

# **Task Force on ASEAN Migrant Workers**

## **National Statement Cambodian National Consultation on the Protection and Promotion of the Rights of Migrant Workers Phnom Penh, Cambodia September 12, 2008**

1. We, the representatives of over 60 NGOs, trade unions, private sector companies, and civil society organizations, gathered on September 11-12, 2008 at the Phnom Penh Hotel in Phnom Penh, Cambodia, to discuss the current situation faced by migrant workers leaving the country to work overseas and migrant workers entering the country. This is a historic consultation which marks the first time that civil society representatives of Cambodia have sat together to develop comprehensive recommendations on the rights of migrant workers to both the Royal Government of Cambodia (RGC) and to ASEAN.

2. We had the privilege of being addressed by senior officials from the Ministry of Labor and Vocational Training (MLVT), the Ministry of Women's Affairs (MOWA) and the Ministry of Foreign Affairs (MFA) of the Royal Government of Cambodia, all of whom provided valuable information and insights about the Government policy regarding migrant workers. Representatives of the Task Force on ASEAN Migrant Workers were also present and briefed the participants about the important value that ASEAN places on the national consultation process. The ASEAN Secretary-General, H.E. Surin Pitsuwan, has repeatedly called in public statements for greater levels of participation by the citizens of the member nations of ASEAN in determining policies adopted by the regional grouping. In this spirit, the Task Force will be providing this National Statement to Secretary-General Surin, other senior officials at the ASEAN Secretariat in Jakarta, Indonesia, and the Ministry of Foreign Affairs in each of the ten member nations of ASEAN. The Cambodian participants plan to conduct advocacy based on this National Statement by calling for meetings with all the relevant Ministries of the Royal Government of Cambodia to discuss the recommendations and encourage their immediate adoption.

3. We sincerely welcome the adoption of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers in January 2007 and the establishment of the ASEAN Committee to Implement (ACI) the Declaration on the Protection and Promotion of the Rights of Migrant Workers in July 2007. We were heartened to see the agreement of the ASEAN Labor Ministers at their meeting in Bangkok in May 2008 that the ACI will be constituted soon and hold its first meeting before December 2008. We strongly urge the Royal Government of Cambodia to designate its focal point for the ACI as soon as possible, and we look forward to collaborating closely with the ACI in the future.

## **Recommendations to the Royal Government of Cambodia:**

4. The Royal Government of Cambodia is to be commended for its actions to adopt international instruments and human rights standards. For example, Cambodia has signed the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) on September 27, 2004, making it one of only a handful of nations in Southeast Asia to adopt this critical international Convention. Moreover, Cambodia is to be congratulated for ratifying all of the eight core labour standards of the International Labour Organization (ILO), including conventions 29 and 105 (forced labour), 87 (freedom of association), 98 (right to collectively bargain), 100 (equal remuneration), 111 (non-discrimination), and child labour (138 and 182).

5. However, we recognize that there is often a gap between the promises of the Government to follow international standards and the reality faced by the Cambodian people who are seeking to migrate. As a first comprehensive step, the Government must undertake an overall review and set out an implementation plan to bring all of its policies on migrant workers into line with these important international instruments that have been voluntarily adopted by the Government. Laws, policies and regulations should be quickly and effectively harmonized with these international standards, and resources (in terms of personnel and finances) provided to ensure the effective enforcement of these laws, policies, and regulation.

### **Policies and procedures for recruitment of Cambodian migrant workers to work outside the country**

6. In our work as NGOs and civil society organizations working closely with migrant workers, we have identified a number of important problems related to recruitment that need urgent solutions.

7. We have seen the failure by the relevant authorities to effectively disseminate information about Government policies on labor migration, despite claims about the value that Government agencies place on effective collaboration with NGOs and civil society groups. Compounding these information failures is the fact that between Government agencies, there has too often been weakness in cooperation between agencies. In turn, this results the inability of Government to effectively implement policies and programs. Added to these problems are the very serious issues of the malpractice of various recruitment agencies and the apparent inability of Government regulators to take meaningful action against these violators. High recruitment fees for placements are another important problem. These costs, which often must be borne by the migrant worker, are further compounded by the relatively high cost to issue a Cambodian passport and secure a visa. Another problem is that often employers decline to provide detailed employment contracts, meaning that they refuse either to set out what the work is to be done by the migrant worker or to provide details about the other terms and conditions of work.

8. Solutions to the problems of migrant workers leaving Cambodia through the formal recruitment process must involve three parties at all stages: the migrant

worker, representatives of the Royal Government of Cambodia (both in Cambodia and in the RGC Embassy in the receiving country), and the representatives of the labor recruitment company in Cambodia.

9. In general, we have also observed that many of the Cambodian people are unaware of the procedures and mechanisms that govern the recruitment of migrant workers to go overseas. The Government must do a much better job at publicizing these procedures and mechanisms. It should also support effective partnerships with NGOs and civil society groups to ensure that its messages about migration reach the grass-roots level where the potential migrant workers are making their decisions about whether to migrate.

10. Sub-Decree 57, which governs the sending of Cambodian workers to work abroad, was promulgated in 1995. Many of the provisions are overly vague and no longer compatible with today's requirements for the effective protection of the rights of migrant workers. Therefore, we recommend that the Government should immediately amend Sub-Decree 57 in a comprehensive way to ensure that it better protects the rights of migrant workers.

11. Article 14 of Sub-decree 57 should be revised to clearly require that the recruitment company is responsible for organizing/arranging the pre-departure training for migrant workers according to a standard curriculum to be developed by the MOLVT with the participation from civil society organizations and key stakeholders.

12. Article 16 of Sub-decree 57 is particularly worrisome and must be changed. This Article provides that the recruitment companies must pay the costs of MOLVT officials who are going to inspect the conditions of Cambodian workers overseas. This creates a potential conflict of interest that can jeopardize the independence of the regulatory process. In order to ensure the independence of the MOLVT regulatory process, the MOLVT should set out its own budget for inspection and cease receiving money from recruitment companies for monitoring and follow-up of the conditions of migrant workers overseas.

13. We recommend that the Government should reduce obstacles posed by the highly bureaucratic system that now exists in the process of recruiting migrant workers, and it should take concrete actions to reduce placement fees that are charged to migrant workers. The Government should undertake consultations with NGOs, civil society organizations, and representatives of intending migrant workers in order to find ways to set recruitment fees that are significantly lower and more appropriate for migrant workers.

14. As an important protective measure, the Government should negotiate and conclude an effective bilateral MOU/agreement with a receiving state before allowing Cambodian migrant workers to migrate to work in that country. In this way, the MOU/agreement forms an established framework that can help ensure protection of the migrant worker by the Cambodian authorities.

15. The Government should develop a standard employment contract that contains sections that specify the core rights of migrant workers, and mechanisms

to protect those rights. Each contract must also include a clear and detailed job description and relevant information on working and living conditions that that migrant worker will face in the receiving country.

16. The process of issuing passports for migrant workers is facing great difficulties. The Government must take immediate action to clear up these problems. There are many different ‘unofficial’ prices charged for the passport as well as different periods of time that an applicant must wait to receive their passport. Moreover, it is quite clear that the passport office in Phnom Penh does not have the resources and capacity to do its job in a timely way. H.E. Prime Minister Samdech Hun Sen stated publicly on February 19, 2008 that passports should be provided for free to Cambodian migrant workers. We agree with His Excellency. We demand that the Government immediately start providing passports for free to intending migrant workers.

17. We believe that it is not acceptable for the Government to continue to fail to provide passports to its citizens in a timely way. The Government must adopt a policy and procedures that set a clear time period that an applicant must wait to receive a passport – and this waiting period should be set at no more than 30 days from the day that a passport application is submitted until the day that the passport is issued.

18. We do think it is fair or practical to force citizens from all over the country to make expensive and time consuming trips to Phnom Penh to apply and receive their passport. The Government must open passport offices in major provincial cities and provinces where many migrant workers are originating from, such as Battambang, Siem Reap, Kompong Cham, Svay Rieng, and Kompong Thom.

19. According to Government officials who addressed the national consultation on September 11, 2008, there is a recognition that many of Cambodia’s education institutions are producing graduates who have degrees or certificates that are not in line with the demands for workers in overseas labor markets. Therefore, we recommend that the state education curriculum should be reviewed and revised in accordance with the needs of the labor markets. In general, the Government should increase its budget for vocational training and make sure that unskilled or lowly skilled persons are given the opportunity to receive appropriate training that can open the doors to greater employability in the future.

20. We strongly believe that mandatory testing for HIV should not be required for migrant workers by the destination countries. In accordance with the National Law on HIV/AIDS Prevention, the Government should not permit such requirements to be imposed on Cambodian migrant workers as a pre-condition of employment. Rather, following a right-based approach, migrant workers should be provided with information and the opportunity to access voluntary testing services and be assured that they have the opportunity to receive counseling and treatment depending on the result.

*Policies on economic development*

21. While recognizing the important role of migration in Cambodia's economy, we believe that the Government should set as its priority economic strategy to enlarge the local labor markets rather than seek to export more labor to destination/receiving countries. We believe that it is particularly important for the Government to seek to expand markets for local products produced by Cambodian farmers.

*Protection for migrant workers overseas*

22. As the number of Cambodian workers overseas increases, it is increasingly critical for Cambodia's Embassies to play a more important and central role in advocating for the protection of our migrant workers' rights and helping migrants who need assistance. Therefore, we recommend that the Government must set up a comprehensive labor attaché system as soon as possible. Labor attachés must be placed in every country where there are a significant number of Cambodia migrant workers employed. These labor attachés should receive all appropriate training and be supported with adequate personnel and financial resources so they are in a position to effectively address migrant workers' issues in destination countries. Officials in diplomatic missions should be clearly instructed by the Ministry of Foreign Affairs that the protection of the rights of migrant workers is a core part of their duties and regular work -- and they should be held accountable if they fail to provide effective assistance to Cambodian migrant workers in need of help.

23. Just as the Government has signed the CMW (and therefore should offer protections in that Convention to migrant workers in Cambodia) so should it also demand similar protections for its migrant workers outside the country. The Government should insist that Cambodian migrant workers shall not be discriminated against in any way. The Government should also insist and actively work to ensure that all Cambodian migrant workers are treated equally before the law in receiving countries.

24. In order to bring clarity to the Government's policy on migrant workers and ensure the rights of Cambodian workers are respected, the Government should negotiate and conclude bilateral Memorandums of Understanding (MOUs) or agreements with all of the countries which receive Cambodian migrant workers. Civil society should be consulted throughout the process of negotiations for these MOUs. The MOUs should contain provisions that are in accordance with the CMW, including providing migrant workers with unfettered consular access to Cambodian authorities in the receiving countries; ensuring national treatment for wages and other conditions of work; enabling access to basic services such as medical care; and ensuring migrant workers the right to bring grievances to an effective dispute-resolution and/or legal system that provides enforceable protection of migrant workers' rights in the destination country.

25. Effective monitoring and enforcement systems should be set up for all bilateral MOUs/agreements between Cambodia and receiving states, with a clear focal point established in the Cambodian Government for each bilateral MOU so that appropriate follow-up and enforcement actions can be undertaken by the Government. The Government focal points for each bilateral MOU/agreement

should be open to engaging with NGOs/civil society groups on the issues and problems of migrant workers in the receiving country covered by that particular MOU/agreement.

*Pre-departure training and safe migration*

26. The Government, the MOLVT, and recruitment companies should provide training that will equip migrant workers with appropriate skills so that the workers have the knowledge and skills to effectively perform the jobs for which they are being recruited.

27. The Government has set out that there shall be pre-departure training provided to all Cambodians who are leaving the country to be migrant workers. This policy is contained in Sub-Decree 57 which states the MOLVT and recruitment companies are “*responsible for preparing and conducting training course on work system, life style, custom, tradition, and common laws of the receiving country*” to which the worker will be sent. While the Government is to be commended for recognizing the importance of pre-departure training, the policy in Sub-decree 57 is too vague in its requirements and the types of specific information to be provided to future migrant workers. Therefore, we recommend that the pre-departure training should be further revised and clarified.

28. For the actual orientation process for migrant workers, the Government should standardize the program for migrant workers as much as possible. There should be greater definition of what topics and information must be conveyed to the migrant workers in accordance with the requirements of Sub-decree 57. We recommend that it is important to include lessons that promote greater cross-cultural knowledge, include comprehensive information about the employment policies and labor laws in destination countries, and provide a catalogue of existing services (and ways to access those services) for migrant workers in destination country. There should also be information about contact points/information systems where they can seek assistance or support in case of emergencies. The training can also emphasize the importance of migrant workers maintaining regular contacts with their family members back in Cambodia. The new training program should use a rights-based perspective to educate migrant workers, thereby helping to empower them and promote their ability to understand and take actions to effectively protect their rights.

29. We believe that safe migration approaches offer important information and understanding to intending migrant workers which can help them protect themselves when they depart the country to work. Therefore, safe migration principles should be taught to migrant workers, and should be combined with practical information (tailored to the situation in the country to which the migrant is going) as part of the pre-departure curriculum. Safe migration information should also be widely disseminated to the communities where migrant workers originate.

30. The curriculum for pre-departure training should also contain detailed information about the provisions of the bilateral MOU/agreement between Cambodia and the receiving country to which the migrant worker will be going.

In this way, the migrant worker will be more familiar with the mechanisms that s/he can access under the bilateral agreement to ensure the protection of rights.

31. The curriculum must also contain detailed information about each of the key provisions of the standard migrant worker contract which should be developed by the Government as part of the reform of the recruitment processes for migrant workers. Migrant workers should leave the pre-departure program fully cognizant of all the elements in the employment contract that protect their rights and have a clear idea of the ways to seek assistance in the receiving country to protect those rights.

32. The Government should establish a program of awareness raising for migrant workers about all the relevant details and risks of working outside of the country and ensure that this information is spread in communities where migrant workers originate, and re-emphasized to migrant workers before their departure.

#### *Protection of Migrant Workers in Cambodia*

33. Cambodia is also a nation which receives migrant workers from neighboring countries. Unfortunately, many of these migrant workers are routinely discriminated against and denied protection of the rights as migrant workers. Just as the Royal Government of Cambodia expects the citizens of Cambodia should be protected when they travel to other countries, then so then must all the stakeholders in Cambodia do their part to ensure the protection of the rights of migrant workers who come to our country.

34. As a signatory to the CMW, Cambodia is bound by the principles of that Convention. Article 7 of that Convention explicitly states that *“States Parties undertake, in accordance with the international instruments concerning human rights, to respect and to ensure to all migrant workers and members of their families within their territory or subject to their jurisdiction the rights provided for in the present Convention without distinction of any kind such as to sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.”*

35. We wish to remind the Government that when it voluntarily signed the CMW, it committed to provide a number of important rights to migrant workers in its national territory. Among the rights provided under the CMW which are particularly relevant to the situation faced by migrant workers living and working in Cambodia are: right to life of migrant workers and their families (Article 9); freedom from inhuman or degrading treatment (Article 10); protection from forced labour and servitude (Article 11); freedom of thought, conscience, and religion (Article 12); freedom of expression (Article 13); freedom from arbitrary interference in privacy, family, home and correspondence (Article 14); freedom from arbitrary deprivation of property (Article 15); *“effective protection by the State against violence, physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions”* (Article 16); and *“the right to equality with nationals of the State concerned before the courts and tribunals”* and right to a fair and public hearing (Article 18). Moreover, Article 20 of the CMW explicitly bars State Parties from imprisoning a migrant worker, or denying the migrant worker

continuing residence and a work permit, for failing to fulfill a contractual obligation, while Article 22 makes it unlawful to confiscate or destroy, or attempt to destroy migrant workers identification, travel, or work documents.

36. We further wish to remind the Government that by signing the CMW, it has agreed to abide by Article 25 of that Convention, which clearly requires that *“Migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect of remuneration and: (a) Other conditions of work, that is to say, overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of the employment relationship and any other conditions of work which, according to national law and practice, are covered by these terms; and (b) Other terms of employment, that is to say, minimum age of employment, restriction on home work...”* Article 26 of the CMW also requires the Government to recognize the right of migrant workers to join any trade union or association established under law.

37. We also remind the Government that CMW Article 28 states *“have the right to receive any medical care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their health on the basis of equality of treatment with nationals of the State concerned.”* CMW Article 30 guarantees the children of migrant workers the right to birth registration, nationality, and access to education on the same basis as nationals of the country.

38. In light of these commitments made by the Government, we strongly recommend that the Government must fully apply all provisions of the labor law to migrant workers in Cambodia.

39. Cambodia correctly expects that domestic migrant workers from Cambodia should be covered by the labor law (and therefore legally protected) when they go overseas. Therefore, Cambodia should also amend its labor law to classify domestic work as one of the forms of work in the formal definition of “employment”, and ensure that all provisions of the labor law are applied to domestic workers in Cambodia.

40. We further recommend that the Government should strictly prosecute, and apply penalties under law, against those persons who violate the rights of migrant workers living and working in the Kingdom.

41. The Government should ensure the effective implementation of the Immigration Law and Nationality Law.

42. The Government should set out a migration management system which will enable a more accurate determination of the number of migrant workers who are present in Cambodia, and ascertain their country of origin.

43. We recognize there is a need to establish and strengthen the management mechanisms for migrant workers at all levels. Therefore, we recommend that the Government should establish a Task Force on Migrant Workers, composed of Government agencies and NGOs/civil society organizations, to build better understanding about the rights of migrant workers and engage in follow up actions to ensure the protection of migrant workers. This Task Force should be



part of an ongoing effort to strengthen the relationship between Government and NGOs/civil society organizations on issues related to migrant workers, including the regular sharing of all data and information about migrant workers.

44. We recommend that this Task Force could also serve as a national committee which would have the duty to help build good relations between Cambodia and the sending countries who have their nationals living and working as migrant workers in Cambodia. The Task Force should also engage closely with personnel of the Phnom Penh-based Embassies of the countries sending migrant workers.

#### Trafficking in Persons

45. As a founding member of the Coordinated Mekong Ministerial Initiative on Trafficking (COMMIT), the Cambodian Government must do more to protect its migrant workers from becoming victims of human trafficking, and prevent human trafficking from occurring to migrant workers who are coming into Cambodia.

46. First and foremost, the Cambodian Government must ensure that all its officials, both inside Cambodia and those working at Cambodian Embassies overseas, fully understand that human trafficking is a crime that is committed against all persons – women, children, and men – and for all end purposes, including trafficking into forced labour. The Government should actively promote this understanding in its engagement with other Governments in ASEAN, at the regional level in ASEAN, and among civil society organizations in receiving countries.

47. Second, the Cambodian Government should actively review the implementation of existing bilateral MOUs on human trafficking and should take all appropriate steps to ensure that MOUs are being executed. The Thai-Cambodia *MOU on Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking* is out of date, and should be immediately revised now that both Cambodia and Thailand have passed anti-trafficking laws that criminalize the trafficking of men, as well as women and children.

48. Where significant numbers of Cambodians are traveling for work, such as to the countries of Malaysia, South Korea and Taiwan (China), the Government should seek to negotiate and sign bilateral MOUs supporting protection of workers against all forms of human trafficking.

49. Regarding the newly adopted anti-trafficking law in Cambodia, which has been much criticized in its implementation by both domestic and international groups, it is critical that the Government (working closely with the NGOs and civil society groups) produce clear guidelines that effectively clarify how the new anti-trafficking law is to be interpreted and applied. Once those guidelines are developed, the Government should undertake awareness building and training to build understanding of the law among the Cambodian people and officials from the grass-roots level on up. Building correct understanding of the law and the implementation guidelines is one way to ensure that the new anti-trafficking law is used in a manner that does not violate the principles of human rights. To ensure that there is follow-up and the guidelines are continuously applied, the

Government should establish an independent body (which should include representatives of NGOs/civil society groups) to monitor the implementation of the law and make public reports and interventions when cases of abuses occur.

50. In Cambodia, the Government should find resources and make arrangements to provide proper training on basic knowledge on human trafficking to police authorities, with a special focus in assisting police be able to effectively identify victims of trafficking. Police reforms should also be considered, such as formation of a truly independent, professional, and non-corrupt police authority at the borders, to improve anti-trafficking response. Prosecution of the crime of human trafficking must be carried out, and when perpetrators are found guilty, severe punishment according to law must be meted out regardless of the guilty person(s)' high positions or membership in privileged and powerful groups.

51. The Government should ensure that there is effective legal protection for victims of human trafficking. The Government should take all steps required to ensure that persons who are victims of human trafficking are not held responsible for criminal offenses that they are force or coerced to commit while being held in trafficking situation. The Government should also insist on such protections for its citizens who are trafficked overseas and make bilateral representations to all Governments inside and outside of ASEAN which do not abide by this core international standard practice.

52. Cambodian trafficking victims overseas should be provided with an appropriate place/center to guarantee their personal safety, such as a temporary shelter like the ones frequently developed by the Government of the Philippines at its Embassies in receiving countries where there are significant numbers of Philippines nationals present. The Government should also ensure that there is a budget allocation to pay for the repatriation of Cambodian trafficking victims back to Cambodia.

53. The Cambodian Government should strengthen cross-border cooperation among national police authorities and the courts to improve chances for the successful cross-border prosecution of trafficking cases. With regards to the countries of the Greater Mekong Sub-region, this collaboration can take place under the auspices of the COMMIT Sub-regional Plan of Action and associated activities, or with Thailand, through the provisions of the bilateral MOU. For similar cooperation with other ASEAN nations, Cambodia should lead the way in finding methods and mechanisms of effective collaboration to ensure effective prosecution of cross-border human trafficking cases.

54. Finally, regarding the recent controversy about the marriage of Cambodian women with foreigners (and the potential connections to human trafficking), the Government must develop both a clear policy and a mechanism to ensure (in a timely and effective way) that each new marriage proposal with foreigners is legitimate. This is especially the case when that marriage involves the immediate emigration of a Cambodian national to another country. The Government should engage with NGOs and civil society groups to develop the appropriate oversight mechanisms, which could be monitoring bodies developed as a result of

bilateral agreements with countries where significant numbers of Cambodians are traveling to get married.

### **Recommendations to ASEAN**

55. We strongly believe that the regional Instrument on the Protection and Promotion of the Rights of Migrant Workers (which will be developed by the ASEAN Committee to Implement the ASEAN Declaration on the Promotion and Protection of the Rights of Migrant Workers) should be legally binding on all ten ASEAN states.

56. We recommend that the Cambodian Government should conclude bilateral MOUs/agreements (with focal points established to ensure effective implementation of the agreement) with key nations. These bilateral MOUs/agreements should be in accordance with the principles and provisions of the above-mentioned regional agreement, and should be understood to supplement the regional agreement and to address bilateral issues that are outside the scope of the regional agreement. It must be clear that the bilateral MOUs/agreements of any sort must be in accordance with international human rights and labor standards

57. One of the major problems in coordinating policy on migration in ASEAN is the lack of effective inter-agency coordination between Government agencies on the issue of migration. This is one of the major problems that has delayed the formal operation of the ACI for more than a year. We call for the immediate establishment of the ACI and the holding of its first meeting before the ASEAN Leaders Summit in December in Bangkok. To ensure that effective coordination of policies and negotiations on migration occur between ASEAN member nations in the future, each national Government should be required to establish an Inter-Agency Task Force to coordinate all aspects of each Government's work on migrant workers. The effective model of the COMMIT Task Force used on human trafficking is a potential 'best practice' model to be emulated by these Inter-Agency Task Forces.

58. There should be an effective information sharing agreement, using appropriate information technologies (IT) and systems, to enable the member Governments of ASEAN to exchange information on migration trends, and conduct follow up actions on the situation of specific migrants as needed.

59. We recommend that there should be an agreement on a "standard medical package" of services that will provided by receiving states (in cooperation with sending states) to migrant workers wherever they are in ASEAN. The provisions of this package would have to be negotiated, but it should contain elements of preventative as well as curative care, access to public hospitals, reproductive health and family planning, and public health and hygiene information. A core element of the plan would be a requirement for the employers of the migrant workers to pay costs associated with the medical package, and a strict prohibition against employers making deductions from migrant workers' pay for medical costs.

60. Under no circumstances should an ASEAN Government be permitted to involuntarily deport or detain a migrant women simply because she is pregnant. This is a fundamental human rights violation that cannot be allowed. Procedures should be developed to allow the woman to remain and work in the receiving country and, as her condition requires, to change jobs to do lighter work as her pregnancy advances.

61. All ASEAN nations must adopt regulations that permit documented migrant workers to change employers without losing their work permit status or their right to continue to work and reside in the receiving country. These regulations should neither be burdensome nor should they require any additional expenditure by the migrant worker to change the employer listed on the work permit.

62. There must be a clear and absolute prohibition on seizure of passports or migrant workers' documents, or the destruction of those documents, by Government officials, employers, brokers, agents, recruitment agencies, or any other persons in the receiving country. There should be severe penalties imposed against persons who seize and/or destroy migrant workers' documents.

63. In accordance with international core labour standards, the CMW and other international human rights instruments, all ASEAN states should allow for migrant workers to form and/or join trade unions in the receiving nation.

64. Embassies of labor sending countries should maintain close relationships with migrant workers from their country in the destination country and develop a set of tools and services to help protect migrant workers, such as a hot line/emergency phone number, a migrant help desk, a dedicated labor attaché or Embassy personnel to help migrants, and other mechanisms. The Embassy should regularly inspect working conditions of migrant workers from their country, and it should also build a network of contacts with NGOs, unions, and civil society groups who are helping migrant workers in the receiving country.

65. Representatives of the migrant sending country should develop an effective and accurate monitoring system to regularly check the numbers, work and residence locations, and types of work that their migrant workers are engaged in the receiving country.

66. ASEAN member nations should be required to establish effective systems to track visas given to documented migrant workers as they enter the country so that in the case the worker's passport is stolen or seized by another person, there is evidence that they have entered the country legally and they are not held as an undocumented migrant.

67. No ASEAN country should criminalize undocumented migrant workers nor use corporeal punishment (such as caning) against migrant workers.

68. ASEAN should set out a no-tolerance policy towards use of violence against migrant workers, and should ensure that all its member nations provide migrant workers with the same rights to access to justice as the national of the receiving country. Migrant workers who return to their country of origin shall have the

right to file a legal complaint against an abuser in the receiving country. A system should be developed where the migrant worker can file a legal complaint through the Embassy of the receiving country, and this Embassy would then be required to transmit the complaint back to the receiving country for action by the receiving country's courts. The Cambodian Embassy in the receiving country should be required to monitor the progress of the migrant worker's case filed in the receiving country's court, and provide regular updates.

69. Finally, we commend the Task Force on ASEAN Migrant Workers for its support for this National Consultation process. We expect to receive continuing updates from the Task Force on the progress of work in other ASEAN countries, and look forward to working closely with the Task Force, and CIDA/SEARCH, in the future.