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To: Office of the High Commissioner for Human Rights, United Nations, Geneva

# Universal periodic review of Singapore, 3rd cycle, 2021

## Civil society stakeholder submission

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### COVER PAGE – IDENTIFICATION

This submission is for the universal periodic review of Singapore in the third cycle (38th session), 2021. It is a joint submission by two organisations active in the field of migrant worker rights, namely:



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### COVER PAGE – PROFILES OF SUBMITTING STAKEHOLDERS

**The Humanitarian Organisation for Migration Economics (HOME)** was established in 2004 and runs programmes to uphold the rights of migrant workers in Singapore. It assists an average of 2,000 workers a year in crisis situations, including employment-related disputes. The organisation works

with the Singapore government, in particular the Ministry of Manpower (MOM), to resolve these disputes. It offers shelter, employment advice, social support, financial assistance and legal aid for workers without charge.

**Transient Workers Count Too (TWC2)** is a non-profit organisation registered in 2004 with a twofold mission: to assist migrant workers in difficulty and to advocate for better policies. TWC2 helps over 2,000 cases a year navigate available legal and administrative systems, and through TWC2's own programmes including: free meals, financial and case support for medical care, housing, transport, phones, and litigation. TWC2's advocacy arm includes research, case documentation and intensive public communication to both the general and migrant communities.

## MAIN SUBMISSION

This report comes in three sections.

**Section 1** spotlights the outcome recommendations from the UPR of Singapore 2016 that are relevant to the work of the submitting stakeholders and assesses progress on implementation.

**Section 2** discusses the major current issues impacting the human rights of migrant workers in Singapore.

**Section 3** contains suggestions for further recommendations in this cycle.

### SECTION 1: OVERALL ASSESSMENT

1.01 As listed in the matrix in Annex A, Singapore supported a number of recommendations in the second cycle (2016) relating to migrant labour (see identifying reference numbers in Annex A). Overall, the recommendations call for a strengthening of legislation, more effective operational policies and stronger enforcement to protect the rights of migrant workers including: social and economic rights, protection against exploitation and discrimination, effective remedies, and access to healthcare.

1.02 In the period since the second cycle, there have been very few improvements in the situation of migrant workers. Most changes have been either to streamline bureaucratic processes which do not necessarily improve protections for migrant workers -- in the case of the digitisation of the salary claims processes, changes have probably made access harder for them. Mandatory insurance and compensation limits have been raised, but largely to keep up with inflation.

1.03 Our assessment is that none of the recommendations in our area of interest have been implemented to any substantial degree.

1.04 Covid-19 has brought about regression. Migrant workers' salary entitlements during lockdown have been seriously compromised by obfuscating statements made by the government that appear to contradict workers' legal rights, and their freedom of movement has been highly constrained by new regulations.

1.05 Our detailed assessment of implementation of each recommendation from the second cycle UPR can be seen from the matrix in Annex A.

## SECTION 2: ISSUES IN GREATER DETAIL

### **SW-01. Domestic workers excluded from the Employment Act**

2.01.1 Domestic workers continue to be excluded from Singapore's main labour law, the Employment Act. The government has said that despite this, they are they are provided with robust policies and other legislative protections, namely the Employment of Foreign Manpower Act (EFMA). This is misleading. The protections offered fall short of international labour rights standards. There are, for example, no legal limits within EFMA on the number of hours they can be asked to work and it is not mandatory for domestic workers to have a weekly 24-hour day off. Public holidays, paid annual leave, and sick leave are also not legally guaranteed<sup>1</sup>. Moreover, domestic workers are specifically excluded from the Work Injury Compensation Act<sup>2</sup>.

### **SW-02. No effective action against high recruitment costs**

2.02.1 Migrant workers continue to report having to pay high recruitment fees to secure employment in Singapore. The amounts vary depending on the country of origin, skills and experience of the worker, and can be as high as US\$12,000<sup>3</sup> for someone looking for his first job in Singapore.

2.02.2 Even when securing second, third or subsequent jobs ("re-hires"), it remains common for them to have to pay substantial recruitment costs, typically to unlicensed job brokers. A study<sup>4</sup> published in 2019 found the median recruitment cost for re-hires to be about US\$3,000, about five to eight times their monthly basic salary, well above the legal maximum of one or two times monthly basic salary (depending on length of contract).

2.02.3 The government has said in the past that they are unable to police such intermediary fees because demands and payment take place outside Singapore jurisdiction. Our study<sup>5</sup> reveals this to be untrue. About half of re-hires reported that at least one of their agents involved in securing their current jobs (some workers have to go through two agents) was based in Singapore. HOME and TWC2 regularly encounter workers who report having to make illicit payments to job brokers, company bosses or senior employees operating in Singapore<sup>6,7</sup>. The government's reliance on the misleading explanation that transactions lie outside Singapore's jurisdiction only serves to justify inaction against offences occurring right here.

2.02.4 When workers file complaints about illegal recruitment fees, officials are known to ask for documentation and proof. Since it is in the nature of illicit transactions that they are almost always verbal and transacted in cash, very few workers' complaints are rigorously followed up by investigating officers as a result. Almost never do we hear reports of successful apprehension of such "agents" operating illegally, nor of restitution to victimised workers.

2.02.5 Given the undocumented nature of such job brokering and the lack of evidence trails, the criminal justice approach may never be an adequate solution. The recruitment market suffers from systemic failure, which needs to be addressed through systemic change. TWC2 has proposed solutions<sup>8</sup> which have yet to be adopted by the Singapore government.

2.02.6 Related to the issue of recruitment costs is the practice of demanding further payments from workers for renewal of their work permits. This does not affect all workers, but nonetheless a significant minority of them<sup>9</sup>. Amounts tend to be in the range of US\$1,000 – US\$2,000.

### **SW-03. Contract substitution through abuses of the In-Principle Approval for Work Permit**

2.03.1 Since 2018, HOME and TWC2 have observed a growing trend of cases which we term “IPA substitution” and which is analogous to contract substitution. The In-Principle Approval (IPA) is an official document generated by the government upon approval of an employer’s or licensed recruitment agency’s application for a work pass for a foreigner. Whilst the document serves as a visa entry to Singapore, it also contains crucial information on basic terms of employment, such as salary, allowances and deductions, and case law has established that in the absence of other contract documents, the IPA details are capable of evidencing the terms of employment<sup>10, 11</sup>.

2.03.2 The worker has no role to play, nor any visibility into the IPA application process. Instead, it is the responsibility of the employer to provide the worker with a copy of the IPA before he commences employment. Workers have often reported being surprised at the way the salary terms stated in the IPA differ from terms verbally indicated to them when being recruited.

2.03.3 The reasons why they may differ are threefold:

(a) The employer simply does not furnish a copy of the issued IPA to the worker<sup>12</sup>. This commonly happens when the worker is already in Singapore and does not need to present the IPA as a visa-surrogate at border entry. By not being given a copy of the IPA, the worker is left unaware that the salary terms declared by the employer and registered with the government may be different from what he believes was agreed prior to employment.

(b) The employer illegally modifies the salary information on the IPA before he gives a copy to the worker<sup>13, 14</sup>. The worker is thus left to believe that he will be paid a salary different from that which had been declared by the employer to the government during the IPA application process.

(c) After the worker has commenced employment, the employer informs the government that the salary had been reduced by mutual agreement between employer and employee. The revised salary terms are then notified to the government for the record. HOME and TWC2 have received many reports from workers<sup>15, 16</sup> that they had no idea at all that their employers had submitted amended salary details to the government.

2.03.4 The Work Pass application and modification system as designed by the Singapore government allows (a), (b) and (c) above to occur by dint of the fact that the government does not obtain the worker’s consent when receiving and processing applications or salary modifications. Nor does the worker even have a way to see what application has been submitted in his or her name. The effect of (a), (b), and (c) is that when an employer later fails to pay salary and the worker files a claim, the reference for adjudication is often the salary recorded in the government’s Work Pass system to which the worker had neither known or consented to.

2.03.5 Re (c), HOME and TWC2 have encountered cases where employers produce written agreements bearing workers' signatures, arguing that these documents prove workers' consent to reduced salaries. Workers often say they had been intimidated into signing blank pieces of paper, and in the light of the unequal bargaining power between migrant workers and employers, such situations are entirely plausible.

2.03.6 On 9 July 2018, the Minister for Manpower told parliament that her ministry was "considering the possibility of disallowing downward salary revisions altogether."<sup>17</sup> This has not been effected through any change in legislation.

2.03.7 Whilst the IPA was originally intended to provide a degree of protection to migrant workers by having their salary terms documented, the irony is that by failing to give workers themselves access to the application and modification processes, the very same official instrument has been used against them.

#### **SW-04. Salary entitlements during Covid-19 lockdown obfuscated by government advisories**

2.04.1 From April 2020, Covid-19 began to affect large numbers of migrant workers residing in worker dormitories. Dormitories were progressively placed under lockdowns from the beginning of April, affecting all dormitories by the end of the same month. Lockdowns were only partially lifted to enable workers to return to work in late August 2020, and as of the time of submission of this report (October 2020), have not been fully lifted even though new positive cases of Covid-19 among migrant workers have been below 20 a day for weeks.

2.04.2 Despite a clear provision in legislation that regardless of whether there is actual work for the foreign employee, the entitlement to salary remains<sup>18</sup>, the government issued obfuscating advisories through April and May 2020 that signalled official blessing for the reduction of salaries<sup>19</sup>. Whilst the statements hint at getting consent from employees before implementing salary reductions, in light of the much lower bargaining power of migrant workers, claims of having obtained consent should be seen as highly questionable.

2.04.3 In any case, TWC2 and HOME have received many reports from workers that their employers have unilaterally reduced their salaries or have not paid anything at all during the lockdown.

2.04.4 Some advisories issued by the government have further confused the issue of salary entitlements by linking them to levy rebates given by the government<sup>20</sup>, even when legislation provides no such linkage. Yet, at other times, government statements continue to aver that salaries must be paid to workers<sup>21</sup>, which add to the confusion.

2.04.5 Advisories from the government also indicated that employers should pay wages on the basis that the lockdown period be treated as consumption of the workers' medical leave entitlement, thus leaving workers without medical leave should they later fall ill and need it.

2.04.6 By contradicting legislation, these statements suggest that a reluctance on the part of the government to enforce legislation when it comes to salary entitlements and represent a regression of protections for migrant workers.

## **SW-05. Freedom of movement and social rights decimated in the wake of Covid-19**

2.05.1 Migrant workers' freedom of movement and social rights were decimated when migrant worker dormitories were locked down because of high infection rates of migrant workers starting April 2020. Workers were largely confined to their rooms shared typically by 12 – 20 men with consequently high risk of cross-infection.

2.05.2 More recently, dorm residents were allowed to return to work, albeit under tightly controlled transport arrangements, but they remain largely barred from leaving their dormitories for social activities and leisure. The only exceptions are for medical treatment and, in theory, a narrow window of only 3 hours per weekly rest day for going to nearby shops, though it is envisaged that the hours will increase as Covid-19 recedes.

2.05.3 TWC2 found through a telephone survey that, in reality, very few workers have even enjoyed the 3-hour rest day window<sup>22</sup>. Rest days are assigned by employers and dorm residents may not leave their accommodation even in the hours after work (e.g. evenings) if it is not their assigned rest day. This ban on access to leisure and social activities outside of dorms has been in effect for six months and is still largely in effect as at the time of this report (October 2020).

2.05.4 The power to confine workers inside dormitories was formalised when, on 2 June 2020, the Government amended legislation<sup>23</sup> to require employers to confine dorm residents in their accommodation. Further amended in September 2020, the regulations still give the government the power to control when dorm residents may leave their accommodation, and this is being done through a phone-based digital application for "exit passes".

2.05.5 The resulting effect is that much of workers' freedom of movement, even to seek medical help where no prior appointment has been scheduled, has been placed in the hands of the government, their employers or dormitory operators. It can be very difficult for workers to reach the authorities or civil society organisations for help when they are physically confined.

2.05.6 It could be argued that such draconian measures are a necessary public health measure; the scientific or epidemiological necessity of this cannot be assessed by HOME or TWC2. But the reason for resorting to sweeping intervention affecting hundreds of thousands of people on the basis of their migration pass status, rather than on individual health risks, was the failure of the government to take effective action to control the contagion in migrant workers' accommodation in the first place. The prior policies of promoting worker dormitories that house migrant workers in high density accommodation – often 20 men to a room in double decker bunks – likely created infection vulnerability. The workers have paid the price in terms of their health; and continue to pay a price extracted out of their freedom of movement, even as the rest of Singapore began resuming near-normalcy in early June 2020 after only eight weeks of lock-down.

## **SW-06. Salary mediators overstepping their role and limiting claimants' rights**

2.06.1 The Employment Claims Act requires that before employment disputes can be adjudicated by the Employment Claims Tribunal (ECT), the matter must first be referred to mediation. The government has delegated the mediation of disputes to the Tripartite Alliance for Dispute

Management (TADM). If parties are unable to reach a settlement, TADM will issue a Claim Referral Certificate (CRC) by which the case is transferred to the ECT.

2.06.2 TWC2 and HOME have observed that the “advice” given by TADM officers is often perceived by workers as pressure to modify their claims in certain ways against their will. More seriously, we have seen resistance to including elements of the worker’s complaint in the CRC, e.g. salary in lieu of notice, damages for unfair dismissal, allowances, etc. Since the ECT will not hear arguments over items that are not found in the CRC, the omission of selected elements of the worker’s claim from this document effectively denies redress for these portions of the claim<sup>24</sup>.

## **SW-07. Processes at Employment Claims Tribunal present multiple barriers to migrant workers**

2.07.1 Employment disputes, unresolved at the mediation stage, are escalated to the ECT which adjudicates claims. The filing procedure at the ECT is formal and labyrinthine, requiring a high level of legal literacy. Because filing can only be done online and in English, digital literacy, suitable hardware and fluency in English are needed to accomplish the task -- none of which would generally be the case for low-wage migrant workers.

2.07.2 Most workers become completely dependent on the instructions of court or ministry officers; or, if available, the help of civil society organisations. Yet, some workers have reported that government officials discourage them for seeking help from civil society organisations.

2.07.3 Workers become stripped of agency, autonomy and empowerment to take the case forward themselves, to choose their options and to decide exactly how to proceed. This is completely at odds with the systemic and structural assumptions of an adversarial adjudication model.

2.07.4 Not only are proceedings in English – which disempowers and disadvantages workers -- as the ECT has become more formalised and the procedures more “document-ised” over the few years of its operation, the process has tilted towards written submissions. At oral hearings, interpretation, however imperfect and inadequate, had been mostly available, but more and more, the ECT has been asking for “Hearing statements” in written form, thus emasculating the migrant worker and compromising access to justice.

2.07.5 Decisions of the ECT can only be appealed to the High Court on two narrow grounds, namely: if there is a question of law, or that the claim is outside the jurisdiction of the ECT<sup>25</sup>. The former means that where the law on an issue is settled law (and therefore there is no question of law), even if the ECT has misapplied the law, no avenue of appeal is available. TWC2 and HOME have handled several cases that were stymied by this barrier<sup>26</sup>.

## **SW-08. No guarantee against repatriation for migrant workers with pending claims**

2.08.1 Migrant workers who are out of work but have salary, injury or other claims pending do not have a guaranteed right to stay to the conclusion of their cases. Generally, such workers are issued with Special Passes under the Immigration Act, which forbids the pass holder from taking paid employment. Moreover, the issuance of Special Passes remains discretionary. A 2017 amendment to



by-laws<sup>27</sup> only ban employers from repatriating workers with outstanding claims; no legislation binds the government from doing the same.

2.08.2 TWC2 and HOME have seen cases where the Special Passes have been revoked by the government when the worker is alleged to have committed some other infringement, e.g. engaging in work. Although it can be argued that since it is a stated condition of a Special Pass that the pass holder should not engage in work, and that violation of this condition should be sufficient justification for revocation of the pass, such an argument ignores the reality that migrant workers with salary, injury or other pending claims have no other source of income if disallowed from working. Their need for subsistence, which compels them to seek work, puts at risk their right to remedy of claims.

2.08.3 While there is legislation<sup>28</sup> that requires employers to continue to provide accommodation, food and medical treatment to employees with pending claims until resolution of claims, these bare necessities, provided in kind, do not include any disposable income and are inconsistent with human dignity.

2.08.4 HOME and TWC2 have recommended that instead of keeping such migrant workers on Special Passes with no right to work, they should be given the right to seek new employment and thus, new work passes even while their claims are pending.

2.08.5 More alarmingly, workers with salary claims reported to TWC2 in mid-2020 that due to a backlog and long waitlists at the Employment Claims Tribunal, government officials have told them they would be repatriated before their hearing dates at the tribunal<sup>29</sup>. These workers reported being told that they themselves would have to arrange and pay for their own return to Singapore for the tribunal hearing and for their own accommodation while here. Officials said nothing about any guaranteed right to a visa to enter Singapore whenever the hearing would be scheduled.

2.08.6 Since the tribunal rules do not permit legal representation, there is a big risk that failure to attend the hearing in person might result in summary dismissal of their salary claims. Thus informed, some workers chose to settle their salary claims at a fraction of what they were owed instead of taking the chance on, and bearing the cost of, coming back for the hearing date. Such a policy severely undermines workers' access to justice and appropriate remedies. It also represents a regression from previous policy that routinely allowed workers to remain in Singapore with Special Passes till their hearing dates.

2.08.7 TWC2 and HOME have both seen cases where migrant workers with pending injury compensation claims were repatriated before conclusion of their case<sup>30</sup>. This often has the practical effect of closing their claims and denying them their recourse to justice, for the reasons similar to 2.08.5 above. Generally, repatriation was on the grounds that the workers allegedly breached their pass conditions, such as residing elsewhere than accommodation provided by the employers. Deportation is a disproportionate response to the alleged breaches.

2.08.8 This issue was exacerbated during and after Singapore's lockdown measures. TWC2 and HOME are aware of several injured workers who were repatriated before their cases concluded because they left their employer-designated dormitory. Some of these workers had injuries which made the employers' accommodation unsuitable (e.g. having to climb stairs when they had a broken leg).

## **SW-09. Poor enforcement of court orders and settlement agreements**

2.09.1 HOME and TWC2 have encountered many cases where a migrant worker, even when he or she has in hand a court order or court-registered settlement agreement, is unable to obtain payment of the stated amount<sup>31</sup>.

2.09.2 The Singapore government takes the view that enforcement of court orders is a private civil matter. When workers bring to officials' attention that court orders or settlement agreements remain outstanding, the most common advice given to workers is to take out a Writ of Seizure and Sale, a process that incurs upfront costs with a poor success rate. For workers who have been owed salaries and are therefore short of money, this is an unrealistic course of action.

2.09.3 Even when TWC2 has tried, with the aid of pro-bono lawyers, to enforce a judgement, we have more often been met with failure rather than success<sup>32</sup>.

2.09.4 A potentially useful provision in the Employment Act is insufficiently used. Section 113A of the Act lifts the corporate veil and makes any director, partner, chief executive or any member of the management of a corporate body who is responsible for salaries and payments, personally liable under the law for offences committed under the Act. Penalties include fines and imprisonment.

2.09.5 Whilst making responsible persons in a company personally liable does not directly promote the payment of court orders and agreed settlements, a credible threat of criminal prosecution should motivate accused persons to honour court orders.

2.09.6 Unfortunately, the vast majority of salary claims, even when proved in the Employment Claims Tribunal (ECT), do not attract prosecution. For example, there were 1,301 claims heard at the ECT in 2019<sup>33</sup> (both migrant workers and locals) -- with the great majority being salary claims -- and about 40% of cases resulted in money orders issued against employers<sup>34</sup>, yet in 2019, there were only nine directors convicted for failing to pay salaries<sup>35</sup>.

2.09.7 The low rate of prosecution produces a sense of impunity among delinquent employers and is likely related to a poor success rate for workers collecting on their court orders and agreed settlements.

2.09.8 On 28 February 2020, the government told Parliament that they were "studying recommendations to streamline and simplify the enforcement of judgments and orders." No details have yet been announced.

## **SW-10. No wage protections when employer is insolvent or has absconded**

2.10.1 Enforcement of court orders and settlement agreements are only meaningful if employers are still solvent or are within Singapore territory. TWC2 and HOME handle many cases where workers have no realistic chance of recovery of unpaid salaries because their employers are winding up or their bosses have fled the country.

2.10.2 In situations where workers' legitimate claims remain unpaid, the government either leans on insurance companies (who had underwritten a Security Bond for the employer during the application for the work permit) or a government-linked non-profit organisation to provide a small sum to worker. The amounts however are always less than the owed salaries (sometimes as little as 10%) and leave affected migrant workers in severe financial distress. Pay-outs are also discretionary and cannot be relied upon.

2.10.3 Singapore needs to have a more formal wage insurance system or a fund that will assist workers with a much bigger portion of the owed debt. See recommendation RN-07 in Section 3.

## **SW-11. Job mobility still highly restricted**

2.11.1 At the root of migrant workers' vulnerability to exploitation and abuse lies Singapore's requirement that Work Permits should be tied to employers, who can cancel the permits at will at any time. Once cancelled, workers also lose their right to residency. Nor do they have a right to seek another job without first being repatriated. This creates a huge power imbalance between employers and migrant workers, exacerbating their vulnerability to, inter alia, salary abuses, contract substitution, long working hours and restrictions on movement.

2.11.2 At its margins, there are exceptions to the general rule:

- (a) When an employer gives permission to a work permit holder to seek a transfer job;
- (b) When a worker has a valid case that the employer has committed an infringement of law or regulations;
- (c) When a worker in construction and related fields has been told that the employer does not intend to renew his work permit.

2.11.3 The time window given to a worker in the above situations is short (usually 2 – 3 weeks) and many migrant workers complain it is difficult to find new jobs this quickly<sup>36</sup>. In short, the marginal loosening of Singapore's sponsorship system does not go far enough to undo the vulnerability of migrant workers.

## **SW-12. Passports and travel documents routinely retained by employers**

2.12.1 The great majority of migrant workers whom HOME and TWC2 have met have reported that their passports and travel documents are routinely retained by their employers.

2.12.2 Most of the time however, employers will release the documents to them if they have a need for them, e.g. renewal of passport, and workers do not often see retention of their passports and travel documents as a serious issue. This however is related to the fact that few workers have secure storage for critical items in their employer-provided accommodation, and the need therefore is to first ensure that they do have such secure storage before we can address the issue of passport retention.

### **SW-13. Access to healthcare highly dependent on employers**

2.13.1 The Employment of Foreign Manpower Act and the Work Injury Compensation Act require employers to purchase insurance for migrant workers' medical needs. However, these provisions only protect employers against unforeseen costs; they do not directly improve access to healthcare for the workers themselves.

2.13.2 Except in dire emergencies, healthcare providers typically require employers to furnish letters of guarantee before they will proceed with surgery or costly diagnostic tests. HOME and TWC2 have observed many cases where employers refuse to furnish such guarantees (even when they have insurance that will cover the costs), leaving workers without the medical treatment or tests that doctors consider appropriate<sup>37, 38</sup>.

2.13.3 Whereas Singapore subsidises the cost of healthcare for citizens, no subsidies are extended to benefit migrant workers. Given the low salaries that many of them earn, there is no realistic way for them to pay for their own healthcare needs if their employers prove obstructive.

### **SW-14. Superficial engagement with civil society**

2.14.1 Whilst there is the occasional dialogue session organised by the government with HOME and TWC2, it is often made clear that broader policy issues are off the table, and only case-specific matters or implementation details of already-decided policies are open for discussion.

2.14.2 Attempts to seek clarification of or discussion over policy are too often fruitless<sup>39</sup>.

### **SW-15. Over-broad fake news law chills speech and reduces room for civil society**

2.15.1 The Prevention of Online Falsehoods and Manipulation Act (POFMA) passed in 2019 is written so broadly, giving the minister pre-emptive discretion, it has a chilling effect on advocacy and public discussion, thus reducing the space for civil society<sup>40, 41, 42</sup>.

## SECTION 3: RECOMMENDATIONS

- RN-01     Include domestic work within the scope of the Employment Act.
- RN-02     Enforce legislation on recruitment and associated fees; spur changes to the recruitment eco-system to ensure greater transparency and access without migrant job-seekers having to use unlicensed job brokers.
- RN-03     Reform the system for issuance of In-Principle Approvals so that workers can see the applications being made in their name and signal agreement to the terms of employment, and to provide workers the same access to the system if salary terms are to be modified.
- RN-04.     Repeal and unwind regulations enacted during Covid-19 that restricts migrant workers' freedom of movement; quarantine and isolation orders to be issued only to persons at real risk and in a non-discriminatory way, and not in a blanket way based on their immigration or accommodation status.
- RN-05.     Review and refine employment claims processes to ensure that migrant workers do not face barriers in accessing justice.
- RN-06.     Enforce court orders and court-endorsed settlement agreements to ensure that orders are not ignored with impunity.
- RN-07.     Set up either a wage insurance scheme or a statutory fund for workers who are not paid by their employers because of serious financial difficulty or when such employers have become insolvent.
- RN-08.     Allow migrant workers to switch employers. Allow those who have resigned or lost their jobs a generous period of time to find new employment without being repatriated.
- RN-09.     Ensure that migrant workers can access healthcare directly using employer-provided insurance without having to seek permission and consent of employers each time.

## ANNEX A: Assessment of implementation of recommendations from Second Cycle (2016), with regard to migrant labour

Recommendation from Second Cycle	Position	Full list of themes	Assessment/comments on level of implementation
<b>Theme: A41 Constitutional and legislative framework</b>			
166.94 Adopt a comprehensive legislation that guarantees the protection of the rights of migrant workers (Honduras); <b>Source of position:</b> A/HRC/32/17/Add.1	Supported	A41 Constitutional and legislative framework G4 Migrants <b>Affected persons:</b> - migrants	Singapore has not adopted comprehensive legislation per this recommendation. Whilst several pieces of legislation exist, there remain gaps. See the following sections in our main report for examples of those gaps: <b>SW-01</b> Domestic workers excluded from the Employment Act; <b>SW-03</b> Contract substitution through abuses of the In-Principle Approval for Work Permit; <b>SW-05</b> Freedom of movement and social rights decimated in the wake of Covid-19; <b>SW-08</b> No guarantee against repatriation for migrant workers with pending claims; <b>SW-11</b> Job mobility still highly restricted; <b>SW-13</b> Access to healthcare highly dependent on employers;
<b>Theme: A6 Context, statistics, budget, civil society</b>			
166.122 Continue its engagement with Governments and civil society organizations on initiatives that help promote and protect human rights (Philippines); <b>Source of position:</b> A/HRC/32/17/Add.1	Supported	A6 Context, statistics, budget, civil society A3 Inter-State cooperation & development assistance <b>Affected persons:</b> - general	The Singapore government does not engage meaningfully with independent civil society organisations in the migrant labour sphere and the lack of engagement likely leaves human rights issues unaddressed. See the following sections in our main report for more detail: <b>SW-14</b> Superficial engagement with civil society; <b>SW-15</b> Over-broad fake news law chills speech and reduces room for civil society.

Recommendation from Second Cycle	Position	Full list of themes	Assessment/comments on level of implementation
<b>Theme: B51 Right to an effective remedy</b>			
166.79 Enact a national migrant legislation to protect the rights of migrant workers and ensure that migrant workers who wish to pursue claim against employers are not forced to repatriate without access to justice (Afghanistan); <b>Source of position:</b> A/HRC/32/17/Add.1	Supported	B51 Right to an effective remedy G4 Migrants A41 Constitutional and legislative framework <b>Affected persons:</b> - migrants	Singapore has not implemented this recommendation. There was regression in 2020 when workers with pending claims were told they would be repatriated before their scheduled hearing dates at the Employment Claims Tribunal. See the following section in our main report for more detail: <b>SW-08</b> No guarantee against repatriation for migrant workers with pending claims.
<b>Theme: B8 Human rights &amp; counter-terrorism</b>			
166.140 Continue to promote and protect migrants and their rights, in particular while countering terrorism (Bangladesh); <b>Source of position:</b> A/HRC/32/17/Add.1	Supported	B8 Human rights & counter-terrorism G4 Migrants <b>Affected persons:</b> - migrants	There has been no significant implementation of this recommendation. More detail can be found in sections <b>SW-01</b> to <b>SW-13</b> of our main report. We would add that in the areas of freedom of movement for migrant workers, and salary entitlements during Covid-19 lockdowns, there are clear signs of regression. See: <b>SW-04</b> Salary entitlements during Covid-19 lockdown obfuscated by government advisories; <b>SW-05</b> Freedom of movement and social rights decimated in the wake of Covid-19.
<b>Theme: E31 Right to work</b>			
166.132 Continue its ongoing efforts to promote and protect economic, social and cultural rights of migrant workers in Singapore,	Supported	E31 Right to work G4 Migrants	There was a major regression in 2020 during the Covid-19 pandemic. Lockdowns of migrant worker dormitories were disproportionately long in duration and new regulations were

Recommendation from Second Cycle	Position	Full list of themes	Assessment/comments on level of implementation
<p>including efforts to enhance reach out to migrant workers on their employment rights, responsibilities, and their avenues of recourse (Sri Lanka);</p> <p><b>Source of position:</b> A/HRC/32/17/Add.1</p>		<p><b>Affected persons:</b></p> <p>- migrants</p>	<p>enacted restricting workers' freedom to leave their accommodation for leisure and social activities. There remain gaps too on migrant workers' recourse to healthcare, and to salary claims. For more detail, see this section in our main report:</p> <p><b>SW-05</b> Freedom of movement and social rights decimated in the wake of Covid-19.</p> <p><b>SW-06</b> Salary mediators overstepping their authority and limiting claimants' rights;</p> <p><b>SW-07</b> Processes at Employment Claims Tribunal present multiple barriers to migrant workers;</p> <p><b>SW-13</b> Access to healthcare highly dependent on employers.</p>
<p>166.136 Continue safeguarding the well-being and rights of migrant workers in Singapore and reach out to migrant workers to ensure that they understand their employment rights and responsibilities (Cuba);</p> <p><b>Source of position:</b> A/HRC/32/17/Add.1</p>	Supported	<p>E31 Right to work G4 Migrants</p> <p><b>Affected persons:</b></p> <p>- migrants</p>	<p>This recommendation has not been implemented. Major gaps continue to exist in legislation and in operational policy. Examples of such gaps are discussed in many sections of our main report:</p> <p><b>SW-01</b> Domestic workers excluded from the Employment Act;</p> <p><b>SW-02</b> No effective action against high recruitment costs;</p> <p><b>SW-03</b> Contract substitution through abuses of the In-Principle Approval for Work Permit;</p> <p><b>SW-04</b> Salary entitlements during Covid-19 lockdown obfuscated by government advisories;</p> <p><b>SW-05</b> Freedom of movement and social rights decimated in the wake of Covid-19;</p> <p><b>SW-06</b> Salary mediators overstepping their authority and limiting claimants' rights;</p> <p><b>SW-07</b> Processes at Employment Claims Tribunal present multiple barriers to migrant workers;</p>



Recommendation from Second Cycle	Position	Full list of themes	Assessment/comments on level of implementation
			<p><b>SW-08</b> No guarantee against repatriation for migrant workers with pending claims;</p> <p><b>SW-09</b> Poor enforcement of court orders and settlement agreements;</p> <p><b>SW-10</b> No wage protection when employer is insolvent or has absconded;</p> <p><b>SW-11</b> Job mobility still highly restricted;</p> <p><b>SW-13</b> Access to healthcare highly dependent on employers.</p>
<b>Theme: G4 Migrants</b>			
<p>166.135 Protect the legitimate rights of foreign workers in Singapore and help them get the necessary vocational training (China);</p> <p><b>Source of position:</b> A/HRC/32/17/Add.1</p>	Supported	<p>G4 Migrants</p> <p><b>Affected persons:</b></p> <p>- migrants</p>	<p>Singapore does not offer incentives or financial support to foreign workers to further their vocational training. The recommendation to protect the legitimate rights has not be implemented. For more detail, see the following sections in our main report:</p> <p><b>SW-01</b> Domestic workers excluded from the Employment Act;</p> <p><b>SW-02</b> No effective action against high recruitment costs;</p> <p><b>SW-03</b> Contract substitution through abuses of the In-Principle Approval for Work Permit;</p> <p><b>SW-04</b> Salary entitlements during Covid-19 lockdown obfuscated by government advisories;</p> <p><b>SW-05</b> Freedom of movement and social rights decimated in the wake of Covid-19;</p> <p><b>SW-06</b> Salary mediators overstepping their authority and limiting claimants' rights;</p> <p><b>SW-07</b> Processes at Employment Claims Tribunal present multiple barriers to migrant workers;</p>

Recommendation from Second Cycle	Position	Full list of themes	Assessment/comments on level of implementation
			<p><b>SW-08</b> No guarantee against repatriation for migrant workers with pending claims;</p> <p><b>SW-09</b> Poor enforcement of court orders and settlement agreements;</p> <p><b>SW-11</b> Job mobility still highly restricted;</p> <p><b>SW-13</b> Access to healthcare highly dependent on employers.</p>
<p>166.130 Deepen the legal initiatives and their enforcement aimed at ensuring a legal and de facto situation that guarantees the human rights of migrants (Peru);</p> <p><b>Source of position:</b> A/HRC/32/17/Add.1</p>	Supported	<p>G4 Migrants</p> <p>A41 Constitutional and legislative framework</p> <p><b>Affected persons:</b></p> <ul style="list-style-type: none"> <li>- general</li> <li>- migrants</li> </ul>	<p>This recommendation has not been implemented. In particular, enforcement remains substantially lacking with respect to recruitment costs, contract substitution, and enforcement of court orders. See the following sections in our main report:</p> <p><b>SW-02</b> No effective action against high recruitment costs;</p> <p><b>SW-03</b> Contract substitution through abuses of the In-Principle Approval for Work Permit;</p> <p><b>SW-09</b> Poor enforcement of court orders and settlement agreements;</p> <p><b>SW-10</b> No wage protection when employer is insolvent or has absconded;</p> <p><b>SW-11</b> Job mobility still highly restricted;</p> <p><b>SW-13</b> Access to healthcare highly dependent on employers.</p>
<p>166.137 Strengthen measures to protect the human rights of non-citizens and migrant workers to prevent their exploitation and discrimination (Mexico);</p> <p><b>Source of position:</b> A/HRC/32/17/Add.1</p>	Supported	<p>G4 Migrants</p> <p>B31 Equality &amp; non-discrimination</p> <p>G8 Non-citizens</p> <p><b>Affected persons:</b></p>	<p>There has been no significant strengthening of measures since the last cycle. Exploitation continues, particularly the common practice of high recruitment fees through unregulated job brokers, kickbacks to employers, salary debasement through contract substitution or intimidation. Migrant workers have also been severely discriminated against through severe movement</p>

Recommendation from Second Cycle	Position	Full list of themes	Assessment/comments on level of implementation
		<ul style="list-style-type: none"> <li>- migrants</li> <li>- non-citizens</li> </ul>	<p>restrictions that prevent them from leaving dormitories. See the following sections in our main report for more detail:</p> <p><b>SW-02</b> No effective action against high recruitment costs;</p> <p><b>SW-03</b> Contract substitution through abuses of the In-Principle Approval for Work Permit;</p> <p><b>SW-05</b> Freedom of movement and social rights decimated in the wake of Covid-19;</p> <p><b>SW-07</b> Processes at Employment Claims Tribunal present multiple barriers to migrant workers;</p> <p><b>SW-11</b> Job mobility still highly restricted;</p>
<p>166.133 Take the necessary steps to prohibit employers from withholding their foreign workers' passports, travel documents, and work permits as well as to improve access to comprehensive and affordable health services (Thailand);</p> <p><b>Source of position:</b> A/HRC/32/17/Add.1</p>	Supported	<p>G4 Migrants</p> <p>E41 Right to health - General</p> <p><b>Affected persons:</b></p> <ul style="list-style-type: none"> <li>- migrants</li> </ul>	<p>There has been no implementation of his recommendation. Employers of migrant workers continue almost universally to retain workers' passports. Migrant workers do not have affordable access to healthcare and often depend on their employers for this right. For more detail, see the following sections in our main report:</p> <p><b>SW-12</b> Passports and travel documents routinely retained by employers;</p> <p><b>SW-13</b> Access to healthcare highly dependent on employers;</p>
<b>Theme: E31 Right to work</b>			
<p>166.134 Improve the situation of work migrants by enabling them to easily switch employers and to have access to decent housing. The provisions of the Employment Act should also apply to foreign domestic workers (Germany);</p>	Noted	<p>E31 Right to work</p> <p>G4 Migrants</p> <p>E23 Right to adequate housing</p> <p><b>Affected persons:</b></p>	<p>It is important that Singapore be urged to accept this recommendation. Tying migrant workers to employers makes the former vulnerable to exploitation (see <b>SW-11</b> of our main report). Lack of decent housing has been shown to be a key factor in the spread of Covid-19, when workers have to live in dense, poorly</p>

Recommendation from Second Cycle	Position	Full list of themes	Assessment/comments on level of implementation
Source of position: A/HRC/32/17/Add.1		- general - migrants	ventilated dormitories with washing facilities shared by hundreds of others. Domestic workers should be included within the Employment Act (see <b>SW-01</b> of our main report).
<b>Theme: E32 Right to just and favourable conditions of work</b>			
166.213 Include domestic work among the fields covered by the Employment Act, which would significantly improve the situation of many migrant workers (Austria); Source of position: A/HRC/32/17/Add.1	Noted	E32 Right to just and favourable conditions of work G4 Migrants <b>Affected persons:</b> - migrants	It is important that Singapore be urged to accept this recommendation. See <b>SW-01</b> of our main report.

## END NOTES

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<sup>2</sup> Work Injury Compensation Act 2019, Third Schedule, line 3.

<sup>3</sup> TWC2, 5 Feb 2017, “Average recruitment cost hit \$15,000 in 2015 for first-time Bangladeshi construction workers”. <http://twc2.org.sg/2017/02/05/average-recruitment-cost-hit-15000-in-2015-for-first-time-bangladeshi-construction-workers/>, accessed 30 Sep 2020.

<sup>4</sup> TWC2, 27 May 2019, “More of here, less of there: Increase in repeat workers and fat profits for the underground job broker in Singapore”. <http://twc2.org.sg/2019/05/27/more-of-here-less-of-there-increase-in-repeat-workers-and-fat-profits-for-the-underground-job-broker-in-singapore/>, accessed 30 Sep 2020.

<sup>5</sup> Ibid

<sup>6</sup> TWC2, 7 Sep 2020, “Where was your illegal recruiter? ‘In Singapore,’ say Kamrul and Majumder”. <http://twc2.org.sg/2020/09/07/where-was-your-illegal-recruiter-in-singapore-say-kamrul-and-majumder/>, accessed 30 Sep 2020.

<sup>7</sup> TWC2, 2 Aug 2020, “Kibria and Selim held hostage by Singapore’s underground economy”. <http://twc2.org.sg/2020/08/02/kibria-and-selim-held-hostage-by-singapores-underground-economy/>, accessed 30 Sep 2020.

<sup>8</sup> TWC2, 27 July 2020, “Recruitment reform — what needs to be done”. <http://twc2.org.sg/2020/07/27/recruitment-reform-what-needs-to-be-done/>, accessed 30 Sep 2020.

<sup>9</sup> HOME, 31 Aug 2020, “Coming Clean: A Study on the Well-being of Bangladeshi Conservancy Workers in Singapore”. <https://www.home.org.sg/statements/coming-clean>, accessed 5 Oct 2020.

<sup>10</sup> High Court judgement [2017] SGHC 270 Liu Huaixi v Haniffa Pte Ltd. [https://www.supremecourt.gov.sg/docs/default-source/module-document/judgement/ta15\\_16-liu-huaixi-v-haniffa-pte-ltd-pdf.pdf](https://www.supremecourt.gov.sg/docs/default-source/module-document/judgement/ta15_16-liu-huaixi-v-haniffa-pte-ltd-pdf.pdf), accessed 4 Oct 2020.

<sup>11</sup> Ronald J J Wong, 10 Nov 2017, Case Update: Liu Huaixi v Haniffa Pte Ltd [2017] SGHC 270 – IPA letter may be evidence of foreign worker’s salary amount. <http://www.ronaldjjwong.com/2017/11/10/case-update-liu-huaixi-v-haniffa-pte-ltd-2017-sghc-270-ipa-letter-may-evidence-foreign-workers-salary-amount/> accessed 4 Oct 2020.

<sup>12</sup> TWC2, 24 April 2019, “Rubel started work with Feiteng1x without knowing his salary — how did that happen?” <http://twc2.org.sg/2019/04/24/rubel-started-work-with-feiteng1x-without-knowing-his-salary-how-did-that-happen/>, accessed 3 Oct 2020.

<sup>13</sup> TWC2, 12 October 2017, “Fraud committed using ministry letterhead”. <https://twc2.org.sg/2017/10/12/fraud-committed-using-ministry-letterhead/>, accessed 28 Sept 2020.

<sup>14</sup> TWC2, 16 Jan 2020, “Swindle, cheat and manipulate, example no. 3”. <http://twc2.org.sg/2020/01/16/swindle-cheat-and-manipulate-example-no-3/>, accessed 3 Oct 2020.

<sup>15</sup> TWC2, 25 June 2017, “The Everglory scam: productivity incentive shot to pieces”. <http://twc2.org.sg/2017/06/25/the-everglory-scam-productivity-incentive-shot-to-pieces/> accessed 3 Oct 2020.

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- <sup>23</sup> Employment of Foreign Manpower (Work Passes) Regulations 2012, Fourth Schedule, Part III, paragraphs A, 2B and 2C.
- <sup>24</sup> TWC, 24 September 2020, “TADM – friend, stranger or foe?”. <http://twc2.org.sg/2020/09/24/tadm-friend-stranger-or-foe/>, accessed 4 Oct 2020.
- <sup>25</sup> Employment Claims Act, section 23(1).
- <sup>26</sup> TWC2, 25 June 2020, “Tribunal makes two errors in Liakat’s salary claim”. <http://twc2.org.sg/2020/06/25/tribunal-makes-two-errors-in-liakats-salary-claim/>, accessed 30 Sep 2020.
- <sup>27</sup> Employment of Foreign Manpower (Work Passes) Regulations 2012, Fourth Schedule, Part III, paragraph 15.
- <sup>28</sup> Employment of Foreign Manpower (Work Passes) Regulations 2012, Fourth Schedule, Part III, paragraph 16.
- <sup>29</sup> TWC2, 26 June 2020, “Post-Covid roadblocks to salary justice”. <http://twc2.org.sg/2020/06/26/post-covid-roadblocks-to-salary-justice/> accessed 29 Sept 2020.
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