

# REPRESSION AND RESILIENCE

**COVID-19 Response Measures  
and Migrant Workers' Rights in Major East and  
Southeast Asian Destinations**



**HRWG**

**HUMAN RIGHTS WORKING GROUP (HRWG)**

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Human Rights Working Group (HRWG)

## **Repression and Resilience: COVID-19 Response Measures and Migrant Workers' Rights in Major East and Southeast Asian Destinations**

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This publication is written through a collective process, unless specified otherwise in a specific section or chapter, led by Mariko Hayashi in collaboration with Daniel Awigra and Adeline Tinessia, based on information and data collected and analysed by the field researchers, Fifi Ng Lok Hei, Jotaro Kato, Andika Ab. Wahab, Jolovan Wham, Young-il Choi, Ronel Chakma Nani, Lennon Ying-Dah Wong, and Suebsakun Kidnukorn (in order of relevant chapters). The contents of this publication are the sole responsibility of HRWG.

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**ISBN: 978-623-94398-1-1**

First Published in Jakarta in 2020

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# Abbreviations

<b>ACPHEED</b>	ASEAN Regional Center on Public Health Emergencies and Emerging Disease
<b>ACRF</b>	ASEAN Comprehensive Recovery Framework
<b>AFML</b>	ASEAN Forum on Migrant Labour
<b>ALM</b>	ASEAN Labour Ministers
<b>ALQ</b>	Alternate Local Quarantine (Thailand)
<b>AMCB</b>	Asian Migrants Coordinating Body (Hong Kong)
<b>APIL</b>	Advocate for Public Interest Law (South Korea)
<b>APTERR</b>	ASEAN Plus Three Emergency Rice Reserve
<b>ARC</b>	Alien Resident Card (Taiwan)
<b>ASEAN</b>	Association of Southeast Asian Nations
<b>BCA</b>	Building and Construction Authority (Singapore)
<b>CARE</b>	Centre for Culture-Centred Approach to Research & Evaluation (Singapore)
<b>CCC</b>	Clean Clothes Campaign
<b>CCSA</b>	Centre for COVID-19 Situation Administration (Thailand)
<b>CIS</b>	Commonwealth of Independent States
<b>CMCO</b>	Conditional Movement Control Order (Malaysia)
<b>COVID-19</b>	Coronavirus Disease 2019

<b>CSD</b>	Correctional Services Department (Hong Kong)
<b>CSO</b>	Civil Society Organisation
<b>EMCO</b>	Enhanced Movement Control Order (Malaysia)
<b>EPS</b>	Employment Permit System (South Korea)
<b>FADWU</b>	Federation of Asian Domestic Workers Union (Hong Kong)
<b>FAQ</b>	Frequently Asked Questions
<b>FDH</b>	Foreign Domestic Helper (Hong Kong)
<b>FOC</b>	Flag of Convenience
<b>GCM</b>	Global Compact for Safe, Orderly and Regular Migration
<b>GDP</b>	Gross Domestic Product
<b>HOME</b>	Humanitarian Organisation for Migration Economics (Singapore)
<b>HRWG</b>	Human Rights Working Group
<b>ILO</b>	International Labour Organization
<b>IOM</b>	International Organization for Migration
<b>IUU</b>	Illegal, unreported and unregulated
<b>JCMK</b>	Joint Committee for Migrant Workers in Korea (South Korea)
<b>JBM</b>	Jaringan Buruh Migran
<b>JSS</b>	Jobs Support Scheme (Singapore)
<b>KCDC</b>	Korean Centers for Disease Control and Prevention (South Korea)
<b>KIIP</b>	Korea Immigration and Integration Program (South Korea)
<b>MCO</b>	Movement Control Order (Malaysia)
<b>METI</b>	Ministry of Economy, Trade and Industry (Japan)

<b>MEXT</b>	Ministry of Education, Culture, Sports, Science and Technology (Japan)
<b>MHV</b>	Migrant Health Volunteers (Thailand)
<b>MIAC</b>	Ministry of Internal Affairs and Communication (Japan)
<b>MOFA</b>	Ministry of Foreign Affairs
<b>MOH</b>	Ministry of Health (Malaysia)
<b>MOHR</b>	Ministry of Human Resources (Malaysia)
<b>MOJ</b>	Ministry of Justice (Japan)
<b>MOL</b>	Ministry of Labour (Taiwan)
<b>MOM</b>	Minister of Manpower (Singapore)
<b>MOU</b>	Memoranda of Understanding
<b>MTUC</b>	Malaysian Trade Union Congress (Malaysia)
<b>NGO</b>	Non-Governmental Organisation
<b>NHI</b>	National Health Insurance (Taiwan)
<b>NHRC</b>	National Human Rights Commission
<b>NIA</b>	National Immigration Agency (Taiwan)
<b>OHCHR</b>	Office of the United Nations High Commissioner for Human Rights
<b>OSH</b>	Occupational Safety and Health
<b>OTIT</b>	Organization for Technical Intern Training (Japan)
<b>PBD</b>	Purpose Built Dormitories (Singapore)
<b>PPE</b>	Personal Protective Equipment
<b>PR</b>	Permanent Resident (Singapore)
<b>PSP</b>	Prihatin Screening Programme (Malaysia)
<b>RELA</b>	Malaysian Volunteer Corps Department (Malaysia)
<b>SBMI</b>	Serikat Buruh Migran Indonesia

<b>SMEs</b>	Small and Medium Sized Enterprises
<b>SMJ</b>	Solidarity Network with Migrants Japan (Japan)
<b>SLS</b>	Supplementary Labour Scheme (Hong Kong)
<b>SPA</b>	Serve the People Association, Taoyuan (Taiwan)
<b>SOCISO</b>	Social Security Organization (Malaysia)
<b>SO</b>	Supervising Organisation (Japan)
<b>SOP</b>	Standard Operating Procedures
<b>SSO</b>	Social Security Office (Thailand)
<b>SSW</b>	Specified Skilled Workers (Japan)
<b>SUHAKAM</b>	Human Rights Commission of Malaysia (Malaysia)
<b>Taiwan CDC</b>	Taiwan Centers for Disease Control (Taiwan)
<b>TITP</b>	Technical Intern Training Program (Japan)
<b>TRA</b>	Taiwan Railway Administration (Taiwan)
<b>TWC2</b>	Transient Workers Count Too (Singapore)
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>VHW</b>	Volunteer Health Workers (Thailand)
<b>WHO</b>	World Health Organization

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## Acknowledgements

This book is a collaborative work done with an ardent support of a plethora of parties. First and foremost, we would like to express our sincere gratitude for the Sasakawa Peace Foundation (SPF) that has generously provided support to us during the last three years.

We are particularly indebted to Mariko Hayashi for her leadership and dedication. We are deeply grateful to all of our field researchers; Fifi Ng Lok Hei from migrant solidarity committee, autonomous 8a in Hong Kong, Jotaro Kato, Research Associate, Institute of Asian Migrations, Comprehensive Research Organization, Waseda University in Japan, Andika Ab. Wahab, Fellow, Institute of Malaysian & International Studies (IKMAS), National University of Malaysia (UKM) in Malaysia, Jolovan Wham, Humanitarian Organisation for Migration Economics (HOME) in Singapore, Young-il Choi, Center Chief, Gimpo Foreign Citizen Support Center and Ronel Chakma Nani, Counselling Officer, Gimpo Foreign Citizen Support Center in South Korea, Lennon Ying-Dah Wong, Director, Service Center and Shelter for Migrant Workers Serve the People Association, Taoyuan (SPA) in Taiwan, Suebsakun Kidnukorn, Social Innovation Research Center (AB – SIRC), School of Social Innovation, Mae Fah Luang University in Thailand and Adeline Tinnessia, Australian National University Australia. It would not have been possible without their persistence and hard work behind the completion of this study.

We would like to express our sincere gratitude for the migrant workers communities in seven migrant destinations who gave us trust and shared their stories to our researchers. Without their stories, this research will never be relevant and meaningful.

We thank Cecille Montenegro for her powerful artwork for this book cover and Agus Wiyono for his graphic design and layout. We are also grateful to Eni Lestari, Chairperson International Migrant Alliance for her support in connecting us with her strong network in Hong Kong and internationally. Thank you also to Seonyoung Seo from South Korea and Anil Jaya Kumar from Singapore for their support. We would like to thank the Institute of Asian Migrations and Waseda Institute of Asia-Pacific Studies of Waseda University for hosting a seminar about this study. This study was also made possible owing to the unwavering support of the HRWG team, including Rafendi Djamin, Alisa, Indah Saura, Jesse Halim, Ariela Naomi Shifa, Olivia Oktaviani and Sondang Mega. We thank all members organizations and the board who always support our work that I could not mention one by one here. Last but not least, special thanks to Daniel Awigra for facilitating and managing this research project tirelessly.

We hope that this document can be used as a tool of advocacy, with the sole purpose of ensuring the utmost protection of migrant workers, especially during emergency situations such as COVID-19 and expanding the resilience of the community cross-regionally. This study is dedicated to celebrate the International Migrants Day 2020!

**Muhammad Hafiz**

Executive Director of the Human Rights Working Group - Indonesia's NGO Coalition for International Human Rights Advocacy

## Foreword

**C**oronavirus or COVID-19 is a horrible plague, a global health crisis, a pandemic.

A crisis is a sign of the early stage of a transition period. It can be a natural or a man-made disaster. It is a critical and a crucial momentum in the transformation of a society. However, it is our role as human beings to deal with. Success really depends on our readiness. At the end, will we have resilience? As evolutionary theory by Charles Darwin suggests could we find "*the survival of the fittest?*"

COVID-19 pandemic is not the exception of such crises. There are at least three main reasons why I think it has to be taken seriously as our common challenges. *First*, COVID-19 has become a significant part of the history of our generation. The containment of the spread of the virus itself has already shaped our life in less than a year. All necessary efforts taken nowadays will become the future history of our generation.

*Second*, unlike other crises that are easier to invite solidarity to stand up and deal with the issue together, at the global, regional, national, local or even personal level, during this public health crisis, building solidarity has become one of the biggest challenges. States have had to impose lockdown policies, travel bans or restrictions, and any other public health measures, such as physical

distancing, mask wearing, working and schooling from home, etc. A public gathering for instance, in order to express solidarity to support each other, can be considered as a breach of public health protocols and penalties or fines are imposed. In addition, there have been numerous examples of stigmatisation, discrimination, blaming and even persecution of others, merely because of the association of the disease with specific groups of people based on their nationality, race, appearance, origin, type of work and so on.

*Third*, it is about the politics emerging from the states responding to the pandemic. There have been many political experiments –for better or worse, taken and implemented in short periods of time in trying to protect the lives of the populations. In these trials and errors, which considerations do governments refer to and how has the implementation taken place? There is tension. Some policies are unprecedented and interesting to be highlighted.

One of the most vulnerable groups who have been facing those challenges are migrant workers in destinations. This has become our main reason to develop and work on this project. This study aims to collect life experiences and stories of migrant workers in major labour migration destinations in East and Southeast Asia in order to assess policies, regulations and measures taken by the governments during this pandemic.

“Repression and Resilience” is the dynamic duo that comes at once. In this time of crisis, the options somehow are only two, to give up or to struggle. Do we want to deal with this pandemic alone or together? In both options, it will be remembered by the future generations.

This study is a collective effort led by Mariko Hayashi, with full support of all field researchers; Fifi Ng Lok Hei, Jotaro Kato, Andika Ab. Wahab, Jolovan Wham, Young-il Choi, Ronel Chakma Nani, Lennon Ying-Dah Wong, and Suebsakun Kidnukorn and Adeline Tinessia as the desk researcher and editor. All researchers have

strong and trusted relationships with migrant workers as a result of their tireless work with the communities. With full dedication and commitments, this study was conducted smoothly with an impressive result. It has successfully aggregated, conceptualised and come up with “Proposed Guideline to Protect Migrant Workers Rights during Public Health Crisis” as our recommendations based on lessons learned from this exercise. It is a tool of engagement rather than cutting off communication. This proposal suggests to struggle rather than surrender. The antithesis of the pandemic is solidarity and cooperation.

The solidarity and cooperation have been shown by the completion of this book. It really brings us a real hope that we will win over the virus and the sectarian politics in responding to it. It is another small step in the infinite journey to establish a movement to amplify voices of migrant workers who are systematically made vulnerable and create more space for them in decision making processes both at the national and regional levels.

Will this global pandemic bring a change towards an inclusive governance of migrant workers? I suggest that you reflect on this question while reading this book.

This study is part of our cross-regional initiative to build a society, across East and Southeast Asia, where human rights of migrants and their families are upheld, respected, protected and fulfilled regardless of their race, nationalities, gender, age, and administrative/immigration statuses. We have created a platform BEBESEA (Better Engagement Between East and Southeast Asia). This hopes to be a place where individual migrants, their families, supporters, and migrants’ rights advocates can connect, collaborate, and work collectively for making changes across borders. I would like to ask readers to support and join this initiative.

To end, it is only through solidarity and cooperation that Darwin's theory of survival of the fittest, that survival will not exclusively belong to particular groups, but to encompass everyone.

In Jakarta on the International Human Rights Day 2020.

**Daniel Awigra**

Deputy Director of the Human Rights Working Group - Indonesia's  
NGO Coalition for International Human Rights Advocacy

## Editor's Note

This publication is written through a collective process, unless specified otherwise in a specific section or chapter, led by Mariko Hayashi in collaboration with Daniel Awigra and myself, based on information and data collected and analysed by the field researchers. Their plethora of expertise, knowledge and experience working with migrant workers' communities and related stakeholders have proven to be beneficial in revealing the true impact of COVID-19 and its related measures on migrant workers.

This study uses footnote referencing style. Field researchers provided some information and data from sources in local languages and are used in this study as references. Any English translations of technical and legal terms are taken from documents from and discussions with field researchers. The list of abbreviations and footnotes will help readers to better understand the use of terms and abbreviations that can be sometimes different in the various destinations discussed in this book. Conversion rates to USD based on rates in July 2020 are used in all chapters to provide a better understanding of prices mentioned in this book.

This study was aimed to highlight the experiences of migrant workers across destinations during the fluidity of the COVID-19 pandemic. Whilst some destinations have had important discussions regarding migrant workers during the pandemic, it might not necessarily be in a way that benefits the rights of migrant workers.

I believe that this study can reach stakeholders across East and Southeast Asia to become a resource for constructive dialogue and cooperation in the continuous handling of COVID-19. Importantly, as COVID-19 is unlikely to be the world's last epidemic or pandemic, I hope that this study will contribute to creating migrant worker friendly public health responses in the future. Migrant workers' rights should be respected and protected and not be sidelined, even during a public health crisis.

**Adeline Tinessia**

## **Chapter 1:**

# **Introduction**

**T**he world is facing unprecedented times as it tries to adapt to and battle with the ongoing coronavirus disease (COVID-19) outbreak. Although this is the time when global solidarity is needed more than ever before, there has not been such solidarity and cooperation initiated by state leaders. While more borders are shut, foreigners are often blamed for the spread of the disease, and migrants are left in vulnerable situations without or with very limited access to necessary care and support from their home or host countries.

In April 2020, during the early stage of the pandemic, the Human Rights Working Group (HRWG) together with Serikat Buruh Migran Indonesia (SBMI) and Jaringan Buruh Migran (JBM) conducted a scoping survey which was responded by 149 Indonesian migrant workers in their destinations. It found that 95% of migrant domestic workers responded from Hong Kong and Singapore were experiencing increased workload resulting in exploitation without appropriate pay-raise. This was mainly because their employers spend longer hours at home due to “work from home” measures taken by the government of their destinations. In May 2020, Malaysia saw mass arrests of foreign workers made as results of immigration raids targeting especially undocumented workers in areas around

Kuala Lumpur Wholesale Market which was conducted in the name of disease control. These are some examples of the implications of emergency measures taken on COVID-19 towards migrant workers.

During the time of the COVID-19 pandemic, migrant workers have become disproportionately vulnerable to the virus and the socio-economic consequences of the pandemic. Those migrant workers who live and work in over-crowded and unhygienic conditions face greater risk of infections. Access to healthcare and personal protection equipment (PPE) provided by the government are often limited to nationals or those with long-term residence permits. This means that temporary, low-wage and undocumented migrants have limited or no access to healthcare, daily necessities and information to protect their health. Ultimately, their rights to health are not fulfilled. Economic impacts of the lockdown measures have also affected migrant workers harshly. Many migrant workers have been terminated from employment and lost income without being eligible for states' economic rescue packages or existing social welfare. Some anti-immigrants policies have taken advantage of the pandemic as an opportunity to increase raids, detentions and deportation, and the environment of fear has made more migrants reluctant to access or seek support they need.

Although some issues and challenges faced by migrants and their families are different depending on the situations of each local context, there have been many similarities in countries across the regions of East and Southeast Asia. The challenges facing migrant workers during the pandemic are not only due to COVID-19 response measures, but also due to pre-existing migration policies that limited their rights. In order to call for improvement of the situations migrant workers are in, it is important to understand the impact of COVID-19 response measures and long-lasting migration policies on rights of migrant workers during the pandemic. At the same time, it is also essential to learn from good practices carried out by

both state and non-state actors in order to respond to those challenges and cope with the crisis.

### **Labour Migration, COVID-19 Response and Regional Dynamics**

An increasing number of migrants from Asian countries are migrating to other Asian countries. According to the International Labour Organization (ILO), there are 10 million labour migrants in the Association of Southeast Asian Nations (ASEAN) region, of whom nearly 50% are women.<sup>1</sup> For those migrant workers from Southeast Asia who migrate to outside of the region, popular destinations have been shifting from countries in the Middle East to those in East Asia, where foreign labour is increasingly in high demand due to labour shortages resulting from ageing populations. A significant number of migrant workers are also on the move between East Asian countries. Labour migration is a crucial aspect of society in both East and Southeast Asian economies. It largely contributes to the economy of a country's origin: remittances contribute to 10% of the Philippines' gross domestic product (GDP), 7% of Viet Nam's, 5% of Myanmar's and 3% of Cambodia's.<sup>2</sup> Migrant workers are also an integral part of the economy of destination countries, being a paramount part of the sectors including but not limited to construction, manufacturing, fisheries, agriculture, services and caregiving.

Specific to the COVID-19 pandemic, countries in the ASEAN region, like those in other regions, have implemented measures

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1 International Labour Organization. 3 June 2020. Experiences of ASEAN migrant workers during COVID-19: Rights at work, migration and quarantine during pandemic, and re-migration plans. Available at [https://www.ilo.org/asia/publications/issue-briefs/WCMS\\_746881/lang-en/index.htm#:~:text=In%202019%20there%20were%20an,COVID%2D19%20has%20impacted%20them](https://www.ilo.org/asia/publications/issue-briefs/WCMS_746881/lang-en/index.htm#:~:text=In%202019%20there%20were%20an,COVID%2D19%20has%20impacted%20them) (accessed 9 December 2020)

2 World Bank Group. 2017. Migrating to Opportunity: Overcoming Barriers to Labor Mobility in Southeast Asia, Available at <https://www.worldbank.org/en/region/eap/publication/migrating-to-opportunity-overcoming-barriers-to-labor-mobility-in-southeast-asia> (accessed 9 December 2020)

aimed at prevention of the virus spread, including lockdown measures, quarantines, and border closures. Responses related to migrant workers have varied from facilitating visa extensions to immigration raids and detention, even within a single country. Throughout the region, many businesses and other organisations have had to terminate operations or reduce working hours to limit physical contacts.<sup>3</sup> Migrant workers in ASEAN countries are generally excluded from economic stimulus packages and policies responding to COVID-19, including wage subsidies, unemployment benefits, and other social protection measures. ILO conducted a rapid assessment survey on the impact of COVID-19 on ASEAN migrant workers between March and April 2020, which found that 97% of unemployed migrants in destination countries had not accessed any social security support. Loss of income, loss of remittances, and increasing food insecurity were among highlighted emerging challenges.<sup>4</sup>

In the early stage of pandemic, leaders of ASEAN adopted a Declaration of the Special ASEAN Summit on COVID-19 on April 14, 2020. ASEAN has committed to strengthen public health cooperation measures to contain the pandemic and protect the people. In regard to the cooperation with ASEAN's external partners, leaders concern in ensuring food security, such as the utilisation of the ASEAN Plus Three Emergency Rice Reserve (APTERR), and strengthening the resiliency and sustainability of regional supply chains, especially for food, commodities, medicines, medical and essential supplies.<sup>5</sup>

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3 ILO and UN Women. 2020. Policy Brief: COVID-19 and Women Migrant Workers in ASEAN, Available at <https://asiapacific.unwomen.org/en/digital-library/publications/2020/06/policy-brief-covid-19-and-women-migrant-workers-in-asean> (accessed 9 December 2020)

4 International Labour Organization. 3 June 2020. Experiences of ASEAN migrant workers during COVID-19: Rights at work, migration and quarantine during pandemic, and re-migration plans. Available at [https://www.ilo.org/asia/publications/issue-briefs/WCMS\\_746881/lang--en/index.htm#:~:text=In%202019%20there%20were%20an,COVID%2D19%20has%20impacted%20them](https://www.ilo.org/asia/publications/issue-briefs/WCMS_746881/lang--en/index.htm#:~:text=In%202019%20there%20were%20an,COVID%2D19%20has%20impacted%20them) (accessed 9 December 2020)

5 Special ASEAN Summit on Coronavirus Disease 2019 (COVID-19). 14 April 2020. Declaration of the Special ASEAN Summit on Coronavirus Disease 2019

“Joint Statement on Response to the Impact of Coronavirus Disease 2019 on Labour and Employment” was adopted at the virtual Special Meeting of ASEAN Labour Ministers (ALM) on 14 May 2020.<sup>6</sup> The 13<sup>th</sup> ASEAN Forum on Migrant Labour (AFML), a tripartite plus annual forum dedicated to discuss migrant workers in the region, was held in Ha Noi, Viet Nam and online on 10 and 12 November 2020, under the title “Supporting Migrant Workers during the Pandemic for a Cohesive and Responsive ASEAN Community.” During the 37<sup>th</sup> ASEAN Summit, in response to the crisis, the member states agreed with coordinated actions, not only within the region but also cooperation with its partners through ASEAN Comprehensive Recovery Framework (ACRF). It will serve as the consolidated exit strategy from the COVID-19 crisis with the ultimate objective of enhancing the region's long-term resilience.<sup>7</sup> ASEAN also has officially announced the plan to establish the ASEAN Regional Center on Public Health Emergencies and Emerging Disease (ACPHEED).<sup>8</sup>

Under the framework of ASEAN, Southeast Asian countries have

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(COVID-19). Available at <https://asean.org/storage/2020/04/FINAL-Declaration-of-the-Special-ASEAN-Summit-on-COVID-19.pdf> (accessed 9 December 2020)

6 ASEAN. 14 May 2020. Joint Statement of ASEAN Labour Ministers on Response to The Impact of Coronavirus Disease 2019 (COVID-19) on Labour and Employment. Available at <https://asean.org/joint-statement-asean-labour-ministers-response-impact-coronavirus-disease-2019-covid-19-labour-employment/> (accessed 9 December 2020)

7 Specifically in the broad strategy on humanitarian, in order “to ensure the well-being of workers and improve the future of work, labor policies for the new normal will be strengthened including through social dialogue. Mainstreaming gender equality will also be prioritized throughout response and the recovery process given the gendered impact of the pandemic. Lastly, according to the document, human rights should be safeguarded in the process of post pandemic recovery towards a resilient region.” ASEAN. 12 November 2020. ASEAN Comprehensive Recovery Framework. Available at [https://asean.org/storage/2020/11/2-FINAL-ACRF\\_adopted-37th-ASEAN-Summit\\_12112020.pdf](https://asean.org/storage/2020/11/2-FINAL-ACRF_adopted-37th-ASEAN-Summit_12112020.pdf) (accessed 10 December 2020)

8 ASEAN. 10 November 2020. ASEAN Strategic Framework for Public Health Emergencies. Available at [https://asean.org/storage/2020/11/4-ASEAN-Strategic-Framework-on-PHE\\_Final.pdf](https://asean.org/storage/2020/11/4-ASEAN-Strategic-Framework-on-PHE_Final.pdf) (accessed 9 December 2020)

been making efforts to govern migration collectively within the region, and civil societies have been playing important roles to collectively advocate rights of migrants and their families at the national and regional level. Nevertheless, the challenges remain on the political will of the implementation of such commitments.

East Asian countries, on the other hand, have been going through some challenging processes to build stronger regional corporations. Despite pursuing the economic cooperation agenda under the trilateral summit, there have been diplomatic tensions among China, Japan and South Korea on traditional security issues as well as historical resentments. These issues are strongly rooted in unresolved disputes from the war time period among East Asian countries. In addition, Beijing's increasing control over Hong Kong as seen in the national security law as well as increasing political influence in Taiwan have also contributed to difficulties in promoting regionalism in East Asia. Unlike ASEAN that has exercised regional dialogues and cooperation in dealing with COVID-19, the trilateral summit between China, Japan and Korea was not held this year and postponed until next year as the countries prioritise their COVID-19 response domestically.<sup>9</sup>

Despite the challenges facing the East Asian region, China, Japan and South Korea, are actively participating in the ASEAN agenda as dialogue partners. For example, ideas for ACPHEED were discussed during the Special ASEAN Plus Three Summit on Coronavirus Disease 2019 (COVID-19) in April 2020, and a feasibility study was conducted with support from the government of Japan.<sup>10</sup> In this

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9 Nikkei Staff Writers. 3 December 2020. Japan, China and South Korea to delay trilateral summit to 2021. Available at <https://asia.nikkei.com/Politics/International-relations/Japan-China-and-South-Korea-to-delay-trilateral-summit-to-2021> (accessed 9 December 2020)

10 Japan-ASEAN Cooperation. 31 August 2020. A Feasibility Study on the Establishment of "ASEAN Centre for Public Health Emergencies and Emerging Diseases" Available at [https://jaif.asean.org/project\\_brief/a-feasibility-study-on-the-establishment-of-asean-centre-for-public-health-emergencies-and-emerging-diseases/](https://jaif.asean.org/project_brief/a-feasibility-study-on-the-establishment-of-asean-centre-for-public-health-emergencies-and-emerging-diseases/) (accessed 9 December 2020)

sense, ASEAN has a facilitating role in strengthening multilateral cooperation cross-regionally under ASEAN Plus Three or even on economic cooperation under ASEAN Plus Six (plus three, Australia, New Zealand and India).

Despite being the epicentre of the early stage outbreak of the virus, East Asian countries have been utilising their rich experiences in dealing with previous public health crises. On the other hand, ASEAN has shown strong regionalism in collectively dealing with issues that occur transnationally. Bringing the strengths of two regions together and strengthening cooperation of both state and non-state actors will benefit people cross-regionally.

### Public Health and Human Rights

In time of emergencies, even without states of emergency being formally declared, states may adopt exceptional measures to protect public health that may restrict certain human rights. These restrictions must meet the requirements of legality, necessity and proportionality, and be non-discriminatory.<sup>11</sup> Emergency declarations responding to a public health crisis such as COVID-19 outbreak should not be used to target particular individuals or groups. Measures taken must not involve discrimination on any grounds such as race, colour, sex, sexual orientation and gender identity, disability, language, religion, political or other belief and opinion and so on.<sup>12</sup>

In order to prevent unintended human rights violations, interdependence and indivisibility of human rights have to be upheld and governments must avoid using the notion that one right is more important than others. At a time when public attention tends to focus on the right to health, it is important to be reminded

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11 OHCHR. 27 April 2020. Emergency Measures and Covid-19 Guidance, the Office of High Commissioner (OHCHR). Available at [https://www.ohchr.org/Documents/Events/EmergencyMeasures\\_COVID19.pdf](https://www.ohchr.org/Documents/Events/EmergencyMeasures_COVID19.pdf) (accessed 9 December 2020)

12 Ibid.

of the need to protect and promote other civil and political rights, social and cultural rights with equal vigour.<sup>13</sup>

COVID-19 guidance of the Office of the United Nations High Commissioner for Human Rights (OHCHR) released in May 2020 states as follows;

- “- emergency powers must only be used for legitimate public health goals, and not used as a basis to quash dissent, silence the work of human rights defenders or journalists, deny other human rights or take any other steps that are not strictly necessary to address the health situation;*
- some rights cannot be restricted even during a state of emergency (non-derogable), including the principle of non-refoulement, the prohibition of collective expulsion, the prohibition of torture and ill-treatment, the right to freedom of thought, conscience and religion, and others.”<sup>14</sup>*

Reflecting the OHCHR’s guidance, some COVID-19 response measures taken in the migrant workers’ destinations have violated some human rights of specific groups of people in the name of disease control. For example, the cracking down on undocumented migrants and asylum seekers, who are stigmatised as virus carriers, and arbitrarily detain them in harmful conditions or using immigration status as criteria for essential healthcare or other services are violation of human rights, including rights to health.

The interdependencies between migration and health that have become apparent in the context of the COVID-19 pandemic create scope for action that goes beyond the realisation of the international commitments to protect migrants’ rights such as the Global Compact

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13 Helen Quane.2012. “A Further Dimension to the Interdependence and Indivisibility of Human Rights?: Recent Developments Concerning the Rights of Indigenous Peoples,” Harvard Human Rights Journal Vol. 25, pg. 1.

14 OHCHR. 27 April 2020. Emergency Measures and Covid-19 Guidance, the Office of High Commissioner (OHCHR). Available at [https://www.ohchr.org/Documents/Events/EmergencyMeasures\\_COVID19.pdf](https://www.ohchr.org/Documents/Events/EmergencyMeasures_COVID19.pdf) (accessed 9 December 2020)

for Safe, Orderly and Regular Migration (GCM), of which most East and Southeast Asian countries are state parties while Singapore abstained from voting. An example is the institutional interlinkage between the two policy areas: Health experts should be increasingly involved in implementing plans of actions of any international human rights corporations including the GCM and in the international bodies that take decisions on migration issues. Conversely, the same applies to the involvement of migration experts in pandemic management.<sup>15</sup>

### About this Study

This joint research looks at situations of migrant workers in their major destinations in East and Southeast Asia, namely Hong Kong, Japan, Malaysia, Singapore, South Korea, Taiwan and Thailand. Joined by practitioners of civil society or migrant support organisations and community-based researchers working directly with migrant workers addressing the challenges faced by the community, this study aims to 1) assesses the impact of COVID-19 response measures and pre-existing migration policies on rights of migrant workers during the pandemic; 2) examine how vulnerabilities translate to lived experiences of migrant workers; and 3) explore how state and non-state actors are dealing with challenges faced by migrant workers. This research is also aimed at amplifying voices of those who are affected and bringing them to the multi-stakeholders at the national and regional levels. This is part of an initiative of civil society actors in both East and Southeast Asia to work collaboratively to address issues faced by an increasing number of migrants moving cross-regionally.

By looking at some policies, regulations and measures

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15 Steffen Angenendt, Nadine Biehler, Anne Koch and Maike Voss. September 2020. The Global Compact for Migration and Public Health in the Context of the Covid-19 Pandemic. Available at <https://www.swp-berlin.org/fileadmin/contents/products/comments/2020C44GlobalCompactCovid.pdf> (accessed 11 December 2020)

implemented in response to the COVID-19 and their impact on the rights of migrant workers, this study attempts to answer some questions such as; what are the major COVID-19 response measures taken by the governments of destinations and how have they applied or not applied to migrant workers?; what are their impacts?; how have migration policies that existed before COVID-19 outbreak impacted migrant workers' experience during the public health crisis in destination countries?; what are the specific COVID-19 measures directly targeting migrant workers and how?; and what are the impacts of those measures on migrant workers' rights including rights to health and labour rights?; have there been any good practices from the state and non-state actors in dealing with challenges facing migrant workers?; and what are the criteria for essential services and support provided by the governments during the COVID-19 outbreak?

The feature of this study is its efforts in bringing real-life experiences of migrant workers as one of the most vulnerable groups during the pandemic. In doing so, it tries to fill the gap in the public discourse of the pandemic that overemphasised statistics. Instead of a comparative study, this research focuses on better understanding issues that are significant in each destination, appreciating different contexts. Benefitting from local knowledge of the field researchers, this study was able to use information and data from local sources that are not available in English and include them in the analysis. It has been a collective learning exercise looking at situations cross-regionally.

### ***Research Process and This Report***

This research was joined by a research coordinator, a desk researcher who also worked as an editor of this report, and eight field researchers from the seven destinations. All of the field researchers work closely with migrant workers either as non-governmental organisation (NGO) practitioners, migrant support

organisation professionals or community-based researchers. Desk research was conducted in June 2020 to gain an overview of COVID-19 situations of our target destinations through reports from the media, governments, international organisations and NGOs, which are mostly available in English. The first focus group discussion with all researchers was conducted in the beginning of July 2020 to identify gaps in the findings of desk research, significant events in each destination, and shared issues and challenges cross-regionally. The field research was conducted through two ways; 1) assessing relevant COVID-19 response measures highlighting their impact on migrant workers; and 2) taking a close examination of situations of specific groups of migrant workers using categories such as sectors of work or types of visa to analyse how pre-existing migration policies and other conditions of these groups have impacted their rights during COVID-19. The field research was conducted mainly between July and August 2020, or July and September 2020 in some cases. The second focus group discussion was held in August 2020 where the researchers shared and analysed their findings, and discussed possible recommendations. It is important to mention that for the case of South Korea, due to unforeseen circumstances, the field research was conducted between September and November 2020. Therefore, the contents of this report are mostly based on information and data gathered during these periods.

The findings of this study suggest that there are wide spectrums in COVID-19 responses by both state and non-state actors, ranging from repressive to more inclusive policies, regulations and measures. The study also saw some good practices of non-state actors including migrant workers, civil society and businesses and their resilience to deal with challenges.

Despite the currently high degree of uncertainty, through qualitative research, this study has developed and expanded the knowledge base. The team has also collectively come up with a proposed guideline for protecting rights of migrant workers during

a public health crisis using a human rights-based approach, aggregating from the findings of the research. It covers general principle, seven specific areas of rights; rights to healthcare, goods and services; rights to information; rights to decent work and social protection; rights to safe and fair immigration process; rights to be protected from trafficking; rights of workers at remote, private and “hard-to-reach” workplaces; rights to safe living conditions, and finally roles of civil society and international and cross-regional cooperation. They are based on our findings but also kept broad enough to be adopted for and used for advocacy work at various levels in every destination.

The main part of this report consists of seven chapters, in alphabetical order, covering each destination subject of this joint research, which contain assessment of COVID-19 measures and their impact on migrant workers including some testimonies and stories of migrant workers. The concluding chapter tries to conceptualise vulnerabilities of migrant workers and structural issues around them, and propose the guideline as outcome of this collective initiative.

Some limitations of this study have been identified during the process. First of all, this study looks at some selected aspects of measures taken in each destination. Deeper intersectional analysis across gender, sexual orientation, age, disability, race and ethnicity, religious and political belief etc. will be needed in the near future to address further vulnerabilities and marginalisation exists within migrant workers. Roles of some other stakeholders such as embassies, international donors and organisations should be further looked at in order to expand scope of multi-stakeholders and actors. Situations in countries of origin are also very important areas to be covered and have direct impact on migrant workers in destinations. For example, situations of prospective migrant workers, those who have been repatriated, families and dependents relying on remittances need to be addressed and they must be

included in the discussion of migrant workers’ rights. Lastly, as the pandemic is still continuing, there needs to be further monitoring of ongoing situations and long-term impacts of COVID-19 and response measures on migrant workers’ rights through continuous engagement between actors in countries of origin and destination.

### **Strengthening Participation and Cooperation**

The global pandemic has caused huge challenges and negative impacts to every corner of the society one way or another, and it has pressured governments to take drastic measures in dealing with an “unknown” public health crisis. By showcasing the impact of COVID-19 response measures on migrant workers, this study emphasises the importance of participation of people concerned, in this case migrant workers, in dealing with the public health crisis. Migrant workers are one of the groups whose vulnerabilities have exacerbated during COVID-19 outbreak while their rights are limited and restricted by pre-existing policies.

Public health crisis is a crisis of society as a whole, and there is an urgency to uphold human rights norms and principles. No one is safe until everyone is safe. Through cross-regional collective work, this study encourages both state and non-state actors to further strengthen multilateral corporations for prevention of further outbreak of COVID-19 and improving livelihood of affected people and better protection of human rights.

## Chapter 2: HONG KONG



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### Official figures of COVID-19

First case recorded on: **22 January 2020**

No. of positive cases: **6,315**

No. of death: **109**

(as of 1 December 2020, source: Worldometer)

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### Migrant Workers in Hong Kong

According to the data adapted by ILO in 2019, in Hong Kong, 103,044 foreign professionals, 10,908 foreign workers under the Supplementary Labour Scheme (SLS), and 361,004 Foreign Domestic Helpers (FDHs) (355,461 of whom are women and predominantly from the Philippines and Indonesia) were admitted into the territory.<sup>16</sup> As seen in these figures, the majority of migrant workers in Hong Kong work as domestic workers.

The first migrant workers to arrive in Hong Kong during the 1970s were mostly from the Philippines. The Philippines' then President Marcos's government encouraged labour emigration, coinciding with rapid economic growth in Hong Kong. Indonesian migrants started to arrive in the 1990s.<sup>17</sup> As more women in the

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16 International Labour Organization. No Date. Migration for Employment Convention (Revised), 1949 (No. 97) - China - Hong Kong Special Administrative Region (Ratification: 1997). Available at [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEX-PUB:13101:0::NO::P13101\\_COMMENT\\_ID:2698907](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEX-PUB:13101:0::NO::P13101_COMMENT_ID:2698907) (accessed on 6 November 2020)

17 Ian Cheung. 2017. Who Is Responsible for Hong Kong's Invisible Migrant Workers?. *New Perspectives in Foreign Policy*. Issue 13 (Summer 2017). Center for Strategic &

cities participate in the workforce while the government is reluctant to put more resources to provide enough public care services, many migrant domestic and care workers take work in Hong Kong.

Many live-in migrant domestic workers and migrant care workers are commonly facing severe exploitation by agencies and employers. Despite living with their employer and their unregulated working hours, migrant domestic workers' minimum allowable wage is only HKD 4,630 (USD 597) per month, and they are excluded from the statutory minimum wages of HKD 37.5 (USD 5) per hour. The statutory minimum wages protect migrant care workers who work in residential care homes, but their salaries are often also easily deducted unreasonably by their employers. Both groups are facing issues of poor conditions of their accommodation and overcharging by agencies.

### COVID-19 Response Measures

The first case of COVID-19 in Hong Kong was recorded on 22 January 2020. From 29 January 2020, the government introduced Work from Home Policy for government employees, except staff of departments providing emergency and essential public services.<sup>18</sup> This policy was extended intermittently until May 2020.<sup>19</sup> The government also appealed to the private sector employers to make similar arrangements where it is possible. The Hong Kong government announced all schools to be closed and switch to online teaching from the end of January 2020 to prevent the spread of the

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International Studies. Available at <https://www.csis.org/nfpf/who-responsible-hong-kongs-invisible-migrant-workers> (accessed on 6 November 2020)

18 Hong Kong's Information Services Department. 2020. *GovT Staff To Work From Home*. Available at [https://www.news.gov.hk/eng/2020/01/20200128/20200128\\_114401\\_545.html](https://www.news.gov.hk/eng/2020/01/20200128/20200128_114401_545.html) (Accessed 28 November 2020).

19 Info.gov.hk. 2020. *Special Work Arrangement For Government Employees*. Available at: <https://www.info.gov.hk/gia/general/202007/19/P2020071900482.htm?fontSize=1> (Accessed 28 November 2020).

virus.<sup>20</sup> Starting from the end of May 2020, schools gradually resumed with half-day classes. A massive wave of COVID-19 cases hit Hong Kong in mid-July 2020, and the government again urged its residents to work from home as far as possible and implemented several additional measures to prevent further outbreak.<sup>21</sup>

#### • **PPE Shortage and Distributions**

There was a severe shortage of PPE such as face masks and hand sanitisers between the end of January and early February 2020, and face masks were not available at reasonable prices. As prices of PPE had gone up, they have become unaffordable for most low-paid migrant workers. The field researcher noted some cases where migrant care workers that work in private residential homes for the elderly and the disabled had to use the same disposable face mask for over 12 hours while working, even though it is advisable to change masks every 3-4 hours, or use hand-made cloth masks which are not as effective as surgical masks. Some NGOs have received donations of masks sent from overseas or locally, which are distributed to beneficiaries including migrant domestic workers and asylum seekers.<sup>22</sup>

In order to address the severe shortage of face masks, the government of Hong Kong adopted a multi-pronged approach to procuring face masks through different channels including about

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20 Info.gov.hk. 2020. *EDB Announces Class Resumption On 2 March The Earliest*. Available at: <https://www.info.gov.hk/gja/general/202001/31/P2020013100693.htm?fontSize=1> (Accessed 28 November 2020).

21 News.gov.hk. 19 July 2020. Govt work arrangement announced. Available at [https://www.news.gov.hk/eng/2020/07/20200719/20200719\\_172804\\_522.html](https://www.news.gov.hk/eng/2020/07/20200719/20200719_172804_522.html) (accessed on 30 October 2020)

22 Examples can be found via Bethune House Facebook post available here: <https://www.facebook.com/BethuneHouse/posts/2409768742457739> (accessed on 9 December 2020) And Justice Centre Hong Kong Facebook post available here: <https://www.facebook.com/JusticeCentreHongKong/posts/2839129152872842> (accessed on 9 December 2020)

600 suppliers in 30 countries or regions reaching out to as far as Egypt, Turkey and Mexico.<sup>23</sup> On 18 March 2020, Sophia Chan, Secretary for Food and Health, announced that more than 10 million face masks, which the government had ordered had arrived in Hong Kong. The government's news published on the same day also reported that one million face masks had already been provided for staff of contract, self-financing and private residential service units, including residential care homes for the elderly and the disabled licensed by the Social Welfare Department. The government was also to secure the 700,000 additional masks produced by the Correctional Services Department (CSD) in order to supply frontline cleansing workers to meet their imminent needs.<sup>24</sup> Although this distribution of PPE has temporarily benefitted the frontline workers, including those who are migrants, some residential care homes complained that the distribution was enough for only a week usage.<sup>25</sup>

Asian Migrants Coordinating Body (AMCB)'s study in March 2020 found that 11-14% of migrant domestic workers had not received masks or sanitisers from their employers.<sup>26</sup> For every 10 workers who were given masks, only four of them were given more than one mask per day for work. The study has also said that foreign domestic workers still experience disparity in sharing of PPE in households as

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23 News.gov.hk. 18 March 2020. 10 million masks delivered. Available at [https://www.news.gov.hk/eng/2020/03/20200318/20200318\\_175745\\_224.html](https://www.news.gov.hk/eng/2020/03/20200318/20200318_175745_224.html) (accessed on 28 October 2020)

24 Ibid.

25 Appledaily.com. 3 March 2020. 【武漢肺炎】津助院舍員工獲發最多1.6萬元抗疫津貼 ([Wuhan Pneumonia] Employees of subsidized hospitals receive up to 16,000 yuan anti-epidemic allowance). Available at <https://hk.appledaily.com/local/20200303/WFMXKIYXS4ZPGOJZ34P6XU2GOI/> (accessed on 29 November 2020)

26 R. Wong. 17 March 2020. *Coronavirus: Hong Kong Migrant Domestic Workers 'Vulnerable' During Outbreak - NGO | Hong Kong Free Press HKFP*. Hong Kong Free Press HKFP. Available at: <https://hongkongfp.com/2020/03/17/coronavirus-hong-kong-migrant-domestic-workers-vulnerable-outbreak-ngo/?fbclid=IwAR2CIGKido7WUrpwnBBV8-2ZxitQ6EdvNmp6HU9Y0j-4jTubfGgrC40xnIE> (Accessed 25 June 2020).

a quarter felt that they got fewer masks compared to other members of the household. For those who were not provided masks, 78% declared that other members of the household did have masks for themselves. The numbers were similar for hand sanitisers.<sup>27</sup>

At the beginning of May 2020, the government announced that a free reusable mask with copper layers would be distributed to all Hong Kong citizens based on online registrations using identification cards.<sup>28</sup> Although migrant workers could benefit from these distributions, if they could self-navigate online registrations, undocumented migrants without valid identification cards were excluded from this distribution. The distributed masks could be washed and reused for up to 60 times,<sup>29</sup> not enough to satisfy the daily needs of mask-wearing. Following this effort, the government again delivered 30 million locally produced face masks to all residential addresses at the end of June 2020. A pack of 10 masks was directly mailed to each household address in Hong Kong, and there was no need for any pre-registration this time.<sup>30</sup> Without registration, undocumented migrants had benefitted from this in principle. However, it was up to employers to share these masks with their live-in migrant workers.

#### • **Compulsory Quarantine and Testing for Travellers**

On 3 February 2020, over 2,400 Hong Kong public hospital workers went on a strike demanding the government to close the

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27 J. Yumul. 17 March 2020. Domestic Workers Unprotected In Fight Vs COVID-19: HK Study. ABS-CBN News. Available at: <https://news.abs-cbn.com/spotlight/03/17/20/domestic-workers-unprotected-in-fight-vs-covid-19-hk-study?fbclid=IwAR0SvVu8JYf1E-HCfjkkBQsXlloaQOUpmXRHZRT0N9TCSiSiVkoSo1EINc> (Accessed 25 June 2020).

28 The Government of Hong Kong. 5 May 2020. Available at <https://www.info.gov.hk/gia/general/202005/05/P2020050500692.htm> (accessed on 30 October 2020)

29 *ibid.*

30 The Government of Hong Kong. 25 June 2020. Government to begin distributing 30 million locally-produced masks to the public free-of-charge starting next Tuesday (with photos). available at <https://www.info.gov.hk/gia/general/202006/25/P2020062500449.htm> (accessed on 30 October 2020)

border with mainland China to protect Hong Kong from the coronavirus.<sup>31</sup> Instead of closing the border, starting from the 8 February 2020, the government of Hong Kong announced that anyone entering Hong Kong from mainland China must comply with a 14-day quarantine order by the Department of Health.<sup>32</sup> The announcement was made right after the Chinese New Year holiday, when many Hong Kong citizens and residents were visiting their relatives in mainland China or even migrant workers from mainland China had to comply with the mandatory 14-day quarantine at home. Some migrant workers, employed as live-in at a private household, had to work for long hours in close proximity to employers who are under quarantine after returning from mainland China. For migrant workers entering or returning from mainland China to accommodations provided by their employers, it is often the case that they have no choice but quarantine in crowded living space with other migrant workers, increasing risks of cross-infections. It has also been reported that many migrant workers who were forced to use their annual leave or unpaid holiday while they are under mandatory quarantine.<sup>33</sup> The field researcher also heard from migrant care workers in residential care homes who also complained that they were ordered to work extra hours to cover their colleagues who are under quarantine without being subsidised.

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31 Chris Lau. 3 February 2020. Hong Kong hospital strike kicks off as top doctor backs mainland China border closure calls amid coronavirus fears. South China Morning Post. available at <https://www.scmp.com/news/hong-kong/politics/article/3048705/hong-kong-hospital-strike-kicks-top-doctor-backs-mainland> (accessed on 28 October 2020)

32 The Government of Hong Kong. 7 February 2020. Press Release - People entering Hong Kong from Mainland should comply with compulsory quarantine. Available at <https://www.info.gov.hk/gia/general/202002/07/P2020020700775.htm?fontSize=1> (accessed on 28 October 2020)

33 Zoe Low. 28 June 2020. Coronavirus: dozens of domestic workers in Hong Kong fired by bosses who assume they have Covid-19, unions say. South China Morning Post. Available at <https://www.scmp.com/news/hong-kong/society/article/3090919/coronavirus-dozens-domestic-workers-hong-kong-fired-bosses> (accessed on 6 November 2020)

As the centre of the coronavirus outbreak shifts to other regions of the world, the Hong Kong government published in the gazette on 18 March 2020, announcing Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places Regulation (Cap. 599E), which “introduces a resolute and rigorous measure to combat the global outbreak of the COVID-19 by imposing compulsory quarantine orders on all persons arriving from all places outside China.”<sup>34</sup> This affected many migrant workers, particularly those who are new arrivals as many of them were not aware of the new order, and there was no centralised system to process the quarantine. Migrant domestic workers, whose employers could not afford to or just did not arrange self-quarantine accommodations, ended up self-quarantine at their employers’ home, making the policy ineffective. On 21 June 2020, the government announced that employers must prepare adequate accommodations (hotel rooms) for migrant domestic workers’ 14 days quarantine and provide the reservation documents to Immigration Departments. It also demanded that employers should bear the accommodation expenses and provide food allowances to the workers.<sup>35</sup> However, AMCB, interviewed by the field researcher, stated that they had provided food delivery and assistance to more than 300 migrant workers who were staying in hotel rooms for quarantine. In one of the cases, the employer only provided 14 instant noodles to the newly arrived migrant worker for the 14-day quarantine.

On 18 July 2020, the Hong Kong government announced that travellers to Hong Kong who have stayed in specified places (i.e.

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34 The Government of Hong Kong. 18 March 2020. Press Release - Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places Regulation gazetted. Available at <https://www.info.gov.hk/gia/general/202003/18/P2020031800758.htm> (accessed on 28 October 2020)

35 The Immigration Department (Hong Kong). 21 June 2020. Employers need to sign an undertaking when applying for a visa for foreign domestic helpers. Available at <https://www.immd.gov.hk/eng/press/press-releases/20200721.html> (accessed on 3 November)

Bangladesh, India, Indonesia, Nepal, Pakistan, the Philippines and South Africa) 14 days before arrival must provide certificates that he/she has negative test results of a nucleic acid test for COVID-19. This sample needed to be taken from the relevant traveller within 72 hours before the scheduled time of departure of the specified aircraft. It also states that their employer should bear the fee for migrant workers’ testing.<sup>36</sup> However, the field researcher had been informed of a number of cases where agencies charged migrant workers for undergoing tests to fulfil the requirement.

- **Gathering Bans**

The Prevention and Control of Disease Regulation (Prohibition on Group Gatherings) commenced at midnight on 29 March 2020 and took effect for three months. Per the regulation, the Secretary for Food and Health issued a notice in the gazette on 28 March 2020 to prohibit group gatherings with more than four people in public places, which took effect on the following day for 14 days.<sup>37</sup> Twelve types of group gatherings are exempted, including for the purposes of or related to transportation, performing any governmental function, the purposes of work, and gatherings of persons living in the same household. Anyone who participates in, or organises a prohibited group gathering, and anyone owns, controls or operates the place of the gathering is considered to commit an offence. There is a maximum penalty of a HKD 25,000 (USD 3,225) fine and imprisonment for six months for an offender. By paying a fixed penalty of HKD 2,000 (USD 258), those who participate in a prohibited

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36 The Government of Hong Kong. 28 July 2020. Press Release - Specifications under the Prevention and Control of Disease (Regulation of Cross-boundary Conveyances and Travellers) Regulation gazetted. Available at <https://www.info.gov.hk/gia/general/202007/18/P2020071800038.htm?fontSize=1> (accessed on 30 October 2020)

37 News.gov.hk. 28 March 2020. Group gathering ban gazetted. Available at [https://www.news.gov.hk/eng/2020/03/20200328/20200328\\_110413\\_745.html](https://www.news.gov.hk/eng/2020/03/20200328/20200328_110413_745.html) (accessed on 30 October 2020)

group gathering may discharge liability for the offence.<sup>38</sup> The regulation remained in force until early May 2020 when the government relaxed the measures to allow gathering of up to eight people.<sup>39</sup> Although the number of people allowed to gather was extended up to 50 in mid-June 2020,<sup>40</sup> the regulation was soon tightened again to limit gatherings to no more than four people on 15 July 2020<sup>41</sup> and no more than two people on 29 July 2020.<sup>42</sup>

Gathering bans affected migrant workers' activities as many migrant workers, particularly those who work as domestic workers and regularly gather in public places on their rest day. Usually isolated in their workplaces, it is the only opportunity to meet and socialise with fellow migrant workers, making friends, exchange information and organise themselves. According to the field researcher's observation, since the gathering ban was implemented, the police increasingly visited places where migrant workers tended to gather and warned them not to gather in groups of more than four. There were some cases of migrant workers being charged for the offence and had to pay HKD 2,000 (USD 258) penalty, which is nearly half of their monthly salary.<sup>43</sup> The field researcher also

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38 Ibid.

39 News.gov.hk. 5 May 2020. CE explains the relaxation of measures. Available at [https://www.news.gov.hk/eng/2020/05/20200505/20200505\\_171110\\_984.html](https://www.news.gov.hk/eng/2020/05/20200505/20200505_171110_984.html) (accessed on 30 October 2020)

40 Bloomberg. 16 June 2020. Hong Kong Will Allow Public Gatherings of Up to 50 People. Available at <https://www.bloomberg.com/news/articles/2020-06-16/hong-kong-will-detail-relaxed-social-distancing-rules-tuesday> (accessed on 30 October 2020)

41 The Government of Hong Kong. 13 July 2020. Press release - Government further tightens social distancing measures. Available at <https://www.info.gov.hk/gia/general/202007/14/P2020071400010.htm> (accessed on 30 October 2020)

42 The Government of Hong Kong. 27 July 2020. Press Release - Government further tightens social distancing measures. Available at <https://www.info.gov.hk/gia/general/202007/27/P2020072700650.htm?fontSize=1> (accessed on 30 October 2020)

43 Hong Kong Free Press. 10 August 2020. Covid-19: Hong Kong police issue domestic workers with HK\$2k gathering ban penalties. Available at: <https://hongkongfp.com/2020/08/10/covid-19-hong-kong-police-issue-domestic-workers-with-hk2k-gathering-ban-penalties/> (accessed on 23 November 2020)

witnessed during the research that some police officers checked identification documents of those who were gathering or took photos of them as records without permission.

*Ida (not her real name) is an Indonesian migrant worker, and she usually spends her rest days at Victoria Park. She told the field researcher that on 9 August 2020, police officers came to the park at least six times to check whether migrant workers are adhering to social distancing regulations and wearing masks. When they came again in the evening around 7 pm, they used a torch to flash at the group of migrant workers. She felt that the police were discriminatory targeting migrant domestic workers, and the police did not do the same thing to local residents who were in the park at the same time.*

*Field researchers' note*

The field researcher also observed that there had been complaints from residents that migrant workers were breaching the gathering ban circulating on social media platforms. The mainstream media also published some reports to say that migrant workers were still gathering in large groups despite the ban, depicting and insinuating them as possible virus carriers.<sup>44</sup>

*"At home, we are afraid of employers, not the virus; On holiday, we are afraid of the police, not the virus."*

*"The mental condition is not calm, because you cannot do normal activities like before COVID-19."*

*"Give a decent place so that we do not sit outside during the holidays to become dirty domestic workers accused of carrying bacteria into their employers' home."*

*quotes from migrant workers gathered during the field research*

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44 An example is available in the report from Topick.hkt.com. 3 August 2020. 【外傭聚會】無視疫情聚集外傭坐滿美孚橋底 警方指曾巡邏及提醒遵守限聚令 [(Foreign maid gathering] Ignoring the epidemic, foreign maid sat and filled the space under the flyover in Mei Foo Police said they had patrolled and reminded to follow the gathering ban). Available at <https://topick.hket.com/article/2713209/> (accessed on 29 November)

The gathering ban also limits migrants' ability to exercise their right to organise and protest. Migrant domestic workers' organisations often hold activities to promote their rights, awareness and organising on rest days. This has also impacted migrant workers' access to information, which is discussed further in the later section. With the gathering ban, organisations had to change their ways to deliver those activities.

- **Financial Impacts and Support Schemes**

On 14 July 2020, the government announced that from the following day, dining inside restaurants would be prohibited between 10 pm and 5 am.<sup>45</sup> This prohibition was extended to all day two weeks later,<sup>46</sup> followed by the cancellation of this regulation two days later due to heavy criticism received from the public and businesses. On 30 July 2020, the government allowed restaurants to provide dining-in services between 5 am and 5 pm with an arrangement that the capacity of catering premises to be less than 50% of the standard seating arrangements and no more than two people are sitting at one table.<sup>47</sup> These prohibitions impacted many catering businesses, and migrant workers in this sector, who are usually undocumented, were also affected by the loss of income and/or work. Catering is not the only sector that is affected; the negative economic impact of the pandemic on employers has meant knock-on effects on workers of the many sectors. In addition, as discussed earlier, many migrant workers including those who

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45 The Government of Hong Kong. 14 July 2020. Press Release - Government further tightens social distancing measures. Available at <https://www.info.gov.hk/gia/general/202007/14/P2020071400010.htm?fontSize=1> (accessed on 30 October 2020)

46 The Government of Hong Kong. 27 July 2020. Press Release - Government further tightens social distancing measures. Available at <https://www.info.gov.hk/gia/general/202007/27/P2020072700650.htm?fontSize=1> (accessed on 30 October 2020)

47 News.gov.hk. 30 July 2020. Daytime dine-in services allowed. Available at [https://www.news.gov.hk/eng/2020/07/20200730/20200730\\_133234\\_942.html](https://www.news.gov.hk/eng/2020/07/20200730/20200730_133234_942.html) (accessed on 30 October 2020)

have newly arrived in Hong Kong or returned from holiday have experienced their work disrupted due to mandatory quarantine, for which some were forced to take unpaid leave. Despite the deteriorating financial impact of COVID-19, migrant workers are excluded from the government's support schemes.

On 8 June 2020, the government announced that all Hong Kong permanent residents aged 18 or above on or before 31 March 2021 are eligible to receive the HKD 10,000 (USD 1,290) payout based on registration, which would open on 21 June 2020.<sup>48</sup> Following this, on 2 August 2020, the Labour and Welfare Secretary announced through his blog that an additional HKD 10,000 (USD 1,290) cash handout scheme would be open for newly arrived non-permanent residents on a low income.<sup>49</sup> The Community Care Fund is distributing the handouts as "One-off Allowance for New Arrivals from Low-income Families" Programme, which is open for phased application from 27 September to 31 December 2020. Those who are 18 years old or above and have entered Hong Kong for settlement for less than seven years as of 31 March 2021 from low-income families as stipulated by the fund can apply. This programme excludes temporary migrants including those who entered Hong Kong under the SLS, Working Holiday Scheme, are employed under the Second Generation Hong Kong Permanent Residents Scheme or the Immigration Arrangement for Non-local Graduates, entered Hong Kong for training or study, FDHs, visitors and those who are in custody (including in detention).<sup>50</sup> Despite increasing financial

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48 News.gov.hk. 8 June 2020. Cash handout registration set. Available at [https://www.news.gov.hk/eng/2020/06/20200608/20200608\\_113959\\_076.html](https://www.news.gov.hk/eng/2020/06/20200608/20200608_113959_076.html) (accessed on 30 October 2020)

49 Hong Kong's Information Services Department. 2020. Low-Income New Arrivals To Get \$10K. Available at [https://www.news.gov.hk/eng/2020/09/20200921/20200921\\_154657\\_041.html](https://www.news.gov.hk/eng/2020/09/20200921/20200921_154657_041.html) (Accessed 28 November 2020).

50 Community Care Fund. 2020. One-off Allowance for New Arrivals from Low-income Families, available at <https://www.communitycarefund.hk/en/nap.html> (accessed on 3 November 2020)

constraints migrants workers are facing, more vulnerable temporary migrant workers are excluded from both cash payout schemes and have not received any subsidies from governments. Some migrants' organisations including AMCB have been advocating and demanding the government to also provide an allowance for migrant workers.<sup>51</sup>

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*"Provide assistance [to migrant workers] in the form of money as it is done to Hong Kong residents. Because not only Hong Kong residents are affected by COVID-19. (...) Migrant workers also have faced a lot of burdens because they also have to meet the needs of families in Indonesia who are also affected by Covid-19 such as layoffs."*

*"Provide free health tests, COVID(-19) tests, and material assistance because during the pandemic the price of necessities is getting more expensive, and we have to spend our own money to meet more expensive needs that are higher than our salary. (...) We are also part of Hong Kong that must be cared for. Set working hours in accordance with the law and include migrant workers into the labour law."*

*Quotes from migrant workers gathered during the field research (on what they would like to see from the government).*

#### • Access to Information

About a month after the coronavirus infections started to spread in Hong Kong, in late February, the government appealed their efforts to reach out to migrant communities and stand together to fight the outbreak of the disease. The government's press release announced that the Secretary for Constitutional and Mainland

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51 Grassroots Action. Media. 9 August 2020. STOP DEPICTING MIGRANT DOMESTIC WORKERS AS DISEASE-SPREADERS Provide necessary protection and assistance instead. Available at <https://grassmediation.wordpress.com/2020/08/09/> (accessed on 29 November 2020)

52 Example available via this Facebook post made on 10 August: <https://www.facebook.com/photo?fbid=10218024133379462&set=gm.3147164335396154> (accessed on 29 November 2020)

Affairs visited the Islamic Union of Hong Kong on 27 February 2020 and met with the Union members to explain Hong Kong's anti-epidemic measures to them.<sup>53</sup> The thematic website on COVID-19 ([www.coronavirus.gov.hk](http://www.coronavirus.gov.hk)) set up by the government to enhance the dissemination of information was introduced. This website contains some information translated into Indonesian, Tagalog, Hindi, Nepali, Urdu, Thai, Sinhala, Bengali and Vietnamese. The website integrates news updates from related government bureau and departments, provides the latest updates on COVID-19, such as figures of positive cases and deaths, measures undertaken by the government, public health educational information, as well as various other practical information. The press release also states that migrants can also use interpretation services provided by the Centre for Harmony and Enhancement of Ethnic Minority Residents to obtain the relevant health information.<sup>54</sup>

Despite these efforts made by the government of Hong Kong, the information in languages other than Chinese and English are less up-to-date, which makes it hard for non-Chinese migrant workers to access information and understand the latest situation in Hong Kong. Although the Labour Department has a dedicated website about foreign domestic workers, which can be partially translated into 12 languages, the information that is translated is not all up-to-date.<sup>55</sup> As of August 2020, only information released in or before April 2020 has been translated.

Information from the government translated into foreign languages is usually placed only in its websites, but not on social media platforms. As many non-Chinese migrant workers usually

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53 The Government of Hong Kong. 27 February 2020. Press Release - SCMA explains to ethnic minorities measures to fight COVID-19 (with photos). Available at <https://www.info.gov.hk/gia/general/202002/27/P2020022700525.htm?fontSize=1> (accessed on 28 October 2020)

54 Ibid.

55 Labour Department. No Date. Foreign Domestic Helpers. Available at <https://www.fdh.labour.gov.hk/en/home.html> (accessed on 28 October 2020)

rely on social media for information, the government's efforts to provide translated information have not been much effective in terms of reaching out. Some migrant self-help organisations and local NGOs serving migrants provide translated information on labour rights and immigration regulations through social media platforms, and migrant workers heavily rely on such information. A Facebook page aimed at providing information to migrant workers and ethnic minorities called "Safe Ways HK"<sup>56</sup> provides daily updates and information on COVID-19 since mid-July. At the same time, the field researcher observes that some wrong information, fake news and rumours have also been circulating among migrant communities through social media.

Usually, one of the most important ways for migrant workers to access information is gatherings at parks on their rest days. While working with migrants' self-help organisations distributing information leaflets on COVID-19 and public health measures relating to migrant domestic workers, the field researcher noticed that migrant workers were desperately seeking information about regulations related to their rest day arrangements or visa extensions. She observed that the type of information the government proactively disseminates towards migrant workers is only on public health measures such as gathering bans. Migrant workers had to rely on labour unions or migrants' organisations for information about personal hygiene, healthcare, labour rights and visa extension arrangements. With gathering bans in place, many activities of migrants' organisations and volunteers to disseminate information that migrant workers rely on have been disrupted.

*One Sunday at a park in Kowloon area, a group of migrants' organisation volunteers, who are also migrant domestic workers, set up a small desk to provide information leaflets about COVID-19 and labour rights and provide*

<sup>56</sup> Safe Ways HK available at <https://www.facebook.com/safewayshk> (accessed on 6 November 2020)

*consultation service for migrant workers. The officers of the Leisure and Cultural Services Department came and ordered them to put the desk away, arguing that it was not allowed to exhibit anything in the park without permission. Even though the migrant volunteers explained to the officers the purpose of the activity, including disseminating information from the Labour Department, they rudely treated the migrant volunteers. The officers refused to listen to the volunteers nor provide detailed explanations about their order to stop the activities, and insisted that setting up the desk was a violation of regulations, despite the intervention of the field researcher.*

*Field researchers' note*

### **Migrant Worker Communities amid COVID-19**

#### **• Migrant Domestic Workers or FDHs**

According to the government's data, the population of migrant domestic workers in Hong Kong in 2019 was 399,320,<sup>57</sup> which accounts for almost 9% of the labour force in Hong Kong. The Quarterly Report on General Household Survey published in May 2020 shows that almost 99% of FDHs are women, 55% Filipinos, 43% Indonesian, 2% are other nationalities including Thai, Nepalis, Sri Lanka, Bangladesh.<sup>58</sup> As the vast majority of foreign workers enter Hong Kong as domestic workers, officially called FDHs, issues faced by most migrant workers mirror with experiences of migrant domestic workers. However, this section looks at policies and measures targeting specifically domestic workers and their implications and other related issues.

<sup>57</sup> Data.gov.hk (資料一線通). 1 February 2020. Statistics on the number of Foreign Domestic Helpers in Hong Kong (English). Available at <https://data.gov.hk/en-data/dataset/hk-immmd-set4-statistics-fdh/resource/063e1929-107b-47ae-a6ac-b4b1ed460ac3> (accessed on 3 November 2020)

<sup>58</sup> Census and Statistics Department Hong Kong Special Administrative Region. May 2020. Quarterly Report on General Household Survey (January to March 2020) available at <https://www.statistics.gov.hk/pub/B10500012020QQ01B0100.pdf> (accessed on 3 November 2020)

### **Discriminatory Appeals for FDHs to Stay Home**

On 30 January 2020, the Labour Department appealed to FDHs to stay home on their rest days and to stay away from crowds on public transport or at public places. At the same time, the Labour Department also assured that employers must not require FDHs to work on their rest day, which is in breach of the Employment Ordinance and is liable to prosecution and, upon conviction, to a maximum fine of HKD 50,000 (USD 6,450).<sup>59</sup> However, the government's advice on its local citizens in the same period was only to reduce social contact and did not include advice to stay home on their days off.<sup>60</sup> The Labour Department repeated this appeal to FDHs again, on 27 March 2020, in order to safeguard their personal health and reduce the risk of the spread of COVID-19 in the community.<sup>61</sup>

These appeals that single out FDHs appear to be discriminatory. The field researcher observes that the Labour Department's appeal led to the widespread violation of FDHs' rights to rest days and statutory holiday as it encouraged and provided reasons and excuses for employers to require FDHs to be on call for duty on their rest days. Migrant domestic workers' groups have highlighted that some employers have taken this recommendation as forbidding domestic workers from going out on their days off.<sup>62</sup> Some were

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59 Labour Department (Hong Kong). 30 January 2020. Labour Department encourages foreign domestic helpers to stay home on their rest day. Available at <https://www.info.gov.hk/gia/general/202001/30/P2020013000428.htm> (accessed on 26 October 2020)

60 Coronavirus.gov.hk. 2020. COVID-19 Thematic Website, Together, We Fight The Virus, Social Distancing. Available at [https://www.coronavirus.gov.hk/eng/social\\_distancing.html](https://www.coronavirus.gov.hk/eng/social_distancing.html) (accessed 28 November 2020).

61 Labour Department (Hong Kong). 27 March 2020. Available at <https://www.info.gov.hk/gia/general/202003/27/P2020032700238.htm> (accessed on 28 November)

62 J. Yumul. 2020. *Domestic Workers Unprotected In Fight Vs COVID-19: HK Study*. ABS-CBN News. Available at: <https://news.abs-cbn.com/spotlight/03/17/20/domestic-workers-unprotected-in-fight-vs-covid-19-hk-study?fbclid=IwAR0SvVu8JYf1EHCFqjKbQsXJloaQOUpmXRHZRT0N9TCSiCSiVkoSo1EINc> (Accessed 25 June 2020).

asked to resign if they did not stay at home.<sup>63</sup> A survey conducted by the AMCB on 1,127 domestic workers has shown that throughout early to mid-March, 25% of those who did not go out on their weekly rest day were still expected to do some work inside the apartment on their days off.<sup>64</sup>

The regulation is also harmful to domestic workers' mental and physical health as they have to spend most of their time with their employers at home, often being made to work over hours. It also neglected the fact that their rest day is an only opportunity for most migrant domestic workers to meet and socialise with fellow migrant workers, speaking in their languages, exchanging information and making friends, and they can only do so in public places such as parks. Not being able to attend these gatherings is very harmful to their mental health.

*"Very upset and disturbed, lots of burdens, fears, worries because many regulations that have emerged from the government and employers have prohibited holidays."*

*"A little stressful because doing anything on holiday is very limited in order to avoid being infected with the Coronavirus."*

*quotes from migrant domestic workers gathered during the field research*

The Centre for Health Protection, under the Department of Health, released a set of advice "What you and your foreign domestic helpers need to know to prepare for an influenza pandemic." This advice states that 'unless otherwise directed by the government,

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63 R. Wong. 2020. Coronavirus: Hong Kong Migrant Domestic Workers 'Vulnerable' During Outbreak - NGO | Hong Kong Free Press HKFP. Hong Kong Free Press HKFP. Available at: <https://hongkongfp.com/2020/03/17/coronavirus-hong-kong-migrant-domestic-workers-vulnerable-outbreak-ngo/?fbclid=IwAR2CIGKido7WUrpwnBBV8-2ZxitQ6EdvNmp6HU9Y0j-4jTubfGgrC40xnIE> (Accessed 25 June 2020).

64 Facebook.com. 2020. *Migrante - Hong Kong*. Available at <https://www.facebook.com/migrante.hongkong/photos/pcb.2537091953085165/2537089079752119/?type=3&theater> (Accessed 25 June 2020)

allow your helper to take statutory holidays and rest days as usual and advise her/him to avoid visiting crowded or poorly ventilated places during the peak season of influenza',<sup>65</sup> which does not go in line with the appeal of the Labour Department to FDHs to "stay at home" on their rest day. Only in early April 2020 did the Secretary of Labour and Welfare appeal to both workers and employers to exercise "mutual understanding" on rest day arrangements.<sup>66</sup> There is an inconsistency of the advice coming from different departments of the governments.

### **Abuses, exploitations and labour rights**

Staying at home with their employers for all day, domestic workers have limited personal space as they often share bedrooms with children or elderly members of the family. Some reports prove that domestic workers in Hong Kong are housed in storage rooms, balconies, bathrooms or the living room sofa.<sup>67</sup> A survey conducted by pro-establishment legislator Chan Hoi-yan found that 55% of employers think that domestic workers have inadequate knowledge and understanding of the pandemic. 85% of respondents preferred that domestic workers stay home during their days off.<sup>68</sup> The field researchers heard many testimonies that even those who were still

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65 Centre for Health Protection. 2020 (revised in April). What you and your foreign domestic helpers need to know to prepare for an influenza pandemic. Available at [https://www.chp.gov.hk/files/her/foreign\\_domestic\\_helper\\_en.pdf](https://www.chp.gov.hk/files/her/foreign_domestic_helper_en.pdf) (accessed on 26 October)

66 Labour Department (Hong Kong). 2020. Foreign Domestic Helpers - What's New. Fdh.labour.gov.hk. Available at [https://www.fdh.labour.gov.hk/en/news\\_detail.html?fromPage=news&year=2020&n\\_id=118](https://www.fdh.labour.gov.hk/en/news_detail.html?fromPage=news&year=2020&n_id=118) (Accessed 25 June 2020)

67 J. Yumul. 2020. *Domestic Workers Unprotected In Fight Vs COVID-19: HK Study*. ABS-CBN News. Available at <https://news.abs-cbn.com/spotlight/03/17/20/domestic-workers-unprotected-in-fight-vs-covid-19-hk-study?fbclid=IwAR0SvVu8JYf1EHCfjkkKbQsxJloaQOUpmXRHZRT0N9TCSiCSiVkoSo1EINc> (Accessed 25 June 2020).

68 A. Chan, 2020. *Hong Kong's Domestic Workers: When 'Stay At Home' Means 'Live At Work'*. TheDiplomat.com. Available at <https://thediplomat.com/2020/04/hong-kongs-domestic-workers-when-stay-at-home-means-live-at-work/> (Accessed 28 November 2020).

allowed to go out experienced their employers demanding them to come back to their employers' homes early in the evening. Even though it was their day off, many of them were asked to work after going back to their employers' homes.

Emerging data has shown that domestic violence has increased in the context of COVID-19 due to various stresses. This can be applied to migrant domestic workers.<sup>69</sup> As migrant domestic workers spend long hours at home with their employers, they face a higher risk of abuses and exploitations. With economic situations worsening due to COVID-19, migrant domestic workers become more vulnerable to labour rights violations such as employment termination without enough notice period, dismissed compensations, and denied rest days and longer working hours as employers work or study from home.

*Sally (not her real name) has worked as a domestic worker in Hong Kong since November 2019. In May 2020, her employer terminated her as they can no longer bear the expense to employ Sally anymore. This was most likely because of the employer's family member losing his job due to COVID-19. The employer only gave her money for a flight ticket, but not a one-month notice fee, some wages and the compensation for the holiday that she had worked. After the employment was terminated, Sally stayed in her agency's dormitory, but the agency did not help her to take back the money her employer owed, but also demanded Sally to pay HKD 5,000 (USD 645) to the agency (most likely as fees for the accommodation and other administration). She paid all the money she had, which was not enough, and the agency also forced her to work for them. She refused to do so, and her friends recommended her to go to Bethune House Migrant Women's Refuge (an NGO providing shelters and support for migrant women).*

*Field researchers' note*

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69 UN Women. 2020. COVID-19 And Ending Violence Against Women And Girls. UN Women Headquarters.

Some migrant domestic workers told the field researcher that their employers have become more obsessed about hygiene and forced them to use more potent chemicals to clean the house without any consideration or protection for the health and safety of the workers.

### ***Extension of Contracts and Stay***

On 4 February 2020, the government announced a flexibility arrangement to extend the validity period of the employers' contracts with their outgoing FDHs to help them cope with the special situations, where their current FDHs' contract are expiring soon but newly hired FDHs could not fly into Hong Kong due to the temporary travel restrictions.<sup>70</sup> This announcement was made as the Philippines government implemented a travel ban on China, Hong Kong and Macau, resulting in many workers in the Philippines no longer able to fly to Hong Kong for work. The problem with this arrangement is that it is responding solely to employers' needs. With the flexibility arrangement, employers can choose whether to extend or renew contracts of their workers without them having to go back to their countries of origin. On 19 March 2020, the government announced the extension of this measure until 31 May 2020,<sup>71</sup> and again extended on 30 June 2020 and existing contracts due to expire on or before 30 September 2020 could be extended until 31 October, 2020.<sup>72</sup> However, this policy did not consider the

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70 The Government of Hong Kong. 4 February 2020. Flexibility arrangement to extend validity period of foreign domestic helpers'. Available at [contractshttps://www.info.gov.hk/gia/general/202002/04/P2020020400547.htm?fontSize=1](https://www.info.gov.hk/gia/general/202002/04/P2020020400547.htm?fontSize=1) (accessed on 3 November 2020)

71 The Government of Hong Kong. 19 March 2020. Press release - Flexibility arrangement to extend validity period of foreign domestic helpers' contracts and points to note for home quarantine for foreign domestic helpers travelling to Hong Kong. Available at <https://www.info.gov.hk/gia/general/202003/19/P2020031900394.htm?fontSize=1> (accessed on 3 November 2020)

72 The Government of Hong Kong. 30 June 2020. Press release - Measures to assist foreign domestic helpers and employers to cope with COVID-19 pandemic extended.

situation of FDHs whose contracts were terminated or expired, but their employers do not wish to extend their contracts. The FDH visa scheme has a "two-week rule", where after the termination of a work contract, FDHs must leave Hong Kong within two weeks. With the travel bans imposed in the Philippines in February 2020, many Filipino domestic workers were not able to go back home ending up breaching the "two-weeks rule" without intentions.

*Anne (not her real name) is from the Philippines and worked as a domestic worker in Hong Kong for five years. Her employer did not extend her contract after it expired as she could no longer afford to keep employing Anne due to the economic impact of the pandemic. As the lockdown imposed in the Philippines, Anne could not leave Hong Kong within two weeks after the employment termination. She ended up being held in custody at Castle Peak Bay Immigration Centre, a detention centre known as CIC, from mid-March until early May. As she felt shameful, she did not contact her ex-employer for help. At CIC, Anne was strip-searched by a male doctor twice and felt humiliated about this experience. Every morning, at 6 am, an officer brought her job allocation paper indicating whether she was going to court, released, or carry out the duty. She recalls that the prolonged period of detention without knowing when she would be released was very harmful to her mental health. She witnessed many detainees distressed due to uncertain futures. Two months later she got bailed out. While she waited to go back to the Philippines, she received a minimal subsidy from International Social Service and was prohibited from working. She felt it was like torture having nothing to do in Hong Kong during this waiting period.*

*Field researchers' note*

Only after 21 March 2020, the government announced that applications from FDHs to extend their limit of stay in Hong Kong as visitors would be flexibly considered in order to respond to the

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Available at <https://www.info.gov.hk/gia/general/202006/30/P2020062900892.htm> (accessed on 3 November 2020)

emerging situation of the pandemic.<sup>73</sup> With this announcement, FDHs on renewed contract with the same employer or due to start a new contract with a new employer upon the expiry of an existing contract can defer their home leave, which is usually required for FDHs to take every two years, for six months.<sup>74</sup> FDHs whose contract are finished or terminated are given an extension of stay for maximum one month, instead of the “two-week rule”, to find new employers if their existing contract is due to expire or is terminated on or before 31 July 2020 and they are unable to return to countries of origin due to the pandemic. This change allowed FDHs in between work to have more time to find new employment. However, FDH visa does not allow workers to take on employment other than domestic work, and it means that those who are seeking new employers would not have any income to afford reasonable accommodation during the transition period.

FDHs in the above situation often end up staying in boarding houses provided by their agency until new employers are found or they leave Hong Kong. At the beginning of August, two Indonesian domestic workers were tested positive for COVID-19 after staying in shared boarding houses. The Hong Kong Federation of Asian Domestic Workers Union (FADWU) argues that agencies are more concerned with profit than the well-being of the workers, and boarding houses are indeed very crowded - a 300-400 square feet flat may accommodate 20-30 workers. There is no space for safe social distancing, and sometimes workers are even forced to share beds, putting themselves in a significant risk of being infected by the virus.<sup>75</sup> It is only after these cases happened, the government

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73 The Government of Hong Kong. 21 March 2020. Press release - Foreign domestic helpers applying to extend limit of stay to cope with the COVID-19 pandemic. Available at <https://www.info.gov.hk/gia/general/202003/21/P2020032000829.htm> (accessed on 3 November 2020)

74 Ibid.

75 Facebook - Hong Kong Federation of Asian Domestic Workers Union [https://www.facebook.com/HKFADWU/photos/?tab=album&album\\_id=3207029569362919](https://www.facebook.com/HKFADWU/photos/?tab=album&album_id=3207029569362919)

finally announced a series of measures to reduce the health risks faced by FDHs staying in boarding facilities of employment agencies, which include a free and one-off COVID-19 testing service for FDHs that is staying in agencies' boarding facilities and distributing face masks for them.<sup>76</sup>

### ***Stigmatisation as Virus Carriers***

*“Do not discriminate against migrant workers, we are humans, don't just blame migrant workers who carry the virus.”*

*migrant domestic worker, an informant of the field research*

According to a survey conducted by FADWU, four in five migrant domestic workers experienced increasing discrimination during COVID-19 and dozens of them have been fired after falling ill by their employers who assumed the workers had the virus. The survey also found that 80% of 427 domestic worker respondents did not know they could lodge complaints with Equal Opportunities Commissions, and even if they did know, they were reluctant to do so due to fear of losing their job.<sup>77</sup> The field researcher analyses that there has been a long-established discriminatory urban myth that migrant domestic workers are unhygienic, which has been amplified by the media coverage and the government's neglect to protect them.

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(accessed on 6 November 2020)

76 The Government of Hong Kong. 6 August 2020. Press release - Government implements a series of measures to reduce the health risks faced by foreign domestic helpers staying in boarding facilities of employment agencies. Available at <https://www.info.gov.hk/gia/general/202008/06/P2020080600781.htm?fontSize=1> (accessed on 6 November 2020)

77 Zoe Low. 28 June 2020. Coronavirus: dozens of domestic workers in Hong Kong fired by bosses who assume they have Covid-19, unions say. South China Morning Post. Available at <https://www.scmp.com/news/hong-kong/society/article/3090919/coronavirus-dozens-domestic-workers-hong-kong-fired-bosses> (accessed on 6 November 2020)

*"It is very burdensome - besides having to respond to pandemic conditions like this, you also have to face the attitude of the employer who always thinks (of me) dirty and is afraid to be the cause of the COVID(-19) virus carrier."*

*"To the Hong Kong government; assure employers not to discriminate against migrant workers. Don't be constantly paranoid or think that it is the migrant worker who carries the virus."*

*quotes from migrant domestic workers gathered during the field research*

### • Migrant Care Workers in Residential Care Homes

As of July 2020, in Hong Kong, about 2,600 migrant workers are working in residential care homes.<sup>78</sup> Majority of them are women from mainland China entering Hong Kong through the SLS. They are not allowed to take up any other kind of employment and allowed to work only at private residential care homes and not government-subsidized care homes.

### No Visitor to Residential Care Homes

On 3 February 2020, The Social Welfare Department of Hong Kong published *"Precautionary Measures for Severe Respiratory Disease associated with a Novel Infectious Agent: Visitation Arrangement and Continuous Enhancement Measures on Precaution"*, which states that visitors should avoid going to residential care homes in order to reduce risk of infection and spreading the virus to vulnerable residents.<sup>79</sup> Responding to this announcement, most residential

care homes stopped allowing visitors, and they could only bring shopping or daily necessities to entrances of the homes. As there is a shortage of care workers in Hong Kong residential care homes, family members or domestic workers usually visit residential care homes and provide primary care for the residents. Prohibiting visitors thus led to an increasing workload for care workers, most of whom are migrant workers, without compensation.

In the wake of the second wave of coronavirus outbreak, at the beginning of April 2020, the Social Welfare Department again published *"Precautionary Measures for COVID-19: Visitation / Home Leave Arrangement and Continuous Enhancement Measures on Precaution"*, which guidelines that visitors should avoid going to residential care homes to reduce the risk of infection and spreading the virus.<sup>80</sup> The third wave began in early July when several clusters of infections emerged in residential care homes. Because of this, the government prohibited all visitors to residential care homes unless there are compassionate reasons from 8 July 2020.<sup>81</sup>

Migrant care workers continued to face heavy workload and had been increasingly demanded to take up more care work, dealing with residents with deteriorating mental conditions while their loved ones had not visited them.

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*Respiratory Disease associated with a Novel Infectious Agent: Visitation Arrangement and Continuous Enhancement Measures on Precaution*). Available at [https://www.swd.gov.hk/storage/asset/section/2924/en/lorchelet\\_C234\\_.pdf](https://www.swd.gov.hk/storage/asset/section/2924/en/lorchelet_C234_.pdf) (accessed on 28 October 2020)

78 明報新聞 (Ming Pao News). 10 July 2020. 護老外勞宿舍狹窄 醫生憂致跨院舍爆發 (Accommodation for Foreign Labourer of Care Home for Elderly is Crowded; Doctors Worried it Will Lead to Outbreak of Infection Across Different Care Homes). Available at <https://news.mingpao.com/pns/%E8%A6%81%E8%81%9E/article/20200710/s00001/1594319509882/%E8%AD%B7%E8%80%81%E5%A4%96%E5%8B%9E%E5%AE%BF%E8%88%8D%E7%8B%B9%E7%AA%84-%E9%86%AB%E7%94%9F%E6%86%82%E8%87%B4%E8%B7%A8%E9%99%A2%E8%88%8D%E7%88%86%E7%96%AB> (accessed on 6 November 2020)

79 Social Welfare Department. 3 February 2020. 預防「嚴重新型傳染性病原體呼吸系統病」感染控制措施-院舍探訪及持續全面加「預防措施」 (*Precautionary Measures for Severe*

80 Social Welfare Department. 6 April 2020. 預防「2019冠狀病毒病」感染控制措施 - 院舍探訪 / 度假安排及持續全面加「預防措施」 (*Precautionary Measures for COVID-19: Visitation / Home Leave Arrangement and Continuous Enhancement Measures on Precaution*). Available at [https://www.swd.gov.hk/storage/asset/section/2924/tc/lorchelet\\_c236\\_.pdf](https://www.swd.gov.hk/storage/asset/section/2924/tc/lorchelet_c236_.pdf) (accessed on 6 November 2020)

81 Social Welfare Department. 8 July 2020. 院舍探訪安排 持續採取預防感染措施 (*Precautionary Measures for Severe Respiratory Disease associated with a Novel Infectious Agent: Visitation Arrangement and Continuous Enhancement Measures on Precaution*). Available at [https://www.swd.gov.hk/storage/asset/section/2924/tc/lorchelet\\_c247\\_.pdf](https://www.swd.gov.hk/storage/asset/section/2924/tc/lorchelet_c247_.pdf) (accessed on 6 November 2020)

### **Exclusion from Special Allowance for Care Home Workers**

In mid-February, the government announced spending around HKD 208 million (USD 27 million) to provide special allowance, with a ceiling of no more than HKD 4,000 (USD 516) per month or 10% of the monthly wage, for four months to care workers in subvented residential care homes.<sup>82</sup> As migrant care workers are not allowed to work at government subvented residential care homes, none of them has been benefited by this scheme, even though migrant care workers in private residential care homes are often in more exploitative conditions.

### **• Undocumented Migrant Workers**

It is recorded that 1,157 “illegal workers” were persecuted for breach of conditions to stay in Hong Kong (excluding sex workers, who are usually persecuted for soliciting for an immoral purpose).<sup>83</sup> In late July 2020, the newly appointed immigration officer spoke to the media that the Immigration department had enforced more than 7,400 actions against “illegal workers”, arresting more than 800 people.<sup>84</sup> Some coverages portrayed these actions as ways for cracking down on undocumented workers in order to secure job opportunities for local people under the coronavirus outbreak.

Common groups of undocumented migrants in Hong Kong

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82 Legislative Council Panel on Welfare Services. 9 March 2020. *Social Welfare Support, and Anti-epidemic Measures and Service Operation of Subvented Non-governmental Organisations during the Epidemic*. Available at: <https://www.legco.gov.hk/yr19-20/english/panels/ws/papers/ws20200309cb2-652-4-e.pdf> (accessed on 6 November 2020)

83 Data.gov.hk. 2020. 被檢控的非法勞工（不包括性工作者）的統計數字 (*Illegal workers prosecuted - excluding sex workers*). Available at <https://data.gov.hk/tc-data/dataset/hk-immd-set1-statistic-iws/resource/1dbd8343-a967-4a24-8e96-ea0396224f9c> (accessed on 6 November 2020)

84 文匯報 (Wen Wei Po). 23 July 2020. 區嘉宏：依法嚴把關 守好國安門 (Au Ka-wang: Strict Gatekeeping According to Law; Guard the National Security Well) <http://paper.wenweipo.com/2020/07/23/YO2007230005.htm> (accessed on 6 November 2020)

include people who are seeking asylum from countries in Southeast Asia, Middle East and Africa, transgender people from the Philippines and Thailand who are usually engaged in sex work, and economic migrants from mainland China. According to the observation of the field researcher, undocumented migrants are often employed in jobs such as catering (cooking and washing dishes), porters, car maintenance, recycling, sex work and sometimes involved in illicit drug dealing.

In addition to the hardship they have faced before COVID-19 as undocumented workers, they have been excluded from almost all counter COVID-19 assistance, and become most vulnerable to labour rights abuses and unemployment during the economic downturn relating to the global pandemic. They are also exempt from subsidised medical care, meaning that they avoid accessing any healthcare due to fear of high charges even though they are unwell and might be infected by the coronavirus.

### **Conclusion**

Hong Kong’s large migrant worker population has been severely impacted by the COVID-19 pandemic. The beginning of the pandemic brought difficulty in procuring PPE, essential in stopping the spread of the disease. As prices increased and stocks ran short, migrant workers were unable to either receive PPE or were given an inadequate number of PPE. This is despite migrant workers working within close proximity of their employers, who may be serving their quarantine at the same space. The gathering ban imposed by the government also adversely impacted migrant workers, who often use their days off to gather with their fellow migrant workers and get involved with activities of migrants’ organisations in public spaces. As a result, they are cut off from their access to integral information and peer support. The government’s efforts to disseminate information to migrant workers have not been so effective, while civil society organisations and self-help groups play

vital roles in filling the gap.

As a result of the pandemic, a number of migrant workers have also experienced financial repercussions and labour rights issues. Those who lost their jobs were also facing undocumentation, as their visas are tied to their employment. However, the government updated their policy in order to allow for contract extension, and by virtue, visa extension. In society, migrant workers experience stigmatisation as virus carriers. Undocumented migrants are also facing increased hardship, as they are excluded from almost all COVID-19 assistance provided by the government.

## Chapter 3:

# JAPAN



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### Official figures of COVID-19

First case recorded on **16 January 2020**

No. of positive cases: **146,760**

No. of death: **2,119**

(as of 1 December 2020, source: Worldometer)

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### Migrant Workers in Japan

According to the Immigration Service Agency and the Ministry of Justice (MOJ), there are currently 2.93 million foreign residents in Japan, including foreign workers. Data released from the Ministry of Health, Labour and Welfare (MHLW) on 21 January 2020 indicated that Japan is home to over 1.65 million migrant workers.<sup>85</sup> These workers mainly work for manufacturing, retail, hospitality and construction sectors, industries that involve physical strength. Because of the rapid increase in the number of technical intern trainees and students, the population of Vietnamese workers grew exponentially in recent years, making them the second-highest population foreign workers after Chinese. Other major countries of origin of migrant workers include the Philippines, Brazil, Nepal and Indonesia.<sup>86</sup>

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85 Ministry of Health, Labour and Welfare. 2020. 「外雇雇用状況」の出入状況表（令和元年10月末現在）(List of notifications of employment situation of foreigners (as of the end of October 2019)). Available at <https://www.mhlw.go.jp/content/11655000/000590311.pdf> (accessed on 16 September 2020)

86 Ibid.

Technical intern trainees and international students, although are not called “workers” by their status, occupy more than 40% of the total number of foreign workers. Technical intern trainees are sitting at 383,978 or 23.1% of the total number of foreign workers. International students, who are in work, sit at 372,894 or 19.2%. There are 329,034 foreign skilled professionals and 531,781 people who work with other legal statuses such as the spouses of Japanese citizens, permanent residents and long-term residents, including descendants of Japanese Brazilian, Peruvian and Bolivian.<sup>87</sup>

The Technical Intern Training Program (TITP) was established in April 1993, when the Japanese government made reforms intended to consolidate various small and scattered internship and training visa programs which dated back from the 1950s. In official discourse, the TITP is classified as part of Japan’s overseas development assistance program, aiming at the objective of transferring Japanese technology and expertise to “less-developed” neighbouring countries.<sup>88</sup> However, critics have expressed scepticism of this representation of the TITP as a “charitable system,” claiming that the real motive for admitting foreign trainees is to exploit their cheap labour.<sup>89</sup>

The Japanese government reformed the Immigration Control and Refugee Recognition Act, which was enacted in December 2018 and took effect in April 2019 aimed to admit foreign workers with particular skills or knowledge to make up for a severe domestic workforce shortage. Through this amendment, Japan aims to bring around 345,000 migrant workers into the country under the new scheme called Specified Skilled Workers (SSW) in the next five years.

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87 Ibid.

88 N. Ogawa. 2011. Population Aging and Immigration in Japan. *Asian and Pacific Migration Journal*, 20(2), pp.133-167.

89 Human Rights Working Group. 2020. Shifting the Paradigm of Indonesia-Japan Labour Migration Cooperation. Available at <https://drive.google.com/file/d/1aXgHtP1DiG0d-jRfVt2MDP1f5TKMARIY4/view> (accessed on 27 August 2020)

International students also play crucial roles in the Japanese workforce. MOJ allows international students to engage in part-time jobs of up to 28 hours a week during academic terms and 40 hours a week during vacation periods. They have filled the labour shortages in the retail and service industries, and the majority of them are enrolled in language and vocational institutions.<sup>90</sup> Like technical intern trainees, international students in the workforce illustrate the Japanese government’s strategy to admit migrant labour through channels that do not appear to be an admission of “migrant workers”.

### COVID-19 Response Measures

#### • State of Emergency

The first COVID-19 positive case was confirmed in Japan on 16 January 2020. After the number of positive cases surpassed 100 in the late February 2020, the Japanese government announced to impose school closures from 2 March 2020. A state of emergency was first declared for Tokyo, Saitama, Chiba, Kanagawa, Osaka, Hyogo and Fukuoka prefectures on 7 April 2020, but was then extended to all 47 prefectures of the country on 16 April 2020. The government exercised its power to declare the state of emergency under the revised New Influenza Special Measures Act. This law does not mandate penalties for violation. Prefectural governors can strongly request or instruct people to stay home and public facilities and businesses to close or shorten their opening hours, but authorities cannot order them to do so, meaning businesses are not legally obliged to follow.<sup>91</sup> Therefore, Japan has never

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90 Ministry of Health, Labour and Welfare. 2019. 「外国人雇用状況」の状況まとめ【本文】 (*Summary of notification status of “Employment status of foreigners” [Text]*). Available at <https://www.mhlw.go.jp/content/11655000/000590310.pdf> (accessed on 11 September 2020)

91 The Japan Times. 14 April 2020. The coronavirus and Japan’s Constitution. Available at <https://www.japantimes.co.jp/opinion/2020/04/14/commentary/japan-commentary/coronavirus-japans-constitution/> (accessed on 27 August 2020)

implemented a legally binding lockdown. However, the use of “state of emergency” gave a substantial impact on its citizens and residents, and many people and businesses have followed instructions of the national and local authorities. The state of emergency was lifted for 39 prefectures on 14 May 2020 and gradually for all prefectures by 25 May 2020.

- **Entry Restrictions and Entry Bans**

On 5 March 2020, the Japanese government announced entry restrictions for travellers from China and South Korea to be implemented from 9 March 2020, requiring those who arrive in Japan from these two countries to be quarantined for 14 days. The government also limited arrivals of planes from China and South Korea to only Narita International Airport and Kansai International Airport and requested the two countries to suspend operations of passenger ships to Japan.<sup>92</sup>

The official announcement made on the 1 April 2020 stated that Japan would ban the entry of non-Japanese nationals who have stayed in 73 countries<sup>93</sup> determined by the Ministry of Foreign Affairs (MOFA), as the state tries to contain the coronavirus outbreak. Starting from 3 April 2020, foreign nationals who have stayed in the listed countries or territories within 14 days before arrival in Japan became subjected to being denied entry to Japan. This regulation made all foreign nationals, including those with permanent residence status and their non-Japanese spouses and children, and Japanese nationals’ spouses and children, who left for any of the listed countries after 3 April 2020, become subject and not allowed re-enter.<sup>94</sup> The list of countries covered by Japan’s entry ban was

92 The Asahi Shimbun. 5 March 2020. Japan to keep out tourists from China, South Korea. Available at <http://www.asahi.com/ajw/articles/13189358> (Accessed on 27 August 2020)

93 The Mainichi Shimbun. 1 April 2020. Available at <https://mainichi.jp/articles/20200401/ddm/001/010/147000c> (Accessed on 6 October 2020)

94 The Japan Times. 19 May 2020. Foreign residents stranded abroad by Japan’s

expanded to 153 by August 2020.<sup>95</sup>

At first, the announcement regarding the entry restriction and ban was not available in foreign languages, which made it difficult for some migrants to access this crucial information. This regulation is discriminatory based on nationality and made the Japanese government’s treatment of residents without Japanese nationality as “second class citizens” more nuanced. It was also a reflection of the government and the public’s concerns over international travellers’ bringing the virus into the country rather than increasing infections within the country.

On 18 June 2020, the Japanese government announced “Phased Measures for Resuming Cross-Border Travel” whereby it intends to establish a select quota on cross-border business travellers and others for entry into and departure from Japan, that operates separately from general procedures for cross-border travellers. While maintaining the border control measures in place, the government tentatively implemented a unique framework to facilitate cross-border business travellers and others on the condition of adopting additional quarantine measures.<sup>96</sup>

While the government started to lift some of the measures for business travellers in June, the entry ban for other foreign nationals continued. An open petition was launched calling the Prime Minister and Minister of Justice to stop the entry ban for foreign residents of Japan, including permanent residents, family members of Japanese

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coronavirus controls. . Available at <https://www.japantimes.co.jp/news/2020/05/19/national/social-issues/japan-foreign-residents-stranded-abroad-coronavirus/#.X0kaachKiUl> (accessed on 28 August)

95 Immigration Services Agency of Japan. 2020. 新型コロナウイルス感染症の感染拡大に係る上陸拒否措置及び实际的な人の往の再開の状況 (概要) (*Status of landing refusal measures related to the spread of coronavirus infection and resumption of international travels (summary)*) Available at <http://www.moj.go.jp/content/001326711.pdf> (accessed on 28 August 2020)

96 Ministry of Foreign Affairs. 24 August 2020. Phased Measures for Resuming Cross-Border Travel. Available at [https://www.mofa.go.jp/ca/cp/page22e\\_000925.html](https://www.mofa.go.jp/ca/cp/page22e_000925.html) (accessed on 31 August 2020)

citizens, and other mid- or long-term foreign residents who have their livelihood in Japan.<sup>97</sup> The entry ban also meant that international students and technical intern trainees, who play essential roles in the workforce of Japan, could not return to Japan if they temporarily left the country for any reasons. Some international students also could not enter Japan to start attending classes for the spring semester.

The entry ban covered almost all foreign nationals even if their life is based in Japan, and it lasted until August 2020. On 22 July 2020, the government decided that permanent/long-term residents and spouses and dependents of citizens or permanent residents of Japan would be allowed to re-enter Japan from 5 August 2020. It was also decided that foreign residents of Japan who had left the country before the entry ban was imposed on 3 April 2020 would also be allowed re-entry after 5 August 2020.<sup>98</sup> This was the result of criticisms made domestically and internationally, such as the German Chamber of Commerce and Industry in Japan.<sup>99</sup> Soon after this decision was made, on 29 July 2020, MOFA announced that Japan would gradually start allowing new entries of foreign nationals and people from Viet Nam and Thailand from 5 August 2020. The Japanese Embassies in these countries have accepted applications for visas from 29 July 2020.<sup>100</sup> New entries were to be expanded gradually to people from other East and Southeast Asian and

97 Change.org petition “Stop the entry ban on legal foreign residents of Japan” <https://www.change.org/p/stop-the-entry-ban-on-foreign-residents-of-japan> (Accessed on 28 August 2020)

98 Ministry of Foreign Affairs. 28 August 2020. 在留資格を有する外国人の再入について (About re-entry of foreigners with status of residence) Available at [https://www.mofa.go.jp/mofaj/page1\\_000864.html](https://www.mofa.go.jp/mofaj/page1_000864.html) (Accessed on 28 August 2020)

99 The German Chamber of Commerce and Industry. German Business Requesting Japan to Lift Entry Ban. Available at <https://japan.ahk.de/en/infothek/newsroom/news-details/corona-flashsurvey-4> (Accessed on 6 October)

100 Ministry of Foreign Affairs. 6 August 2020. Re-entry of Foreign Nationals with Status of Residence and “Residence Track” with Thailand and Viet Nam. Available at [https://www.mofa.go.jp/press/release/press4e\\_002871.html](https://www.mofa.go.jp/press/release/press4e_002871.html) (accessed on 31 August 2020)

Oceanian countries with lower infection rates such as Singapore, Taiwan and New-Zealand from September 2020.<sup>101</sup>

Sectors that heavily relied on migrant labour, especially on technical intern trainees, such as agriculture, fisheries, manufactures and services sectors have faced severe labour shortages due to the entry restrictions and bans.<sup>102</sup> It is also easy to imagine that thousands of prospective migrant workers who were prepared to move to Japan have not been able to enter Japan and start working. The livelihood of foreign nationals and their families who are based in Japan was also heavily affected.

#### • Financial Assistance and Economic Stimulus Packages

Financial assistance is one of the characteristics of the Japanese government in addressing the economic impact of the pandemic. On 17 April 2020, then Prime Minister Shinzo Abe announced that all Japanese nationals would receive a universal JPY 100,000 (USD 958) handout as a stimulus.<sup>103</sup> This announcement was made after the government scrapped its original plan to distribute JPY 300,000 (USD 2,876) in relief to households suffering substantial income drops, due to criticism that it would be time-consuming.<sup>104</sup> Responding to the government’s use of the term “nationals” as

101 Ministry of Foreign Affairs. 24 August 2020. Phased Measures for Resuming Cross-Border Travel. Available at [https://www.mofa.go.jp/ca/cp/page22e\\_000925.html](https://www.mofa.go.jp/ca/cp/page22e_000925.html) (accessed on 31 August 2020)

102 Toshiro Menju. 27 May 2020. COVID-19 and the crisis in the Japanese Immigration Policy. Available at <https://www.nippon.com/en/in-depth/d00572/> (accessed on 31 August 2020)

103 Jiji.com. 17 April 2020. 緊急宣言「大、協力呼び掛けへ 10万円給付も」明一安倍首相、今夕記者「見 (To call for cooperation; expansion of State of Emergency, explanation of 100,000 yen benefit to - Prime Minister Abe will hold a press conference tonight) Available at <https://www.jiji.com/jc/article?k=2020041700407&g=pol> (accessed on 11 September 2020)

104 The Japan Times. 21 May 2020. Japan’s local governments struggling with applications for virus cash. Available at <https://www.japantimes.co.jp/news/2020/05/21/national/local-governments-struggling-online-applications-cash-relief/> (accessed on 11 September 2020)

subjects of this stimulus handout, many civil society organisations and activists demanded the government to include all foreign nationals residing in Japan to be eligible. Three days after the Prime Minister's announcement, the cabinet's decision was made to implement the distribution of the stimulus. Ministry of Internal Affairs and Communication (MIAC) announced that anyone who has resided in Japan for at least three months and has registered their basic residency (*juminhyo*) by 27 April 2020 would be entitled to the special cash payment (*tokubetsu teigaku kyuhukin*) of JPY 100,000 (USD 958) regardless of nationalities or immigration status.<sup>105 106</sup>

People without basic residency registration were not eligible to apply for the JPY 100,000 (USD 958) handouts. Since July 2012, foreign nationals living in Japan without legal status have been ineligible for basic residency registration. International students and technical intern trainees, whose visa has expired but were not able to return to their home countries due to travel restrictions, were initially excluded from the handout as MOJ had given them temporary visitor status lasting only three months. This meant that they were also not able to re-register their necessary residency nor allowed to work, and many of them were forced into destitution. After receiving demands from the civil society, MOJ started to allow ex-international students and ex-technical intern trainees to change their legal status to Designated Activities, permitting them to undertake any activity (paid or otherwise) that is specifically designated by the Ministry for up to six months. Those who were able to change their status to Designated Activities with residency

105 The Time Out. 21 April 2020. Foreign residents can get the Japanese government's ¥100,000 coronavirus stimulus – here's how. Available at <https://www.timeout.com/tokyo/news/foreign-residents-can-get-the-japanese-governments-100-000-stimulus-heres-how-042120> (Accessed on 11 September 2020)

106 Dayman L.. 2020. Yes, Foreigners Are Eligible For Japan'S ¥100,000 COVID-19 Stimulus Package. GaijinPot Blog. Available at <https://blog.gaijinpot.com/yes-foreigners-are-eligible-for-japans-%C2%A5100000-covid-19-stimulus-package/> (Accessed 25 June 2020).

for six months finally became eligible to apply for JPY 100,000 (USD 958) handouts.<sup>107</sup>

There is also monetary support for living expenses in the form of a loan. Small and medium enterprises (SMEs) and individual business owners are supported through a sustainable cash payout and an interest-free unsecured loan. Further, welfare benefits have been expanded for those experiencing financial difficulties such as/ to cover housing costs. This is provided following the degree of need to guarantee minimum living standards and to promote financial independence. Businesses are also covered under the employment adjustment subsidy for those who are forced to scale down activities to cover the expenses for leave allowance that they are obliged to pay workers for maintaining overall employment.<sup>108</sup>

On 19 May 2020, the Ministry of Education, Culture, Sports, Science and Technology (MEXT) announced its plans to support 430,000 students who are facing financial difficulties to continue their education due to the economic impact of COVID-19. Qualified students can receive the emergency student support handout (*gakusei shien kinkyu kyufukin*) of JPY 100,000-200,000 (USD 958-1,917). However, MEXT has set different criteria for international students to qualify for the handout, which is to have attained a GPA of 2.30 or higher (top 30%) in the previous school year to be able to get the funding. This requirement of educational performance does not apply for local students.<sup>109</sup> MEXT explained that they decided to

107 Solidarity Network with Migrants Japan. 20 Mary 2020. 特別定額給付金の「象」大について (「困難な状態にある技能習生、留生、難民申請者の子ども等) (*On the expansion of tokubetsu teigaku kyuhukin (for people such as technical intern trainees, international students and children of asylum seekers facing difficulties with returning home countries)*). Available at <https://migrants.jp/news/office/20200520.html> (accessed on 8 October 2020)

108 Ministry of Health, Labour and Welfare. 2020. *Monetary Assistance For Everyday Lives*. Japan. Available at <https://www.mhlw.go.jp/content/000679381.pdf> (accessed on 11 September 2020)

109 Ministry of Education, Culture, Sports, Science and Technology. 2020. 「びの」のための『「生支援緊急給付金」～「びの」給付金～ (“Student Support Emergency Benefits”

support only students who are more likely to make a contribution to Japan after graduation as the reason for the additional requirement for international students.<sup>110</sup> A group of professors expressed their concerns and sent a petition to MEXT, demanding it scraps “discriminatory” criteria for foreign students to be eligible for cash handouts to mitigate financial difficulties amid the coronavirus pandemic.<sup>111</sup> The petition on Change.org website had 57,710 signatures as of 4 August 2020.

This student handout is not designed to support the most vulnerable international students. As mentioned in the earlier section of this chapter, international students fill gaps in the Japanese labour force, particularly in catering, retails and other service sectors. The Japanese government launched “Recruiting 300,000 International Students Plan” in 2008 to recruit 300,000 students by 2020. More than half (52.1%) of international students are enrolled in language and vocational schools,<sup>112</sup> and the majority of them are in part-time employment. By allowing students to work up to 28 hours a week during the term time and 40 hours a week during vacation periods, the government has treated international students, especially those enrolled in language and vocational institutions, as disposable de-facto workers. Excluding the majority

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for “Continuing Learning” -Continuing Learning Benefits-). Available at [https://www.mext.go.jp/a\\_menu/koutou/hutankeigen/mext\\_00686.html](https://www.mext.go.jp/a_menu/koutou/hutankeigen/mext_00686.html) (accessed on 11 September 2020)

110 Yahoo! Japan News. 20 May 2020. 現金給付、留学生は上位3割限定 文科省、成績で日本人学生と差 (Cash benefits, international students are limited to the top 30% Ministry of Education, difference from Japanese students in grades). Available at <https://news.yahoo.co.jp/articles/b473ccb2a142c71dac8d263e6b4f7110d0f44830> (accessed on 11 September 2020)

111 Kyodo News+. 15 July 2020. Japan Scholars Urge Fair Treatment Of Foreign Students Over Handouts. Available at <https://english.kyodonews.net/news/2020/06/21f00b61f976-japan-scholars-urge-fair-treatment-of-foreign-students-over-handouts.html> (Accessed on 25 June 2020).

112 Japan Student Service Organization. 2020. 2019 (令和元) 年度外国人留学生在籍状況調査結果 (foreign student enrollment status survey results). Available at <https://www.studyinjapan.go.jp/ja/statistics/zaiseki/date/2019.html> (accessed on 9 October 2020)-

of the international students from eligible recipients of the handout implies the government’s awareness that many “international students” will not be needed during the economic recessions as results of the pandemic.

### • Labour Rights Issues

In the wake of the pandemic, MHLW has clearly stated that foreign workers are not allowed to be treated less favourably than Japanese workers at their workplace because of their citizenship. This means that companies must pay migrant workers to leave allowance, they must pay the government subsidies paid out to companies, they must be paid annual vacation days, and they should not be fired freely, and the same rules must be applied as local workers.<sup>113</sup>

However, this does not mean that the Japanese government is protecting migrants’ rights entirely. COVID-19 has hit Japan’s economy hard, and many factories scaled back production as a result of the financial ramification. In March, the Japan Center for Economic Research estimated that if Japan’s GDP contracted by 25% this year, the unemployment rate would reach 5%, resulting in 2 million people losing their jobs. As a result, migrant workers are vulnerable as they are generally first to receive the pay cut. This is already exhibited all across Japan. Mie prefecture, in particular, is a manufacturing centre about 300 km west of Tokyo, and it is reported that they have received 400 consultations from labourers who were affected by job losses in March and April 2020, among which 330 were foreign workers.<sup>114</sup> On top of that, there are weaker support

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113 Ministry of Health, Labour and Welfare. 2020. For Foreigners Working In Companies(English). Available at [https://www.mhlw.go.jp/stf/seisakunitsuite/bunya/koyou\\_roudou/koyou/jigyounushi/page11\\_00003.html](https://www.mhlw.go.jp/stf/seisakunitsuite/bunya/koyou_roudou/koyou/jigyounushi/page11_00003.html) (accessed on 25 June 2020)

114 CNA. 5 May 2020. Japan: Foreign Workers First To Lose Jobs Amid COVID-19 Outbreak | Business & Human Rights Resource Centre. Business-humanrights.org. Available at <https://www.business-humanrights.org/en/japan-foreign-workers-first-to-lose-jobs-amid-covid-19-outbreak> (accessed on 25 June 2020)

networks and language barriers that prevent migrant workers from seeking help when they face labour rights violations.

- **Access to Information**

Access to information is a common and massive challenge for migrant workers in Japan. Despite foreign national residents' entitlement to the handouts, a lack of accessible and available information was a barrier to many migrants. There were only seven days between the official announcement of the handout and the deadline for registration of basic residency. Without enough efforts from the governments to distribute information promptly in languages other than Japanese, many civil society organisations (CSOs) and volunteers' efforts to translate and disseminate information in relevant languages were beneficial to those who were not able to access information in the Japanese language. The JPY 100,000 (USD 958) special cash payments were distributed based on application forms, which had to be filled in the Japanese language and submitted to the local government offices. These were barriers to many migrants. Several local CSOs and volunteer groups supported migrants to fill in application forms and go through the process.

MIAC has launched a website dedicated to the special cash payment and information is available in Japanese, English, Chinese (Traditional and Simplified), Korean, Vietnamese, Tagalog, Portuguese, Spanish, Indonesian, Thai and Nepalese languages as of 11 September 2020.<sup>115</sup> MHLW has also disseminated information on labour rights particularly concerning the pandemic in languages such as English, Chinese (Traditional and Simplified), Korean, Vietnamese, Portuguese, Spanish, Tagalog, Thai, Indonesian and Nepalese other than English.<sup>116</sup> However, there are delays in the

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<sup>115</sup> Ministry of Internal Affairs and Communication. 2020. Special Cash Payments. Available at <https://kyufukin.soumu.go.jp/en/> (accessed on 11 September 2020)

<sup>116</sup> Ministry of Health, Labour and Welfare. 2020. *がいこくじんのみなさんへ：しごとやせ*

availability of information, and migrant workers are often not aware of where to look for information and support available. They heavily rely on information shared among their social networks.

Further, many migrants are still unaware of the safety guidelines and instructions that are issued by local governments. This is despite MHLW launching an information portal in various languages for foreigners working at Japanese companies. The release of the multilingual information by the Japanese government is deemed to be "too little, too late."<sup>117</sup>

Compared to the central governments, some local governments have been more active in taking some measures toward their foreign residents. For instance, the Tokyo Metropolitan Government has established "Tokyo Coronavirus Support Centre for Foreign Residents", where multilingual advisers provide free assistance in basic Japanese, English, Chinese, Korean, Vietnamese, Nepalese, Indonesian, Tagalog, Thai, Portuguese, Spanish, French, Khmer and Burmese.<sup>118</sup> However, only local governments with rich resources are capable of initiatives of this scale.

Japanese civil society continues to fill the gaps of information and support accessible and available for migrant communities. For example, a volunteer group *Kosaten* (intersection) in Tokyo hosts a monthly multilingual drop-in-centre held online for refugees and migrants to share their struggles during COVID-19 outbreak and seek support. The field researcher also engaged in this activity together with several community leaders from Ghana and Guinea.

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いつのしえんについて (*To foreign residents: about support on work and livelihood*) Available at [https://www.mhlw.go.jp/stf/seisakunitsuite/bunya/koyou\\_roudou/koyou/jigyounushi/page11\\_00001.html#100](https://www.mhlw.go.jp/stf/seisakunitsuite/bunya/koyou_roudou/koyou/jigyounushi/page11_00001.html#100) (accessed on 11 September 2020)

<sup>117</sup> Toshihiro, M., 27 May 2020. COVID-19 And The Crisis In Japanese Immigration Policy. Nippon.com. Available at <https://www.nippon.com/en/in-depth/d00572/> (accessed on 11 September 2020)

<sup>118</sup> Citizen's Network for Global Activities. 16 April 2020. "TOCOS : Tokyo Coronavirus Support Center for Foreign Residents" Available at <http://www.cinga.or.jp/592/> (accessed on 25 September 2020).

Drop-in-centres and hotlines such as *Kosaten* play essential roles as many migrants and refugees struggle to access information coming from the central or local governments.

### **Migrant Worker Communities amid COVID-19**

#### **• Technical Intern Trainees (Migrant Workers under the TITP)**

The field research in Japan looked at experiences of migrant workers under the TITP, particularly those who are from Viet Nam. The field researcher conducted semi-structured interviews with five Vietnamese technical intern trainees (including two specified skilled workers who were former technical intern trainees) and unstructured interviews with two Japanese employers.

As of December 2019, 410,972 technical internship trainees are working in Japan.<sup>119</sup> Aichi prefecture, where Toyota Motor Corporation's headquarters and related manufacturing factories are based, hosts the largest number of technical internship trainees. However, migrant workers under the TITP work all across Japan. The largest sending country of technical internship trainees is Viet Nam, where more than half of them come from, followed by China, Indonesia and the Philippines. The majority of technical internship trainees are in their 20s and 30s.

Rights violation against workers under the TITP has been criticised for a long time before the pandemic. As showcased in a new report by Clean Clothes Campaign (CCC) titled 'Made in Japan,' which uncovered the reality of the life of migrant garment workers under the state-supported TITP.<sup>120</sup> Technical intern trainees are often subjected to a range of violations including debt bondage,

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119 Ministry of Justice. 27 March 2020. 令和元年末現在における在留外国人数について (*the number of foreign residents as of the end of 2019*) Available at [http://www.moj.go.jp/nyuukokukanri/kouhou/nyuukokukanri04\\_00003.html](http://www.moj.go.jp/nyuukokukanri/kouhou/nyuukokukanri04_00003.html) (accessed on 13 November 2020)

120 Clean Clothes Campaign. 2020. Made In Japan And The Cost To Migrant Workers. Japan: Made in Japan Campaign. Available at <https://cleanclothes.org/file-repository/ccc-made-in-japan-report.pdf/view> (accessed on 25 June 2020)

illegally low wages, verbal abuse and unsafe working and living conditions. There are cases where migrant workers were sleeping in the factories where they work.

Limitations on freedom and ability to change workplace and employer imposed on the TITP have worsened the already vulnerable technical intern trainees' financial situations and labour conditions during the pandemic. The Organization for Technical Intern Training (OTIT) suggests that migrant workers under TITP have technically been able to change their workplace within the same industry since before the coronavirus outbreak,<sup>121</sup> however, in reality, it is almost impossible for them to change their employers. This is because technical intern trainees have to ask their employers or supervising organisations (SOs), Japanese organisations such as business cooperatives and societies of commerce and industry that accept technical intern trainees to work at their affiliated enterprises, to process the change of workplace. Some technical intern trainees were reported being forced to return to their countries of origin because their employment was terminated after asking to change their workplaces or employers.

The low-wage nature of the TITP has long been criticised. It is common for many technical intern trainees to have very little income after expenses such as accommodation and utility fees for their dormitories are deducted from their salaries. For many, overtime pay is crucial for sustaining their income to be able to send remittances or to repay their debt to cover their recruitment fees. However, during the COVID-19 outbreak, many businesses reduced their operations, resulting in the loss of income for technical intern trainees who rely on overtime pay to maintain their finances. Some Vietnamese technical intern trainees told the field researcher that

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121 Organization for Technical Intern Training. No Date. 習先更支援 手きき留意事項 (*Support for changing training sites - procedures & notes*). Available at <https://www.support.otit.go.jp/kanri/01.html> (accessed on 18 September 2020)

they had used JPY 100,000 (USD 958) handout to cover remittances for their families.

During the COVID-19 outbreak, many technical intern trainees have lost work due to the deterioration of the business performance of their employers. MOJ made a new arrangement in April 2020 to allow technical intern trainees who lost work to take on new employment in Japan and continue working for up to one year. However, according to a report by NHK, as of 3 August 2020, there were only 635 migrant workers who were able to start new employment through this arrangement. Migrant workers who are under the TITP are eligible to receive employment insurance benefits if they lose their jobs. This is under the conditions that those who claim the benefit will need to firstly apply for a job at “Hello Work” (the Public Employment Security Office) and that they need to have paid employment insurance for 12 months in total during two years before the day of the termination of employment. This severely limits who are covered under the scheme.<sup>122</sup>

Technical intern trainees, particularly those who work in sectors such as agriculture, fishery and construction, or those who work in rural areas, are often working and living in very isolated conditions. For many who are in these situations, SOs and their employers are the only people whom they can ask for assistance while in Japan. In situations like COVID-19, where many rules and regulations change in a short period, SOs and employers’ support for technical intern trainees to access information and to reduce their anxiety is very important. One technical intern trainee told the field researcher that he was very anxious as his SO had not provided him with any information or assistance despite his legal status expiring soon and there was no means for him to return to his home country due to travel restrictions.

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122 Ministry of Health, Labour and Welfare, 2020. *Information On The Systems That Can Be Used When Technical Intern Training Cannot Be Continued*. Japan. Available at <https://www.otit.go.jp/files/user/docs/200605-11.pdf> (accessed on 25 June 2020)

It was also reported that, as of the early August 2020, there were about 20,000 migrants who had completed their TITP terms but could not return to their home countries due to movement restrictions.<sup>123</sup> For those who were unable to return to home countries due to the pandemic, the government initially provided a legal status for designated activities for three months. After 21 May 2020, the duration of the status was extended to six months,<sup>124</sup> hence they could apply for a JPY 100,000 (USD 958) stimulus package. However, the handout is only enough to survive a short time for those who have lost other sources of income.

Many ex-TITP workers were stranded in Japan without any source of income for several months and were forced into destitution and homelessness without access to information and public financial support. There were some chartered flights arranged by the Vietnamese embassy to repatriate Vietnamese nationals. However, those who were sick or pregnant were prioritised, and many are still stranded in Japan. Local communities, volunteer organisations and places of worship play vital roles in supporting these migrants. Dozens of Vietnamese ex-technical intern trainees, who have no source of income for their day-to-day survival, are under the care of Daion-ji Buddhist temple in Saitama prefecture, neighbouring Tokyo. Self-helping community groups are the only safety net for many migrants in Japan, and community members are supporting each other.

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123 NHK. 10 August 2020. コロナで苦境 外国人技能実習生 再就職など支援の充ていへ (Predicament in Corona: Enhancing support such as reemployment for foreign technical intern trainees to be considered) Available at <https://www3.nhk.or.jp/news/html/20200810/k10012560111000.html> (accessed on 18 September 2020)

124 Immigration Service Agency of Japan. 20 May 2020. 新型コロナウイルス感染症の影響により「」が困難な中長期在留者及び元中長期在留者からの在留諸申請の取扱いについて (About handling of residence applications from medium- and long-term residents and former medium- and long-term residents facing difficulties with returning home due to the effects of the new coronavirus infection). Available at <http://www.moj.go.jp/content/001320105.pdf> (accessed on 28 November 2020)

*Story of a Vietnamese technical intern trainee (male, in his 20s)*  
*He is a member of the Vietnamese youth group of a catholic church in Japan. He migrated, leaving his wife and child behind in Viet Nam, so this group for him is "like family in Japan." His company reduced his work hours during the state of emergency. He spent his spare time volunteering to pack rice and other food to send to members of Vietnamese communities who are suffering financially due to COVID-19.*

*Field researchers' note*

### • **Refugee Applicants and Undocumented Migrants**

The field researcher visited Sri Lankan and Kurdish refugee applicant communities and also conducted unstructured interviews with two undocumented migrant workers from Bangladesh and Viet Nam.

In 1981, Japan ratified the 1951 Convention Relating to the Status of Refugees (Refugee Convention). However, between 1982 and 2019, refugee status was granted only to 794 individuals.<sup>125</sup> Nippon.com reported in 2019 that Japan accepts far fewer refugees than other G7 peers.<sup>126</sup>

Despite the low refugee acceptance rates, refugee applicants have been filling the gap of the labour force in Japan. Between March 2010 and January 2018, MOJ had given refugee applicants legal status called Designated Activities allowing them to work after six months of filing their cases. This scheme attracted migrant workers who had run away from exploitative work conditions and/or those who had not repaid their debt following their visa expiration. Brokers also often recommended many international students and technical intern trainees to file their refugee applications if they

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125 Ministry of Justice. No Date. 我が国における難民庇護の状況等 (*The situations of refugee application in our country*). Available at <http://www.moj.go.jp/content/001317679.pdf> (accessed on 13 November 2020)

126 Nippon.com. 14 May 2019. Japan accepts far fewer refugees than G7 peers. Available at <https://www.nippon.com/en/japan-data/h00449/japan-accepts-far-fewer-refugees-than-g7-peers.html> (accessed on 20 September 2020)

wanted to work longer in Japan. In 2017, 19,629 refugee applications were made, and the number went down to 10,493 after MOJ had changed their system and it became more difficult for refugee applicants to be granted status with permission to work. Today, refugee applicants without a work permit and those who have run away from their employers and/or overstayed their visa due to their debt are in more precarious situations without rights to work and limited support available to them.

Migrants who have not registered their basic residency, refugee applicants without Designated Activities status and undocumented migrants were excluded from the governments' special cash payment during the pandemic. They are also most vulnerable in facing labour rights violations such as unpaid salary and termination of employment without prior notice. For example, many members of the Sri Lankan refugee applicant community based in Chiba prefecture, where Narita International Airport is located, have lost work at airport facilities and food processing factories catering for the airport and flights due to the reduced number of flights. Many of those without Designated Activities status had no financial support to rely on. Similarly, many Kurdish community members who engaged in demolition work had no source of income while their work had to be halted during the state of emergency. As small subcontractors employ many refugee applicants and undocumented workers, it took longer for them to go back to work than it did for workers of larger construction companies.

There have been a large number of CSOs' efforts made to fill the gap created by the Japanese government. An NGO called Solidarity with Migrants in Japan (SMJ), launched "Emergency Support Funds for Migrants and Refugees". The funds, collected mainly through donations from the public, offered JPY 30,000 (USD 288) to each undocumented migrant and refugee applicant who are not entitled to the government's handouts. SMJ has collected donations of over JPY 35,000,000 (USD 335,115) and supported 1,651 undocumented

migrants and refugee applicants as of 21 September 2020.<sup>127</sup> Although it is an appreciated initiative from the civil society, a community leader who supports undocumented migrants told the field researcher that one-off JPY 30,000 (USD 288) donation is not enough for many to sustain themselves during the coming months.

Local volunteer groups such as *Kurudo wo Shiru Kai* (Understanding Kurds) play essential roles referring members of communities to more established NGOs. *Kurudo wo Shiru Kai* interviewed refugee applicants to refer those who are most in need to SMJ's "Emergency Support Fund for Migrants and Refugees", and nearly 400 Kurdish refugee applicants were referred to as a result. A staffer of *Kurudo wo Shiru Kai* told the field researcher that COVID-19 had brought the existence of vulnerable refugee applicants to the surface. Before the pandemic, many refugee applicants who were married to Japanese citizens or those with settled status were able to sustain themselves financially with the support of their families. However, COVID-19 has also affected their family members economically, more Kurdish migrants in precarious situations have turned to *Kurudo wo Shiru Kai*.

Precarious situations, uncertain futures and financial struggles has also affected many refugee applicants and undocumented migrants' mental health. Sadly, a case involving domestic violence and murder was reported within the Kurdish community, and a community leader suggested that this was due to mental health deterioration during the pandemic.

### **Certified Refugee Catering Business Owners**

Another group the field research looked at is migrant workers in catering businesses, particularly those restaurants owned by

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127 Solidarity Network with Migrants Japan. 2020. 新型コロナ「移民・難民緊急支援基金」ご協力ください！(Calling for support! COVID-19 "Emergency Support Fund for Migrants and Refugees"). Available at <https://migrants.jp/campaign/20200504.html> (accessed on 11 September 2020)

migrants from Myanmar with certified refugee status. As of December 2019, 32,409 Myanmar nationals (according to their resident cards) were living in Japan.<sup>128</sup> The majority of newcomers arrived in Japan under the TITP or on Student and Engineer/Specialist in Humanities/International Services visas. However, most oldcomers and the first generation who arrived in the 80s and 90s are certified refugees or asylum seekers who received legal status to stay in Japan under Humanitarian Consideration.

Tokyo is home to over 10,000 migrants from Myanmar. Takadanobaba, a neighbourhood of Shinjuku and Toshima wards, is known as "Little Yangon". There are many Burmese restaurants owned by first generation migrants (certified refugees) who are now in their 50s, and some of them employ refugee applicants who are former students. Between 2,000 to 3,000 migrants from Myanmar live or work in this neighbourhood. The field research was conducted through repetitive visits to this area, particularly at one of the restaurants, where the field researchers interacted with staff, customers and community members.

Compared with newcomers and recent arrivals, these certified refugees were more integrated into the broader Japanese society. With a better understanding of Japanese language and established support networks, they tend to overcome most of the challenges, which new migrants commonly struggle with. Most of these catering business owners were able to access information and receive national and local governments' subsidies without much difference to Japanese business owners. These subsidies from the Ministry of Economy, Trade and Industry (METI) and Tokyo Metropolitan Government enabled their businesses to sustain themselves. Meanwhile, closing their restaurants, which are not just businesses

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128 E-stat. 2020. 在留外国人統計 (total number of foreign residents). Available at <https://www.e-stat.go.jp/stat-search/files?page=1&layout=datalist&toukei=00250012&tstat=000001018034&cycle=1&year=20190&month=24101212&tclass1=000001060399> (accessed on 13 November 2020)

but also serve as community spaces, caused many owners and their staff emotional hardship. During these times, some restaurants were also able to utilise their social capitals and collect donations from their customers and local citizens.

*“Donations from Japanese citizens supported us not only financially but also emotionally.” A restaurant owner (male, 50s, from Myanmar)*

These are exceptional cases among migrant communities in Japan; however, it showcases the resilience of migrant and refugee communities and the importance of social integration with the host society.

## **Conclusion**

In conclusion, Japan, while touted as a success case in tackling COVID-19 without strict lockdown, has had issues specifically with how it has treated its migrant workers throughout the outbreak. The ethnocentric and neoliberal approaches adopted by the Japanese government consistently exclude migrant workers and refugees from necessary support that is needed during COVID-19 outbreak. Poor communications from the government as information were not translated enough have resulted in migrant workers who do not speak Japanese to miss out on necessary information. This includes health information, needed to protect migrant workers from catching and spreading the virus, as well as information on financial assistance that is needed during an economic crisis. There is a lack of understanding and imagination toward vulnerable migrants. Measures towards foreign national residents have been dealt with by the Immigration Service Agency under MOJ, whose basic stance towards foreign nationals is heavily focused on immigration control rather than the protection of their rights. Japan's strong border closure is poorly thought out, as it impacts migrant workers, TITP visa holders and international

students who are unable to return home, or unable to re-enter to Japan. While the border closure severely impacts several sectors that heavily rely on migrant workers as it creates labour shortages, this does not translate to the flexibility of visas. At the beginning of the pandemic, technical intern trainees and international students whose visas expired were no longer able to work or receive financial assistance, although this policy later changed. The neoliberal nature of the Japanese government is also apparent in its decision not to support international students that did not receive a high grade. While government policy does not allow employers to discriminate between foreign and local workers, the nature of the downturn in the economy has meant that migrant workers are in a much more precarious and vulnerable position.

The field researcher suggests that the establishment of a ministry dedicated to migrants and refugees will be a way forward to improve the protection of the rights of migrants and refugees. That being said, there are some positive aspect of the COVID-19 measures: the Japanese government had provided some assistance to migrant workers, including those who are undocumented but registered their residency before their visa expired. Civil society has also stepped in to aid the community, including in providing multilingual support and advocating for migrant workers politically.

## Chapter 4: MALAYSIA



### Official figures of COVID-19

First case recorded on **25 January 2020**

No. of positive cases: **65,697**

No. of death: **3,690**

(as of 1 December 2020, source: Worldometer)

### Migrant Workers in Malaysia

Migrant workers in Malaysia constitute up to 30% of the labour force (including undocumented migrant workers).<sup>129</sup> Existing estimates on migrant workers vary, ranging as few as three million up to 5.5 million, comprising both documented (about two million as of June 2019; Table 1) and undocumented (between one million and 3.5 million) migrant workers.<sup>130</sup> Documented migrant workers are referred to as workers with valid passport and working pass, while undocumented migrant workers are those without any one or both of these documents. The majority of two million registered migrant workers are Indonesian (36%), Bangladeshi (27%) and

<sup>129</sup> International Labour Organization (ILO) and Australian Aid. 2019. TRIANGLE in ASEAN Quarterly Briefing Note. Available at [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms\\_614381.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_614381.pdf) (accessed on 17 August 2020)

<sup>130</sup> Hwok Aun, L. and Yu Leng, K. 2018. Counting migrant workers in Malaysia: A needlessly persisting conundrum. ISEAS-Yusof Ishak Institute, Issue Brief No. 25. Available at [https://www.iseas.edu.sg/images/pdf/ISEAS\\_Perspective\\_2018\\_25@50.pdf](https://www.iseas.edu.sg/images/pdf/ISEAS_Perspective_2018_25@50.pdf) (accessed on 17 August 2020)

Nepalese (17.3%) migrant workers, employed across six sectors of the economy namely construction, manufacturing, services, plantation, agriculture and domestic service. Other migrant worker nationalities include India, Myanmar, Pakistan, Philippines, Viet Nam, China, Thailand, Sri Lanka, Cambodia and Lao PDR.<sup>131</sup> The manufacturing, services, construction and plantation sectors remain as export-oriented and labour-intensive industries and rely heavily on low-paid and unskilled workers to fill up labour shortages.<sup>132</sup> This is reflected in Table 1 below, indicating that most migrant workers are hired in these sectors.

**Table 1: Number of Active Migrant Workers with Visit Pass Temporary Employment (VP-TE), by Nationality, June 2019**

Nationality	Sector						Total
	Domestic Worker	Construction	Manufacturing	Services	Plantations	Agriculture	
Indonesia	90,718	162,421	136,394	43,325	205,177	75,890	713,925
Nepal	60	7,927	251,503	73,892	3,045	9,886	346,313
Bangladesh	122	197,796	206,843	85,350	34,657	19,884	544,652
India	1,059	11,033	2,902	51,142	28,603	26,239	120,978
Myanmar	66	11,704	79,186	16,151	906	3,789	111,802
Pakistan	29	27,464	3,329	9,098	5,764	16,943	62,627
Philippines	32,154	2,939	4,599	6,132	3,445	3,747	53,016

<sup>131</sup> Ministry of Human Resources (MOHR). 2019. Work and Labour Statistics. Series 19. No. 1/2019 March. Available at [http://myhos.mohr.gov.my/ebook/istatistik1\\_2019/bil1\\_2019.pdf](http://myhos.mohr.gov.my/ebook/istatistik1_2019/bil1_2019.pdf)

<sup>132</sup> Mei Wei, W. and Yazdanifard, R. 2015. The Review of Challenges Foreign Workers Face in the Construction Industry of Malaysia. *Global Journal of Management and Business Research*, 15(4), 13-16.

Viet Nam	432	2,804	14,195	2,012	51	560	20,054
China	196	9,593	1,337	5,272	12	24	16,434
Thailand	318	951	193	12,256	547	2,196	16,461
Sri Lanka	553	240	3,315	1,127	186	154	5,575
Cambodia	1,447	130	1,211	647	101	346	3,882
Lao PDR	15	0	9	13	0	4	41
<b>Total</b>	<b>127,169</b>	<b>435,002</b>	<b>705,016</b>	<b>306,417</b>	<b>282,494</b>	<b>159,662</b>	<b>2,002,427*</b>

Source: Ministry of Human Resources (MOHR), 2019.

\* The total number was adjusted to align with the statistic issued by MOHR as of 30 June 2019.

## COVID-19 Response Measures

### • Movement Control Order

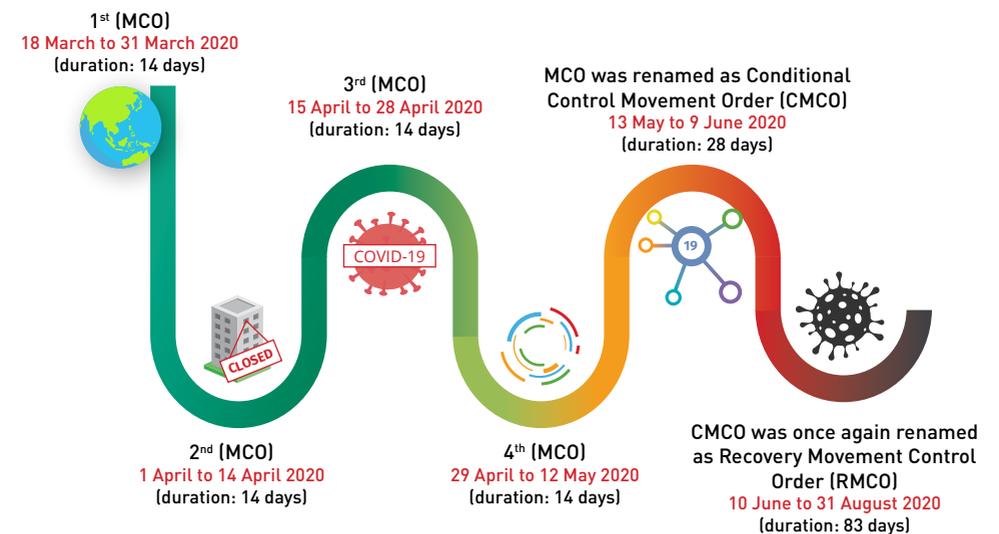
COVID-19 was confirmed to have reached Malaysia on 25 January 2020 when it was detected on travellers from China who arrived in Malaysia. Initially, the spread of COVID-19 remained low until a large cluster was found in a religious gathering in Kuala Lumpur between the end of February and the beginning of March 2020.<sup>133</sup> Malaysia implemented the Movement Control Order (MCO) as early prevention actions on 18 March 2020. Since the first MCO was announced, all economic activities were ordered to stop operating, except those that are considered essential industries.<sup>134</sup> A limited segment of essential businesses was allowed to operate under a stringent set of standard operating procedures (SOP). Selected businesses from other non-essential industries were slowly

<sup>133</sup> The Straits Times. 13 March 2020. Malaysia screening people linked to Sri Petaling Mosque rally over coronavirus concerns. Available at <https://www.straitstimes.com/asia/se-asia/malaysia-screening-people-linked-to-sri-petaling-mosque-rally-over-coronavirus-concerns> (accessed on 1 December 2020)

<sup>134</sup> National Security Council (Majlis Keselamatan Negara). 18 March 2020. Kenyataan Media MKN – Pergerakan Kawalan COVID-19. Available at <https://www.pmo.gov.my/2020/03/kenyataan-media-mkn-18-mac-2020/> (accessed on 6 October 2020)

permitted to operate from the fourth MCO (29 April to 12 May 2020) until Conditional Movement Control Order (CMCO) (13 May to 9 June 2020) with certain limitations to their operational capacities. Most sectors of the economy were only permitted to operate in full strength, including operating on regular hours of work, beginning 10 June 2020 under the Recovery Movement Control Order (RMCO).<sup>135</sup> Figure 1 below presents the chronology of Malaysia's movement control order.

**Figure 1: Chronology of Malaysia's Movement Control Order, 18 March 2020 to 31 August 2020**



Source: Information retrieved from Department of Statistics, Malaysia (2020)<sup>136</sup> (figure designed by the field researcher)

<sup>135</sup> The Star. 7 June 2020. CMCO to end, replaced with RMCO until Aug 31 [NSTTV]. Available at <https://www.nst.com.my/news/nation/2020/06/598700/cmco-end%2%A0replaced-rmco-until-aug-31> (accessed on 17 August 2020)

<sup>136</sup> Department of Statistics, Malaysia (DOSM). 2020. Malaysian Economic Statistics Review, Vol.1/2020. Available at <https://www.dosm.gov.my/v1/index.php?r=column/pdfPrev&id=a2VhN3FvUnp5Y1c5ZmRlENpSFkwQT09> (accessed on 17 August 2020)

- **Inconsistency on the treatment of migrants and refugees**

**Testing and Treatment**

Malaysia's first positive case of COVID-19 was confirmed about two weeks before the World Health Organization (WHO) declared the disease to be of pandemic proportions. Since then, there was a rapid increase in positive COVID-19 cases, reaching nearly 3,000 by the end of March 2020. The Ministry of Health (MOH) released a government circular dated 29 January 2020 relating to migrant workers' access to healthcare treatment. The circular stated that migrant workers who were suspected of being COVID-19 positive or had been in close contact with COVID-19 patients were exempted from paying the outpatient fees (i.e., registration, examination, treatment and hospital fees) at government facilities.<sup>137</sup> However, Prime Minister Muhyiddin Yassin announced on 23 March 2020 that migrant workers should pay for testing and treatment fees related to COVID-19, causing confusion. Just hours later, it was quickly refuted by the MOH reaffirming that the MOH's circular dated on 30 January 2020 was still valid.<sup>138</sup> Later in the beginning of May, as positive cases among migrant workers rapidly increased, the government announced that all migrant workers are required to undergo a swab test, and the employers would pay the cost of it.<sup>139</sup> However, given the mounting pressure from the employers, it was

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137 Ministry of Health (MOH). 2020. Pengecualian Caj Perubatan Kepada Pesakit Warga Asing Yang Disyaki / Dijangkiti 2019 nCoV Serta Kontak Kepada Pesakit Yang Disyaki Dan Disahkan Dijangkiti 2019 nCoV. (*Exemption from Medical Charges for Suspected / Infected Foreign Patients of COVID-19 As well as Contact To Suspected And Confirmed Infectious Patients of COVID-19*) Available at [http://www.moh.gov.my/index.php/database\\_stores/store\\_view\\_page/31/375](http://www.moh.gov.my/index.php/database_stores/store_view_page/31/375) (accessed on 17 August 2020)

138 CodeBlue. 23 March 2020. Health DG Says Free COVID-19 Tests, Treatment For Foreigners, After PM Says Payments Required. CodeBlue. <https://codeblue.galencentre.org/2020/03/23/health-dg-says-free-covid-19-tests-treatment-for-foreigners-after-pm-says-payments-required/> (accessed on 17 August 2020)

139 *The Star*. 4 May 2020. Ismail Sabri: Compulsory COVID-19 tests for all foreign workers. Available at <https://www.thestar.com.my/news/nation/2020/05/04/ismail-sabri-compulsory-covid-19-tests-for-all-foreign-workers> (Accessed on 25 August 2020)

decided that the cost of testing migrant workers for COVID-19 to be covered under the Social Security Organization (SOCSCO) Prihatin Screening Programme (PSP), where priority would be given to the construction and security sectors.<sup>140</sup>

**Undocumented Migrant Workers and Refugees**

The government was concerned about the rising positive COVID-19 cases involving Tabligh (religious preachers), Rohingya refugees and other non-citizens. It tried to encourage undocumented migrants to seek tests and care for COVID-19 at government health facilities by assuring that they would not arrest persons without a proper travel document. However, given the lack of a clear difference between undocumented migrant workers and the refugee populations, both in terms of legal and administrative definitions – government actions that were undertaken often saw one-size-fits-all policies, disregarding the different approaches and solutions needed for each of these groups (i.e., refugees with United Nations High Commissioner for Refugees [UNHCR] card should not be arrested and detained in an immigration detention centre together with undocumented migrant workers).

The government's inconsistency in the treatment of undocumented migrants and refugees was again seen when the government launched the first large-scale raid operation targeting undocumented migrant workers in Kuala Lumpur on 1 May 2020. This raid operation was launched despite earlier assurances that undocumented migrant workers and refugees should have nothing to fear to come forward to get COVID-19 tested. In less than a few weeks, additional operations were conducted in several areas, including the Kuala Lumpur Wholesale Market, Selayang and

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140 *Free Malaysia Today*. 13 May 2020. Socso Prihatin screening to give priority to foreign workers in 2 sectors. Available at <https://www.freemalaysiatoday.com/category/nation/2020/05/13/socso-prihatin-screening-to-give-priority-to-foreign-workers-in-2-sectors/> (Accessed on 25 August 2020)

Gombak where thousands of undocumented workers and refugees, including women and children, were rounded-up and detained in immigration detention centres.<sup>141</sup> These series of immigration raids forced the undocumented migrants into hiding and hamper containment efforts by the MOH.

On 3 June 2020, the government announced the emergence of new positive COVID-19 clusters in several detention centres. The MOH reported that as of 3 June 2020, from 4,908 samples taken from four detention centres, namely Bukit Jalil, Semenyih, Sepang and Putrajaya, 465 positive COVID-19 cases were identified among non-citizens. These included 123 undocumented workers from India, 76 from Indonesia, 108 from Bangladesh, 66 from Myanmar, 45 from Pakistan, 18 from China, seven from Sri Lanka, five from Nepal, four from Cambodia, and three from the Philippines. The creation of positive COVID-19 clusters in immigration was associated with the government's major raids in Kuala Lumpur and Selangor in May 2020. The creation of these clusters was also a result of the lack of physical distancing coupled with the existing poor health system and hygienic practices in many detention centres.<sup>142</sup>

<sup>141</sup> *MalayMail*. 14 May 2020. Women, children among those carted off in lorries as Immigration Dept raids migrants in Selayang Baru. Available at <https://www.malaymail.com/news/malaysia/2020/05/14/women-children-among-those-carted-off-in-lorries-as-immigration-dept-raids/1866148> (Accessed on 25 August 2020)

<sup>142</sup> Human Rights Commission of Malaysia (SUHAKAM). 28 May 2020. Dialogue with Vulnerable Communities: An Assessment of Needs and Next Steps Amid COVID-19 Pandemic. Available at <https://www.suhakam.org.my/dialogue-with-vulnerable-communities-an-assessment-of-needs-and-next-steps-amid-COVID-19-pandemic/> (accessed on 25 August 2020)

**Table 2: Number of Samples Taken, Awaiting Results and Positive COVID-19 Cases among Non-Citizens in Four Immigration Detention Centres, as of 3 June 2020**

Immigration Detention	No. of Samples Taken	No. of Positive Cases among Non-Citizens	Awaiting Results
Bukit Jalil	1,545	338	1,175
Semenyih	1,785	65	0
Selangor	1,477	60	0
Putrajaya	101	2	0
Total	4,908	465	1,175

Source: Ministry of Health (MOH), Daily Status Update (Press Statement), as of 3 June 2020.

Civil society organisations have earlier warned that immigration raids conducted by the government do not only instil fear among the undocumented migrant workers to come forward to get COVID-19 tested, but also constitutes an inhumane act since many of these undocumented workers were observing the holy month of Ramadhan.<sup>143</sup> Besides, placing vulnerable groups, including women and children, in a situation where physical distancing is impossible to practice during the arrest and detention period is a counterproductive act hampering efforts dealing with the public health crisis.

<sup>143</sup> *MalaysiaKini*. 1 May 2020. Tenaganita condemns raids on undocumented migrants, refugees in Kuala Lumpur. Available at <https://www.malaymail.com/news/malaysia/2020/05/01/tenaganita-condemns-raids-on-undocumented-migrants-refugees-in-kuala-lumpur/1862190> (Accessed on 25 August 2020).

- **Access to Information and Support**

In late March 2020, three sets of frequently asked questions (FAQs) to address concerns related to COVID-19 and its impacts on labour laws were published by the Ministry of Human Resources (MOHR). The MOHR also established a 24/7 call centre to receive enquiries from employers and workers, including migrant workers and published business activities that were still prohibited from operating as well as SOPs for sectors that were allowed to operate during the MCO. However, most awareness-raising information, including the FAQs published by the MOHR, are only available in the local language (Bahasa Malaysia) and English. Many migrant workers are not fluent in either of these languages. This serves as a critical barrier for the migrant workers to raise their concern related to COVID-19 at the workplace, or any other employment related issues during the pandemic.

The field research also found that many migrant workers lack education and information about COVID-19 and how to protect themselves. Insufficient literacy in the local language, coupled with the inability to access essential information, left migrant workers unaware of the precautionary actions they can take, the risks they face and the risk they may pose to public health. The International Organization for Migration (IOM) in Malaysia had produced migrant health alerts in various migrant workers' native languages,<sup>144</sup> however, many migrant workers, particularly those working or living in peri-urban and remote areas, do not know the presence of these health alerts provided by IOM. Some migrant workers respondents informed the field researcher that it was the first time they even heard about the organisation known as IOM. Majority of the migrant workers have access to the internet and smartphone which can enable them to easily access information such as IOM's health

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<sup>144</sup> International Organization for Migration (IOM). 4 April 2020. Malaysia - Poster on COVID-19 for migrant workers in Malaysia (English, Vietnamese). Available at [https://crest.iom.int/sites/default/files/document/malaysia\\_-\\_iom\\_COVID\\_19\\_poster\\_eng\\_vie.pdf](https://crest.iom.int/sites/default/files/document/malaysia_-_iom_COVID_19_poster_eng_vie.pdf) (Accessed on 25 August)

alerts. However, the lack of awareness of the presence of international organisations such as IOM and the availability of such information translated into various native languages of migrant workers serve as the barrier for the workers to access information. This eventually directs migrant workers to rely on other sources of information. This is further explained by key informant 1 below.

*"Since the Corona (meaning COVID-19) comes to Malaysia, a lot of videos and text messages being shared, randomly. Those videos told stories about Corona and how to kill the virus in other countries, including in Malaysia. One video I could remember is that if we stay under sunlight, the Corona will die. This message was being shared widely among the community I knew. And, they practised it, including encouraging them to work (as planters we are exposed to sunlight). This encourages many workers to work during MCO, hoping that they not only can get money but prevent from being infected. I do not know whether this is true".*

*Key informant 1 (An Indonesian worker; documented worker; plantation sector; Selangor)*

- **Economic Subsidy and exclusion of migrant workers**

On 27 March 2020, the government launched a wage subsidy programme for workers as part of the *Prihatin Rakyat* economic stimulus package in efforts to help employers retain their employees and prevent loss of jobs.<sup>145</sup> This effort was applauded as an attempt to prevent workers' retrenchment, and that would benefit at least three million workers in the country. However, migrant workers were excluded from receiving such a subsidy.

The government announced the reduction of levy fees of migrant workers as part of the expanded *Prihatin Rakyat* Plus, announced on 6 April 2020. To reduce the financial burden of SMEs, the government decided to reduce the levy fees by 25% for employers of migrant

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<sup>145</sup> New Straits Times. 27 March 2020. PM: Wage Subsidy Programme to protect jobs, maintain salaries. Available at <https://www.nst.com.my/news/nation/2020/03/578730/pm-wage-subsidy-programme-protect-jobs-maintain-salaries> (accessed on 24 August 2020)

workers whose permits expire between 1 April 2020 and 31 December 2020.<sup>146</sup> Reduction of levy fees is a significant positive effort made by the government concerning migrant workers. However, while this helps employers to reduce their financial burden, migrant workers themselves do not directly benefit from this initiative. This is because Malaysian regulation requires the employers to pay the levy fees, and that employers should not deduct the migrant workers' salary. Thus, it does not directly address migrant workers' financial issues. Secondly, the levy discount 25% is too little, compared to the existing financial commitments borne by employers in the hiring of migrant workers such as recruitment fees, provision of free accommodation, medical test and insurance, working pass renewal, etc. In times of the pandemic and economic pressure, the reduction of levy fee 25% is inadequate to support employers particularly among SMEs, and that it may not encourage them to maintain and continue the hiring of migrant workers. In other circumstances, with this little incentive, some employers may opt to abandon their migrant workers (i.e., not renewing their working pass) and start hiring undocumented migrant workers.

On 16 May 2020, the government announced a prohibition on the hiring of migrant workers in wholesale markets. The decision was intended to reduce dependence on migrant workers, and that would also provide more opportunities for local workers to work in the sector. Following the government's announcement, employers were forced to terminate their migrant workers, and that caused many migrant workers to become unemployed and subsequently losing their income. Without legal employment and employer, under the Malaysian laws, the migrant workers are also at risk of becoming undocumented. During the pandemic, and due to various

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146 The Star. 6 April 2020. Prihatin Plus cuts foreign worker levy by 25pc, opens doors for firms to explore unpaid leave, pay cuts. Available at <https://www.malaymail.com/news/malaysia/2020/04/06/prihatin-plus-cuts-foreign-worker-levy-by-25pc-opens-doors-for-firms-to-exp/1854059> (Accessed on 25 August 2020)

phases of MCO, the procedures for repatriation were unclear. This imposed another risk of arrest and detention among the unemployed and undocumented migrant workers. While this announcement was applauded by certain quarters, it had affected the business operations among the local traders as local workers are unlikely to fill the employment gaps left by migrant workers. Consequently, many local traders had difficulty continuing their business operations due to labour shortages.

- **Limitation on NGOs Supporting Migrants**

In early April 2020, the government ruled that any humanitarian assistance to the migrant worker and refugee population can only be done through the Welfare Department, with the support from the Malaysian Volunteer Corps Department (RELA) and the Malaysian Civil Defence Force.<sup>147</sup> Given the limitation (i.e., the unavailability of information about undocumented migrant workers and refugees' whereabouts) faced by these authorised to reach out to refugee and undocumented migrant worker population, the government later refuted its decision to allow NGOs and community-based organisations to distribute humanitarian assistances, while subjected to guidelines released by the government.<sup>148</sup>

- **The Exploitation of Migrant Workers**

During the course of the pandemic, the allegation of migrant workers' exploitation attracted international attention. This includes a claim of forced labour against the Malaysian glove manufacturers

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147 Theng, T.T., Nazihah, M. N. and Jarud, R. K. 2020. Covid-19: We Must Protect Foreign Workers. Khazanah Research Institute's Discussion Paper No.8/20 (5 June 2020). Available at [http://www.krinstitute.org/assets/contentMS/img/template/editor/20200607\\_Discussion%20Paper\\_Covid-19\\_We%20Must%20Protect%20Foreign%20Workers\\_Rev.pdf](http://www.krinstitute.org/assets/contentMS/img/template/editor/20200607_Discussion%20Paper_Covid-19_We%20Must%20Protect%20Foreign%20Workers_Rev.pdf) (Accessed on 25 August 2020)

148 *The Star*. 2 April 2020. JKM's new guidelines allow NGOs to distribute food to needy folk. Available at <https://www.thestar.com.my/metro/metro-news/2020/04/02/jkms-new-guidelines-allow-ngos-to-distribute-food-to-needy-folk> (Accessed on 25 August 2020)

who were allegedly rushing up the production to cope with the global demand surge of PPE, including natural and synthetic rubber gloves.<sup>149</sup> Malaysia is the world's largest producer of rubber gloves, making almost two thirds of medical rubber gloves produced globally.<sup>150</sup> Consequently, workers, particularly migrant workers, were required to work excessive hours, often at a high level of heat inside rubber factories. Concerns were also raised regarding the ability to practice physical distancing at the workplace, and unhygienic and overcrowded living conditions at workers' dormitories.<sup>151</sup> Large companies in Malaysia have made little efforts to remedy situations of bonded and forced labour among its migrant workers. The fact that big industry players are making very little effort to make positive changes in its operations (despite mounting pressure from global consumers and brands) raises questions about the situations of tens of thousands of migrant workers employed by medium-sized companies in the country.

### **Migrant Worker Communities amid COVID-19**

The field research in Malaysia looked at ground experiences facing Indonesian and Bangladeshi migrant workers in two sectors of the economy; (i) plantation and (ii) construction. 15 semi-structured interview sessions were conducted with 11 Indonesian and four Bangladeshi workers in Kuala Lumpur and Selangor.

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149 *Reuters*, 29 March 2020. World's largest glovemaker sees shortage as coronavirus fight spikes. Available at <https://www.reuters.com/article/us-health-coronavirus-malaysia-top-glove/worlds-largest-glove-maker-sees-shortage-as-coronavirus-fight-spikes-idUSKBN21G04Z> (Accessed on 25 August 2020)

150 Liz Lee / *Reuters*. 25 November 2020. Malaysia reassures on supply after the world's largest latex glove maker shuts factories. *The Peninsula*, available at <https://www.thepeninsulaqatar.com/article/25/11/2020/Malaysia-reassures-on-supply-after-world-s-largest-latex-glove-maker-shuts-factories> (accessed on 5 December 2020).

151 *Asia Times*. 23 April 2020. NHS warned of 'slave-like' conditions in glove factories. Available at <https://asiatimes.com/2020/04/slave-like-conditions-alleged-in-glove-factories/> (Accessed on 6 August 2020)

Among the 15 informants, six of Indonesians and three Bangladeshi informants were undocumented migrant workers, while the rest have their valid travel and employment documents. By sector, eight Indonesian and one Bangladeshi informants worked in the plantation sector, and three Indonesian and three Bangladeshi informants worked in the construction sector.

### **• Reduced or Loss of Income and Unemployment**

During the period before the RMCO on 10 June 2020 was introduced, employers were instructed to limit their human resource capacity to 50 per cent or lower of the total workforce. This was to follow the SOP set by the government for essential and additional industries from the first MCO (18 March 2020) until the CMCO ended on 9 June 2020. During this period, many workers, including migrants working as daily-wage and productivity-based workers in the plantation and construction sectors, were not permitted to work. This had caused a drastic reduction in their monthly income, with some having no income at all for at least three consecutive months, especially for those that were not allowed to work during the MCO.

For migrant workers who were paid on an hourly basis but were still allowed to work, the reduced hours of business operations had consequently reduced their monthly income significantly. Given their already low monthly wages, the reduced days and hours of working had significant financial implications, not only to maintain their monthly expenditures in Malaysia but the total amount of remittances sent back to their respective home country.

The Human Rights Commission of Malaysia (SUHAKAM) reported that many migrant workers were not allowed to work by their employers, and at the same time, did not receive any forms of communication from the employers since the MCO was introduced. Workers were in the dark about their status of employment, and more importantly, their immigration status since their working pass needs to be annually renewed by the employers. This not only raises

concern on retrenchment among migrant workers but the risk of becoming undocumented or irregular migrant workers.<sup>152</sup>

*"I was only allowed to work 4 hours a day, between 3 and 4 days in a week. We had to rotate among friends. The estate management said operation can't run 100% in terms of manpower. That's why we had to rotate. As a harvester, our salary is based on fruits we harvest every day. Four hours working every day is limiting us to get our usual income. (...) In March 2020, my salary was just about MYR500 (USD 125) and April was MYR600 (USD 150) (the minimum wage is MYR1050-MYR1100 [USD 262.50-USD 275]). Our estate manager was aware of this. As many of us cannot go outside plantation due to MCO, our estate manager provided us food supplies, cigarettes and petrol (in a bottle) so that we can move around the estate."*

*Key informant 2 (An Indonesian worker; documented worker; plantation sector; Selangor)*

*"I was asked not to come to the (construction) site because our work was closed temporarily. I used to stay in kongsis (meaning workers' accommodation inside a construction site) but was asked to leave because there was a rumour that there will be an immigration raid. In late March 2020, I moved to a friends' house in Kuala Lumpur. Since then I have not heard anything from my employer. What worries me is that my passport will expire in September 2020. Now I do not have a work and an employer to enable me to renew my work permit. Agent cannot proceed renewing my passport if (there is) no work and employer. I want to go back to Bangladesh but you know the cost is high. I need to work at least a few more years".*

*Key informant 3 (A Bangladeshi worker; undocumented worker; construction sector; Kuala Lumpur) informed that he was and still not working since February until July 2020.*

## • Lack of Food and Risk of Hunger

Access to food is scarce during MCO, and that leads to a real risk

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<sup>152</sup> Human Rights Commission of Malaysia (SUHAKAM). 28 May 2020. Dialogue with Vulnerable Communities: An Assessment of Needs and Next Steps Amid COVID-19 Pandemic. Available at <https://www.suhakam.org.my/dialogue-with-vulnerable-communities-an-assessment-of-needs-and-next-steps-amid-COVID-19-pandemic/> (accessed on 25 August 2020)

of hunger among the vulnerable migrant workers. The lack of food supplies may be seen in three scenarios facing migrant workers.

First, for many migrant workers, especially those living outside the city centre or in remote areas, long hours of road travel coupled with shortened hours of business operations in many grocery shops and markets limited their access to food supplies. While some migrant workers may be able to purchase food supplies near their workplace and accommodations, numerous reports were indicating excessive prices were imposed by traders and local businesses against migrant workers.<sup>153</sup> Secondly, many migrant workers, especially those who are undocumented, are afraid to go outside their hiding places to access food supplies. While there has been humanitarian assistance provided by NGOs to undocumented migrant workers, these were still simply inadequate.<sup>154</sup> Thirdly, for migrant workers those that were locked in areas imposed with Enhanced Movement Control Order (EMCO), food assistance was not able to be distributed to them. In these particular areas, SUHAKAM reported that aid, including food assistance, were only channelled through community leaders or head of villagers – and that such food was exclusively distributed to local people due to shortage of supplies.<sup>155</sup>

*"We were lucky to have received this food assistance – a pack of 10 kg rice, 2kg cooking oil and a few other food supplies. However, this only lasted for three days. There were 12 of us staying in the same house. When we*

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<sup>153</sup> Ibid.

<sup>154</sup> International Labour Organization (ILO). 2020. COVID-19: Impact on migrant workers and country response in Malaysia. pp. 6-7. Available at [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/briefingnote/wcms\\_741512.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/briefingnote/wcms_741512.pdf) (accessed on 25 August 2020)

<sup>155</sup> Human Rights Commission of Malaysia (SUHAKAM). 28 May 2020. Dialogue with Vulnerable Communities: An Assessment of Needs and Next Steps Amid COVID-19 Pandemic. Available at <https://www.suhakam.org.my/dialogue-with-vulnerable-communities-an-assessment-of-needs-and-next-steps-amid-COVID-19-pandemic/> (accessed on 25 August 2020)

received the assistance, we were asked to give our contact details, but they didn't give us their contact information. We wanted to call and ask for additional food supplies but we didn't have their phone number. Since MCO, our eating routine was only once a day, that is lunchtime. We had to ration the foods that we had every day. In the middle of June 2020, we were instructed to work, and that we had the chance to buy food for lunch and take away for our dinner. We were initially sceptical and afraid to go outside after hearing the random arrest happening around us. But at the same time, we can't stay in the house as food supplies are limited, and that we need to work and begin to send money back home".

*Key informant 4 (A Bangladeshi worker; undocumented worker; plantation sector; Selangor)*

#### • **Over-crowded and Unhygienic Living Conditions**

Some migrant workers in Malaysia are already living in precarious accommodations (e.g., living in container longhouses), lacking proper water and electricity supply, basic sanitary products, and living in overcrowded situations. Forced to stay at home under such conditions, migrant workers were unable to practice physical distancing or maintain good hygiene. SUHAKAM reported that most migrant workers, mainly in the construction sector, were also living together in *kongsi* houses with around 40 to 80 occupants. These overcrowded living conditions put migrant workers at higher risk of infection of COVID-19.<sup>156</sup>

The government released several guidelines based on selected industries, such as construction, to assist employers or contractors in putting in place stringent procedures for the provision of workers' accommodations, transportation and daily COVID-19 testing routines for those staying outside the construction site. However, these guidelines are not legally enforceable, and employers may see these guidelines merely as recommendations or advice which they may or may not need to comply with.

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<sup>156</sup> Ibid.

"I live together with nine other Indonesian colleagues in the same shared cabin. The cabin house is very small, about 20x20 feet. There is a shared kitchen outside our cabin and a shared toilet also outside cabin. No proper cooking facilities, we shared everything we had including glasses and plates, and there is no proper piping system where clean water can be sourced. At night, we slept very close to one another".

*Key informant 5 (An Indonesian worker; undocumented worker; construction sector; Kuala Lumpur)*

Some workers were forced to move out from their rental house or room after losing income due to MCO, and that forced them to live together in cramped living conditions with their fellow countrymen. Malaysian Trade Union Congress (MTUC) reported that migrant workers from Nepal, Bangladesh and Myanmar were forced to live in cramped and squalid conditions in Selangor as their respective employers were initially terminating them.<sup>157</sup>

#### • **Labour Rights Violations**

There were indications that labour rights violations and exploitation rose during the course of the pandemic. SUHAKAM reported that some migrant workers were not being paid their monthly salary even before MCO, with some employers allegedly withholding migrant workers' salaries since February 2020 onwards, leaving the workers unable to access their basic needs and pay housing or room rental.<sup>158</sup> MTUC reported common complaints about violations of labour rights it received from migrant workers to include unfair termination of employment, unpaid wages and poor living conditions.<sup>159</sup> Some workers were allegedly required to work

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<sup>157</sup> *Free Malaysia Today*, 8 April 2020. sacked and abandoned, foreign workers now living in squalor, says MTUC. Available at <https://www.freemalaysiatoday.com/category/nation/2020/04/08/sacked-and-abandoned-foreign-workers-now-living-in-squalor-says-mtuc/> (accessed on 3 October 2020)

<sup>158</sup> Ibid.

<sup>159</sup> International Labour Organization (ILO). 2020. COVID-19: Impact on migrant workers and country response in Malaysia. Available at <https://www.ilo.org/wcmsp5/groups/>

during MCO in non-essential work, while others faced uncertainty concerning their employment status due to limited communication with their respective employer.

*“My former employer was a palm oil contractor, given contracts by palm oil companies to undertake works such as harvesting, loading and spraying in big plantation companies. (...) During MCO the plantation was still in operation to fulfil the demand from palm oil mills. So, I took the opportunity to work. My former employer promised to give my pay every first day of a new month but he failed to do so since January 2020. I worked with my former employer for almost five years since 2015. I trusted him and didn't expect that he cheated me.*

*Key informant 6 (An Indonesian worker; undocumented worker; plantation sector; Selangor) used to work in a palm oil estate in Selangor. He worked as a harvester and left the work in early July 2020 as he was not given his salary for more than six months. He informed the researcher that even during COVID-19 he was still instructed by his contractor (his employer) to work in the estate but never been fairly compensated.*

## **Good Practices of Employers**

### **Integrating Government SOP into Business Internal Procedures**

While many cases of rights violation committed by employers were reported, the field researcher also observed good practices from businesses in protecting the rights of migrant workers. Some companies in the plantation and construction sectors have taken immediate positive measures by integrating the government-released SOP into their respective business operations. This was done first by creating its standards procedures to suit their business environment by reflecting all important elements of the government-released SOP.<sup>160</sup>

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public/---asia/---ro-bangkok/documents/briefingnote/wcms\_741512.pdf (accessed on 25 August 2020)

160 See for instance COVID-19 SOP established by UEM Sunrise (in the construction sector), available here <https://uemsunrise.com/corporate/media-centre/media-highlights/uem-sunrise-to-use-prudent-measures-to-weather-tough-times> ; Another

Companies have integrated the government SOP on COVID-19 into their regular occupational safety and health measures, communicated it to workers, including migrant workers, in languages the workers understood. These measures include;

- creating physical distancing measures at the workplace, workers' accommodation, common areas, and during the travel to work using employer-provided vehicles;
- regular cleaning and sanitisation of office space, common areas, and transportation;
- installation of hand-washing stations throughout the company's operations (i.e., estate and construction areas);
- provide soap, clean water and hand sanitisers, as well as masks and other appropriate PPE at no cost to migrant workers;
- provide relevant information on COVID-19, its prevention and containment strategy;
- undertake regular temperature screening; and
- create quarantine facilities at the workplace and workers' accommodation.

### **Facilitating Access to Healthcare, including COVID-19 Test and Psycho-Social Support**

Some companies had taken immediate proactive actions by facilitating COVID-19 swab tests on their migrant workers, in which employers bore the cost. In the meantime, the companies had undertaken regular monitoring of the health situation, including the risk to COVID-19 with the help of onsite health clinics, medical officers, or specially trained staff (especially in the plantation sector).

Companies have also appointed and trained their health and safety officers, responsible for rolling out and overseeing the

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example of COVID-19 SOP established by Sime Darby Plantation (in plantation sector), available here <http://www.simedarbyplantation.com/sites/default/files/COVID-19%20Sustainability%20Practices.pdf> (accessed 6 October 2020)

implementation of the monitoring plan. The staff responsible were equipped with appropriate medical supplies and PPE. Companies screened workers and residents throughout operations, as well as at workers' accommodation and clinics regularly. Records of the number and frequency of persons screened and relevant symptoms were properly documented.

Some companies had established a psychological and social support system, enabling workers, including migrant workers to access counselling services to prevent high levels of stress and anxiety due to prolonged movement control order and isolation. Access to foreign consulates was facilitated.

### ***Upholding Labour Standards in Times of Great Economic Challenges***

Some companies had undertaken the much-needed initiatives of upholding labour standards in time of significant financial challenges due to prolonged movement control order. They strived to maintain a record on work hours for workers, including daily paid, productivity-based and monthly-salaried workers. This, in turn, helped the companies to have a record on the movement of workers for COVID-19 related tracking.

It was observed that some companies in the plantation sector had made a public commitment in ensuring that all workers, including migrant workers, were guaranteed of their minimum wage. This was despite some of the workers being asked to take leave. While adhering to the government-set SOP to reduce the workforce during the movement control order, companies can reduce the workforce without imposing or causing excessive hours of work for selected workers. Companies in the palm oil plantations remained vigilant on the risk for children undertaking or helping their parents on site. This is due to the closing of many schools and alternative learning centres where children may be asked by their parents to assist in undertaking various palm oil activities on site.

Some companies in both plantation and construction sectors

had undertaken necessary actions by reviewing and adjusting their workers' housing and facilities, including reducing the number of migrant workers sharing the same unit of house and/or room. They also strengthened awareness-raising efforts, emphasising the importance of maintaining or practising good hygiene, including dissemination of information through text messages to migrant workers. Workers' briefing during daily morning gathering or roll-call was undertaken routinely to update workers in the new SOP or work rules concerning COVID-19 prevention.

Despite this negative trend and consequences against migrant workers, good employers' practices deserve appreciation and national scaling up. This calls for serious policy consideration and immediate remediation in addressing the needs and welfare of migrant workers.

### **Conclusion**

In conclusion, Malaysia's response to COVID-19 with regards to migrant workers have been riddled with issues. The government's decision to conduct multiple immigration raids targeting undocumented migrant workers jeopardises not only human rights but also their health. The threat of being found in a raid risks stopping undocumented migrant workers from coming forward to get tested and receiving healthcare if they were to show symptoms of COVID-19. Further, the present detention facilities are unlikely to ensure a safe and conducive environment that is necessary to stop the transmission of COVID-19. As a result, this decision does not improve the COVID-19 conditions, as it helps spread the disease.

The lack of access to health information in language the migrant workers understand serves as another barrier in the prevention and containment of the virus. While most migrant workers living in, or with their own community, they still interact with the public at large. In other words, migrant workers' health is also a public health. However, this has not been fully reflected in the way the government

responded to the migrant workers situations during the pandemic.

The government decision to reduce dependency on migrant workers in times of the health crisis is insensitive, not only to the employers who rely heavily from migrant workers, but also the workers themselves for losing their income and employment. Malaysia, being one of the world's largest medical gloves-producing countries necessary to prevent the spread of COVID-19, implicated with a series of allegations concerning migrant workers exploitations. Lack of physical distancing and unhygienic working and living conditions only further alleviate the risk of COVID-19 transmission among migrant workers. The government and employers should continue upholding the highest labour standards in times of the crisis and in the recovery period. The pandemic reinforces the need to improve the working and living conditions of migrant worker population, and the importance of a fair and equal access to health care for all.

Note: This chapter is authored by Andika Ab. Wahab, and co-edited by Mariko Hayashi and Adeline Tinessia. Some part of the chapter has been published by the author elsewhere.

## Chapter 5: SINGAPORE



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### Official figures of COVID-19

First case recorded on **24 January 2020**

No. of positive cases: **58,218**

No. of death: **29**

(as of 1 December 2020, source: Worldometer )

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### Migrant Workers in Singapore

Low-wage migrant workers in Singapore make up just under 1.4 million people as of October 2020, with over a third classed either as domestic workers or construction workers on Work Permits, the lowest-paid category of employment visa. Singapore adopts a strict policy which only allows workers from certain “source countries” to work in specific industries. The government also imposes a monthly tax that employers have to pay for each worker that they hire, known as the “foreign worker levy”.<sup>161</sup> The government claims that such taxes are necessary to moderate the demand for low-wage migrant workers. In addition to the foreign worker levy, limits are also placed on the number of foreigners that an employer can hire through a quota system.<sup>162</sup> The fluctuating population of 300,000

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<sup>161</sup> Ministry of Manpower. 2020. Foreign Worker Levy. Available at <https://www.mom.gov.sg/passes-and-permits/work-permit-for-foreign-worker/foreign-worker-levy> (Accessed 28 November 2020).

<sup>162</sup> Ministry of Manpower. 2020. Key Facts On Work Permit For Foreign Worker. Available

odd migrant construction workers mostly come from South and Southeast Asian countries and China. Migrant workers in Singapore are unable to vote and are not allowed to form their unions or be an employee of a trade union, without express permission from the Minister of Manpower (MOM). Unlike foreign employees of other work passes, employers of low-wage migrant workers on work permit have to purchase a SGD 5,000 (USD 3,738) security bond which they may lose if their worker goes missing, or if the employer does not repatriate their worker to their country of origin at the end of the employment. Low-wage migrant workers are also not allowed to switch employers freely while in Singapore. Owing to the lack of any fixed minimum wage in Singapore, foreign workers are paid far lower than their Singaporean counterparts for doing the same job.<sup>163</sup>

### COVID-19 Response Measures

The first case of COVID-19 in Singapore was recorded on 24 January 2020, and the first death occurred on 22 March 2020. Soon after the first case was recorded, on 31 January 2020, the government implemented a 14 day “stay at home notice” to all travellers from mainland China.<sup>164</sup> Subsequently, additional measures were put in place which required foreign workers to obtain permission from MOM before arriving in Singapore. The country’s initial response

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at <https://www.mom.gov.sg/passes-and-permits/work-permit-for-foreign-worker/key-facts> (Accessed 28 November 2020).

163 William Jamieson. 14 October 2020. Logistical Violence and Virulence: migrant exposure and the underside of Singapore’s model pandemic response, *London School of Economics*. Available at <https://blogs.lse.ac.uk/seac/2020/10/14/logistical-violence-and-virulence-migrant-exposure-and-the-underside-of-singapores-model-pandemic-response/> (accessed on 21 October 2020)

164 Ministry of Health. 2020. Implementation of New Stay-Home Notice. Available at <https://www.moh.gov.sg/news-highlights/details/implementation-of-new-stay-home-notice> (accessed on 11 October 2020)

was often seen as the “model” for handling COVID-19.<sup>165</sup> In addition to health checks at airports, the government carried out extensive testing of every suspected case; tracked down anyone who was in contact with a confirmed case; and confined those contacts to their homes until they were cleared. WHO Director-General Tedros Adhanom Ghebreyesus praised the effort as “a good example of an all-of-government approach”.<sup>166</sup> However, oversights and flaws in the system have led to the outbreak of COVID-19 in the migrant worker’s dormitory which rapidly spiralled out of control, which is detailed in the following section. As the diseases spread globally, the government urged its citizens to return home in mid-March. As thousands of Singaporeans and permanent residents (PRs) returned to the country, the number of confirmed cases of COVID-19 increased incrementally. On 7 April 2020, Singapore passed a new law, which - although the term is not being used - is effectively to impose a partial national lockdown called “circuit breaker.”<sup>167</sup> It began to be slowly loosened on 1 June 2020.

As of 1 October 2020, the number of deaths sits at 27 out of almost 58,000 confirmed cases of COVID-19 infections.<sup>168</sup> However, civil society organisations in Singapore argue that there have been other deceased individuals, whose deaths have not been included in the national death tally for COVID-19 although they have been diagnosed with the disease. Humanitarian Organization for Migration Economics (HOME), a Singaporean NGO supporting and

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165 Spencer Wells. 12 March 2020. “Singapore is the model for how to handle the coronavirus”. MIT Technology Review. Available at <https://www.technologyreview.com/2020/03/12/905346/singapore-is-the-model-for-how-to-handle-the-coronavirus/> (Accessed on 2 October 2020)

166 Anna Jones. 10 April 2020. Coronavirus: Should the world worry about Singapore’s virus surge?. BBC News, Singapore. Available at <https://www.bbc.co.uk/news/world-asia-52232147> (accessed on 2 October 2020)

167 Ibid.

168 Our World in Data. 2020. Coronavirus (COVID-19) Cases - Statistics And Research. Our World in Data. Available at <https://ourworldindata.org/covid-cases> (Accessed 1 October 2020).

empowering migrant workers since 2004, claims that six migrant workers are known to the organisation to have not been included in the tally.

- **Movement Restriction and Surveillance in Dormitories**

According to interviews conducted on the migrant worker population by some media, the government's initial response was limited as it tended to orient towards its citizens. Examples can be seen in early March 2020 where the government provided free masks and hand sanitiser, only to limit it to its citizens. The initial rule that related to migrant workers during that time was that only those who had a job to go to were allowed to leave their premises. This rule was changed when infections among migrant workers became rampant, and migrant workers were no longer allowed to leave their dormitories.<sup>169</sup>

Despite Singapore's gold standard in initially responding to the pandemic, the ignorance of its migrant population, which accounts for one fifth of its population, has meant that its health security has been compromised. Singapore is heavily dependent on these workers to keep its economy operating, but their work, mostly in construction, shipping, maintenance, does not allow for social distancing.<sup>170</sup>

### **COVID-19 Outbreak at Overcrowded Dormitories**

Migrant workers in the sectors mentioned above often live in privately-run dormitories, which house up to 12 people per room,

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169 A. Mirchandani, and A. De. 5May 2020. We Speak To A Migrant Worker About What It is Like To Live In One Of Singapore'S Coronavirus Hotbeds. Available at <https://www.vice.com/en/article/akw5w5/singapore-migrant-worker-experience-coronavirus> (accessed on 12 December 2020)

170 Anna Jones. 10 April 2020. Coronavirus: Should the world worry about Singapore's virus surge?. BBC News, Singapore. Available at <https://www.bbc.co.uk/news/world-asia-52232147> (accessed on 2 October 2020)

with shared bathrooms, cooking and dining facilities.<sup>171</sup> David Koh of Saw Swee Hock School of Public Health, National University of Singapore argues that, in reality, migrant workers are often quartered 15-20 to a room.<sup>172</sup> Since mid-March, the number of migrant workers that tested positive for the coronavirus had risen alarmingly. The government gazetted some dormitories as "isolation areas", where migrant workers remained in high density. This measure was done through the introduction of a new law known as the COVID-19 (Temporary Measures) Act. This act was passed by the Parliament on 7 April 2020 and assented to by the President on 7 April 2020.<sup>173</sup> While migrant workers in these "isolation areas" were given food as they were no longer allowed to use the shared kitchen, the food was often lacking in nutrition.<sup>174</sup> As of 7 April 2020, the day the COVID-19 Act came in force and circuit breaker began, three purpose-built dormitories housing about 24,000 foreign workers have been put under quarantine. Over a hundred workers from among those dormitories were tested positive for COVID-19. A Singaporean NGO, Transient Workers Count Too (TWC2) called this confinement en masse in dormitories "a risky strategy" as "infection rate in the dorm could increase dramatically", and called for urgent action to provide better accommodation.<sup>175</sup> HOME received calls

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171 Ibid.

172 David Koh. 2020. 'Migrant workers and COVID-19', *Occupational and Environmental Medicine*, p. opened-2020-106626. doi: 10.1136/oemed-2020-106626. (accessed on 21 October 2020)

173 Singapore Statute Online. 2020. Republic of Singapore, Government Gazette Acts Supplement. Available at <https://sso.agc.gov.sg/Act/COVID19TMA2020> (accessed on 11 October 2020)

174 Ratcliffe, R., 17 April, 2020. Singapore's Cramped Migrant Worker Dorms Hide Covid-19 Surge Risk. the Guardian. Available at <https://www.theguardian.com/world/2020/apr/17/singapores-cramped-migrant-worker-dorms-hide-covid-19-surge-risk> (Accessed 24 June 2020).

175 Transient Workers Count Too (TWC2). 2020. Covid-19: Media Statement, 8 April 2020. Available at <http://twc2.org.sg/2020/04/08/covid-19-media-statement-8-april-2020/> (accessed on 2 October 2020)

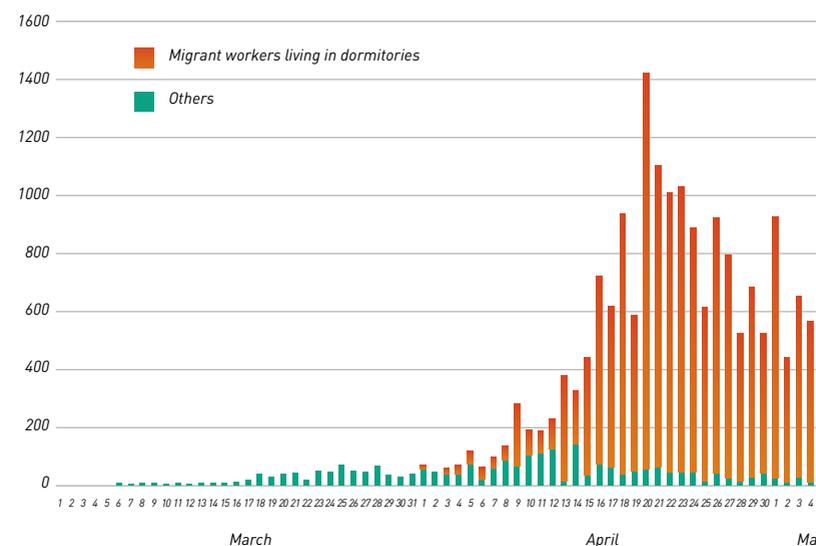
from migrant workers living in dormitories that those tested positive for COVID-19 were still sharing rooms with those who were not infected. Many other workers were also isolated in hotels, ships, and disused car parks and residential blocks. These types of accommodation also raised severe concerns about a rapid increase of infection among migrant workers.

What was feared soon became a reality. At the beginning of May 2020, it was reported that migrant workers, specifically construction workers who hail from various countries in South Asia and live in dormitories, accounted for the vast majority of COVID-19 cases.<sup>176</sup> The government's daily report on 22 June 2020 stated that 94.31% of the total positive cases in Singapore have been at foreign worker dormitories and construction sites.<sup>177</sup> The high percentage of infection among migrant workers, particularly those housed in dormitories is extremely concerning as it indicates that Singapore's strategy of gazetted dormitories, while it protects the wider Singapore community, risks the health and lives of migrant workers. Figure 2 shows the number of new confirmed cases of COVID-19 among migrant workers in dormitories and other populations between the beginning of March to early May 2020.

176 A. Mirchandani, and A. De, 5 May 2020. We Speak To A Migrant Worker About What It is Like To Live In One Of Singapore'S Coronavirus Hotbeds. Available at: [https://www.vice.com/en\\_au/article/akw5w5/singapore-migrant-worker-experience-coronavirus](https://www.vice.com/en_au/article/akw5w5/singapore-migrant-worker-experience-coronavirus) (Accessed 24 June 2020).

177 Ministry of Health, 2020. 22 June 2020 Daily Report On COVID-19. Daily Report on COVID-19. Singapore.

**Figure 2: The Number of New Cases of Confirmed COVID-19 in Singapore, 1 March –5 May 2020**



(Figure from Koh [2020] based on data of the Ministry of Health).<sup>178</sup>

Some migrant workers were decanted from their dormitories in order to disperse dense populations of healthy workers from infected dorms. These temporary measures took equally “utopian and dystopian” turns; some workers were lodged in their own Housing Development Board flats, state-administered public housing usually out-of-reach of this segregated group of workers;<sup>179</sup> some were relocated to empty car parks, while others were

178 David Koh. 2020. ‘Migrant workers and COVID-19’, *Occupational and Environmental Medicine*, p. oemed-2020-106626. doi: 10.1136/oemed-2020-106626. (accessed on 21 October 2020)

179 William Jamieson. 14 October 2020. “Logistical Violence and Virulence: migrant exposure and the underside of Singapore’s model pandemic response” *London School of Economics*. Available at <https://blogs.lse.ac.uk/seac/2020/10/14/logistical-violence-and-virulence-migrant-exposure-and-the-underside-of-singapores-model-pandemic-response/> (accessed on 21 October 2020)

accommodated in unused cars, ocean liners, with separate ships for the healthy and the infected, inverting the historical practice of plague ships into a “parody of the city-state’s own attitude towards their approach” to migrant workers: outsourced and off-shored.<sup>180</sup>

What is important to highlight is that the failure in Singapore’s response to COVID-19 is primarily induced by its long history of poor treatment of migrant workers. It is the “institutional neglect”<sup>181</sup> that is partially responsible for the outbreak. Singapore’s institutional disparities in its subjects of governance; citizens, expats or PRs, and migrant workers have already been seen in the exclusion of migrant workers in the early response to COVID-19. Singaporean public has continually distanced themselves from the subset of the population. This can be seen in the way in which the reported number of confirmed cases are broken down into migrant workers versus citizens and PRs, who are foreign nationals often regarded as “highly qualified professionals” and their family members. While the number of positive cases continued to increase exponentially in Singapore, the number of infected citizens and PRs were low and decreasing.

An important step that the government has taken as the result of COVID-19 is vowing for the improvement of living conditions of migrant workers and building new dormitories for 100,000 workers over the next few years. According to the announcement, these new dormitories will utilise sites such as empty public housing apartments and schools. However, the public reaction to this move has not all been positive. Many have commented on the fact that some of these sites are within residential neighbourhoods, and voice concerns over the risks to security, health and decreasing

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180 Ibid.

181 S. Yea. No Date. This is why Singapore’s coronavirus cases are growing: a look inside the dismal living conditions of migrant workers, The Conversation. Available at: <http://theconversation.com/this-is-why-singapores-coronavirus-cases-are-growing-a-look-inside-the-dismal-living-conditions-of-migrant-workers-136959> (Accessed: 25 August 2020).

property prices.<sup>182</sup> It is also important to note that this plan will not immediately aid issues with COVID-19 infections among the migrant workers’ community.

HOME urges that congestion in all dormitories need to be significantly reduced so that migrant workers can practice meaningful, safe distancing. For safe distancing measures to be effective, they recommend that there should only be four people allocated to a room. A less congested living environment will also make the quarantine process more bearable for migrant workers. HOME received feedback from many migrant workers that being isolated in their rooms for 22 hours a day (being allowed out only for meals and showers) with 12 other men was negatively affecting their mental health. This pandemic should be a turning point for fundamental changes to migrant workers’ housing and living conditions to be adequate and humane.

### ***Unfair Treatment of Migrant Workers Living in Dormitories***

As the government gazetted these dormitories as isolation areas, only those who are categorised as ‘essential’ service workers, such as cleaners and security guards, were allowed to leave for work. Any worker who wished to leave would also need to obtain permission from their employers to do so even if they were free from the coronavirus. Effective from 2 June 2020, amendments were made to the Employment of Foreign Manpower Regulations, which set out work pass regulations that migrant workers have to comply with. The amended regulations gave more authority to employers to confine migrant workers in their accommodation. While the authorities have clarified that the employers cannot unilaterally impose restrictions beyond prevailing guidelines of seeking medical

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182 R. Chandran. 2020. Sight Magazine - Singapore Calls For “Mindset” Change As Migrant Workers Are Rehoused. Sightmagazine.com.au. Available at <https://www.sightmagazine.com.au/news/16071-singapore-calls-for-mindset-change-as-migrant-workers-are-rehoused> (Accessed 24 June 2020).

attention or being allowed to do so by the authorities, NGOs have highlighted that the general guidelines unfairly restrict the movement of workers.<sup>183</sup> It was also reported that Manpower Minister Josephine Teo announced at a virtual media conference held on 1 June 2020 that a new application, SGWorkPass, would be used to monitor which migrant workers could leave their dormitories for work as one of the new measures the inter-agency task force handling the COVID-19 situation in the dormitories rolled out. She also said that almost all migrant workers had already downloaded the app by then.<sup>184</sup> This surveillance system unfairly applies only to migrant workers whether or not they are tested positive for COVID-19, and violates freedom of movement of individual workers.

Civil society organisations warn that the new regulation is preventing workers who wish to leave their living quarters to seek assistance for practical needs and employment-related disputes from doing so. In their joint statement, HOME and TWC2 criticised the new regulations as below;

*“The new regulations are not time-limited, or pegged, for example, to the COVID-19 (Temporary Measures) (Control Order) Regulations’ effective period. Enacting them within the Employment of Foreign Manpower Regulations—a keystone of the Work Pass legislative regime—symptomises their discriminatory and prejudicial nature.*

*The new regulations also adjure workers to ‘keep [the] living space...clean and tidy’ as part of the work pass conditions. That is, slovenly habits could lead to penalties as severe as revocation of their work pass. While everyone should fairly take proportionate responsibility for clean living space, work*

183 HOME. 26 June 2020. Response to Post-Circuitbreaker Amendments to the Employment of Foreign Manpower (Work Passes) Regulations — HOME & TWC2. available at <https://www.home.org.sg/statements/2020/6/26/response-to-post-circuitbreaker-amendments-to-the-employment-of-foreign-manpower-work-passes-regulations-home-amp-twc2> (accessed on 8 October 2020)

184 Olivia Ho. 2 June 2020. Which workers can leave dorms for work? Find out with new app. Available at <https://www.straitstimes.com/singapore/manpower/which-workers-can-leave-dorms-for-work-find-out-with-new-app> (accessed on 8 October 2020)

*permit conditions are not the appropriate means to enforce this. The main factors of the spread of Covid-19 among the workers were their overcrowded living, working and transportation conditions—not conditions of their own making.”<sup>185</sup>*

Further, the media reported that migrant workers who repeatedly tested negative for COVID-19 were still confined to their dormitories and were not allowed to leave freely. As a result of the prolonged confinement, many migrant workers are experiencing an adverse impact on their mental health, including psychological distress. There have been increased reports of migrant workers attempting to impose self-harm, and attempts of suicide.<sup>186</sup>

While the lockdown may be necessary for the Purpose Built Dormitories (PBDs) with high infection rates, workers who are not infected are also caught under these restrictions. The imposed measures are highly restrictive and put many thousands of workers in a highly stressful environment. Migrant workers’ groups have raised concerns about the prolonged isolation faced by the workers, and have highlighted that solutions to this issue need to go beyond merely providing counselling support.

#### • Access to Healthcare

Prime Minister Lee Hsien Loong argued in his remarks delivered on 21 April 2020, that “almost all the migrant workers infected have only mild symptoms” as they are generally young, and hence “much less like to become seriously ill with COVID-19.”<sup>187</sup> The approach of

185 HOME. 26 June 2020. Response to Post-Circuitbreaker Amendments to the Employment of Foreign Manpower (Work Passes) Regulations — HOME & TWC2. available at <https://www.home.org.sg/statements/2020/6/26/response-to-post-circuitbreaker-amendments-to-the-employment-of-foreign-manpower-work-passes-regulations-home-amp-twc2> (accessed on 8 October 2020)

186 CNA. 5 August 2020. COVID-19: Prolonged isolation affecting migrant workers’ mental health. Available at <https://www.youtube.com/watch?feature=youtu.be&v=vKWFanR-cOdY> (accessed on 8 October 2020)

187 Prime Minister’s Office Singapore. 21 April 2020. PM Lee Hsien Loong’s remarks in

the health authorities based on this argument, seen in the exclusion of migrant workers in the country's initial responses, ignores the fact that there have been many cases around the world where young people infected by the coronavirus have been seriously ill or died from it after complications arise. Singapore has also seen some cases of migrant workers in their 30s passing away after being infected with the coronavirus due to underlying health issues.<sup>188</sup> The statement also ignores the largely unknown long-term effect of the disease on otherwise healthy bodies. HOME had seen cases where workers who complained about experiencing similar "long covid" symptoms (chronic unexplained pain, extreme fatigue) were either told there was nothing medically wrong with them or were immediately put under isolation in hotel rooms instead of the hospital where appropriate medical attention is available.

Many migrant workers do not receive regular medical attention and are often afraid of seeing a doctor for fear of incurring high costs for their employers and losing their jobs. HOME still sees cases where employers not only refused to cover workers' medical expenses but also discouraged or even punished workers for seeing a doctor when they are unwell. Even though there is a law that makes it mandatory for employers to pay for their worker's medical expenses, in reality, it does not protect migrant workers from being terminated when they exercise their right to medical treatment paid for by their employers.

Difficulties in accessing medical care mean migrant workers may be unaware of underlying health conditions they have developed

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English, Malay and Chinese on the Coronavirus Disease 2019 (COVID-19) situation in Singapore, delivered on 21 April 2020. Available at <https://www.pmo.gov.sg/Newsroom/PM-Lee-Hsien-Loong-address-COVID-19-21-Apr> (accessed on 2 October 2020)

188 Sumita Thiagarajan. 10 April 2020 "Case 1604, who tested positive for Covid-19 after death, passed away due to heart disease". Mothership. Available at [https://mothership.sg/2020/04/case-1064-death-heart-disease/?fbclid=IwAR0-TWX-1ecl\\_Vv6Ub5BC7q52P\\_bosvPJ0hITCZ9Tv7uEK1ejSKG9iKXV\\_A](https://mothership.sg/2020/04/case-1064-death-heart-disease/?fbclid=IwAR0-TWX-1ecl_Vv6Ub5BC7q52P_bosvPJ0hITCZ9Tv7uEK1ejSKG9iKXV_A) (accessed on 7 October 2020)

and may have more adverse clinical outcomes while contracting a new disease such as COVID-19. A lack of information from the authorities about the virus and the disease only compounds issues. The possibility of more deaths in the migrant worker community than anticipated due to undetected underlying health conditions is a concern.

As the extent of the outbreak among its migrant worker community became significant, the government increased testing in dormitories, contact tracing and surveillance. The government claims that migrants who test positive for the virus have the same access to healthcare as the rest of the population, and the government has also provided sanitisers and masks for the community.<sup>189</sup> However, more efforts are needed to ensure that migrant workers can access medical care and PPE.

- **Job Security and Labour Rights Issues**

A media report released on 29 May 2020 claims that Singapore's National Development Minister said that the job security of migrant workers would depend on their employers and situations of the country's economy. He was quoted as saying "we will take care of the migrant workers during this period when they are in quarantine. That is our commitment. (...) But once workers are recovered and are released to the workforce to work, then whether or not they will continue to work depends on their employers."<sup>190</sup>

Migrant workers are especially financially vulnerable because most of them have paid recruitment fees amounting to several

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189 Yea S. 2020. This Is Why Singapore's Coronavirus Cases Are Growing: A Look Inside The Dismal Living Conditions Of Migrant Workers. The Conversation. Available at: <https://theconversation.com/this-is-why-singapores-coronavirus-cases-are-growing-a-look-inside-the-dismal-living-conditions-of-migrant-workers-136959> (accessed 24 June 2020).

190 Toh Wen Li. 29 May 2020. Coronavirus: Job security of migrant workers depends on employers. Available at <https://www.straitstimes.com/singapore/job-security-of-migrant-workers-depends-on-employers> (accessed on 2 October 2020)

thousand US dollars. Loans and mortgages are taken out in their home countries to finance their journeys to work in Singapore. Returning home in debt would have devastating consequences for them and their families, who might be facing additional financial hardship and health crisis in light of COVID-19. HOME had been contacted by several migrant workers whose employers made decisions to terminate their services due to the economic impact of the pandemic on their businesses. Their employers were waiting for flights to resume and circuit-breaker measures to end so that they can repatriate their workers. Their employers are required by law to provide food and accommodation to workers until they are repatriated.

The impact of COVID-19 on the job security of migrants has made the issue of job mobility more apparent. In Singapore, migrant workers' work permits are tied to their employers and therefore changing employers is not allowed unless the current employer gives permission and undergoes the necessary process. Only those in the construction and domestic work sectors are allowed to switch employers without such process although consent from their employers is required. This limitation has led to many migrant workers fearing to assert their rights and to endure abuse and labour exploitation in Singapore. It is easy to assume the situation worsens as more businesses face a financial strain, and migrant workers have less ability to negotiate on their working conditions or to change their employers.

The onset of COVID-19 affecting migrant workers in Singapore has fuelled domestic anxiety and debate to reduce Singapore's reliance on migrant workers and whether these jobs can be filled by Singaporeans instead.<sup>191</sup> However, at the same time, in a country

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191 R. Phua, and C. Min. 2020. Can Singapore Rely Less On Foreign Workers? It's Not Just About Dollars And Cents, Say Observers. Available at <https://www.channelnewsasia.com/news/singapore/singapore-foreign-workers-reliance-challenges-12806970> (accessed 25 June 2020).

like Singapore, where people are encouraged to pursue higher education and the work usually migrant workers take on are considered as "unskilled", it is not surprising that not many citizens and PRs will willingly replace them. Some also argue that it would cost 50% more to hire a Singaporean for the same job than a migrant worker.<sup>192</sup>

In terms of finances, Singapore's MOM has ensured in their advisory that migrant workers will be paid their wages during the pandemic with sanctions in place for employers failing to do so.<sup>193</sup> However, this does not limit workplaces to terminating workers whose wages they are unable or unwilling to pay. It also does not prevent employers from paying workers much less than their contracted salaries. Domestic workers' jobs and salaries are not covered or protected under this advisory at all. HOME has received numerous reports from migrant workers who have been laid off overnight and consequently lost access to their accommodation and food.

There has been minimal government assistance given to employers to pay their workers' salaries or to sustain employment. The government had earlier announced on 6 April 2020 that it would provide employers with a foreign worker levy rebate of SGD 750 (USD 560) for each work permit holder.<sup>194</sup> However, it has been often the case employers have used these rebates to offset the cost of worker's accommodation, food and other expenses, with little

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192 J. Jamieson. 2020. Singapore's Migrant Worker Debate. [Asiamediacentre.org.nz](https://www.asiamediacentre.org.nz). Available at <https://www.asiamediacentre.org.nz/features/singapores-migrant-workers-debate/> (accessed 25 June 2020).

193 Ministry of Manpower (Singapore). 11 April 2020. Advisory On Salary Payment To Foreign Workers Residing In Dormitories. Singapore. Available at <https://www.mom.gov.sg/covid-19/advisory-on-salary-payment-to-foreign-workers> (accessed on 11 October 2020)

194 Ministry of Manpower. 21 April 2020. Over 62,000 employers to benefit from \$675 million in foreign worker levy rebates. Available at [https://www.mom.gov.sg/newsroom/press-releases/2020/0421-over-62000-employers-to-benefit-from-\\$675-million-in-foreign-worker-levy-rebates](https://www.mom.gov.sg/newsroom/press-releases/2020/0421-over-62000-employers-to-benefit-from-$675-million-in-foreign-worker-levy-rebates) (accessed on 7 October 2020)

going to workers by way of their salaries. Many workers reported to HOME that, during the COVID-19 crisis, they were paid only SGD 50 (USD 37) to SGD 200 (USD 150), which was three to four times less than their contracted salaries. The government is sponsoring 75% of the wages of Singaporean workers through their companies via a Jobs Support Scheme (JSS). Migrant workers are not eligible for this, and very few incentives are given to employers to retain migrants in their workforce. This is evidenced by the below advisory issued by MOM on 9 June 2020 and updated on 13 September 2020:

*"14. If it is not possible for employers to pay prevailing salaries because of the need to reduce wage costs after considering non-wage cost reductions, employers should engage and mutually agree with their unions and foreign employees on the appropriate salary and leave arrangements during this period. If a foreign employee were to be placed on no-pay leave for an extended duration, the employer must obtain his consent in writing. If there is no mutual agreement, either party can contractually terminate the employment with notice as required under the employment contract or Employment Act."<sup>195</sup>*

The field researcher observed that following the end of the circuit breaker, and the gradual resumption of work for low-wage migrant workers in the construction, marine and process industries, many employers were laying off workers. Other employers, with project deadlines to meet and having suffered an exodus of workers desperate to return home, are now facing labour shortages. Despite the conditions necessitating more flexibility and freedom, low-wage migrant workers are still denied employment mobility. Aside from a 19-day transfer window for construction workers whose work permits are expiring, most such migrant workers still cannot switch jobs within Singapore without the consent of their current

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<sup>195</sup> Ministry of Manpower. 13 September 2020. Updated advisory on salary and leave arrangements. Available at <https://www.mom.gov.sg/covid-19/advisory-on-salary-and-leave> (accessed on 11 October 2020)

employers. Likewise, they are also generally not allowed to switch between industry sectors. Another observation is that some employers treat their power to grant or withhold consent as a means of punishing workers who dare to walk away; and would rather incur the cost of sending the worker home than grant that consent.

This renders migrant workers extremely vulnerable to exploitation. The field researcher emphasises that many migrant workers are being subject to inhumane salary reductions or effectively being put on no-pay leave indefinitely; yet, without the clarity and assurance that they would be allowed to seek new employment, they feel that they have no choice but to continue in their current jobs, rather than run the risk of being repatriated empty-handed.

- **Discriminatory Penalties against Migrant Workers**

The government announced that, between 1 May and 25 June 2020, they revoked the work passes from 140 migrant workers, who were found to have violated minor circuit breaker regulations, and permanently banned them from working in Singapore.<sup>196</sup> Circuit breaker regulations are rules enacted by the government to curb the spread of the virus. These include the "stay-home notice" measures, making it compulsory for everyone to put on a face mask in public places, maintaining social distancing, and in the case of migrant workers, barring them from leaving their premises. The government's measures did not take into consideration that workers may have breached their stay-home notices because their employers required them to work, and it would have been difficult for the workers to refuse their orders. Moreover, workers would not be

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<sup>196</sup> Ministry of Manpower. 25 June 2020. 140 Work Passes Revoked for Breach of Circuit Breaker Measures, Stay-Home Notices or Quarantine Orders. Available at <https://www.mom.gov.sg/newsroom/press-releases/2020/0625-140-work-passes-revoked-for-breach-of-circuit-breaker-measures-shn-qo> (accessed on 11 October 2020)

aware of the MOM's requirements due to a lack of access to credible information.<sup>197</sup>

In contrast to the sanctions meted out to migrant workers, Singapore residents who have flouted similar regulations have mostly been issued SGD 300 (USD 224) fines or written advisories. There is no clear explanation from the authorities why migrant workers have been punished so much more severely. It was said that the intention was to “send a clear signal of the seriousness of the offence,”<sup>198</sup> however, the same standards did not apply evenly across all residents regardless of nationality and immigration status.

Most Singaporeans live in comparatively more sparsely populated homes and abide by more lenient circuit-breaker measures than migrant workers housed in dormitories do. As circuit breaker regulations were gradually lifted from early-June, Singaporeans and PRs were allowed to leave home for exercise, essential errands, socialising and dining. On the contrary, the field researchers observed that migrant workers were still not allowed to be out of their dormitories at all unless they were deemed as essential services workers, had a medical emergency, or were given special permission.<sup>199</sup> Even so, migrant workers informed HOME that the management of many dormitories demanded that specially arranged transport had to be provided or the workers were not allowed to leave even if they had a medical need or an appointment

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197 Ministry of Manpower. 21 March 2020. 89 Work Passes Revoked for Breach of Entry Approval and Stay-Home Notice Requirements. Available at <https://www.mom.gov.sg/newsroom/press-releases/2020/0321-89-work-passes-revoked-for-breach-of-entry-approval-and-stay-home-notice-requirements> (accessed on 1 December 2020)

198 Tessa Oh. 14 April 2020. Covid-19: work-pass holders banned from working in Singapore after flouting safe-distance measures <https://www.todayonline.com/singapore/covid-19-24-work-pass-holders-banned-working-singapore-after-flouting-safe-distancing-measures> (accessed on 1 December 2020)

199 HOME. 14 April 2020. Circuit-breaker violations: Revoking work passes is harsh and disproportionate. Available at <https://www.home.org.sg/statements/2020/4/14/circuit-breaker-violations-revoking-work-passes-is-harsh-and-disproportionate> (accessed on 11 October 2020)

with MOM. Discriminatory measures and penalties against migrant workers continue.

### **Migrant Worker Communities amid COVID-19**

Field research in Singapore looks at migrant construction workers and migrant domestic workers. As mentioned earlier, there are currently just under 1.4 million foreign workers in Singapore, with over one third classed either as construction workers on Work Permits scheme, the lowest-paid category of employment visa or foreign domestic workers.

- **Construction Workers**

According to a media report, as of March 2020, 287,800 migrant workers, mostly from South and Southeast Asia, were employed in the construction sectors. This counts almost 40% of 720,800 Work Permit holders, excluding foreign domestic workers, in Singapore.<sup>200</sup> Migrant construction workers fill the gap for dangerous and poorly-paid labour in facilitating the perpetual construction of the critical infrastructure of the logistical state, as well as its skyline and countless condominiums. As discussed earlier, the pandemic has shone a light on how migrant workers, particularly construction workers who are housed in dormitories, are paid less and policed as a potential threat to public order. The unequal treatment goes beyond government responses, and the Singaporean public has continually distanced themselves from the subset of the population. As a result, migrant construction workers often live in less desirable parts of the island and mix little with the rest of the Singaporean society.

On 18 April 2020, MOM and the Building and Construction Authority (BCA) announced that all work permit holders and S Pass

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200 tabla!. 29 May 2020. Migrant workers important to economy. Available at <https://www.tamilmurasu.com.sg/tabla/singapore/migrant-workers-important-economy> (accessed on 11 October 2020)

holders in the construction sector who were not staying in the gazetted dormitories would be placed on mandatory stay-home notices for two weeks starting from 20 April 2020.<sup>201</sup> They were not allowed to leave even to buy essentials such as food, and those who needed to see a doctor required permission from their employers in order to do so. This order was explicitly targeted at migrant construction workers. As a result of this mandatory stay home notice, HOME received emergency calls from many of these workers for emergency food aid as their employer ignored their pleas for food upkeep.

A research carried out by Centre for Culture-Centred Approach to Research & Evaluation (CARE) in cooperation with HOME, released in April 2020, surveyed 100 low-waged Bangladeshi and Indian migrant workers housed in dormitories<sup>202</sup> and showcases the situations faced by migrant construction workers.

The poor, unhygienic and densely populated dormitories contributed to the spread of the coronavirus in Singapore's migrant construction workers population. As the virus is easily transmissible, a minimum 1.5-2 metres radius is considered to be safe distancing to minimise the risk of virus infection. This distancing is impossible when each dormitory room serves dozens of workers, where many people share facilities such as kitchens and bathrooms. The research found that in response to the statement, "I can follow the one-meter rule of social distance where I stay," 38.4% "strongly disagreed," 28.3% "disagreed," and 9.1% "somewhat disagreed."<sup>203</sup>

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201 Channel News Asia. 18 April 2020. COVID-19: All work permit and S pass holders in construction sector to be placed on stay-home notice. Available at <https://www.channelnewsasia.com/news/singapore/construction-workers-work-permit-s-pass-stay-home-notice-covid19-12655534> (accessed on 11 October 2020)

202 Mohan J. Dutta. April 2020. Structural constraints, voice infrastructures, and mental health among low-wage migrant workers in Singapore: solutions for addressing COVID19. Care White Paper Series. Issue 8. Available at <https://www.massey.ac.nz/~wwcare/wp-content/uploads/2020/04/CARE-White-Paper-Issue-8-April-2020-1.pdf> (accessed on 11 October 2020)

203 Ibid.

Little labour rights protection given to the migrant workers in the construction sector make their situation more vulnerable and precarious during the pandemic and circuit breaker measures are taken. The uncertainty and anxiety over the pandemic and financial constraints as well as a lack of ability to voice out their concerns affect the mental health of these migrant workers.

The report also states that in response to the statement, "I am confident that I will get my salary although I have not been working because of COVID-19," 53.5% "strongly disagreed," 20.2% "disagreed," and 10.1% "somewhat disagreed" while 10.1% "somewhat agreed." In the backdrop of the substantial structural barriers and the lack of certainty regarding the payment of wages/salaries, 33.3% of the respondents indicated that they "strongly agreed" 29.3% stated that they "agreed," 3% "somewhat agreed" with the statement "I feel scared to bring up any issues I am experiencing." Moreover, in response to the statement, "I feel sad," 13% "somewhat agreed," 27% "agreed," and 30% "strongly agreed." In response to the statement, "I feel depressed," 11% "somewhat agreed," 28% "agreed," and 29% "strongly agreed."<sup>204</sup>

Migrant workers, including construction workers, cannot apply for a work permit from the MOM by themselves, but instead have to pay an agent to obtain one on their behalf, who acts as a liaison between the government and the construction companies;<sup>205</sup> the average Bangladeshi worker paid SGD 6,400 (USD 4,785) in agent fees in 2015,<sup>206</sup> not including any additional fee for the construction

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204 Ibid.

205 William Jamieson. 14 October 2020. "Logistical Violence and Virulence: migrant exposure and the underside of Singapore's model pandemic response" London School of Economics. Available at <https://blogs.lse.ac.uk/seac/2020/10/14/logistical-violence-and-virulence-migrant-exposure-and-the-underside-of-singapores-model-pandemic-response/> (accessed on 21 October 2020)

206 TWC2. 2018. "Recruitment cost in some cases about 20 times monthly salary" available at <http://twc2.org.sg/2018/11/22/recruitment-cost-in-some-cases-about-20-times-monthly-salary/> (accessed on 21 October)

company to employ them. High recruitment fees and debt migrant workers often have resulted in a lack of ability to voice out their concerns due to fear of losing their jobs and income.

- **Domestic Workers**

Circuit breaker has various ramifications for non-construction worker migrants as well. A scoping survey conducted by HRWG in April 2020 on the situations of Indonesian migrant workers abroad found trends in Singapore where domestic workers' workload increased, while day-off or time-off were reduced or scrapped as their employers stayed home. In most cases, these domestic workers were not remunerated for the extra work that occurred during the circuit breaker. While such workers might not be experiencing financial strain, they were working excessively in less agreeable conditions and faced labour rights abuses.

However, it is essential to point out that many of the issues outlined below have existed before the onset of the COVID-19 pandemic. The outbreak of the disease and the implementation of the countermeasures have exacerbated and surfaced the issues that migrant domestic workers have faced for a long time. The fact that the Employment Act does not protect domestic workers in Singapore makes issues faced by migrant domestic workers deeply rooted. The field research involved mainly observation of complaints received and cases dealt by HOME.

***Well-being Issues: Overwork, Inadequate Rest and Psychological Effects***

During the COVID-19 outbreak, many migrant domestic workers complained of excess work as employers stayed at home due to remote working arrangements. This has led to an increase in household and caregiving duties and workplace stress as they are isolated with their employers for a more extended period of time. As previously explained, the long-lasting issues faced by domestic

workers in Singapore are rooted in the fact that they are excluded from the protection given to other workers under the Employment Act. Therefore, they are not entitled to fixed working hours, paid holiday or overtime pay. Although the Employment of Foreign Manpower Act states that migrant domestic workers are to be given 'adequate rest', it does not define the term. As a result, their rest hours, which are subject to the generosity of individual employers, have become even more precarious during the pandemic than they already have been. Complaints of verbal abuse have been on the rise, as disputes between employers and migrant domestic workers become more frequent due to the increased proximity between employers and migrant domestic workers, financial restraint and psychological effects caused by the circuit breaker.

As part of COVID-19 countermeasures, the government has also issued advisories stating that migrant domestic workers should stay home during their rest days<sup>207</sup> and to avoid congregating.<sup>208</sup> As a result, many migrant domestic workers found themselves being asked to work during their rest days while staying home. For migrant domestic workers who do not have their own space or room within their employers' houses (for example, those who have shared sleeping areas with other members of the household), 'stay-home' measures mean that they could not enact on resting as they do not have a private space to rest.

***Increased Surveillance & Restrictions in Mobility and Access to Means of Communication***

Even though migrant domestic workers are subject to the same circuit breaker measures as their employers, they are often

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207 Ministry of Manpower. 2020. Foreign Domestic Workers Should Stay At Home On Rest Day. Available at <https://www.mom.gov.sg/covid-19/advisory-fdw-stay-home-on-rest-day> (accessed 28 November 2020).

208 Channel News Asia, 17 July 2020, Domestic Workers Should Avoid 'Congregating in Big Groups' on Rest Day in Phase 2 of Reopening: MOM. at <https://www.mom.gov.sg/covid-19/advisory-fdws-should-avoid-congregating> (accessed 28 November 2020)

prevented by their employers from leaving the house even for essential errands like buying food, remitting money or for exercise. Several migrant domestic workers reported that their employers warned them that they would be reported to the authorities if they leave the house at all. Being prevented from stepping out of the house for exercise or fresh air has harmed the mental well-being of many migrant domestic workers who are forced to work long hours under circuit breaker measures.

It is common for many employers in Singapore to ban migrant domestic workers from using their mobile phones during work hours. As work hours have increased for many migrant domestic workers, they have less access to their mobile phones and the internet. Limited access to means of communication leads to a lack of ability to report instances of abuse that may manifest as a result of increased isolation and labour rights violations. During the circuit breaker, employers can monitor their migrant domestic workers more closely; some may not be able to leave their employers' houses or to use their mobile phone to seek help. This may lead to some migrant domestic workers to be vulnerable to forceful repatriation by their employers before such conditions can be reported. Many migrant domestic workers expressed their fear of breaching circuit breaker measures and being penalised by running away from their employers' houses.

### ***Issues with Salary, Termination of Employment and Job Mobility***

The negative impact of COVID-19 situation on the economy has also had an adverse financial effect on migrant domestic workers. Although more migrant domestic workers were asked to work on their rest days or increase work hours, many claimed that they are unsure if they were to be compensated. As the economic situations of their employers worsened, some faced delayed payment of salaries without assurance that their full salaries were to be paid later and/or were asked to take a pay cut without a reduction in

work hours. Some migrant domestic workers were even asked to take on unpaid leave. HOME also encountered migrant domestic workers who were terminated by employers, and yet were unable to go home due to travel restrictions imposed. Their circumstances on repatriation also remain uncertain as Singapore and many of their home countries have implemented border control measures. Others claimed that even if they were repatriated to their home countries, they would be unable to return to their hometowns due to internal lockdowns and limits on domestic travel.

After live-in migrant domestic workers face termination of their employment, many of them face homelessness. Most of the dedicated shelters for migrant domestic workers and agencies' lodging facilities are at full capacity due to an increased number of migrant domestic workers who have been asked to leave by their employers and migrant domestic workers' agencies have not been able to match new employment as quickly as before the pandemic. Those who are staying in shelters and agencies lodging facilities are left vulnerable to community infection due to a lack of ability to take measures such as social distancing. Although some migrant domestic workers had to find their accommodations as they waited to be repatriated, and this is not financially sustainable.

Some migrant domestic workers who were laid off told HOME that they were unsure whether their employers have terminated their work permits at the same time, and were afraid of being overstayers if they could not be repatriated.

There was no attempt by the government to facilitate job searches for migrant workers who lost work, unlike Singaporean nationals, who received public assistance. Based on anecdotal evidence, migrant domestic workers whose employment have ended and are looking to transfer to other employers are facing difficulties in getting their applications approved by MOM. HOME heard accounts from migrant domestic workers whose applications for a new work permit were rejected despite multiple appeals.

Employment agencies told HOME that the government seem to be prioritising works permit applications for migrant domestic workers made by Singaporean and PR employers as well as prospective employers who are eligible for levy concession (i.e. live with a child below 16 years old, elderly person who is at least 67 years old or person with disabilities). If this is true, many migrant domestic workers who are applying to work for new employers become at a disadvantage. This needs to be investigated further.

### Conclusion

In conclusion, while Singapore's overall response to COVID-19 has initially been praised, its systemic neglect of migrant workers has created a gap where the disease ran rampant within the migrant worker community. HOME and the field researcher urge the Singaporean government to immediately reduce the congestion in dormitories to allow for safe distancing and to use this pandemic as a turning point to create meaningful changes to migrant workers' housing and living conditions and to protect the labour rights of migrant workers. Poor living conditions in migrant workers dormitories, including overcrowding and unhygienic conditions, have fuelled the spread of the disease among primarily migrant workers.

The disease has also exacerbated labour rights issues, job security issues and wage-related issues for migrant workers in Singapore. This is rooted deeply in the pre-pandemic immigration policies of Singapore, which has systematically ignored rights and wellbeing of migrant workers. Migrant workers are also facing discriminatory treatment and penalties as their movements are being particularly securitised, in contrast to citizens, PRs and highly paid migrants. In response to the experiences of the pandemic, the Singapore government has committed some future improvements, particularly in migrant workers' accommodation situations, although they are yet to be implemented.

## Chapter 6: SOUTH KOREA



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### Official figures of COVID-19

First case recorded on: **20 January 2020**

No. of positive cases: **34,652**

No. of death: **526**

(as of 1 December 2020, source: Worldometer)

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### Migrant Workers in South Korea

According to the monthly statistical report of the Korea Immigration Service under the Ministry of Justice, as of June 2020 the total number of foreign citizens living in South Korea is recorded as 2,135,689. This is a drop of 11.6% from less than one year ago where the number was 2,416,503 in June 2019.<sup>209</sup> In the statistics of 2019, of registered foreign citizens, 34.5% are classified as "Short-term Stay," 26% are classified as "Employment", and 14.9% are classified as "Study and General Trainees."<sup>210</sup> The main group of foreign nationals comprises of Ethnic-Korean Chinese (14.3%)

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209 Ministry of Justice Korea Immigration service. 2020. Statistic Monthly Report Available at <https://www.immigration.go.kr/immigration/1569/subview.do> (accessed 14 september 2020).

210 Statistics Korea. 2020. International Migration Statistics in 2019. Available at <http://kostat.go.kr/portal/eng/pressReleases/8/5/index.board?bmode=read&bSeq=&aSeq=384167&pageNo=1&rowNum=10&navCount=10&currPg=&searchInfo=&sTarget=title&sTxt=> (accessed on 18 November 2020)

followed by Vietnamese (9.4%).<sup>211</sup> 71% of foreign nationals in South Korea are employed, reflecting the employment and economic opportunity within South Korea.<sup>212</sup>

A number of documented foreign workers are recognised as “non-professional” workers, recruited under the Employment Permit System (EPS) that issues visas categorised as E-9 and H-2. The majority of them are employed in the manufacturing, construction, agricultural, fisheries and services sectors and their total number of E-9 workers in these sectors counts for 249,951 as of June 2020.<sup>213</sup> EPS workers are currently recruited from 16 specific countries, through bilateral agreements with South Korea, namely Bangladesh, Cambodia, China, Indonesia, Kyrgyzstan, Lao PDR, Mongolia, Myanmar, Nepal, Pakistan, the Philippines, Sri Lanka, Thailand, Timor-Leste, Uzbekistan and Viet Nam. South Korea recruits “non-professional” workers not older than 39 years of age for comparatively cheap wages and on contract conditions with less right entitlements.

Other significant categories of documented migrant workers are seamen or workers on fishing vessels (E-10) and seasonal workers (C-4). EPS workers who bear E-9 visa are also divided into five major sub-categories based on industries as follows (Table 3):

211 OECD. 2019. Chapter 2. Evolution and Characteristics of Labour Migration to Korea. *Recruiting Immigrant Workers: Korea 2019*. Available at <https://www.oecd-ilibrary.org/sites/9789264307872-7-en/index.html?itemId=/content/component/9789264307872-7-en> (accessed on 18 November 2020)

212 Ibid.

213 Ministry of Justice Korea Immigration service, 2020. Statistic Monthly Report. Available at <https://www.immigration.go.kr/immigration/1569/subview.do> (accessed 14 september 2020).

**Table 3: Number of E-9 Visa Holders by Sub-category**

E9-01	E9-02	E9-03	E9-04	E9-05	Miscellaneous (Other E-9 sub-categories)
Manufacturing	Construction	Agricultural farm	Fisheries	Services	Miscellaneous
195,851	10,370	30,021	13,502	207	5,752

(Source: Statistics of the Ministry of Justice as of June 2020)<sup>214</sup>

H-2 is a special “non-professional” working visa category under EPS issued to foreign nationals of Korean ethnicity. Unlike E-9 visa bearers, H-2 workers are allowed to change their workplaces within specified 39 types of work.<sup>215</sup> Seamen or workers on fishing vessels (E-10) work on vessels with a minimum of 20 tons capacity in the deep sea. Seasonal workers (C-4) are hired through bilateral contracts between local governments (of hiring and supplying countries) for a 90-day-working-period to meet seasonal labour shortage, especially in the agriculture and fisheries sector. E-8 is a medium-term visa issued through the same process and similar purpose for a duration of five consecutive months.

Among the foreign resident population, some 398,518 persons, a larger number than EPS migrants, are recorded as undocumented migrants in August 2020.<sup>216</sup> Other major migrant populations in Korea are comprised of spouses of Korean citizens, ethnic Korean

214 Ministry of Justice Korea Immigration service, 2020. Statistic Monthly Report. Available at <https://www.immigration.go.kr/immigration/1569/subview.do> (accessed on 1 December 2020)

215 Hi Korea. No Date. *체류자격별 통합 안내 매뉴얼 (Integrated guide manual for each status of residence)*. Available at [https://www.hikorea.go.kr/board/BoardNtcDetailR.pt?BBS\\_SEQ=1&BBS\\_GB\\_CD=BS10&NTCCTT\\_SEQ=330&page=1](https://www.hikorea.go.kr/board/BoardNtcDetailR.pt?BBS_SEQ=1&BBS_GB_CD=BS10&NTCCTT_SEQ=330&page=1) (visa information manual) (accessed on 8 December 2020)

216 Ibid. The number counts migrants who have not left the country after their visas expired.

people of China and Commonwealth of Independent States (CIS) nationals, employees of educational and other professional institutions, and international students.

### COVID-19 Response Measures

The first COVID-19 positive case recorded in South Korea was a Chinese woman from Wuhan, the initial epicentre of the coronavirus outbreak, on 20 January 2020. South Korea experienced one of the world's largest initial outbreaks of COVID-19 outside of mainland China, with cases rising by the thousands in February 2020. South Korea's president Moon Jae-in increased the country's alert level to the highest level, "red alert," after it reported its fifth death and more than 123 new COVID-19 cases on 23 February 2020, taking the total number of infected to 556. Of the 123 new cases, 75 were related to a church in the country's fourth-largest city of Daegu and a neighbouring hospital.<sup>217</sup> Daegu and its adjacent county Cheongdo was declared as "special care zones," however the government struggled to contain the further infection in the region at this point.<sup>218</sup>

Although South Korea became one of the most affected countries in the world as it reached almost 10,000 positive cases by the end of March 2020, the government managed to reduce the number of new infections to less than 10 in one month. This was done by focusing on aggressive testing, contact tracing and establishing a strict triage system to contain community transmission. Overall, South Korea has been able to contain and drastically reduce the spread of the virus, without imposing a strong lockdown measure in comparison to other countries.

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217 The Guardian. 23 February 2020. Coronavirus: South Korea placed on 'red alert' as fifth person dies. Available at <https://www.theguardian.com/world/2020/feb/23/coronavirus-south-korea-reports-123-new-cases-and-two-more-deaths> (accessed on 18 November 2020)

218 Ibid.

### • Suspension of Immigration Services and Visa Extension

One of the first COVID-19 response measures that affected migrants in South Korea was the temporary suspension of the Korea Immigration and Integration Program (KIIP) run by the ministry of justice that was imposed on 29 January 2020. This was followed by the suspension of the entry of ethnic Korean from mainland China and their job training.<sup>219</sup> By the end of February 2020, social welfare facilities across the country were recommended to close their physical venues, and the majority of organisations providing support to migrants also converted their face-to-face services to online based activities. This has impacted migrant workers' access to information and support, which will be discussed later in the section on roles of civil society.

As many countries started imposing entry restrictions on travellers from South Korea and the numbers of international flights were being reduced, the Ministry of Justice took measures to extend the period of stay of registered foreign nationals. The deadline of visa extensions between 24 February and 29 April 2020 was extended until 30 April 2020.<sup>220</sup> This measure was extended on 9 April 2020 and 60,000 registered foreign nationals whose visas were expiring between 9 April and 31 May 2020 were given a three months extension of stay. It was also announced that all short-term visas (single or multiple entry permit for type C-1 and C-3 visa) and the visa-free entry for nationals of countries imposing an entry ban on Koreans would be temporarily suspended from 13 April 2020.<sup>221</sup>

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219 Ministry of Health and Welfare. 2020 코로나바이러스감염증-19(COVID-19) (*Coronavirus Infection Disease-19 (COVID-19)*). 2020. 일별 브리핑 이슈 모아보기 (*Daily Briefing Issues*). Available at <http://ncov.mohw.go.kr/lastBannerList.do?brdId=3&brdGubun=39> (Accessed 14 September 2020)

220 Ministry of Justice Korea Immigration Service. 2020. COVID-19 Q&A on the Immigration-related Measures (20.3.23). Available at [http://viewer.moj.go.kr/skin/doc.html?rs=/result/bbs/229&fn=temp\\_1585613080747100](http://viewer.moj.go.kr/skin/doc.html?rs=/result/bbs/229&fn=temp_1585613080747100) (accessed on 18 November 2020)

221 Ministry of Justice Korea Immigration Service. 2020. Announcement on Suspension of Visas and Visa-Waiver. Available at [https://www.immigration.go.kr/immigration\\_eng/1832/subview.do?enc=Zm5jdDF8QEB8JTJGYmJzJTJGaW1taWdyYXRpb25fZW5nJT-](https://www.immigration.go.kr/immigration_eng/1832/subview.do?enc=Zm5jdDF8QEB8JTJGYmJzJTJGaW1taWdyYXRpb25fZW5nJT-)

While it did not affect long-term visa holders such as visa type E, H and C-4 for short-term employment, temporary suspension for nationals of countries imposing an entry ban on Korean citizens seemed to be a rather political retaliation. The government announced measures to allow the delayed departure of foreign nationals whose visas were to expire. It has also extended the employment contracts of temporary foreign workers under the EPS by 50 days for workers whose visas were ending soon,<sup>222</sup> initially, without permission to work during the extension period. However, since there was the possibility of those migrant workers being given an extended stay without rights to work engaging in illegal labour and also labour shortages in some sectors were occurring, the government felt that it was necessary to introduce alternative policy. As a result of consultation among relevant ministries such as the Ministry of Justice, the Ministry of Employment and Labor, the Ministry of Agriculture, Food and Rural Affairs, and the Ministry of Maritime Affairs and Fisheries, a plan was announced on 29 July 2020, to grant migrant workers who were stranded within the country after their contracts and/or visas had expired, rights to engage in temporary labour activities, such as seasonal work up to three months.<sup>223</sup>

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222 World Bank Group. 19 June 2020. Potential Responses To The COVID-19 Outbreak In Support Of Migrant Workers. Living Paper (version 10). World Bank. p. 11 Available at <http://documents1.worldbank.org/curated/en/428451587390154689/pdf/Potential-Responses-to-the-COVID-19-Outbreak-in-Support-of-Migrant-Workers-June-19-2020.pdf> (accessed on 21 November 2020)

223 Yonhap. 29 July 2020. Korea seeks to extend foreign workers' stay permits to cope with seasonal labor shortage. The Korea Herald. Available at [http://www.koreaherald.com/view.php?ud=20200729000324&ACE\\_SEARCH=1](http://www.koreaherald.com/view.php?ud=20200729000324&ACE_SEARCH=1) (accessed on 21 November 2020)

## • Quarantine, Working and Living Conditions

In the press release on 29 March 2020, the Korean Centers for Disease Control and Prevention (KCDC) announced that all incoming travellers from any foreign country should not go to work and be involved in any outdoor activities for 14 days after their arrival.<sup>224</sup> It was also advised that those who do not have a place for self-isolation should stay in institutional isolation facilities at their own cost. Despite the mandatory rule for those arriving from overseas to quarantine for two weeks, some media reports suggested that migrant workers were quarantining in cramped accommodations. This was seen to pose a risk to South Korea's effort in suppressing the virus.

Evidence has shown of migrants arriving in South Korea staying in accommodation with shared kitchens and bathrooms. Whilst these facilities were inappropriate for self-quarantine, many migrant workers were not able to afford to remain in state facilities that charge them as much as KRW 100,000 (USD 90) per night.<sup>225</sup> On top of that, many employers asked migrant workers to find a place for self-quarantine by themselves and return after 14 days, which may place financial pressure on migrant workers. Activists have demanded the government to set up special facilities to house migrant workers for quarantine. Ko Seong-hyun, director at the Gyeongnam Migrants Labor Welfare Center was quoted in a media report saying "in fear of the migrant workers carrying the virus, many employers are refusing to accept them into the factory dorms and asking them to return to work after self-quarantining elsewhere. Those who are waiting for jobs also have nowhere to stay for self-

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224 Korean Centers for Disease Control and Prevention (KCDC). 29 March 2020. The Updates of COVID-19 in Republic of Korea. Available at [http://ncov.mohw.go.kr/upload/viewer/skin/doc.html?fn=1585527135431\\_20200330091215.pdf&rs=/upload/viewer/result/202011/](http://ncov.mohw.go.kr/upload/viewer/skin/doc.html?fn=1585527135431_20200330091215.pdf&rs=/upload/viewer/result/202011/) (accessed on 18 November 2020)

225 O. Hyun-Ju. 28 April 2020. Migrant Workers 'Self-Isolate' In Crowded Homes. Koreaherald.com. Available at <http://www.koreaherald.com/view.php?ud=20200428000974> (Accessed 25 June 2020)

quarantine."<sup>226</sup> On 28 July 2020, three Vietnamese sailors with a short-term visa who had escaped from a quarantine facility in Gimpo City were caught and ordered to be deported. A senior health official responded to this incident stating that security of quarantine facilities should be strengthened and dismissed the possibility that they fled due to the cost of the quarantine. He was reported saying "the mandatory two-week stay cost about KRW2.1 million (USD1,906) per person and their employer paid the full price in advance."<sup>227</sup> Following this event, it was announced that foreigners with confirmed cases originated from overseas would have to bear all medical expenses incurred, in case of violation of domestic quarantine measures.

In May 2020, the Ministry of Employment and Labour surveyed 3,328 migrant workers engaged in the agricultural or livestock farms and fisheries, and construction industries to identify quarantine blind-spots. The result showed in 48 places out of 58 cases, four people or more living in a dormitory room were found.<sup>228</sup> As an increasing number of infections among migrant workers were confirmed, the Ministry of Health and Welfare and the Ministry of Employment and Labour were to review measures to prevent the spread of infection originated from and among foreign arrivals. The Ministry of Employment and Labour and the Ministry of Agriculture, Food and Rural Affairs were also instructed to undergo a review of the labour force to minimise the demand for workers from abroad.

Continuing from the end of March 2020, everyone arriving from

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226 Ibid.

227 O. Hyun-ju. 28 July 2020. Vietnamese escapees from COVID-19 quarantine facilities to be deported. The Korean Herald. Available at <http://www.koreaherald.com/view.php?ud=20200728000850> (accessed on 20 November 2020)

228 Central Disaster Management Headquarters. 26 June 2020. Coronavirus Infectious Disease Central Disaster and Countermeasure Headquarters Regular Briefing: Prevention management plan for foreign-dense areas. Available at [http://ncov.mohw.go.kr/tcmBoardView.do?brdId=&brdGubun=&dataGubun=&ncvContSeq=355155&contSeq=355155&board\\_id=&gubun=ALL](http://ncov.mohw.go.kr/tcmBoardView.do?brdId=&brdGubun=&dataGubun=&ncvContSeq=355155&contSeq=355155&board_id=&gubun=ALL) (accessed 2 December 2020)

abroad was required to quarantine for two weeks. In June 2020, requirements were added to undergo a PCR test within three days before their arrival, and also to secure a place for self-isolation in advance. The requirement for PCR test results was tightened from 13 July 2020, and all people arriving in South Korea must submit a certificate issued within 48 hours of departure from the medical institution designated by the overseas missions.<sup>229</sup>

On 23 June 2020, it was announced that E-9 visa holders were required to have a document confirming a place of self-isolation at their own expenses otherwise their entry would be denied. The Ministry of Employment and Labor, along with local governments, conducted self-inspections at employment agencies from the end of June 2020 for one month. The Ministry of Employment and Labor strengthened its information campaign on quarantine measures at the same time. According to information gained by the field researchers from the Ministry of Employment and Labour, in July 2020, inspections were conducted by the ministry at 493 dormitories considered to be vulnerable for local transmissions of the disease (336 in the manufacturing sector, 131 in the agriculture and forestry sector and 26 in the fisheries sector). In addition, in cooperation with local governments, quarantine inspections were conducted at 7,499 workplaces in 365 industrial complexes hosting a large number of migrant workers.<sup>230</sup> Inspections and efforts to improve living and working conditions in areas where there is a high concentration of migrant workers continued. Information materials for quarantine in harbour workplaces were also disseminated by

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229 Korean Centers for Disease Control and Prevention (KCDC). 14 July 2020. The Updates of COVID-19 in Republic of Korea. Available at [http://ncov.mohw.go.kr/upload/viewer/skin/doc.html?fn=1594726201723\\_20200714203001.pdf&rs=/upload/viewer/result/202011/](http://ncov.mohw.go.kr/upload/viewer/skin/doc.html?fn=1594726201723_20200714203001.pdf&rs=/upload/viewer/result/202011/) (accessed on 20 November 2020)

230 Central Disaster Management Headquarters. 26 July 2020. 코로나바이러스감염증-19 중앙재난안전대책본부 정례브리핑 (*The coronavirus infection-19 Central Disaster and Safety Countermeasure Headquarters Regular Briefing*). Available at [http://ncov.mohw.go.kr/tcmBoardView.do?brdId=&brdGubun=&dataGubun=&ncvContSeq=355155&contSeq=355155&board\\_id=&gubun=ALL](http://ncov.mohw.go.kr/tcmBoardView.do?brdId=&brdGubun=&dataGubun=&ncvContSeq=355155&contSeq=355155&board_id=&gubun=ALL) (accessed 4 December 2020)

the end of June 2020, and an additional number of port-related companies across the countries were inspected on COVID-19 prevention measures such as mask-wearing and distance keeping during month-long inspection operations.

- **Economic Impacts and Rights Violation against Migrant Workers**

In May 2020, an NGO called *Ijumingwa Hamkkye* (With Migrants), surveyed 333 migrants living in Busan, the second-largest city in South Korea, on their experience of impact of and discrimination that they faced due to COVID-19. Results showed that 66.7% of respondents said economic damage caused by income reduction was the biggest challenge during the pandemic, and 29.1% complained that their average monthly income fell by more than KRW 1 million (USD 908) while 55.5% of respondents said the monthly income dropped by more than KRW 500,000 (USD 454).<sup>231</sup> Another survey was conducted by the Korea Federation of Small and Medium Businesses in June 2020, involving 1,062 small and medium-sized companies applying to employ new foreign workers in 2020 about problems occurring due to delays of foreign workers' arrivals. The results showed that 52.3% of companies surveyed were facing difficulties in production, and 88.3% said production could be disrupted if the entry of foreign workers was further delayed until early September 2020.<sup>232</sup> The labour shortage in the farming and the fishery sectors have also intensified due to restrictions on international flights and entry of foreign workers.<sup>233</sup>

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231 Busan Daily. 30 June 2020. *세금도 꼬박꼬박 내건만 외국인이라고... (I'm a foreigner who pays all the taxes)*. Busan Daily. Available at <http://www.busan.com/view/bstoday/view.php?code=2020063019330778547>(Accessed 14 September 2020)

232 Maeil Business Newspaper, 22 June 2020. *외국인인력 쓰는 공장 90%가 생산차질 (90% of factories that employ foreign workers will suffer production disruptions)*. Maeil Business Newspaper. Available at <https://www.mk.co.kr/news/economy/view/2020/06/639505/> (Accessed 14 September 2020)

233 Yonhap News Agency, 30.03. 2020. "올봄 농사 어떡하나" 코로나19로 외국인 노동자 떠난

Many migrant workers have been financially affected by job loss or reduced income due to the reduction in production. The field researchers observed that at many workplaces, migrant workers were suffering delayed or unpaid salary and employers were using COVID-19 as an excuse for exploitation. Consequently, conflicts occurred between employer and migrant workers and often resulted in labour rights abuses and other human rights violations. Internal monthly statistics by Gimpo Foreign Citizens Support Center, the organisation field researchers belong to, suggested that the number of cases the Gimpo City government related agency was consulted for issues faced by migrants had risen almost twice in the second quarter of 2020 compared to the first quarter. Consulted issues were mainly about immigration, employment rights and other general issues around livelihood. Some business owners imposed restrictions on the workers' movement. One case was reported in the media that migrant workers were not allowed to leave their factory dormitory in Yeosu City and were in de facto confinement for two months. They were even not permitted to go to the hospital when they were unwell.<sup>234</sup> There was also a case of unfair dismissal of an E-9 migrant worker who was living with 50 people at the workplace while having difficulties understanding Korean language: As COVID-19 cases rose in South Korea and out of fear of the spread of the virus, this migrant worker took leave and temporarily returned to Viet Nam. Upon returning to South Korea a month and a half later, he was refused entry at Incheon Airport and was told that he had been fired.<sup>235</sup>

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농촌현장 ("What should we do with farming this spring?" The rural scene where foreign workers left for Corona19). Yonhap News Agency. Yonhap News Agency. Available at <https://www.yna.co.kr/view/PYH20200330078500054> (accessed 15 September 2020)

234 Oh My News. 23 March 2020. Two months in de facto confinement... Migrant workers "handle us as propagators. Available at [http://www.ohmynews.com/NWS\\_Web/View/at\\_pg.aspx?CNTN\\_CD=A0002624384](http://www.ohmynews.com/NWS_Web/View/at_pg.aspx?CNTN_CD=A0002624384) (Accessed 14 September 2020)

235 Hankyoreh news. 8 May 2020. [단독] 코로나 피하려고 고국 갔다가 '해고' ...

The field researchers emphasise that this is only one of the innumerable cases. They had observed that many migrant workers returned home for their own personal safety in February 2020 when cases of COVID-19 were on the rapid rise in South Korea, and most of them had not been able to return to their workplaces for reasons such as the expiration of the contract and unlawful dismissal by an employer other than travel restrictions.

As mentioned in the beginning of this chapter, the number of foreign nationals in June 2020 decreased by 11.6% compared to one year ago.<sup>236</sup> The fall of foreign resident population seems to be a direct consequence of COVID-19. South Korea's migrant workers under the EPS are eligible for the government's fiscal measures to support SMEs in response to the pandemic. This includes employment retention subsidies and paid leave subsidies.<sup>237</sup> However, challenges in accessing these subsidies remain for many migrant workers.

• **Discriminatory Distribution of PPE and Response of Civil Society**

Between 3 and 21 February 2020, The Korean government supplied 720,000 facemasks to SMEs including companies that

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인천공항 갇힌 이주노동자원문보기 (*Went home to avoid Corona, but fired, Migrant worker trapped in Incheon Airport*). Hankyoreh news. Available at [http://www.hani.co.kr/arti/society/society\\_general/944098.html](http://www.hani.co.kr/arti/society/society_general/944098.html) (Accessed 17 september 2020)

236 Ministry of Justice Korea Immigration Service. 2020. Available at <http://www.immigration.go.kr/immigration/1569/subview.do?enc=Zm5jdDF8QEB8JTJGYmJzJTJGaW-1taWdyYXRpb24lMkYyMjcIMkY1MzAzNzcIMkZhcjRjbFZpZXcuZG8lM0ZwYX-Nzd29yZCUzRCUyNjnc0jnbmRIU3RyJTNEJTI2YmJzQ2xTZXEIM0QIMjZyZ3NFbmkZ-VN0ciUzRCUyNmIzVmlld01pbmUIM0RmYWxzZSUyNnBhZ2UIM0QxJT12Ym-JzT3BlbldyZFNlcSUzRCUyNnNyY2hDb2x1bW4lM0QIMjZzcmNoV3JkTNEJTI2> (Accessed 14 september 2020)

237 World Bank Group. 19 June 2020. *Potential Responses To The COVID-19 Outbreak In Support Of Migrant Workers*. Living Paper (version 10). World Bank. p. 11 Available at <http://documents1.worldbank.org/curated/en/428451587390154689/pdf/Potential-Responses-to-the-COVID-19-Outbreak-in-Support-of-Migrant-Workers-June-19-2020.pdf> (accessed on 21 November 2020)

employed migrant workers,<sup>238</sup> and additional 800,000 masks were provided, during the following few weeks.<sup>239</sup> Since supply and distribution of face masks were not balanced as a result of panic buying, on 5 March 2020, the government announced a five-day rotation system for buying masks, to be enforced from 9 March 2020, in order to stabilise the supply of masks through direct interference of the concerned authorities of the government. This meant that one individual could buy only two masks per week,<sup>240</sup> and it would be officially recorded to prevent mismanagement. Foreigners were entitled to purchase masks by confirming their identities with alien registration cards or medical insurance cards. However, international students and migrant workers with seasonal agricultural work permits for less than six months and no trade license were not entitled to have medical insurance and therefore became ineligible to buy masks. This measure also ignored more than 390,000 undocumented workers and 460,000 short-term foreign workers and visitors' access to facemasks.<sup>241</sup>

Pro-migrant civil society organisations quickly criticised this measure as discriminatory and violating human rights, and on 7 March 2020, 130 labour and civil rights organisations published a joint statement in protest against the discriminatory mask rationing policy.<sup>242</sup> Despite the criticisms, the measure took effect on 9 March

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238 The Ministry of Health and Welfare. 2020. Coronavirus-19. Available at <http://ncov.mohw.go.kr/lastBannerList.do?brdId=3&brdGubun=39> (accessed 14 September 2020).

239 Ibid.

240 The Korea Herald. 2020. Koreans adapt to mask rationing system to protect themselves against coronavirus.- The Korea Herald. The Korea Herald. Available at [http://www.koreaherald.com/view.php?ud=20200313000500&ACE\\_SEARCH=1](http://www.koreaherald.com/view.php?ud=20200313000500&ACE_SEARCH=1) (accessed 14 September 2020).

241 Newshankuk. 12 March 2020. 공공 마스크 공짜로 달라는 게 아닌데...이주민 차별하나 (*Not asking for a public mask for free...Discrimination against immigrants*). Newshankuk. Newshankuk. Available at [https://www.newshankuk.com/news/content.asp?news\\_idx=202003121410400103](https://www.newshankuk.com/news/content.asp?news_idx=202003121410400103) (accessed 14 September 2020)

242 Asian Human Rights and Culture Solidarity. 7 March 2020. 마스크 구매마저 이주민을

2020 as initially planned. According to observations of the field researchers, as the national medical insurance corporation brought change to the policy, the concerning authority decided that a foreigner could buy masks just by showing their ID (alien registration) cards. However, foreign residents who were not registered still remained excluded.

On 12 March 2020, Joint Committee for Migrant Workers in Korea (JCMK) filed a complaint to the National Human Rights Commission (NHRC) of Korea in regards to the government denying foreign nationals with limited or no legal status from accessing facemasks to protect themselves from infections.<sup>243</sup> South Korea's civil society has proactively worked to advocate foreign residents in the country. As many as 535 CSOs formed a pan-national COVID-19 response countermeasure committee. At its inauguration press conference on 28 April 2020, these CSOs expressed concerns on rising discrimination and hatred treatments against foreign residents, including the denial of access to PPE as one example alongside with labour rights violation, limited access to healthcare, and lack of social welfare safety net.<sup>244</sup> While some migrant workers have limited or no access to PPE, CSOs such as Women Migrants' Human Rights Centre of Korea distributed facemasks, hand sanitisers and detergents for foreign residents.

On 29 April 2020, responding to the demand from the civil society

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차별하는가! 차별없는 대책 실시하라! (Even buying masks discriminates against immigrants! Take measures without discrimination!). Asian Human Rights and Culture Solidarity Asian Human Rights and Culture Solidarity. Available at <https://asiansori.org/315> (accessed 14 September 2020)

243 Newshankuk. 12 March 2020. 공공 마스크 공짜로 달라는 게 아닌데...이주민 차별하나 (Not asking for a public mask for free...Discrimination against immigrants). Newshankuk. Available at [https://www.newshankuk.com/news/content.asp?news\\_idx=202003121410400103](https://www.newshankuk.com/news/content.asp?news_idx=202003121410400103) (accessed 14 September 2020)

244 Korea women's Hot Line. 2020. Corona19-Meeting the Social and Economic Crisis Press conference for the launch of the Civil Society Countermeasures Committee-Korea women's Hot Line. Korea women's Hot Line. Available at [http://hotline.or.kr/board\\_statement/60960](http://hotline.or.kr/board_statement/60960)(accessed 14 September 2020)

and directing preventive measure for migrants concentrated areas, the government announced mask allocation measures and a plan to allow over 380,000 undocumented migrants to undergo diagnostic tests without fear of crackdown.<sup>245</sup> The Prime Minister Chung Sye-kyun was quoted in the media report as saying;

*"Please strengthen quarantine efforts in areas that have high concentrations of foreigners and make sure they receive face masks and treatments at public health facilities and medical groups, without worrying about their immigration status. (...) Due to their precarious status, it is highly plausible that those with suspected symptoms choose not to visit test centers and they are in the quarantine blind spots that can cause regional infections at any time. But if we drive them to corners and crack down on their illegal status, they will only hide deeper to make the blind spots larger. It is also concerning that this could brew xenophobia." (in Korean)<sup>246</sup>*

Undocumented migrants were given free tests and treatment if they were found positive for COVID-19 on a case by case basis. In mid-May, the Ministry of Health and Welfare sent a message to millions of mobile phones, which reads;

*"[Ministry of Health and Welfare] Undocumented foreign workers with suspicious symptoms can take a coronavirus test free of charge, with no risk of deportation. Please feel free to contact a local health office if this is your case and share this information with your undocumented foreign friends, if any."<sup>247</sup>*

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245 Ock Hyun-Ju. 29 April 2020. Seoul to plug undocumented migrants loophole in COVID-19 efforts. Available at [http://www.koreaherald.com/view.php?ud=20200429000769&ACE\\_SEARCH=1](http://www.koreaherald.com/view.php?ud=20200429000769&ACE_SEARCH=1) (accessed 4 December 2020)

246 KBS World. 29 April 2020. S. Korea Ensures COVID-19 Tests For Undocumented Immigrants. World.kbs.co.kr. Available at [http://world.kbs.co.kr/service/news\\_view.htm?lang=e&Seq\\_Code=153119](http://world.kbs.co.kr/service/news_view.htm?lang=e&Seq_Code=153119)(accessed 25 June 2020)

247 Park Si-soo. 14 May 2020. South Korea offers undocumented foreigners free virus test with no risk of deportation. The Korean Times. Available at [https://www.koreatimes.co.kr/www/nation/2020/05/177\\_289541.html](https://www.koreatimes.co.kr/www/nation/2020/05/177_289541.html) (accessed on 24 November 2020)

According to information obtained by the field researchers, in late June, the Central Disaster Safety and Countermeasures Headquarters announced in its briefing, the Labour and Employment Ministry's quarantine guidelines for unqualified (i.e. undocumented) residents in migrant concentrated areas.<sup>248</sup> However, it was only at the beginning of July that Central Disaster Safety and Countermeasure Headquarters distributed facemasks and other PPE and infection prevention materials to migrant concentrated areas.<sup>249</sup>

Despite some improvement made by the central government so undocumented migrants were able to access free COVID-19 tests, the prevention of the mass breakout of COVID-19 among vulnerable migrant community heavily relied on local communities, immigration administrative offices, local municipal offices and mostly NGOs. They have distributed free facemasks and other relief supplies, providing shelter and self-quarantine facilities, often as individual volunteers or collective initiatives, to migrants regardless of their status in some areas populated with undocumented migrant workers.

What appears to be contradicting is that as of 30 June 2020, the Voluntary Departure Scheme for undocumented migrants to leave South Korea was terminated, and from 1 July, penalty on "illegal" resident resumed and undocumented migrants became subject to fines and entry ban.<sup>250</sup> Although testing may not directly result in

248 Ministry of health and Welfare. 24 June 2020. 코로나바이러스감염증-19 중앙재난안전대책본부 정례브리핑(6월 24일) (*Coronavirus Infectious Disease-19 Central Disaster and Safety Countermeasure Headquarters Regular Briefing (June 24)*). Available at [http://www.mohw.go.kr/react/all/sal0301vw.jsp?PAR\\_MENU\\_ID=04&MENU\\_ID=0403&page=33&CONT\\_SEQ=355121&SEARCHKEY=TITLE&SEARCHVALUE=%EC%B-D%94%EB%A1%9C%EB%82%98](http://www.mohw.go.kr/react/all/sal0301vw.jsp?PAR_MENU_ID=04&MENU_ID=0403&page=33&CONT_SEQ=355121&SEARCHKEY=TITLE&SEARCHVALUE=%EC%B-D%94%EB%A1%9C%EB%82%98) (accessed on 8 December 2020)

249 Coronavirus Infectious Disease -19 (COVID-19). 15 July 2020. Coronavirus Infectious Disease-19 Central Disaster and Safety Countermeasure Headquarters Regular Briefing (July 15). Available at [http://ncov.mohw.go.kr/tcmBoardView.do?brld=&brdGubun=&dataGubun=&ncvContSeq=355427&contSeq=355427&board\\_id=140&gubun=BDJ](http://ncov.mohw.go.kr/tcmBoardView.do?brld=&brdGubun=&dataGubun=&ncvContSeq=355427&contSeq=355427&board_id=140&gubun=BDJ) (accessed on 8 December 2020)

250 Ministry of Justice Korea Immigration Service. 16 July 2020. Announcement Penalties

the immigration law enforcement, resuming penalty against undocumented migrants seems to be conflicting with the government's efforts encouraging undocumented migrants to come forward for testing.

- **Disaster Emergency Financial Support and Response of Civil Society**

Some local authorities acted faster than the central government in responding to the financial impact on their residents. Seoul Metropolitan Government and Gyeonggi Provincial Government were among those distributed emergency cash relief as early as 18 and 24 March 2020. Both governments distributed cash reliefs to their residents. However, most foreign nationals, except for a small number of them who are permanent residents or spouses of Korean citizens, were excluded from these measures.<sup>251</sup>

Some CSOs including JCMK and Human Rights Solidarity for Migrants again filed a complaint to the NHRC on 2 April 2020, arguing that these disaster relief support policies are discriminatory against migrants.<sup>252</sup> The NHRC on 21 May 2020 judged that the exclusion of migrants from the disaster emergency basic financial support measures implemented by the Seoul Metropolitan Government and Gyeonggi Province Government respectively were

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on Illegal Residents on July 1. Available at [https://www.immigration.go.kr/immigration\\_eng/1832/subview.do?enc=Zm5jdDF8QEB8JTJGYmJzJTJGaW1taWdyYXRpb-25fZW5nJTJGMjI1JTJGNTI3OTIyJTJGYXJ0Y2xWaWV3LmRvJTNGcGFzc3dvc-mQIM0QIMjZyZ3NCZ25kZVN0ciUzRCUyNmJic0NsU2VxJTNEJTl2cmDzR-W5kZGVtdHlIM0QIMjZpc1ZpZXdNaW5lJTNEZmFsc2UIMjZwYWdlJTNEMSUyNmJic09w-ZW5XcmRTZXEIM0QIMjZzcmNoQ29sdW1ujTNEJTI2c3JjaFdyZCUzRCUyNg%3D%3D](https://www.immigration.go.kr/immigration_eng/1832/subview.do?enc=Zm5jdDF8QEB8JTJGYmJzJTJGaW1taWdyYXRpb-25fZW5nJTJGMjI1JTJGNTI3OTIyJTJGYXJ0Y2xWaWV3LmRvJTNGcGFzc3dvc-mQIM0QIMjZyZ3NCZ25kZVN0ciUzRCUyNmJic0NsU2VxJTNEJTl2cmDzR-W5kZGVtdHlIM0QIMjZpc1ZpZXdNaW5lJTNEZmFsc2UIMjZwYWdlJTNEMSUyNmJic09w-ZW5XcmRTZXEIM0QIMjZzcmNoQ29sdW1ujTNEJTI2c3JjaFdyZCUzRCUyNg%3D%3D) (accessed on 24 November 2020).

251 Ohmynews. 11 June 2020. 인권위 "외국인 재난지원금 배제는 차별이자 평등권 침해" (*Human Rights Commission of Korea said, "Exclusion of foreign disaster support funds is a discrimination and violation of equality rights."*). Available at [http://www.ohmynews.com/NWS\\_Web/View/at\\_pg.aspx?CNTN\\_CD=A0002649261](http://www.ohmynews.com/NWS_Web/View/at_pg.aspx?CNTN_CD=A0002649261) (accessed 14 September 2020).

252 Ibid.

acts of violation of human rights.<sup>253</sup> According to the press release issued on 11 June 2020, the NHRC of Korea recommended the Seoul Metropolitan Government and Gyeonggi-do Provincial Government to improve the measures with respect to the judgement that exclusion of foreign residents was an act of violation of human rights.<sup>254</sup> The Democratic Party Multicultural Committee, which had reviewed the issue of excluding migrants from disaster subsidies and suggested corrective opinions to the Party Policy Committee via a debate on 26 May 2020, issued a statement to welcome the decision of the NHRC and the recommendation. In this statement, they emphasise the necessity to persuade the government and secure a budget to implement the recommendation to Seoul and Gyeonggi, up to 60% of foreigners residing in Korea.<sup>255</sup>

On 26 August 2020, Seoul Metropolitan Government finally implemented the recommendation of the NHRC and announced the provision of emergency support for the documented foreign residents who had registered residence in Seoul for over 90 days, prior to 28 May 2020. It also required earnings of below the medium income to be eligible. The Seoul Metropolitan Government decided to pay KRW 300,000 (USD 272) to KRW 500,000 (USD 454) depending

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253 Human Rights Commission of Korea, 2020. 인권위, “지자체 재난긴급지원금 정책에 서 외국인주민을 배제하는 것은 평등권 침해” (*Exclusion of foreign residents from the local disaster emergency aid policy violates the right to equality- Human Rights Commission*).Worldnews. Available at <https://www.humanrights.go.kr/site/program/board/basicboard/view?menuid=001004002001&pagesize=10&boardtypeid=24&boardid=7605564> (accessed 15 september 2020)

254 Human Rights Commission of Korea, 2020. Exclusion of foreign residents from the local disaster emergency aid policy violates the right to equality- Human Rights Commission.1Worldnews. Available at <https://www.humanrights.go.kr/site/program/board/basicboard/view?menuid=001004002001&pagesize=10&boardtypeid=24&boardid=7605564> (accessed 15 september 2020)

255 Worldnews,2020.The Democratic Party of Korea's Multicultural Committee's stance on the National Human Rights Commission's decision(6.11), which recommended the correction of discrimination against migrants in disaster support funds-Worldnews. Worldnews. Available at <http://worldnews.or.kr/m/view.php?id=22961&mcode=> (accessed 14 september 2020)

on the number of the family members.<sup>256</sup> The city also opened an integrated helpline for foreign applicants of the funds in 17 languages including English, Chinese, Vietnamese and Thai.<sup>257</sup> Although it is a welcoming improvement, requirements imposed on the foreign residents have left the most vulnerable groups of migrants behind.

The Gyeonggi Provincial Government, in contrast, on 27 August 2020, only issued a press release stating, “it is necessary to publicise and revise the ordinance in expanding the scope of payment, and it is difficult to secure additional funds immediately.”<sup>258</sup>

On the other hand, the national assembly passed a bill, on 30 April 2020, to offer disaster relief to all Korean citizens, setting a KRW 12.2 trillion (USD 11 billion) budget, in order to help its nationals tackle the economic impact of COVID-19.<sup>259</sup> The distribution of the money soon began on 4 May 2020, and about 2.8 million households that are considered as vulnerable groups, such as beneficiaries of national basic livelihood security and disability pensions, were prioritised to receive funds first.<sup>260</sup> However, foreign residents were excluded from the program. Even after the NHRC's judgement that excluding foreign residents is an act of rights violation and

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256 Korea.net. 26 August 2020. Foreign residents of Seoul to get COVID-19 relief funds. Available at <http://www.korea.net/NewsFocus/policies/view?articleId=189113> (accessed on 24 November 2020)

257 Ibid.

258 Gnews. 27 August 2020. (해명자료) 경기도 국가인권위 원고 불수용은 사실과 달라. 중장기 적 검토 예정 (*Explanatory data*) The refusal to accept the recommendations of the National Human Rights Commission of Gyeonggi Province is different. Mid- to long-term review planned) Available at [https://gnews.gg.go.kr/briefing/brief\\_gongbo\\_view.do?BS\\_CODE=s017&number=45538&period\\_1=&period\\_2=&search=0&keyword=&subject\\_Code=BO03&page=2](https://gnews.gg.go.kr/briefing/brief_gongbo_view.do?BS_CODE=s017&number=45538&period_1=&period_2=&search=0&keyword=&subject_Code=BO03&page=2) (accessed 4 December 2020)

259 Kim So-hyun. 30 April 2020. All Koreans to get COVID-19 relief money. The Korea Herald. Available at <http://www.koreaherald.com/view.php?ud=20200430000073> (accessed on 24 November 2020)

260 Park Han-na. 4 May 2020. Distribution of COVID-19 relief funds begins. The Korea Herald. Available at <http://www.koreaherald.com/view.php?ud=20200504000558> (accessed on 24 November 2020)

recommendation for improvement on the case of Seoul Metropolitan Government and Gyeonggi Provincial Government, the central government did not change its stance. In fact, the NHRC rejected a demand submitted by a parliamentarian urging the exclusion of foreign residents from giving disaster relief was discriminatory and thus must end, as reported in November 2020.<sup>261</sup>

While the central and a number of local governments excluded foreign residents from the financial relief measures, the Korean civil society has been filling the gaps. For example, refugee assistance NGOs including Advocate for Public Interest Law (APIL) have carried out a fundraising campaign to provide emergency financial relief to refugees who are excluded from the governments' support scheme. APIL supported 91 refugees financially between May and September 2020.<sup>262</sup> A forum for emergency disaster for migrants was hosted by Women 'Migrants' Human Rights Centre of Korea on 28 July 2020.<sup>263</sup>

#### • Community Resilience

As seen above, the country's civil society including NGOs and trade unions played a critical role in monitoring the situation closely, and their efforts in holding the authorities accountable and reaching

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261 Kim Yoon-Joo. 12 November 2020. 재난지원금외국인 지급, 인권위 지자체엔 “배제 말라” 정부엔 “안줘도 된다” (Disaster subsidies are provided to foreigners, “Do not exclude” to the local government of the Human Rights Commission “You don't have to give it” the government). Available at [http://www.hani.co.kr/arti/society/society\\_general/969746.html#csidx0752315890da219b5e1f07f8ca0231e](http://www.hani.co.kr/arti/society/society_general/969746.html#csidx0752315890da219b5e1f07f8ca0231e) (accessed 4 December 2020)

262 Advocate for Public Interest Law. 2020. [모금 캠페인] 코로나19 국내 난민 긴급지원 캠페인 결과 (Corona 19 Results of Emergency Assistance Campaign for Refugees in Korea) Available at <https://apil.or.kr/?p=13577> (Accessed 14 september 2020)

263 Women Migrant Human Right Center of Korea, 2020. 보도자료)이주민 긴급 재난지원을 위한 토론회 (Discussion on Emergency Disaster Assistance for Migrants - Women Migrant Human Right Center of Korea). Women Migrant Human Right Center of Korea. Available at: <http://www.wmigrant.org/wp/%eb%b3%b4%eb%8f%84%ec%9e%90%eb%a3%8c%ec%9d%b4%ec%a3%bc%eb%af%bc-%ea%b8%b4%ea%b8%89-%ec%9e%ac%eb%82%9c%ec%a7%80%ec%9b%90%ec%9d%84-%ec%9c%84%ed%95%9c-%ed%86%a0%eb%a1%a0%ed%9a%8c/> (Accessed 14 september 2020)

the most vulnerable social groups attracted attention even from abroad.<sup>264</sup>

Governments and NGOs have published information in multiple languages to ensure that those who do not speak Korean or English can access necessary information in order to protect themselves. As early as on 28 January 2020, the Foreign Information Centre of the Ministry of Justice set up an interpretation service for 20 languages on regular hours and 24-hour service for basic Korean, English and Chinese languages. NGOs working with South Korea's migrant communities are disseminating critical information on their livelihood, including medical access and paid leave that they are entitled to.

Innumerable NGOs and community groups are supporting migrant communities around the country, as well as some local governments who also run organisations supporting foreign residents. Common services provided by these organisations, governmental or non-governmental, are usually in providing Korean language education, social integration support, labour counselling and other general support regarding livelihood. Meanwhile, migrants without legal status or have no access to the social security system rely on NGOs, who usually provide support in dealing with labour rights and human rights abuses against undocumented migrant workers. Many NGOs even run a medical treatment support program for the undocumented workers in collaboration with volunteer medical professionals.

The field researchers observed that the outbreak of COVID-19 have also impacted civil society organisations, and many of them had to stop operations of their support programs or operate only on the limited scale. Most organisations suspended face to face counselling, thus, migrant workers faced greater challenges in

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264 M. Kim. 28 April 2020. How South Korea Stopped Covid-19 Early | The Strategist. The Strategist. Available at <https://www.aspistrategist.org.au/how-south-korea-stopped-covid-19-early/> (Accessed 25 June 2020)

accessing appropriate services. However, NGOs, community groups and religious organisations continue to show resilience and come up with alternative and more adjustable support for the migrant workers, especially for undocumented workers and migrant workers without national medical insurance. Among many activities, there has been a number of significant efforts on fundraising and distribution of financial relief, distribution of PPE, and campaigns to raise public awareness of discrimination and prejudice against migrants during the pandemic.

### **Migrant Worker Communities amid COVID-19**

This section illustrates vulnerabilities of migrant workers in South Korea, particularly those who are in precarious situations such as non-professional industrial workers including EPS, refugee applicants and undocumented migrant workers, and some of their experiences during the pandemic observed by the field researchers through their work.

Many temporary migrant workers in South Korea often work in dangerous and precarious conditions. Those who migrate primarily for economic reasons are unable to bring their families with them. The EPS, launched in 2004, which brings economic migrant workers into South Korea has been criticised to be designed to keep migrant workers as second-class citizens who are unable to permanently settle down and to cater to the needs of SMEs.<sup>265</sup> The EPS scheme has been criticised also by the international community. In 2018, the OHCHR addressed racism and discrimination against migrant workers within the EPS system.<sup>266</sup> Migrant workers advocates have

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265 Katrin Park. 8 January 2020. South Korea Needs More Immigrants. Available at <https://koreaexpose.com/south-korea-employment-permit-system-harms-migrant-workers-and-country/> (accessed 4 December 2020)

266 OHCHR. 2018. Committee on the Elimination of Racial Discrimination discusses situation Republic of Korea and Norway with civil society. Available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23967&LangID=E> (accessed on 24 November 2020)

criticised the system for its inflexibility in changing workplaces, giving unbalanced power to employers to apply appalling working conditions, and allowing discrimination and other human rights violations.<sup>267</sup> Amnesty International has also condemned the system in particular within the agricultural sector for allowing trafficking and forced labour.<sup>268</sup>

According to the observation of the field researchers, EPS workers whose work contract terms had ended but not been able to return home due to travel restrictions faced challenges such as financial difficulties, depressions due to inability to reunite with families and lack of access to social securities like medical insurance. Usually, migrant workers' access to social security services expires upon the end of their labour contracts. In addition, labour exploitation, delayed or unpaid wages, unreasonable or unfair restriction on movement by employers and conflict with employers are also common problems faced by the migrant workers, which have deteriorated during the pandemic.

As of June 2020, the registered number of refugee applicants is 31,650,<sup>269</sup> and they are "de facto workers." The field researchers describe them as neither documented nor undocumented workers. Principally, refugee applicants are not entitled to work, but they are permitted to work after six months on humanitarian grounds if the

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267 Ock Hyun-ju. 2016. Migrant workers oppose Employment Permit System. Available at <http://www.koreaherald.com/view.php?ud=20160817000869> (accessed on 24 November 2020)

268 Amnesty International. 2014. South Korea: End rampant abuse of migrant farm workers. Available at <https://www.amnesty.org/en/latest/news/2014/10/south-korea-end-rampant-abuse-migrant-farm-workers/> (accessed on 24 November 2020)

269 Ministry of Justice Korea Immigration Service. 28 October 2020. Statistic Monthly Report. available at <https://www.immigration.go.kr/immigration/1569/subview.do?enc=Zm5jdDF8QEB8JTJGyMjZlTGaW1taWdyYXRpb24IMkYyMjclMkY1MzI5MDAIm-kZhcnRjbFZpZXcuZG8IM0ZwYXNzd29yZCUzRCUyNnJnc0JnbmRIU3RyJTNEJTI2Ym-JzQ2xTZXEIM0QIMjZyZ3NFbmkZVN0ciUzRCUyNmlzVmllId01pbmUIM0R-mYWwzZSUyNnBhZ2UIM0QxJTl2YmJzT3BlbldyZFNlcSUzRCUyNnNyY2hD-b2x1bW4IM0QIMjZzcmNoV3JkTNEJTI2> (accessed on 3 December 2020)

concerned authority does not give any decision for refugee status application by then.<sup>270</sup> However, many of them work to make a living, before having spent six months after their application.

All categories of the migrant workers were affected by the COVID-19 pandemic by different means. However, comparatively, undocumented migrant workers were the most affected by the pandemic. As described earlier, South Korea is home to almost 400,000 undocumented migrant workers, and the number is higher than that of EPS workers. They were in fact denied their rights to health as they were excluded from the mask rationing system from the beginning of the pandemic. As discussed in this chapter, civil society groups who are supporting migrant workers advocated their rights by raising collective voices to bring changes in the measures. As for emergency financial relief, undocumented migrant workers continue to be excluded and rely on support from CSOs and individual donations.

The field researchers observed that delayed or unpaid wages have become more common practice among the employers compared to before the pandemic. According to information provided by the counselling department of Gimpo Foreign Citizen Support Center, female migrant workers were mostly victimised of labour exploitation in the Gimpo area and the West Incheon area. In these areas, many businesses opened mask production factories taking advantage of skyrocketed demands for facemasks due to COVID-19. The field researchers responded to cases where many undocumented migrant workers who had become jobless, found new work in such factories and consequently faced their wages being unpaid. Another testimony given to Gimpo Foreign Citizen Support Center in September was from a migrant worker in Incheon

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270 Refugee Status Determination Procedures in Korea. 2015. Handbook for Recognized Refugees, Humanitarian Status Holders, and Refugee Status Applicants. Available at <https://www.unhcr.or.kr/unhcr/inc/download.jsp?dirName=files/001/board/88/1/&fileName=%28English%29+Handbook+on+RSD+Procedures+in+Korea.pdf> (accessed on 24 November 2020)

city who was suspended from going out even for a shopping weekend for six months.

The field researchers also observed a number of increasing incidents of stigmatisation and discrimination against migrants. Some examples are; reportation of some sports centres denying entry of the foreign residents fearing the spread of COVID-19; Muslim community facing criticism for transmitting COVID-19 when there are a few reported positive cases rooting in gatherings during Islamic Eid celebration; and Chinese migrant community facing racial discrimination being blamed for bringing the virus from Mainland China.

### Conclusion

South Korea has experienced rises and falls in the number of people being affected by COVID-19 since the beginning of 2020. The government has implemented effective strategies to enable people in South Korea, including foreign residents to live comparatively safely compared to some other countries, noting that whilst the rise of cases often exists, they have managed to bring it under control swiftly. Further, the South Korean government has provided some financial aid for its population and businesses in order to mitigate the economic ramification of the pandemic.

There remain to be exclusionary policies against migrants for benefits provided by the government, including in accessing PPE and income relief. The exclusionary actions and discrimination against migrant workers, however is not a new phenomenon, deriving from South Korea's immigration policy based on exclusion. This is on top of issues with regards to unemployment and underemployment of migrant workers, poor living and working conditions, and other labour and human rights abuses that a number of migrant workers have faced.

That being said there is an adequate level of mutual understanding and cooperation between government agencies, NGOs

and the general public in tackling the pandemic. South Korea's strong civil society advocating migrants' rights and the presence of the independent NHRC have held authorities to account and contributed to improve the treatment of migrants. The government's decision to grant visa extension and arranging alternative employment for stranded workers in the agricultural sectors are positive and significant steps. Along with government agencies, support organisations have continued to protect migrant workers from COVID-19 and its ramifications.

## Chapter 7:

# TAIWAN



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### Official figures of COVID-19

First case recorded on: **21 January 2020**

No. of positive cases: **675**

No. of death: **7**

(as of 1 December 2020, source: Worldometer)

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### Migrant Workers in Taiwan

Taiwan opened its door to migrant workers for the manufacturing, construction and fishing industries in 1989 after the government received strong pressure from businesses during the 1980s'. The acceptance of migrant domestic workers soon followed in 1992 as a result of the lobbying of some women's organisations. According to data released by the Ministry of Labor (MOL), as of the end of July 2020, there are 700,800 migrant workers employed under the Employment Service Act or registered with the MOL in Taiwan, a decrease of 10,000 before the COVID-19 outbreak. Foreign nationals who reside in Taiwan on other types of visa such as students, expats, spouses and visitors, as well as migrant fishermen working on distant water fishing vessels are not counted in this number. The numbers of migrant workers by industry and nationality are listed as followed (Table 4 and 5):

**Table 4. Numbers of Migrant Workers by Industry**  
(source: MOL)<sup>271</sup>

Agriculture, Forestry, Fishing and Animal Husbandry	Fishermen <sup>272</sup>	Milk Cow Husbandry	Dispatched Agriculture	Manufacture
11,931	11,821	41	69	427,849
Construction	Caretakers	Caretakers in Nursing Facilities	Domestic Caretakers	Domestic Helpers
4,802	254,515	15,294	239,221	1,703

**Table 5. Number of Migrant Workers by Nationality and Gender**  
(source: MOL)<sup>273</sup>

	Total	Indonesia	Philippines	Thailand	Viet Nam
<b>Total</b>	700,800	269,819	153,936	56,972	220,067
<b>Male</b>	317,504	66,424	60,300	47,336	143,439
<b>Female</b>	383,296	203,395	93,636	9,636	76,628

The number of industrial migrant workers, including those who work in the agriculture, forestry, coastal fishing, animal husbandry, manufacture, and construction, increased 2.3 times in 10 years,

<sup>271</sup> Ministry of Labour. 2020. Labor Statistics Inquiry Website (勞動統計查詢網). Available at [https://statfy.mol.gov.tw/statistic\\_DB.aspx](https://statfy.mol.gov.tw/statistic_DB.aspx) (accessed on 14 October 2020). Simple version also available in English at <https://statdb.mol.gov.tw/html/mon/i0120020620e.htm>

<sup>272</sup> Fishermen or fishing workers working on the near-water fishing vessels only: Those on distant water fishing vessels are under the management of the Fisheries Agency, Council of Agricultural Affairs, therefore they are not counted in the figure of MOL here.

<sup>273</sup> Ministry of Labour. 2020. Labor Statistics Inquiry Website (勞動統計查詢網). Available at [https://statfy.mol.gov.tw/statistic\\_DB.aspx](https://statfy.mol.gov.tw/statistic_DB.aspx) (accessed on 14 October 2020). Simple version also available in English at <https://statdb.mol.gov.tw/html/mon/i0120020620e.htm>

from 193,545 at the end of 2010 to 444,582 in July 2020. The number of migrant workers in the social welfare industries has increased by 1.38 times from 186,108 to 256,218, in the same 10 years.

The four countries listed in Table 5, Indonesia, Viet Nam, the Philippines and Thailand are the countries of origin for all registered migrant workers employed under the Employment Service Act through bilateral agreement between Taiwan and origin countries' governments. Indonesia and the Philippines send more female workers, and Thailand and Viet Nam send more male workers. Overall, the number of female migrant workers in Taiwan is 383,296 compared to that of male migrant workers, which is 317,504, as of July 2020. Taiwanese government uses a ban on despatching migrant workers to Taiwan as a "sanction" against countries of origin that fail to minimise or reduce the number of undocumented migrants or any other diplomatic conflicts. All of the four origin countries of migrant workers under the Employment Service Act have been banned from sending workers at least once.

To hire migrant workers, each specific industry must be approved to do so by MOL. As employers often employ migrant workers at minimum wage, and most migrant workers either willingly work overtime to earn more or cannot refuse to the order of their employers due to debt bondage and the fear of losing the job, employers from many industries and sectors lobby MOL to permit them to recruit migrant workers and to increase the quota to hire them. As a result, there has been a significant increase in the number of migrant workers in the last decade.

### COVID-19 Response Measures

The first positive case of COVID-19 in Taiwan was recorded on 21 January 2020. Starting from 19 March 2020, most foreign nationals were barred from entering Taiwan, except for holders of Alien

Residence Certificate (ARC),<sup>274</sup> diplomatic certificate, proof for fulfilling the business contract, or other special permits. Taiwan has so far avoided huge outbreaks, including among its migrant worker force. It has been praised for its effort in curbing the spread of the disease in the early stage, considering its geography, being close to Mainland China, and its dense population. Taiwan has not implemented any so-called “lockdown” measures.

- **Access to PPE and information**

Soon after the outbreak of COVID-19 in China, Taiwanese government adopted a centralised management system for distribution of face masks as the cheapest and most easily accessed personal protective equipment against COVID-19. The government banned the export of face masks and arranged some companies to increase production lines to meet the increasing demands in the whole country. The distribution and sales system were reviewed several times over the months to ensure each person with a valid health card can buy rationed face masks regularly at the fixed price of NTD 5.00 (USD 0.17). They are available at pharmacies, convenience stores or even for order through a mobile phone app. The distribution system is implemented mostly based on the information encrypted in the electronic chip on the National Health Insurance (NHI) card. All foreign nationals who hold Taiwan’s resident permit, or ARC were also included in these efforts.<sup>275</sup> During a time of crisis, temporary migrants tend to be subjected to discriminatory policies and are treated separately from citizens in other destination countries. Taiwan however, has taken a different approach and advocated for a ‘health for all’ policy.<sup>276</sup>

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274 ARC is a required ID for all foreign nationals who stay, work or study in Taiwan.

275 A. Timmerman. 2020. In Taiwan’s Crowded Migrant Worker Dorms, Covid’s Not The Only Risk. South China Morning Post. Available at <https://www.scmp.com/week-asia/people/article/3081227/taiwans-container-houses-migrant-workers-coronavirus-not-only> (Accessed 25 June 2020)

276 Ministry of Foreign Affairs. 2020. Health For All— Taiwan Can Help. Taiwan. Available

However, migrant workers in Taiwan still encountered unequal treatment in the distribution of face masks. Distribution of face masks based on NHI cards meant that it became very difficult or almost impossible for those who did not have a valid NHI card to obtain any face masks. First of all, the NHI card, which is compulsory for all migrant workers employed under the Employment Service Act<sup>277</sup> is usually issued to workers about one month after the beginning of employment. This means newly-arrived migrant workers were excluded from the initial distribution of face masks. Secondly, migrant workers in between employment also do not have valid NHI. In Taiwan, migrant workers can change employers, as long as it is approved by the government, in case of dismissal by employers or due to their own complaints of abuse or labour rights violations in the workplace. Once MOL approves the termination of the contract, the original employer can stop NHI for the migrant worker and they will not have NHI until the next employment starts. Thirdly, some employers withhold migrant workers’ personal documents. For migrant workers whose NHI cards were held by their employers, it became also impossible to buy face masks by themselves. Lastly, some migrant workers do not have NHI at all due to their immigration status. Migrant fishermen on distant water fishing vessels are not entitled to NHI at all, which will be discussed more in detail in the later part of this chapter. Undocumented migrant workers also do not have valid ARCs or NHI cards, and therefore any pharmacy or convenience stores are not allowed to sell face masks to them.

The government announced a campaign to spread awareness of

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at [http://www.mofa.gov.tw/en/News\\_Content3.aspx?n=E641F7FF2AE058A1&sms=49FF69F409088525&s=E2EAB62FC6165C63](http://www.mofa.gov.tw/en/News_Content3.aspx?n=E641F7FF2AE058A1&sms=49FF69F409088525&s=E2EAB62FC6165C63) (Accessed 25 June 2020)

277 All of the migrant workers in the statistics of the Ministry of Labor are hired through the Employment Service Act. They include domestic caretakers and helpers, factory workers, construction workers, and fishermen in the near waters. Fishermen in the distant waters are mostly hired through the hiring from abroad system (境外聘) which is excluded them from any labor laws, nor the NHI or the Labor Insurance.

disease prevention measures among migrant workers. Access to information was made at ease as information materials were translated to Indonesian, Tagalog, Thai and Vietnamese by mid-March,<sup>278</sup> and the government has worked with some local NGOs to deliver information to migrant workers.<sup>279</sup> However, the field researcher observed that translated information was often not up-to-date equally, and did not cover languages of some other migrants who are not under the bilateral MOUs with the four respective countries of origin and the Employment Act.

#### • Quarantine Requirements

On 17 March 2020, MOL announced that everyone arriving in Taiwan from abroad, including migrant workers who were newly entering Taiwan must undergo a 14-day quarantine.<sup>280</sup> In this announcement, for the cases of migrant workers, employers were required to arrange quarantine space for their migrant workers upon arrival. Prospective migrant workers would not be allowed to fly into Taiwan unless their employers submit their plans for in-house quarantine to MOL. Migrant workers are also suggested not to go back to their home countries for vacation. In order to encourage migrant workers to give up international travels, it was decided that MOL would cover the expenses for flight cancellations for those who had already booked their tickets for the vacation but

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278 C. Ming-hsuan. 2020. Migrant Workers Who Leave Taiwan Will Not Be Allowed To Reenter: MOL - Focus Taiwan. Focustaiwan.tw. Available at <https://focustaiwan.tw/society/202003170023> (Accessed 25 June 2020)

279 R. Kabinawa. 2020. Taiwan'S COVID-19 Success: More Than Just A Number. Taiwan Insight. Available at <https://taiwaninsight.org/2020/05/04/taiwans-covid-19-success-more-than-just-a-number/> (Accessed 25 June 2020)

280 Workforce Development Agency, Ministry of Labour. 17 March 2020. 移工來源國疫情升至第3級，勞動部推出強化防疫管理措施 (As the pandemic has raised to level 3 in the countries of origin of migrant workers, MOL strengthens the disease control measures). Available at [https://www.wda.gov.tw/News\\_Content.aspx?n=7F220D7E656BE749&sms=E9F640ECE968A7E1&s=1D21B4206A04947C](https://www.wda.gov.tw/News_Content.aspx?n=7F220D7E656BE749&sms=E9F640ECE968A7E1&s=1D21B4206A04947C) (accessed on 23 October)

were willing to cancel them.<sup>281</sup> The field researcher is aware of cases where some employers and brokers made their migrant workers pay for the expenses for their quarantine, especially some who came back to Taiwan before 17 March 2020, the day the compulsory quarantine started. From 19 March 2020, the National Immigration Agency (NIA) stopped issuing re-entry permits to migrant workers who left Taiwan temporarily for vacation.<sup>282</sup> The re-entry permit is usually free of charge for migrant workers who go back to their home countries temporarily and come back to Taiwan and are valid for a month. MOL's announcement on 27 March 2020, stated that all the migrant workers in the social welfare sector, both newly arrived or returning, which includes domestic caretakers, domestic helpers and caretakers in nursing homes, had to stay in quarantine facilities assigned by the government.<sup>283</sup> The related expenses of NTD 1,500 (USD 53) per day, the total of NTD 21,000 (USD 745) for 14 days including the transportation fees were to be paid by the employers.<sup>284</sup> Quarantine measures have been tightened and loosened from time to time depending on the global situations. In

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281 Ibid.

282 National Immigration Agency. 19 March 2020. 為防止「嚴重特殊傳染性肺炎(武漢肺炎)」疫情擴大，自109年3月19日零時起，暫緩受理及核發外籍移工之重入國許可 (The acceptance and approval for the application for re-entry permit for migrant workers is temporarily stopped from 0:00, March 19, 2020 in order to prevent outbreak of COVID-19). Available at <https://www.immigration.gov.tw/5385/7445/211420/229781/211422/217079/> (accessed on 1 December 2020)

283 Workforce Development Agency, Ministry of Labour. 27 March 2020. 自即日起，修正移工入境檢疫辦理方式~~ 社福類入住集中檢疫場所，產業類檢疫場所應事先查核 (From today, the quarantine measures of migrant workers entering Taiwan change: workers in the social welfare industry will be centralized and stay in assigned locations, and manufacturing industry workers must have quarantine locations arranged prior to arrival). Available at [https://www.wda.gov.tw/News\\_Content.aspx?n=7F220D7E656BE749&sms=E9F640ECE968A7E1&s=8661CBDBA5F03066](https://www.wda.gov.tw/News_Content.aspx?n=7F220D7E656BE749&sms=E9F640ECE968A7E1&s=8661CBDBA5F03066) (accessed on 23 October 2020)

284 Ministry of Labour. 30 March 2020. 移工待在集中檢疫所 14 日，雇主要付多少費用？(自109年3月27日起) (Migrant workers stay at the centralized quarantine station on the 14th, how much will the employer pay? (Since 27 March 2020)). Available at <https://www.mol.gov.tw/topic/44761/45003/45004/44771/45190/> (accessed on 10 December 2020)

August, the Taiwan government required that all passengers from the Philippines arriving in Taiwan to undergo a 14-day-quarantine at facilities provided by the government.<sup>285</sup> In November, a collective quarantine was required for Indonesian migrant workers specifically.<sup>286</sup> The government has subsidised some costs related to quarantine for migrant workers of specific sectors and/or specific nationalities. According to a document released by the Entry and Departure of the Foreign Labour Airport Care Service at the end of November 2020, the expense for all Filipino migrant workers of any job categories would be fully paid by the government while the expenses for the centralised quarantine of all migrant workers of the social welfare sector would be paid by the employer for NTD 10,500 for 14 days, the half of the original cost.<sup>287</sup>

Like many other countries, the Taiwan government has implemented different kinds of social benefits and financial assistance to support residences and businesses. However, migrant workers were entitled to only the salary compensation for those who lost the salary during the quarantine period following the government's order, which was NTD 1,000 (USD 35) per day for a maximum of 14 days. Most foreign nationals are not entitled to all

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285 Taiwan Centre for Disease Control. 9 August 2020. 菲律賓入境台灣所有旅客須配合機場採檢及檢疫，至集中檢疫場所檢疫14天 (*All passengers entering Taiwan from the Philippines must cooperate with airport quarantine and quarantine, and go to the centralized quarantine place for quarantine for 14 days*). Available at <https://www.cdc.gov.tw/Bulletin/Detail/UZPPIF8vuVVBKEMKtqYpcg?typeid=9> (accessed on 1 December 2020)

286 Taiwan Centre for Disease Control. 18 November 2020. 11月20日起印尼籍移工入境採集中檢疫，暫緩4家印尼人力仲介公司仲介移工來臺 (*From November 20th, Indonesian migrant workers will be collectively quarantined during entry, and 4 Indonesian labor agencies will be temporarily suspended for migrant workers to Taiwan*). Available at <https://www.cdc.gov.tw/Bulletin/Detail/ZBSAZur8TPA2tjWfMaaasw?typeid=9> (accessed on 1 December 2020)

287 Entry and Departure of the Foreign Labour Airport Care Service. 30 November 2020. 移工入住集中檢疫床位申請說明 (Application instructions for migrant workers staying in centralized quarantine beds). Available at <https://fwas.wda.gov.tw/upload/download/6f54d1b9cfb7a8409236a7f7fdef2801bdc87749.pdf> (accessed on 10 December 2020)

of the other forms of benefits, including the “triple coupon,”<sup>288</sup> which is one of the major benefits Taiwan government offers to local residents, and other coupons designed to encourage and stimulate consumption while supporting consumers financially. The field researcher acknowledges that foreign spouses of Taiwanese nationals have been entitled to buy the triple coupon.

- **Visa Extension for Foreign Visitors and Migrant Workers**

On 21 March 2020, the government announced that the NIA gives an automatic 30-day visa extension to all foreign visitors,<sup>289</sup> and the same announcement was made again on 17 April, 18 May, 15 June, 17 July, 14 August, 14 September and again on 15 October 2020. The extension of visa is eligible for foreign visitors who entered the country on or before 21 March 2020 and have no record of overstaying.<sup>290</sup> Visitors have highly praised this friendly and compassionate consideration towards foreign nationals as Taiwan is regarded to be relatively safer than the home countries of many visitors, who are reluctant to take international flights during the pandemic or are unable to due to the disruption in the aviation industry.

However, there have been no such favourable measures towards blue-collar migrant workers who are waiting to be transferred to new employers or those who are preparing to go home after the

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288 Residents can buy a NTD3,000 worth coupon for the price of NTD1,000. The government subsidies NTD2,000 per coupon.

289 Bureau of Consular Affairs, Ministry of Foreign Affairs, Republic of China. 21 March 2020. Automatic 30-day extension for foreigners entering Taiwan on or before March 21 with visa waiver, visitor visa, or landing visa (no application is required) (overstayers excepted). Available at <https://www.boca.gov.tw/cp-220-5436-37c0d-2.html> (accessed on 23 October 2020)

290 Focus Taiwan CNA English News. 15 October 2020. Government announces visa extension for foreign visitors. Available at <https://focustaiwan.tw/society/202010150021#:~:text=The%20government%20has%20previously%20announced,travel%20restrictions%20are%20in%20effect.> (accessed on 22 October 2020)

end of their contract but are reluctant to travel due to the pandemic and travel restriction. MOL has not announced any extension collectively to low-paid migrant workers. Serve the People Association, Taoyuan (SPA), an NGO the field researcher represents, has supported several migrant workers' applications to extend their employment transfer period. Despite their emphasis on the needs of visa extensions for migrant workers, MOL has been reluctant to grant a collective extension for migrant workers, and instead only assess applications on a case by case basis. The Taiwan government has been more favourable towards foreign tourists than migrant workers.

Instead of giving an automatic visa extension directly to migrant workers, MOL decided to allow employers to provide short-term contracts to migrant workers who are stranded in Taiwan as a result of COVID-19. In the announcement made on 17 March 2020, MOL stated that employers could apply for a three-month employment permit for their migrant workers if they have been working in Taiwan for 12 or 14 years, which are the maximum numbers of years blue-collar migrant workers are allowed to work in Taiwan, and their contracts are due to end between 17 March and 17 June 2020.<sup>291</sup> On 9 June 2020, this was extended to those whose contracts were due to end between 17 June and 17 September 2020.<sup>292</sup> To encourage employers to employ migrant workers who were already

291 Workforce Development Agency, Ministry of Labour. 17 March 2020. 移工來源國疫情升至第3級，勞動部推出強化防疫管理措施 (*As the pandemic has raised to level 3 in the countries of origin of migrant workers, MOL strengthens the disease control measures*). Available at [https://www.wda.gov.tw/News\\_Content.aspx?n=7F220D7E656BE749&sms=E9F640ECE968A7E1&s=1D21B4206A04947C](https://www.wda.gov.tw/News_Content.aspx?n=7F220D7E656BE749&sms=E9F640ECE968A7E1&s=1D21B4206A04947C) (accessed on 23 October)

292 Workforce Development Agency, Ministry of Labour. 9 June 2020. 為減少人員跨境流動，自109年6月17日至同年9月17日聘僱許可期間屆滿之移工，其累計在臺工作期間將屆滿12年或14年者，雇主為聘僱該移工，得再申請3個月之聘僱許可 (*To reduce cross border movements, employers can apply for three-month employment permits for migrant workers who have worked in Taiwan for 12 or 14 years with their contracts ending between 17 June and 17 September*). Available at [https://www.wda.gov.tw/News\\_Content.aspx?n=D33B55D537402BAA&sms=02E58F84AD3F3884&s=9CD479B7DFAE79D5](https://www.wda.gov.tw/News_Content.aspx?n=D33B55D537402BAA&sms=02E58F84AD3F3884&s=9CD479B7DFAE79D5) (accessed on 23 October 2020)

in Taiwan instead of newly arriving migrant workers, on 5 May 2020, MOL announced that employers could apply for three or six-month employment extensions for their migrant workers whose contracts had ended or were to end between 17 March and 17 June 2020.<sup>293</sup> Before this, those whose contracts had expired were unable to continue to work and therefore no longer had a stream of income while they were stranded in Taiwan as a result of COVID-19. This change in May 2020 was made as an increasing number of migrants became unable to return home due to the restrictions placed in their home countries while their visas or contracts were coming to an end.<sup>294</sup> That being said, migrant workers who choose to travel outside of Taiwan were temporarily barred from re-entering.<sup>295</sup>

According to MOL, there were 1,033 applications made by employers for migrant workers who finished their contract between 17 March and 31 May 2020; among them 656 were from the social welfare sector and 377 were from the manufacturing industry.<sup>296</sup>

These arrangements were exclusive to migrant workers whose contracts would end in specific periods, and the length of the extension was limited to either three or six months. Only the

293 Ministry of Labour. 19 June 2020. 疫情期間聘僱期滿之移工，因疫情影響致航班減班或停飛因素，移工無法按原規劃期日返國，雇主得否重新為其申請短期之聘僱許可？又如何申請？ (*During the epidemic period, the migrant workers whose employment period expires, due to the impact of the epidemic and the flight reduction or suspension, the migrant workers cannot return to the country according to the original planned date. Can the employer reapply for the short-term employment permit for him? How to apply?*). Available at <https://www.mol.gov.tw/topic/44761/45003/45004/44771/45555/> (accessed on 1 December 2020)

294 J. Van Triste. 13 May 2020. *COVID-19: Stranded Migrant Workers Allowed Short-Term Contracts*. RTI Radio Taiwan International. Available at <https://en.rti.org.tw/news/view/id/2003246> (Accessed 25 June 2020)

295 C. Ming-hsuan. 17 March 2020. *Migrant Workers Who Leave Taiwan Will Not Be Allowed To Reenter: MOL - Focus Taiwan*. Focustaiwan.tw. Available at: <https://focustaiwan.tw/society/202003170023> (Accessed 25 June 2020)

296 CNA. 9 June 2020. 移工在台期滿 雇主可申請延長3個月 (*Employers can apply for three-month extensions for their migrant workers*) available at <https://www.cna.com.tw/news/ahel/202006090311.aspx> (accessed on 23 October 2020)

employers could apply for this extension, but not migrant workers themselves. Among migrant workers who had not worked in Taiwan for 12 or 14 years, only those whose contracts ended between 17 March and 17 June 2020 were subjects. MOL lacks acknowledgement that COVID-19 outbreak continues in countries of origins such as the Philippines and Indonesia, and the international flights have not been resumed as they were before the pandemic. MOL has not given extensions of the transfer period for the migrant workers who are waiting to be transferred to new employers. As mentioned above, the programmes offered by MOL are employer-centred while the needs of the migrant workers to stay and to find a new job are not equally taken into consideration.

- **Rights Violation amid COVID-19**

- ***Rights to Days Off, Freedom of Movements and Gathering***

The field researcher observed that, since the beginning of the pandemic, many employers of migrant workers had limited their migrant workers from taking their days off, to minimise risks of being infected by the coronavirus while they go out on their rest days. In particular, many migrant caretakers were banned from taking days off by their employers. Some had already suffered from lack of days off before the pandemic, further deteriorating their situations. Many factory workers were asked not to leave their dormitories on their days off by their employers, or were only allowed to go out only for a few hours on a day off.

Taiwan has not implemented any measures similar to “lockdown”, and most of the local residents still continue to commute to their workplace and can go out for other reasons. However, the fact that many employers of migrant workers forbid their workers from taking days off or going out shows discriminatory attitudes against migrant workers and even violations of the freedom and fundamental rights in the name of disease control, and there has been no or little compensation in return.

The central lobby of Taipei Train Station is a Sunday gathering place for migrant workers based in northern Taiwan. Many migrant workers spend their days off in this place as it is free of charge, easy to access and air-conditioned, and they spend time with their fellow migrant workers. It has served as a special cultural space for migrant workers in Taipei for over 10 years. Since the beginning of the coronavirus outbreak, Taipei Train Station banned gatherings at the central lobby in order to prevent transmission of COVID-19. In May 2020, the train station announced to continue the ban permanently. It was soon heavily criticised by activists and many young people who support cultural diversity in Taiwan, and nearly 500 people gathered and participated in a sit-in protest at the station on 23 May 2020.<sup>297</sup> After these strong criticisms, the Minister of Transportation promised to review the plan and find a better solution instead of a total ban of gathering. After the statement was issued by the ministry, Taiwan Railway Administration (TRA) invited some concerned NGOs and experts for discussions. Following a few meetings, in July 2020, TRA decorated the lobby floor with smiling faces and announced to lift the ban (Figure 3).<sup>298</sup>

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297 Focus Taiwan. 23 May 2020. Taipei Main Station's lobby gathering ban draws protests. Available at <https://focustaiwan.tw/society/202005230006> (Accessed on 23 October 2020)

298 Shelley Shan. 13 July 2020. Taipei Railway Station calls off ban on sitting. Taipei Times. Available at <https://www.taipetimes.com/News/front/archives/2020/07/13/2003739820> (accessed on 23 October 2020)

**Figure 3: The New Lobby Floor of Taipei Train Station**



(Photo by Chien Jung-fong, Taipei Times)

### ***Dismissals and Employment Transfer***

Since the sectors in which most migrant workers are employed have not been severely affected financially by COVID-19 and its circumstances, large scale closures of businesses have not been seen and dismissal of employments affecting migrant workers have not been significant. However, in industries such as manufacturing, where demands on production decreased, many employers have laid off or forced the resignation of migrant workers for some minor reasons such as making mistakes, arriving late at work or being unwell. SPA received several complaints from migrant workers who had been or were to be dismissed in these ways.

Due to the pandemic, few migrant workers have been allowed to arrive in Taiwan since March 2020. This means demands for migrant workers who are already in the country have been high. As a result, the field researcher observes that finding a new job and transferring to a new employer has become slightly easier for migrant workers

between employment than before. However, it does not mean that all of them can find a new job successfully.

### ***Living and Working Conditions***

Taiwan's migrant workers' living conditions vary among job categories. All migrant factory workers and construction workers live in dormitories that host anywhere from eight to 30 people per room.<sup>299</sup> Migrant fishermen live in crowded spaces on the boats at ports, often in worse conditions than dormitories. The field researcher knows many cases where migrant fishermen are not provided proper beds and beddings. Such living conditions are not far from the living conditions of migrant workers in dormitories in Singapore, where outbreaks in migrant worker dormitories have constituted a majority of positive cases. If there are positive cases found among those migrant workers, it is easy to imagine that they will face high risks of transmissions. Migrant domestic workers and caretakers are required to live with their employers. Many carers share the same room with the patients they care for and need to be in close contact with them, which heightens risks of transmissions to vulnerable individuals if those migrant workers are not provided with adequate PPE.

Case of other human rights violation (Freedom of expression):

*Elanel Ordidor (also known as Linn Silawan) is a migrant caretaker from the Philippines living and working in Yunlin County. She used to make live streams and discussed the political situations in her home country on Facebook regularly. She was severely targeted for online troll and cyberbullying by Diehard Duterte Supporters (DDS), a vigilante group often reported to be related with the president Rodorigo Duterute administration,*

<sup>299</sup> Antonia Timmerman. 26 April 2020. In Taiwan's 'container houses' for migrant workers, coronavirus not the only health risk, available at <https://www.scmp.com/week-asia/people/article/3081227/taiwans-container-houses-migrant-workers-coronavirus-not-only> (Accessed 26 October 2020)

<sup>300</sup> for her outspoken critics to the Philippine government regarding the insufficient actions on COVID-19. Fidel Macaayag, the labour attaché of Manila Economic Cultural Office and the Philippine Overseas Labour Office (MECO POLO) in Taichung visited Linn and demanded her to delete all her posts relevant to the criticism of the Philippine government and make a new video to apologise. He told Linn that she might violate the cyber libel crime in the Philippines and Taiwan. Later the Filipino Presidential Spokesperson Harry Roque even suggested to detain her back in the Philippines. The MOFA of Taiwan quashed the suggestion and stated to protect the freedom of speech of every migrant worker.<sup>301 302</sup>

### Hostility against Undocumented Migrant Workers

There are fears of the effect of COVID-19 on undocumented migrants in Taiwan. Undocumented migrants are likely to become a loophole in Taiwan's virus prevention network as they are hesitant to come forward for testing and medical care fearing arrest, detention or deportation. This has health implications for migrants who risk their lives and the infection of others should they not receive proper healthcare out of fear.

On 26 February 2020, Taiwan Centers for Disease Control (Taiwan CDC) announced that the 32nd positive case of COVID-19 in Taiwan was an Indonesian undocumented migrant caretaker who was highly likely to have been infected by the virus from a patient she took care for.<sup>303</sup> After the worker took care of an old patient of the

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300 C. Thomas. 20 September 2020. Linn Silawan: champion of overseas Filipino workers in their times of need. Available at <https://www.scmp.com/week-asia/people/article/3102239/linn-silawan-champion-overseas-filipino-workers-their-times-need> (accessed on 1 December 2020)

301 C. Thomas. 20 September 2020. Linn Silawan: champion of overseas Filipino workers in their times of need. Available at <https://www.scmp.com/week-asia/people/article/3102239/linn-silawan-champion-overseas-filipino-workers-their-times-need> (accessed on 1 December 2020)

302 It is also based on a report of the field researcher and his organisation SPA, who are in regular contact with Elanel Ordidor.

303 Focus Taiwan. 26 February 2020. Migrant caregiver confirmed as Taiwan's 32nd COVID-19 case (update) Available at <https://focustaiwan.tw/society/202002260013>

family she worked for, she visited her friends in numerous locations before the test result was released.<sup>304</sup> The government could not find the worker for a few days after the test result was found to be positive, and a short CCTV video footage was circulated all over the media, which triggered a general hatred of her and all undocumented migrant workers among Taiwan's general public. On 19 March 2020, a male Indonesian undocumented worker ran away from a hospital when he was suggested to transfer to another hospital for a further check for his symptoms.<sup>305</sup> The hospital informed the police to search for him, and it became a news story again. Both he and his wife were undocumented workers in Taiwan with their two children who were born in Taiwan. He was found later by the police, and the whole family ended up being deported even though he was tested negative for COVID-19.<sup>306</sup> There is no doubt that news of this kind increased fear among undocumented migrant workers, and made many of them reluctant to seek medical care.

Out of fear that the undocumented caretakers might be the "leak of the pandemic", Tainan mayor Wei-Che Huang soon demanded the search for undocumented migrant workers in Tainan city.<sup>307</sup> MOL also proposed to attach the employment status of migrant

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(accessed on 23 May 2020)

304 Taiwan News. 28 February 2020. Friend of 32nd coronavirus case quarantined in Kaohsiung after showing symptoms. Available at <https://www.taiwannews.com.tw/en/news/3882660> (accessed on 23 October 2020)

305 CTS. 19 March 2020. 發燒須轉診 逃逸印尼籍移工竟落「(An undocumented Indonesian migrant worker ran away during hospital transfer for his fever) (March 19, 2020). Available at <https://news.cts.com.tw/cts/society/202003/202003191994251.html> (accessed on 23 October 2020)

306 UDN. 20 March 2020. 用「米水」代替奶粉育兒 失聯移工遭逮一家4口全「了」(Undocumented who fed a baby with "rice water" instead of milk powder, all of the four in his family were caught). Available at <https://udn.com/news/story/7315/4429314> (accessed on 23 October 2020)

307 UDN. 27 February 2020. 憂非法看護成防疫破口 黃偉哲：務必找出黑數 (Worried undocumented caretakers might become the leak of pandemic, Huang Wei-Che: Must find out the dark number). Available at <https://udn.com/news/story/120940/4374380> (accessed on 1 December 2020)

workers with their NHI cards, so that all hospitals can check legal statuses of migrants. However, some other officials including the Taipei mayor Wen-Che Ke, New Taipei mayor You-Yi Hou and the Director of Taiwan CDC Shi-Chong Chen stated for the priority on the pandemic prevention, not cracking down on the undocumented migrant workers. In Taiwan, daily personal care of patients admitted to hospitals is the responsibility of their family members. Due to the urgency and demand for flexible care, it is often the case that undocumented migrant caretakers are employed for these roles. Taiwan CDC Director, Chen, was concerned that the manpower of the hospitals' care would face shortage if undocumented migrant workers were cracked down. In fact, many doctors and nurses also shared the same concern. They need the services of the caretakers, who are often undocumented migrants. Subsequently, the Taiwanese government reversed the proposal of MOL, as the Minister for Health and Welfare stated, on 1 March 2020, that document checking should not be placed as a priority.<sup>308</sup>

The fact is that foreign workers who leave their jobs often end up becoming undocumented as Taiwanese law prohibits workers from changing employers without the government's permission.<sup>309</sup> In the early stage of COVID-19 outbreak, concerned CSOs and experts in Taiwan urged the government to grant amnesty to undocumented foreign workers during the pandemic or at least promise not to penalise those who seek medical care.<sup>310</sup> However, the government

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308 CNA. 2 March 2020. *Virus Outbreak: Migrant Workers' Status Not A Top Priority: Ministers - Taipei Times*. Taipei Times. Available at <http://www.taipetimes.com/News/taiwan/archives/2020/03/02/2003731922> (Accessed 25 June 2020)

309 N. Aspinwall, 2020. *Calls For Amnesty As Undocumented Worker In Taiwan Contracts The Coronavirus*. The Diplomat. Available at <https://thediplomat.com/2020/02/calls-for-amnesty-as-undocumented-worker-in-taiwan-contracts-the-coronavirus/> (Accessed 25 June 2020)

310 F. Wang. 27 February 2020. *Civic Organization Calls For Amnesty For Illegal Migrant Workers - Focus Taiwan*. Focus Taiwan. Available at <https://focustaiwan.tw/society/202002270020> (Accessed 25 June 2020)

ignored the call and did not take any action for months. This arrogant act towards undocumented migrant workers brought the health and lives of everyone in Taiwan at risk. There has been growing hostility against undocumented migrants blaming them as carriers of the virus. This makes the undocumented migrant workers continue to hide and not to come forward when they need medical attention, making track and trace of the positive cases difficult. This is another hidden risk in Taiwan.

In early April, a programme aimed at encouraging undocumented migrant workers to come forward began. Called "The Expanded Overstayers' Voluntary Departure Programme", it ran from 11 April through to 30 June, and established that those who turn themselves in would not be subjected to mandatory detention, face no re-entry ban and will be fined NTD 2000 (USD 70) instead of the usual NTD 10,000 (USD 350). This is an expansion of the first year-long programme announced by the government in January last year.<sup>311</sup> It is, in fact, not an "amnesty programme" or regularisation of undocumented migrant workers. Instead, it is voluntary repatriation. More than 2,700 undocumented migrant workers surrendered themselves under the programme or detained by law enforcers as of 5 May 2020. About half of them are workers who overstayed their visas and worked in Taiwan.<sup>312</sup>

### **Migrant Worker Communities amid COVID-19**

- **Migrant fishermen in distant water fishing vessels**

Migrant fishermen in distant water fishing vessels are hidden migrant workers in Taiwan that hosts one of the world's largest distant water fishing fleets. According to a report by the

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311 K. Wei, 2020. *Coronavirus: Taiwan Making Progress In Getting Illegal Migrant Workers To Come Forward*. The Straits Times. Available at <https://www.straitstimes.com/asia/east-asia/coronavirus-taiwan-making-progress-in-getting-illegal-migrant-workers-to-come-forward> (Accessed 25 June 2020)

312 Ibid.

Environmental Justice Foundation published in July 2020, over 1,140 vessels are flying the Taiwanese flag, and at least 220 additional foreign-flagged vessels are owned or funded by Taiwanese nationals, known as flag of convenience (FOC) fishing vessels, most of which are distant water vessels.<sup>313</sup> Workers on these vessels are under the management of the Fisheries Agency, Council of Agricultural Affairs, unlike other migrant workers who are under the management of MOL. Therefore, migrant fishermen in distant water are not counted as migrant workers in Taiwan, and it is difficult to find out or estimate the number or profile of migrant workers in this kind of work.

As migrant fishermen in distant water fishing vessels are excluded from the Labor Standard Act, they are often paid lower than minimum wage. They are given no agreements on working hours and compulsory days off. Not being given the same rights and protection as other migrant workers, they were already in a very vulnerable situation before the COVID-19 outbreak. Common issues faced by those workers include excessive long working hours and very little time left for rest, long periods of isolation on the sea, verbal and physical abuses from the captain and other crews, forced to be involved in maritime crimes including of illegal, unreported and unregulated (IUU) fishing, human trafficking, salary deduction and unpaid wages as well as unsafe working conditions.

As discussed earlier, migrant fishermen in distant water fishing vessels are unable to buy rationed PPE as they are not eligible for NHI cards at all. Even though Taiwan CDC says all foreigners in Taiwan can purchase face masks with their valid passport or ARC, there is no online system for retailers to keep records of consumers without NHI cards. The staff of SPA accompanied two fishermen in their shelter, who used to work on a Taiwanese-owned fishing

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313 Environmental Justice Foundation. 22 July 2020. Widespread Abuse and Illegal Fishing as Taiwan's Fleet Remains Out of Control. Available at <https://ejfoundation.org/news-media/widespread-abuse-and-illegal-fishing-as-taiwans-fishing-fleet-remains-out-of-control-1> (accessed on 1 December 2020)

vessel, to a local pharmacy to buy face masks. However, they were refused as the pharmacy owner did not know how to keep records of customers without NHI cards to be compliant with the regulation.

Lack of coordination within the government made migrant fishermen on FOC Taiwanese fishing vessels unable to land in Taiwan legally. During the pandemic, no testing and quarantine programmes were available for them, and they were still left without any legal access to public services in Taiwan.<sup>314</sup> Amid COVID-19, migrant fishermen who were willing to continue working could still do so on the same ship or transfer to another ship; however, those who wished to return to their home countries were totally stranded (at least until late July). As a result, some brokers encouraged them to “surrender” or hand themselves in to NIA so they can go home later when international repatriation is possible.

*Mr. A (Filipino national) worked on a FOC Taiwanese fishing vessel, which returned to Kaohsiung (a port city in southern Taiwan) in early April 2020. The two Taiwanese crews on the ship often physically abused Mr. A and almost all other migrant fishermen on the ship, and one day one Indonesian colleague was found dead in his room. Mr. A had no access to medication and was locked in a room for many days. He was taken to NIA by his Taiwanese brokers. Finally, he was sheltered with SPA on 8 May 2020, and was legally identified as victim of human trafficking*

*Mr. B and Mr. C worked on a FOC Taiwanese fishing vessel, which returned to Kaohsiung in mid-March 2020. After telling an officer of the ship that they wanted to go home and left the ship, they were arrested for “illegal entry” and detained in a NIA facility in Taoyuan Airport unlawfully from 1 until 20 May 2020. They were finally released following the order of a judge after SPA helped them to apply habeas corpus case for them.*

*Field researcher's note*

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314 The Fisheries Agency announced the revised version of the quarantine measures for FOC vessels on July 27. After that, migrant fishermen on FOC vessels have a quarantine regulation. See the press release from FA (Chinese): <https://www.fa.gov.tw/cht/Announce/content.aspx?id=758&chk=e20b10c9-69a1-4bfd-aa2d-787328496398&param=pn%3D1>

- **Migrant Workers in the Social Welfare Sector**

Migrant workers in Taiwan's Social Welfare sector include all caretakers in nursing homes and at private homes, as well as domestic helpers. The majority of migrant workers in the social welfare sector are caretakers in private homes. There are a total of 239,221 migrant workers officially falling into this category in July 2020. Employers must have a patient with a medical certificate stating their need for caretakers in order to employ migrant caretakers at home. Employment of migrant domestic helpers was first allowed in 1992, earlier than migrant caretakers. The number of migrant domestic helpers decreased gradually from its peak of 13,947 in 1996 to 1,703 in July 2020 due to the loosened criteria for hiring caretakers and stricter criteria for domestic helpers. It is also often the case that it is cheaper to employ a caretaker than a domestic than domestic helper.<sup>315</sup>

Issues faced by migrant caretakers and domestic helpers in private households, similarly to fishermen in distant water, are rooted in the fact that they are excluded from the Labor Standard Act. Therefore, they are almost always paid lower than minimum wage, given no regulation on the working hours and even compulsory day off. Other common issues include illegal employment, where workers are demanded to work out of their legal contract, excessive working hours, inadequate working conditions, lack of privacy, sexual harassment and violence, verbal/physical/psychological abuses and misunderstanding and conflicts between employers due to language barriers. On the other hand, the Labor Standard Act covers caretakers in nursing homes, so they are entitled to minimum wage and given a set number of days off. As of July 2020, there are 15,294 migrant caretakers recorded to be working in nursing homes in Taiwan.

As seen in many other major destinations in this study, domestic

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<sup>315</sup> An employer of each caretaker has to pay the employment stabilisation fee of NTD2,000 per month to MOL, but for domestic helpers, it is NTD5,000 per month.

workers who live in the employer's house in Taiwan also now face tighter grip of their employers during COVID-19. Many are confined in their employers' homes as they are prohibited from taking days off and/or leave from home. There are questions of the distribution of PPE and medical supplies to migrant workers that is controlled by employers who are often exploitative. The government has announced some measures to address this issue. For example, employers and local officials are advised to make sure migrant workers are provided with adequate information and equipment. Those who do not provide face masks to migrant caregivers can be fined.<sup>316</sup> That being said, the implementation and efficiency of these advice and regulations are yet to be followed up.

### **Conclusion**

Taiwan has been praised for its handling of the COVID-19 outbreak. Indeed, considering its geography and proximity to the epicentre of the initial outbreak in China, it has had a low number of positive cases and deaths. However, some of this is at the expense of migrant workers. Some migrant workers have been denied their days off due to their employers' fear over their workers bringing the virus from outside. While Taiwan has avoided large outbreaks in its migrant workers' dormitories, as living conditions have yet to improve, it creates an environment ripe for an outbreak. Hostility towards undocumented migrants have also created a loop-hole in Taiwan's response to the disease. Migrant fishermen working on vessels in distant water, who are not counted and protected as migrant workers under MOL, for example are unable to access the same rights as those on land and continue to face exploitable situations.

Some good practices to note is Taiwan's approach for a 'health

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<sup>316</sup> H. Cheung, 2020. *Virus Prevention For The Exploited - Taipei Times*. Taipei Times.com. Available at <http://www.taipetimes.com/News/feat/archives/2020/03/02/2003731902> (Accessed 25 June 2020)

for all' policy, where foreigners who have an NHI card can access PPE, the same as Taiwanese citizens. However, because the distribution of face masks is based on NHI cards, it has become very difficult or almost impossible for those who do not have a valid NHI card, or cannot access their card as personal documents are withheld by employers, to obtain any face masks. Whilst foreign visitors have praised the Taiwanese government's flexibility in issuing visa extensions this year, the same cannot be said for migrant workers. Visa extensions for migrant workers are indeed being processed, albeit, not automatically like that of foreign visitors. Taiwan has also avoided large dismissals or migrant workers, such as that in other countries, and in fact for some sectors demands for migrant workers who are already in Taiwan have increased as few migrant workers have been able to arrive. Taiwan's civil society has played important roles in, not only providing day to day support, but also advocating needs of migrant workers as see in the example of demanding Taipei Train Station to withdraw its decision to permanently ban gathering in its central lobby, which is an important space for migrant workers to socialise and access information and peer support.

## Chapter 8: THAILAND



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### Official figures of COVID-19

First case recorded on: **13 January 2020**

No. of positive cases: **3,998**

No. of death: **60**

(as of 1 December 2020, source: Worldometer)

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### Migrant Workers in Thailand

As of August 2019, Thailand houses 2,877,144 registered migrant workers, primarily from Cambodia, Lao PDR, Myanmar, and Viet Nam.<sup>317</sup> These migrants are mainly employed in sectors such as fishing, agriculture, construction, manufacturing, and domestic work, among others.<sup>318</sup> The United Nations' (UN) report in 2019 suggests that migrant workers constitute over 10% of Thailand's total labour force, and before the COVID-19, the trend was likely to increase due to a sustained demand for migrant workers to fill labour shortages in Thailand.<sup>319</sup> In 2010, the economic contribution

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317 International Labour Organization. 2019. TRIANGLE in ASEAN Quarterly Briefing Note: Thailand. Available at [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms\\_614383.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_614383.pdf) (accessed on 13 November 2020)

318 Ibid.

319 Benjamin Harkins (ed.). 2019. Thailand Migration Report 2019. United Nations Thematic Working Group on Migration in Thailand. Available at [https://thailand.iom.int/sites/default/files/document/publications/Thailand%20Report%202019\\_22012019\\_HiRes.pdf](https://thailand.iom.int/sites/default/files/document/publications/Thailand%20Report%202019_22012019_HiRes.pdf) pg. XI (accessed on 13 November 2020)

of migrant workers was estimated to range from 4.3% to 6.6% of Thailand's GDP, as those workers continued to have a positive income per capita for Thailand's economy.<sup>320</sup> The above number does not capture the undocumented migrant workers who also continue to contribute to Thailand's society and economy. More than 80% of foreign workers tended to work and live in Bangkok and vicinities, Southern and Eastern regions.<sup>321</sup>

In 2002 and 2003, the government of Thailand signed MOUs with Cambodia, Lao PDR, and Myanmar to establish a channel for regular labour migration. Between 2016 and 2018, Thailand developed a more comprehensive legal framework for addressing labour migration. While the MOU and the border employment scheme are formal channels for migrant workers to enter Thailand, the government has continued to allow irregular migrants already working in Thailand to come forward to become documented, resulting in more than one million migrant workers coming along. Today, no further regularisation measures are being granted, and migrants must come via legal routes otherwise remain undocumented.<sup>322</sup>

### COVID-19 Response Measures

Thailand was the first country outside of China to report a confirmed case of COVID-19 on 13 January 2020, as documented by the WHO.<sup>323</sup> The first case of local transmission was detected two

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320 OECD/ILO. 2017. How Immigrants Contribute to Thailand's Economy. Available at [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---migrant/documents/publication/wcms\\_613491.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_613491.pdf) pg. 18 (accessed on 13 November 2020)

321 Kartikar Tipayalai. 2020, Impact of International Migration on Regional and Economic Growth, *Journal of Economic structures*, pg. 4 Available at <https://link-springer-com.virtual.anu.edu.au/article/10.1186/s40008-020-00192-7> pg. 4 (accessed 6 December 2020)

322 Australian Aid. September 2019. Triangle in ASEAN Quarterly Briefing Note, Available at [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms\\_614383.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_614383.pdf) (accessed 30 November 2020)

323 World Health Organization. 27 April 2020. Archived: WHO Timeline - COVID-19.

weeks later on 31 January 2020. On 17 March 2020, the cabinet approved a number of emergency measures including 14-day closure of schools, universities, entertainment and sports venues in Greater Bangkok and postponing Songkran, traditional New Year festival, usually celebrated in April.<sup>324</sup> The government also announced that provincial governors and communicable disease committees should consider suspending entertainment, sport and trade events, religious and cultural activities in their provinces. Malls, markets, restaurants, public offices and state enterprises were to remain open with strict preventive measures in place. The Public Health Ministry categorised levels of the outbreak into stage one to three, from only imported positive cases to a rapid increase in locally transmitted cases to implement different levels of public health measures.<sup>325</sup>

After multiple efforts to strengthen border controls and shutdowns as well as partial lockdowns, an emergency decree was declared on 26 March 2020, with a provision to be in force until 30 April 2020. Under the emergency decree, foreign nationals were banned from entering the country, except shippers, diplomats, drivers, pilots and others who were permitted by the Prime Minister General Prayut Chan-o-cha. Further, curfews were imposed, and stricter lockdowns of varying degrees were in place.<sup>326</sup> The decree authorised the Prime Minister to chair the centre to fight the virus, with support of the permanent secretaries of public health, interior,

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Available at <https://www.who.int/news/item/27-04-2020-who-timeline---covid-19#:~:text=Officials%20confirm%20a%20case%20of,cases%20outside%20of%20China.> (accessed on 11 November 2020)

324 Bangkok Post. 17 March 2020. Cabinet approves plans to close schools, postpone Songkran. Available at <https://www.bangkokpost.com/thailand/general/1880635/cabinet-approves-plans-to-close-schools-postpone-songkran> (accessed on 11 November 2020)

325 Ibid.

326 Bangkok Post. 25 March 2020. Emergency decree starts at midnight Wednesday. Available at <https://www.bangkokpost.com/learning/easy/1886285/emergency-decree-starts-at-midnight-wednesday> (accessed on 8 November 2020)

commerce and foreign affairs. The supreme commander of the armed forces was given responsibility for security affairs.<sup>327</sup>

The suspension of international flights and this strict ban on international travels continued for almost three months until the government gradually eased the restrictions in July 2020.<sup>328</sup> The Thai government has successfully stopped the wide-spread of the virus: the daily rate of locally transmitted cases have gradually fallen to less than 10 by the end of April 2020, and have been shifting mostly somewhere between zero and 20 for almost six months.<sup>329</sup>

- **Lockdown, Border Controls and Exodus of Migrant Workers**

Initial partial lockdowns imposed on large cities, including Bangkok, have meant that many businesses had to partially or entirely stop their operations. As tourism contributed to about 20% of Thailand's GDP in 2019,<sup>330</sup> its economic impact on the strict public health measure such as suspension of international flights and lockdown was enormous. Migrant workers have been among the first to be hit by lay-offs even before the coronavirus outbreak and lockdown in Thailand, as the tourism industry was already affected by the initial outbreak in East Asia, where many tourists to Thailand originated. Ultimately, a large number of low-wage migrant workers started to leave Thailand, where they faced job and income loss and no access to healthcare and resources, and return to their homes in neighbouring countries.

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327 Ibid.

328 Flight Global. 1 July 2020. Thailand to ease international flight ban. Available at <https://www.flightglobal.com/networks/thailand-to-ease-international-flight-ban/139076.article> (accessed on 8 November 2020)

<https://www.flightglobal.com/networks/thailand-to-ease-international-flight-ban/139076.article>

329 Bangkok Post. 2020. COVID-19 Outbreak. Available at <https://www.bangkokpost.com/specials/covid19/> (accessed on 8 November 2020)

330 Bangkok Post. 19 September 2020. Prayut: Zones vital for growth. <https://www.bangkokpost.com/business/1753349/prayut-zones-vital-for-growth> (accessed on 8 November 2020)

Fearing of returning migrant workers bringing COVID-19 from Thailand, the Myanmar government asked Bangkok to advise Myanmar migrant workers in Thailand not to return home during the Songkran festival, which is also shared in neighbouring countries such as Myanmar Lao PDR and Cambodia. Suchart Pornchaiwisetkul, Director-General of the Employment Department, was quoted in a media report, on 18 March 2020, saying that "the Employment Department talked with Myanmar representatives; (...) both sides agreed to announce the cancellation of the (annual) return home and activities during the period."<sup>331</sup>

From 19 March 2020 until the announcement of the emergency decree a week later, the Thai government imposed a number of strict public health measures. These include requiring all travellers to Thailand and returning Thai people to provide a medical certificate and an insurance policy covering coronavirus of not less than USD 100,000,<sup>332</sup> the Interior Minister ordering governors of border provinces to consider closing all temporary passes and keeping only one main checkpoint in each province open,<sup>333</sup> and more practical lockdowns.

Public health measures caused a large number of migrant workers job loss, creating a mass exodus of migrant workers leaving the country for their homes. Bangkok Metropolitan Administration estimates that about 90% of those who left the capital were migrant workers.<sup>334</sup> Migrant workers from not only Myanmar but also Lao

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331 Bangkok Post. 18 March 2020. Migrant workers warned against return to Myanmar. Available at [https://www.bangkokpost.com/thailand/general/1881015/migrant-workers-warned-against-return-to-myanmar?cx\\_placement=article#cxrecs\\_s](https://www.bangkokpost.com/thailand/general/1881015/migrant-workers-warned-against-return-to-myanmar?cx_placement=article#cxrecs_s) (accessed on 11 November 2020)

332 Bangkok Post. 20 March 2020. Health certificates required of all visitors. Available at <https://www.bangkokpost.com/thailand/general/1882315/health-certificates-required-of-all-visitors> (accessed on 11 November 2020)

333 Bangkok Post. 20 March 2020. More border closures in fight against virus. Available at <https://www.bangkokpost.com/thailand/general/1883110/more-border-closures-in-fight-against-virus> (accessed on 11 November 2020)

334 Bangkok Post. 24 March 2020. Migrants let through 'shut' checkpoints. Available at

PDR and Cambodia, who also share borders with Thailand, were significantly affected by both the economic impact and mobility control. As soon as the capital of Thailand had been under a partial lockdown followed by an announcement of border closures in late March 2020, about 60,000 migrant workers rushed to return to their home countries, according to a media report on 25 March 2020, a day before the emergency decree was announced. At the time, Thailand reported 934 cases of the virus infection, the second-highest number reported in Southeast Asia.<sup>335</sup> The government's efforts to temporarily ban on cross-border travels between Thailand and neighbouring countries failed a number of times after growing numbers of migrant workers gathered at border checkpoints to cross borders, and officers were forced to reopen shuttered crossings out of fear of a riot.<sup>336</sup> During such time, social distancing and sanitising could not be guaranteed, causing a public health risk.<sup>337</sup>

After chaos was caused at border areas, on 1 April 2020, the Labour Minister announced that migrant workers from Cambodia, Lao PDR and Myanmar who are stranded due to the border closure would be allowed to stay in Thailand and continue working beyond their visa expiration until the borders reopen. According to the Labour Minister, 108,586 migrant workers (44,222 workers brought into the country under the bilateral MOUs, and 64,364 workers with

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<https://www.bangkokpost.com/thailand/general/1884830/migrants-let-through-shut-checkpoints> (accessed on 11 November 2020)

335 Bangkok Post. 25 March 2020. Shutdown sparks exodus of 60,000 migrant workers: official. Available at [https://www.bangkokpost.com/thailand/general/1886280?cx\\_placement=related#cxrecs\\_s](https://www.bangkokpost.com/thailand/general/1886280?cx_placement=related#cxrecs_s) (accessed on 11 November 2020)

336 Bangkok Post. 24 March 2020. Migrants let through 'shut' checkpoints. Available at <https://www.bangkokpost.com/thailand/general/1884830/migrants-let-through-shut-checkpoints> (accessed on 11 November 2020)

337 Khmer Times. 9 May 2020. *Cambodian Migrant Workers In Thailand Face Doom And Gloom - Khmer Times*. Khmer Times. Available at <https://www.khmertimeskh.com/50721466/cambodian-migrant-workers-in-thailand-face-doom-and-gloom/> (Accessed 25 June 2020).

border pass to work on a daily seasonal basis in border areas) would benefit from this arrangement.<sup>338</sup> This measure prevents unintended consequences of the series of measures to control the mobility of the people, including preventing migrant workers from becoming undocumented unintentionally after their visa expires while the borders are closed. However, due to the reduced economic activities and movement restrictions within Thailand, the permission to continue working did not do much favour to many migrant workers as they lost or suspended from work facing destitution while stranded in Thailand.

On 6 April 2020, the Civil Aviation Authority of Thailand imposed a ban on all international flights to Thailand for the prevention and control of the coronavirus outbreak. All flights except state or military aircrafts, emergency and technical landing, humanitarian aid and medical/relief flights, repatriation flights and cargo flights were prohibited.<sup>339</sup> The suspension of international flights and this strict ban on international travels continued through for almost three months until the government gradually eased the restriction in July 2020.<sup>340</sup>

#### • **Economic Impact and State's Financial Support**

Like in other destinations in this report, in Thailand, a large number of migrant workers have suffered the loss of jobs, and as a result, created financial strain for the individual migrant workers

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338 Bangkok Post. 1 April 2020. Rule relaxed for legal migrant workers. Available at [https://www.bangkokpost.com/thailand/general/1891100?cx\\_placement=article#cxrecs\\_s](https://www.bangkokpost.com/thailand/general/1891100?cx_placement=article#cxrecs_s) (accessed on 15 November 2020)

339 Civil Aviation Authority of Thailand. 6 April 2020. ประกาศสำนักงานการบินพลเรือนแห่งประเทศไทย เรื่องห้ามอากาศยานทำการบินเข้าสู่ประเทศไทยเป็นการชั่วคราว (ฉบับที่ 2) (*The Notification of the Civil Aviation Authority of Thailand on Temporary Ban on All International Flights to Thailand (No. 2)*). Available at <https://www.caat.or.th/th/archives/49317> (accessed on 11 November 2020)

340 Flight Global. 1 July 2020. Thailand to ease international flight ban. Available at <https://www.flightglobal.com/networks/thailand-to-ease-international-flight-ban/139076.article> (accessed on 8 November 2020)

and their families in home countries.

On 2 April 2020, the Prime Minister announced that an indefinite nationwide curfew was to come into effect on the following day to prevent further spread of COVID-19. This meant that apart from the transport of goods, fuel, medicines, medical supplies, and transporting patients and medical personnel, all individuals were prohibited from leaving their residence between 10 pm and 4 am. Violation of the curfew will be subjected to two years in jail and/or a fine up to TBT 40,000 (USD 1,321) as per Article 18 of the Emergency Decree.<sup>341</sup> Further restriction of movements meant more reduction of business operations, adding financial burden to workers.

IOM conducted a study on COVID-19 related vulnerabilities of the non-Thai population in early April 2020. It noted that 80% of the respondents, who are representatives from NGOs, community-based organisations, migrant communities, government or local administrations, educational institutes or religious entities, reported that they have heard of concerns about not having enough food to eat among their beneficiaries due to the consequences of COVID-19. It noted that some of the challenges that are facing migrant workers included insufficient income, unemployment or job loss, wage reduction and fear of detention or arrest.<sup>342</sup> A representative of Metta, a migrant charity, in the Thai-Myanmar border town of Mae Sot was quoted saying that “90 % of all Myanmar migrants have lost their jobs, leaving over 750,00 people stranded in Thailand since the borders were closed without any income. Many are desperate for food and shelter.”<sup>343</sup>

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341 Bangkok Post. 2 April 2020. Curfew starts on Friday. Available at <https://www.bangkokpost.com/thailand/general/1891910/curfew-starts-on-friday> (accessed on 11 November)

342 International Organization for Migration. 2020. *COVID-19 Related Vulnerabilities and Perceptions of non-Thai Populations in Thailand*. Rapid Assessment. IOM, p.7.

343 Tom Fawthrop. 1 June 2020. COVID-19: Thailand's Looming Second Wave. available at <https://thediplomat.com/2020/06/covid-19-thailands-looming-second-wave/> (accessed on 16 November 2020)

On 31 March 2020, the government announced that the unemployment benefits scheme, under the Social Security Act, would compensate 62% of the daily wage to those who have lost work, for up to 90 days between March and May 2020. Workers who lost their jobs or were suspended from work due to the COVID-19 outbreak became entitled to claim unemployment benefits by completing an electronic form to submit to the Social Security Office (SSO). It was a requirement to provide copies of their passports and the first page of their bank passbooks for identity verification.<sup>344</sup> At the end of April 2020, the government announced that migrant workers in Thailand could also claim unemployment benefits from SSO, meaning that if employers shut their business temporarily because of COVID-19, the migrant workers were also eligible to receive 62% of their daily wage for 90 days.<sup>345</sup> Most documented migrant workers in Thailand are registered with SSO, except domestic workers and workers in the agriculture sector. Under the Social Security Act, migrant workers are entitled to benefits that compensate for circumstances such as sickness or injury, maternity, disability, retirement and death. The unemployment benefit scheme the government applied for the coronavirus outbreak, had the maximum ceiling of the daily wage which was TBT 500 (USD 16) a day or TBT 15,000 (USD 495) a month for the compensation: 62% of the 15,000 baht (USD 495.50) is TBT 9,300 (USD 307) a month, therefore TBT27,900 (USD 922) over the three months was the maximum benefits.

The field researcher observed several issues and challenges of the unemployment benefit scheme for migrant workers. First, it was

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344 Bangkokbiznews.com. 1 April 2020. ‘ลงทะเบียนว่างงาน’ อัปเดตล่าสุดกับ ‘ประกันสังคม’ กรณีโควิด-19 (‘Register unemployment’, the latest update with ‘Social Security’ case of COVID-19). Available at <https://www.bangkokbiznews.com/news/detail/873492> (accessed on 13 November 2020)

345 Xinhua. 2020. Thailand Grants Unemployment Benefits To Migrant Workers Affected By COVID-19 - Xinhua | English.News.Cn. Xinhuanet.com. Available at [http://www.xinhuanet.com/english/2020-04/30/c\\_139021908.htm](http://www.xinhuanet.com/english/2020-04/30/c_139021908.htm) (accessed 25 June 2020).

too late to support the hardest hit migrant workers. The cabinet approved the scheme to be also eligible for migrant workers only at the end of April 2020, which was after the closure of borders and after a large number of migrant workers had already left Thailand as discussed earlier. Those who were not in Thailand at the time of the announcement were no longer able to exercise their right. Second, the access to this fund was predisposed to former employers to notify SSO that workers had been made redundant. Lack of willingness to assist or understanding of the scheme and application process meant that some employers did not undergo the required process to support applications of the benefit. A lack of information also resulted in many employers not understanding their responsibility to confirm work suspensions for those (ex-) employees who had applied for unemployment benefits. In many cases, Thai employers misunderstood this scheme for Thai-citizens only. Third, language acted as a barrier for migrant workers. As the application form of this scheme was available only in the Thai language, many migrant workers were not able to access the unemployment benefits scheme without the support of employers or NGOs such as community organisations. In early May 2020, a COVID-19 hotline specifically for migrant workers equipped with different languages was created jointly by NGOs, government departments and UN agencies. Up until this point, the access to information that migrant workers had was minimal due to linguistic barriers.<sup>346</sup> Further, the laid-off migrant workers were not entitled to the TBT 5,000 (USD 165) virus relief handouts from the government that the rest of the Thai population were entitled to.<sup>347</sup>

346 K. Wiboonpanich. 2020. *Hotline Clears Covid-19 Barriers*. <https://www.bangkokpost.com>. Available at <https://www.bangkokpost.com/thailand/general/1913772/hotline-clears-covid-19-barriers> (accessed 25 June 2020).

347 N. Phaicharoen. 8 May 2020. Thailand: Migrants Could Benefit From Moves To Ease COVID-19 Restrictions. BenarNews. Available at: <https://www.benarnews.org/english/news/thai/migrant-concerns-05082020175745.html> (accessed 25 June 2020).

## • **Repatriation of Migrant Workers**

On 18 May 2020, the Thai authority agreed with the Myanmar government that they would allow migrant workers wishing to return to Myanmar to do so despite travel restrictions and a curfew imposed. From 22 May, migrants could return from Bangkok to Mae Sot with specially arranged 10 night buses per night, limited to 21 passengers each and guarded by the Thai police. Only 210 passengers could travel in a single night, and returnees had to purchase bus tickets costing TBT 1,048 or MMK 45,660 (USD 35) and luggage limited to 20 kilograms.<sup>348</sup> The statement from the Myanmar Embassy in Bangkok said the nationals must register with Myanmar's labour attaché to be allowed to travel. In addition, migrants based outside Bangkok had to register at the attaché offices to apply for a travel pass from Thailand's Ministry of Foreign Affairs.<sup>349</sup>

The number of returning migrant workers continued to increase. According to a report of ILO published in July 2020, information from Myanmar, Cambodia and Lao PDR suggested that at least 310,000 migrant workers had returned to these countries between March and June 2020 including more than 90,000 Cambodian migrant workers, almost 120,000 Lao workers and 100,000 Myanmar workers.<sup>350</sup>

## • **Gradual Reopening of Businesses and Exclusive Lifting of Entry Bans**

After over a month since the emergency decree was imposed, the Thai government began to relax some of the lockdown

348 The Irrawaddy. 19 May 2020. Thailand Allows Stranded Myanmar Migrants to Return. Available at <https://www.irrawaddy.com/news/burma/thailand-allows-stranded-myanmar-migrants-return.html> (accessed on 15 November 2020)

349 Ibid.

350 International Labour Organization Country Office for Thailand, Cambodia and Lao PDR. 3 July 2020. COVID-19: Impact on migrant workers and country response in Thailand. Available at [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/briefingnote/wcms\\_741920.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/briefingnote/wcms_741920.pdf) (accessed on 30 November 2020)

measures. The first stage of the easing of COVID-19 curbs took effect nationwide on 3 May 2020. The first stage covers six categories of activities; 1) markets: fresh/flea/floating/community markets and vendors' stalls; 2) eateries: food, beverage, dessert and ice cream shops outside department stores, as well as food stalls, food trucks and hawkers; 3) retailing & wholesale: supermarkets, convenience stores, community shops and IT or telecom product shops, or grocery trucks; 4) sports & recreational activities: park activities, non-team and non-competitive sports; 5) barbers & hairdressers: only cutting, washing and drying services; 6) others: pet grooming & boarding shops.<sup>351</sup> After the first stage of reopening of businesses, restrictions were reviewed and lifted gradually over five stages in total until the beginning of July 2020. The second stage allowed businesses of 10 more sectors such as shopping malls, day-care nursing homes, conference venues, clinics and beauty salons, indoor gyms and swimming pools to reopen from 17 May 2020.<sup>352</sup> During this stage, the government launched a track-and-trace smartphone application called *Thai Chana* (Thailand Wins) to be used by both businesses and customers to track people's movements. The Ministry of Digital Economy and Society ensured the public that this application would be used solely for public health purposes in the announcement.<sup>353</sup> However, many migrant workers were left out from this kind of new normal practices in reopening businesses. *Thai Chana* application, for example, was designed for Thai and English speaking users only and there are no

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351 Bangkok Post. 1 May 2020. Lockdown to ease Sunday. Available at <https://www.bangkokpost.com/thailand/general/1910684/lockdown-to-ease-sunday> (accessed on 15 November 2020)

352 Bangkok Post. 16 May 2020. Bangkok allows 10 more businesses to reopen. Available at <https://www.bangkokpost.com/thailand/general/1919216/bangkok-allows-10-more-businesses-to-reopen> (accessed on 15 May 2020)

353 Coconuts Bangkok. 14 May 2020. Thailand Wins: Notify gov't everywhere you go with new COVID tracking app. Available at <https://coconuts.co/bangkok/news/thailand-wins-notify-govt-everywhere-you-go-with-new-covid-tracking-app/> (accessed on 15 November 2020)

translation functions to accommodate migrant workers who speak other languages such as Lao, Khmer and Burmese languages. That being said, for those who do not own or utilise this technology, a paper form is also available although it was also only written in Thai language.

The third stage of reopening businesses was implemented from 1 June 2020, with the curfew shortened from 10 pm - 4 pm to 11 pm - 3 am and 13 more business activities allowed to restart, including schools, child day-care centres, health-oriented massage parlours and in-door sports.<sup>354</sup> The fourth stage began on 15 June 2020 allowing more activities considered as "high risk" to reopen with a set of prevention measures in place. International and tutorial schools and most economic and everyday activities that had not been allowed in earlier stages were allowed with strict restrictions on the number of participants and implementation of other prevention measures.<sup>355</sup> On the same day, the government ended curfew, allowing local people to travel freely on the basis that there had not been a case of local coronavirus infection recently. However, the government also announced that controls on all immigration - by land, water and air - were to continue as all recent COVID-19 patients were people returning from other countries.<sup>356</sup>

The final stage of business reopening began on 1 July 2020 and all-night entertainment venues were allowed to open their doors again with the mandatory use of *Thai Chana* application.<sup>357</sup> The

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354 Bangkok Post. 29 May 2020. Lockdown eased from Monday. Available at <https://www.bangkokpost.com/thailand/general/1926372/lockdown-eased-from-monday> (accessed on 15 November 2020)

355 Bangkok Post. 11 June 2020. Further easing in works. Available at <https://www.bangkokpost.com/thailand/general/1932688/further-easing-in-works> (accessed on 15 November 2020)

356 Bangkok Post. 12 June 2020. Curfew ending, country remains closed to outsiders. Available at <https://www.bangkokpost.com/thailand/general/1933820/curfew-ending-country-remains-closed-to-outsiders> (accessed on 15 November 2020)

357 Bangkok Post. 30 June 2020. Nightlife makes return. Available at <https://www.bangkokpost.com/thailand/general/1942944/nightlife-makes-return> (accessed on 15

government's Centre for COVID-19 Situation Administration (CCSA) also announced on 29 June 2020 that from 1 July 2020 some groups of foreign nationals would also be allowed to enter Thailand, including experts and foreigners with work permits, their spouse and children, those who have residence in Thailand, spouses and children of Thai nationals, those seeking medical treatment and their carers, students and their parents, and other foreign nationals with special arrangements including guests of the government and investors.<sup>358</sup>

During the gradual reopening of businesses over the five stages, some migrant workers who were still living in Thailand could go back to work with their employer. However, many businesses could not continue to employ the same number of employees as before COVID-19, resulting in many migrant workers losing their jobs and not returning to work. For most migrant workers, their visa conditions only allow 30 days to find a new employer, otherwise, they must leave the country. Those who return to their home countries including neighbouring Myanmar, Lao PDR and Cambodia, before the closure of borders in March 2020 or during the repatriation arrangement in May 2020 could not yet return to Thailand because borders were still closed for them. Even though some groups of foreign nationals became eligible to enter the country, low-wage migrant workers such as those under MOUs or seasonal border pass holders from neighbouring countries were excluded.

- **Irregular Border Crossing and Stigmatisation**

Many migrant workers have been irregularly crossing the border to come back to Thailand since mid-June knowing that curfew has

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November 2020)

358 The National Thailand. 29 June 2020. Another 6 groups of foreigners allowed entry in July. available at <https://www.nationthailand.com/news/30390478> (accessed on 15 November 2020)

ended and businesses have reopened. The police and the Immigration Bureau increased policing of borders, particularly around natural channels such as the Mekong River.<sup>359</sup> The field researcher observed that although migrant workers from neighbouring countries managed to enter Thailand, they were often rejected by employers for new work as often being stigmatised as carrying the risk of the COVID-19 infection. On 6 July 2020, citing a report from security authorities, CCSA stated that more than 3,000 "illegal" migrant workers had been detained as they attempted to "sneak into" Thailand over the past month alone, some of them had already been deported, as the media reported.<sup>360</sup>

There are health concerns for migrant workers who are detained, as cases of migrant workers positive with COVID-19 in detention centres were reported in early May. This was made worse with overcrowding and unhygienic conditions in detention centres.<sup>361</sup>

The field researcher observed that as businesses reopened, there were growing demands of employers for workers to return to work, and also many migrant workers who had left the country were keen to return. However, the border with neighbouring countries remained shut, and it caused many migrant workers to cross borders via the natural path such as rivers in Chiang Rai and Tak province (Figure 4).

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359 Ann Carter. 21 June 2020. Thailand is policing illegal border crossings. Samu Times. Available at <https://www.samuitimes.com/Thailand-is-policing-illegal-border-crossings/> (accessed on 15 November 2020)

360 Bangkok Post. 7 July 2020. Taweelilp frets as survey shows Thais relaxed about virus risk. Available at <https://www.bangkokpost.com/thailand/general/1946832/taweelilp-frets-as-survey-shows-thais-relaxed-about-virus-risk> (accessed on 15 November 2020)

361 UCA News. 5 May 2020. Migrant Workers Contract Covid-19 At Thai Detention Center - UCA News. ucanews.com. Available at <https://www.ucanews.com/news/migrant-workers-contract-covid-19-at-thai-detention-center/87922> (Accessed 25 June 2020).

**Figure 4: Thai-Myanmar Border: Thai-Myanmar Friendship Bridge No.1 and Sai River in Chiang Rai Province**



(Photo taken by the field researcher)

A spokesman of CCSA was quoted saying that although there had been no locally infected COVID-19 cases detected for 45 days, the country was not entirely safe from COVID-19 as “alien workers are returning because the fifth phase of easing of the business lockdown is generating a demand for labour,” on 9 July 2020. Suggesting that undocumented migrants could be COVID-19 spreader, the spokesman said CCSA would set up more checkpoints on main roads leading to cities to intercept “illegal” migrant workers, and about a million village-based health volunteers would also be mobilised to monitor strangers who could be “illegal migrants.” They also urged employers to hire only legal workers to help control COVID-19 infections.<sup>362</sup> The government has portrayed migrant

<sup>362</sup> Bangkok Post. 9 July 2020. Illegal migrants latest Covid-19 worry. Available at <https://www.bangkokpost.com/thailand/general/1948656/illegal-migrants-latest-covid-19-worry> (accessed on 15 November 2020)

workers, particularly those who are undocumented, as possible virus carriers, creating further stigma on the population.

- **Re-admission of Migrant Workers and Mandatory Quarantine**

On 18 July, CCSA announced the plans to allow migrant workers from neighbouring countries to enter Thailand with new measures to regulate them with mandatory 14-day quarantine. They also stated that about 300,000-400,000 foreign nationals stranded in Thailand were required to contact the Immigration Bureau to receive permission to continue staying in the country or to leave between 1 August and 26 September 2020. Failing to do so, they would be arrested and blacklisted.<sup>363</sup> Finally, on 22 July 2020, CCSA approved bringing foreign labourers from Cambodia, Lao PDR, Myanmar and Viet Nam to work in Thailand as per the proposal of the Department of Employment. It was reported that two groups of foreign workers were approved to enter Thailand: 69,235 foreign workers with work permits and work visas who had requested a re-entry visa and 42,168 foreign workers without a work permit and visa but whose employers have submitted a demand letter to the country of origin.<sup>364</sup>

In addition to a “fit to travel” medical certificate, those without a work permit must be tested for COVID-19 and undergo six health check-ups, buy health insurance and spend 14 days in Alternate Local Quarantine (ALQ) upon arrival. During the quarantine period, training is held to inform workers about rules and regulations for living and working in Thailand. Employers are responsible for the cost of COVID-19 testing and the quarantine, between approximately

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worry (accessed on 15 November 2020)

<sup>363</sup> Bangkok Post. 19 July 2020. Migrant workers permitted to return but must undergo 14-day quarantine. Available at [https://www.bangkokpost.com/thailand/general/1953672?cx\\_placement=article#cxrecs\\_s](https://www.bangkokpost.com/thailand/general/1953672?cx_placement=article#cxrecs_s) (accessed on 15 November 2020)

<sup>364</sup> Tha National Thailand. 23 July 2020. Migrant labour from neighbouring countries now allowed to return. Available at <https://www.nationthailand.com/news/30391808> (accessed on 15 November 2020)

TBT 13,200 (USD 436) and TBT 19,300 (USD 637) per migrant worker.<sup>365</sup>

### **Migrant Worker Communities amid COVID-19**

- **Migrant Workers in Border Areas**

The field research in Thailand focused on migrant workers' communities, particularly those from Myanmar, in Chiang Rai province. The information was gathered mainly through exchange with migrant communities during the humanitarian relief work for migrant workers and their families, which the field researcher work on. Chiang Rai province is Thailand's northernmost province, and it is bordered by the Shan State of Myanmar to the north, Bokeo Province of Lao PDR to the east. The capital city of the province is also called Chiang Rai.

**Figure 5: Location of Chiang Rai Province**



[Source: Wikimedia Commons]

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<sup>365</sup> Ibid.

According to information from Chiang Rai Employment Office, obtained by the field researcher, as of 25 July 2020 there are 14,623 migrants officially working in Chiang Rai province.<sup>366</sup> Most of them are employed under MOUs between Thailand and neighbouring countries; 13,322 migrant workers are from Myanmar, 1,139 from Cambodia and 162 from Lao PDR. Major sectors of employment are the agriculture, industry, construction, and service (hospitality, catering and domestic work) sectors.<sup>367</sup>

According to the field research, most Myanmar migrant workers in Chiang Rai come from Mandalay region and Shan state. For those who originated from the Mandalay region, the common town of origin is Meiktila. Places of origins in Shan state are various cities such as Thachilek, Khunhin, and Tongyi. Although the official number of Myanmar migrant workers in Chiang Rai province is 13,322, this number excludes children and the elderly who are family members and accompany workers in the province. It is often the case that Myanmar migrant workers in Chiang Rai live with their elderly and young family members. Furthermore, there are no statistics on undocumented migrant workers. The field researcher estimates the real number of Myanmar people in Chiang Rai province engaging in labour to be somewhere around 20,000 to 25,000.

Migrant workers in the service sector usually live in dormitories in the inner city. The field researcher found that they typically pay the monthly rent for themselves at the price of around TBT 1,500 (USD 49.50) to TBT 3,000 (USD 99.10), including water and electricity bills. Those who work in the construction sector often live in suburb areas. As there are many construction sites in the suburb areas, most Myanmar migrant construction workers live in temporary houses built by their employers without a fee. They usually move

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<sup>366</sup> Statistical data was presented during a training provided for local migrant community leaders in Chiang Rai province on 8 August 2020.

<sup>367</sup> Ibid.

around the city following the construction sites they work in. Most migrant workers in the agricultural sector live in rural areas either in dormitories or shelters provided by their employers. As health experts have warned, migrant workers still live in cramped and unhygienic conditions as adequate sanitation is not guaranteed.<sup>368</sup> Further, migrant workers tend to have poor access to medical care making their communities vulnerable to further COVID-19 infections.

### **Financial Impact of COVID-19**

The public health measures such as lockdown, closure of businesses, curfew, border controls and entry ban also impacted Myanmar migrant workers in Chiang Rai Province. Many migrant workers had to take leave without pay. Most businesses in the service sector in Chiang Rai were forced by the provincial government to suspend operations temporarily. As a result, most Myanmar migrant workers in this sector, who spoke with the field researcher, were asked by their employers to stop working without paid leave. Working hours were also reduced for many workers and thus, reducing their income. Many employers decided to reduce the working hours of their employees during the pandemic to keep the cost of their business minimum. As Myanmar migrant workers income is usually based on daily wage, their revenue also decreased. Loss of income meant destitution to many Myanmar migrant workers, and they experienced not being able to buy enough food for themselves and their family and/or pay rent. Many told the field researcher that they had to ask their landlord or employer to postpone their rent payment. Financial difficulty affected not only migrant workers and their families living in Chiang Rai but also other members of the family including extended family in Myanmar who rely on remittances. A large percentage of migrant workers were

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368 T. Fawthrop. 2020. COVID-19: Thailand'S Looming Second Wave. Thedi diplomat.com. Available at <https://thedi diplomat.com/2020/06/covid-19-thailands-looming-second-wave/> (accessed 25 June 2020).

unable to send money back to Myanmar due to the financial impact of COVID-19.

### **Impacts on Border Crossing**

As discussed earlier, to contain the COVID-19 pandemic, the Interior Minister Anupong Paojinda ordered governors of border provinces to consider closing all borders and keeping only one main checkpoint open in each province on 20 March 2020. The exception was made for Chiang Rai as it borders on Myanmar and Lao PDR and were allowed to maintain one checkpoint for each country.<sup>369</sup> This border closure followed by nationwide lockdown created a massive exodus of migrant workers, about 60,000 of them rushed to return to their home countries in late March 2020.<sup>370</sup> In Chiang Rai, the border was reopened after a group of about 100 Myanmar workers arrived at the Mae Sai checkpoint, which links to Tachileik in Myanmar, only to find the border had been closed.<sup>371</sup> The migrant community in Chiang Rai was impacted by these chaotic events.

### **Impacts on the Rights to Health**

Thai people received support from the government in many ways. For example, there are healthcare volunteers supported by the Ministry of Public Health at the community level to distribute face masks and health checks for community members. However, migrant workers were not included in the community health service supported by the Thai government. There was no distribution PPE

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369 Bangkok Post. 20 March 2020. More border closures in fight against virus. Available at <https://www.bangkokpost.com/thailand/general/1883110/more-border-closures-in-fight-against-virus> (accessed 30 November 2020)

370 Al Arabiya. 25 March 2020. Coronavirus: Thailand lockdown pushes 60,000 migrant workers to leave: Official. Available at <https://english.alarabiya.net/en/News/world/2020/03/25/Coronavirus-Thailand-lockdown-pushes-60-000-migrant-workers-to-leave-Official> (accessed on 16 November 2020)

371 Bangkok Post. 24 March 2020. Migrants let through 'shut' checkpoints. Available at <https://www.bangkokpost.com/thailand/general/1884830/migrants-let-through-shut-checkpoints> (accessed on 11 November 2020)

to migrant workers funded by the government. The relief supplies from civil society have been a lifeline for migrant workers.

The Diplomat report suggests that the fact that Thailand has not experienced a significant outbreak of the disease among its migrant worker population can be attributed to the work of Migrant Health Volunteers (MHVs) network, which reaches out to the migrant communities. The volunteers are usually of the same nationalities of migrant workers they work with, so they can also interpret crucial information regarding COVID-19.<sup>372</sup> Viroonsiri Arayawong, a researcher of the Department of Health Service Support, said that “MHVs and the VHW (Thai Volunteer Health Workers) form the backbone of manpower controlling the spread of diseases in migrant worker communities.”<sup>373</sup>

Similarly, in Chiang Rai, Aid Center for Migrant Workers was founded in mid of April, which consists of members coming from three sectors; academia, NGOs, and migrant worker communities. This volunteer group plays an important role in helping migrant workers in mainly three ways; providing food and PPE to those who are affected, comprising 2,500 families in the city; setting up a working group in each dormitory to monitor the daily COVID-19 situation by checking and recording community members' temperatures; disseminating information related to workers' rights and helping migrant workers to apply for the benefit from SSO.

## Conclusion

Although Thailand was the first country outside of China that recorded a case of COVID-19, overall, it has handled the public

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372 Tom Fawthrop. 1 June 2020. COVID-19: Thailand's Looming Second Wave. available at <https://thediplomat.com/2020/06/covid-19-thailands-looming-second-wave/> (accessed on 16 November 2020)

373 Bangkok Post. 24 April 2020. Backbone of migrant health care. Available at <https://www.bangkokpost.com/thailand/general/1906480/backbone-of-migrant-health-care> (accessed on 16 November 2020)

health crisis well with sacrificing the country's major industry, which is tourism. That being said, there remains issues with regards to how this pandemic was tackled responding to the needs of Thailand's migrant worker communities. The lockdown imposed on cities created instability for migrant workers' job situations. As a result, there was a mass exodus of migrant workers towards the borders to return to their home countries, and the nature of Thailand sharing borders with its migrant workers' major countries of origin contributed to this mass movement of migrants. While priorities were given to expats and professional foreign nationals to enter Thailand upon initial reopening of borders, low-wage migrant workers who were desperate for work had no choice but to cross borders unlawfully. The research has shown that those who stayed in Thailand had their work cut or were fired, and thus experienced difficulty in paying for rent, food, PPE and sending remittances home. Migrant workers were also stigmatised as disease carriers. The Thai government has provided some financial remedies for individuals and businesses. Whilst some migrant workers qualify for these benefits, issues in accessing them have meant that some migrant workers are left-out of the scheme. Thailand's CSOs have stepped up in order to support migrant workers in humanitarian needs, as well as undocumented migrants who are left out of government benefits.

## Chapter 9:

# Conclusion and Proposed Guideline

Throughout the previous seven chapters that covered migrant workers' measure destinations in East and Southeast Asia, this study highlighted that migrant workers' rights have been repressed during the COVID-19 outbreak. At the same time, their resilience in dealing with challenges assisted by the actions and efforts of their supporters was also featured. This study explored how COVID-19 response measures and pre-existing migration policies have impacted migrant workers' rights in seven main destinations in East and Southeast Asia, namely Hong Kong, Japan, Malaysia, Singapore, South Korea, Taiwan and Thailand. It also examined how vulnerabilities of migrant workers translate into their lived experiences and how state and non-state actors have dealt with challenges faced by migrant workers. By bringing stories of some individual migrant workers, amplifying the voices of those who are affected, this study tried to fill the gap in the public discourse around COVID-19, which overemphasised statistics.

Common challenges faced by migrant workers during COVID-19 include but not limited to immobility both locally and internationally, limited or no access to healthcare and PPE, financial difficulties due to job loss and inability to access or ineligibility for financial assistance, exploitation and limited or no access to information. These have resulted in the violation of the rights of these migrant workers. As COVID-19 is a public health crisis, one of the most

obvious rights to be considered during this time is the right to health. Migrant workers' rights to health have been violated through limited or no access to healthcare, goods such as PPE, other essential services, health related information, food and water as well as safe living and working conditions. In certain destinations, the migrant workers populations were disproportionately infected by COVID-19 in comparison to the rest of the population.

Many migrant workers in all destinations studied in this research have experienced labour rights violation including unfair treatment and termination, exploitation and abuses, and risks of human trafficking has increased. There were cases where, due to financial pressure facing employers, some migrant workers saw their wages withheld, unpaid or underpaid or even dismissed unfairly. For those who live with their employers, termination of their employment means they also lose their place to live. Fear of immigration law enforcement has become barriers for many migrant workers, particularly those who are undocumented or with irregular status in accessing essential care and support. Migrant workers, who were stranded in their destinations due to international travel restrictions after their contract terms have ended or their employment were terminated, have often been given only short-term and/or case by case visa extension. These extensions of visas do not guarantee their rights to work or access to essential services. Due to a sense of uncertainty coming from above situations, financial and emotional distress, immobility, exploitation and increased surveillance by employers resulted in worsening of mental health conditions of many migrant workers.

The governance of migrant workers is manifested in the immigration laws and policies usually of destination governments, but also those of governments of origin, which are embodied in bilateral agreement or MOUs. These policies are often based on national interests centred around economic development and national security rather than protecting migrant workers' rights. As

As a result, most migrant workers are only given temporary status with limited rights. It is very common among migrant workers' destinations in East and Southeast Asia that low-wage and temporary migrant workers' visas are attached to their employers or specific type of work limiting their job mobility. As often seen in the cases of migrant domestic workers in countries such as Singapore and Hong Kong, migrant workers in some sectors or with specific visas are not protected by national labour laws leaving them extremely vulnerable to exploitation. Most of the challenges and rights violations experienced by migrant workers during COVID-19 are not new but exacerbated, and they are deeply rooted in the ways in which migrant workers have been positioned and treated since a long time before the pandemic. The public health crisis has highlighted their vulnerabilities.

Another main challenge and rights violation that migrant workers face is the fact that governments of destinations have used nationality, citizenship or immigration status as a criteria or eligibility for healthcare, goods, other essential services and support as well as financial assistance. The requirement to prove their legality and eligibility to essential care, services and assistance by showing passports and visas reproduces border controls within borders during the public health crisis. Discourse of immigration controls based on inclusion and exclusion continues during the COVID-19 even despite border closures. It also overlooked the vulnerability of migrant workers relating to their personal documents such as passports and residency cards. Migrant workers in exploitable conditions often do not have access to their own personal documents as their employers withhold them. This means that even though migrant workers are eligible for some services and assistance, they may not have the accessibility. For low-wage and temporary migrant workers having visas tied to their employers or specific type of work, loss of work means they face risk of becoming undocumented unless they are facilitated for alternative

arrangements, thus losing their access to essential services.

The temporary nature and restrictive rights given to migrant workers limit their ability to fully participate in society. They are often stigmatised, discriminated and under-represented, and it leads to their exclusion from protection. Some supportive measures taken for migrant workers, such as the extension of visas, are still temporary and restrictive, thus failing to protect and fulfil the rights of migrant workers properly. Without being able to address their basic needs and welfare and uphold labour standards, most COVID-19 public measures did not solve the root causes of the issues.

Access to information affects all aspects of migrant workers' rights. This study saw many destination governments making some efforts to translate important COVID-19 related information to major languages of the migrant worker communities. However, they are often not regularly updated and are only disseminated through very limited channels such as governments' websites. In addition, some information regarding restrictions imposed on migrant workers tended to be prioritised over information to protect or support them.

Providing accessible information and facilitating access to available support heavily rely on civil society including self-help groups and community volunteers who have direct and trusted relationships with migrant workers. Humanitarian assistance including providing food and shelters as well as financial aid to those who are not entitled to governments' assistance were also led by local civil society. Self-help groups and religious communities have additionally provided emotional and culturally sensitive support. Some employers and businesses have shown support to migrant workers by facilitating access to information, healthcare, social protection and/or upholding labour standards to protect workers. Some business owners who also have migrant backgrounds have provided support to and advocating for newer migrant workers

utilising their own experiences and established relationship with the host communities. In addition to direct support, in some countries, as seen in the example of South Korea, civil society has played a very important role in advocating for fair treatment of migrant workers and influenced changes in policies and measures taken by governments.

This study concludes that challenges facing migrant workers and violation of their rights during COVID-19 outbreak are rooted in the structural vulnerabilities of migrant workers resulting from ways in which they are positioned and treated in the destinations due to labour migration policies of both origin and destination countries. Their status as temporary migrants with restrictive rights have made their rights further repressed during the crisis. Their current treatment has a strong relationship with their underrepresentation in political spheres due to the lack of participation and engagement in policy development and implementation process in each destination. The global pandemic has brought an escalation of stigmatisation and discrimination against people who are considered as “others” by the mainstream population.

Meaningful participation and engagement are the only effective ways to not only protect migrant workers, but society as a whole. Protecting vulnerable populations, including migrant workers, will protect everyone. Vulnerabilities of migrant workers, particularly those rooted in intersectionality with other identities such as gender, sexual orientations, race, age, disability, languages, and religious or political beliefs must be also recognised. The resilience of migrant workers and their supporters in dealing with such situations should be acknowledged and supported in line with the efforts by other stake-holders such as states. States and other power holders should ensure resources are distributed to support grass-roots efforts that are based on direct and trusted relationships with migrant workers.

In order to advocate for meaningful participation of migrant

workers, the recognitions of the following contexts of each country is important; 1) national interests influencing migration policies, which are usually centred around economic development and national security rather than protecting human rights of migrant workers; 2) historical context and current political systems, including dynamics of leadership in dealing with cross sector issues such as migration and public health, 3) the level of democratisation, capacity and space enabling civil society to advocate migrant workers and their impact on governments’ decision making.

Finally, as a collective initiative, this joint research proposes a guideline for protecting rights of migrant workers during a public health crisis. It is developed based on the findings of this joint research across East and Southeast Asia, analysis and discussion throughout the project, and are also kept broad enough to be adopted for and used for advocacy work at various levels in every destination. It is hoped to be used as reference dealing with the continuing outbreak and recovery from COVID-19 and in preparation for any future public health crisis.

### **“Proposed Guideline to Protect Migrant Workers’ Rights during Public Health Crisis”**

#### **GENERAL PRINCIPLE**

- States and non-states actors must recognise vulnerabilities of migrant workers, which are exacerbated during public health crises such as COVID-19. Their vulnerabilities as a result of intersectionality of various identities such as gender, sexual orientations, race, age, disability, languages, and religious or political beliefs, should also be considered in any response to the crisis.
- The resilience of migrant workers in dealing with such situations should be acknowledged and supported in order to shape a more inclusive society. Contributions of all migrant workers to the

society in both places of destination and origin must be appreciated. Meaningful participation and engagement are the only effective ways to not only protect migrant workers, but society as a whole.

- Nationality, citizenship and migration status should never be the criteria for states in providing essential support to people in its territory or under its jurisdiction during public health crises. Everyone, including all migrant workers, their families and/or dependents must be taken into account as an integral part of any public health and recovery response to COVID-19 or any future public health crisis, without any distinction, exclusion, restriction or preference based on nationality or migration status.
- States should create an administrative separation between the immigration law enforcement and public health service provisions to allow all migrant workers to seek immediate healthcare, including testing and treatment without fear of criminalisation, detention and forced deportation. The public health service provisions should include all essential services such as food, water, sanitation and safe living conditions.
- States should ensure that policies, regulations, measures, public discourses including campaigns and the media reports addressing crisis do not contribute to stigmatisation, discrimination and xenophobia, by avoiding associating the disease with specific groups of people, such as migrant workers, and ensuring the meaningful participation and engagement of those who are concerned.

#### **RIGHTS TO HEALTHCARE, GOODS AND SERVICES**

- States should guarantee the right to health for everyone without discrimination. This includes access to healthcare, adequate PPE, accessible information and relevant services. The scarcity of resources is not a sufficient basis for treating migrant workers' needs differently.

- Any policy and practical measures, including communication measures, should be put in place to ensure that all migrant workers' timely and effective access to healthcare, goods, information and services. Communication messages and public information campaigns should make clear that migrants in irregular situations will not be penalised or targeted for the law enforcement when seeking access to healthcare services.
- Mental health should also be considered as public health. Physical health crisis response measures must be taken to minimise the risk of mental health deterioration by addressing specific vulnerabilities of migrant workers and to include them into a mental health response.

#### **RIGHTS TO INFORMATION**

- Internet access is essential to ensure that information reaches those who are concerned, particularly those who are away from home including migrant workers. States should not impose any internet disruptions, shutdowns or any other acts of limiting people from accessing information.
- States must guarantee that journalists and the media can report on the pandemic without fear of censorship, criminalisation and other violation of human rights. Everyone, including migrant workers, must also be able to speak freely to raise concerns and share information with each other and the public.
- Development of information materials and dissemination efforts should be made with the meaningful, equal and gender-balanced participation of community members and civil society actors that consist of or have trusted access to migrant workers.
- Information on the prevention, diagnosis and treatment, as well as measures taken to address its spread, should be available to everyone, including all migrants, in a language they understand and in formats they can access. Information must be accessible

for people with specific needs, including the visually and hearing impaired, and reaching those with limited or no ability to read or with no internet access.

### ***RIGHTS TO DECENT WORK AND SOCIAL PROTECTION***

- Government interventions to alleviate the economic impacts of the pandemic in the form of economic aid, stimulus packages or other targeted interventions for business enterprises should benefit not only business owners but also individual workers proportionately, including migrant workers.
- States and employers must ensure that dismissals are only made with adequate prior notice, in cases when the reason is legitimate and other alternatives have been exhausted such as reducing work hours, limiting or restricting the hiring of new employees, limiting overtime, weekly or general work holidays, reducing workforce wages, and implementing temporary lay-offs without any discrimination. Labour rights must be upheld and protected by law for all types of work.
- Governments should address the vulnerabilities of migrant workers to exploitation during the public health crisis and take measures to prevent and regulate exploitation, such as wage depression, unpaid, delayed and underpaid salary, over-time work, prohibition of rest and paid holiday caused and/or deteriorated by the pandemic. Migrant workers' access to grievance mechanisms, remedies and compensation for unfair treatment at workplaces must be improved and informed.
- States, together with social partners, businesses and other stakeholders, should put in place integrated approaches that include migrant workers in national social protection system, in line with the equality-of-treatment and non-discrimination principles enshrined in international human rights and labour rights standards.

### ***RIGHTS TO SAFE AND FAIR IMMIGRATION PROCESSES***

- Tightened border controls and measures implemented at international borders, including screening and quarantine at points of entry, must ensure non-discrimination, confidentiality and dignity and should not imply mandatory or indefinite detention.
- States should lift attached-to-employer conditions on migrant workers' visas in order to support their resilience by allowing them to change their employers or find new opportunities.
- States should consider regularisation of undocumented migrants and timely and adequate length of visa extension for all migrants with rights to healthcare, housing and work, during the pandemic, as a way to facilitate migrants' access to rights to adequate livelihood and to protect public health. Migration and asylum procedures should comply with due process guarantee and avoid placing migrants in vulnerable situations, such as rendering them without legal immigration status. States should temporarily suspend enforced returns during the pandemic.
- Governments should avoid arbitrary arrest and detention and urgently prioritise the release of people from immigration detentions and institute a range of human rights-based, non-custodial alternatives to detention, with access to safe and adequate housing, food and basic services in order to protect the rights and health of migrants and staff in immigration detention facilities. Children must be immediately released into a safe environment.

### ***RIGHTS TO BE PROTECTED FROM TRAFFICKING***

- Governments should recognise the increased potential risk of people being trafficked and deteriorating situations faced by survivors/victims of trafficking during the public health crisis. Responses to trafficking should not be undermined; resources for shelters and support services should not be subject to

cutbacks, and policing efforts should not be reduced because of the pandemic. Governments should continue to improve and support the work of national mechanisms, including provision of protection and assistance to survivors/victims of trafficking.

#### ***RIGHTS OF WORKERS AT REMOTE, PRIVATE, HARD-TO-REACH WORKPLACES***

- Labour rights of migrant workers in remote, private or hard-to-access workplaces must be recognised and protected by law equally. They include, but are not limited to plantation workers, fishermen in distant water, agricultural workers, sex workers, domestic workers and caretakers in private households.
- Specific actions should be developed and taken to protect the health and other rights of migrant workers in remote, private or hard-to-access workplaces. The increased risk of gender-based violence during movement restrictions must be addressed.

#### ***RIGHTS TO SAFE LIVING CONDITIONS***

- State must improve the living conditions of migrant workers in informal settlements, camp situations, or inadequate housing including overcrowded dormitories provided by employers so that they can follow public health protocols for prevention of deteriorating public health.
- Specific actions should be developed and taken to protect the health and other rights of migrant workers living in informal settlements, camp situations, or inadequate housing including overcrowded dormitories provided by employers. The increased risk of gender-based violence during movement restrictions must be addressed.

#### ***ROLES OF CIVIL SOCIETY & INTERNATIONAL AND CROSS-REGIONAL COOPERATIONS***

- States, international organisations and donor organisations

should acknowledge the effectiveness and expertise of civil society actors including self-helping groups and public interest lawyers in responding to the special needs of migrant workers. More resources should be distributed to responses by civil society actors that already have trusted relationships with migrant workers.

- States and all other stakeholders should expand the space for dialogue and continue enhancing cooperation with counterparts in migrant workers' countries of both origin and destination at the national and regional levels in order to support effective responses and during the public health crisis and post-crisis recovery.

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## About

### Human Rights Working Group (HRWG)

HRWG is a network of more than 48 non-governmental organizations working on promoting human rights in Indonesia. It was established in 2000 by NGOs sharing similar interests and seeking a platform to coordinate and lead international advocacy efforts. HRWG's main objective is to promote government accountability on constitutional obligations and international standards to respect, promote, protect, and fulfill human rights at home by maximizing available human rights mechanisms at different levels.

HRWG has drawn upon its role as a regional actor to further the mission of increasing the effectiveness of human rights advocacy work at the United Nations, Association of Southeast Asian Nations (ASEAN), and Organizations of Islamic Cooperation (OIC) with the following objectives:

- a. Impact-oriented to ensure that international advocacy has an impact at the domestic level by working in coordination with human rights defenders and relevant stakeholders, both at the national and international levels;
- b. Cultivating networks and coalitions in bringing and supporting national issues to the national and international arenas;
- c. Capacity building to create a pool of experts, trainers, and human rights defenders from civil society to carry out the work on human rights advocacy;
- d. Monitoring and knowledge building by monitoring Southeast Asian countries' foreign policy on human rights.



Will this global pandemic bring a change towards inclusive governance of migrant workers?

This joint research looks at situations of migrant workers in their major destinations in East and Southeast Asia, namely Hong Kong, Japan, Malaysia, Singapore, South Korea, Taiwan and Thailand. Joined by practitioners of civil society or migrant support organisations and community-based researchers working directly with migrant workers, this study aims to 1) assesses the impact of COVID-19 response measures and pre-existing migration policies on rights of migrant workers during the pandemic; 2) examine how vulnerabilities translate to lived experiences of migrant workers; and 3) explore how state and non-state actors are dealing with challenges faced by migrant workers. This research is also aimed at amplifying voices of those who are affected and bringing them to the multi-stakeholders at the national and regional levels, and proposes a guideline for protecting rights of migrant workers during a public health crisis. This is part of an initiative of civil society actors in both East and Southeast Asia to work collaboratively to address issues faced by an increasing number of migrants moving cross-regionally.

*"At home, we are afraid of employers, not the virus;  
On holiday, we are afraid of the police, not the virus."*

*"Very upset and disturbed, lots of burdens, fears, worries because many regulations that have emerged from the government and employers have prohibited holidays."*

*"We were lucky to have received this food assistance – a pack of 10kg rice, 2kg cooking oil and a few other food supplies. However, this only lasted for three days."*

*There were 12 of us staying in the same house.*

*When we received the assistance, we were asked to give our contact details, but they didn't give us their contact information. We wanted to call and ask for additional food supplies but we didn't have their phone number. (...)*

*We were initially sceptical and afraid to go outside after hearing the random arrest happening around us. But at the same time, we can't stay in the house as food supplies are limited, and that we need to work and begin to send money back home".*

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群眾

HRWG



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ISBN 978-623-94398-1-1



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