ABUSIVE LABOUR MIGRATION POLICIES

SUBMISSION TO THE UN COMMITTEE ON MIGRANT WORKERS' DAY OF GENERAL DISCUSSION ON WORKPLACE EXPLOITATION AND WORKPLACE PROTECTION, 7 APRIL 2014

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INTRODUCTION

This paper focuses on labour migration policies (i.e. official policies designed and implemented by states to regulate migration for work) that increase migrant workers' risk of suffering labour exploitation and other abuses at the hand of private actors such as recruitment agencies and employers. Amnesty International offers these observations to the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) as contribution to the *Day of general discussion on workplace exploitation and workplace protection*, which the Committee will hold on 7 April 2014.

The observations in this paper are based on field research on labour exploitation of migrant workers, conducted by Amnesty International in several countries, including China (Hong Kong), Italy, Qatar and South Korea between 2009 and 2014.

Country-specific findings have been published in the following reports, to which reference can be made for individual testimonies and detailed legal and policy analysis:

Disposable Labour: Rights of Migrants Workers in South Korea, Index: ASA 25/001/2009, October 2009.

South Korea: Amicus Brief in the matter of "Confirmation of Constitutionality of EPS Act article 25(4) and its Enforcement Decree 30(2)" under consideration by the Constitutional Court of the Republic of Korea, Index: ASA 25/002/2010, October 2010.

South Korea: New regulation will increase risk of exploitation for migrant workers, Index: ASA 25/004/2012, public statement, 29 July 2012.

Italy: The regularisation process should protect the rights of migrant workers, Index: EUR 30/016/2012, September 2012.

Exploited Labour: Migrant Workers in Italy's Agricultural Sector, Index: EUR 30/020/2012, December 2012.

The dark side of migration: Spotlight on Qatar's construction sector ahead of the World Cup, Index: MDE 22/010/2013, November 2013.

China: Exploited for profit, failed by governments: Indonesian migrant domestic workers trafficked to Hong Kong, Index: ASA 17/029/2013, November 2013.

In many of the cases of labour exploitation that Amnesty International investigated, the abuses suffered by workers were not only due to the actions or failures of an individual employer or recruitment agency, but were linked to systemic problems in the way migrant workers' employment is

regulated in the destination country. In many destination countries, labour exploitation is rooted in serious flaws in the processes by which migrant workers are recruited and employed, which facilitate and enable recruitment agencies and employers to subject migrant workers to exploitative practices.

What follows will focus on:

- Part I: Labour migration policies that give the employer control over the migrant worker's residence status;
- Part II: Labour migration policies that tie migrant workers to a specific employer.

RECOMMENDATIONS

Amnesty International recommends that the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) requests states parties to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families to provide detailed information on, *inter-alia*, the following aspects of their labour migration policies:

- labour migration policies that give the employer control over the migrant worker's residence status;
- labour migration policies that tie migrant workers to a specific employer;
- measures taken to ensure the right of all migrant workers to the opportunity to gain a living by work which he or she freely chooses or accepts;
- measures taken to ensure that all migrant workers are able to report instances of labour exploitation and obtain an effective remedy for human rights violations.

I. LABOUR MIGRATION POLICIES THAT GIVE THE EMPLOYER CONTROL OVER THE MIGRANT WORKER'S RESIDENCE STATUS

Amnesty International's research has found that labour migration policies that give the employer control over the migrant worker's residence status increase the risk of labour exploitation.

On the one hand, the exclusive responsibility to complete the administrative procedures to issue migrant workers with visas and work permits provides the employer with the power to arbitrarily deprive migrant workers of a regular migration status, thereby reducing their ability to access assistance by the authorities in case of labour exploitation. Amnesty International has observed this dynamic in several countries, including Qatar.

On the other hand, the employer's power to provide migrant workers with the necessary documents to obtain residency can easily become a tool to intimidate or threaten them, undermining their ability to negotiate better wages and working conditions. Amnesty International has documented such abuses in Italy.

QATAR'S RESIDENCE PERMITS UNDER THE SPONSORSHIP LAW[1]

Migrant workers in Qatar have no ability to secure their own residence permits, despite complying with the relevant requirements in Qatari laws and regulations with regard to their employment. Under Article 9 of the *Sponsorship Law* (Law No. 4 of 2009), it is the employer's responsibility to complete the administrative procedures to issue workers with residence permits and renew expired residence permits.

Despite this legal obligation, Amnesty International's research found that a significant number of employers effectively leave their employees 'undocumented', by not making arrangements for them to be issued with residence permits and the accompanying ID card. Amnesty International researchers met hundreds of workers in this situation. Some men said that they had never been issued with residence permits since arriving in Qatar.

Others said they were initially issued with a residence permit when they arrived, but after this expired their employers failed to arrange for their renewal, leaving them effectively undocumented for up to a year or even 18 months.

The employer's power to arbitrarily deprive migrant workers of the documents necessary to prove their migration status reduces their ability to access assistance by the authorities in case of labour exploitation. Without these critical documents migrant workers find themselves in a highly precarious situation, as authorities often assume those without valid residence permits to have 'absconded' from their employers – a criminal offence. Anyone without a valid permit and accompanying ID card is at risk of arrest by police, who regularly stop migrant workers to check their papers. Many workers interviewed by Amnesty International expressed their fear of being arrested for not having valid permits.

Additionally, the way in which residence permits are linked to the restrictive sponsorship (*kafala*) system is open to exploitation. Amnesty International has met migrant workers on so-called "free visas", who pay a monthly fee to their sponsors for the cost of their residence permits and are therefore permitted by their sponsors to work illegally for other employers. A 30-year-old Nepalese man said that he had to pay the costs of his residence permit renewal each year and then pay 1500 riyals [US$412] to his sponsor. Some workers have told Amnesty International that "free visas" are prized above regular arrangements, because working in so-called "day-jobs" brings higher financial rewards. However, they also reported various abuses by their sponsors. One Egyptian construction worker, for example, said that his sponsor had asked him for money in order to renew his residence permit, but then did not carry out the necessary procedures. Other workers in such arrangements reported being charged extortionate fees by their sponsors before they signed off their exit permits, allowing them to leave the country (see below).

Combined with the other features of the Qatari sponsorship (*kafala*) system, the power of the employer to determine their workers' residency status increases the workers' vulnerability to labour exploitation. The human rights implications of the Qatari sponsorship system will be discussed in detail below.

ITALY'S SEASONAL RESIDENCE PERMITS[2]

Under the 1998 Consolidated Act on Immigration (*Testo Unico sull'Immigrazione,* Legislative Decree no. 286/1998), as amended by the

2002 "Bossi-Fini Law" (Law No. 189/2002), a written contract of employment, guaranteed by the employer, is required to issue migrant workers with a residence permit. Accordingly, non-EU migrant workers who want to work in Italy can enter the country only if they manage to secure, prior to arrival, an individual contract with an employer based in Italy.

The procedure for obtaining a residence permit for seasonal work, in particular, requires the employer to apply to the immigration authorities for an individual authorisation to hire a non-EU migrant worker (*nulla osta al lavoro*). After the employer has received the authorisation, the worker can apply for an entry visa with the Italian consular authorities in his/her country of origin, which needs to be converted into a residence permit within eight days of arrival in Italy.

The research conducted by Amnesty International within the Indian migrant workers community of the Latina area has shown that failures intrinsic in the seasonal permit system (insufficient regular migration channels; long and bureaucratic procedures; unavailability of permanent regularisation mechanisms) allow it to be routinely abused.[3]

On one hand, the seasonal permits system is often used as a smuggling and trafficking mechanism. Migrant workers in India wishing to migrate can obtain an authorisation to work through friends already in Italy, or buy it through more complex smuggling organisations with 'agencies' and 'intermediaries' both in India and in Italy. Other necessary documents, such as contracts and promises of employment, can also be bought. The "employers" receive money to apply for the authorisation, but in most cases do not intend to employ newly-arrived migrants whom they do not know. As a consequence, often either employers do not complete the administrative procedure and, eight days after arrival in Italy, the worker falls into irregularity; or employers complete the procedure for the worker to obtain documents, but no work is provided. In some cases, migrant workers are deceived with respect to the nature of the papers, the availability of a job and/or their pay.

For Indian migrant workers already in Italy (often having arrived in the country via the mechanism described above), on the other hand, the seasonal permits system has *de facto* become a periodic, unofficial regularisation mechanism. Employers apply to obtain a visa for migrant employees who are already in Italy, in many cases in exchange for money. If and when the employer receives the necessary authorisation, the migrants go back to India to collect their entry visa and re-enter Italy, this time regularly. In this process, migrant workers are completely dependent on their employer's willingness to apply for the documents necessary to

regularise their status, as the procedure can only be initiated by the employer.

The employer's effective power to determine the worker's migration status can easily become a tool to intimidate or threaten workers, undermining their ability to negotiate better wages and working conditions. Amnesty International's research has shown that the promise of regular documents is often used by employers to induce migrant workers to accept exploitative labour conditions. The non-payment of wages or arbitrary wage deductions, which are common instances, are often justified by the employer as payments for his/her "cooperation" in the process to obtain documents.[4]

In a 2009 survey of 291 victims of serious labour exploitation, 47 per cent of the workers interviewed indicated that their exploitative working relationship was characterised by false promises on the part of the employer to conclude residence contracts and/or other documents necessary to regularise the worker's status.[5]

ITALY'S 2012 REGULARISATION PROCESS

The *ad hoc* regularisation process launched in Italy in 2012 allowed only the employer, not the worker, to submit an application. Amnesty International expressed concern that the limitations on the ability of migrant workers to participate effectively in the procedures to regularise their status made them completely dependent on the employer and increased their already heightened vulnerability to labour exploitation.[6]

In June 2013 new legislation was adopted, allowing migrants to complete the regularisation procedure without cooperation from the employer; and to leave their employer and find regular work with a second employer pending the outcome of their application.[7] However, the 2013 reform applied only to the procedure for the 2012 *ad hoc* regularisation process; it did not apply to seasonal residence permits, or to the regular procedure to obtain other residence permits.

II. LABOUR MIGRATION POLICIES THAT TIE MIGRANT WORKERS TO A SPECIFIC EMPLOYER

The Special Rapporteur recommends that States: Abolish immigration regimes that tie a visa to the sponsorship of a single employer, including for domestic workers employed by diplomats.

UN Special Rapporteur on contemporary forms of slavery, including its causes and consequences, 2010[8]

International law recognises the right of everyone to the opportunity to gain a living by work which he or she "freely chooses or accepts" (Article 6, International Covenant on Economic, Social and Cultural Rights).[9]

Amnesty International's research has found that labour migration policies that tie migrant workers to a specific employer increase the risk of labour exploitation. This is the case, for example, of:

- visas or work permits which require permission by the first employer for the migrant worker to change jobs;
- visas or work permits immediately or rapidly expiring when a migrant worker leaves a job or is fired.

A. VISAS OR WORK PERMITS WHICH REQUIRE PERMISSION BY THE FIRST EMPLOYER FOR THE MIGRANT WORKERS TO CHANGE JOBS

Some countries impose limitations on the labour mobility of migrant workers, requiring them to obtain permission by their first employer in order to change jobs. In Qatar, such a permission is known as "No objection

certificate", or NOC; in South Korea, the employer signs a "release" document.

QATAR'S SPONSORSHIP LAW: THE NO OBJECTION CERTIFICATE[10]

In Qatar, the "Sponsorship Law" (Law No 4 of 2009) requires migrant workers to have a "sponsor", who must also be his or her employer. Migrant workers cannot change jobs without the permission of their sponsor (known as "No objection certificate" or NOC).

If sponsors refuse to give permission for workers to move jobs, and a worker leaves their job nonetheless, the employer is required to report them as "absconded" – the term used by the government to describe workers who have left their employers without permission, possibly to seek work with someone other than their sponsor. "Absconding" is a criminal offence: workers detained for "absconding" face the prospect of heavy fines, being deported, and can even face criminal charges.

While the policing of "absconding" appears to aim at assuaging employers' concerns that they will lose out financially should workers leave for new employers without their permission, it has a detrimental effect on workers' rights.

QATAR'S EXIT PERMITS AND THE TRAPPING OF WORKERS

Under the "Sponsorship Law", migrant workers cannot leave Qatar without their sponsor's permission. They must obtain an 'exit permit' from the authorities before they can clear immigration at the airport every time they leave the country. The exit permit is issued after the sponsor submits an application to the Ministry of Interior.

Amnesty International considers that the existence of the exit permit system in its current form constitutes a violation of the right to freedom of movement. Additionally, the employer's power to restrict workers' freedom of movement has a profound psychological effect on workers, who throughout their working career in Qatar are always aware that their employers have the ability to prevent them from going home. Amnesty International's research found that the employer's power to prevent workers from leaving Qatar can be used to pressure worker to continue to work in situations where they are subjected to exploitation (for example, unpaid salaries, very poor living conditions) or when the individual simply wants to resign and return home.

The sponsorship (or *kafala*) system, in particular the difficulties that workers face in switching employers, increases the risk of labour exploitation because it creates an unequal power relationship, in which workers are extremely dependent on their employers. If workers arrive in Qatar to find that they have been deceived about the terms and conditions of their work during the recruitment process, or are subjected to abusive working or living

conditions by their employer, the question of whether or not they can change jobs depends on their employer. In contrast, sponsors have the power to: prevent their workers from moving jobs; block them from leaving the country without needing to provide any justification; terminate their employment and have their residency permit cancelled by the authorities.

Amnesty International's research has found that the sponsorship system is often used by employers to prevent workers from complaining to the authorities or moving to a new job in the event of abuse. When combined with ineffective enforcement of worker protections, the sponsorship system means that people can be compelled to work under exploitative conditions, when they would otherwise be able to resign and look for a new job or leave the country.

RECOMMENDATIONS BY INTERNATIONAL BODIES

In 2012, the UN Committee on the Elimination of Racial Discrimination expressed concern that:

"despite the legal provisions prohibiting conduct such as passport and wage withholding by sponsors, the fundamental nature of the sponsorship programme increases the dependency of the migrant workers on sponsors rendering them vulnerable to various forms of exploitation and abuses".[11]

It recommended to the government of Qatar:

"that the State party ensure that the legal provisions protecting the rights and freedoms of the migrant workers under the sponsorship programme are fully enforced and provide effective legal remedies to migrant workers whose rights are violated."[12]

At the end of his mission to Qatar in November 2013, the Special rapporteur on the human rights of migrants stated:

"I… urge Qatar to thoroughly pursue its review of the kafala system. It should be made easy for migrants to change sponsor, and this should happen automatically in all cases of alleged abuse by the sponsor. The exit permit should be replaced by a system where creditors can apply to a court for a travel ban, that can only be awarded upon consideration of individualised circumstances, if strictly necessary for the adequate conclusion of judicial proceedings, with the burden of proof on the creditor. Migrants who "run away" from abusive employers should not be detained and deported. Ultimately, abolishing the kafala system and replacing it by a regulated open labour market, where the work permit allows the worker to change employer, will solve these issues, as well as ensure the mobility of labour and a better match of needs and skills."[13]

In February 2014, the UN Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern about "the implications of the sponsorship system which restricts domestic workers' ability to change employers and prevents them from filing complaints, thereby, increasing their vulnerability to abuses, including forced labour" and recommended the abolition of the sponsorship system for all migrant workers.[14]

SOUTH KOREA'S EMPLOYMENT PERMIT SYSTEM: RELEASE PAPERS[15]

In South Korea, migrant workers' labour mobility is discouraged by both government and employers. Although the Act on Foreign Workers' Employment (the Employment Permit System (EPS) Act) does not expressly prohibit change of workplace, various restrictions make the process difficult.

Migrant workers are only allowed to change their job a total of three times in a three-year period, through the job centre[16] and only with the permission of the Minister of Justice.[17] In addition, their employer must agree to the change by signing a release document. Where permission is not granted, migrant workers who leave their job lose their regular migration status, thus risking arrest, imprisonment and deportation.

Essentially, migrant workers who want to change jobs are dependent on the goodwill of their employer to sign the release papers, even when the employer is responsible for abuses. Although a Ministry of Labour directive instructs that a job change due to a reason that is not the fault of the migrant worker is not to be counted as one of the three changes permitted, Amnesty International's research has found that staff members at job centres were not aware or did not follow the procedure, requesting a release form also in cases of labour exploitation.[18]

Amnesty International's research has found that the inability to freely change jobs pressures migrant workers into remaining in situations of labour exploitation.[19]

RECOMMENDATIONS BY INTERNATIONAL BODIES

In considering the obligations of the government of Korea under the ILO Convention No. 111, Discrimination (Employment and Occupation), the Committee of Experts on the Application of Conventions and Recommendations (CEACR) stated:

"…the Committee considers it important that the Government keeps the operation of the Employment Permit System under review, with a view to further diminishing the migrant worker's dependency on the employer by providing for appropriate flexibility to change workplaces, as a means of avoiding situations in which migrant workers become vulnerable to discrimination and abuse. Migrant workers suffering such treatment may refrain from bringing complaints out of fear of retaliation by the employer, including termination or non-renewal of their contract. At the same time, bringing a complaint would appear necessary in order to establish that the employer has violated the contract or legislation, which is a requirement for being granted permission to change the workplace." [20]

The CEACR went on to call on the Republic of Korea:

"to keep the operation of the Employment Permit System under review with a view to further

decreasing the level of dependency of migrant workers in relation to their employers. In this regard, the Committee invites the Government to consider allowing migrant workers to apply for a change of business or workplace for significant personal reasons".[21]

B. VISAS OR WORK PERMITS IMMEDIATELY OR RAPIDLY EXPIRING WHEN A MIGRANT WORKER LEAVES A JOB OR IS FIRED

Non-discriminatory residency regulations: when residency permits of women migrant workers are premised on the sponsorship of an employer… States parties should enact provisions relating to independent residency status. Regulations should be made to allow for the legal stay of a woman who flees her abusive employer… or is fired for complaining about abuse.

UN Committee on the Elimination of Discrimination against Women (CEDAW), 2008[22]

Visas or work permits that immediately expire when a migrant worker leaves a job or is fired (or shortly thereafter), leaving them in an irregular migration situation, increase the risk of labour exploitation because they greatly reduce the likelihood that the worker would seek help from the authorities in case of abuse, for fear of being detected as irregular and deported.

This is the case for visas that do not allow the worker to change employer, thereby expiring when the employment relationship with the first employer ends. However, the same risk of labour exploitation arises with respect to labour migration policies that allow migrant workers only a very short time to find a second employer after the end of the employment relationship with the first one, such as the Two-Week Rule in Hong Kong, China and the Employment Permit System in South Korea.

UNITED KINGDOM'S DOMESTIC WORKERS IN A PRIVATE HOUSEHOLD VISAS

Under new rules introduced in April 2012 to regulate the Domestic Workers in a Private Household visa, migrant domestic workers who travel to the United Kingdom with their employer cannot change employer for the duration of their visa.[23]

Before the April 2012 changes, individuals under the Domestic Workers in Private Households visa could change employers while in the United Kingdom, although they were not allowed to change to a type of employment other than domestic work. The UN Special Rapporteur on the human rights of migrants had commented favourably on the previous regime:

"The Special Rapporteur notes with appreciation that the right to change employer has been instrumental in facilitating the escape of migrant domestic workers from exploitative and abusive situations. This is because they know they can receive support and assistance and still seek work with another employer without facing the risk of being removed from the United

Kingdom."[24]

Several NGOs and civil society organisations have expressed concern that this limitation would deter migrant domestic workers from leaving their job to flee abuse and exploitation.[25]

Following the change in the regulations, the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) requested the United Kingdom government to provide information on

"The specific procedure in place for both categories of overseas domestic workers who have left their employer because of abuse and who have filed a complaint with the competent authorities regarding unequal treatment with respect to any of the matters covered by Article 6 of the Convention, and any measures taken to reduce domestic workers' dependence on their employer as this is an important aspect of ensuring that equal treatment is applied to migrant workers in practice".[26]

CHINA / HONG KONG: THE TWO-WEEK RULE[27]

Under the [Foreign Domestic Helpers, FDH] policy, permission for them to enter and stay in Hong Kong is tied in with their employment to a specified employer. The standard FDH employment contract is for a duration of two years. If a FDH's employment was terminated prematurely, she is required to leave Hong Kong within 2 weeks after the termination.

High Court of Hong Kong, 2011[28]

Under the *New Condition of Stay* (NCS) 1987, migrant domestic workers in Hong Kong Special Administrative Region (SAR), also known as foreign domestic helpers (FDH), must find new employment and obtain an approved work visa within two weeks of the expiration or premature termination of their employment contract (the Two-Week Rule). Failing that, they must leave Hong Kong and return to their country of origin.

The Hong Kong SAR government maintains that "such rule is required for maintaining effective immigration control and eliminating chances of FDHs overstaying in Hong Kong or working illegally after termination of contracts".[29] However, evidence collected by Amnesty International demonstrates that two weeks' time is not enough to find a new employment and process the necessary documentation to obtain a new work visa. Even when the migrant worker manages to find a new employer within the two weeks, it normally takes about 4-6 weeks for the Immigration Department to process an application for change of employer once all necessary documents are received.

Amnesty International's research has shown that the Two-Week Rule exacerbates migrant workers' vulnerability to exploitation.[30] Migrant

domestic workers who lodge a complaint against their employer are likely to have their contract terminated. Although the Two-Week Rule should not apply to workers who have been abused or exploited,[31] this exception does not seem to be applied in practice. The inability to legally change employment in the two-week time limit leaves migrant domestic workers with little choice but to remain in abusive and/or exploitative conditions or accept jobs with unfavourable work conditions in order to maintain their regular migration status.

Furthermore, the Two-Week Rule makes it particularly difficult for migrant domestic workers to access the mechanisms for redress in Hong Kong. If a migrant domestic worker leaves an abusive situation and is not re-employed within two weeks, she must leave Hong Kong, making it difficult and costly for her to file a case against an abusive employer. The only alternative is to apply for a visa extension, which does not allow her to work, at a cost of HK$160 (US$20) for 14 days. It takes on average around two months to take a case to the Labour Tribunal. During this time, they will have to renew their visa several times and pay for their own accommodation, food and other expenses without any income. Many migrant domestic workers are unable to afford these costs.

In this way, the Two-Week Rule provides a disincentive for migrant domestic workers to denounce abusive practices and pursue criminal charges and/or compensation though the appropriate channels. This in turn makes the effective investigation and prosecution of those responsible extremely difficult.

RECOMMENDATIONS BY INTERNATIONAL BODIES

In 2005, the UN Committee on Economic, Social and Cultural Rights urged the government to "review the existing 'two-week rule', with a view to eliminating discriminatory practices and abuse arising from it, and to improving the legal protection and benefits for foreign domestic workers."[32]

In 2006, the UN Committee on the Elimination of Discrimination against Women raised concerns that the Two-Week Rule pushes migrant domestic workers to "accept employment which may have unfair or abusive terms and conditions in order to stay in Hong Kong" and urged the Hong Kong SAR to repeal it.[33]

Both the UN Human Rights Committee[34] and the UN Committee on the Elimination of Racial Discrimination[35] called on the Hong Kong authorities to repeal the Two-Week Rule.

SOUTH KOREA'S EMPLOYMENT PERMIT SYSTEM: THREE MONTHS TO FIND NEW EMPLOYMENT[36]

Under South Korea's Employment Permit System (EPS), if a new employment is not found within three months of leaving a job, migrant workers lose their legal status, becoming subject to arrest, detention and deportation. Together with the inability to freely change jobs, discussed above, fear of losing their job and quickly becoming irregular increases migrant workers' reluctance to complain about abusive labour conditions.

Additionally, Amnesty International's research has found that, as a majority of migrant workers are not proficient in the Korean language, the process of going to a district job centre, receiving a list of registered companies who are hiring, visiting the companies on the list and checking out the working conditions is very difficult for many of them. The inability to find new employment in the three-month time limit often leaves migrant workers with little choice but to accept jobs with unfavourable work conditions just to maintain their migration status.[37]

RECOMMENDATIONS BY INTERNATIONAL BODIES

In December 2009 the UN Committee on Economic Social and Cultural Rights stated:

"The Committee is concerned that migrant workers are subject to exploitation, discrimination and unpaid wages. The Committee recommends that the employment permit system that has already recognized migrant workers as workers entitled to labour law protection be further reviewed. It also recommends that particular attention be paid to the fact that the three-month period stipulated for a change in job is highly insufficient. This is especially true in the current economic situation, in which migrant workers often have little choice but to accept jobs with unfavourable work conditions just to retain a regular work status".[38]

In 2012 the Committee on the Elimination of Racial Discrimination (CERD) noted that "one of the consequences of the inflexible system of time-limited permits and visas is that many migrant workers, who entered the country legally, become undocumented and that they and their families cannot enjoy their rights or access to services" and recommended the Korean government "to take all measures to ensure that migrant workers who entered the country legally do not become undocumented as a result of the inflexibility of the work-permit system."[39]

[1] Unless otherwise stated, the information in this section is taken from Amnesty International, *The dark side of migration: Spotlight on Qatar's construction sector ahead of the World Cup*, Index: MDE 22/010/2013, November 2013.

[2] Unless otherwise states, the information in this section is take from Amnesty International, *Exploited Labour: Migrant Workers in Italy's Agricultural Sector*, Index: EUR 30/020/2012, December 2012.

[3] These findings confirm an earlier study published by the International Organization for Migration (IOM) in December 2010 and focusing on several areas of Southern Italy: IOM, *"Stagione amara": Rapporto sul sistema di ingresso per lavoro stagionale e sulle condizioni dei migranti impiegati in agricoltura in Campania, Puglia e Sicilia*, December 2010.

[4] Amnesty International, *Exploited Labour: Migrant Workers in Italy's Agricultural Sector*, Index: EUR 30/020/2012, December 2012, p17-18.

[5] Francesco Carchedi (ed.), *Schiavitù di ritorno: Il fenomeno del lavoro gravemente sfruttato*, Maggioli Editore, 2010, p53.

[6] Amnesty International, *Italy: The regularisation process should protect the rights of migrant workers,* Index: EUR 30/016/2012, September 2012.

[7] Italy, Decree-Law no. 76 of 28 June 2013, art. 9.10.

[8] *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, to the Human Rights Council*, UN Doc. A/HRC/15/20, 18 June 2010, para96.

[9] Qatar has not yet ratified the International Covenant on Economic, Social and Cultural Rights. However, it ratified the International Convention on the Elimination of All Forms of Racial Discrimination, which prohibits discrimination in the enjoyment of the rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration (Art 5(e)(i)).

[10] Unless otherwise stated, the information in this section is taken from Amnesty International, *The dark side of migration: Spotlight on Qatar's construction sector ahead of the World Cup*, Index: MDE 22/010/2013, November 2013.

[11] UN Committee on the Elimination of Racial Discrimination (CERD), *Concluding observations: Qatar*, UN Doc. CERD/C/QAT/CO/13-16, 13 April 2012, para15.

[12] Ibid.

[13] *UN Special Rapporteur on the human rights of migrants concludes country visit to Qatar*, 10 November 2013, http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13974&LangID=E.

[14] UN Committee on the Elimination of Discrimination against Women (CEDAW), *Concluding observations on the initial report of Qatar*, UN Doc. CEDAW/C/QAT/CO/1, 28 February 2014, para 25(a) and 26(d).

[15] Unless otherwise stated, the information in this section is taken from Amnesty

International, *Disposable Labour: Rights of Migrants Workers in South Korea,* Index: ASA 25/001/2009, October 2009; and *South Korea: Amicus Brief in the matter of "Confirmation of Constitutionality of EPS Act article 25(4) and its Enforcement Decree 30(2)" under consideration by the Constitutional Court of the Republic of Korea,* Index: ASA 25/002/2010, October 2010.

[16] Republic of Korea, Act on Foreign Workers' Employment (EPS Act) no. 6967, 6 August 2003, Article 25 (Permission for Change of Business or Workplace). In 2009 the Act was amended so that job changes that are not the fault of migrant workers would not be counted against them.

[17] Republic of Korea, Immigration Control Act, Act No. 7655, 4 August 2005, Article 21(1) (Change and Addition of Work Place).

[18] Amnesty International, *Disposable Labour: Rights of Migrants Workers in South Korea,* Index: ASA 25/001/2009, October 2009, p21-23.

[19] Ibid.

[20] ILO, Committee of Experts on the Application of Conventions and Recommendations (CEACR), Individual Observation concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111) adopted 2007, published 97th ILC session (2008), para7.

[21] Ibid, para8b.

[22] UN Committee on the Elimination of Discrimination against Women (CEDAW), *General recommendation No. 26 on women migrant workers*, Un Doc. CEDAW/C/2009/WP.1/R, 5 December 2008, para26(f).

[23] United Kingdom government, Statement of Changes in Immigration Rules: HC1888, 15 March 2012.

[24] *Report of the Special Rapporteur on the human rights of migrants on his mission to the United Kingdom of Great Britain and Northern Ireland*, UN Doc. A/HRC/14/30/Add.3, 16 March 2010, para60.

[25] Marissa Begonia, "A step back into Victorian-era slavery for UK domestic workers", *The Guardian*, 11 March 2012, http://www.theguardian.com/commentisfree/2012/mar/11/domestic-workers-visas-employer; Kalayaan and Anti Slavery International, *Home Office changes to migrant domestic worker rules will facilitate slavery*, press release, 29 February 2012, http://www.antislavery.org/english/press_and_news/news_and_press_releases_2009/29022012_home_office_changes.aspx.

[26] ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR), *Observation under the Migration for Employment Convention (Revised), 1949 (No. 97)*, adopted 2012, published 102nd ILC session (2013).

[27] Unless otherwise stated, the information in this section is taken from: Amnesty International, *China: Exploited for profit, failed by governments: Indonesian migrant domestic workers trafficked to Hong Kong*, Index: ASA 17/029/2013, November 2013.

[28] High Court of Hong Kong, *Vallejos v. Commissioner of Registration* (HCAL 124/2010), 30 September 2011, para38, available at: http://archive.is/nrEw, accessed 9 October 2013.

[29] HKSAR Constitutional and Mainland Affairs Bureau, "HKSAR Government welcomes constructive dialogue with UN Human Rights Committee", Press Release, 28 March 2013, available at: http://www.cmab.gov.hk/en/press/press_3146.htm, accessed 6 October 2013.

[30] Amnesty International, *China: Exploited for profit, failed by governments: Indonesian migrant domestic workers trafficked to Hong Kong*, Index: ASA 17/029/2013, November 2013, p75-76.

[31] In certain circumstances, migrant domestic workers are allowed to change employer in Hong Kong without returning to their country of origin, as explained by the Hong Kong government: "an FDH whose contract is prematurely terminated may be allowed to change employer in Hong Kong without returning to his/her place of origin first if they meet the relevant criteria, including his/her employer is unable to continue with the contract because of migration, external transfer, death, or financial reasons or there is evidence that the FDH has been abused or exploited." HKSAR Constitutional and Mainland Affairs Bureau, "HKSAR Government welcomes constructive dialogue with UN Human Rights Committee", Press Release, 28 March 2013, available at: http://www.cmab.gov.hk/en/press/press_3146.htm, accessed 6 October 2013.

[32] Committee on Economic, Social and Cultural Rights, *Concluding observations: the People's Republic of China (including Hong Kong and Macao)*, UN Doc. E/C.12/1/Add.107, 13 May 2005, para95.

[33] Committee on the Elimination of Discrimination against Women, *Concluding comments: China*, UN Doc. CEDAW/C/CHN/CO/6, 25 August 2006, para41-42.

[34] UN Human Rights Committee, *Concluding observations on the third periodic report of Hong Kong, China*, UN Doc. CCPR/C/CHN-HKG/CO/3, 29 April 2013, para21.

[35] Committee on the Elimination of Racial Discrimination, *Concluding observations: the People's Republic of China (including Hong Kong and Macau Special Administrative Regions)*, UN Doc. CERD/C/CHN/CO/10-13, 15 September 2009, para30.

[36] Unless otherwise stated, the information in this section is taken from Amnesty International, *Disposable Labour: Rights of Migrants Workers in South Korea,* Index: ASA 25/001/2009, October 2009; and *South Korea: Amicus Brief in the matter of "Confirmation of Constitutionality of EPS Act article 25(4) and its Enforcement Decree 30(2)" under consideration by the Constitutional Court of the Republic of Korea,* Index: ASA 25/002/2010, October 2010.

[37] Amnesty International, *Disposable Labour: Rights of Migrants Workers in South Korea,* Index: ASA 25/001/2009, October 2009, p24.

[38] Committee on Economic Social and Cultural Rights, *Concluding observations: Republic of Korea*, UN Doc. E/C.12/KOR/CO/3, 17 December 2009, para21.

[39] Committee on the Elimination of Racial Discrimination (CERD), *Concluding observations: Republic of Korea*, UN Doc. CERD/C/KOR/CO/15-16, 23 October 2012, para12.

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