



SINGAPORE

SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW, 38th SESSION OF THE
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ISSUES RELATED TO IMMIGRATION DETENTION AND THE RIGHTS OF
MIGRANT WORKERS

Submission from:

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ABOUT THE GLOBAL DETENTION PROJECT

The Global Detention Project (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status. Our mission is:

- To promote the human rights of detained migrants, refugees, and asylum seekers;
- To ensure transparency in the treatment of immigration detainees;
- To reinforce advocacy aimed at reforming detention systems;
- To nurture policy-relevant scholarship on the causes and consequences of migration control policies.

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Submission to the Universal Periodic Review 38th Session of the UPR Working Group, April/May 2021

Issues Related to Immigration Detention and the Rights of Migrant Workers

1. CONTEXT

- 1.1.1** Singapore is an important destination for migrant workers, and the country has long been highly dependent upon large numbers of low wage workers. As of June 2020, there were approximately 1.35 million foreign work pass holders in Singapore, of which 351,800 were low-wage workers in the construction, marine shipyard, process and services sectors, and 252,600 were foreign domestic workers.¹
- 1.1.2** Singapore features particularly restrictive immigration policies. S8 of the Immigration Act (Cap.133) sets out an extensive category of “prohibited immigrants” whose entry into Singapore may be prohibited or limited. Immigration-related offences carry heavy punishments and/or large fines. For example, any person who enters Singapore without a proper permit may be punished with a maximum six-month jail term and caning (a draconian punishment also used in nearby Malaysia).²
- 1.1.3** Despite its reliance on foreign labour, Singapore continues to restrict migrant workers’ rights. For example, female migrant workers are prohibited from becoming pregnant according to the Employment of Foreign Manpower (Work Passes) Regulations 2012 unless certain exceptions apply.³ The Immigration Controller is also entitled to ask employers to arrange for migrant workers to be tested for any potential pregnancy or infectious disease.⁴ There remains rampant wage discrimination between migrant workers and local workers, and also between migrant workers of different nationalities.⁵
- 1.1.4** Low-wage migrant workers working in the construction, marine shipyard, process and services sectors, called Work Permit holders, face precarious living and employment conditions. Civil society organisations have long highlighted challenges faced by migrant workers, including lack of job mobility, non-payment of salary, exploitative recruitment agencies charging high fees for arranging employment contracts, lack of access to medical care and food, unreasonable salary deductions, as well as arbitrary termination.⁶
- 1.1.5** Under the Employment of Foreign Manpower Regulations, employers are responsible for repatriating a migrant worker, and they must do so when the work permit or visit pass of the employee expires, has been cancelled, or is revoked (provided the employee has not been employed by another employer).
- 1.1.6** Some low-wage migrant workers with unresolved salary claims or untreated workplace injuries have faced forcible or premature repatriation before they have been able to successfully bring a claim against their employer.⁷ Although regulations exist that make it an offence to forcibly repatriate a worker who has a pending case, the enforcement of these regulations is weak.⁸ Civil society organisations such as Transient Workers Count Too (TWC2) have previously reported cases where employers have attempted to forcibly repatriate workers by terminating and then “detaining” them in designated accommodation, before forcing them to depart the country.⁹ Employers may also hire “repatriation companies” to conduct such forcible repatriations on their behalf.¹⁰ Due to

fear of being forcibly repatriated, migrant workers facing injuries or other workplace problems are often deterred from reporting issues to their employers or to the Ministry of Manpower.¹¹

- 1.1.7** During the COVID-19 crisis, residents of migrant worker dormitories have suffered disproportionately. 323,000 low-wage migrant workers live in Singapore's 43 purpose-built dormitories, which have long been criticised for substandard, overcrowded, and unsanitary conditions, and in which social distancing has been impossible. Each dorm houses approximately 10 to 20 residents, who share toilet and shower facilities, eat in common areas, and sleep just feet away from each other. As of 31 August 2020, 17 percent of dormitory residents across Singapore had contracted COVID-19.¹²
- 1.1.8** After a spike in cases within migrant worker dormitories in April, the Singaporean government implemented measures to control the virus, including locking down all dormitories, separating infected clusters from non-infected clusters, enforcing social distancing within dormitories, and carrying out COVID-19 testing in dormitories. In April 2020, it also released 7,000 migrant workers from dormitories into separate housing facilities to stem the spread of the virus.
- 1.1.9** However, civil society organisations have criticised government measures for being too little, too late. Many groups had previously warned that migrant dormitories would be prone to large outbreaks. Subsequent measures were argued to not only fail to protect migrant workers, but also to curtail their rights and civil liberties.¹³ Instituting a lockdown of all dormitories without arranging for alternative accommodation for workers meant that those who were not infected were at high risk of contracting the disease. The NGO Humanitarian Organization for Migration Economics (HOME) reported that migrant workers living in locked down dormitories have experienced deteriorating physical and mental health conditions resulting from prolonged isolation (up to 22 hours a day) in rooms with up to 20 people.¹⁴ As of September 2020, many workers remained unable to have rest days or to leave their dormitories apart from in order to go to work, in spite of the gradual relaxation of COVID-19 restrictions across the country since early June.¹⁵
- 1.1.10** Some migrant workers reside in unlicensed accommodation provided by their employers. Civil society organisations have warned that conditions in such facilities may be even less equipped to prevent COVID-19 outbreaks than government-regulated dormitories.¹⁶

1.2. IMMIGRATION DETENTION FACILITIES IN SINGAPORE

- 1.2.1** The key provisions regulating administrative immigration-related detention in Singapore are provided in the Immigration Act (Cap.133). S.27(1) provides that where an immigration officer is in doubt as to whether a person has the right to enter Singapore, the officer may direct that person to an immigration depot for further examination. The person must immediately enter the immigration depot and remain there until they are permitted to leave by the officer. The maximum duration of detention is seven days, though the Immigration Controller has the discretion to release any person from an immigration depot on such terms and conditions as they see fit (s. 27(2)). S.31(1) provides that the Immigration Controller may detain any person arriving in Singapore if they are found to be a prohibited immigrant at an "immigration depot" or other place designated by the Controller. S.34 provides that any person who has been ordered to be removed from Singapore under the provisions of the Immigration Act may be detained in

custody for such period as may be necessary for the purpose of making arrangements for his removal. Any person detained under this provision who appeals against the order of removal may be released pending the determination of his appeal, on such conditions as the Controller may think fit.¹⁷ Finally, S.35 provides that any person reasonably believed to be a person liable to removal from Singapore under the Immigration Act may be arrested without warrant by any immigration officer and may be detained in any prison, police station, or immigration depot for a period not exceeding 14 days pending a decision as to whether an order for his removal should be made. Apart from provisions for immigration detention, the Immigration Act also provides certain immigration-related criminal offences.

1.2.2 A list of 45 sites used as “immigration depots” for the purposes stated in the Immigration Act are provided in Immigration (Immigration Depots) (No. 2) Notification 2018. This list includes prisons.¹⁸

1.2.3 There is limited information available on conditions within immigration detention facilities. One ex-detainee, who was convicted for overstaying, told the GDP that he had been held in a room with 14 other people in an immigration detention facility. While being detained, he was provided with meals three times a day as well as recreational activities such as board games. He reported that the facilities were clean and generally satisfactory. Another ex-detainee, who was sentenced to nine days in prison for overstaying, said that he was held in a jail cell with four other people. He was also provided with three meals a day. He said that the facilities were clean, although he and other detainees were sometimes required to clean their own rooms. He was occasionally allowed to use the telephone and to engage in recreational activities outdoors.¹⁹

1.2.4 Singapore declined the request of the Working Group on Arbitrary Detention to visit places of deprivation of liberty in 2018.²⁰ It stated that “the Government did not currently plan to invite the Working Group and would approach it if the situation should change.”²¹

2. RECOMMENDATIONS DURING THE 2ND CYCLE OF UPR

2.1 During the 2nd cycle of the Universal Periodic Review of Singapore (23rd session, November 2015), Singapore agreed to examine several recommendations relevant to its immigration policies and detention practices.²² These included the following:

- Ratify ICCPR and ICESCR and other core international human rights treaties, such as CAT, CRPD, and ICERD, and their optional protocols; and withdraw its reservations on key principles of CRC and CEDAW (Czech Republic) (para. 96.10)
- Take measures in the legislative sphere and policy measure to strengthen mechanisms for combating trafficking (Honduras) (para. 166.188)
- 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) (166.79)
- Protect the legitimate rights of foreign workers in Singapore and help them get the necessary vocational training (China) (166.135)
- Deepen the legal initiatives and their enforcement aimed at ensuring a legal and de facto situation that guarantees the human rights of migrants (Peru) (166.130)

- Strengthen measures to protect the human rights of non-citizens and migrant workers to prevent their exploitation and discrimination (Mexico) (166.137)
- 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) (166.133)
- Enact a law that protects migrants, refugees and asylum seekers (Congo) (166.93)
- Review laws and regulations that call for immediate and automatic deportation of migrant workers on health grounds (Uganda) (166.139)
- Repeal the law that deports foreign workers suffering from sexually transmitted diseases (Congo) (166.95)
- Continue efforts at protecting migrant workers and members of their families from exploitation (Myanmar) (166.138)

2.2 Singapore ratified the International Convention on the Elimination of All Forms of Racial Discrimination in 2017.²³ It has not ratified other international treaties as recommended by Member States during the last review cycle, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. In June 2020, Singapore was one of six governments not to vote in favour of the International Labour Organization's Convention on Violence and Harassment.²⁴

2.3 Migrant domestic workers continue to be excluded from the protections of the Employment Act. There remain concerns whether the existing provisions under the Employment of Foreign Manpower Act adequately protect migrant domestic workers' rights, such as their right to rest days.²⁵ In recent years, there have been multiple high-profile cases of domestic workers being mistreated and abused by their employers.²⁶ In 2019, the government introduced a new work permit condition prohibiting employers of foreign domestic workers from retaining any wages or money belonging to the domestic worker.²⁷

2.4 Since the enactment of the 2015 Prevention of Human Trafficking Act, Singapore has investigated increasing numbers of cases of human trafficking and has initiated prosecutions of multiple traffickers. The Act also provides additional protections such as guaranteed food, shelter, psycho-social services, and other basic assistance to victims. In 2020, Singapore ranked in Tier 1 on the US State Department's Trafficking in Persons Report. However, NGOs continue to voice concerns that police do not screen adequately for trafficking indicators, meaning that the police may prosecute or punish trafficking victims for immigration-related violations or other criminal offences..²⁸

3. RECOMMENDATIONS FROM OTHER HUMAN RIGHTS BODIES AND CURRENT CONCERNS

3.1 Since Singapore's second review, several human rights monitoring bodies and civil society organisations have continued to identify a number of on-going concerns in Singapore's treatment of non-nationals.

3.2 In 2017, CEDAW recommended that Singapore ratify the 1951 Convention relating to the Status of Refugees and the 1967 Protocol to the Refugee Convention, and establish national asylum and refugee legislation and procedures. It also recommended that

Singapore publish up-to-date statistics on the number of stateless persons in the country, and ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.²⁹

3.3 In 2019, the Committee on the Rights of the Child recommended that Singapore consider ratifying international human rights instruments, including the International Covenant on Civil and Political Rights and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.³⁰

4. SUGGESTED RECOMMENDATIONS

- Ensure that immigration detention is only used as a measure of last resort, when it is necessary and proportionate.
- Provide up-to-date information on where non-nationals are detained, including detention for deportation.
- Disclose disaggregated data on the numbers of migrants who are detained and deported.
- Release detainees whose detention is unlawful or unnecessary, including anyone whose deportation is not possible amidst the COVID-19 pandemic.
- Promptly adopt measures to ensure the protection of immigration detainees during the pandemic, and ensure detained populations have access to testing and treatment.
- Evaluate detention depots to ensure that COVID-19 related safeguards are possible and if they are not, progressively work to release people from these facilities to improve hygiene in them while providing necessary assistance to people who are released.
- Ensure that victims of trafficking are protected against detention and deportation by implementing systematic, proactive screening and identification procedures, and providing appropriate shelters for victims.
- Ensure that migrant domestic workers are included within labour law protections and that employees are held accountable for abuses.

¹ Ministry of Manpower (Singapore), “Foreign workforce numbers,” June 2020, <https://www.mom.gov.sg/documents-and-publications/foreign-workforce-numbers>

² s.6, Immigration Act (Cap.133)

³ s.7, Employment of Foreign Manpower (Work Passes) Regulations 2012, Fourth Schedule: Conditions and Regulatory Conditions of Work Permit

⁴ s.6, Employment of Foreign Manpower (Work Passes) Regulations 2012, Fourth Schedule: Conditions and Regulatory Conditions of Work Permit

⁵ Humanitarian Organization for Migration Economics (H.O.M.E.), “Wage theft and exploitation among migrant workers in Singapore,” January 2017, https://static1.squarespace.com/static/5a12725612abd96b9c737354/t/5a1fce6f652dead776d3c970/1512033911372/Position_Paper_Wage-Theft-Exploitation-among-Singapores-Migrant-Workers.pdf

⁶ Transient Workers Count Too, “Submission of TWC2 to the Universal Periodic Review - Singapore,” 16 June 2015, http://twc2.org.sg/wp-content/uploads/2015/06/UPR_submission_2015.pdf

⁷ s.21, Employment of Foreign Manpower Regulations

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- ⁸ Transient Workers Count Too, "Forced Repatriation Can Lead to Death, Needs to be Addressed," 16 May 2016, <http://twc2.org.sg/2016/05/16/forced-repatriation-can-lead-to-death-needs-to-be-addressed/>
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- ¹³ K. Han, "Singapore Is Trying to Forget Migrant Workers Are People," *Foreign Policy*, 6 May 2020, <https://foreignpolicy.com/2020/05/06/singapore-coronavirus-pandemic-migrant-workers/>
- ¹⁴ Humanitarian Organization for Migration Economics, "Policy Brief: Protecting Migrant Workers' Rights in the Midst of Covid-19," 15 April 2020, <https://www.home.org.sg/statements/2020/4/15/policy-brief-protecting-migrant-workers-rights-in-the-midst-of-covid-19>
- ¹⁵ Transient Workers Count Too, "Research Finding: Only a Handful of Workers Have Had Rest Days Out From Dorms," 17 September 2020, <https://twc2.org.sg/2020/09/17/research-finding-only-a-handful-of-workers-have-had-rest-days-out-from-dorms/>
- ¹⁶ Humanitarian Organization for Migration Economics, "Policy Brief: Protecting Migrant Workers' Rights in the Midst of Covid-19," 15 April 2020, <https://www.home.org.sg/statements/2020/4/15/policy-brief-protecting-migrant-workers-rights-in-the-midst-of-covid-19>
- ¹⁷ Immigration Act (Cap.133), <https://sso.agc.gov.sg/Act/IA1959>
- ¹⁸ Immigration (Immigration Depots) (No. 2) Notification 2018, <https://sso.agc.gov.sg/SL/IA1959-S430-2018?DocDate=20200228>
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