed which provides for a minimum age of 18 years and requires regular rest hours and written contracts for all fishers.⁴⁷ Specific guidelines have been developed for inspecting conditions on board fishing vessels, and training has been provided to all labour inspectors in coastal provinces. Tools for monitoring the impact of the labour inspectorate in the fishing sector are also under development.

⁴¹ FAO: *The state of the world fisheries and aquaculture: Opportunities and challenges* (Rome, FAO, 2014), p. 50.

⁴² Statistics from Department of Employment, Government of Thailand.

⁴³ ILO: *Employment and working conditions in Thailand's fishing sector* (Bangkok, ILO, 2013).

⁴⁴ *The Documentary*: "Thailand's slave fishermen: Modern slaves on Thai fishing boats", radio documentary (BBC, 2013), <http://www.bbc.co.uk/programmes/p01qj2q1/p01qj243> [accessed 15 Nov. 2015].

⁴⁵ US Department of State: *Trafficking in persons report* (Washington, US Department of State, 2014).

⁴⁶ Environmental Justice Foundation: *Slavery at sea: The continued plight of trafficked migrants in Thailand's fishing industry* (London, EJF, 2014), http://ejfoundation.org/sites/default/files/public/EJF_Slavery-at-Sea_report_2014_web-ok.pdf [accessed 17 Nov. 2015].

⁴⁷ See the Department of Labour Protection and Welfare website: <http://www.labour.go.th/en/index.php/2011-04-07-10-51-50/336-the-ministry-of-labour-announced-the-enactment-of-labour-protection-law-in-sea-fishery-work> [5 Apr. 2016]



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Case 6. Manufacturing

Since the 1990s, Thailand and Malaysia have developed export-oriented manufacturing industries to compete in the global markets. In Malaysia, the factories have been located in custom-made Free Industrial Zones; while in Thailand, factories were either set up in industrial zones or were given incentives to set up in the border areas. As of February 2015, there were almost 70,000 migrant workers registered in Thailand. Cambodia sent around 12,000 workers to factories in 2014, half of whom were women. In some cases, they are subject to local rules and regulations that may not always comply with national standards. The manufacturing industry, whether it be garments or electronics, produces for a global market including international brand names.

A 2014 research report⁴⁸ on forced labour among migrant men and women workers from Viet Nam in Malaysia's electronics industry found that 32 per cent of respondents were in a forced labour situation, primarily due to debt bondage situations after having paid high recruitment fees or because their identity documents were withheld, thereby restricting their movement. The Malaysian Employers' Federation⁴⁹ conducted research on practices related to the recruitment, employment, and repatriation of foreign workers, and found the practice of withholding passports to be widespread.

⁴⁸ Verité: Forced labor in the production of electronic goods in Malaysia (Amherot, MA, 2014).

⁴⁹ ILO: *Project design document: Tripartite Action to Enhance the Contribution of Labour Migration to Growth and Development in ASEAN (TRIANGLE II)* (Bangkok, 2015), <http://dfat.gov.au/about-us/publications/Pages/triangle-project-design-document-phase-II.aspx> [5 Apr. 2016].



Tool 4. GEM: Law and policy

3.6 About this tool⁵⁰

This tool explains what gender-responsive labour migration laws and policies are, and why it is important to have them. It provides tips on how to design gender-responsive labour migration laws and policy, and offers pointers to explain gender gaps and issues of concern in relation to gender equality and labour migration, and how these can be addressed in countries of origin and destination. A checklist is provided to assess whether gender is mainstreamed in a specific law or policy, and an exercise on protection and equality for women migrant workers is provided as well.

Aims: To know how to:

- develop gender-responsive labour migration laws and policy;
- avoid some common pitfalls when designing gender-responsive labour migration laws and policy; and
- optimize labour migration opportunities for men and women migrant workers alike.

3.7 Rationale and concepts

3.7.1 Why is it important to have gender-responsive labour migration laws and policies in place?

The increase in women's autonomous labour migration in ASEAN has been a response to the need of women to find work and earn an income, as well as a response to the demand in destination countries to fill feminized sectors of labour through temporary migrants. This work is largely low-skilled and low-paid, with a significant proportion of women migrant workers in the domestic work and care sectors, but significant numbers also in agriculture, fisheries, manufacturing, and construction.

It is estimated that up to a third of migrants employed in ASEAN work in the informal sector. While there are no figures for informal and irregular migrant workers, it is anticipated that women make up a large number of those in ASEAN. Women migrant workers tend to work in the informal economy and are increasingly migrating through undocumented channels. As a result they are largely excluded from labour and social protection, and may easily fall victim to labour and other types of exploitation.

⁵⁰ Sources: ILO, 2011a; 2014a; ILO and UN Women, 2015a; OSCE, 2009; Petrozziello, 2013.

Factors that increase women’s likelihood to pursue irregular migration into informal employment include lack of – or misguided – laws and policies; high costs associated with regular migration; gender norms in origin and destination countries that put less emphasis on women’s education, training, and decent work; and lack of women’s access to accurate migration information and services (ILO and UN Women, 2015a, p. 3).

3.7.2 What are gender-responsive labour migration laws and policies?

Gender-responsive labour migration laws, and policies recognize that:

- Both men and women migrate for economic reasons and better employment opportunities.
- Both men and women workers make significant economic and social contributions to national economies in both countries of origin and destination.
- Women migrant workers experience more disadvantages and discrimination at all stages of the migration process.

Gender-responsive labour migration laws and policies aim at promoting fair migration and providing equitable employment opportunity, treatment, benefits, and outcomes to working migrant men and women. This includes:

- developing labour law and policy based on: **sex-disaggregated data** collection, **gender analysis**, and **assessment** of the implications for men and women on any planned action – legislation, policies, programmes – in any area and at all levels;
- integrating **gender equality into the mainstream** of labour migration laws, policy, and management and including the priorities, interests, and needs of men and women migrant workers systematically and explicitly in all labour migration policies, programmes, projects, institutional mechanisms, and budgets;
- designing and implementing **gender-specific** positive action measures to redress the effects of past or continuing discrimination until equality of outcomes for both sexes has been achieved; and
- addressing the **root causes** of gender inequalities and meeting the **practical and strategic gender needs** of men and women migrant workers, so that they have choices, can access resources, and claim rights.

Key questions to answer:

- What are the key gender dimensions of the labour migration laws or policy and are these addressed in line with international human, women’s, and workers’ rights standards?
- Have all relevant male and female interest groups and stakeholders, including workers and employers, been consulted?
- Is the measure based on reliable evidence: are the relevant labour migration data disaggregated by sex, and has a gender analysis been undertaken?
- What provisions are included to promote gender equality for men and women migrant workers and close gender gaps? Are the practical and strategic needs of both men and women migrant workers addressed?
- Will the budget allocations benefit men and women equitably? Are gender expertise and funding available for gender-specific action?

3.8 Tips

3.8.1 How to design gender-responsive law and policy

Most countries in ASEAN have enshrined gender equality for men and women in their constitutions. There is respect for gender equality in both countries of origin and destination, and several countries explicitly prohibit gender discrimination in employment, either in specific gender equality laws or in their labour laws. Generally there seems to be some acknowledgement of the importance of gender mainstreaming in labour migration, but to date, very few countries in ASEAN have made specific gender commitments within their labour migration laws and regulations. The exception is the Philippines, where the Migrant Workers and Overseas Filipinos Act of 1995 (R.A. No. 8042) specifically states that the Government “shall apply gender sensitive criteria in the formulation and implementation of policies and programmes affecting migrant workers and the composition of bodies tasked for the welfare of migrant workers” (ILO, 2016a). More recently, Cambodia has introduced several labour migration regulations (known as prakas or ministerial orders) that also include gender-specific provisions. For example, the final placement service contract states that private recruitment agencies in Cambodia have a duty to protect migrant workers’ health, safety, and human rights that are internationally recognized, and must provide gender-responsive pre-departure training.⁵¹

Gender-responsive labour migration laws and policy means that countries have both a legal duty to not discriminate on the grounds of sex or gender and to pro-actively promote and achieve gender equality (ADB, 2012; ILO, 2011a).

Countries that aim to mainstream gender into their labour migration laws and regulations need to:

- Carry out a gender impact assessment of existing or planned laws and regulations, and review gender impacts of general and gender-specific provisions.
- Repeal statutory provisions and administrative rules and practices that discriminate against women migrant workers.
- Develop, enact, and enforce gender-responsive legislation to achieve substantive gender equality in labour migration.

Gender mainstreaming of labour migration laws and policy requires strategic planning from the start. Gender-responsive action needs to be considered in all relevant policy fields, such as economic and labour market policies, trade negotiations, border management, security, and social policies. This may sometimes be complex, as competing interests exist. However, these need to be overcome to avoid trade-offs that may jeopardize respect for the rights of migrant women and men workers.

Critical measures are:

- Obtaining commitment from the top level for gender equality in labour migration is important. Official statements must lay a solid foundation for legitimizing measures to mainstream gender.
- Awareness raising and training of all relevant stakeholders is crucial so that they understand, become committed to change, and integrate gender analysis and planning into their daily labour migration-related work practices.
- Allocation of human and financial resources in terms of hiring gender expertise, staff time, and finances for training and assignments.

⁵¹ For more see ILO: “Cambodian prakas (ministerial orders)”, 2014, <http://apmigration.iilo.org/resources/cambodian-prakas-ministerial-orders-2> [accessed 6 Apr. 2016].

- Labour migration processes are in constant change, and gender dynamics vary and change over time. This calls for constant monitoring and regular evaluation to ensure the relevance and effectiveness of gender-responsive legal and policy measures.

3.8.2 Priorities for designing gender-responsive labour migration laws and policy

A range of gender concerns exists for migrant workers within and beyond ASEAN that require not only national and bilateral attention but would also benefit from more regional dialogue and, eventually, regional solutions. These are briefly discussed below.

Limiting women's migration through protective measures

Concerns about human trafficking, labour and sexual exploitation, and forced labour; the irregular nature of women's migration; the unregulated and informal sectors in which women work; and the risks and vulnerabilities that they face as women migrant workers, have led to the perspective of women migrant workers as potential victims who need protection. Some countries of origin have adopted (temporary) restrictive migration laws, policies, or measures for women migrant with a view to enhancing their protection abroad. For example, in response to abuse of women migrants, the Myanmar Government has banned the deployment of domestic workers to Hong Kong (China) and of women workers to Johor, Malaysia, and instituted a policy that women migrating to work in factories in other areas of Malaysia must go in groups of at least five.

Such restrictions on legal migration may force more women to migrate through irregular channels with fewer protections in place. Indications are indeed that such measures reduce women's opportunities to migrate legally, and may, in fact, increase rather than decrease women's risk to fall victim to discrimination, exploitation, and abuse. The international consensus is: "In equality we trust – Protection if we must." The UN and ILO supervisory machineries for the application of international standards advises governments to regularly review such protective measures to assess whether they continue to be needed, and that such measures need to be proportional. For further discussion, see also Exercise 4.5.1.

Women migrant workers have faced difficult situations in domestic work. They should be consulted in the development of any policy enacted to address these situations. Policy-makers need to consult with women migrant workers and their organizations, including the International Domestic Workers Federation (IDWF) and its affiliates, trade unions, and other civil society organizations, to be able to reach returned migrant workers, and social media may be used to undertake quick surveys of domestic workers in destination countries.

Excluding female-dominated occupations from labour protection

Migrant domestic workers, who are mostly women in ASEAN, are among the most vulnerable groups of migrant workers, because domestic work is excluded from national labour and social protection schemes as well as labour migration regulation. For example, while significant numbers of Lao women are moving to Thailand to accept jobs as domestic workers, this movement is wholly irregular. Confusion still remains over the legality of Lao women migrating for domestic work, given ambiguity in the Lao Labour Law and associated decrees that restrict movement of Lao workers into jobs abroad that are considered unskilled, or offer few learning opportunities that can benefit the workers upon their return to the Lao People's Democratic Republic.

Reproductive rights of women migrant workers

As mentioned, countries of destination in ASEAN aim at regulating migrant women workers' reproductive rights and conduct by stipulating pregnancy tests for women migrant workers prior to or upon entry. While this violates the non-discrimination principle in employment as implied in fundamental Convention No. 111 by indirectly discriminating against women and as explicitly laid down in Convention No. 183, many countries of destination consider it justified to include pregnancy testing in health tests upon entry for women who migrate to work in low-skilled occupations like domestic work. When women migrant workers do become pregnant, this often results in loss of work, irregular immigration status, and sometimes deportation. In Singapore, female foreign workers are forbidden to become pregnant or deliver a child and are subject to pregnancy tests every six months. Such regulations contravene women's fundamental reproductive rights.⁵² In Thailand, where pregnancy testing is part of the health screening when female migrant workers enter the country, those who become pregnant while working in Thailand depend fully on their employers. Dismissal often results, however if the latter agree and do not dismiss the pregnant worker, she is allowed to continue working and to give birth in the country, as well as to receive maternity care under the public social security scheme. The children born of migrant working parents are also allowed to stay with the parents and attend Thai schools during the period that one or both parents are employed, although these rules are not always adhered to by local authorities and schools in practice.⁵³ Pregnancies may also lead to abortions that are kept hidden from the employer, and may be done illegally where abortion is against the law. The latter can be dangerous and expensive.

Legal protection against violence and human trafficking of migrant men

Until recently there has been little legal attention for the need to protect vulnerable men migrant workers from abuse and exploitation. Men have been and often still are excluded from protective legislation to prevent and redress sexual and other types of harassment and violence. Legislation against forced and bonded labour usually does apply to men and women of all ages but specific legal provisions against the trafficking in people sometimes also still only protect women and children.⁵⁴ In addition, forced labour and severe abuse on fishing boats where many migrant (boys and) men work in isolation became recognized, acknowledged, and acted upon recently. A gender-related constraint for men migrant workers subject to such violations is their reluctance to seek help and protection as they themselves, and their social environment, may consider that it is "unmanly" for men to seek assistance and escape violence.

Social protection and social security⁵⁵

With the high intraregional labour mobility within ASEAN, equal treatment of migrant workers and the portability of social security rights are major issues that require regional action. The large majority of migrant workers do not have the option of enrolling in their own national social security systems or that of the host country, or they cannot transfer the accrued contributions or entitlements between social security systems. Thus, migrant workers are doubly disadvantaged, because they receive less social protection both in their origin and host country. In recent years, Brunei Darussalam, Malaysia, Singapore, and Thailand have reduced public subsidization for non-nationals at public health facilities. While six out of the ten ASEAN Member States have ratified the Equality of Treatment (Accident Compensation)

⁵² See the *Employment of Foreign Manpower (Workpasses) Regulations* (S 569/2012, Fourth schedule), p. 44, available at <http://www.mom.gov.sg/~media/mom/documents/services-forms/passes/wpsspassconditions.pdf?la=en> [accessed 24 Nov. 2015]. Moreover, foreign employees are not allowed to marry a Singaporean citizen without prior Government approval and they "shall not be involved in any illegal, immoral or undesirable activities, including break up families in Singapore." For more information, see: ILO 2011a and 2013.

⁵³ For more information, see ILO: "Meeting the needs of my family too": *Maternity protection and work-family measures for domestic workers* (Geneva, 2013).

⁵⁴ This pitfall was avoided in the 2015 ASEAN Convention Against Trafficking in Persons, especially Women and Children.

⁵⁵ Adapted from ILO, 2015h.

Convention, 1925 (No. 19)⁵⁶ and some schemes exist in Malaysia, Singapore, and Thailand, the reality is that most migrant workers in ASEAN are not insured for occupational injuries and diseases.

The lack of social protection and social security affects women migrant workers even more than their male equivalents: Firstly, because of gender differentials in employment status and the nature of work, with many women migrants working undocumented in informal employment. Secondly, because of gender differentials in socio-demographic risks. In ASEAN, even the relatively small groups of women citizens in formal employment generally do not receive proper maternity protection due to employers' liability-based maternity benefits, and gender gaps in pension savings exist because of career breaks related to child bearing and rearing and family responsibilities. In addition, women have a longer life expectancy compared to men, which makes the gap in pension savings that much more problematic. Better social protection has been identified as a priority matter for the many women migrant domestic workers from ASEAN Member States, many of whom are also responsible for the upkeep and care of their family in their country of origin.

Gender wage gaps⁵⁷

Though commonly earning less than men, women migrant workers have been found to remit higher proportions of their earnings and at more stable and regular intervals when compared to men. Wage gaps for women migrant workers reflect national gender wage gaps that are significant in ASEAN. With the exception of the Philippines, women earn less than men in all ASEAN Member States for which data are available. The domestic work sector, which predominantly employs women, is excluded from national minimum wage protection in Malaysia and Thailand, with Singapore having no minimum wage provisions. In reality, many women accepting migrant domestic work can expect to earn far less than the minimum wage. Likewise, in garment manufacturing industries that primarily employ women, employers commonly pay below the minimum wage. Migrant women, who do enter more male-dominated sectors, such as construction, tend to be confined to jobs that are low-skilled and low-paid within these sectors. These gender wage gaps exist for regular women migrant workers in formal employment with the proper documents. Women migrant workers who are undocumented and engaged in informal work are paid even less.

ILO Convention No. 189 calls for inclusion of domestic workers into minimum wage coverage without sex discrimination, and for effective measures for ensuring compliance. The lack of recognition for women's paid and unpaid work can be considered as a structural factor behind the discrimination of women not only in domestic work, but in national, regional, and global labour markets as a whole (see Exercise 1.5.2 in Tool 1 for a further discussion on this issue). However, the demand for migrant domestic workers from the ASEAN Member States both within and beyond ASEAN is high and continues to increase. This forms an opportunity to introduce or improve minimum wage and other social protection policies for migrant domestic workers between countries of origin and destination. Within ASEAN, the Government of the Philippines set an entry-level minimum monthly salary of US\$400 for overseas household workers in 2006.⁵⁸ Indonesia has also made agreements on a minimum wage for its migrant workers with some countries of destinations. For example, following negotiations between the Malaysian and Indonesian governments, the minimum wage for Indonesian migrant workers in Malaysia was set at MYR1,000 (about 3.3 million Indonesian rupiah (IDR), or ~US\$250, as of 2016 (Idris, 2015).

⁵⁶ Indonesia, Malaysia, Myanmar, the Philippines, Thailand and Singapore.

⁵⁷ Source: ILO and UN Women, 2015a; Oelz and Rani, 2015.

⁵⁸ For more see the Government of the Philippines, Department of Labor and Employment (DOLE): *Governing Board Resolution No. 5* (Manila, DOLE, 2006), <http://www.poea.gov.ph/hsw/hsw.pdf> [accessed 3 Feb. 2016].

Technical and vocational education and training (TVET) and skills recognition⁵⁹

There is a need for better recognition of women's skills and equal access of women to skills development and skilled jobs for women migrant workers from ASEAN Member States. In 2010, ASEAN leaders committed to promote regional cooperation in the development of programmes for skills development of specific groups including women (ASEAN, 2010). Technical and vocational education and training in sending countries can be strengthened through the establishment of skills standards and recognition systems. Whilst women's share of TVET enrolment in ASEAN is around 50 per cent, those women who enter vocational education and training generally enroll in short-term training in "typical women's skills", such as hairdressing or sewing; they usually do not have access to longer-term TVET training in subjects free from gender-based stereotyping, including newer, non-traditional skills that match market demands (such as those for the technical, information, computer, and technology sectors), limiting their job options and decent work prospects (ILO, 2015a; ILO and UN Women, 2015b). Currently national TVET systems and qualifications frameworks in ASEAN have considerable gaps, especially among key countries of origin – Cambodia, the Lao People's Democratic Republic, and Myanmar – and women have less access to technical and vocational education and training than men.

At the regional level ASEAN is making progress towards establishing the ASEAN Qualifications Reference Framework (AQRF) as the benchmark for comparing qualifications across Member States. Since 2005, work has also been underway to establish bilateral Mutual Recognition Arrangements (MRAs) for eight professional occupations requiring university degrees.⁶⁰ Given that the vast majority of migrants crossing national borders in ASEAN are low-skilled workers and the demand for low- and medium-skilled workers will increase within ASEAN over the coming five years, the ILO has been supporting ASEAN Member States in establishing Regional Model Competency Standards (RMCS) as the benchmark for mutual recognition of skills and qualifications at the low and medium levels, and in setting up Mutual Recognition of Skills (MRS) systems between countries at these lower skill levels. RMCS now exist for core competencies, including manufacturing, tourism and hospitality, welding, construction, garments and domestic work (ILO, 2014b). So far, Cambodia and the Lao People's Democratic Republic have invested in establishing MRSs for male-dominated occupations only, and Myanmar has selected one male- and one female-dominated occupation.⁶¹

Given the high numbers of migrant domestic workers and the expected continued increase in demand for quality domestic work within ASEAN, in other parts of Asia and worldwide, it would be useful to further develop MRSs for domestic work and other care jobs. For example, the current RMCS on domestic work could be used as a basis for developing MRAs and AQRF benchmarks on domestic work all the way up to further skill certification in the fields of nursing and hospitality and tourism. This would also help diminish "brain waste" associated with the phenomena of "downgrading" (that is, professional migrant women working in sectors other than their original training) and "de-skilling" (e.g., qualified nurses working as nursing aids). So far, only the Philippines has invested in professionalizing the skills standards for migrant domestic workers aimed at catering to the higher-end migrant job markets.

⁵⁹ Adapted from ILO, 2015a; ILO and UN Women, 2015b.

⁶⁰ Engineer (2005), nurse (2006), architecture (2007), surveyor (2007), medical practitioners (2009), dental practitioners (2009), accountancy services (2014), and tourism professionals (2015).

⁶¹ Masonry and basic wiring in Cambodia; bricklaying and plastering in the Lao People's Democratic Republic; and welding and garments in Myanmar.

Post-arrival training programmes⁶²

The 7th AFML in 2015 recommended that “pre-employment, pre-departure, and post-arrival orientation programmes should be conducted mandatorily and free of charge for all men and women migrant workers. It should involve stakeholders and the quality of curriculum should continuously be improved to include cultural orientation and rights and obligations of men and women migrant workers and employers.” The Philippines conducts such programmes for migrant workers in its embassies, and Indonesia provides for a “welcome programme” in Hong Kong (China) and Taiwan (China). Among the receiving countries in ASEAN, the Malaysian Government has since 2004 required foreign workers to attend an induction course on communication skills, Malaysian culture, and laws and regulations.

In 2012 the Government of Singapore introduced a one-day mandatory post-arrival orientation programme called the “Settling-in Programme” for first-time or newly-arrived foreign domestic workers, which is paid for by the employer. Conducted in English or the foreign domestic workers’ native languages, the programme provides an introduction to Singapore, and covers conditions of employment, safety at home and in other areas, and relationships and stress management. Singapore has recognized that it is not only workers but also employers who need to understand their roles and responsibilities when hiring migrant workers. Ministry of Manpower-stipulated training centres conduct an Employers’ Orientation Programme, which is a three-hour compulsory programme for employers of foreign domestic workers. Those required to attend include: first-time employers of foreign domestic workers; and any employer who has frequently changed foreign domestic workers in the past 12 months (“frequent change employers”). Frequent change employers refers to any employer who has changed four foreign domestic workers within a 12-month period; and/or any employer who has changed three foreign domestic workers each having been employed for less than three months (Government of Singapore, 2014). The Ministry of Manpower has also published *Your guide to employing a foreign domestic worker* for employers of foreign domestic workers, with information on how to apply for a foreign domestic worker, obligations of both foreign domestic workers and their employers, and tips on building a positive working relationship with the foreign domestic workers in their employ (ILO, 2015i, pp. 7–8).

3.8.3 Pointers for gender-responsive labour migration policy in countries of origin

Further priorities to address in countries of origin to make labour migration laws and policy more gender responsive are as follows.

Life skills and financial literacy for informed decision-making on migration⁶³

Men and women migrant workers and their families need reliable information to make sound migration decisions, a capacity that is still lacking among many low-income families with little education in rural areas in most migrant-sending countries. Across ASEAN, literacy rates for women are lower than for men, and Cambodia, the Lao People’s Democratic Republic, and Myanmar continue to face problems in providing adequate secondary education opportunities to girls and (to a lesser extent) boys. Education also emphasizes rote learning, not problem-solving and critical thinking.

The decision on who will migrate is often a family decision rather than an individual decision. Lack of exposure to the outside world and limited financial literacy make it difficult for low-income families in general to make informed decisions about migration. In addition, young women have the least education

⁶² Adapted from ILO, 2015e.

⁶³ Adapted from ILO and UN Women, 2015b.

and decision-making power within their families, with gender norms stressing girls' and women's obedience and obligations to look after the family. This means they often lack the essential life skills and autonomy to take informed migration decisions. A training manual and smart guide for migrant workers *Budget smart: Financial education for migrant workers and their families* (ILO, 2011c) were therefore developed in Bahasa Indonesia, Khmer, and English to provide life and work planning skills and financial literacy to migrant workers and their families in low-income, low-education migrant sending communities. These are being used in migrant worker awareness-raising and training programmes in Migrant Resource Centres (MRCs), in schools, and communities by women's, youth, and domestic workers' organizations and trade unions. For example, the Cambodian Labour Confederation provides financial literacy training in one MRC in Prey Veng, Cambodia. The ILO's ASEAN TRIANGLE Project and the Philippines-based NGO Atikha have further adapted these financial education materials, including a trainer's guide, participant handbook, and presentation materials in various ASEAN Member States. Financial education is being integrated in training for migrant domestic workers in Singapore. For example, the NGO FAST, which delivers mandatory post-arrival training to migrant domestic workers in Singapore, has integrated the course into their training programmes since mid-2014 (ILO, 2015e).⁶⁴

Pre-departure orientation and training

Many low-skilled migrant women and men must enroll in pre-departure training to upgrade their vocational skills and prepare for working and living abroad, and recruitment agencies are often made responsible to provide such training at no cost to the workers. In some ASEAN countries appropriate regulations are not yet available, and enforcement remains a problem in many countries. Besides vocational skills training and financial literacy, pre-departure training should be rights-based and gender responsive, equipping migrant workers with knowledge on labour, health, and other rights and obligations of both workers and employers; the working and living conditions; customs, religion, and culture in the country of destination; and information about support mechanisms, including the names and contacts of embassies, and (women) migrant workers' groups, women's groups, trade unions, and legal aid groups.

Support services in destination countries

Countries of origin need to establish services for their migrant workers in diplomatic missions in countries of destination. Besides providing information, and sometimes vetting prospective employers, these agencies need to be prepared to protect men and women workers from violence, labour exploitation, and sexual exploitation. Embassy staff must be provided with gender-responsive training and the necessary human and financial resources to provide on-site services to migrant workers who had to leave their employers due to maltreatment and abuse, and to help with emergency or evacuation support (see also Tool 8). In addition, the 6th AFML recommended that the gender balance among labour attachés should be by and large proportionate to the composition of male and female migrant workers in the country of destination (ILO, 2015d). Appropriate reintegration services may also need to be provided in the country of origin to migrant workers who return because they have been victims of violence, and who may not be able to return to their community of origin due to gender stereotypes and stigma.

Support to family members of men and women migrant workers

As most low-skilled migrant workers enroll in temporary migration schemes without any possibility of family reunification other than provision of leave in the country of origin, usually once every two years, some pre-departure training programmes (for example, in Viet Nam) prepare migrant workers, their

⁶⁴ See the guide for trainers at <http://apmigration.ilo.org/resources/financial-education-course-for-asean-migrant-workers-guide-for-trainers> [25 Apr. 2016], and the financial planner for migrant workers at <http://apmigration.ilo.org/resources/financial-planner-for-asean-migrant-workers> [25 Apr. 2016].

spouses, and their children on how to cope with separation and the absence of care and support that can result from a family member migrating overseas.

In some cases gender-specific support services are provided. For example, Atikha, an NGO in the Philippines, addresses the social cost of migration on the children of migrants by raising their awareness on the contribution of migrating mothers and fathers, bridging communication gaps between family members, providing peer counseling, and fostering gender-responsive behaviour in families and new roles for the next male generation. For example, girls learn that relegating household duties to female family members only is not natural, and men and boys learn to take part in such household responsibilities.

3.8.4 Pointers for engendering labour migration policy in countries of destination

Further priorities to make labour migration laws and policy gender-responsive in countries of destination are as follows.

Reducing dependency on the employer

Many migrant workers are subject to the “one employer rule”. They are not allowed in many destination countries to change employers or are required to have their visa sponsored by a national (for example, the kafala system in the Arab States). As a result of such policies, live-in migrant domestic workers in particular may have to put up with any kind of employment conditions and abuse if they want to avoid deportation, as they hardly have any negotiation power and may find themselves unable to act against abuse and breaches of their rights. There is a need to allow migrant workers to be able to change employers as a matter of priority in case of labour abuses, such as through the provision of a three-month transition period in which the migrant can look for another job. In addition, it seems mutually beneficial for employers and workers, for workers to be able to switch employers after successfully completing an employment contract of a specific duration.

Similarly there is a need to revise regulations that migrant domestic workers are obliged to live in their employers’ premises, as live-in employees are more likely to work excess hours and are more vulnerable to abuse.

Regulating domestic work and personal care work in households

There is a significant demand for domestic work and care work within ASEAN, other Asian countries, and worldwide. However, legal entry channels into these fields are scarce. Countries of destination should:

- Develop adequate visa or other admission schemes for domestic workers and care workers.
- Make routes to legal entry and employment more user-friendly, less time-consuming, and less expensive for both workers and employers.
- Extending national labour regulations to domestic work for national and migrant domestic workers, and providing minimum legal protection measures such as use of a standard employment contract, regulation of work tasks, working hours, rest and leave period, adequate wages, including minimum wages where these exist, compensation for overtime, and affordable access to quality health services.

Protection for women and men migrant workers in irregular situations

There is a clear link between the legal status of a migrant and their vulnerability to exploitation and abuse, such as withholding wages and identity documents, termination of employment without due reason or notice, as well as physical and sexual threats and violence. Steps to ensure basic human and

workers' rights for migrant workers with irregular status include:

- ensuring respect for fundamental principles and rights at work. This includes the right to be paid any outstanding wages;
- access to health care, and protection against occupational injuries and diseases;
- informing employers about services and rights of migrant workers regardless of their status; and
- assisting irregular migrant workers in regularization processes.

Occupational safety and health (OSH) and labour inspection

The 7th AFML held in 2015 contains several gender-responsive recommendations, calling for:

- promoting an OSH prevention culture in the workplace which is sensitive to women workers' needs;
- increasing the number of labour inspectors, including women labour inspectors;
- strengthen complaint mechanisms on OSH and employment conditions' violations with complaints processed and investigated, preferably by women labour inspectors in cases of women migrant workers;
- strengthening the role of labour attachés by providing them with OSH trainings and promoting their gender responsiveness; and
- improving collection and sharing of OSH data on injuries, diseases, and casualties disaggregated by occupational areas, types of injury, country of origin, age, and sex.

3.8.5 Pointers for the regulation of recruitment agencies⁶⁵

Public and private employment and recruitment agencies generally assist migrant workers with completing emigration and immigration residence and employment procedures, job mediation and placement, preparatory services such as training and orientation, and transit arrangements. Such agencies are based in countries of origin or destination, or both. Increasingly they also take on labour management duties from employers partially or fully. Migrant workers may have to deal with a range of recruitment intermediaries and agencies.

The practices of recruiters and employment agencies have come under increasing scrutiny as migrant workers with little education and exposure to the outside world can easily fall victim to exploitative practices. Main concerns include the charging of high recruitment fees; exploitative debt arrangements; contracting workers under false employment, working, or living conditions; and physical, labour, and sexual abuse and exploitation. Women and men migrant workers with low skills and low education are at risk of being exposed to recruitment malpractices, given their concentration in economic sectors prone to labour abuse, including domestic work, food and entertainment industries, construction, agriculture, and low-skilled manufacturing. Young women are especially vulnerable, due to existing gender norms that emphasize their lower status, the low value assigned to domestic and care work, and preferred gender behaviours like obedience and submission to the authority of men and elders. These vulnerabilities are compounded if they come from ethnic or other minority groups.

The growth in exploitation in recruitment processes is related to:

- increases in labour migration and the concomitant growth of commercial businesses earning from the movement and employment of migrant workers;
- limited regulation of recruitment agents and agencies;
- limited awareness and inability to pay for services in advance among migrant workers; and

⁶⁵ Adapted from ILO, 2007c.

- collusion between recruiters and government, other authorities, or well-connected persons; and/or the involvement of criminal networks.

Measures to regulate and control recruitment agencies include:

- strict requirements for the establishment of recruitment agencies such as minimum capital and a bond deposit to ensure against claims;
- licensing of recruitment agencies (and recruitment sub-agents in labour source areas), including pre-screening of actors looking to enter into the industry; strict criteria for accreditation; limitations on the duration of licenses; regular and close monitoring on compliance; and strict enforcement of penalties;
- use of clear and standard employment contracts in languages and terminology that migrant workers can understand, and use of a “paper trail”;
- accessible and transparent complaint mechanism with free phone number for emergencies and complaints; involving ex-migrant workers in evaluating the services of employment agencies; and regular scrutiny of migrant workers’ complaints upon license renewal;
- monitoring of the quality of pre-departure training, and (where possible) ensuring that live-in arrangements are not obligatory and that gender-responsive safe and hygienic premises are provided; and
- protection from violence and abuse through measures such as providing alternative employers in case of labour abuse and blacklisting abusive employers and recruitment agents and agencies.

Associations of employment and recruitment agencies are useful to:

- represent employment agencies in the development of law and policy, in bilateral agreement discussions and negotiations, and in responding to abuses; and
- help raise standards through rating systems, information exchange, training, and self-regulation.
- advocate for better regulation of recruitment agencies, especially those outside of associations.

See, for example, the Viet Nam Association of Manpower Supply (VAMAS) Code of Conduct applied to Vietnamese enterprises, sending workers for overseas employment. While the code does not provide specific gender-specific guidance, it does state: “Job advertisements must state the occupational qualifications and working conditions genuinely required by the job. They may not discriminate against the potential applicants as prescribed by law” (VAMAS, 2010).

3.9 Checklist

3.9.1 Checklist: Is gender mainstreamed in a specific labour migration laws or policy?

If most of your answers fall in the “Yes” column, it means you are doing well and are on the right track. If more than half of your answers are “No” or “Not sure”, it means more attention and work are needed to integrate gender equality in the planning, design, implementation, or review stages of this new or existing labour migration laws or policy.

In planning or implementing a specific labour migration laws or policy, do you do the following?

| Gender analysis, do you | | Yes | No | Not sure |
|-------------------------|--|-----|----|----------|
| 1 | Identify the key gender dimensions in the problem to be addressed by the labour migration laws or policy? | | | |
| 2 | Review whether the labour migration laws or policy will have different effects on women and men? | | | |
| 3 | Use data broken down by sex, age, and other relevant variables such as geographical origin, ethnicity, and income levels? | | | |
| 4 | Arrange to have in-depth research conducted if there is suspicion or evidence of serious gender and decent work deficits among specific groups? | | | |
| 5 | Seek the views of gender experts and gender equality promoters in the public and private sectors and among civil society? | | | |
| 6 | Apply and integrate gender analyses in the design, monitoring, and evaluation of the (expected) outcomes of the labour migration laws and policy? | | | |
| Gender planning, do you | | Yes | No | Not sure |
| 7 | Decide and agree with the relevant public and private sector stakeholders on how to promote gender equality in the respective labour migration laws and policy? | | | |
| 8 | Seek and obtain a firm commitment to gender equality from decision-makers in labour migration laws, policy, and governance circles, and other relevant change agents, at the highest levels in the country and in organizations? | | | |
| 9 | Seek and obtain a firm commitment to gender equality from key labour migration management actors at the operational and activity levels? | | | |

| | | | | |
|--|--|------------|-----------|-----------------|
| 10 | Include the views and priorities of all relevant male and female interest groups in labour migration, such as migrant and domestic workers' organizations at all stages of the programming cycle? | | | |
| 11 | Address the needs and concerns of men and women migrant workers at the macro-, meso-, and micro-levels? | | | |
| 12 | Set specific aims, measures, indicators, and targets to ensure that the labour migration laws and policy will benefit both men and women equally and contribute to closing gender gaps? | | | |
| Building gender capacity in organizations, do you | | Yes | No | Not sure |
| 13 | Identify and build gender equality promotion capacity among labour migration decision-makers, managers, and implementers in the public and the private sectors? | | | |
| 14 | Increase balanced participation and representation of women and men in labour migration laws and policy decision-making and governance mechanisms and processes? | | | |
| 15 | Seek to establish a gender balance at all levels among the staff and partners involved in labour migration laws and policy development, adoption, and application? | | | |
| 16 | Build capacities among labour migration laws and policy stakeholders, including men and women migrant workers through advocacy, awareness raising, training, and gender audits on labour migration laws and policy and their implementation? | | | |
| Gender budgeting, do you | | Yes | No | Not sure |
| 17 | At the budget planning stage, consider the expected gender impact of the labour migration laws and policy by taking into account the needs of and the potential benefits for women and men migrant workers? | | | |
| 18 | Allocate adequate budget for gender-specific measures and gender expertise to ensure that the labour migration laws and policy is gender responsive and applied in practice? | | | |
| 19 | At the budget review stage, is there analysis to what extent the resource allocations for labour migration laws and policy implementation meet the needs, priorities, and interests of men and women migrant workers in an effective and equitable manner? | | | |
| 20 | Reallocate budget revenues and expenditures if the gender impact of the law or policy on women and men migrant workers is found to be inequitable? | | | |

3.10 Exercise

3.10.1 Protection and equality for women migrant workers



Exercise guide

Aims

- To identify advantages and disadvantages, and the effectiveness of protective measures for women migrant workers that restrict their labour mobility.
- To understand the importance of providing equal opportunities, treatment, and protection for men and women migrant workers to enable equitable outcomes of labour migration.

Methods

Small working groups, followed by a plenary discussion.

Time

90 minutes.

Training preparation and materials

- Read the handouts and familiarize yourself with the content. Adapt questions for work in small groups as needed to fit the level and interest of participants.
- Prepare copies of handout 1 or a flipchart and slide presentation with the main points for use during steps 1 and 2.
- Prepare photocopies of handout 2, one each for every participant, for distribution after the session.



Session plan

Step 1

Introduce the topic and aim of the exercise by explaining that several countries of origin have adopted (temporary) restrictive migration laws, policies, or regulations for women, often through age limits or barring entry into certain occupations. These measures aim at enhancing the protection of their women migrant workers abroad, but may backfire and have unintended negative effects.

Step 2

Distribute handout 1 and explain the questions for discussion. Divide participants in small groups. Give the groups about 30–45 minutes to finish their assignment.

Step 3

When the groups are ready, start the plenary session for about 30–40 minutes. Ask the groups to briefly report back, and stimulate dialogue when participants bring up new points. Summarize with 3–5 key messages using handout 2, and distribute handout 2 to participants at the end.

Example key messages

- Low levels of protection of migrant workers characterize the ASEAN region by law and in practice. This is particularly true for women migrant workers. While some migratory “routes” within the region are highly regulated, irregular migration is also significant. This is related to the permeability of borders between several countries, and to the limits imposed on regular migration channels, especially for women migrating to enter domestic work.
- Protective measures for women in national, regional, and international human rights and labour laws have aimed at (i) protecting women’s reproductive and maternal capacity; and (ii) protecting women because of gender perceptions and stereotypes about their characteristics, capacities, and appropriate roles in society. While the first category remains crucial in modern times, the second category has been considered problematic for over 50 years.
- Protective measures for women migrant workers limiting their labour mobility may be well-intended, but they do not serve their goal and tend to increase rather than decrease abuses. They often consist in a policy vacuum. Prohibition of women’s mobility in labour migration is generally accompanied by a lack of labour and social protection in national legislation of countries of origin and destination for workers in occupations performed mainly by women.
- Protective measures based on gender stereotypes are characterized by control: by men over women, and the state over the individual. They deny women the right to autonomy, decision-making, and agency to choose their own destiny.
- **“In equality we trust – Protection if we must.”** The UN and ILO community continue to advise member States to extend equality through better labour and social protection, and to ensure decent jobs and working conditions for all workers rather than making certain jobs difficult to access or even illegal for women to access, as this increases risks of labour exploitation of women in practice.



Handout 1 for participants

Assignment for small group work

This exercise discusses the advantages, disadvantages, and effectiveness of protective measures for women migrant workers that limit their labour mobility.

- Discuss the questions below and any related matters your group considers important.
- Assign a rapporteur and a spokesperson in your group.
- The rapporteur can use a flipchart or slide presentation to note down the main points.
- The spokesperson will briefly present the outcome of your discussions in plenary.

Questions for discussion

1. Discuss examples of the restrictions on the migration of women workers that you have come across and possible reasons behind these measures.
2. What are the human rights, gender equality, and practical objections to this approach?
3. What alternative measures could be taken to protect women migrant workers in a more effective manner?



Handout 2 for participants

Response to the case study⁶⁶

Protective measures for women may be broadly categorized as:

1. Those aimed at protecting women's reproductive and maternal capacity and;
2. Those aimed at protecting women because of gender perceptions and stereotypes about their characteristics, capacities, and appropriate roles in society.

The latter category has been commonly used in labour migration where countries of origin have set (temporary) limitations on the employment of migrant women workers with a view to “protect them” because of gender considerations. The debates have centred on prohibiting or limiting women's opportunities to migrate for work across national borders. Those in favour of prohibition or limitations on women's migration consider that certain types of migrant work are not suitable for women. Those against it argue that it limits migrant women's access to work; does not take into account the capacities, preferences, and abilities of individual women; and further marginalizes women migrant workers in vulnerable employment, as the jobs go underground.

Restrictive migration policies on women's migration consist of introducing age limits or specific bans to migration toward selected destination countries or sectors of occupation. These policies are usually only directed toward women (often only low-skilled women) or focus on sectors that are dominated by women. This is, for example, the case of the (now lifted) bans by Indonesia and Cambodia on migration for domestic work in Malaysia, or the exclusion of domestic work from the coverage of the bilateral agreement between the Lao People's Democratic Republic and Thailand, which thereby closed any option for regular migration for these category of workers into Thailand. The Philippines sets a minimum age for women who wish to migrate into specific sectors (for example, 23 years old for domestic work) for certain countries of destination, and this is often accompanied by minimum requirements in terms of educational attainments, and in Malaysia the entry requirement is 21 years. The minimum age for Cambodian migrant workers to Malaysia, and for Indonesian migrant workers is 18 years, but for migrant domestic workers the minimum age is 21 years. In South Asia, age bans for women's migration into domestic work is a common practice adopted by countries of origin, with the declared intention of protecting young migrant women from exploitation and abuse. Bangladesh has a restriction to women below the age of 25 who wish to migrate for domestic work in the Middle East. India has a similar provision for potential women migrant domestic workers to the Middle East below the age of 30. Pakistan set the age limit for low-skilled women migrants to 35.

The introduction of these restrictions has been criticized by human and women's rights activists, who see them as fundamentally discriminatory toward women workers, in light of international human and labour rights law. At the same time, experts have suggested that these measures might not be effective in reaching their intended purpose of protecting workers, as they would instead tend to push women workers into the less protected forms of irregular migration and, consequently, into situations of even greater vulnerability. Furthermore, these policies seem to be the product of rather traditional logic that sees women as passive, “weak” individuals in need of protection, rather than as active agents. With the intended aim of protecting women, these policy measures place restrictions on individual rights, notably on women's freedom of movement.

A recent study undertaken by the ILO and the Global Alliance Against the Traffic in Women (GAATW) on the effects of various restrictive labour policies targeting women and the domestic work sector in Nepal

⁶⁶ See: ILO: Equality and non-discrimination at work in East and South-East Asia (Bangkok, 2011); ILO: No easy exit, Migration bans affecting women from Nepal (Geneva, 2015). The exercise is based on M. Gallotti: *Draft concept note on action research on the implications of policies restricting women migration options* (Geneva, ILO, 2014).

found that the migration bans reviewed did not prevent people from migrating and discriminated somewhat arbitrarily based on gender, class, and age. Indeed they placed women at greater risk of abuse during the migration journey, and gave them less control over their migration experience. Based on these findings, it is suggested that, to be effective, protective policies must be introduced transparently, be well publicized, and take a comprehensive and empowering approach. This would include more oversight of recruitment actors, more information and skills training for women, and more assistance services in Nepal and abroad for women in need of assistance. The Government of Nepal reopened regular migration channels for women migrant domestic workers of 24 years and older to the Arab States and South-East Asia in 2015.⁶⁷

In equality we trust – Protection if we must. Within the international community, the trend is to extend equality through better labour protection, and to ensure decent jobs and working conditions for all workers rather than making certain jobs difficult to access or even illegal for women to access, as this may increase risks of labour exploitation of women. When it comes to establishing an appropriate balance between “protection” and human rights and freedoms, and between the rights of individuals in general and the measures taken to protect specific individuals or groups, comments issued by UN treaty-monitoring bodies are particularly relevant. General Comment 27 on Freedom of Movement, issued in 1999 by the Human Rights Committee, the treaty monitoring body established under the terms of the International Covenant on Civil and Political Rights, helps clarify a principle which must underlie this balance: “Restrictive measures must conform to the principle of proportionality; they must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve the desired result; and they must be proportionate to the interest to be protected... The principle of proportionality has to be respected not only in the law that frames the restrictions, but also by the administrative and judicial authorities in applying the law (Para. 14–15)” (Gallotti, 2014).

In the follow-up to CEDAW, the UN General Assembly requests governments to periodically review existing laws to protect women in light of scientific and technological knowledge to decide whether such laws should be revised or extended. A similar approach has been taken by the International Labour Conference in 1975 and reconfirmed in its equality resolution of 1985, as well as in its advice to individual member States by the ILO Committee of Experts on the Application of Conventions and Recommendations (ILO-CEACR). The 2016 ILO-CEACR General survey report on the migrant workers instruments reaffirms: “While aware that these measures to address structural abuse against women migrants are well intended, the Committee considers that imposing a ban on women migrating for employment runs counter to the principle of equality and restricts women’s rights instead of protecting them. The Committee considers that measures such as investing in decent work opportunities at home and strengthening the protection of the rights of women migrants, including through international cooperation, may allow women who choose to migrate to do so safely and in an informed manner” (ILO, 2016a, para. 543).

⁶⁷ See Article 3(3) of Government of Nepal: Guidelines Related to Managing Domestic Workers going for Foreign Employment (Kathmandu, Government of Nepal, 2015). The Guidelines are given authority under Sub-rule (1), Rule 52(a) of the Foreign Employment Regulations, 2064. The effectiveness of the Guidelines as an official migration policy were not examined in the ILO–GAATW study, as they were adopted just prior to publication.



Tool 5. Gender equality in labour migration (GEM): Bilateral agreements and MOUs

5.1 About this tool⁶⁸

This tool explains what gender-responsive labour migration bilateral agreements (BLAs) and memoranda of understanding (MOUs) on labour migration are; why it is important to assess and address gender concerns in these policy instruments; and how to ensure that they lead to equitable gender equality outcomes for women and men migrant workers.

Aims:

- To avoid some common gender pitfalls in developing labour migration-related BLAs and MOUs that may impact negatively on women migrant workers.
- To identify how to develop and negotiate gender-responsive BLAs and MOUs on labour migration.

5.2 Key concepts and rationale

In recent years the numbers of BLAs and MOUs on labour migration have greatly increased. BLAs and MOUs between countries of origin and destination aim at facilitating and managing cross-border movement of temporary, mainly low-skilled workers and protecting the rights of these migrant workers. However, the BLAs/MOUs vary significantly in scope (in terms of the sectors and issues covered), the inclusion or lack of implementation and monitoring mechanisms, and their effectiveness, which translates into different outcomes for the origin and destination countries and for migrant women and men workers. Box 13 below discusses what BLAs and MoUs are and how to identify whether they are gender responsive and box 14 explains why these types of BLAs and MoUs are necessary.

⁶⁸ Based on Lim, 2014; Wickramasekara, 2015.

Box 13

What are BLAs and MOUs and when are they gender responsive?

Bilateral Labour Agreement (BLA) is the name used when the agreement describes in detail the specific responsibilities of, and actions to be taken by, each of the parties, with a view to accomplish their goals. BLAs create legally binding rights and obligations.

Memorandum of Understanding (MOU) refers to a format entailing general principles of cooperation. They describe broad concepts of mutual understanding, goals, and plans shared by the parties. MOUs are usually non-binding instruments.

Gender-responsive BLAs/MOUs incorporate a gender perspective with specific attention and measures for groups such as women migrant workers. They aim to create equality of opportunities, rights, obligations, treatment, and outcomes for women and men, and can contain special measures to address inequalities. Such agreements:

- consider factors rooted in the gender division of labour and power relations between men and women;
- use sex-disaggregated data; and
- take into account who benefits and who does not.

Box 14

Why is it important to have gender-responsive BLAs and MOUs?

BLAs and MOUs that aim at promoting fair migration, promoting regulated and orderly cross-border movement of workers, and protecting migrant workers' human rights should be gender responsive. However, when reviewing such agreements, it seems that many BLAs and MOUs in use today have been conceived, negotiated, and implemented in a gender-biased and gender-blind way. They largely ignore gender issues, lack gender-responsive measures and monitoring mechanisms, and only a small number contain gender-specific provisions (OSCE, 2009; Wickramasekara, 2015; ILO, 2014c; 2016a).

This concern is particularly important for those women migrants who are disadvantaged because they engage in domestic work and other types of informal work that are not covered by national labour legislation in the country of destination. These women migrants face serious labour and social protection gaps. In such cases gender-responsive BLAs and MOUs can help provide some protection to women migrant workers in these jobs, even if such agreements are difficult to enforce in the absence of national legislation.

5.3 Tips

When assessing BLAs and MOUs on their gender impact and implications, different types of BLAs and MOUs can be distinguished:

- **Gender-blind or gender-neutral** BLAs/MOUs that are assumed to affect both sexes equally and have proven to equally benefit men and women migrant workers.
- **Gender-biased, gender-blind, or gender-neutral** BLAs/MOUs that have discriminatory or detrimental impacts and implications for women migrant workers.
- **Gender-responsive** BLAs/MOUs aimed at protecting women migrant workers in vulnerable occupations.

5.3.1 General good practices in BLAs/MOUs that equally benefit women and men

Reviews of BLAs/MOUs have identified “general good practices” based on criteria drawn from international norms (Wickramasekara, 2015). The examples below of “general good practices” illustrate that although these BLAs/MOUs are gender blind or gender neutral, they benefit both men and women migrant workers:

- **Transparency and publicity:** Widely available access to and understanding of agreement texts is crucial for both men and women migrants, and their employers as they list the rights and obligations of both parties. This means, first of all, that the text should be made publicly available,⁶⁹ and secondly, that the text of agreements should be understandable to the average worker and employer. The provision of relevant information and avoidance of misleading propaganda is as important, if not more so, for women as for men:
 - Sri Lanka–Republic of Korea, 2012: “[T]he Sides will ensure the transparency and efficiency of the sending and receiving process.”
 - New Zealand–Kiribati, 2011: “The Participants will make efforts to increase awareness and understanding of the Recognised Seasonal Employer (RSE) Policy; The Participants will act promptly to correct any false or misleading information about the RSE Policy.”
- **Evidence of normative foundations and respect for migrant rights, based on international instruments:** Conformity with international norms relating to the human and labour rights of migrant workers. Universal values uphold equality of treatment and non-discrimination. Where there is specific reference in a BLA/MOU to the treatment of migrant workers being no less favourable than that which applies to nationals of the destination country with respect to employment and working and living conditions, both men and women migrants can benefit:
 - Italy–Sri Lanka, 2011: “Any national of the Contracting Parties legally working and residing shall receive equal treatment and full equality of rights as compared to the workers of the host country...”
- **Provision for prohibition of confiscation of travel and identity documents:** Confiscation of travel or identity documents is an element of forced labour if workers are unable to access these items on demand and if they feel that they cannot leave the job without risking the loss of these documents. It is therefore important to include this provision and ensure its enforcement.
 - The Saudi Arabian agreements on domestic workers have set a precedent in this case by including a provision for the retention of such documents by workers.
 - Spain’s agreements with the Dominican Republic, Ecuador, and Ukraine and the Sri Lanka–Iraq Agreement also prohibit custody of passports by employers.
 - The Malaysia–Indonesia, 2011 Protocol amending the 2006 MOU on migrant domestic workers and the Malaysia–Bangladesh, 2013, government-to-government agreement allow workers to keep their passport with them.
 - However, not all ASEAN Member States apply this provision. On the contrary, the Malaysia–Viet Nam, 2003, agreement states: “The employer shall be responsible for the safe keeping of the worker’s passport and to surrender such passport to the Embassy of the Socialist Republic of Viet Nam in Malaysia in the event of abscondment of the worker.” A study on forced labour in the Malaysian electronics industry confirmed that passport retention, which is prohibited by Malaysia’s

⁶⁹ In the past, some countries did not disclose the texts of labour-migration related BLAs/MOUs publicly. Some progress has been made in making BLA/MOUs publicly available but many countries still do not make them available to the public, and information about implementation is generally lacking.

1966 Passports Act was very common: 94 per cent of foreign workers in the sample reported that their passports were held by the facility or their broker/agent, and 71 per cent reported it was impossible or difficult to get their passports back when they wanted or needed them. Nearly two-thirds of all foreign workers interviewed, reported that they were unable to move around freely and safely without their passports or other travel documents. Twenty-eight percent of all women and men workers in the study sample were found to be in situations of forced labour. The rate of forced labour among only foreign workers was higher, at 32 per cent, or nearly one in every three foreign workers. When the study's definition of passport retention was adjusted to reflect only Malaysian law – that the passport is held by someone other than the passport holder – as well as the concept that it is difficult or impossible for the passport holder to access the passport, the aggregate forced labour finding rose appreciably: 58 per cent of all respondents, and 66 per cent of all foreign workers, were found to be in forced labour (Verité, 2014). These findings indicate the need to review this provision in the 2003 Malaysia-Viet Nam BLA.

- **Provision for skills improvement and on commonly agreed criteria for the recognition of skills and qualifications:** Non-recognition almost inevitably leads to downgrading, de-skilling, and brain-waste for both men and women migrant workers. Processes for skills improvement are also important to prevent such de-skilling and brain waste and also poor labour market integration and deterioration of working conditions for all workers:
 - Sri Lanka–Republic of Korea, 2012: the Republic of Korea's Employment Permit System (EPS) provides training programmes to develop the skills of migrants after arrival in the Republic of Korea.
 - The Argentina–Ukraine, 1999; France–Russia, 2009; and Peru–Colombia, 2012, agreements directly address skills recognition issues.
- **Provision for free transfer of savings and remittances:** Both women and men benefit from provisions for migrant workers to freely remit their savings home:
 - Indonesia–United Arab Emirates, 2007: “Workers shall have the right, in accordance with the financial regulations in the [United Arab Emirates], to remit all their savings to their country of origin or elsewhere.”
 - Italy–Sri Lanka, 2011: “The Italian Party agrees to disseminate information on the national remittance system, with the aim of aiding migrant workers in the choice of the most advantageous way.”
- **Coverage of the complete migration cycle:** For both women and men migrants there are issues throughout the entire migration experience from pre-departure and working abroad to return and reintegration:
 - Sri Lanka–Republic of Korea, 2012: In addition to pre-departure education and assistance (including some forms of social security coverage) while employed, “the Sides will cooperate to ensure the smooth implementation of the Returnee Support Programme, including active job placement services to help returning workers adapt to their home country.”
 - Italy–Sri Lanka, 2011: “The Contracting Parties acknowledge the importance of the Sri Lankan Community for the social integration of new migrants and for the implementation of development initiatives in the country of origin.”

5.3.2 Gender-biased, blind, and neutral BLAs/MOUs with negative effects on women migrant workers

Provisions in gender-biased, blind, or neutral BLAs/MOUs do not specifically consider gender, use gender-neutral terminology, or assume that they will impact equally on both women and men migrants. Provisions in such BLAs/MOUs often have unintended or unexpected differential or detrimental effects for women migrants. They do not promote gender equality or non-discrimination and do not address the specific gender needs of women or men migrant workers:

BLAs/MOUs with general provisions for migrant workers that do not take into account gender segregation of labour markets:

- Republic of Korea–Sri Lanka, 2012: The MOU provides for “transparency and equal opportunity to access Korea’s employment permit system for foreigners (EPS)” for work in six labour-short sectors: manufacturing, construction, service, fishing, agriculture, and livestock. The detailed provisions include selecting migrants through a public examination in Sri Lanka, including a language test; a data bank system with profiles of qualified workers after the exam; and calling and distributing application forms for the test through public media advertisements. However, despite the fact that a reasonable number of women sit for the tests, those who secured job opportunities during the last five years accounted for only 1–2 per cent of the total recruitments (ILO, 2014c). There could be a number of gender-related reasons: the EPS sectors tend to be male-dominated and/or Korean employers may prefer male migrants in these sectors, irrespective of whether national men and/or women work in these sectors.

BLAs/MOUs of general application that specifically exclude certain economic sectors or occupations from the scope of their coverage:

- The most common exclusion is of domestic workers from the coverage of BLAs/MOUs, such as the MOU signed between Viet Nam and Malaysia and the 2007 MOU between Indonesia and the United Arab Emirates: “The parties agree that recruitment and placement of Indonesian domestic workers to the [United Arab Emirates] is governed by separate and special arrangements outside the mandate of the Ministry of Labour and under the mandate of the concerned department of the Ministry of Interior.” There is obviously differential treatment of domestic workers – who are mainly women – from the other migrant workers covered by the general MOU. The rights, welfare, and security of the domestic workers will hinge on whether there is a separate BLA/MOU covering them and on the level of protection granted to them therein.
- As discussed in earlier tools, some countries have banned or restricted the migration of women and girls with the intention of protecting them from being trafficked, exploited, or abused. However various studies indicate that such sex-selective provisions tend to have the opposite effect of pushing women into seeking illegal channels for migration and making them much more vulnerable to exploitation and abuse by unscrupulous recruiters, employers, and human traffickers.

“General good practices” that do not achieve their aim of protecting the rights of all migrants because they do not take into account the specific vulnerability of particular groups of women migrants:

- A provision that the “terms and conditions of employment shall be in line with the labour law and regulations of the destination country” can leave women migrant workers in highly precarious situations, because often the occupations they take up are not covered under national labour regulations. At a minimum, the BLAs/MOUs need to identify the categories of workers that are not covered, and what steps would be taken to protect the rights of those workers.

- **Provision to promote fair recruitment practices:** Women, in particular young and poorly educated women from rural areas and conservative backgrounds, are much more likely than men to be the victims of recruitment malpractices. BLAs/MOUs need to include provisions to ensure that accurate and realistic information reaches potential women migrants, to effectively regulate recruitment agencies, and to reduce costs by eliminating high recruitment fees. Government-to-government recruitment agreements may be one way to better protect women and men in the recruitment process.
- The provision defining clear responsibilities between the different parties: It is obviously important that the BLA/MOU clearly spell out the responsibilities and obligations of the employers, workers, recruiters, and also the governments of the origin and destination countries. As mentioned earlier, there is a particular problem related to the sponsorship, or kafala, system in the Middle East, which ties the worker to the employer. While applicable to both women and men, the kafala system is particularly challenging for migrant domestic workers, as they work in isolation within private households. This employment arrangement has an additional tendency to make women domestic workers more vulnerable to gender-based violence, including sexual abuse.
- **Concrete and enforceable provisions relating to employment contracts and workplace protection:** Provisions for written contracts that cover issues such as normal working hours, payment of wages, allowable deductions, paid leave, payment for overtime work, and hygienic and safe accommodation should take into account the particular vulnerabilities of female domestic workers who work in individualized and isolated environments in the private sphere of the employer's home in a highly dependent relationship. Specific provisions to prevent and redress exploitation and abuse should be included. A provision for the sending agency to explain the contract contents to the worker before making a decision to sign it would be particularly useful for women migrant workers. See Tool 2 for more information.
- **Concrete implementation, monitoring, and evaluation procedures, including concrete mechanisms for complaints and dispute resolution procedures and access to justice:** Unless the Joint Committees comprising representatives from origin and destination countries responsible for drafting and negotiating the agreements include persons with gender expertise, the situation of women migrants may not be given specific attention. In cases of violation, including sexual violence, women often do not have the knowledge or means to make complaints and seek redress. Without gender-responsive legal assistance and support services they remain highly vulnerable and unprotected.
- **Provision of health care and social security for migrant workers:** Within ASEAN, social security for migrant workers is not or hardly available both in countries of origin and destination, although some provisions covering health care and occupational injury and disease exist in the countries of destination within ASEAN (see Tool 4). Portability of social security benefits, however, remains a priority for the future. This is important for both men and women migrant workers – but may be so especially for promoting gender equality, given prevalent gender norms that view women as responsible for providing family care.

The Center for Migrant Advocacy reviewed BLAs and social security agreements between the Government of the Philippines and destination countries worldwide, and concluded:

All of the [social security agreements] reviewed were silent on social security concerns specific to migrant women, such as their low savings capacity to accumulate a sufficient retirement fund. Most women migrant workers need old-age, disability, parental and emergency social security benefits because of poor savings capacity due to their low incomes as unskilled workers. There exists a significant gender wage gap between Filipino male and female migrant workers; hence the advocacy for migrant domestic workers to be covered by minimum wage laws of the states of employment (Center for Migrant Advocacy, 2010, p. 42).

5.3.3 Gender-responsive BLA/MOUs

A few BLA/MOUs make explicit reference to prohibition of employment discrimination on the grounds of gender. The 2002 Lao–Thailand MOU on labour cooperation states in Article 18, “Labourers of the parties shall receive their wages and other benefits according to the local wage rates without exception of male or females, race and religion.” The 2001 Argentina–Ukraine agreement also refers to gender in the discussion of non-discrimination (Wickramasekara, 2015).

Any workers not covered by national labour laws in destination countries can find themselves in precarious situations. This applies to domestic workers and agricultural workers of all genders who are among the most vulnerable categories of labourers. At a minimum, agreements should mention the categories of workers that are not covered, and what steps would be taken to protect their rights. Some MOUs merely state that appropriate steps will be taken to address problems of non-covered workers, without specifying any concrete measures. The omission of this provision is common across regions.

Special domestic worker agreements (for example, agreements of Jordan with Indonesia, and Saudi Arabia with four Asian countries) have been one response to this issue, given the large demand for migrant domestic workers and because domestic work is not or only partially covered by labour laws in many destination countries within Asia and the Arab States. The number of BLAs/MOUs covering domestic workers has been on the rise, in large measure due to the spotlight on the worldwide situation of these mainly female workers in the context of ILO Convention No. 189 and the establishment of the International Domestic Workers Federation (IDWF) in 2013.

The 2013 Saudi Arabia–Philippines agreement was the first time that a country of destination and a country of origin signed a specific agreement on domestic work. Other countries such as India, Sri Lanka, and Indonesia followed suit, signing similar BLAs with Saudi Arabia. The BLA reflects some provisions to protect the rights, security, and welfare of the domestic workers, who are mostly not covered by the domestic labour laws. For example, the Saudi Arabia–Philippines, 2013 BLA includes a standard employment contract⁷⁰ in an annex covering:

- determination of the contract period;
- payment of wages to an employee’s bank account;
- prohibition of salary deductions;

⁷⁰ The Standard Employment Contract for Filipino Household service workers employed in the Kingdom of Saudi Arabia can be found at: <http://apmigration.ilo.org/country-profiles/standard-employment-contract-for-philippino-household-service-workers-bound-for-kingdom-of-saudi-arabia> [accessed 13 Jun. 2016].

- provision of facilities including continuous rest of at least eight hours per day and at least one rest day per week, suitable and sanitary living conditions, adequate food or monetary allowance, and rest on acceptable medical reasons;
- transportation for the domestic worker to be covered by the employer to join the job and to return home;
- leave: the right to a paid 30-day vacation for every two years of service; and
- special features: the domestic worker shall work only for the employer and the employer's immediate family; the passport and work permit remain in the custody of the employee; and the domestic worker will have freedom to communicate with family members in the origin country.

However, the main weaknesses of these BLAs with Saudi Arabia are:

- The lack of addressing the kafala system whereby domestic workers are tied to their employer/ sponsor;
- the failure to address social security, since Saudi Arabia provides social security only for workers in the formal sector;
- exclusion of the employer/sponsor in “legal measures against the recruitment offices, companies or agencies for violations of any applicable laws, rules and regulations”;
- non-specification of a minimum and maximum age limit; and
- the lack of freedom of observance of religion by the domestic worker.

Most recently, Cambodia and Malaysia signed MOUs for migrant workers in general and for migrant domestic workers, including a standard employment contract.⁷¹

The development of gender-responsive BLAs/MOUs is particularly relevant in situations where the labour laws of countries of destination exclude domestic workers from their coverage, as the BLAs/MOUs thereby represent an attempt to guarantee a minimum standard of protection to these workers. At the same time, it should be noted that BLAs and MOUs – even when they include a standard employment contract – remain nearly impossible to enforce in the absence of adequate national legislation or a supervisory mechanisms. Therefore, these agreements are not a substitute for a comprehensive protective legislative framework on labour migration in destination countries.

5.3.4 Guidelines for developing and negotiating gender-responsive BLAs/MOUs⁷²

First of all, it remains important to emphasize that both the country of destination and the country of origin that are negotiating an agreement must have a general respect for gender equality and adherence to the importance of gender mainstreaming in labour migration. During the **negotiation process**, the following measures and aspects ought to be taken into account and anchored in the negotiated text:

Key points

- Make gender analysis and gender impact assessments an integral procedural component, using sex-disaggregated statistics on labour migration.
- Include all stakeholders. Although it is the responsibility of governments to negotiate agreements in

⁷¹ For the General MoU see: <http://apmigration.ilo.org/country-profiles/mou-with-malaysia-on-the-recruitment-and-employment-of-workers/view> [accessed 22 Apr. 2016]; for the Domestic Worker MOU see: <http://apmigration.ilo.org/country-profiles/mou-on-recruitment-of-cambodian-domestic-workers-sent-to-malaysia> [accessed 22 Apr. 2016]

⁷² Based on Lim, 2014, Wickramasekara, 2015; OSCE, 2009.

accordance with protocols on confidentiality, it is essential for negotiators to share information and consult men and women migrant workers and their employers, as well as rights advocates, including migrant and other workers' organizations; employers' organizations, like associations of recruitment agencies; and civil society organizations with a migrant workers', workers', women's or human rights framework. The participation of experts with gender and labour and migration expertise in the negotiation process is also important.

- Include gender-specific, non-discrimination, and rights-based clauses to promote gender and racial equality. The language and content of these agreements should comply with international human rights treaties and labour standards.
- Append a model employment contract with provisions covering conditions and addressing vulnerabilities in specific employment sectors, and include provisions to ensure that recruitment agencies must explain the terms and conditions to potential migrants – and also to employers – before they sign the contract.
- Create protective provisions for sectors not covered by national labour law, such as domestic work, entertainment, and agriculture by introducing minimum standards.
- Establish specific protection measures concerning labour exploitation, physical and sexual violence, and forced labour against women and men migrant workers throughout the migration process, in workplaces, and in migrant workers' accommodations.
- Establish, implement, and monitor a complaint mechanism for harassment, violence and discrimination, including the option of legal remedy and gender-responsive support services to assist women to seek redress.
- Provide for appropriate health-care and social security benefits, and consider the possibility of portability of social security and health benefits (even if the latter has proven to be difficult and challenging).

Pre-departure and upon arrival

- Provide gender training to those selecting migrant workers in order to ensure a fair and transparent selection process that gives potential female migrants equal access to employment abroad.
- Widely disseminate information on legal migration opportunities and migrants' rights and obligations to minimize the risk of female migrant workers being exploited or trafficked.
- Provide information prior to departure and upon arrival (on national immigration and labour laws, social welfare system, complaints mechanisms, contact details of counselling organizations, professional organizations, trade unions, including migrant and domestic workers' organizations, etc.), preferably in the languages spoken by workers and employers.

Protective measures during the stay in the destination country:

- Provide gender training to administrative staff implementing BLAs/MOUs. One measure is to provide for a gender adviser in the Joint Committees in charge of implementation and monitoring. Another measure is for the sending country to post women labour attachés and ensure that the responsible labour attaché in the destination country is gender responsive and has in-depth knowledge on the problems of women migrant workers.
- Strive to provide equal remuneration for work of equal value and equitable working and living conditions.
- Allow, encourage, and support organizations of migrant workers.

On return

- To ensure higher return, consider the option of repeat or circular migration – this may reduce the risk of overstay and a migrant’s legal status turning into an irregular one.
- Allow for the re-negotiation of contracts regarding working conditions and remuneration in the case of repeat migration so that new skills gained during previous employment can translate into higher wages and better conditions.
- Establish and implement gender-responsive monitoring mechanisms during the agreement review process for sectors where high proportions of women are employed.

5.4 Exercise

5.4.1 How to develop and negotiate gender-responsive BLAs/MOUs



Exercise guide

Aims

This exercise intends to promote discussion among the main labour migration actors and stakeholders in origin and/or destination countries on how to develop and negotiate gender-responsive BLAs/MOUs.

Time

60-90 minutes.

Methods

The exercise consists of discussion in small groups, followed by plenary discussion. Depending on the aim of the training, and the level and interest of participants, the exercise can be made shorter or longer by having seven different small groups discussing one question each, or by selecting 1–3 most relevant questions for discussion. For example:

- If participants are familiar with BLAs and MOUs, it is recommended to do the exercise at the start of introducing tool 5 (before any presentation), for example by discussing example questions 1, 2, and 5.
- The exercise can also be done during a plenary session about Tool 5, whereby the trainer invites discussion on each of the questions in plenary, before presenting the tips. The questions follow the content of Tool 5 in chronological order.
- Small group work can also be done after an introduction of the main content of Tool 1. For example, select the 2–3 most suitable questions and give all small working groups these questions for discussion. Or give each of seven small working groups one different question.

Example questions

1. What are the most relevant gender issues and concerns that should be taken into account in a BLA/MOU?
2. Give some examples of main provisions in BLA/MOUs that do not explicitly address gender issues and concerns but equally benefit male and female migrant workers.
3. Give some examples of gender-biased, gender-blind, or gender-neutral provisions in BLAs/MOUs that can have negative impacts on women migrant workers.
4. What are effective gender-responsive provisions in a BLA/MOU to protect women migrant workers in destination countries?
5. What measures and procedures need to be taken to ensure that the BLA/MOU development and negotiation processes are gender responsive?

6. What are measures or procedures to promote gender-responsive implementation and monitoring of a BLA/MOU?
7. What are some of the main problems or barriers to developing and negotiating gender-responsive BLAs/MOUs?

Training preparation and materials

- Select what methodology to use and select the relevant questions from the above list for discussion. Write these on a flipchart, board, or computer for use during steps 1 and 2.
- Adapt the handout for participants with the key messages and response to the questions as needed. Prepare copies before the session for distribution to participants at the end of the session.

Session plan

Step 1

Briefly introduce the aims of the exercise. Introduce the selected questions and divide the participants in small working groups. Ask each group to:

- Discuss the questions below and any related issues your group considers important.
- Assign a rapporteur and a spokesperson in your group.
- The rapporteur can use a flipchart or slide presentation to note down the main points.
- The spokesperson will briefly present the outcome of the discussions in plenary.

Step 2

Give time for discussion in the small working groups (15–30 minutes, depending on the number of questions and level and interest of the groups); reconvene in plenary; have the small groups report (20–30 minutes); and add important points missing from the discussion, if any.

Step 3

Conclude with three to five main points (5 minutes) as relevant using the handout for participants.



Handout for participants

Gender-responsive BLAs and MOUs

Example key messages

- The development of gender-responsive BLAs/MOUs is particularly relevant in situations where the labour laws of countries of destination and origin do not guarantee the principles of gender equality and non-discrimination in employment and occupation in line with Convention No. 111 for national and migrant workers.
- Sector-specific BLAs and MOUs may be needed for occupations and economic sectors, such as domestic work and agricultural work to guarantee a minimum standard of protection to migrant workers in these sectors. At the same time, it should be noted that BLAs and MOUs – even when they include a standard employment contract – remain nearly impossible to enforce in the absence of adequate national legislation. Therefore, these agreements are not a substitute for a comprehensive protective legislative framework on labour migration in destination countries.
- When designing and negotiating BLA/MOUs, use sex-disaggregated statistics and gender-specific studies on labour migration. Include gender-specific, non-discrimination, and rights-based clauses to promote gender and racial equality. The language and content of these agreements should comply with international human rights treaties and labour standards.
- Include all stakeholders in consultations and negotiations in countries of origin and destination. Although it is the responsibility of governments to engage in negotiations, it is essential for negotiators to share information and consult men and women migrant workers and their employers, and rights advocates, including migrant and other workers organizations, employers' organizations, like associations of recruitment agencies and civil society organizations with a migrant workers', workers', women's or human rights framework. The participation of experts with gender and labour and migration expertise in the negotiation process is also important.
- Append a model employment contract to BLA/MOUs with provisions covering conditions and vulnerabilities in specific employment sectors, and include provisions to ensure that recruitment agencies must explain the terms and conditions to potential migrants – and also to employers – before they sign the contract.

Responses to the example questions

1. **What are the most relevant gender issues and concerns that should be taken into account in a BLA/MOU?** – For example, women and men have unequal access to realistic information concerning labour migration and employment terms and conditions; women are more vulnerable than men to malpractices in the recruitment process; women migrants dominate in occupations and sectors not covered by the destination country's labour laws or social protection; women migrants are less likely than their male counterparts to be able to seek redress in cases of violation of their rights.
2. **Give some examples of main provisions in a gender-neutral or gender-blind BLA/MOU that equally benefit male and female migrant workers.** – For example, calling for transparency and publicity in the migration process; widely disseminating information about employment opportunities in countries of destination; reference to international human rights treaties and labour standards in the agreements; reference to mutual recognition of skills and certification systems; provision to prohibit confiscation of travel and identity documents; provision to freely send remittances at the most affordable rates; protecting all migrant workers at all migration stages.

3. **Give some examples of gender-biased, gender-blind, or gender-neutral provisions in BLAs/MOUs that can have negative impacts on women migrant workers.** – For example, general provisions that do not take into account sex-segregation in the labour market; excluding female-dominated occupations from a BLA/MOU; sex-specific restrictions on women’s migration for “women’s protection” that result in irregular migration; not including gender-specific measures for women migrant workers while there is evidence that they are in a more disadvantaged position than men migrant workers, for example, because occupations that are performed mostly by women are not covered by national labour and social protection law, or a BLA/MOU excludes such occupations.
4. **What are effective gender-responsive provisions in a BLA/MOU to protect women migrant workers in destination countries?** – Specific protective provisions for occupations and sectors not covered by national labour law (e.g., domestic work) BUT keep in mind that agreements are no substitute for authoritative legal protection; developing a separate BLA/MOU covering female-dominated sectors such as domestic work, including a standard employment contract.
5. **What measures and procedures need to be taken to ensure that the BLA/MOU development and negotiation processes are gender responsive?** – For example, the use of sex-disaggregated statistics on the number of migrant workers relevant sectors of employment; gender analysis and gender impact assessments; consultation with all relevant stakeholders, including women migrant workers and including gender experts in labour migration in the negotiations.
6. **What are measures or procedures to promote gender-responsive implementation and monitoring of a BLA/MOU?** – For example, gender training of relevant staff and all labour attachés from origin countries in embassies or consulates in countries of destination; appointments of women as labour attachés; allowing/encouraging/supporting organizations of migrant workers; information and publicity campaigns, establishment of gender-responsive complaints mechanisms for migrant workers; adequate allocation of staff and financial resources.
7. **What are some of the main problems or barriers to developing and negotiating gender-responsive BLAs/MOUs?** – For example, lack of gender awareness and expertise in labour migration among BLA/MOU negotiators and policy-makers; resistance against migration of women for work; lack of women migrants and gender experts during preparatory discussions in each country, among the drafting committees, and at the BLA/MOU negotiation table.



Tool 6. GEM: Programme design, monitoring, and evaluation

6.1 About this tool⁷³

This tool explains why and how to mainstream gender in the design, implementation, monitoring, and evaluation of labour migration programmes and projects.⁷⁴ It provides checklists and tips to integrate GEM in the programming cycle of these development interventions. It explains what gender-responsive indicators are and helps to assess to what extent a programme's monitoring and evaluation system is gender responsive. Tips on gender budgeting and an exercise on how to make a labour migration programme design gender-responsive are also provided.

Aims: To learn how to:

- Mainstream gender and measures strategies into the design, implementation, monitoring, evaluation – the programming cycle – of labour migration programmes.
- Include gender-responsive measures in the programme's logical framework: problem analysis, strategies, objectives and outcomes, indicators, results, activities, budgets, and human resources.

6.2 Rationale and concepts

6.2.1 Why is it necessary to promote gender equality in labour migration programmes?

Migration has a constantly changing dynamic. Migrant workers used to be mostly men but this has changed. Ever more fluid and diverse flows of men and women move across international borders in greater numbers and more women migrate autonomously as economic providers. They now make up at least 44 per cent of all migrant workers worldwide (ILO, 2015b). Growing inequalities within and between countries drive people to leave home and seek opportunities across borders. Besides seeking better economic opportunities, many leave as a result of poverty and economic crises, natural disasters, armed conflicts, political or religious persecution, job discrimination, violence, or escaping from incest or rape at home. Persons with non-conforming gender expression may leave in order to openly live their sexual orientation and gender identity elsewhere.

As men and women migrate with various needs and priorities, migration programmes that are gender biased, gender blind, or gender neutral can result in ineffective implementation, reduced impact, or

⁷³ Based on ILO, 2003c, pp. 57–61; 2008a; 2014d; European Commission, 2004; OSCE, 2009; UN Women, 2013a.

⁷⁴ The terms "programme" and "project" are used interchangeably throughout this tool.

even widening gender inequalities. Labour migration programmes must be gender responsive to ensure successful implementation and maximum positive impact. Gender equality concerns can be addressed at any stage of the programming cycle, but it is most effective to integrate gender from the earliest design and planning stages onwards. See box 15 for more details.

Box 15

Gender equality and human rights principles for the design and evaluation of labour migration programmes

The population group of migrant workers is prone to be subject to discrimination, inequality, and unfair power relations based on their race, ethnicity, sex and gender, religion, or other grounds. These inequalities and structural causes should be analysed, taken into account, and addressed at the planning and design stages of any labour migration programme. Evaluation that applies gender equality and human rights principles assesses the degree to which power relationships change as a result of an intervention, and does so in a way that is respectful of the rights and responsibilities of all stakeholders.

Essential gender equality and human rights principles to be respected and applied throughout the programme cycle are:

- **Inclusive** – Takes into account all affected groups, stakeholders, and rights bearers, and is responsive to differences among them. It disaggregates groups by relevant criteria (such as sex and gender, race, ethnicity, colour, religion, economic class, or age) and pays attention to which groups (will) benefit from and which groups (will) contribute to the intervention under review.
- **Participatory and reflective** – Engages stakeholders of the programme at the planning, review, or evaluation stages in meaningful ways, ensuring that they have a say about what will be done and how.

Evaluations will assess whether all relevant stakeholders have been able to participate in the design, implementation, and monitoring of the intervention under review and report and reflect upon their engagement in the programme and in the evaluation itself.

- **Respectful** – Treats all stakeholders – particularly those who are marginalized and impoverished because of their race, colour, sex or gender, national or social origin, migrant status, or any other relevant factors – with respect and develops appropriate ways to engage and be accountable to them.
- **Transparent and accountable** – The conduct of those responsible for the programme is transparent and responsive to questions from stakeholders about all aspects of the process. The design builds in clear accountability procedures for day-to-day use and regular reporting, monitoring, and evaluation. The project document and any results (in progress and evaluation reports) are publicly accessible (in languages and other formats that stakeholders can access). Regular feedback is provided to stakeholders about the content, process, results, and use of the programme.

Adapted from: ILO, 2014d, p. 8.

6.3 Tips

6.3.1 How to promote gender equality in labour migration programme design

Gender-responsive programmes consider and address gender-related issues and concerns of migrants. This does not mean focusing only on women, treating women as a “vulnerable” minority group, or giving the same treatment to all women and all men. It means acknowledging that all individuals, regardless of their sex or gender, and other social markers such as their race, ethnicity, national or social origin, are their own agency with personal aspirations and resources, as well as roles and responsibilities in their families, workplaces, and communities; and recognizing that their aspirations, roles, responsibilities, and resources may be different and that inequalities may exist.

Gender responsiveness starts by asking questions such as: What are the target groups affected by the labour migration programme? Are there differences with regard to the needs, rights, resources, opportunities, benefits, and resources of women and men migrant workers? Will these differences have potential effects on the implementation and success of the programme? More often than not the answers will be, “Yes”.

Gender responsiveness requires, first of all, sex-disaggregated data for an appropriate gender analysis, and may call for more in-depth gender-specific research if substantive gender differentials are found.

The next step is to mainstream gender and redress gender inequalities throughout the programming cycle of a labour migration programme. Key action measures include:

- What are the interests and priorities of male and female stakeholders, including migrant workers, their employers, and labour migration actors at the policy, management, and implementation levels?
- Is there a need to build gender capacity among the labour migration stakeholders?
- Are women included in labour migration policy-making and management?
- What measures will be taken to promote gender equality and close gender gaps?
- How is this reflected at the objective, outcome, output, and activity levels? Are the targets gender responsive, and the indicators disaggregated by sex?
- Will the budget allocations benefit men and women migrants equitably? If not, why?
- Are gender expertise and adequate financial and human resources available for gender-specific measures?

6.3.2 How to promote gender equality in labour migration monitoring and evaluation

The first step in developing a gender-responsive monitoring and evaluation system is to design gender-responsive yardsticks of change, or indicators that measure achievement against a set target within a given timeframe. **Objectives or outcomes** define the intended achievements. Indicators show the extent of progress made in achieving the objectives. Objectives and indicators should be SMART: specific; measurable; attainable; realistic and relevant; and time-bound, timely, and traceable. Usually, impact and process indicators are set:

- Impact indicators measure the achievement of objectives and outcomes.
- Process indicators measure progress made in operations – for example, have the inputs been provided; did activities take place; and were the outputs produced in terms of quantity and quality?

Refer to box 16 for guidance on how to design quantitative and qualitative gender-responsive indicators.

Box 16

How to design quantitative and qualitative gender-responsive indicators?

Gender-responsive indicators are used to measure the possible different effects and impact of development programmes on men and women and gender-related changes. Gender-responsive indicators capture gender-specific information to accurately assess achievements on gender equality goals. It is important to develop both quantitative and qualitative indicators to measure progress in achieving gender equality and empowering the disadvantaged sex. Use of quantitative indicators only can be misleading. For example, increased income of women migrants may not mean necessarily increased spending power or increased control over the benefits from the income. Women migrants generally remit a larger proportion of their income to families back home, while men migrants tend to reserve a larger proportion of their earnings for personal use.

Quantitative indicators are measures of quantity and can be expressed in numbers. For example:

- the **number** of women, men, boy, and girl migrants reached in a programme to raise awareness on HIV/AIDS in particular migrant communities and workplaces;
- the **percentage** of increased income of women migrants in construction work relative to the men migrants' after two years of implementation of legal minimum wage, compared with (baseline data on) the level of income of women and men migrant construction workers at the start of the programme; or
- The **proportion** of women domestic workers having an employment contract.

The **sources of quantitative indicators** are secondary data – records or information databases or surveys, questionnaires, interviews, or tests.

Qualitative indicators are based on descriptive information that captures qualitative (not easily quantifiable) gender differences. This type of indicators usually measures the perceptions, observations, and judgments of individuals or groups on a given subject. For example:

- **the degree to which** women migrant workers feel that they benefit from working abroad;
- the **perceptions** of women and men on the benefits of a particular labour migration policy and how the policy's implementation has affected their working conditions; or
- the **extent or scope** of a project providing legal support services to domestic workers.

The **sources of qualitative indicators** are typically observations, document reviews, focus groups, interviews, attitude surveys, participatory appraisals, field research, and public hearings.

Qualitative indicators are harder to measure than quantitative indicators as they involve attitudes and opinions that are subjective. Therefore, qualitative indicators are sometimes transformed into quantitative data with the use of scales by rating individual perceptions on an issue and counting the number of good/medium/bad ratings. For example: The perceptions of men and women migrants about their working conditions can be ranked on a scale of 1–5, with 1 being the worst and 5 being the best. Such perceptions can also be measured over time at the beginning, halfway, and towards the end of a programme.

Source: ILO, 2010b; ILO, 2005; 2008a, pp. 11–14; European Commission, 2004, pp. 85–87.

6.3.3 How gender responsive are your evaluation criteria and processes?

It is important that any evaluation of any labour migration programme collects information and reviews the gender dimension – irrespective of whether the project has explicit gender goals or outputs, or is considered to be gender neutral. In the latter case, if pronounced gender inequalities are known to exist, it may be useful to ask the evaluation team to explicitly evaluate the gender effects of the project.

The common standard evaluation criteria for measuring performance are: relevance, validity, effectiveness, efficiency, impact, and sustainability. They are usually specified in the Terms of Reference (TOR) for the evaluation, and the evaluators will focus on obtaining sound answers to each of them and reflect this in the evaluation meetings and report. Each of these criteria has a gender dimension.

Key questions to include in the TOR for gender-responsive labour migration evaluations are:

Relevance and strategic fit:

- Does the project align with the gender equality and fair migration goals and strategies of the project stakeholders, the donors, and the ILO and make explicit reference to these goals and strategies?
- Was a gender analysis included during the needs assessment and/or baseline study before or at the start of the project?

Validity of design:

- Does the project document give clear guidance on how to mainstream gender during implementation?
- Do the project objectives and outcomes adequately address the needs and concerns of men and women migrants, as well as gender inequalities in labour migration?
- Does the project document include adequate gender-specific activities and inputs to achieve its aims and result in equitable benefits for men and women?
- Does the project have a gender-responsive M&E system in place (including the collection of sex-disaggregated data and the monitoring of gender-related results)?

Effectiveness of implementation and management arrangements:

- Do the project results affect women and men migrant workers in similar or different ways?
- Did the project achieve its gender-related objectives?
- Have the project's implementing partners been sensitized and trained on gender issues?
- If the project is not achieving its gender equality goals effectively, have alternative strategies been considered to promote gender equality?
- Do the management team and staff have adequate gender expertise?
- Has the project effectively communicated its gender-related objectives, results, and knowledge among project staff, partners, and stakeholders?

Efficiency of resource use:

- Were resources spent equitably for the benefits of male and female beneficiaries?
- Were available gender expertise, guidelines, and tools adequately used?

Sustainability:

- Are the gender-related outcomes likely to be sustainable?
- Are the existing or newly built capacities of implementing partners and stakeholders to promote gender equality sustainable?

Practical means of ensuring that evaluations of labour migration programmes and project are gender responsive include:

- Sex disaggregated data and gender-specific studies should be made available for review and discussed with the evaluator/evaluation team at the start and during the evaluation.
- Ask the evaluator/evaluation team to raise gender equality issues and concerns in the labour migration project with all project stakeholders.
- Ask the evaluator/evaluation team to consult with men and women migrant workers and experts in gender equality and labour migration.
- Ensure that the evaluator/evaluation team has adequate expertise in gender equality in labour migration.
- Ensure that the evaluation report analyses gender concerns and that it includes concrete gender-specific findings and recommendations.
- Ensure that the dissemination and follow-up to an evaluation includes knowledge sharing and action to further gender equality in labour migration.

6.3.4 Gender budgeting, gender targets, and markers⁷⁵

Gender budgeting helps to ensure gender equality outcomes in development programmes, because it “shows where the money goes” at the budget planning, allocation, expenditure, and review stages, and leads to greater transparency and accountability. Gender or gender-responsive budgeting initiatives started in the mid-1980s, firstly, with women’s budget analysis to measure the effectiveness of projects and budgets targeting women and girls. In later years the attention shifted to measuring achievements in gender equality promotion through gender mainstreaming and gender-specific action to close gender gaps. By the late-1990s gender budget analyses reviewed not only public gender-specific expenditures but also general expenditure or “mainstream” government budgets. Besides tracking the spending side of budgets (for example, expenditure analysis of public services in education, job creation, health, or social security), it also started to include analysis of the revenue side of governments’ budgets (for example, analysis of the gender effects of tax systems) (ILO, 2010b).

In addition, countries and international organizations have been setting budget targets for achieving gender equality. One of the first was the Government of the Philippines, which introduced gender and development budgeting in 1995, requiring that a minimum of 5 per cent of the National Government budget be allocated for gender and development initiatives. In 1998, it also became obligatory for local governments to do so (ADB; ILO, 2013). In 2010, a UN-wide target was set, allocating 15 per cent of peace-building budgets to address women’s specific needs, advance gender equality, or empower women. UNICEF’s target for 2012 was that 75 per cent of programme budget allocations and expenditures are assessed as contributing principally or significantly to gender equality results (UNDG, 2013). In 2014, a target was set for Australia’s aid policy, requiring that 80 per cent of all the Government’s aid, across all sectors perform effectively in promoting gender equality, and the Department of Foreign Affairs and Trade (DFAT) will review and assess progress in its annual report on performance of Australian aid (DFAT, 2016).

⁷⁵ ILO, 2010b; UNDG, 2013, OECD, n.d.

The growing development of gender-responsive budgets has demonstrated the usefulness of “following the money” and gender budgeting measures and instruments have gained popularity in line with the adoption of results-based and performance-oriented management systems in the public sectors including international development cooperation. The Development Assistance Committee (DAC) of the OECD developed a **gender marker** to track investments on gender equality and women’s empowerment. As the use of the marker allows identification of gaps between policy commitments and financial commitments, the marker strengthens transparency and accountability in donor financing for gender equality and women’s rights. Further explanation of the gender marker is given in box 17.

Box 17

What is the OECD DAC gender marker?

A gender marker is a qualitative statistical tool to record aid activities that target gender equality as a policy objective. The gender equality policy marker is used by DAC members as part of the annual reporting of their aid activities to the DAC to indicate for each aid activity whether it targets gender equality as a policy objective. The gender equality policy marker is based on a three-point scoring system:

- **Principal** (marked 2) means that gender equality is the main objective of the activity and that the activity would not have been undertaken without this objective.
- **Significant** (marked 1) means that gender equality is an important but secondary objective.
- **Not targeted** (marked 0) means that the activity has been screened using the gender equality policy marker and does not target gender equality.

Data based on the marker provides a measure of the aid that DAC members allocate in support of gender equality. It provides a snapshot of:

- the proportion of DAC members’ aid focused on achieving gender equality and women’s empowerment;
- the sectors prioritized for gender equality focused aid;
- the investments within the individual sectors; and
- the countries prioritized for gender equality focused aid.

Source: OECD, n.d.

The OECD-DAC gender marker is used by all DAC members, and five similar gender markers are in use today among different UN agencies (See ILO, 2010b; Tool 2 for its use within the ILO). To date, gender equality markers have been proven to be good at: documenting trends in planned results (and their corresponding budget allocations) within sectors/types of programmes, and in specific locations, and over time; and helping to raise awareness of gender equality dimensions of project planning and results. To date, gender equality markers have not been good at assessing actual results and the quality of these results; and providing exact figures of disbursements and/or expenditures.

A common cited danger is that only the language of planning documents is changed and that the new language is not supported by real changes in the programme design (for example, inserting words such as “gender-responsive” or “gender-sensitive” without expanding on what this means in practice). Supporting capacity-building measures need to accompany the introduction of a gender marker. One good practice comes from the Canadian International Development Agency (CIDA). Their standard procedure is to have a gender equality specialist and the project/programme manager both agree on the code for the gender marker. This provides both an opportunity for dialogue between the specialist and the manager and a measure of quality control (UNDG, 2013).

Box 18 below gives an overview of the use of different budget tools for setting gender targets and measuring progress in promoting gender equality in labour migration programmes.

| Box 18 Gender budget tools and questions to ask at each stage of the programming cycle | | |
|---|---|--|
| <p>Each of the below tools can be used independently, or combined with other tools. Which tools to use depends on the aim set and the stage in the budget/programming cycle.</p> | | |
| Tool | Questions to ask | Data requirements/methods |
| <p>Gender-aware policy appraisal</p> <ul style="list-style-type: none"> ✓ Good to use early in gender budget initiative in a policy or programme. ✓ A starting point for gender budget analysis. | <p>Q: In what ways will the policy or programme and its resource allocations affect men and women, and reduce or increase gender inequalities?</p> <p>Q: What are the current gender inequalities in the sector? Are there gender-specific constraints, needs, and opportunities?</p> <p>Q: What is the likely impact of current policy or programme on these inequalities, needs, constraints, and opportunities?</p> <p>Q: Is it possible to add specific measures to make the policy or programme more effective, efficient, fair, and just?</p> | <p>Data: Quantitative and qualitative data about the policy or programme.</p> <p>How: Analyse explicit and implicit gender implications of national or sectoral policy or programme, and examine the ways in which priorities and choices are likely to reduce or increase gender inequalities.</p> <p>Methods: Five-step approach: Situation analysis of sector; Policy/programme analysis within sector;</p> <ul style="list-style-type: none"> • Analysis of budget allocations; • Analysis of service delivery; and • Analysis of outcomes/impact/change in situation. |
| <p>Sex-disaggregated beneficiary assessment</p> <ul style="list-style-type: none"> ✓ Makes gender visible. ✓ More participatory than policy analysis as data are collected about/from men and women. | <p>Q: Who are the beneficiaries of the budget or users of the services?</p> <p>Q: To what extent does the policy or programme match the needs and priorities of the beneficiaries or users of the services?</p> | <p>Data: Sex-disaggregated quantitative and qualitative data about/from beneficiaries/users.</p> <p>How: Ask actual or potential (both male and female) beneficiaries or users about their views and experience.</p> <p>Methods: Opinion polls, attitude surveys, focus group discussions, interviews.</p> |

| | | |
|---|---|---|
| <p>Sex-disaggregated impact analysis of the expenditure of an intervention</p> <ul style="list-style-type: none"> ✓ Assesses gender impact of a policy or programme on the intended beneficiaries. ✓ Can be used to estimate gender impact of proposed budget cuts. | <p>Q: How is the expenditure of a given programme distributed between male and female beneficiaries?</p> | <p>Data: Expenditure data for a given programme and data from household surveys.</p> <p>How: Estimate and compare distribution of budget between male and female beneficiaries.</p> <p>Methods:</p> <ul style="list-style-type: none"> • Identify the unit cost of a specific programme or service. • Identify its users and disaggregate them by sex, age, income, ethnicity, location, etc. • Find out how benefits are distributed and whether remedial action is needed. <p>Example: What is the cost of primary education per migrant child and to what extent does this expenditure reach migrant boys and girls of primary school age in different migrant communities? If the results are unequal by sex, location, or income level, a budget shift may be needed to reach the disadvantaged groups.</p> |
| <p>Gender-aware budget statement</p> <ul style="list-style-type: none"> ✓ Not an analytical tool but an instrument of accountability. ✓ May be combined with any of the above tools. ✓ Should be done on a regular basis, e.g., annually. ✓ May be included as an annex to the budget. | <p>Q: What are the expected and actual gender-specific impact of government (or organizational or programmatic) policy, programme, or measures?</p> <p>Q: What remedial measures are being taken to address gender inequalities (not addressed by such policy, programme, or measures)?</p> | <p>Data: Sex-disaggregated data on the organization’s targets.</p> <p>How: Report on the expected and actual gender impact of the budget.</p> <p>Methods: Reporting in narrative, table, or indicator format; easiest in programme or performance budgeting format.</p> |

Adapted from: European Commission, 2004, pp. 103–4; 2006; UNFPA and UNIFEM, 2006.

6.4 Checklists

6.4.1 Gender responsiveness in labour migration programme design

If most of the answers to the following questions in the checklist are “Yes”, it means that the logical framework of the labour migration programme has been designed in a gender-responsive manner. If more than half of the answers are “No” or “Not sure”, more attention is needed to make sure that the programme will address the gender needs and concerns of the target migrant workers.

| Problem analysis | Yes | No | Not sure |
|--|-----|----|----------|
| 1 Are the available statistics disaggregated by sex and other relevant variables such as race, ethnicity, colour, income, etc.? | | | |
| 2 Has a gender analysis been conducted?  For example, are there differences between men and women migrant workers in terms of the occupations they can undertake in the destination country? Are there differences in their working and living conditions? | | | |
| 3 Have any existing gender differences, imbalances, or inequalities been identified among migrant workers at specific points in the migration cycle, e.g., in terms of access to legal migration opportunities, legal protection in the destination country, in recruitment, remuneration, control over earnings, working conditions, or benefits from migration?  If yes, are these inequalities being addressed in the programme? If not, why? | | | |
| 4 Have the practical and strategic needs of the men and women migrant workers been identified?  Practical needs relate to inadequacies in living and working conditions and are linked to basic livelihood and survival, such as food, water, shelter, income, clothing, and health care.  Strategic needs refer to needs to overcome the subordinate position of women migrant workers and to promote gender equality and empowerment of both women and men in their workplace, family, and community; e.g., meaningful participation of both women and men in the programme, sharing of decision-making, equal access to education and training opportunities. | | | |

| Strategy development and institutional framework | | Yes | No | Not sure |
|--|---|-----|----|----------|
| 5 | Is there adequate gender equality commitment from the migration policy-makers, migration managers, programme leaders, and main stakeholders? | | | |
| 6 | <p>Have the outcomes of the gender analysis been used in the development of the programme strategy?</p> <p> If the problem analysis is gender blind, it may be necessary to conduct a gender analysis at the start of the programme, and to collect sex-disaggregated baseline data and develop indicators for monitoring and evaluating the programme's effects and impact on women and men migrants.</p> | | | |
| 7 | <p>Do the implementing labour migration organizations have in-house gender expertise or support from organizations with gender expertise to design and carry out gender-responsive interventions?</p> <p> Review organizations' mandates, their major areas of intervention, their structure, representation of men and women in policy-making and implementation, and gender attitudes and capacity to plan, implement, and monitor gender equality strategies in labour migration.</p> | | | |
| 8 | Have the views of both men and women migrant workers as well as male and female labour migration actors who are intended to participate in and benefit from the programme been sought in the consultative process? | | | |
| 9 | Are there clear strategies and/or institutional mechanisms to ensure that women and men migrant workers, migration policy-makers, managers, and operational/field staff will participate and benefit equitably? | | | |
| 10 | If gender inequalities exist, are any gender-specific strategies and practical measures built into the programme (that will address the practical and strategic needs of women and men migrant workers and reduce the gender gaps)? | | | |

| Target groups* | Yes | No | Not sure |
|---|-----|----|----------|
| 11 Have the key characteristics and possible differences among the target groups been clearly identified by sex, race, colour, type of work, income, or other relevant characteristics? | | | |
| 12 Does the problem analysis clearly identify women and men stakeholders and their respective roles? | | | |
| 13 Are the ways in which the programme benefits will be distributed to the target groups clearly identified?  For example, have gender targets been set for access to training and other benefits for the programme's intended beneficiaries and direct recipients? | | | |
| 14 Are there measures to strengthen the capacity of migration policy-makers and staff of migration management institutions to promote gender equality and address inequalities? | | | |

**Target groups* refer to (i) the people the project intends to benefit, i.e., intended beneficiaries, and (ii) staff of participating organizations – they are the direct recipients who are being enabled to better serve their intended beneficiaries as a result of the project.

| Objectives and outcomes* | Yes | No | Not sure |
|--|-----|----|----------|
| 15 Do the objectives reflect priority concerns and respond to the practical and strategic needs of male and female beneficiaries and/or direct recipients? | | | |
| 16 If there are pronounced gender inequalities to be addressed by the programme, is this reflected in one or more of the programme objectives (and corresponding outputs, indicators)? | | | |
| 17 Does the programme have policy or institutional development outcomes and benefits that may have a different impact on men and women? | | | |
| 18 Do the objectives and outcomes clearly identify the intended beneficiaries and other stakeholders by sex and other relevant characteristics (race, ethnicity)?  Avoid general, non-gender-specific terms such as “construction workers”, “migrants” or “foreign workers” as most people automatically think of men rather than of both men and women. | | | |
| 19 In direct action programme components, do the immediate objectives specify the ratio, target, or number of female and male intended beneficiaries? | | | |

*Objectives and outcomes are used interchangeably. They are usually formulated at two or three levels: development, intermediate, and immediate objectives. Development objectives or outcomes refer to the expected contribution of the project to wider positive economic or social changes. Immediate objectives or outcomes refer to significant changes (policies, knowledge, skills, behaviours, practices, etc.) that are intended to occur as a result of the programme or project.

| Outputs* | | Yes | No | Not sure |
|----------|---|-----|----|----------|
| 20 | <p>In policy-making or programme design, are the roles of women and men, their specific needs and participation levels, as well as their specific constraints, explicitly taken into consideration?</p> <p> For example, in a policy or programme aiming at equitable outcomes and benefits between women and men migrant workers or for women migrants, if too few representatives of women migrant workers participate in decision-making, design special measures to enhance their participation.</p> | | | |
| 21 | <p>In institutional development components of the programme, has the institutional capacity on gender equality promotion been identified?</p> <p> For example, are both women and men well represented in the decision-making bodies, such as advisory, steering, or management committees? Is adequate expertise on gender equality promotion and labour migration available?</p> | | | |
| 22 | <p>In direct action components, are the numbers or percentages of men and women migrant workers clearly specified among the intended beneficiaries?</p> | | | |
| 23 | <p>In research components, are the data to be disaggregated by sex, and gender relations and inequalities identified with explicit information provided about the specific situations, constraints, and opportunities of both women and men migrants?</p> | | | |
| 24 | <p>In training/education or skills certification components, are the numbers or proportions of women and men beneficiaries or direct recipients specified? Is it clear who will be trained, in what areas, and at what levels?</p> | | | |

| | | | | |
|----|--|--|--|--|
| 25 | If there is a high chance that women migrant workers will participate less and/or derive fewer benefits than men migrant workers, have quota or targets been set for men's and women's participation under the outputs and activities? | | | |
|----|--|--|--|--|

*Outputs are valuable resources, goods, or services produced by the project and delivered to beneficiaries.

| Activities | | Yes | No | Not sure |
|------------|---|-----|----|----------|
| 26 | Are the programme activities designed to meet or address the specific gender needs of the target groups? | | | |
| 27 | <p>If programme measures are designed for both men and women migrant workers, are there means to ensure that all have equitable access to programme activities?</p> <p> For example: In migrant recruitment drives in origin countries, is the timing of migration information meetings suitable for women, who generally have household chores; and are information channels and materials and languages used that are accessible to potential women migrants? The location, physical arrangements, and duration of the activities should also be suitable for both men and women. Childcare facilities may be necessary, so that workers with family responsibilities can participate.</p> | | | |
| 28 | If women or men cannot or will not speak freely in mixed groups on, for example, health matters or sensitive topics like how to prevent sexual and labour exploitation, are separate events planned for women only and men only with facilitators of the same sex to conduct the events? | | | |
| 29 | During project implementation do policy-makers and staff seize opportunities to raise awareness on gender equality promotion and demonstrate that the participation of women alongside men in migration and development is beneficial to everyone? | | | |

| Inputs | Yes | No | Not sure |
|---|-----|----|----------|
| <p>30 Do all programme policy-makers, staff, and partners have an understanding and commitment to contribute to gender equality in the programme?</p> <p> If not, specific gender guidance should be provided to staff and partners as necessary. Staff positions that require gender expertise should explicitly state so in the job descriptions. Programme managers should be held accountable for gender equality promotion in performance appraisals.</p> | | | |
| <p>31 In strengthening the capacity of labour migration policy-makers and staff of migration management institutions, is it necessary to increase their awareness and capacity on gender equality in migration?</p> | | | |
| <p>32 Has a gender budget analysis been done to assess and analyse the possible different impact of programme expenditures on female and male intended beneficiaries?</p> | | | |
| <p>33 If gender analysis or budget analysis revealed inequitable effects on female and male beneficiaries, have remedial measures been included in the project document to redress such inequity?</p> | | | |
| <p>34 If substantial gender-specific measures are needed, will staff be recruited with the required gender and labour migration expertise?</p> | | | |
| <p>35 Have adequate financial resources been allocated to effectively mainstream gender and undertake gender-specific measures?</p> | | | |
| <p>36 If women migrant workers cannot be effectively reached by male staff, have steps been taken to recruit the female staff required, and vice versa for men?</p> | | | |

6.4.2 Gender responsiveness in the monitoring and evaluation of labour migration programmes

This checklist helps to assess to what extent a programme’s monitoring and evaluation (M&E) system is gender responsive. If most of the answers to the following questions are “Yes”, it means that the M&E system is gender responsive. If more than half of the answers are “No” or “Not sure”, there is a need to refine the M&E system to better integrate gender concerns.

| Developing a M&E system | | Yes | No | Not sure |
|--|---|-----|----|----------|
| 1 | Are the baseline data disaggregated by sex and gender-specific, indicating relevant gender concerns? | | | |
| 2 | Does the M&E plan require all beneficiary data to be systematically broken down by sex to measure the gender effects and impact of the programme? | | | |
| 3 | Are the indicators (targets or milestones) disaggregated by sex and gender-specific, and do they capture the programme impact on the situation of women and men migrant workers and gender relations? | | | |
| 4 | Have allocations been made in the budget to ensure gender-specific data collection, monitoring, and evaluation? | | | |
| 5 | Has the M&E plan been reviewed by gender and labour migration experts? | | | |
| Gathering and managing information during implementation | | Yes | No | Not sure |
| 6 | Do the programme’s staff have sufficient capacities to gather gender-specific data and conduct proper gender analysis? 💡 If the staff lack gender expertise, what kind of capacity building is needed and who will do this? | | | |
| 7 | Are methods and tools being provided to the programme’s staff to collect gender-specific data (both quantitative and qualitative) to effectively measure and evaluate the nature and extent of the benefits for the male and female intended beneficiaries and direct recipients? | | | |
| 8 | Do the data capture any possible differences in the programme’s impact on men and women migrant workers? | | | |

| Monitoring and evaluation | | Yes | No | Not sure |
|---------------------------|--|-----|----|----------|
| 9 | Are the programme's effects on men and women migrant workers and the direct recipients regularly monitored and evaluated? | | | |
| 10 | <p>Do the terms of reference (TORs) for internal and external evaluations require assessment of the gender impact of the project through consultations with men and women among beneficiaries and partners, and gender experts?</p> <p> If labour migration programme documents and TORs for evaluations do not consider gender issues, chances are that the programme does not benefit men and women in an equitable manner. If there are indications of gender inequalities, evaluators should analyse relevant gender concerns and propose remedial action.</p> | | | |
| 11 | <p>Are gender observations in monitoring and evaluation events and reports reviewed with key programme partners or stakeholders, and remedial action taken?</p> <p> Sample questions for discussion:</p> <ul style="list-style-type: none"> • How does the labour migration programme affect men and women migrants? • If there are differences in programme impact on men and women, why? (May need to review whether budgets/inputs are gender responsive.) • What (un)expected effects does the programme have on women and/or men migrant workers and direct recipients? • What are its possible long-term effects on gender equality in labour migration? • What can be learned from this programme in terms of gender equality promotion in labour migration? • How does the programme strategy need to be adapted to better achieve gender equality goals in the programme? | | | |

| Communicating and reporting results | Yes | No | Not sure |
|--|-----|----|----------|
| 12 Are the programme's effects on women and men migrant workers and relevant gender differentials addressed in progress, monitoring, and evaluation reports? | | | |
| 13 Do the progress, monitoring, and evaluation reports indicate how the programme performed in terms of promoting gender equality in labour migration? | | | |
| 13 Has the programme established mechanisms to share knowledge on promoting gender equality in labour migration? | | | |

6.5 Exercise

6.5.1 How to design a gender-responsive labour migration project document⁷⁶



Exercise guide

Aims

To enable participants to carry out a gender problem analysis and develop gender-responsive strategies, outputs, activities, and inputs for a new ILO-supported labour migration project, covering six ASEAN Member States in the Greater Mekong Subregion and other ASEAN Member States.

Methods

Small working groups, followed by a plenary discussion.

Time

70-90 minutes.

Training preparation and materials

- Read the handouts with the instructions for small group work, the case study, and the response to the case study. Adapt the questions for the group work to suit the level and interest of participants if needed.
- Prepare copies of handouts 1 and 2, one each for each participant.

⁷⁶ Adapted from ILO, 2015a.



Session plan

Step 1

At the start of the exercise, introduce the exercise topic, distribute the handout with the assignment for small group work and the case study. Explain the assignment and divide participants in small groups (5 minutes). Give the groups 30–40 minutes to finish their assignment.

Step 2

When the groups are ready, start the plenary session (30–40 minutes) by asking the groups to briefly report back. Stimulate dialogue when groups bring up new points. Add key points not mentioned by participants using the handout with the response to the case study.

Step 3

Summarize a few key messages that came out of the discussion (5 minutes). Distribute handout 2 at the end of the session.

Example key messages

- Women and ethnic minority migrants with little education and from rural areas often end up in informal jobs without legal documents in destination countries. They are at risk of labour and human rights exploitation and abuse, including forced labour.
- In general within ASEAN, labour migration governance frameworks and migration management institutions are not yet functioning in an effective manner. There is little gender awareness and hardly any gender capacity in these institutions. Labour migration laws exclude occupations where many women are found, such as domestic work, and women migrant workers face many more hurdles than male migrants.
- Examples of gender-specific measures include large-scale capacity building of men and women labour migration policy-makers, managers, and practitioners, as well as women and men migrant workers; consensus building among them in each participating country to change harmful gender practices in labour migration; development of an explicit gender strategy for the project; increasing women's agency, decision-making capacity, and group formation; protecting women from violence during migration; enhancing women's access to productive, higher-paying jobs within Asia; and increasing women migrants' capacity to control their earnings and promote productive use of remittances as well as the social and economic assets they build up during migration .
- Project management and staff will be held accountable for gender equality promotion in performance appraisals and one project staff will be responsible to ensure that a gender strategy will be developed and implemented. External gender consultants will help project partners to develop gender-sensitive measures that address actual needs of women migrant workers. Adequate resources for gender measures will be provided by the project and will be mobilized from project partners.



Handout 1 for participants

Assignment: How to design a gender-responsive labour migration project document

As part of a project design team for a new ILO-supported labour migration project, covering six ASEAN Member States in the Greater Mekong Subregion and other ASEAN Member States, your group is requested to develop gender-responsive measures for the draft project document.

- Read the case study and discuss.
- Use the questions below to guide your discussions.
- Assign a rapporteur and a spokesperson in your group.
- The rapporteur can use a flipchart or slide presentation to note down the main points.
- The spokesperson will briefly present the outcome of your discussions in plenary.

Questions for discussion

1. From your experience, what are some of the main gender constraints faced by women and men migrant workers in the six countries? List the ones mentioned in the problem analysis and others that your group knows about.
2. The project will follow the twin-track approach to gender equality promotion by:
 - mainstreaming gender equality and benefitting men and women migrant workers equitably; and
 - increasing women's empowerment and closing gender gaps through gender-specific measures.
3. Identify practical measures and specific outputs, activities, and inputs to enable the project to achieve its gender equality outcomes.

Case study

Problem analysis

In ASEAN there are still few incentives for, and significant cost barriers to, the legal channels of migration within the region, forcing many migrant workers into irregular situations that leave them more vulnerable to human trafficking and exploitation. Women and members of ethnic minorities are at a particular risk of trafficking due to the lack of access to regular migration channels and external assistance. Many migrants using legal channels also suffer violations of their human and labour rights because of inadequate laws and regulations to protect them during recruitment at home and employment abroad, as well as limited access to recourse.

Few ASEAN Member States have policies and practices in place that address labour migration governance, as it takes time, and human and financial resources to developing comprehensive legislative and regulatory frameworks to reduce irregular migration and protect migrants. Where protective laws and regulations are in place for migrant workers, these are often not enforced effectively. There are institutional constraints in ministries and institutions governing labour migration. Challenges also exist in connecting migrant workers with fair wages, decent working conditions, social protection, maternity benefits and health care, and education for their children. Services that provide information, advice, and support to (potential) migrant workers have increased and improved in recent years, especially through the establishment of Migrant Worker Resource Centres run by government, trade unions, or civil society partners in both countries of origin and destination. However, there are still large gaps in the coverage of these services: for example, in migrants' villages prior to departure, or in the workplaces on arrival. In the absence of comprehensive support services, migrants rely on information from relatives and brokers, and can be misinformed and exploited as a result.

The proportion of women migrants in ASEAN is rising, but evidence suggests that women are overrepresented among irregular migrant workers and that women are more likely to migrate irregularly into informal work. Domestic work, care work, and work in the entertainment and sex industries continue to be largely performed by women, but remain outside many protective mechanisms afforded to workers in other sectors. Women also earn less, due to the types of jobs available to women, the lack of wage protection in these largely informal jobs, and women's lack of skills and access to resources. So far, there has been little attempt to mainstream gender into migration management policies and programmes. Protective policies exist restricting women's regular migration by country and sector, and these policies are often the reason why women migrate without the protection afforded by regular channels.

Design of the project strategy

A project document was developed aimed at increasing the contribution of labour migration to development in ASEAN in six countries (Cambodia, the Lao People's Democratic Republic, Malaysia, Myanmar, Thailand, and Viet Nam) and other ASEAN Member States for five years. The project goal is to maximize the contribution of labour migration to equitable, inclusive, and stable growth in ASEAN. The project's intended outcomes and key outputs are:

Outcome 1: Migrant workers are better protected by labour migration governance frameworks through:

- adoption of gender-responsive policies and legislation on protection of migrant workers;
- increased institutional capacity of government and social partners to implement labour migration governance frameworks; and
- delivery of model support services, including the Migrant Worker Resource Centres.

Outcome 2: Policies and programmes harness the potential of women and men migrant workers to contribute to economic and social development through:

- improved regulation and transparency of the costs and fees associated with labour migration and remittance services;
- service systems that enable migrant workers and their family members to better manage their financial resources;
- increased access to reintegration services for returning migrant workers; and
- enhanced knowledge on the impact of migration on economic and social development.

Outcome 3: Labour mobility systems are gender responsive and increase the efficiency of labour markets in the ASEAN region through:

- improved capacity of governments to effectively match supply and demand for migrant labour;
- establishing systems through which women and men migrant workers are able to have their skills recognized and certified; and
- strengthening labour mobility systems and protection frameworks through greater regional coordination and cooperation.



Handout 2 for participants

Response to the case study: How to design a gender-responsive labour migration project document

The assignment provided in Handout 1 is based on a gender-responsive labour migration project document designed by ILO and its constituents in South-East Asia in 2015. Below is a summary of the gender strategies, aims, and measures, as well as gender-specific outputs, activities, and human and financial resources found in the actual TRIANGLE II project design document.⁷⁷

Practical measures and inputs for gender equality and women's empowerment

In addressing gender through the twin-track approach of (1) mainstreaming and (2) focused initiatives, the project aims at providing equal access and opportunity to women and men to benefit from migration and carrying out gender-specific measures for women's empowerment throughout the migration process.

Efforts will be focused on working with and for women migrant workers to improve their agency and voice with the view to increasing their empowerment and leadership, and addressing gender-based violence. This will include ensuring that women migrant worker representatives are present and empowered to share their voice at policy-making forums as well as those forums that decide the direction of the project itself.

There will be specific focus on increasing the resources that are allocated for women's empowerment – both the project's resources and those of partners. This will enhance women's access to protected and profitable migration options and improve women's ability to harness the full benefits from their work. This includes proactive efforts to ensure equal opportunities for women under the MOUs between countries or to ensure that places where women work enjoy the same protections as other workplaces. In countries of origin, attention needs to be paid to how women can attain the training and language abilities required for high-income jobs in Japan, the Republic of Korea, and Taiwan (China).

The project will promote gender equality in labour migration in a proactive manner aimed at transforming gender biases and harmful gender norms, and changing gender stereotypes so that women and men migrants:

- have more equitable access to productive jobs in countries of destination;
- are protected from labour and sexual exploitation and abuse; and
- gain social and economic assets from the migration experiences for use in their countries of origin upon return.

A gender-transformative approach will be taken and the project will maintain accountability for ensuring that gender is considered in progressive terms. Practically, this will require all partners to consider how their interaction with gender can ultimately have a transformative impact. All project data will be disaggregated by sex. The approach will be elaborated in an explicit project gender strategy as well as in the monitoring and evaluation framework to be finalized during the start-up phase of the project.

Implementation of the twin-track and transformative gender approach will be ensured through the recruitment, selection, and training of all staff, consultants, and implementing partners. A gender toolkit will be compiled primarily from the existing tools of the ILO and other partners, to guide partners and stakeholders in implementing a gender-transformative approach. The project will demonstrate and replicate

⁷⁷ The project design document can be accessed online at: <http://dfat.gov.au/about-us/publications/Pages/triangle-project-design-document-phase-II.aspx>. [accessed 13 Jun. 2016].

the promotion of women and women migrant worker representatives in all levels of design, implementation, and evaluation. The project will eliminate all-male delegations and panels in activities, and partners will be held accountable to the proportion of women engaged in decision-making and representation. One of the project's technical officers will have gender included as a core responsibility in the job description and will be responsible for implementation of the twin-track approach and transformative gender agenda. All staff will be made responsible and held accountable for gender equality promotion in their regular performance appraisals. Consultants with local gender expertise will provide specific technical advice at sub-national, national, and regional levels in a way that ensures that the gender-specific resource requirements of each country are understood and addressed.

Women's economic empowerment is widely recognized as one of the key foundations for promoting gender equality and sustainable and inclusive economic growth and development. Improving pay and conditions in sectors dominated by migrant women is vital to the broader picture of development. Sound evidence exists that women are likely to be paid less but send higher proportions of their earnings home, and as such, any programme focused on increasing wages should have the effect of increasing remittances and economic growth in general, pointing to the importance role of women in development. However, recognizing that increased earnings of women migrant workers does not automatically address issues of gender inequality and power dynamics as they may not have control over the income and should have the right to use their earnings for their own development too, the project will support initiatives that explore and respond to the agency women have in their decision to migrate and how they want to spend their remittances. The project will seek also to address the development needs of women migrant workers themselves outside of the benefit of their remittances, recognizing that women are development agents but also can be agents for social change that have greater development impacts in relation to prosperity and security.

Gender-responsive outputs, activities, and inputs

Outputs under Outcome 1: Migrant workers are better protected by labour migration governance frameworks through:

- **Output 1.1:** Gender-responsive policies and legislation on protection of migrant workers are adopted.
 - The project will support increased growth by ensuring that the benefits of labour migration are equally realized by men and women migrant workers, employers, and governments. Equal numbers of women and men migrant workers among the 100,000 target groups (including migrants and potential migrants, their families and communities, and the economies that rely on migrant labour) will benefit from improved access to safe and legal migration channels and better jobs where rights are protected and skills are recognized during migration and on return. Particular focus will be on those migrant workers who are more vulnerable because of gender, ethnicity, religion, working, or living conditions.
 - In the project, efforts will focus on strengthening the key laws and policies in Myanmar, Thailand, and Viet Nam, where the governments have explicitly identified the need to update specific laws and policies on labour migration in the coming years. In reviewing these laws and policies, there is an opportunity to address gender stereotyping of occupations; equality in access to legal migration channels, and terms and conditions of work; and to ensure that information, financial, and social services are tailored to meet the specific needs of women.
- **Output 1.2:** Institutional capacity of government and social partners to implement labour migration governance frameworks is increased.
 - Specific attention will be given to developing tools and training on increasing gender-responsive implementation and enforcement, specifically in relation to the capacity of labour inspectors to identify gender specific challenges.
- **Output 1.3:** Through the delivery of support services, models for Migrant Worker Resource Centres are assessed for scaling, sustainability, and effectiveness.

- In receiving countries, more emphasis will be placed on ensuring that migrant support services extend to women in their workplaces, especially in domestic work and possibly sex work, where women can be particularly isolated and vulnerable. These support services must also refer onward to services responding specifically to the needs of victims of violence – recognizing that preventing violence is a key factor in the protection of women migrants.

Outputs under Outcome 2: Policies and programmes harness the potential of women and men migrant workers to contribute to economic and social development through:

- **Output 2.1:** Regulation and transparency of the costs and fees associated with labour migration and remittance services is improved.
 - No gender-specific outputs, issue to look into the gender strategy to be developed at the start of the project.
- **Output 2.2:** Service systems that enable migrant workers and their family members to better manage their financial resources are established.
 - Initiatives focused on financial literacy will also recognize the levels of agency that migrants are able to exercise in making the decisions about how their remittances are spent. In particular, the project will support initiatives that promote women’s ability to control their remittances.
- **Output 2.3:** Access to reintegration services is increased for returning migrant workers.
 - The project will emphasize among its partners the importance of inclusive growth that empowers women and minorities, including those in the poorest communities.
 - Outputs under Outcome 3: Labour mobility systems are gender responsive and increase the efficiency of labour markets in the ASEAN region through:

Outputs under Outcome 3: Labour mobility systems are gender responsive and increase the efficiency of labour markets in the ASEAN region through:

- **Output 3.1:** Capacity of governments to effectively match supply and demand for migrant labour is improved.
 - No gender-specific outputs, issue to look into the gender strategy to be developed at the start of the project.
- **Output 3.2:** Systems through which women and men migrant workers are able to have their skills recognized and certified are established.
 - The project will support the improvement of data and worker–job matching in occupations that involve women. Both men and women migrant workers are generally concentrated by industry, occupation, and area, and there are often limited data and standardized job descriptions in industries and occupations dominated by women migrants. This gap will be filled by surveying employers and workers in female-dominated industries and occupations to learn what skills employers want and what skills current workers have.
 - The project will support strengthening of frameworks that are gender responsive and provide equal access to women, while addressing equal access by increasing the understanding and ability of partners (including employers) to break down traditionally held views of gendered sectors.

Activities:

- The gender dimensions will be appraised during the project. To thoroughly analyse the extent to which – and the reasons why – the project activities benefit women and men migrants differently, monitoring and evaluation strategies will be applied to assess gender responsiveness at all levels:
 - **Inputs:** Calculation of the share of project financial resources dedicated to sectoral work or other activities that disproportionately benefit women or men migrant workers.
 - **Outputs and outcomes:** Gender disaggregation of monitoring data for outputs and outcomes and analysis will take place every six months.
 - **Impact:** Surveys in project countries will collect equally stratified samples of women and men migrant workers to support a bi-variate analysis of the results by gender. In addition, the gender responsiveness of labour migration policies and practices will be assessed in line with the relevant ILO standards.
- Specific gender capacity-building efforts will be carried out to increase knowledge, understanding, and acceptance of the principles of gender equality and women’s empowerment among migration policy-makers, managers, and practitioners. The project will also interact with national women’s machineries in the six countries, and with the ASEAN gender mechanisms.
- The project will research on women’s access to legal channels for migration to encourage evidence-based policy development and advocate for equal opportunities for women to be negotiated within bilateral and regional agreements, as well as a study on the development impact of economically empowered migrant women.
- The project activities will ensure that women and minority migrants receive special attention in business start-up programmes upon their return.



| | |
|----------------------|--|
| RECEIPT OF PAYMENT | |
| DATE: 10/10/2019 | |
| NAME OF BENEFICIARY: | |
| NAME: _____ | |
| ADDRESS: _____ | |
| PHONE: _____ | |
| CITY: _____ | |
| STATE: _____ | |
| COUNTRY: _____ | |
| TOTAL AMOUNT: _____ | |
| RECEIVED BY: _____ | |

Tool 7. GEM: Human resources management

7.1 About this tool⁷⁸

This tool explains why equality promotion is important for labour migration organizations and human resource management and development (HRD). It provides checklists to help assess institutional capacity to promote equality for women and other marginalized groups and the extent to which labour migration management organizations promote gender equality and mainstream gender in their institutional practices. The tips show how to increase organizational GEM capacity, and include examples of successful GEM–HRD procedures, and gender equality standard clauses in Terms of Reference (TORs) and external collaborator contracts.

Aims:

- To review and improve organizational capacities to promote gender equality, diversity, and human rights and mainstream gender in labour migration organizations.
- To promote the use of gender-responsive and equitable HRD procedures and practices in labour migration organizations.

7.2 Rationale and concepts

7.2.1 Why is it important to address gender and other biases in organizations?

Workplaces benefit from the diverse talents that men and women bring and human capital is the most important asset of organizations for achieving their goals and mandate. However, even labour migration management organizations with explicit gender, equality, and diversity goals often face organizational HRD challenges that impede effective gender-responsive action. This happens because many organizations in charge of labour migration issues – ministries of foreign affairs, labour, justice, the interior, social welfare and social security; employers' and workers' organizations; and company Chief Executive Officers (CEOs) managers, and supervisors – suffer from internal imbalances in their staff composition. For example, a majority of men of the dominant ethnic group may be found in the higher-level positions and most of the women and ethnic minority groups occupy subordinate positions. This compromises organizations' capacity to value diversity and take into account the views and perspectives of all people in their work. Men's perspectives and behaviours become the norm in such organizations and the concerns, interests, and priorities of women and ethnic minority groups become marginalized.

⁷⁸ Based on ILO, 2010b; 2011a; OSCE, 2009.

This phenomenon is not an exceptional or aberrant occurrence, resulting from isolated acts of an individual leader, policy-maker, or company CEO. Gender and other inequalities and discrimination on grounds such as sex and gender, race or colour, and migrant status are not exceptional or stand-alone occurrences but are a systematic and structural phenomenon, rooted in the gender norms and values in societies, and therefore, are deeply embedded in the way in which organizations and workplaces operate. The institutionalization of discrimination in organizations reflects and reproduces discriminatory practices and outcomes, usually, if not always, at the expense of women and other discriminated groups.

For this reason labour migration management organizations committed to providing equitable, non-discriminatory labour migration governance services to men and women migrant workers have started to make changes in their human resource procedures and practices. Questions to ask include:

- What are the perceptions on gender equality, human rights, and diversity of management and staff at all levels in the organization? What are common attitudes towards people of different race, ethnicity, or migrant status?
- Are there any gender, racial, or other biases in the organizational culture, in policy agenda's, institutional mechanisms, or workplace practices that need to be addressed before the organization as a whole and individual staff have the capacity to effectively promote equality for women and men migrant workers.

Successful remedial measures include: providing equality, diversity, and human rights training to male and female executives and staff; ensuring better gender parity and diversity among policy- and decision-makers, and among managers and staff at all levels; and increasing gender expertise and accountability for equality promotion among staff. This leads to more effective labour migration policy and programme development and improved service delivery to all clients (ILO, 2003a; 2007d).

7.3 Tips

7.3.1 How to increase GEM capacities in your organization

Build internal gender capacity and seek outside gender expertise

Following the 1995 Beijing Declaration adopted at the Fourth World Conference on Women in Beijing, governments have strengthened women's ministries and established gender units and gender focal point systems within other ministries and government structures at the national and decentralized levels. Gender knowledge and expertise are also available among employers' organizations, such as women entrepreneurship associations or women in business networks; in gender equality or women workers' units of trade unions; in universities; and in civil society organizations:

- At the start of action, expertise on gender equality, human rights, and labour migration is usually needed to help an organization with labour migration responsibilities with its GEM review or to design a GEM policy, programme, or action plan.
- Equality experts are important change agents, helping organizations to avoid common pitfalls and become more effective in promoting gender equality within their organizational mandate.

Do a participatory gender audit within your organization

A participatory gender audit promotes organizational learning on how to mainstream gender effectively within the work of an organization through a process of team building, analysis, reflection, and knowledge sharing. A gender audit:

- examines an organization's objectives, programme, and budget as well as its organizational culture from a gender perspective and establishes a baseline;
- identifies strengths, critical gaps, and challenges for gender equality promotion, recommends ways of addressing these, and suggests possible improvements and innovations; and
- helps to build organizational ownership and commitment to gender equality initiatives.⁷⁹

7.3.2 What are successful GEM–HRD procedures and practices?

Gender equality, diversity, and human rights promotion in organizations is not only about women, but about men and women of all races, ethnicities, and gender identities at all levels in an organization. It requires active participation not only from motivated women, men, or gender experts, but participation and support from all men and women in the organization.

Successful GEM–HRD policies, procedures, and practices

- Assign responsibility for gender equality and human rights promotion to the highest levels of the organization and make sure the organization's equality messages, policies, and actions are widely and regularly communicated to all staff including newcomers.
- Assign responsibility for overall GEM implementation with clear distribution of duties and responsibilities at all levels (managers, specialists and experts, programming officers, counselors, etc.)
- Increase GEM accountability by assessing performance on equality promotion in all relevant staff performance appraisals. This includes all managers as well as staff with part-time or full-time responsibilities to promote gender, equality, and diversity in labour migration and/or provide services to women and men migrant workers.
- Strive towards gender balance at all levels in the workplace: Set targets for gender parity to increase representation of women in senior positions and in-field positions – for example, embassy staff, labour inspectors, law enforcement officers, and counselors – to ensure effective and equitable service to women and men migrant workers and employers.
- Provide for specific gender capacity building for all staff in their field of responsibility. For example, HRD officers need to know why GEM is important and how to integrate it in HRD procedures and practices; labour inspectors need gender skills for use during inspections.
- Address gender equality in recruitment:
 - Include overall GEM responsibilities in job descriptions, vacancy announcements, TORs for consultants and subcontracts.
 - Require gender expertise for posts that are critical for effective equality promotion.
 - Assign gender experts when gender inequalities are to be addressed.

⁷⁹ ILO, 2012a.

- Avoid making only a few people responsible for gender equality, diversity, and human rights promotion. Where these responsibilities are exclusively delegated to a small unit with few staff, often women or other members of under-represented groups, these staff members tend to be overburdened and work in isolation outside the mainstream of their organizations, as other staff are not held accountable to uphold these organizational values.

For information on how to address harassment and violence against migrant workers and within organizations, see Tool 8.

Merit and equality promotion: “Do’s and Don’ts” in positive action measures

The provision of equal opportunities to men and women in workplaces makes good “social justice and business sense”. People in workplaces with an equitable sex/gender balance at all levels are usually more productive and happier. Diversity and the use of the combined talent of men and women are good for productivity and an equitable gender balance in workplaces can go a long way in preventing workplace abuses such as sexual, racial, and other forms of harassment and violence.

- **Merit** is the primary criterion for recruitment and promotion in societies where women and men have received equal chances in education and training. Given equal merits, however, if there are pronounced inequalities, positive action measures may need to be applied to redress the effects of (past) discrimination. This means giving priority to applicants from the under-represented group (sex, ethnicity, gender identity, health condition, or other relevant grounds).
- **Positive action measures** are often resented by the majority group. This can lead to harassment or a hostile working environment for people who have been selected on the basis of both merit and positive action. It is therefore important to clearly disseminate the message that successful applicants who have been given preference (due to under-representation of their own group) have passed the “equal merit” test first.
- In many societies and organizations, **women, ethnic, and other minorities are seriously under-represented at the higher decision-making levels** in public office, in government, and in the private sector. In such cases, it is necessary to:
 - Set targets or quotas for representation of the under-represented groups at the higher echelons, and/or for men and women at all levels.
 - Lower the “entry bar” if members of the under-represented groups cannot compete on an equal footing because of lack of education, training, or chances to take on positions in the organization. This measure needs to be accompanied by intensive capacity-building training and coaching to enable the selected persons to carry out their new responsibilities effectively.

Box 19

Examples of GEM clauses in TORs and external collaborator contracts

For research and design of programme documents

The consultant(s) will be responsible for ensuring that gender equality and diversity concerns are addressed into the labour migration work through:

- the collection and reporting on sex-disaggregated data and gender analysis in labour migration;
- consultations with relevant gender, equality, and labour migration experts and organizations;
- explicit discussions on the gender dimensions of the technical work;
- incorporation of gender analysis and planning into the strategies, objectives, or outcomes, indicators, outputs, activities, and budgets of the labour migration research or programme; and
- development of recommendations and practical suggestions for gender equality promotion in labour migration.

For more information, see Tool 3 and Tool 6.

For project implementation and workshops

The consultant will ensure that gender concerns are included in the labour migration activity's aims, outputs, activities, and inputs, including:

- commissioning of research;
- carrying out consultations, meetings, training, and advocacy activities;
- issuing of invitations to participants and resource persons;
- preparing workshop agendas;
- giving presentations or preparing guidelines for presentations by invited speakers; and
- in monitoring, evaluation, and reporting assignments.

For more information, see Tool 3 and 6.

Source: ILO, 2010b

7.4 Checklists

7.4.1 What is the GEM capacity of your organization?

If most of your answers in this checklist fall in the “Yes” column, it means your organization is on the right track in integrating gender equality in the labour migration (GEM) duties and responsibilities of the organization. If more than half of the answers are “No” or “Not sure”, more attention and work are needed to step up GEM implementation.

| Institutional value and capacity on gender equality promotion | | Yes | No | Not sure |
|---|--|-----|----|----------|
| 1 | Is there a clear political commitment and policy to promote gender equality in the labour migration mandate and responsibilities of the organization?  For example, equality and diversity policy, equal pay policy, anti- (sexual and racial) harassment policy | | | |
| 2 | If yes, is this commitment translated in specific programmes, procedures, mechanisms, budgets, and workplace practices? | | | |

| | | | | |
|----|---|--|--|--|
| 3 | Does the leadership show commitment to gender equality promotion in labour migration and addressing the concerns of women and men migrants? | | | |
| 4 | Do staff members at the operational level show commitment to gender equality promotion in labour migration? | | | |
| 5 | Do “frontline” staff (immigration officers, border police, labour inspectors, labour attachés, staff of Migrant Worker Resource Centres) have the capacity to adequately address the needs of women and men migrant workers and their employers? | | | |
| 6 | Does the organization have specific priorities to address gender gaps in labour migration legislative development, policies, programmes, or projects with adequate budget allocations?  For example, extending legal labour protection coverage to hitherto uncovered sectors or occupations where many women migrant workers are working. | | | |
| 7 | Is there a balanced representation of women and men at all levels of personnel? Are men and women treated equally? | | | |
| 8 | Does the organization have a gender and diversity or human rights unit, and/or a gender and diversity focal point system to handle specific gender and diversity problems in labour migration? | | | |
| 9 | Are there specific gender and diversity, and human rights advocates and experts within the organization – and, if yes, who are they? | | | |
| 10 | Does the organization have clear rules and procedures to integrate gender equality and human rights concerns into labour migration programming, budget, and staff accountability? | | | |
| 11 | Have the staff in the organization been provided with training on gender equality, diversity, and human rights in labour migration? | | | |
| 12 | Does the organization/unit/project routinely monitor that both men and women benefit from the labour migration services and other programmes, and that both male and female staff are represented in staff meetings and training activities?  For example, seeking a representation of 40–60 per cent of either men or women for equal voice in decision-making, or setting a target of two-thirds women if women faced constraints in attending training in the past. (See also Tool 9.) | | | |

7.4.2 How much do you promote GEM in your organization?

If most of your answers in this checklist fall in the “Always” column, it means your organization is doing well in integrating gender equality in labour migration (GEM) duties and responsibilities in its operations. If more than half of the answers are “Sometimes”, more consistent action is needed. If more than half of

the answers are “Never”, more attention and work are needed to build gender and diversity capacities and undertake practical GEM measures within the organization.

In implementing GEM, does your organization do the following?

| Gender analysis | | Always | Sometimes | Never |
|------------------------|--|--------|-----------|-------|
| 1 | Routinely conduct gender analysis and/or a gender impact assessment for law and policy-making and programme development on labour migration. | | | |
| 2 | Assess the organizational capacity to conduct gender analysis in labour migration and identify any training needs and available gender and labour migration expertise within or outside the organization. | | | |
| 3 | Ensure that background data of migrant workers are disaggregated by sex, and other important variables such as occupation, race, ethnicity or colour, documented–undocumented status, religion, or age. | | | |
| 4 | Identify the extent and types of gender inequalities among women and men migrant workers in specific sectors and occupations (e.g., working and living conditions, labour migration policy and practices) and their access and control over resources and benefits (e.g., time, money, information, skills, information technology, or access to financial, health, and other services). | | | |
| 5 | Identify any successes or challenges experienced by related policies or programmes aimed at promoting gender equality and human rights in labour migration in the past. | | | |
| Gender-specific action | | Always | Sometimes | Never |
| 6 | Design a gender-specific intervention when a certain group is in a particularly disadvantageous position, e.g., positive action targeted at women migrant workers or workers in specific vulnerable occupations like fishing or domestic work. | | | |
| 7 | Develop gender-specific outputs to ensure that policy or programme benefits are equitably distributed among women and men migrant workers. | | | |
| 8 | Develop indicators for measuring progress made towards promotion of gender equality and respect for human rights in labour migration among the organization’s target groups and/or within the organization. | | | |
| 9 | Target invisible migrant labour sectors in low-quality and low-pay jobs, e.g., domestic work, care work, sex work (often dominated by women migrants), and fishing (mostly male migrants). | | | |

| | | | | |
|---|---|---------------|------------------|--------------|
| 10 | Build gender capacity and expertise among key personnel responsible for integrating gender concerns into ongoing or new labour migration duties and responsibilities and providing direct services to women and men migrant workers. | | | |
| Representation and participation | | Always | Sometimes | Never |
| 11 | Involve both male and female staff members at all levels in the design, execution, and quality control of GEM policies and programmes in the organization. | | | |
| 12 | Actively involve employment agency representatives, employers' of migrant workers, and representatives of men and women migrants and their organizations to shape and participate in programmes and become change agents in workplaces and communities. | | | |
| 13 | Ensure that women and/or men migrant workers among the organization's target groups have the opportunity to voice their concerns and priorities, and are consulted on proposed policies and programmes. | | | |
| 14 | Use gender-responsive approaches to reach under-represented groups, e.g., use women interviewers when interviewing women; have women- or men-only meetings when necessary; and involve facilitators like (ex-) migrant workers who come from and are familiar with the language, culture, and conditions of specific target groups. | | | |
| 15 | Ensure media awareness on the gender dimensions of labour migration-related concerns and successful strategies to overcome them. | | | |
| Gender budgeting and auditing | | Always | Sometimes | Never |
| 16 | Ensure that a gender-responsive perspective is included at all stages of the organization's budget cycles (from analysis and appraisal to implementation, monitoring, and evaluation). | | | |
| 17 | At the budget planning stage, allocate human and financial resources to include gender expertise. | | | |
| 18 | If gender inequalities exist, allocate an adequate amount of budget for gender-specific outputs and activities. | | | |
| 19 | At the budget review stage, analyse to what extent the resource allocations meet the needs and priorities of the beneficiary migrant workers groups in an equitable manner. | | | |
| 20 | If gender impacts are found to be inequitable (e.g., more men migrants stand to benefit than women migrants, or vice versa), reallocate resources to ensure more equitable gender impacts. | | | |



Tool 8. GEM: Action against violence

8.1 About this tool⁸⁰

This tool explains some of the common forms of violence that women and men migrants can be subjected to. Public sector organizations and companies who deal directly with migrant workers need to know what these forms of violence are so that they can recognize and address possible problems at an early stage. The tool sets out why it is important to have workplaces that respect all workers and are free from violence. It explains what harassment is and provides a list of early warning signs of forced labour situations. Tips follow on how to prevent and remedy sexual and racial harassment of migrant workers, and how governments and companies can eliminate risks of forced labour. A checklist is provided for organizations in charge of labour migration management and protection of the rights of migrant workers on how to protect migrant workers from violence and abuse. An exercise is included to discuss how labour migration management organizations and migrant workers' rights organizations can identify harmful practices and protect women migrant workers from harassment, violence, and abuse.

Aims:

- To learn about common forms of physical, sexual, and psychological harassment and violence against migrant workers, as well as indicators of forced labour situations.
- To increase capacities of companies and labour migration management organizations to prevent harassment, violence, and abuse of migrant workers.

8.2 Rationale and concepts

8.2.1 Why protect migrant workers from violence?

Women and men migrant workers are potentially vulnerable to fundamental human and workers' rights violations and abuses during all phases of the migration process, at the recruitment and transit stages, during employment at destination, and return and reintegration. They can fall victim to violence and abuse, ranging from unfair differential treatment, discrimination and harassment due to their sex, race, colour, ethnicity, national or social origin, religion, age, migrant or legal status, or some combination of these, to other severe human and workers' rights violations like forced labour.

Violence against women and girls is endemic around the world, although boys and men also become victims, with perpetrators being mainly (but not exclusively) men. Violence and the fear of violence constrains the lives and opportunities of those affected by it, and puts a strain on national economies and company profits and productivity.

⁸⁰ Based on: ILO, 2001; ILO, 2008c, Booklets 2, 4, and 5; 2010b, Tools 3, 8, and 11; 2012b; ILO and VCCI, 2016; OSCE, 2009; UN Women, 2013a.



Women and men migrant workers who experience mistreatment and abuses are often unable or unwilling to seek help due to lack of freedom and/or fear of repercussions such as job loss or deportation. Public and private sector organizations in charge of labour migration management and employers of migrant workers as well as other relevant stakeholders (employers' and workers' organizations, including migrant and domestic workers' organizations; trade unions; and women's, human rights' and other civil society organizations) play an important role in protecting the rights and safety of migrant workers by seeking to prevent and remedy workplace violence. See box 20 to understand the business case for preventing forced labour. Box 21 provides facts and figures on the number of migrant workers in forced labour situations.

Box 20

The business case for violence- and forced labour-free workplaces

Violence-free workplaces that respect workers' rights make good business sense. The effects of workplace violence are detrimental to workers' morale and productivity and thereby the productivity and reputation of the employer, company, or organization, including employer households:

- The stressful and hostile working environment resulting from violence can cause frustration, tension, anger, anxiety, depression, and other stress-related illnesses for the victims and create a hostile, uncomfortable atmosphere at the workplace.
- Violence can cause accidents and other dangerous safety and health problems at workplaces, with tensions mounting and victims trying to flee from the work when they can, leading to a vicious spiral of accumulating violence.
- Generally, a hostile working atmosphere hampers cooperation and can lead to conflicts, absenteeism, and poor morale among workers, causing loss of job satisfaction and lower productivity for the company, organization, or employer household.
- In addition to negative reputation, companies and organizations that condone violence and disrespect may suffer from high staff turnover, potential loss of high-quality employees, lack of staff loyalty, and loss of potential income.

A workplace free of violence that respects all workers benefits both employers and workers and is a **win-win situation** for all.

Benefits for the employer

- Increased productivity from enhanced performance and motivation of workers.
- Decreased staff turnover and fewer costs for recruitment and training of replacements.
- Lower costs for decreased work-related accidents.
- Reduced absenteeism and lateness.
- Enhanced capacity to attract and retain high-quality workers.
- Improved working relations with workers.
- Positive impact on the reputation and brand image of the organization or company.
- Improved company competitiveness.
- Avoidance of criminal and civil liability, and administrative penalties.

Benefits for the employer

- Increased productivity from enhanced performance and motivation of workers.
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- Lower costs for decreased work-related accidents.
- Reduced absenteeism and lateness.
- Enhanced capacity to attract and retain high-quality workers.
- Improved working relations with workers.
- Positive impact on the reputation and brand image of the organization or company.
- Improved company competitiveness.
- Avoidance of criminal and civil liability, and administrative penalties.

For the business case against forced labour, see the ASEAN Confederation of Employers (ACE) policy position on forced labour at: <http://apmigration.ilo.org/resources/resource.2015-09-27.7867333349> [26 Apr. 2015].

Source: ILO, 2001; 2010b; 2011a.

Box 21

Migrant workers are particularly vulnerable to forced labour⁸¹

There are no hard data on the extent and scope of work-related discrimination of women and men migrant workers. However, the ILO 2012 global estimate on forced labour paints a sobering picture:

- Almost **21 million people are victims of forced labour worldwide** – 11.4 million women and girls and 9.5 million men and boys.
 - The **Asia-Pacific region accounts for the largest number of forced labourers** in the world – 56 per cent or 11.7 million of the global total.
 - **Migrant workers and indigenous people** are particularly vulnerable to forced labour.
- **Domestic work, agriculture, construction, manufacturing, and entertainment** are among the sectors most concerned.
 - Almost 19 million victims are **exploited by private individuals or enterprises** and over 2 million **by the state or rebel groups**.
 - Of those exploited by individuals or enterprises, **4.5 million are victims of forced sexual exploitation**.
 - Forced labour in the private economy generates **US\$ 150 billion in illegal profits per year**.

Source: ILO, 2012c

8.2.2 What is work-related harassment and violence?⁸²

Work-related harassment and violence is any action, incident, or behaviour that departs from reasonable conduct and in which a person is assaulted, threatened, harmed, or injured in the course of, or as a result of, their work.

The most serious forms include murder, rape, and physical assault. Other common forms involve, for example, giving a person unwanted sexual attention, using a person as the target of one's social prejudices, or bullying or mobbing a person for their racial features. Such behaviour can occur during employment or at the recruitment stage, for example, when recruitment decisions are based on candidate's acceptance or rejection of a request for (sexual) favours. The common term used for this type of behaviour is **harassment**.

In a work-related context, harassment and violence can emanate from an employer, a supervisor, a colleague, a visitor, a customer, or anybody with whom the worker is expected to interact. It often takes place at a physical workplace, but may extend well beyond that to all work-related interactions, such as phone calls or emails, and workers' accommodations. Actions constituting harassment may be:

- **Physical** – e.g., (sexual) violence or unwelcome physical contact, such as kissing or touching.
- **Verbal** – e.g., comments, offensive jokes, personal insults, derogatory language.
- **Non-verbal** – e.g., staring, leering, whistling, threatening behaviour, sexually suggestive gestures, or “freezing” somebody out.

Harassment is a form of discrimination if it is based on one of the prohibited grounds of discrimination defined in the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) such as sex, race, colour, religion, social origin, national extraction, and political opinion, and other grounds covered by national legislation.

⁸¹ Forced labour is defined in the ILO Forced Labour Convention, 1930 (No. 29), as work or service that is performed involuntarily and under coercion. It includes men, women, and children in situations of debt bondage, suffering slavery-like conditions, or who have been trafficked.

⁸² ILO, 2001; 2011a, p. 21; 2010c, pp. 16–17.

The most severe forms of violence are physical assault and rape, which are criminal acts covered by criminal law in most countries. Work-related harassment and violence typically comes in two forms:

- **Quid-pro-quo** (“this for that”) harassment refers to a demand by a person in authority, such as a supervisor, for favours in order to obtain or maintain a job benefit, be it recruitment, a wage increase, a promotion or training opportunity, a transfer, or job security. This type of harassment takes place most often as sexual blackmail that is, demanding sexual favours in exchange for a work-related benefit.
- Creating a **hostile work environment** through verbal, non-verbal, or physical conduct that creates an intimidating, offensive, humiliating, abusive, or poisoned working environment, and interferes with people’s performance at work.

Other commonly used concepts include:

- **Sexual harassment** means unwanted conduct of a sexual nature, or other conduct based on sex, affecting the dignity of a person. It includes physical, verbal, or non-verbal conduct that is unwelcome, unreasonable, and offensive to the recipient. All genders – regardless of their age, marital status, physical appearance, background, or professional status – can be victims of sexual harassment. Usually, however, women and persons of different colour, race, or ethnicity; non-conforming sexual orientation or gender identity; or migrant status are more vulnerable due to their lower position in the labour market. The overall majority of perpetrators are men, but some are women.
- **Bullying and mobbing** consist of repeated, regular, and persistent negative attacks on the personal and professional performance of an individual or group of workers.

8.2.3 Warning signs of forced labour and human trafficking of migrant workers⁸³

The ILO distinguishes 11 warning signs of forced labour to help migration management organizations and companies, including “frontline” law enforcement officials, labour inspectors, employment agency staff, employers and national co-workers of migrant workers, trade union officers, NGO workers, and others to identify persons who may be trapped in a forced labour situation and may require urgent assistance. These indicators are:

- **Abuse of vulnerability** – Persons who lack knowledge of a local language or laws, are members of a religious or ethnic minority, or persons with disability or other characteristics that set them apart from the majority population tend to lack alternative livelihood options. These persons, especially women, are prone to exploitation and abuse, especially in cases of multiple dependency on the employer, e.g., for work, housing, food, and protection. This includes persons working for relatives.
- **Deception** – Victims of forced labour and human trafficking are often recruited with promises of decent, well-paid jobs that do not materialize and are trapped in abusive conditions without ability to escape. The false promises may involve not only working conditions and wages, but also the type of work, housing, living conditions, regular migration status, job location, or the identity of the employer. Children may also be recruited through false promises of school attendance.
- **Restriction of movement** – If workers are not free to enter and exit the work premises, are subject to unreasonable restrictions of movement at work or during transport, are locked up or controlled by guards or surveillance cameras inside the workplace, or always accompanied by the employer’s agents outside the workplace, this represents a strong indicator of forced labour.

⁸³ ILO, 2012b.

- **Isolation** – Victims of forced labour are often isolated in remote locations and denied contact with the outside world. Workers may not know where they are, are kept behind closed doors, or have their phones or other means of communication confiscated to prevent them from having contact with their family or seeking help. Isolation can also mean that business premises are informal and unregistered, like private homes, and are difficult for authorities to locate and monitor.
- **Physical and sexual violence** – Forced labourers and their family members may be subject to physical or sexual violence, which can include being forced to take drugs or alcohol (for easier control), or being forced to do tasks not part of the initial agreement or to have sex with the employer or a family member of the employer. Physical abduction or kidnapping is an extreme form of violence used to take a person captive.
- **Intimidation and threats** – Besides threats of physical violence, other common threats include being reported to immigration authorities for deportation, loss of job, non-payment of wages, loss of access to housing or land, sacking of family members, worsening working conditions, and withdrawal of “privileges” such as the right to leave the workplace. Constant insults and denigration also constitute psychological abuse designed to increase a sense of vulnerability and powerlessness.
- **Retention of identity documents** – If the employer retains the workers’ identity documents (such as passport or identity card, residence or work permit) or valuable personal possessions and the workers are unable to access these items on demand or they feel that they cannot leave the job without risking the loss, this is an element of forced labour. In many cases, without identity documents workers cannot find another job or access essential services.
- **Withholding of wages** – Workers may be obliged to remain with an abusive employer while waiting for their wages. Irregular or delayed payment of wages does not automatically imply a forced labour situation, but when wages are systematically and deliberately withheld as a means to compel the worker to remain and deny them the opportunity to change employer, this indicates forced labour.
- **Debt bondage (or bonded labour)** – Forced labourers are often working to pay off an incurred or sometimes inherited debt that can arise from wage advances or loans to cover recruitment or transport costs, or daily living or emergency expenses, such as medical costs. When debts are compounded as a result of manipulation of accounts, especially when workers are illiterate, debt bondage may arise. It may also involve children being recruited into bonded labour in exchange for a loan given to their parents or other relatives.
- **Abusive working and living conditions** – Extremely bad working and living conditions alone do not prove the existence of forced labour as some people may accept bad conditions, given a lack of any alternatives. However, abusive conditions are warning signs of a possible existence of coercion, by which workers are made to perform work that is dirty, dangerous (difficult, unsafe, and hazardous without adequate protective equipment or gear), or demeaning (humiliating or degrading), and in severe breach of labour, criminal, or other laws. Forced labour victims may also be subject to substandard living conditions such as overcrowded, unhealthy, and unsafe conditions without any privacy.
- **Excessive overtime** – Workers in forced labour situations may be made to work excessive hours or days beyond the legal limits. They can be denied breaks or days off, being forced to take over the shifts and working hours of colleagues or on call 24 hours a day, seven days a week. As a rule of thumb, if workers have to work more overtime than allowed under national law, under some form of threat (e.g., dismissal), or in order to earn at least the minimum wage, this amounts to forced labour.

The presence of a single indicator in a given situation may in some cases imply the existence of forced labour. However, in other cases the combination of several indicators may point to a forced labour case. Overall, the set of 11 indicators covers the main possible elements of a forced labour situation, and hence provides the basis to assess whether or not an individual worker is a victim of this crime. In general more women than men are victims of forced labour.

8.3 Tips

8.3.1 How to prevent sexual and racial harassment of migrant workers

Practical and pro-active workplace measures include:

- Create a climate in which all workplace actors value and respect each other in a way that supports a harassment-free environment. Train managers, supervisors, and workers to check their behaviour by asking themselves:
 - Would I want my behaviour broadcast on the internet, the radio, or television?
 - Is there equal power between me and the person I am interacting with?
 - Would I act this way if my spouse or child was next to me?
 - Would I want someone to act this way to my spouse or child?
 - Is there equal initiation and participation between the other person and me?
- Supervisors and managers must monitor the work environment and encourage workers to talk with them so that they can recognize harassment situations as they develop.
- Ensure that all employers put in place an anti-harassment policy (refer to box 22) in the workplace that:
 - prevents harassment through awareness raising and training;
 - guarantees protection from retaliation for complaining;
 - explains the complaint process;
 - maintains confidentiality; and
 - recommends corrective actions, as appropriate.
- Ensure that all employees are aware of the organization's harassment policy and procedures.
- Ensure that all supervisors and managers are trained on how to respond to allegations of harassment.
- Labour inspectors should be trained to investigate complaints of sexual and racial harassment.
- Employers and labour inspectors should maintain confidential written records of each complaint and any inquiries into them.
- Employers must determine appropriate disciplinary action based on the findings of an investigation. Appropriate action towards the harasser may include counseling, a permanent written warning, suspension, demotion, or termination.

Box 22

Model workplace policy against sexual and racial harassment

| | |
|------------|---|
| Definition | <ul style="list-style-type: none">• Sexual and racial harassment is defined as deliberate or repeated unsolicited verbal comments, gestures, or physical contact of a sexual or racist nature which is unwelcome to the receiver. Unwelcome sexual advances or racist acts are unlawful whether verbal or physical in nature and constitute sexual or racial harassment when:<ul style="list-style-type: none">◦ Submission to such conduct is made a term or condition of an individual's employment.◦ Submission to, or rejection of, such contact forms the basis of an employment decision affecting such an individual.◦ Such conduct has the purpose or effect of interfering with the work performance or creates an intimidating, hostile, or offensive work environment.• Some of the most obvious forms of sexual and racial harassment include touching, grabbing, lewd gestures, jokes with a sexual or racist connotation, computer screen covers of a sexual or racist nature, and any behaviour with sexual or racist overtones that are intimidating or offensive to the recipient(s). |
| Policies | <ul style="list-style-type: none">• Violation of the sexual harassment policy by any workplace actor will result in disciplinary action, ranging from reprimand to termination.• All managers shall take all actions necessary to prevent and/or eliminate workers' exposure to a hostile, intimidating, and/or offensive work environment.• All workers and managers will be held accountable for ensuring that the work environment is free from sexual and racial harassment.• All workers and managers shall receive continuing education on the prohibition on sexual and racial harassment, through training and communications that reinforce the policy. |
| Procedures | <ul style="list-style-type: none">• When receiving complaints of sexual or racial harassment, or upon otherwise becoming aware of such alleged behaviour, managers or supervisors shall promptly investigate the matter. If the allegations of harassment are confirmed, corrective actions must be taken immediately to stop the harassing behaviour. Such action may include disciplinary steps to ensure that the harassment does not recur and the injured party is not subjected to reprisal or retaliation.• Workers who believe they have been subjected to sexual or racial harassment or have witnessed acts of such harassment towards others, shall report the behaviour to the appropriate manager or supervisor.• Incidents of sexual and racial harassment may be reported to a hotline, company or organization unit, or the labour inspectorate by calling telephone number: |

Source: ILO, 2013d. Further tools on combating sexual harassment at work can be found in ILO, 2001.

8.3.2 Pointers on eliminating risks of forced labour: Roles of governments and companies⁸⁴

What must States do to eliminate forced labour?

The fundamental obligation of Convention No. 29 is to suppress all forms of forced labour. This means that States must not only criminalize and prosecute forced labour, but also – as the new Protocol to Convention No. 29, adopted by ILO member States in 2014 makes clear – take effective measures to prevent forced labour and provide victims with protection and access to remedies, including compensation.

Main provisions

The Protocol requires States to take effective measures to prevent and eliminate forced labour, to provide victims protection and access to appropriate and effective remedies, such as compensation, and to sanction perpetrators. It calls for a national policy and plan of action to implement its provisions.

- **Prevention**
 - educating and informing those considered particularly vulnerable, employers, and the wider public;
 - extending the coverage and enforcement of relevant laws to all workers and sectors;
 - strengthening labour inspection and other services responsible for implementation of these laws;
 - protection from abuses arising during the recruitment process, and supporting due diligence by the public and private sectors; and
 - addressing root causes and factors that heighten the risks of forced labour.
- **Protection**
 - effective measures for the identification, release, protection, recovery, and rehabilitation of victims;
 - protecting victims from punishment for unlawful activities that they were compelled to commit.
- **Remedies**
 - ensuring victims' access to appropriate and effective remedies, such as compensation, irrespective of their presence or legal status in the territory.
- **Trafficking in persons**
 - measures taken under the Protocol must include specific action against trafficking in persons for forced labour.

What must companies do to eliminate risks of forced labour in their operations?

Preventing and responding to risks of forced labour in company operations requires due diligence by businesses. Employers can take practical measures to prevent abuses, such as deception and coercion of workers, including migrant workers, and manage the risks of forced labour associated with recruitment, employment and sourcing practices. Highlights of guiding principles for employers are:

Recruitment practices

- **Engage in fair recruitment practices:** Provide correct information about available jobs; do not make false promises. Ensure workers enter jobs voluntarily and freely. Train managers, supervisors, and workers on good and bad hiring procedures and practices.
- **Do not charge recruitment fees** or require deposits from workers: Costs related to official worker documents like visa permits and the services of recruitment agencies should be borne by the employer.

⁸⁴ ILO, 2014e; ILO and VCCI, 2016, chapter 3.

- **Use only licensed and accredited** employment or placement **agencies** to recruit workers, including migrant workers.
- **Provide written employment contracts** to all workers in language and wording that workers can easily understand.

Employment practices

- **Compensation:** Always pay wages regularly and directly to the worker. Avoid non-payment or delayed payment of wages. Comply with minimum wage requirements for all workers (where these exist), including when wages are calculated on a performance-related or piece-rate basis. Record payment transactions in a transparent manner.
- **Wage deductions and in-kind payments:** Deceptions in wage payments, wage advances, and loans to workers shall not be used to bind workers to employment. Debt bondage to pay off an incurred or inherited debt is prohibited. In-kind payments should not lead to dependency of the worker to the employer.
- **Working hours and rest time:** Obligatory overtime is prohibited. Ensure that all workers can earn the minimum wage without working overtime. Plan ahead to ensure that excessive overtime is not required to meet production targets.
- **Discipline, personal freedom and documents, and termination of employment:** Do not use threat of physical or sexual violence, harassment, abusive language, or intimidation to exact work or service. Establish a policy to prevent such abuse and train staff on its use. Workers' movements should not be restricted outside working hours. Ensure workers can keep their personal documents or freely access them. Ensure both workers and employers have a right to terminate employment on a reasonable terms. Allow workers to terminate their contract unilaterally in situations of violence, maltreatment, and harassment.

Sourcing practices:

- Monitor employment practices of suppliers, service and logistics providers, such as recruitment agencies.⁸⁵

⁸⁵ For more information, see ILO and VCCI, 2016.

8.4 Checklist

8.4.1 How to protect migrant workers from violence and abuse

If most of the answers in this checklist fall in the “Yes” column, it means your organization or company is on the right track. If more than half of the answers are “No” or “Not sure”, more action is needed by the organization to protect the rights of women and men migrant workers and prevent violence, sexual and racial harassment, and forced labour situations.

Does your organization or company do the following?

| Labour migration governance | Yes | No | Not sure |
|---|-----|----|----------|
| <p>1 Adopt a gender-responsive workplace policy against violence to prevent and redress rights violations and violence against women and men national and migrant workers?</p> <p> A gender-responsive anti-violence policy in organizations in charge of labour migration and in companies using migrant workers addresses the gender-specific constraints and the types and patterns of rights violations faced by women and men migrant workers. It also provides support systems that match their specific needs, such as ensuring access to a complaint system, and enables them to seek redress.</p> | | | |
| <p>2 Have a clear and transparent organizational and/or workplace policy against violence in place with actionable measures to prevent harassment, and forced labour situations in the work of your organization or company, (for example, prohibiting charging migrants any recruitment fees, or withholding (parts of) their wages)</p> | | | |
| <p>3 Raise awareness and provide training to all relevant workplace actors to ensure implementation of gender-responsive policies on protecting migrant workers and preventing and redressing harassment, violence, and forced labour situations.</p> | | | |
| <p>4 Promote, apply, and enforce ethical codes of conduct, such as on fair recruitment of migrant workers within the organization, industry, sector, and in companies and employer households to protect migrant workers from sexual, racial, or other harassment and forced labour situations.</p> | | | |
| <p>5 Share information regularly and cooperate with relevant stakeholders, identifying potential problem areas and sharing good practices in gender-responsive action to promote migrant workers’ rights and prevent and redress harassment, violence, and forced labour situations.</p> | | | |

| Fair recruitment of migrant workers | | Yes | No | Not sure |
|-------------------------------------|--|-----|----|----------|
| 6 | <p>In case of migrant worker recruitment through third parties (employment and recruitment agencies, and labour dispatch agencies): Enforce government or company policies and procedures that allow only reputable, certified, and accredited third parties to recruit migrant workers.</p> <p> For example, vetting procedures and preconditions for the establishment of new recruitment agencies, and examining records and conducting regular assessments of hiring practices by organizations, companies, employment agencies, external partners, contractors, and other companies to determine their degree of compliance with national law, policy, and regulations to prevent exploitation and violence against women and men migrant workers. Special attention should be paid with regard to women and men in vulnerable occupations or situations, such as in domestic work, in the entertainment industry, and on fishing boats.</p> | | | |
| 7 | <p>Regularly screen and monitor employment agencies that provide contract labour, especially across borders, and blacklist those known to have engaged in abusive recruitment practices, human trafficking, and forced labour.</p> <p> For example, blacklist employment agencies that charge migrant workers (excessive) recruitment fees; induce indebtedness; use deception, coercion, or threats with migrant workers in recruitment; or have been involved in criminal conduct such as abduction, sale of persons, illegal imprisonment, physical or sexual violence, or rape of migrants.</p> | | | |
| 8 | <p>Train government and company human resource personnel, compliance officers, and labour inspectors (both men and women) to identify signs of harassment, violence, and forced labour situations in recruitment processes, and take appropriate action to stop such abuses and prevent them from happening in the future.</p> | | | |
| Employment contracts and practices | | Yes | No | Not sure |
| 9 | <p>Adopt a law, regulation, or company policy to ensure that all women and men migrant workers have written employment contracts that state the terms and conditions of employment in a language they can understand.</p> <p> Terms and conditions of employment generally specify working hours, regular wage payments, rest and leave entitlements, and conditions for termination of employment by employer and worker. They also should contain other relevant clauses aimed at preventing and redressing harassment, violence, and forced labour situations, such as retention of identity documents by the workers, provision of safe and clean working environment and accommodation, and freedom of movement and communication with family and friends outside of working hours.</p> | | | |

| | | | |
|--|------------|-----------|-----------------|
| <p>10 Ensure there is no withholding of payment and that the migrant workers themselves receive regular wages on time, and mostly or fully in cash or by bank transfer in line with the hours worked, including overtime payments.</p> <p> Warning signs of violations of workers' rights in relation to wages and working hours include: Wide divergence in wage and working hours and conditions between national and migrant workers; no record of wage payments and working hours; wage payments below the national, regional, or sectoral minimum wage, where such minimum wages exist; delays or failure to pay regular wages; excessive or obligatory overtime requirements; wage payments subject to provision of sexual or other favours; payment in kind rather than cash or by bank transfer; wage payment to a third party and not to the worker; unlawful wage deductions; requiring workers to take loans or payment advancements or lodge deposits, leading to force indebtedness.</p> | | | |
| <p>11 Regularly monitor for warning signs of violence against women and men migrant workers at the workplace.</p> <p> Examples are: confinement of workers to workplaces, or dormitories; unsafe, cramped, or unhygienic accommodation that cannot be locked by the worker; requirement to sleep in the same room as one or more members of the employer household; confiscation of or lack of workers' access to personal documents or possessions; tying the worker to one employer with no right to change employers in case of abuse by the first employer; lack of freedom to terminate employment with reasonable notice; signs of physical, verbal, psychological, sexual or other abuse of the migrant worker.</p> | | | |
| <p>Awareness raising and capacity development</p> | <p>Yes</p> | <p>No</p> | <p>Not sure</p> |
| <p>12 Promote awareness and respect for the rights of migrant workers among companies, migrant workers and/or labour migration management organizations?</p> | | | |
| <p>13 Ensure relevant managers and staff have the capacity and the know-how to stop and prevent human, women's, and workers' rights violations among migrant workers</p> | | | |
| <p>14 Provide gender-responsive training on the human and workers' rights of migrant workers and on how to prevent and redress harassment, violence, and forced labour of migrant workers:</p> <ul style="list-style-type: none"> • Is this training being provided to staff in supervisory, operational, and field positions who deal directly with migrant workers in their day-to-day work, and • does the training provide these staff with the necessary tools to enforce the relevant national laws and regulations, as well as workplace policies and rules in practice? | | | |

| | | | |
|---|------------|-----------|-----------------|
| <p>15 Have institutional policy measures, rules, and regulations been established to prevent and redress discrimination, sexual and racial harassment, and violence on the grounds of sex and gender, race, colour, ethnicity, religion, social or national origin, health status, or other relevant grounds for migrant workers.</p> <p> For example, develop workplace policies against work-related harassment, violence, and forced labour; regularly disseminate these policies and train management and workers to ensure better understanding and compliance; and include complaint procedures and enforcement mechanisms.</p> | | | |
| <p>16 Have adequate numbers of male and female staff at the operational and field levels to provide gender-responsive services and assistance to migrant worker target groups and minimize chances of harassment, violence, and forced labour situations.</p> <p> For example, companies that employ many women migrant workers may consider hiring more female supervisors or provide childcare facilities during their work shift. Law enforcement agencies, labour inspectorates, and government or non-governmental organizations operating inspection, rescue, rehabilitation, and return and reintegration programmes should build gender-responsive capacities among all staff and have an adequate number of female officials to provide assistance to women migrants who are victims of harassment, violence, and forced labour and trafficking, and male officials for male victims.</p> | | | |
| <p>Complaint procedures and redress mechanisms</p> | <p>Yes</p> | <p>No</p> | <p>Not sure</p> |
| <p>17 Ensure that all migrant workers have access to information on workplace harassment, violence, and forced labour indicators as well as destination country laws, rules, and regulations against these abuses in a language they can easily understand.</p> | | | |
| <p>18 Make it possible for migrant workers to file complaints about harassment, violence, and forced labour situations during recruitment (for example by the employment agency or other party) and at the workplace (by the employer or other party), with protected confidentiality for both the accuser and the accused. Assist victims of violence and forced labour to file civil or criminal cases as appropriate.</p> <p> In most cases, due to their status as poor foreigners in need of a job, migrant workers, especially women, are not in a position to make a complaint against their employer, supervisor, or someone in a position of power due to the unequal power relations. It is therefore particularly important to ensure confidentiality for the victims, where possible, and protect them from possible reprisals.</p> | | | |

| | | | |
|--|--|--|--|
| <p>19 In cases of violence, labour, or sexual abuse by an employer or intermediary (including instances of physical, sexual, or psychological assault and violence, and instances of forced labour, including denying workers sufficient rest and food, or exposure to risky situations), provide the migrant worker with access to an “official safe place” and a chance to continue earning a livelihood in a safe working environment.</p> | | | |
| <p>20 Establish clear complaint procedures for migrant workers and a dispute resolution process that is workable and fair for both the victim and accused, with disciplinary rules and penalties against the harasser and those making false accusations.</p> <p> For example, set up a fair fact-finding body, in which impartial managers or designated individuals investigate and listen to the accounts of both the victim and the alleged perpetrator, and third parties if necessary, and determine appropriate responses according to workplace policy and national laws. In ordinary cases of workplace harassment where there is no significant difference in the power relations, the priority for most victims is to stop the harassing behaviour and to have their respect restored. An apology and assurance that such behaviour will cease completely may go a long way in solving such problems.</p> | | | |
| <p>21 In the case of alleged criminal conduct, make legal and judicial procedures available and provide the victims with appropriate and comprehensive legal assistance during the judicial process.</p> | | | |
| <p>22 Ensure appropriate protective and remedial measures for the victim.</p> <p> If the victim is in a particularly vulnerable position (such as a migrant domestic worker living in her employer’s house) and safety is a primary concern, the victim needs to be removed from the workplace or the sphere of influence of the alleged perpetrator, and be provided with a safe place to stay as well as any other assistance during the complaint procedure and resolution process. If the harassment and abuse constitutes a criminal act, appropriate legal proceedings must be followed. To the extent possible, provide the victim with appropriate and adequate access to assistance services and viable alternatives, including legal aid; permission to seek another employer; reintegration services for former victims of harassment, violence, and forced labour, such as skills development and job training opportunities; and other necessary reintegration measures.</p> | | | |
| <p>23 Implement a monitoring system to root out workplace harassment, violence, and forced labour within companies and throughout industries.</p> <p> For example, establish a task force or committee within companies or across industries to ensure effective and consistent compliance, involving the labour inspectorate, the police, immigration and emigration authorities, and other law enforcement agencies as appropriate.</p> | | | |

8.5 Exercise

8.5.1 Exercise: Sex for flight



Exercise guide

Aims

- To investigate a “real life scenario”⁸⁶ of sexual harassment and violence against women migrant domestic workers living in shelters at country of origin Migrant Worker Resource Centres located in destination countries in the Middle East
- To design prevention and redress measures and mechanisms to avoid such abuses from happening in the future, and punish perpetrators.

Methods

Small working groups, followed by a plenary discussion.

Time

70-90 minutes.

Training preparation and materials

- Read the handouts with the instructions for small group work, the case study, and the response to the case study. Adapt the questions for the group work to suit the level and interest of participants if needed.
- Prepare copies of handouts 1 and 2, one each for each participant.



Session plan

Step 1

At the start of the exercise, introduce the exercise topic, distribute the handout with the assignment for small group work and the case study. Explain the assignment and divide participants in small groups (5 minutes). Give the groups 30–40 minutes to finish their assignment.

Step 2

When the groups are ready, start the plenary session (30–40 minutes) by asking the groups to briefly report back. Stimulate dialogue when groups bring up new points. Add key points not mentioned by participants using the handout with the response to the case study.

Step 3

Summarize a few key messages that came out of the discussion (5 minutes). Distribute handout 2 at the end of the session.

Summarize a few key gender points (5 minutes) that came out of the discussion.

⁸⁶ The case study is based on evidence from an ASEAN Member State.

Example key messages

- Migrant workers in general, and women domestic workers in particular, are vulnerable to abuse at the hands of their employers, especially in countries where migrant domestic workers are not only living and working in isolation but are also tied to their employers. This easily leads to mounting tensions within the household and subsequent abuse usually of the weaker party, that is, the worker.
- After fleeing abusive employer households, women migrant domestic workers were living in shelters in a number of Middle Eastern countries while their cases awaited trial. They were subject to sexual harassment by the police when they were filing a complaint and by male officials who had access to the workers in the shelters and took advantage of the vulnerable situation of these migrant workers. In one case, a worker was also forced to have sex with a third party.
- Comprehensive measures were taken by the female Minister in charge of labour and employment from the origin country to investigate the allegations, punish the perpetrators, and prevent future misconduct of this kind. Punishment of the perpetrators seems to have been rather lenient, which is most possibly related to the difficulty of finding “proof” of the misconduct. This is a common in sexual harassment cases as there are usually no witnesses.
- Prevention measures included, for example, limiting the access of male officials to the women migrant workers in the shelters; assigning more female staff to manage and oversee the shelters’ operations; installation of surveillance cameras in the shelters; prohibition of employment and volunteer work by the women migrant workers staying at the shelters in any government premises of the country of origin in the destination country; and help with reintegration upon return of the migrant workers to their home country.
- The case study also shows that women migrant workers who flee abusive employer households and are staying at “safe homes”, cannot afford to lose their wage and are in urgent need of earning income. Viable income replacement measures are needed. Further attention needs to be given to enable migrant workers who have been subjected to human and workers’ rights violations in the employer household, to change employer in the country of destination.



Handout 1 for participants

Assignment for small group work

Your group will analyse a “real life scenario” of violence against women migrant domestic workers in a country of destination and will propose measures to prevent these types of abuses from happening.

- Read the case study and discuss.
- You can use the questions below to guide your discussions.
- Assign a rapporteur and a spokesperson in your group.
- The rapporteur can use a flipchart or slide presentation to note down the main points.
- The spokesperson will briefly present the outcome of your discussions in plenary.

Questions for discussion

1. Identify the difficulties migrant domestic workers from Imaginy encountered while working in other countries and in seeking help against these problems. List the rights violations faced by the Imaginy migrant domestic workers in the case study that qualify as harassment, violence, and forced labour situations.
2. From your experience, what are some of the most common rights violations and abuses faced by women and men migrant workers in destination countries? What are common obstacles in providing effective assistance and how do you overcome these obstacles?
3. If you were the government, how would you respond to such problems in the most effective way and prevent them from happening again? Outline practical measures and steps in your response.

Case study

Imaginy, an ASEAN Member State, sends many migrant workers to the Arab States. A “sex-for-flight” controversy emerged in 2013, when an officer at an Imaginy Migrant Labour Office (IMLO) in an Arab State (State 1) was accused of being involved in offering to facilitate a return flight to Imaginy for an Imaginy woman migrant domestic worker in exchange for sexual favours. He was also accused of taking an Imaginy woman migrant worker out of the Imaginy Migrant Resource Centre (IMRC) and facilitating her illegal employment in a household in the destination country, where she was reportedly made to sexually service an Imaginy employer. Two other labour officers were accused of misconduct and neglect of duty, failing to assist Imaginy migrant workers, forcing one to settle her case against her employer out of court. They alleged in sworn statements that Embassy and IMLO officials forced them to have sex with the officials or with “clients” in order to be given priority for repatriation. Imaginy migrant workers came to the IMRCs seeking help to return to Imaginy after suffering from abuse and maltreatment by their employers. In June 2013 the Committee on Migrant Workers’ Affairs of the Parliament disclosed alleged cases of abuse, sexual exploitation, and illegal exaction of fees committed by officials and contractual employees of Imaginy embassies and labour offices in different posts in the Middle East against Imaginy migrant workers housed at the IMRCs.

In State 1, although migrant domestic workers from Imaginy had standard contracts, they still experienced labour abuses, including long working hours (an average of 78–100 hours per week), insufficient rest periods, performing tasks other than those specified in the contract, and confiscation of passports. These practices had been banned in State 1 since 2007 but only for domestic workers working in companies, not for those in private households. Verbal, physical, and sexual abuse was also reported. State 1 law stipulates that domestic workers immediately turn to the police to file a complaint when they encounter problems with their employers, but many who had done so reported inconsistent police responses to complaints. Some received immediate assistance, others were detained and sent back to their employers or denied complaint registration, and still others were physically or sexually abused by the police. As a result, Imaginy migrant

domestic workers went to the IMRC and the Embassy to seek help. News reports cited that some of the workers who came back to Imaginy had leg fractures because they jumped out of the windows of buildings in order to escape their abusive employers.

The Imaginy migrant domestic workers filed labour complaints against their employers with the IMLOs (a standard procedure stipulated in the standard employment contract), which then assisted them in presenting their claims through dispute resolution proceedings before the Office of Domestic Workers Affairs (ODWA), under State 1's Ministry of Interior. Generally there were 300–500 migrant domestic workers in a shelter at any one point in time. However, these proceedings were time consuming, typically due to employers' refusal to cooperate and the ODWA's inability to compel them. Without a resolution, cases were then filed in court and the IMLOs hired State 1 lawyers to represent domestic workers, who stayed at the IMRCs while waiting for a resolution in their complaints or court cases. In March–April of 2011, 222 Imaginy migrant workers who had been staying at the IMRC in State 1 were granted amnesty and were allowed to return to Imaginy. By 2013 the number of Imaginy migrant domestic workers went down to 50 due to a repatriation programme by the Labour Office of the country of origin.



Handout 2 for participants

Response to the case study

The Imaginy Government's response to the sex-for-flight controversy in the Middle East

After hearing these cases, Imaginy's Minister of Foreign Affairs (MFA) recalled all heads of posts in the Middle East and launched an internal investigation. The Ministry of Labour and Employment (MOLE) also sent an investigation team to the Middle East, and created a task force to investigate the cases. The Senate also held its own investigation.

On September 2013, the Ministry of Justice (MOJ) created the Imaginy Anti-Trafficking Task Force to investigate reports of abuses committed against female Imaginy migrant workers in Arab State 1. The Task Force submitted its report to the MOJ on 16 December 2013.

In February 2014 and July 2014, the MOLE Minister, who was a woman, issued two Administrative Orders, listing the new measures that should be put in place in the IMLOs and IMRCs in order to prevent, preempt, and hopefully permanently root out the alleged malpractices and misdemeanor against overseas Imaginy workers. She reminded all IMLO officials and personnel to always observe proper decorum and utmost professionalism in dealing with their wards and clients, pursuant to the Code of Conduct of IMLO personnel, and to be forewarned that sexual harassment against women and men in the employment, education, and training environment is unlawful and carries with it stiff penalties under the 1995 Act against Sexual Harassment. Below are some the measures approved in the administrative orders:

- prohibiting workers in distress from full-time or part-time employment in the Imaginy embassy or labour offices overseas;
- requiring IMLO heads to conduct weekly dialogues with wards staying at IMRCs; and
- forwarding all requests for repatriation tickets to IMLO heads, and requiring receiving agencies to act on these requests within 48 hours.

MOLE also made public the penalties meted out against accused MOLE personnel in various labour offices in the Middle East:

- The Imaginy Assistant Labour Attaché in State 2 was given a penalty of reprimand and found guilty of light offense of sexual harassment for telling "dirty" jokes when the officer texted one of the migrant workers that he already bought "sexy vagina and breast catchers", referring to women's underwear, after she made a request for new underwear. The Commission on the Imaginy Language considered the term "obscene and lewd" and deemed the act as a form of sexual harassment. The Assistant Labour Attaché, however, was absolved of three counts of administrative charges of sexual harassment for lack of factual basis. The superior of the above Assistant Labour Attaché was suspended without pay for one month for neglect of duty.
- The acting Imaginy Labour Attaché for a third Arab State was suspended for four months without pay for misconduct for using vulgar and indecent language while talking with distressed overseas Imaginy workers, and for using an office-issued laptop to view pornographic materials.
- The MOLE committee did not find any of the MOLE personnel involved in any sex-for-flight activities.

The Imaginy Senate, an influential Parliament Representative, and various migrant workers' organizations heavily criticized MOLE for what they perceived as light penalty sentences given to the accused IMLO officials. In May 2014, the three accused officers in IMLO State 1 were rehired by the Government so they could be easily investigated. The Government assured that the three officers were no longer in close contact with the women migrant workers staying at the IMRCs.

MOLE measures to enhance and strengthen IMLOs and IMRCs

- A. Measures to further enhance and strengthen IMLO operations and the operations at the IMRCs (Administrative Order 123, Series of 2013):
- Distressed workers shall be prohibited from engaging in any work or employment, whether full time or part time, while under the custody of the IMRCs.
 - Likewise, they shall not be allowed to work in the households of Embassy and IMLO officers and staff.
 - No ward shall be allowed or permitted to perform volunteer work in the offices of the Embassy, the IMLO, and any other Imaginy offices.
 - Only the designated female Centre Supervisor shall be allowed to live or reside at the Centre. Any member of her family is excluded.
 - The Head of the IMLO shall conduct weekly dialogues with the IMRC wards for the purpose of case updating and to address their needs as well as other concerns.
 - Highlights of the meeting shall be reported to the Minister as well as any complaint against IMLO staff (organic and local hires). If warranted, the Head of the IMLO shall place a local hire on preventive suspension.
 - The Head of the IMLO shall approve all requests for repatriation tickets to employers, employment and recruitment agencies from destination countries and Imaginy, and other relevant Imaginy government agencies in charge of labour migration.
 - In relation to the above measure, the Labour Attaché shall officially designate a staff member as the head of the repatriation team who shall accompany all wards for repatriation to the airport.
 - Final settlement of cases shall be done at the IMLO to be duly attested by the Head of the IMLO, as well as status reports of all cases handled by designated IMLO and local hires or those assigned as case officers during the day shall be submitted to him or her.
 - Contact numbers of the IMLO, the Embassy, and other Imaginy offices in destination countries should be conspicuously posted at the IMRC, as well as on the IMLO website as part of the feedback mechanism for migrant workers' complaints, suggestions, and other concerns.
- B. Measures calling for clear-cut supervisory rules in IMLO operation (MOLE Administrative Order No. 123-A, Series of 2013)
- Ensure that gender balance is observed in the staffing of all IMLOs, particularly in the IMRCs with many wards. Thus, the MOLE Minister ordered all personnel to be deployed overseas to undergo special training on gender sensitivity, and for the IMRC to have a full-time "house mother" who must be an administrative staff trained prior to deployment. "Only female personnel shall directly attend to the complaints and cases of wards, particularly during intake/initial interviews, for further processing and handling of the assigned Case Officer. Subsequent counselling and updating sessions, if handled by a male Case Officer, shall be done in the presence of the house parent or a female IMLO staff."
 - The MOLE Minister instructed the Migrant Workers Welfare Administration Office to share in the cost of training of wards in the IMRCs to ensure that materials and equipment are available. She also pledged adequate funding for the IMRCs for the basic and personal necessities of the wards.
 - All IMLOs should install sufficient CCTV cameras in their offices and in the IMRCs. The head of the IMLO shall be the custodian of recorded videos.
 - To ensure transparency, the MOLE Minister instructed the installation of a clear glass- enclosed room in the IMRCs as venue for all transactions with the wards. The IMRCs should also maintain a first-aid kit for the wards and personnel.

- To further enhance operations, the MOLE Minister requires all IMLOs, through the Labour Attaché, to submit to her the quarterly reports on all matters relating to IMRCs' operations, copy furnished to the head of the Post or the Ambassador or Consul. She also directed the IMLO to always prioritize the repatriation of wards and the resolution of their complaints and cases: Upon admission at the IMRC, the IMLO shall immediately profile and provide the ward with the necessary seminars and skills training in preparation for their repatriation. All the requirements that will entitle them to the livelihood starter kits, and any other or to any of the MOLE migrant reintegration programmes, shall be processed on-site for release upon their arrival in Imaginy.



Tool 9. GEM: Voice, visibility, services, and organization

9.1 About this tool⁸⁷

This tool explains why women migrant workers need more voice and visibility in policy dialogues, in capacity development, and in the media; what empowerment is; and why reliable information and organizing are crucial to reduce the risks and increase the benefits of migration. Tips are provided on how to increase women's representation, how to ensure good mixes of men and women in meetings and training, and how to engage in gender-responsive advocacy. A checklist assesses to what extent core messages on migrant workers and the production and dissemination of media products are gender responsive. This is followed by good practices on increasing the voice and visibility of domestic workers through organizing at the local and the global levels; on providing gender-responsive services in Migrant Worker Resource Centres (MRCs) in ASEAN Member States; on campaigns to promote better understanding between nationals and migrant workers; and on campaigns to engage employers in upholding the rights of domestic workers in their own homes.

Aims:

- To ensure that the views, priorities, and interests of both women and men migrant workers are raised, reflected, and acted upon in policy development.
- To promote equitable opportunity and treatment of men and women in capacity development and to close gender gaps where these exist.
- To prepare and disseminate gender-responsive media messages on labour migration.
- To highlight how gender-responsive services and organizing support the empowerment of domestic workers.

9.2 Rationale and concepts

9.2.1 Why do we need more women in policy and more men in gender events?

Women are often excluded from decision-making mechanisms and processes as leadership positions automatically go to men in many societies. This is also true in the labour migration field within ASEAN, where the overall majority of labour migration organizations tend to be male-dominated, especially at the higher levels. In such cases, the voice of women migrant workers is likely to be absent from policy debates. As a result, working women migrants' concerns, needs, and priorities, as well as gender inequalities in labour migration tend to be invisible.

⁸⁷ Based on ILO, 2010b, Tools 9–10; 2015a; ILO and UN Women, 2015a; 2015c; OSCE, 2009.



Women generally have had fewer opportunities to become leaders than men, especially if they come from marginalized families and communities. They may have had less access to education than men. Generally men also have more time to become leaders because women are traditionally assigned to care for the household and family, in addition to earning income. Positive action measures to encourage women into decision-making on labour migration are, therefore, necessary in many instances.

Knowledge managers and professionals in the migration and development fields face another type of gender challenge, the stereotyping effects of the “gender” label when organizing policy discussions or training events. Where a mixed participation (at minimum 40 per cent of each sex) is ideal and both men and women have been invited, only women turn up at “gender” events, which are perceived to be only about women and for women. And there are no or few women at other migration and development events. As a result the perspective of women is often missing in such meetings. This is a challenge in most ASEAN Member States, and particularly at the decentralized levels.

In labour migration as in other development fields, meetings are a crucial means for knowledge sharing, advocacy, capacity development, and decision-making. The development of sound and gender-responsive labour migration laws, policy, and management requires dialogue and debate among both male and female stakeholders, duty bearers, and rights holders who table diverging issues, priorities, and interests. Labour migration managers should, therefore, ensure the following for all policy development and capacity development events:

- Plan for balanced participation of women and men in every event.
- Ensure voice of the under-represented groups, be it women or men, or any other minority group.
- Identify the perspectives, concerns, and priorities of both men and women in labour migration.

9.2.2 Why do we need gender equality in labour migration media messages and processes?⁸⁸

Gender inequality is ingrained in language, in pictures, and in all communication and information sharing in families, workplaces, and society. Gender-biased and gender-blind messages and materials tend to implicitly reinforce the image of men as the norm and the standard, and women as somehow exceptional and aberrant. These traditional gender images and stereotypes perpetuate inequalities that need to be eliminated.

In the labour migration field, changes in public attitudes are needed to bring about positive change in the policy domain, as public perceptions and migrant policies mutually influence one another. Research has shown that the public is often not aware of the need for migrant workers in specific sectors, the contributions they make to the economy, and migrants’ right to equal treatment. Media products often portray migrant workers in a negative light. This feeds xenophobia; increases discrimination against migrants; and leads to situations where rights abuses are tolerated, and law and policy development are based on “gut” feelings rather than on evidence.

⁸⁸ ILO, 2011d.

Media portrayals of women migrant workers tend to be stereotypical and one-dimensional. They are either portrayed as helpless victims that need to be protected and rescued, or they are stigmatized as “bad” or “loose” women who may be looked down upon and treated badly by everybody. Few media portrayals of women or men migrant workers are positive.

When developing media messages on women and men migrant workers – for the general public, for employers and national co-workers, for service providers, and for migrant workers themselves – it is important to project “positive” gender images of women and men migrant workers that emphasize their contributions to their home and destination countries. Media providers also need awareness raising on gender equality and labour migration, as sensational “bad” news tends to sell better than nuanced messages and good news. However, it is important to not only highlight abuses and exploitation, but also showcase successes, solutions, achievements, and good practices, and reaffirm gender equality and human rights goals in labour migration clearly and consistently.

See section 9.5.3 for good practice media campaigns.

9.2.3 What is empowerment and how does it work?⁸⁹

Due to its widespread usage, there are a variety of understandings of the term “empowerment”. The term was coined by the women’s movement advocating equality between women and men and women’s empowerment. Since then it has been used in many different contexts and by many different organizations to benefit discriminated groups, but it continues to be used mostly in relation to achieving gender equality and women’s empowerment.

Empowerment is both a goal and a process:

- **Goal:** Empowerment is about people – women and men – taking control over their lives: taking decisions and setting their own agendas, gaining skills and self-confidence, solving problems, seizing opportunities and realizing their potential through individual and collective action.
- **Process:** Empowerment is a bottom-up process and cannot be bestowed from the top down. No one can empower another: **only individuals can empower themselves** to make choices and to speak out. However, institutions can support processes that can nurture the self-empowerment of individuals and groups.

Empowerment aims at expanding “agency” and “autonomy” throughout people’s life-cycles, enabling women and men of all colours and classes to make informed choices in the psychological, social, economic, and political spheres by themselves. In the empowerment process individuals gain power, which is not to be understood in terms of domination (“power over”), but as creative power (“power to”), shared power (“power with”), and personal power (“power from within”).

Women’s movements have long emphasized the importance of increasing women’s “power to, with, and within”. Thus, while achieving gender equality is about reversing men’s undue domination over women, the goal is not more domination of women over men. The goal is about equal opportunities, incomes, and treatment for both men and women, resulting in “more power to, with, and within” for both sexes and a win–win situation for all.

Women’s empowerment has both a political and an economic dimension. It is about realizing women’s rights as a goal in its own right and as a precondition for sustainable development.

⁸⁹ Based on Eyben & and Napier-Moore, 2009; Cornwall and Edwards, 2010; UN Women 2013b and 2013c; World Bank n.d.

9.3 Tips

9.3.1 How to promote gender equality in labour migration policy development and capacity building

How to decide on the right mix of men and women in policy development meetings and training events

Labour migration policy development meetings, knowledge sharing, and training events require representation of male and female experts in labour migration and representation of the voice of women and men migrant workers. Organizers should decide in advance on the desired gender composition of resource persons and participants. While the actual targets for women's and men's participation will depend on the issue, the sector, and the setting at hand, organizers need to determine in advance who will attend and who will do what; how women migrant views will be represented in labour migration policy meetings; and how to involve men in gender-specific labour migration meetings. Generally, organizers need to set specific targets for the participation of women and men at any event. Below are tips for doing so effectively:

- ✓ Invite more women to general and official labour migration meetings and workshops.
- ✓ Invite more men to gender-specific labour migration events.
- ✓ Aim for a male–female attendance ratio in the range of 40–60% in mixed-sex meetings and workshops to allow for balanced representation of male and female views. If an equal ratio is not possible, ensure representation of at least 1/3 of either sex to allow for sufficient voice of the under-represented group.
- ✓ Avoid tokenism, i.e., including only one or a few women or men to make it appear as though “both sexes” have a voice in the meeting or workshop.
- ✓ Set a target of training two-thirds of women and one-third of men, when the capacity of women labour migration leaders, professionals, or migrant workers needs to be built to redress the effects of (past) discrimination or for role-model purposes.

When to have separate meetings for women and men migrant workers

- ✓ When there is strict sex segregation in families, workplaces, and in the society.
- ✓ When the topics of discussion may be sensitive between the sexes, such as sexuality, reproductive health, and gender-based violence at home or at work, preferably followed by mixed-sex groups later on.
- ✓ When cultural or religious customs strongly discourage or prohibit women and girls to speak up in the presence of men and boys.
- ✓ When there is a need to build up women's self-confidence and capacity. This will encourage them to speak more freely, firstly among themselves and later in mixed-sex groups.

How to increase women's participation in meetings and workshops

- ✓ Be sensitive to the practical obstacles to the participation of women migrant workers. For example, domestic workers are often only available on their day-off, and women may be concerned for their personal safety and security if they have to travel at night or far away.

- ✓ Plan or assist in providing practical and logistical arrangements to facilitate their participation such as:
 - meeting place and time that are convenient;
 - adequate travel and transportation arrangements to and from the event;
 - safety and security at the venue and accommodation; and
 - child care facilities for own or employers' children, as necessary.
- ✓ Provide additional resources required to ensure women's participation. For example, when women are not allowed to travel alone, invite two women instead of one.

How to make gender everybody's business, and not just women's business

- ✓ Avoid creating a divide between men and women. For example, do not stereotype all women as victims and all men as aggressors, as this is misleading and not true.
 - ✓ Actively involve men and boys in the activities to promote gender equality.
 - ✓ If there is resistance in the workplace, community, or organization to address gender inequalities, identify and invite respected – and where possible both female and male – gender advocates to support gender activities.
-  Women are not by definition promoters of gender equality, nor are men by definition against it. But, women are more likely to be active change agents, as they share gender-related constraints with other women.

9.3.2 Pointers for advocating gender equality in labour migration

Gender advocacy includes countering gender stereotypes, which may involve intensive dialogue as everybody has their own ideas and norms on what men and women (migrant) workers are like, can and cannot do, and should or should not do. Try to provide facts-based evidence and counter gender myths whenever possible. Below are some “tricky questions” and some answers introducing the gender equality perspective.

- Q:** Women who migrate for work and send remittances home are good providers for their family. But they often get corrupted and spend all the money on themselves.
- A:** Women migrant workers are likely to earn less than men, but they have been found to remit higher proportions of their earnings and at more stable and regular intervals when compared to men (ILO and UN Women, 2015c). In addition, while it is generally accepted that men spend income on themselves, this is not always the case for women, who often are expected to “sacrifice” themselves for the benefit of their family.
- Q:** If women migrate for work, why do they complain of infidelity? It is logical their husband takes another wife. Men need a woman to take care of them at home and in bed.
- Q:** If men migrate for work, it is logical they have other sexual relationships, but women migrant workers and women remaining at home should remain chaste.
- A:** If there is long-term physical distance between migrant workers and their spouses, the couples will have to come to terms with this and decide together how to handle it, preferably before taking the decision to migrate.

- Q:** Women migrant workers who have children should not be allowed to migrate. If they do, their children, husband, and other family members will suffer too much.
- A:** Parents need to discuss and agree who will migrate and for how long, and ensure that household work and childcare is being taken care of in a responsible manner. That means not overburdening other women family members like daughters, grandmothers, or aunts, but sharing of family responsibilities and the incomes gained from migration among the remaining family members.
- Q:** The women who are migrant workers in our country (of destination) are happy with the way their work and life is organized in our society. We see no need to change, why should we?
- A:** Have you asked women migrant workers in low-status occupations like domestic work? Women and men who are well-off may have not experienced discrimination themselves, and may not see the need for change. Employers of migrant workers may also have very different perceptions from the migrant workers themselves. It is best to ask the workers themselves, rather than rely on the views of others who do not have first-hand experience.
- Q:** In our country (of origin or destination) we highly value and respect our women as mothers, wives, and caretakers of the family. We want to protect our women, and there is no gender inequality in our society. We do not want our women to migrate for work, especially in occupations like domestic work. Why is that a problem?
- A:** If all women and men are happy in a society with the way the relations between men and women are organized, there is indeed no problem. However, when there are unequal power relations between men and women in a society, those who suffer from these inequalities are usually keen to change. Giving high esteem to women and mothers in general does not mean that there is equal sharing between workload and decision-making between men and women in the society. Where labour migration of women is prohibited, women tend to migrate for work anyway because the family needs income, but they have to do so as undocumented workers. This increases rather than decreases risks of exploitation.
- Q:** Are we imposing Western cultural norms on other societies?
- A:** The demand for gender equality evolved from women both from developed and developing countries and has strong roots in all civilized societies. Governments around the world have committed to gender equality and the advancement of women. Not only women in the West and the North, but women from all parts of the world have been aware and have struggled against oppression and inequality in societies for decades. Women's movements have been and are active everywhere to improve women's position and overcome gender inequalities.
- Q:** Is it culturally appropriate to try to change gender relations in societies by advocating gender equality in labour migration?
- A:**
- All societies in the world change constantly and are not static, nor harmonious. People all over the world struggle for justice and equality of opportunity and treatment. The concept that "traditional culture" should not be touched or changed is too easily used as a way of keeping power in the hands of a few. One should consult especially with women and women's groups in society to find out their views.
 - All development activities, whether they are about labour legislation, health care, road construction, employment promotion, vocational training, or labour migration, are interventions and promote changes in attitudes and behaviour.
 - Women and men need to decide in each society what actions and strategies they want and need, and are appropriate to improve gender equality in their society. When there is a conflict of interest, natural justice and fairness will be on the side of the party with the least power.

Q: Does migration reinforce or challenge existing gender roles and relations?

A: Both options are possible. Employers in destination countries have clear preferences for male migrants in certain occupations and women in others, and this limits the employment opportunities of migrant women especially, as there are fewer female-dominated jobs and those jobs tend to be lower paid compared to male-dominated occupations. However, women or men who stay behind likely have to take on non-traditional gender roles and responsibilities, and the same is also true for women and men migrant workers who need to take charge of their own life while working across borders. People with non-conforming sexual orientation or gender identity can also use the migration opportunity to transform their sexual identity and lifestyle or make new life choices (i.e., choosing to live their true sexual orientation or gender identity) in a new country, away from the family, community, and social and cultural constraints in their home country. Studies have found that migration into countries with higher political empowerment has been seen to lead to increased political engagement from women migrants (ILO and UN Women, 2015c).

9.3.3 How to promote gender equality in labour migration training content and processes

Training content

- ✓ **Identify participants' perspectives on gender equality in labour migration at the early start of the training** by carrying out a quick scan of participants' gender perspectives in labour migration, perhaps during the introductions of participants,⁹⁰ to set the scene for effective discussions on gender in labour migration in an attractive and non-threatening way.
- ✓ **Avoid jargon, keep it simple and to the point.** The concepts, definitions, and strategies for gender equality promotion are straightforward and easy to understand. Everybody with any level of education has an idea of what is just and fair. Appealing to these feelings of social justice and common sense is often more effective than getting into academic discussions and elaborate "gender jargon".
- ✓ **Design and use meeting and training materials that are relevant to the day-to-day experience of female and male participants** and highlight gender problems in labour migration from women's and men's perspectives. Use inclusive language that addresses both sexes, the young and the old, and people of different ethnicities.
- ✓ **Address concerns about all relevant intersecting forms of discrimination simultaneously** (e.g., sex and gender, race, ethnicity, colour, geographical origin, age, or migrant status), as it is not convincing and ineffective to aim at reducing gender inequalities only and forget about addressing other forms of inequality in labour migration.

Training process

- ✓ **Ensure enough "speaking time" for both sexes.** Men are generally more used to public speaking and tend to talk longer. If this happens, let the speaker finish, but interrupt and ask him to be brief. Women are often shy and need to be encouraged to speak. However, when a woman is too talkative, the same rule applies.

⁹⁰ For example, through a role reversal, asking women to briefly introduce themselves and tell the group what they would do if they were a man, and vice versa for men.

- ✓ **Resist making sweeping generalizations and ensure respect for everybody.** Draw out the women’s perspective and respect the men’s perspective, and vice versa as appropriate.
- ✓ **Do no assume that all women have the same understanding of gender issues.** Women are not a homogenous group and will usually be more loyal to men of their own socio-economic or religious and cultural group, than to women from other backgrounds. The same is valid for men.
- ✓ **Address sexist or racist jokes proactively.** If men or women feel threatened by the subject they may start to make sexist or racist jokes, or use derogatory language about women or men or other ethnic groups. Address this type of behaviour immediately by asking the persons in question whether they really believe what they say and why they believe it. Ask other participants for their opinion and start a discussion on the subject. It is important to make it understood (politely but firmly) that disrespectful behaviour is not tolerated.

9.4 Checklist

9.4.1 How is gender equality reflected in labour migration media products and processes?

If most of the answers to the following questions in this checklist are “Yes”, it means the media products portray labour migration in a gender-responsive way. If more than half of the answers are “No” or “Not sure”, more work is needed to integrate a gender equality dimension into the labour migration media products.

| Messages – Do your media products: | | Yes | No | Not sure |
|------------------------------------|--|-----|----|----------|
| 1 | Provide labour migration information and data broken down by sex and other relevant variables, like ethnicity? | | | |
| 2 | Present and portray the views and priorities of both women and men among labour migration policy-makers, experts, and migrant workers?  Give a voice to women and men migrants themselves and ensure to portray them in a respectful and positive way. | | | |
| 3 | Highlight similarities and differences between men and women migrant workers (e.g., in terms of the work they do, their working and living conditions, extent of legal protection, or the effects of economic, social, and labour migration policies on them)? | | | |
| 4 | Promote the gender equality and rights dimensions to safe, fair, and just labour migration (including equal rights to legal migration opportunities; equal rights within the migration process; and equal rights realized through labour migration)? | | | |
| 5 | Have explicit gender-responsive labour migration messages? | | | |
| 6 | Refer to international standards and regional, national, or local agreements, milestones, or targets on gender equality in labour migration? | | | |

| <p>7 In the case of promotional or public relations materials – such as brochures or video-clips promoting safe migration – or in the responsibilities of an organization in charge of labour migration management or promoting the rights of migrant workers:</p> <ul style="list-style-type: none"> • accurately represent the situation of both men and women migrants? • portray the organization or unit as a promoter of gender equality in labour migration? • showcase good practices and successes in achieving gender equality in labour migration? | | | |
|--|-----|----|----------|
| Audio and visuals – Do your media products: | Yes | No | Not sure |
| <p>8 Show balanced participation of both sexes in the images (e.g., photos, drawings, video clips, other visuals) and the soundtrack (e.g., interviews of experts, decision-makers, the “common” migrant worker)?</p> <p> Generally, avoid gender and racial stereotypes, especially if they portray a migrant worker of one or the other sex or ethnicity in a negative light. When confronted with harmful stereotypes, try to counter or address them on the spot, e.g., in interviews.</p> | | | |
| <p>9 Reflect diversity in terms of sex, race, colour, ethnicity, geographical origin, age, and migrant status?</p> <p> Show pictures of women and men migrant workers of various ages and from various ethnic and racial backgrounds.</p> | | | |
| <p>10 Portray diverse and non-stereotypical gender roles?</p> <p> Show women and men in the same jobs, in different jobs, and in non-traditional roles, such as men migrant workers as caregivers and women migrant workers as supervisors.</p> | | | |
| Language – Do your media products: | Yes | No | Not sure |
| <p>11 Use language to reflect that there are men and women among the migrant work population instead of gender-blind terms that often result in women and girls becoming invisible?</p> <p> Specify: “women and men in the informal economy” instead of “informal economy workers”; say “men and women migrant workers” instead of “migrant workers”; “girls or boys” instead of “children”.</p> | | | |
| <p>12 Use “gender sensitive” language instead of sexist terms?</p> <p> Avoid using male nouns and pronouns as “generic” terms for both sexes, and use genuinely gender-neutral terms such as human resources instead of manpower; working hours instead of man-hours; village head instead of village headman; homemaker instead of housewife.</p> | | | |

| Production and distribution of media products | | Yes | No | Not sure |
|---|--|-----|----|----------|
| 13 | Is gender equality promotion and countering negative stereotypes of women and men migrants systematically included in the media and outreach campaigns? | | | |
| 14 | Is the representation of both sexes consistently considered when developing audio and visual materials? | | | |
| 15 | Is there a policy, standard, or practice to promote positive images of women and men migrant workers and to avoid images that perpetuate traditional sex and labour market stereotypes of women and men migrant workers in the media products? | | | |
| 16 | Are the needs, roles, priorities, and interests of both women and men migrants taken into account when developing and adapting labour migration advocacy materials? | | | |
| 17 | Does your organization or programme disseminate knowledge and information on gender equality in labour migration through: <ul style="list-style-type: none"> • websites, social media; • research and publications; • library and documentation; • seminars, conferences, meetings; and/or • radio and television, or other audio and visual media? | | | |
| 18 | Do the media products indicate whether sources of information on gender issues in labour migration are widely accessible, and to whom? | | | |
| 19 | Have you selected media channels that will reach both men and women (potential) migrant workers and their families? <p> Check what channels reach (potential) women migrants with low levels of education and literacy. Low-income women workers may benefit more from phone circles, rather than smart-phone messaging or text-based applications. Women and men migrant workers who work in isolation – e.g., in domestic work and in fishing – may be especially challenging to reach.</p> | | | |

9.5 Good practices

9.5.1 Voice and representation through organizing⁹¹

The trade union, women's, and cooperative movements successfully advocated and lobbied for the adoption of ILO Convention No. 189 on decent work for domestic workers in 2011. This has been a significant milestone in changing the logic of paternalism into a logic of rights and justice in domestic work, a largely informal sector with a significant presence of undocumented migrant domestic workers that is highly feminized, often along ethnic divides.

Lack of knowledge about rights and the voice to uphold them is one of the main barriers to effective protection and abuse prevention. There is a need for strong organizations and structures that represent domestic workers, including migrant domestic workers. Building collective strength through organizing empowers domestic workers to address poor working conditions and other issues that affect their lives. Organized domestic workers and their allies are able to have a presence at local, national, and international policy-making forums. This enables them to affect the drafting of legislation that improves their access to rights, to work, and to quality of life.

In some countries' domestic workers have formed unions, while in others they have formed cooperatives or associations. The choice of the form of organization depends on national legal frameworks, in particular whether domestic workers have the right to organize themselves in workers' organizations. This fundamental principle and right at work is nevertheless not always extended to domestic workers under national legislation, especially if they are international migrants. Some domestic workers' organizations adopt a hybrid model, registering as a workers' organization and a cooperative to pursue, for example, rights promotion and collective bargaining for its members as a union, and economic empowerment of its members as a cooperative or social enterprise.

Several examples also exist of domestic workers' organizations reaching out to migrant workers. For example, in Hong Kong (China) the Federation of Asian Domestic Workers Unions (FADWU) supports migrant domestic workers of different nationalities to associate among themselves and across nationalities. HomeNet Thailand has supported the establishment of a national umbrella association of two domestic workers' networks for domestic workers from Thailand and Myanmar, and similar action has taken place in South Africa with domestic workers from Lesotho and Zimbabwe.

At the global level, the International Domestic Workers Federation (IDWF) is a membership-based, democratic, global organization of domestic and household workers. Since its inception as a network in 2006 (the federation was officially formed in 2013), the IDWF has evolved into a key advocate for the rights of domestic and household workers globally. As of July 2015, the IDWF is made up of 56 affiliates from 45 countries, serving a membership of over 330,000 domestic and household workers – and growing.

IDWF's Strategic Plan for 2016–2020

Overall objective: By 2020, a strong, democratic, and united domestic workers and household workers global organization will be contributing to the protection and advancement of the rights of its 670,000 members, and the rights of domestic and household workers everywhere.

⁹¹ Based on Gallotti and Mertens, 2013; ILO, 2015g; ILO and IDWN, 2012, IDWF, 2015.

Immediate objectives: By 2020, 670,000 domestic and household workers (including migrant domestic and household workers) represented by 80 affiliates in at least 60 countries are organizing to increase their power to affect the decisions that affect their lives; are actively contributing to the strength of their workers' organizations; are engaging with the work of the IDWF; and taking ownership of the federation by:

- participating in IDWF decision-making processes;
- participating in and leading strategic campaigns to improve the lives of domestic workers;
- providing capacity building for organizations and leaders;
- representing the IDWF publicly and in external communications; and
- taking action in solidarity with other IDWF affiliates.

During the next five years, the IDWF will prioritize working with migrant domestic workers and organizations in 30 countries – both sending and receiving – on organizing and advocacy resulting in empowerment, self-determination, and improved working conditions for domestic workers.

9.5.2 Gender-responsive services by Migrant Worker Resource Centres (MRCs)

In the Greater Mekong Subregion, government, trade union, and civil society partners are running 23 Migrant Worker Resource Centres (MRCs) across six countries (Cambodia, the Lao People's Democratic Republic, Malaysia, Myanmar, Thailand, and Viet Nam) with the support of the ILO and the Government of Australia (ILO, 2014f; 2015a; 2015b). The MRCs support potential migrant workers seeking to migrate and migrant workers already in destination workplaces to receive information, counseling, and legal assistance.

By mid-2015, almost 62,000 women and men received counselling, information, legal assistance, training on safe migration, or joined associations or unions; 41 per cent were women and 59 per cent were men (ILO, 2015j)⁹². Improved MRC data reporting and analysis made it possible to identify gaps in the provision of adequate MRC services for female potential migrant workers. In several of the outreach activities held by the MRCs, many more men than women were being reached in several countries. As a result, the approach, timing, or design of the outreach activities was reconsidered and the assistance sought of women's organizations with an outreach to the village levels.

Complaints are received and handled by the MRCs and other supported service providers, or where necessary, officially communicated to government channels. As a result, during the last four years, US\$2 million has been ordered as compensation for underpayment or accidents suffered in the workplace for about 1,000 cases involving more than 6,000 workers, about half of whom were women migrants.

Operation manuals for MRCs (ILO, 2014g) have been developed that encourage the MRCs to:

- Hire a mix of men and women to staff the MRCs, and ensure that both male and female staffers are available as some clients will be more comfortable talking to either a man or a woman.
- Ensure equal treatment in providing services to male and female clients, regardless of appearance, gender, social status, religion, political affiliation, sexual orientation, or any other factor.
- Consider whom to target when planning outreach activities, considering age, gender, and educational levels, and sectors for migration.

⁹² For further information see ILO2015j, available at: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/poster/wcms_473452.pdf. [accessed 13 Jun. 2016].

- Include gender equality as one of the driving principles of operating MRCs' communication plans: The effects of any message towards promoting gender equality, gender-responsive interventions, and a positive image of female and male migrants should be considered prior to dissemination with particular attention given to the selection of images and the choice of words.

In the future, it is planned to increase the understanding of gender equality in the MRCs and to develop local gender strategies with the assistance of local gender specialists with a view to increase the quality of service delivery. Other future areas of investment include:

- Consider flexible service delivery options that reach out to migrants, potential migrants, and their communities using mobile units, technology solutions, and more peer-to-peer engagement.
- Work with returned migrants to provide guidance to would-be migrants and intending migrants.
- Build better links between MRCs in origin and destination countries to increase cases of end-to-end support.
- Greater dialogue among MRC partners and provincial/central government on policy gaps and implementation.
- Developing criteria for the selection of recruitment agencies to which MRCs refer workers.
- Develop sustainability strategies for the various MRC models.

9.5.3 Campaigns to respect migrant and domestic workers and value their contribution

The “Saphan Siang” and “Migration works” campaigns

- In Thailand, the *Saphan Siang* (Bridge of Voices) campaign promotes better understanding between Thais and migrant workers by increasing public awareness on the issues faced by migrant workers, their positive contribution to Thailand's economy and society, and their right to equal protection under the law and in practical access to support services. The campaign seeks to achieve this goal by creating opportunities for interaction between Thais and migrants through public outreach events aimed at youth audiences, and online advocacy through the campaign's social media networks. For more information, see the *Saphan Siang* Special (video) with a Thai TV celebrity highlighting myths and facts about migrant workers' impacts on the labour market and economic and social services in Thailand, as well as the Saphan Siang Facebook page and website.⁹³
- In Malaysia, the theme of the campaign is: “Working Together, Walking Together: Migration Works For Us All.” The campaign aims to address some of the pervasive misconceptions about migration and migrant workers in Malaysia, by introducing the public to the positive contribution migrants make and changing deeply entrenched attitudes, apathy, or negativity towards migrant workers. The campaign focuses on Malaysian youth and others who are social media savvy, and involves the Malaysian Human Rights Commission, the Malaysian Employers Federation, the Malaysian Trade Union Confederation, Tenaganita, a women's rights NGO, and universities. See the Migration works Facebook page and website for more information.⁹⁴
- Both campaigns aim at portraying both men and women migrant workers; involving women and men as facilitators, for example, half of the youth ambassadors – that is, Thai university students working with local civil society organizations – were women and half were men; and event participation data are broken down by sex to monitor attendance rates.

⁹³ For more information, see the Saphan Siang video at <https://www.youtube.com/watch?v=7-CpWLUQNpA>, the Saphan Siang Facebook page - <https://www.facebook.com/SaphanSiang> and website at www.saphansiang.org [accessed 21 Apr.2016].

⁹⁴ For more information, see the Migration Works Facebook page - <https://www.facebook.com/MigrationWorks> and website www.migrationworks.org [accessed 21 Apr.2016].

The “My Fair Home” campaign

The My Fair Home campaign to improve the working conditions of domestic workers throughout Asia and worldwide by reaching out to their employers was launched in Bangkok in 2015 by the IDWF in collaboration with the ILO. Employers of domestic workers are encouraged to make a personal commitment by making the My Fair Home pledge online: I pledge to uphold these rights in my home and community:

- I will ensure fair wages are paid to domestic workers in my home (at least the minimum wage) and that domestic workers in my home have reasonable work hours and time to rest.
- I will negotiate the terms and conditions of employment with any domestic workers in my home, ensuring a mutual understanding through a written agreement.
- I will ensure that domestic workers in my home have access to decent healthcare.
- I will actively ensure a work environment that is free from abuse, harassment, and violence.
- I will ensure that domestic workers in my home enjoy decent living conditions and a safe, secure, and private bedroom.
- I will ensure that domestic workers in my home are able to spend their free time wherever and however they choose.⁹⁵

⁹⁵ For more information, see: <http://idwfed.org/myfairhome> [21 April, 2016].

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Annex I: Ratification of selected international instruments in the ASEAN region

Ratification of selected international instruments in the ASEAN region

| | Brunei | Cambodia | Indonesia | Lao PDR | Malaysia | Myanmar | Philippines | Singapore | Thailand | Viet Nam |
|--|----------|----------|-----------|----------|----------|----------|-------------|-----------|----------|----------|
| ILO Fundamental Conventions | | | | | | | | | | |
| ILO C.29 | - | 1969 | 1950 | 1964 | 1957 | 1955 | 2005 | 1965 | 1969 | 2007 |
| ILO C.87 | - | 1999 | 1998 | - | - | 1955 | 1953 | - | - | - |
| ILO C.98 | - | 1999 | 1957 | - | 1961 | - | 1953 | 1965 | - | - |
| ILO C.100 | - | 1999 | 1958 | 2008 | 1997 | - | 1953 | 2002 | 1999 | 1997 |
| ILO C.105 | - | 1999 | 1999 | | 1958(d) | - | 1960 | 1965(d) | 1969 | |
| ILO C.111 | - | 1999 | 1999 | 2008 | | - | 1960 | | | 1997 |
| ILO C.138 | 2011 | 1999 | 1999 | 2005 | 1997 | - | 1998 | 2005 | 2004 | 2003 |
| ILO C.182 | 2008 | 2006 | 2000 | 2005 | 2000 | 2013 | 2000 | 2001 | 2001 | 2000 |
| Other relevant ILO Conventions | | | | | | | | | | |
| ILO Declaration on Fundamental Principles and Rights at Work (1998) | | | | | | | | | | |
| ILO C.19 | - | - | 1950 | - | 1957* | 1927 | 1994 | 1965 | 1968 | - |
| ILO C.97 | - | - | - | - | 1964** | - | 2009 | - | - | - |
| ILO C.118 | - | - | - | - | - | - | 1994 | - | - | - |
| ILO C.143 | - | - | - | - | - | - | 2006 | - | - | - |
| ILO C.181 | - | - | - | - | - | - | - | - | - | - |
| ILO C.183 | - | - | - | - | - | - | - | - | - | - |
| ILO C.188 | - | - | - | - | - | - | - | - | - | - |
| ILO C.189 | - | - | - | - | - | - | 2012 | - | - | - |
| UN Conventions and Protocols | | | | | | | | | | |
| Palermo | | 2007 | 2009 | 2003 (a) | 2009(a) | 2004(a) | 2002 | 2015 | 2013) | 2012(a) |
| CEDAW | 2006 (a) | 1992 (a) | 1984 | 1981 | 1995 (a) | 1997 (a) | 1981 | 1995 (a) | 1985 (a) | 1982 |
| CRC | 1995 (a) | 1992 (a) | 1990 | 1991 (a) | 1995 (a) | 1991 (a) | 1990 | 1995 (a) | 1992 (a) | 1990 |
| UNMWC | - | 2004(s) | 2012 (a) | - | - | - | 1995 | - | - | - |

(d) Denounced: a country which ratified a convention can denounce a convention, declaring the ratification invalid; (s) Signature: demonstrates the State's intent to examine the treaty domestically and consider ratifying it; (a): Accession: same legal effect as ratification.

* Peninsular Malaysia only. ** Malaysia Sabah only.

Annex II: International labour standards of relevance to gender equality and fair migration

Fundamental principles and rights at work:

- Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)
- Right to Organize and Collective Bargaining Convention, 1949 (No. 98)
- Forced Labour Convention, 1930 (No. 29), and Protocol of 2014 to the Forced Labour Convention, 1930
- Abolition of Force Labour Convention, 1957 (No. 105)
- Minimum Age Convention, 1973 (No. 138)
- Worst Forms of Child Labour Convention, 1999 (No. 182)
- Equal Remuneration Convention, 1951 (No. 100).
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Conventions with specific provisions on migrant workers:

- Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)
- Employment Service Convention, 1948 (No. 88)
- Migration for Employment Convention (revised), 1949 (No. 97)
- Social Security (Minimum Standards) Convention, 1952 (No. 102)
- Equality of Treatment (Social Security) Convention, 1962 (No. 118)
- Employment Injuries Benefit Convention, 1964 (No. 121).
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)
- Maintenance of Social Security Rights Convention, 1982 (No. 157)
- Indigenous and Tribal Peoples Convention, 1989 (No. 169)
- Private Employment Agencies Convention, 1997 (No. 181)
- Work in Fishing Convention, 2007 (No. 188)
- Domestic Workers Convention, 2011 (No. 189)

Conventions of general application to migrant workers:

- Labour Inspection Convention, 1947 (No. 81)
- Protection of Wages Convention, 1949 (No. 95)
- Employment Policy Convention, 1964 (No. 122)
- Maternity Protection Convention, 2000 (No. 183)
- Safety and Health in Agriculture Convention, 2001 (No. 184)



Gender equality in labour migration laws, policy and management (GEM Toolkit)

The Gender equality in labour migration laws, policy and management GEM Toolkits is a set of nine practical tools, developed by the International Labour Organization (ILO) to facilitate the implementation of gender mainstreaming strategies in labour migration and related employment, social protection, and equality laws, policies, programmes, projects, as well as in day-to-day labour migration management practices.

The overall purpose of the GEM Toolkit is to contribute to eliminating discrimination against low-income women migrant workers in employment and occupation, and to shaping more gender-responsive labour migration laws, policy, and management in ASEAN for the benefit of both women and men migrant workers.

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