

**Consultation with CESCR and CEDAW: Women and Economic, Social and Cultural Rights –
Current Challenges and Opportunities for Advancement**

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[DRAFT] Briefing paper on women and work

Introduction

Women’s rights to work and at work, as provided for in CEDAW, CESCR and ILO Conventions, are systematically violated around the world.

In every country in the world, women are paid less than men for work of equal value, which translates into large income inequalities throughout their lives. On average, women’s earnings are 24% less than men’s earnings.¹ This is despite the fact that in every region, women work more than men: if paid and unpaid work are combined, women in all countries work longer hours than men each day.² In countries where gender pay gaps have narrowed, this has been in the context of falling real wages for both women and men, and the gaps have narrowed only because men’s wages have fallen faster than women’s, so there has effectively been a ‘levelling down’ for all.

Despite increasing levels of education, gender stereotypes and direct and indirect forms of discrimination have led to consistent occupational segregation whereby women are clustered in vulnerable³ and exploitative forms of employment, where their rights at work—including a right to a living wage and the right to unionise—are routinely violated. Women workers comprise the majority of workers in the garment industry, agricultural subsistence farming and service industries.

Domestic work is the most common occupation for women in Asia, accounting for one-third of all waged female employment.⁴ Globally, 83% of domestic workers are women. Although domestic work makes a significant contribution to the economic and social development of countries, particularly in the form of remittances, gendered notions of work that link women with the “private” sphere of nurturing and service mean that domestic work is among the lowest paid, least valued, and least organised forms of work. Further, because of the isolation of domestic workers and the lack of recognition of domestic work as a form of employment, domestic work is largely unregulated and labour laws fail to protect the rights of domestic workers. For example, more than half of these workers are not entitled to earn the minimum

¹ UN Women, Progress of the World’s Women (2015).

² UN Women, Progress of the World’s Women (2015).

³ The UN defines vulnerable employment as own-account and unpaid family workers.

⁴ ILO, Domestic Workers Across the World: Global and Regional Statistics and the Extent of Legal Protection (2013).

wage.⁵ As a result, domestic workers are regularly exploited and abused. Migrant domestic workers are even more vulnerable to exploitation because of their doubly subordinate status as women and as foreigners.⁶

Violence against women in the workplace is also pervasive: studies indicate that 30 to 40 per cent of women workers in Asia and the Pacific report some form of verbal, physical or sexual harassment.⁷

These gaps reflect direct and indirect discrimination in the labour market and household, as well as inequality in unpaid care work undertaken by men and women.

Positive developments

- Adoption by governments of the 2030 Agenda for Sustainable Development, which includes a Goal on the promotion of full and productive employment and decent work for all and a Goal on the reduction of inequality. The indicators for the targets in these goals are still being determined and may represent progressive measures of decent work and income inequality.
- Current efforts to develop an ILO Convention on violence against women
- Expansion of sexual harassment law in the Philippines; review of sexual harassment law in Malaysia
- Increases in unionisation, e.g. increase in the number of domestic workers unions since ILO Convention 189 was adopted; and an increase in the registration of unions since the collapse of Rana Plaza in Bangladesh
- The UN Secretary-General's Synthesis Report on the Post-2015 Agenda also endorsed the need for a living wage.

Issues to consider

There are a number of drivers of inequality in women's work but, as highlighted by UN Women's 2013 Expert Group Meeting Report, at the heart of this inequality is a 'neoliberal model of development that is incapable of supporting gender-equitable development.' Reductions in women's employment and the concentration of women in low-paid, poor-quality jobs can be attributed to a number of features of the neoliberal development model, including:

- Reductions in the size of the public sector, which is a significant source of employment for women. Trends towards privatisation as well as austerity measures imposed by international financial institutions have heavily contributed to reductions in the size of the public sector. As recognised by the Independent Expert on the Effects of Foreign Debt on Human Rights, women are often the first to lose jobs and the last to be re-hired because they are assumed to be secondary breadwinners.⁸

⁵ UN Women, Progress of the World's Women (2015).

⁶ APWLD, CARAM-Asia, UFDWRs, The Right to Unite: A Handbook on Domestic Workers Rights across Asia (2010) 13.

⁷ Report of the UN Secretary General, In-depth study on all forms of violence against women (2006) A/61/122/Add.1.

⁸ Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social, and cultural rights (2012) UN Doc. A/67/304 [58]. Layoffs in the public sector were a key condition imposed by the IMF in exchange

- Trade and investment liberalisation, which has led to a number of negative consequences for women’s decent work:
 - The gender wage gap and poor conditions for women at work are considered a source of competitive advantage in global value chains, thus creating an incentive to maintain poor conditions for work for women in developing countries. This is clearly evident in export-oriented industries across developing regions, including manufacturing.
 - The liberalisation of agricultural markets has had a disproportionate impact of women, who make up the overwhelming majority of agricultural workers and are widely employed in small-scale or subsistence production. It is particularly difficult for women to compete with the large-scale, commercial, input-intensive farming of multinational producers for several reasons: first, structural barriers they face to accessing resources such as credit, technical assistance, and transport significantly constrain the ability of women farmers to compete in open markets and they are frequently the first to lose employment or income. Second, the expansion of export-oriented crops has led to the decreasing availability of land for subsistence agriculture.⁹ Research confirms that the promotion of cash crops to improve agricultural efficiency exacerbates the marginalisation of women agricultural workers, as managing cash crops is considered to be a task for men (while subsistence crops are considered “female” crops).¹⁰ The discriminatory impact on women of a liberalised agriculture sector is also fundamentally tied to women’s inability to own or access land in a number of countries because of legal or customary norms
 - Women owners of micro, small and medium-sized enterprises are less likely to be able to compete with foreign competition, because of an inability to quickly adopt operationally and technologically. This is attributable to legal and cultural biases faced specifically by women-run or owned SMEs that impede them from accessing trade and growth, including structural barriers to accessing finance, a lack of access to critical information on key issues such as land titling, and the impact of social support systems for businesswomen including childcare and education.¹¹ This is backed up by research in 141 countries that documents legal frameworks that support the capacity of men, but not women, to engage in work and set up their own businesses, often through directly discriminatory laws.¹² In the words of one ILO report, women in the informal economy “fail to reap much of the benefits” of increasing global economic integration, and often “find that they are the ‘weakest links’ in global value chains”.¹³
- Labour market deregulation, which has diminished the role of national wage setting mechanisms and promotes devolving wage setting to market based mechanisms. Minimum wages, where they exist, are increasingly seen as a safety net, rather than a process to set living wages. Deregulation also places

for the USD \$57 billion aid package to South Korea during the Asian financial crisis. Their compliance resulted in women losing jobs at twice the rate of men despite the fact that their unemployment before the crisis was half that of men’s

⁹ Jane Korinek, Trade and Gender: Issues and Interactions, OECD Trade Policy Papers No. 24 (2005).

¹⁰ Bharati Sadasivam, The Impact of Structural Adjustment on Women: A Governance and Human Rights Agenda, 19 Human Rights Quarterly 3 (1997)

¹¹ UN Women, Effects of Trade on Gender Equality in Labour Markets and Small-scale Enterprise (2010).

¹² Nabila Kabeer, Women’s economic empowerment and inclusive growth: labour markets and enterprise development (2012) 13.

¹³ ILO, Gender and the Informal Economy (2008).

restrictions on freedoms to associate and to strike, prohibits compulsory unionism and makes it difficult to unionise un-unionised and informal sectors.

Women's labour and migration

As women increasingly lose traditional sources of livelihoods, they are also more likely to migrate. Labour has now become a leading export product in many countries. The types of informal employment in which women migrants tend to be concentrated are characterised by low job security, low incomes, little or no access to social benefits and fewer opportunities to participate in education and training than formal employment,¹⁴ not to mention the risk of exploitation, violence and trafficking. Migration policy in destination countries in Asia is tilted heavily towards short-term placement arrangements and discourages permanent settlement or immigration by migrants and families, creating circular migration and job insecurity.

A huge migration industry has also developed in Asia, involving a myriad of players: labour recruiters and poachers based in the countries of origin, pre-departure travel organisers and trainers, labour brokers/agents from the destination countries, and peddlers of varied on-site services for migrants. Some of the richest people in Asia are in the migration industry, yet most of them keep a deliberately low profile. Cases of scandalous recruitment and placement fees (equivalent to two or more months of migrants' wages), contract substitution, employer substitution, contract deviations, outright trafficking, non-existent job placements and varied human and migrant rights violations abound. This is aggravated by the inability of governments of origin and destination countries to forge bilateral and multilateral agreements to enforce international conventions protecting migrant workers' rights. In fact, only four countries in the region have ratified the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and only the Philippines has ratified the ILO Convention on Domestic Workers.

The large numbers of women who migrate to take on jobs in other countries as domestic workers fill the unmet need for care services in richer destinations, while leaving their families at home to reorganise tasks and care responsibilities in their absence. As stated by the Special Rapporteur on Extreme Poverty and Human Rights in her report on unpaid care work and women's human rights, this intensifies the overall care deficit in poorer countries.¹⁵ Further women's migration generally does not change the sexual division of labour; the extra responsibilities usually fall to older women and girls within the household or community. The Special Rapporteur states:

These global care chains reflect and, in some ways, exacerbate enormous inequalities in terms of class, gender and ethnicity. The people who make up the chains, from the first to the last link, are almost exclusively female, often belong to an ethnic minority in their destination country, and generally cannot rely on State support for their care responsibilities.¹⁶

¹⁴ According to the ILO, women consist of over 60 percent in East and Southeast Asia and the Pacific, and over 80 percent in South Asia. Source "Vulnerable employment share by sex and region", ILO (2009).

¹⁵ UN Special Rapporteur on Extreme Poverty and Human Rights, Report on unpaid care work and women's human rights (2013) A/68/293 [66].

¹⁶ Ibid, [67].

Women in trade unions

The protection of women's rights at work is also significantly undermined by the lack of women in trade union leadership. In Bangladesh, only 14% of all trade union members are reported to be women and one study found that none of the 17 unions had a woman as general secretary and only two had women Presidents. Researchers have found that barriers to women's membership and leadership in trade unions included legislative provisions, the structures of trade unions and the culture of patriarchy within workplaces, the community and family.¹⁷

The need for a common living wage

The living wage concept has existed as a wage setting device for more than 100 years in some countries and is recognised by the ILO constitution in 1919. A living wage has been established as a human right through article 23 of the UDHR and article 7 of ICESCR, as well as several ILO instruments. A living wage is a wage that allows a family to live in dignity with sufficient food, shelter, resources, energy, health care, education, communication and recreation. A worker receiving a living wage should be able to support a family of 4 people without going into debt or relying on financial support from other family members.

Differences between a living wage and a minimum wage have often come about because of inherent and explicit gender discrimination. Wages set below the living wage assume that the worker does not need to support a family and originated from assumptions that women are dependents, not providers. This sexist assumption has allowed wages to be eroded over decades most notably in industries that employ women – the garment industry being a clear illustration.

The disparity between the minimum wage and living wage remains stark in most Asian countries, despite the fact that a living wage is an essential element of decent work agenda.¹⁸ A common living wage or floor wage would have multiple development benefits, not just for workers but for the broader economy. Many companies are wary of adopting a living wage for fear it will mean being priced out of the market. Universal commitments to a living wages would prevent capital flight in search of the lowest possible labour conditions. Living wages also stimulate domestic markets and increase much needed tax revenue.

The global push for increases in productivity, lower prices and higher profits has pushed down real wages, particularly for low-skilled industries. The failure to increase minimum wage has allowed the gap between minimum wage and the average wage to grow and the gap between minimum wage and GDP to also grow. Bangladesh has been a worst-case scenario where the minimum wage in the garment industry remained unchanged between 1994 and 2006 while the cost of living went up around 5 per cent annually. This effectively meant that workers suffered a 5% wage cut annually with the cumulative effects growing much higher.

¹⁷ Bangladesh Institute of Labour Studies, 'Women's Participation in Trade unions in Bangladesh: Status, Barriers and Overcoming strategies', 2009.

¹⁸ The concept of a living wage is based on the ILO Conventions 95 and 131, ILO Recommendations 131 and 135 and Article 23 of the Universal Declaration of Human Rights

Useful resources

Asia Pacific Forum on Women, Law and Development. [Decent Work and Living Wage Briefer](#). 2015.

___ [Beijing+20 Asia Pacific Regional Review: Progress in the Asia Pacific Region](#). 2014.

___ [The Right to Unite: A Handbook on Domestic Workers Rights across Asia' \(APWLD\) Asia Pacific Forum on Women, Law and Development](#). 2013.

___ [Know Your Rights, Claim Your Rights under the New ILO Convention on Domestic Workers](#). 2013.

International Labour Organisation (ILO). [Global Employment Trends for Women](#). 2012.

Ethical Trading Initiative. [Homeworker Briefing](#). 2010.

N Kabeer; supported by UK's Department for International Development (DFID) and the International Development Research Centre (IDRC). [Women's economic empowerment and inclusive growth: labour markets and enterprise](#). 2012.

UN Women. [Progress of the World's Women 2015-2016: Transforming Economies, Realizing Rights](#). 2015.

___ [Economic Crisis and Women's Work: Exploring Progressive Strategies in a Rapidly Changing Global Environment](#). J Ghosh. 2013.

S Seguino. *The Global Economic Crisis, Its Gender Implications and Policy Responses*. Paper prepared for Gender Perspectives on the Financial Crisis Panel at the 53rd Session of the Commission on the Status of Women. 2009.

Asia Floor Wage. [Stitching a Decent Wage Across Borders](#). 2009.