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International  
Labour  
Organization

# **Policy Coherence for Development: Gender Equality and Women's Empowerment in Labour Migration Governance in Myanmar**

International Labour Organization

Liaison Office in Myanmar

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Briefing paper prepared by Kimberly Rogovin

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First published 2020

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Policy Coherence for Development: Gender Equality and Women's Empowerment in Labour Migration Governance

ISBN: 9789220336076 (print)

ISBN: 9789220336083 (web pdf)

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## Acknowledgements

This briefing paper was prepared by Kimberly Rogovin with technical guidance and inputs from Jacqueline Pollock and Imogen Howells. The authors and ILO thank the representatives of the Government of the Republic of the Union of Myanmar and the NGOs, UN agencies, and recruitment agencies who contributed their legal and practical knowledge to this report. In particular, the author would like to thank Ei Mon Win for her careful collection of data and information to support the writing of this paper. Sincere thanks are also due to Natsu Nogami for sharing her knowledge and expertise on Myanmar's labour legislation and to Rebecca Napier-Moore for sharing analysis on anti-trafficking governance and other technical inputs included in this paper. We also thank the governments of Australia, Canada, the European Union, Ireland, Switzerland, the United Kingdom and the United States of America for their kind contributions to improving the livelihoods and food security of rural poor people in Myanmar. Their support to the Livelihoods and Food Security Fund (LIFT) is gratefully acknowledged.

## Disclaimer

This document is produced with financial assistance from Australia, Canada, the European Union, Ireland, Switzerland, the United Kingdom and the United States of America. The views expressed herein should not be taken to reflect the official opinion of the LIFT donors.

## Abbreviations

AAPTIPI	Australia-Asia Programme to Combat Trafficking in Persons
ASEAN	Association of South East Asian Nations
ATIPD	Anti-Trafficking in Persons Division, Police Force and Customs Department, Ministry of Home Affairs
ATTF	Anti-Trafficking Task Force, Police Force and Customs Department, Ministry of Home Affairs
ATU	Anti-Trafficking Units, Police Force and Customs Department, Ministry of Home Affairs
BCATIP	Border Cooperation on Anti-Trafficking in Persons
CBTIP	Central Body for the Suppression of Trafficking in Persons
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
COC	Code of Conduct
COMMIT	Coordinated Mekong Ministerial Initiative against Trafficking
CSO	Civil society organization
CTUM	Confederation of Trade Unions Myanmar
DOFE	Department of Foreign Employment, Nepal
DOI	Department of Immigration and National Registration, Ministry of Labour, Immigration and Population, Myanmar
DOL	Department of Labour, Ministry of Labour, Immigration and Population
DSW	Department of Social Welfare, Ministry of Social Welfare, Relief and Rehabilitation
EIU	Economist Intelligence Unit
GAD	General Administration Department, Ministry of Home Affairs
GAATW	Global Alliance Against Traffic in Women

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ILO	International Labour Organization
IOM	International Organization for Migration
LEO	Labour Exchange Office, Department of Labour, Ministry of Labour, Immigration and Population, Myanmar
LIFT	Livelihoods and Food Security Fund, Myanmar
LROE	Law Relating to Overseas Employment
MD	Migration Division, Department of Labour, Ministry of Labour, Immigration and Population
MFA	Ministry of Foreign Affairs
MHA	Ministry of Home Affairs
MIMU	Myanmar Information Management Unit
MMK	Myanmar Kyats
MOEAF	Myanmar Overseas Employment Agencies Federation
MoLIP	Ministry of Labour, Immigration and Population
MoPFI	Ministry of Planning, Finance and Industry
MOM	Ministry of Manpower, Singapore
MOU	Memorandum of Understanding
MRC	Migrant Workers Resource Centre
MSWRR	Ministry of Social Welfare, Relief and Resettlement
MWAF	Myanmar Women's Affairs Federation
NPA	Second Five-Year National Plan of Action on the Management of International Labour Migration (2018-2022)
NRC	National Registration Card
NSPAW	National Strategic Plan for the Advancement of Women
OEA	Overseas Employment Agency
OECC	Overseas Employment Central Committee
OECD	Organisation for Economic Co-operation and Development
OESC	Overseas Employment Supervisory Committee
POEA	Philippines Overseas Employment Administration
SOP	Standard operating procedure
TWG	Technical Working Group
UN	United Nations
USDOS	United States Department of State
WDD	Women's Development Division, under MSWRR

## Definitions

### ***Policy coherence***

Policy coherence implies the coordination and harmonization of policy agendas. Coordination, in this sense, seeks to minimize policy conflict and maximize policy synergies. The ILO Declaration on Social Justice for a Fair Globalization, 2008 clearly states that the ILO “must ensure coherence and collaboration in its approach to advancing its development of a global and integrated approach, in line with the Decent Work Agenda and the four strategic objectives of the ILO, drawing upon the synergies among them” (p. 8). This paper is part of the ILO series on Myanmar migration policy

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coherence. The ILO defines policy coherence on migration as “ensuring that policies and programmes regarding migration and other areas do not conflict with each other, either directly or intentionally”.<sup>1</sup> This paper examines the interaction between policies on gender, women’s advancement, and labour migration. The ILO Multilateral Framework on Labour Migration, 2006, underlines the importance of ensuring “coherence between labour migration, employment and other national policies, in recognition of the wide social and economic implications of labour migration and in order to promote decent work for all and full, productive and freely chosen employment” (Guideline 4.2). Policy coherence includes both procedural coherence between administrative units; and substantive coherence between policies.<sup>2</sup> This paper will mainly focus on identifying issues of substantive coherence.<sup>3</sup>

### **Gender discrimination**

ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) defines discrimination as including: “a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation; b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers’ and workers’ organisations, where such exist, and with other appropriate bodies.” (Article 1). The UN Convention on the UN Convention on the Elimination of All Forms of Discrimination against Women, 1979, Article 1 defines gender related discrimination as “any distinction, exclusion or restriction made on the basis of sex or gender or sexual orientation which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”.

### **Empowerment**

Empowerment includes the rights to have and determine choice; the right to have access to opportunities and resources; the right to have power to control one’s life both inside and outside the house (European Institute of Gender Equality); the ability to challenge and combat oppression; the ability to influence the direction of systems, institutions, and mindsets that perpetuate patriarchal hierarchies of power and social order.<sup>4</sup>

### **Gender**

Refers to the socially constructed characteristics of women and men – such as norms, roles and relationships of and between groups of women and men. It varies from society to society and can be changed. The concept of gender includes five important elements: relational, hierarchical, historical, contextual, and institutional. While most people are born either male or female, they are taught appropriate norms and behaviours – including how they should interact with others of the same or opposite sex within households, communities and workplaces.

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<sup>1</sup> ILO. 2010a. *International labour migration. A rights-based approach* (Geneva), page 146.

<sup>2</sup> ILO. 2017. *General practical guidance on promoting coherence among employment, education/training and labour migration policies*.

<sup>3</sup> Myint, Geoff, *Building Labour Migration Policy Coherence in Myanmar*, p.1; definition from Trinity College Dublin (2010), “What is Policy Coherence”.

<sup>4</sup> Sangeeta Chowdhry, Senior Program Director, Economic Justice, Global Fund for Women.

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### **Informal workers**

Informal employment comprises “all remunerative work (i.e. both self-employment and wage employment) that is not registered, regulated, or protected by existing legal or regulatory frameworks, as well as non-remunerative work undertaken in an income-producing enterprise. Informal workers do not have secure employment contracts, workers’ benefits, social protection, or workers’ representation.”<sup>5</sup>

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<sup>5</sup> ILO, *Guidelines concerning a statistical definition of informal employment*, 17th International Conference of Labour Statisticians, (2003).



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## **Executive summary**

Migration for work can be positive and empowering for women. With higher incomes and opportunities to develop skills, women can raise their status at home and in society. Yet labour migration is not a gender-neutral phenomenon: traditional gender norms and discrimination can mean women migrants benefit less from labour migration than men.

Some 4.25 million people born in Myanmar live abroad, and almost half of these migrants are women.<sup>6</sup> The majority are in Thailand, followed by Malaysia, and China. Other destination countries include Singapore, the United States, India, Republic of Korea, and Japan.<sup>7</sup> Roughly equal numbers of men and women migrate to Thailand; Malaysia and Republic of Korea have opened the labour market for regular migration predominantly to men from Myanmar; while in Singapore most Myanmar migrants are women.

This paper provides an overview of the legal framework and actors involved in governing migration, gender equality, and women's empowerment in Myanmar, and goes on to examine examples of policy incoherence in the design and implementation phases of the policy cycle affect women migrant workers in particular. Invisibility is a key issue: large numbers of women migrant workers, particularly domestic workers, are engaged in sectors that are not covered by labour law and migrate through irregular channels. At the same time, gender discrimination is not defined in Myanmar legislation, despite the presence of policy objectives to advance gender equality. This triple invisibility leaves women more vulnerable to abuse and exploitation and less able to proactively achieve goals. Myanmar has ratified four of the eight ILO fundamental conventions related to freedom of association and recognition of the right to collective bargaining; elimination of all forms of forced or obligatory labour; and effective abolition of child labour; it has not ratified either convention related to discrimination (the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), or the Equal Remuneration Convention, 1951 (No. 100). Although there are many causes for gender inequality and discrimination against women, women's empowerment and the gender-equitable maximization of development benefits will require greater policy coherence in labour migration and gender policies, to ensure that women are empowered by law and policy to migrate safely and engage in decent work.

### ***Legal framework on migration, gender equality and women's empowerment***

Domestic legislation in Myanmar is undergoing a process of reform. As such, legislation and customary law pre-dating the start of democratic transition coexist alongside newer laws and policies. This means there are conflicts and gaps in the legislative framework, which complicate policy implementation and outcomes. The Constitution of the Republic of the Union of Myanmar (2008) goes some way to respect, promote and realize the rights of women and girls. It provides that the “Union shall not discriminate any citizen of the Republic of the Union of Myanmar, based on race, birth, religion, official position, status, culture, sex and wealth.”(Article 348). It states that women are entitled to the same rights and salaries as men “in respect of similar work” (Article 350). falling short of safeguarding the right to equal pay for work of equal value. Among civil service

<sup>6</sup> According to a revision of the 2014 Census. This includes the 2.02 million people reported to be abroad in 2014 plus a backwards projection of people who left between 1983 and 2014. Of the 2.02 million, women made up 39 per cent (788,742).

<sup>7</sup> Government of Myanmar, Ministry of Labour, Immigration and Population, Department of Labour (2016). The 2014 Myanmar Population and Housing Census. Thematic Report on Migration and Urbanization. Census Report, Volume 4-D, p. 76.

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personnel, the Constitution prohibits discrimination in assigning duties, however this “shall [not] prevent appointment of men to the positions that are suitable for men only” (Article 352). This principle is contrary to the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) which aims to promote equality of opportunity and treatment in respect of employment and occupation (Article 2); in part through the repeal of any statutory, or administrative policies or practices which are inconsistent with principles on non-discrimination (Article 3c).

The National Strategic Plan for the Advancement of Women (2013-2022) (NSPAW) aims to ensure that women and men can play equal and meaningful roles in society and that women’s rights are guaranteed. Its overarching objective is that “All women in Myanmar are empowered and able to fully enjoy their rights with the support of the Government of the Republic of the Union of Myanmar. Enabling systems, structures and practices are created for the advancement of women, gender equality and the realization of women’s rights.” It includes twelve Priority Areas that are linked to the UN Convention on the Elimination of Discrimination against Women, and to the guiding principles in the Beijing Declaration and Platform for Action. Each priority has been assigned to a relevant ministry. Key Priority Area 6, Women and the Economy, specifically mentions migrant workers. It calls for an assessment of the situation of women migrants; awareness raising on women’s rights, gender equality and non-discrimination; service centres for women providing information on employment and finance; and budget allocation to develop laws and implement policies to enhance women’s economic opportunity, including migrant workers.

The Second Five Year National Plan of Action for the Management of International Migration (2018-2022, NPA) aims: 1) to empower and protect all migrant workers; 2) to increase the development benefits of labour migration; and 3) to improve the governance and administration of labour migration. To empower women migrants, the Plan aims to mainstream labour migration into the NSPAW. It also aims to promote safer recruitment systems and promote access to jobs; develop standardized and enforceable employment contracts to protect workers’ rights; improve the migrants complaints mechanism; design and launch an insurance scheme to protect migrants from unfair financial loss; and increase the quality of and access to pre-migration capacity building so that people know their rights and how to seek assistance.

Other relevant laws and polices remain, at best, gender-blind. The Law Related to Overseas Employment (1999) (LROE), for example, does not contain any dedicated provisions for women seeking overseas employment, while the Code of Conduct developed by the Myanmar Overseas Employment Agencies Federation contains very limited guidance on gender equality in the recruitment and placement of migrant workers.

### ***Policy coherence impacting overseas migrant workers: opportunities and challenges***

The NSPAW and NPA have a number of areas of policy synergy, but there is no explicit link between the two texts, nor are there operational plans for their implementation. A number of specific formal and informal bans are in place which limit opportunities for women to migrate safely and which are incoherent with national and international policy goals. In 2014, following a series of high profile cases of abuse against migrant domestic workers abroad, the Myanmar government banned Myanmar workers from migrating as domestic workers. The ban mainly affected women. The ban was lifted on March 5<sup>th</sup> 2019, but procedures are not yet in place to enable regular migration of domestic workers. The Ministry of Labour, Immigration and Population (MoLIP) requires a minimum of five women workers in workplaces in Thailand and Malaysia in order to clear recruitment procedures. For several years, women had not been allowed to apply for the position of labour attachés. This was changed in January 2019, although no women labour attachés have yet been recruited. Policies of countries of destination which require tests for

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pregnancy prior to migration with the intent to deny pregnant women the right to migrate and further tests within the country of destination with the intent to dismiss and deport the women are discriminatory and restrict women's access to employment.

## **Recommendations for strengthened policy coherence and gender-sensitive labour migration governance**

It is crucial to integrate the women's empowerment ethos represented in the NSPAW into Myanmar's national and international labour migration governance framework to ensure that women migrants, their families, and communities benefit fully from labour migration.

Effective and fair policy that is coherent on paper and in practice will enable women and men to benefit equitably from labour migration, and will have multiplier effects on the benefits generated for their families and communities.

The following recommendations aim to increase policy coherence, to promote gender-positive migration governance.

### **1. Strengthen policy coherence between the NSPAW and the NPA throughout the policy implementation cycle**

#### **a. Increase coherence at the design stage**

The NSPAW and the NPA should be explicitly linked within the texts in relation to migration, and each should make specific reference to the other in terms of the activity and the relevant actors involved in implementation. This will help ensure that the needed institutional arrangements, budgeting, and operational planning will take place. This includes the following (see Table 3 for full text):

- The links between NSPAW Article 12.a.6 on an assessment of migrant workers and NPA Article A.1.2.1 on a review of domestic workers;
- NSPAW Article 12.a. remark and NPA Articles 4.1.3 and 4.1.5 on collection of sex-disaggregated data on migrant workers;
- NSPAW Article 12.d.3 on promotion of economic opportunities for migrant women, and NPA Article A.2.2 on decentralization of recruitment for easier access to job opportunities;
- NSPAW Article 12.c.5 and NPA Article B.3.1 on promoting women's access to financial services.

The four Technical Working Groups for NSPAW implementation under the Non-Sector Coordination Group on Gender Equality and Women's Empowerment should involve MoLIP, as appropriate to ensure that the four areas address internal and international women migrants. In particular, the Department of Labour should play a prominent role in the third TWG on Women Participation in Politics and the Economy, to support the implementation of the two migration-related plans in the NSPAW and integrate the relevant outputs and activities into departmental and individual work plans.

#### **b. Strengthen implementation of the NSPAW**

The Government of Myanmar should allocate sufficient financial and technical resources to implement the NSPAW, including allocating enough budget to MSWRR, in particular to DSW, as

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the department is responsible for implementation of the NSPAW. The government should develop operational plans to implement and monitor the NSPAW, including assigned responsibilities and timelines for implementation. It must ensure that DSW receives sustained and increased technical assistance to lead, monitor, and report on the NSPAW and coordinate with other Ministries to mainstream gender into all action plans.

Activities undertaken by the Migration Division to support, protect, or empower women migrants should be integrated into NSPAW reporting, including amendment of the Law on Overseas Employment; negotiation and review of bilateral agreements with countries of destination and overseeing the migrants' complaint mechanism.

**b. *Mainstream gender equality and women's empowerment in all migration policies***

**National Plan of Action**

In the full text of the NPA there is only one provision explicitly addressing women migrants, and three provisions on domestic workers. As migration is not a gender-neutral phenomenon and the issues facing male and female migrants are not the same, the NPA should fully mainstream gender and women's empowerment; and ensure the consistent collection of sex-disaggregated data, gendered analysis, and outcome indicators that measure changes in gender equality and the empowerment of women labour migrants. Table 4 suggests a number of revisions to mainstream gender so as to increase the empowerment of women and men migrant workers.

**Table 4: Recommended actions to mainstream gender and women's empowerment in the NPA**

Articles concerned	Suggested action
[Suggested addition]	Adopt equal opportunity policies that will aid in upholding non-discrimination and promote gender equality in the world of work
[Suggested addition ]	Increase the number of women service providers in government offices, including LEOs, MRCs, anti-trafficking officials, police, labour attachés, and providers of psycho-social support, and among trainers.
Planned reviews of steps in bilateral recruitment (A.1.1.1) and migrant protection situation (A:1.2.1), and assessments of existing support resources in key destination countries (A.4.2.1)	Explicitly mainstream gender in data collection, analysis and steps. Examine different experiences and outcomes for women and men and develop rights-based responses to promote empowerment.
A.2.3.4 : On the review of the existing complaints mechanism to ensure an effective, efficient and customer-friendly service	Needs a gender component to enable women migrants to have access to service providers trained in handling sensitive issues, including on sexual abuse and other forms of gender-based violence; this may require employing more women.
Planned training packages (A.3.2.2) on safe migration and pre-departure curriculum (A.3.2.1) for migrants	Mainstream gender in training packages, and provide separate components and training sessions on sensitive issues, such as gender-based violence, and sexual and reproductive health for men and women.
Capacity development of government service providers (A.4.1.1; A.5.1.1)	Ensure all front-line staff are fully trained in gender rights and women's empowerment.
Policy objective B.3.1	Specifically target women migrants and family members to increase their access to financial services and literacy training, as women typically have less access to formal financial services than men. Promote access to gender-sensitive training on financial literacy and household financial management to ease possible tensions over

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changes in household power dynamics arising from women's increased economic and financial role.

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Planned reviews, curricula (A.3.2.1) and training packages (A.3.2.2) should all explicitly mainstream gender and involve gender-specific components; and should be given by gender sensitive trainers.

The TWG on the NPA should review the policy objectives in the NPA for key areas in which there are opportunities to empower women migrant workers. The current provisions for women migrant workers and domestic workers under the section on *Empowerment and Protection of Migrant Workers* relate only to protection, and not empowerment.

The NPA should include a plan to carry out regular reporting on outcomes of migration policy to enable a gender impact assessments of existing migration-related laws and regulations, to determine their impact on the socio-economic empowerment of men and women migrants.

### **Law Related to Overseas Employment**

The LROE is currently under revision, recommendations are directed to this process:

Include a non-discrimination provision related to women seeking overseas employment in the revised law.

Expand the set of rights afforded to overseas workers to be broader (beyond compensation for damages and the right to take civil or criminal action) to include rights afforded to migrant workers under the ICRMW and CEDAW Recommendation No. 26 for women migrant workers.

Ensure that the Central Committee members under the revised law include key ministries and departments assisting women in particular in order to ensure that women's needs in international migration are met.

## **c. *Strengthen gender sensitivity of relevant stakeholders***

### **Overseas Employment Agencies**

OEAs should begin to implement the aspirational goal contained in the CoC, which states that "agencies should contribute to or develop programmes to support workers, including vocational training, training for disabled, and specialized training for women."

In addition to the pre-departure training components that OEAs are required to provide to migrant workers, OEAs should institute a specialized pre-departure training component for women. The session should be separate from the main pre-departure training so as to allow women a safe space in which to discuss difficult issues. In addition to existing components, the pre-departure session should include components on violence against women; feminine hygiene (e.g. where to buy sanitary products and how much they cost); where to buy contraceptives and costs; safe sex information; what to do if they become pregnant overseas and childcare options.

### **MOEAF**

Training for recruitment agency staff should include discussions on discriminatory hiring practices and the exploitation that women could experience abroad, and should identify some special responsibilities of agencies towards women in line with the ILO guidelines for fair recruitment of migrant labour. OEA staff should learn the basics of women's reproductive rights to ensure that no unfair pressures are put on women with regard to their reproductive health before or during recruitment and employment.

### **Labour Organizations and CSOs**

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Continue work with the migration network to strengthen capacity to effectively engage in stakeholder discussions; review and suggest amendments to legislation and policy. Provide gender equality and sensitivity to staff members and increase representation of women to enable strengthened service provision for women and representation of women's interests.

**2. *Strengthen protection from discriminatory recruitment and employment processes***

Undertake advocacy with the Government of Malaysia and other destination governments to reform discriminatory policies that prohibit the recruitment of pregnant workers; or require mandatory pregnancy tests; or allow for the cessation of service and deportation of overseas women workers found to be pregnant.

If women migrant workers are deported on the basis of a positive result to a pregnancy test, take all measures to ensure that OEAs and related agents and brokers are strictly prohibited from requiring workers to pay for the deportation once they have returned to Myanmar.

**3. *Further promote women's economic empowerment***

Together with the MoPFI and the Central Bank of Myanmar, the Migration Division should increase access to remittance and banking options, and harness MRCs' work with migrant women and their families through pre-departure training to raise awareness among women, who currently have least access to formal banking systems.

Work through MRCs to build on and expand existing financial literacy training schemes to enable women and men migrants to maximize the productive use of remittances; and integrate gender-sensitive components in training to enable women's financial empowerment.

Equal access to skills recognition and training further enhance the benefits of migration. The ILO has developed *general practical guidance on promoting coherence among employment, education/training and labour migration policies* (N. Popova and F. Panizica). MoLIP should work to ensure full implementation of NPA plans to develop labour migration information systems to better enable job to skills matching for returning women and men migrants; as well as mutual recognition of qualification with receiving countries and access to quality training in Myanmar.

**4. *Promote ratification of conventions providing gender sensitive frameworks***

In order to achieve a whole of government approach to the promotion of gender mainstreaming and women's empowerment in migration, promote the ratification and implementation of:

***Migration for Employment Convention (Revised), 1949 (No. 97)***

Holds that Members are to facilitate the departure, journey and reception of migrants for employment (Article 4). Services provided by public employment services relating to recruitment and placing migrants for employment are free, and related administrative costs should not be paid by migrants (Article 5). This includes ensuring there is no discrimination against regular migrants in respect of "nationality, race, religion or sex" regarding various rights in the workplace, including "women's work", trade union membership, and access to social protection (Article 6). Limitations regarding social protection concern the potential need for special arrangements for acquired rights; payment of benefits paid wholly out of public funds or to people who have not contributed for the required period; and employment taxes (Article 6).

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### **Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)**

This Convention adds to the range of provisions addressing migrant work, it makes no reference to gender. The first part of the Convention concerns “migrants in abusive conditions” and contains measures to “suppress clandestine movements of migrants for employment and illegal employment”. Part II concerns equality of opportunity and treatment, stating that Members are to promote and guarantee “equality of opportunity and treatment in respect of employment and occupation, social security, of trade union and cultural rights, and of individual and collective freedoms” for migrants and their families who are lawfully in a territory (Article 10).

### **ILO’s Domestic Workers Convention, 2011 (No. 189)**

As indicated in the NPA, ratify Convention No. 189 and revise national legislation, informal restrictions, and bilateral agreements with countries of destination accordingly.<sup>8</sup>

### **ILO’s fundamental Discrimination (Employment and Occupation) Convention, 1958 (No. 111)**

Ratify Convention No. 111 and pursue a national policy designed to promote equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating all discrimination through cooperation between employers’ and workers’ organizations and other bodies, as well as through awareness raising and by enacting supporting legislation and repealing legislation that is inconsistent.

Incorporate a definition of discrimination in line with Convention No. 111 into national labour legislation.

### **ILO’s Convention on Ending Violence and Harassment in the World of Work, 2019 (No. 190)**

Undertake a national evaluation to assess readiness to adopt Convention No. 190. The Convention recognises the right of everyone to a world free from violence and harassment, and provides a clear definition of violence and harassment which can be adopted at the national level for coherence across national policies. The Convention expands the scope of work beyond the immediate workplace and thus can provide protection during recruitment and migration. It also provides a clear framework for governments to adopt to eliminate violence and harassment in the world of work.

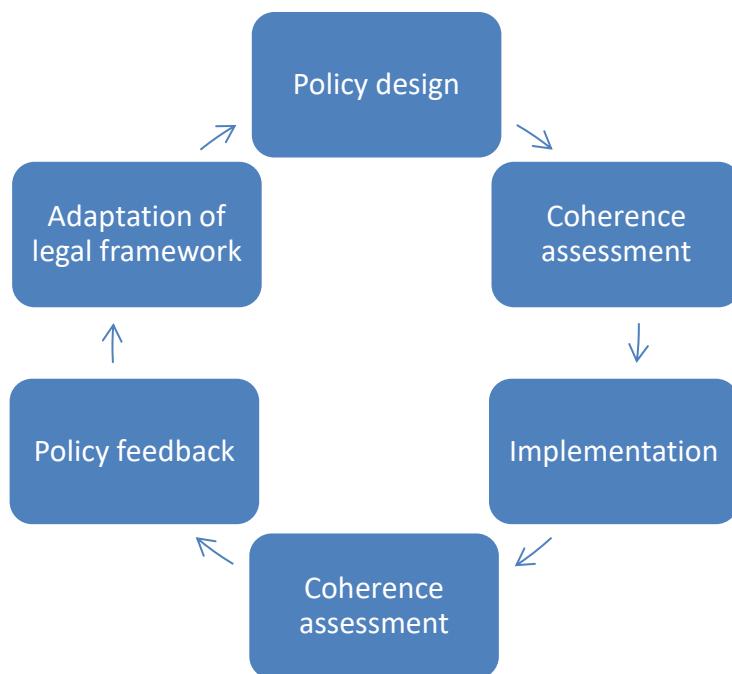
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<sup>8</sup> For detailed information on Convention No. 189, see Table 2: Key international standards and key concepts in gender equality in decent work affecting female migrant workers from Myanmar; and Appendix 1: Key Provisions in the Domestic Workers Convention, 2011 (No. 189).

## 1. Introduction

This briefing paper examines policy coherence between gender equality, women's empowerment, and labour migration policies in Myanmar. It seeks to identify the extent to which such policies are coherent and complement each other and with regard to international standards on gender equality, discrimination, decent work, and migration. As recommended in the ILO's *General Practical Guidance on promoting coherence among employment, education and training and labour migration policies* (Popova and Panzica, 2017), The analysis maps migration and gender legislation in Myanmar, situating them within the international and regional legislative contexts (vertical coherence). Greater attention is dedicated to horizontal coherence, considering coordination and synergy between the labour migration and gender equality policy fields in Myanmar.

**Figure 1: Policy coherence cycle**



The paper is intended as a resource paper for Myanmar policy-makers and implementers, as well as the social partners, to assist with the development of more coherent policies, with gender issues a cross-cutting concern. The paper identifies examples of policy coherence opportunities and challenges, and makes recommendations for more coherent policies that would benefit women migrants socially and economically; contribute to greater gender equality and empowerment of women migrant workers; and maximize the contribution that the migration of women can make to the development of the country.

The main objectives of this paper are –

- to map relevant policies aimed at promoting gender equality; and policies which focus on labour migration; with a particular focus on the coherence of such policies and the extent to which they are mutually reinforcing and promote the empowerment and advancement of Myanmar women migrant workers;
- to provide recommendations for greater integration of gender equality into all migration policies and greater recognition of the contribution of women migrant workers through women's empowerment and gender policies;
- to take stock of trends in women labour migration within and from Myanmar.

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## **2. Methodology**

This briefing paper relied on a comprehensive desk review of Myanmar's legal and regulatory framework related to labour migration, and gender equality, women's empowerment and advancement (see Appendix 3), as well as relevant international conventions and standards and a range of existing studies and publications.

Primary data for this study was collected through semi-structured interviews in Yangon and Nay Pyi Taw, Myanmar by the author and ILO staff. Key informant interviews were held in June and July 2018 with a total of 25 people (15 women and ten men), including 17 from the Myanmar government, two from the Myanmar Women's Affairs Federation (MWAF), and one each from the Myanmar Overseas Employment Agencies Federation (MOEAF), an overseas employment agency (OEA), the Gender Equality Network (GEN), Women's League of Burma (WLB), UNFPA and the ILO.

A standard set of questions was developed for the semi-structured interviews of key informants for the current briefing paper. Questions were organized along certain themes or main lines of inquiry, with the flexibility to ask further questions as needed.

Core questions guiding the study were as follows:

1. What are the main approaches taken by the Myanmar government and other actors to promote gender equality, women's empowerment and women's advancement, particularly of women internal and international migrants?
2. What are the main laws, policies and national plans of action related to women's empowerment, gender equality and migration, and to what extent are they effectively integrated and complimentary? What are the challenges and barriers to greater policy coherence in these areas?
3. What is the nature of coordination between different actors (Government actors, as well as between Government actors and other national and international actors) working to promote gender equality and the empowerment and advancement of women migrants? What are the challenges and barriers, and how could coordination be improved?

To take into account the policy coherence cycle, reference has been made, where possible, to recommended sources in the ILO coherence indicators designed to measure policy coherence at design and implementation stages (Popova and Panzica, 2017, pp. 26-31). This includes the legal framework, government policies, strategies and action plans; as well as actors involved in governing migration, gender equality and women's empowerment in Myanmar (see Appendix 3). Findings are based on an in-depth desk review of relevant national laws, policies, plans of action, and other approaches taken by the Government of Myanmar, non-governmental actors in the country, regional and international actors; and discussions with these actors.

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## **3. Myanmar migration trends**

Women and men have different experiences and face different outcomes in labour migration as a result of gender inequality and the impact of traditional gender expectations. While both women and men migrant workers play important roles in the economies and societies of Myanmar as well as in destination countries, a gendered analysis of policy governing migration is essential to ensure equitable and just outcomes and experiences for all.

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Invisibility is a key issue: large numbers of women migrant workers, particularly domestic workers, are engaged in sectors that are not covered by labour law and migrate through irregular channels. At the same time, gender discrimination is not defined in Myanmar legislation, despite the presence of national policy objectives to advance gender equality. This triple invisibility leaves them more vulnerable to abuse and exploitation and less able to join or form unions or to proactively seek recourse achieve goals.

Some 4.25 million people born in Myanmar live abroad, and women are estimated to make up almost half of this migrant group.<sup>9</sup> Overall, 70 per cent of all Myanmar migrants live and work in Thailand and 15 per cent in Malaysia. Other destinations include China, India, Japan, Jordan, Republic of Korea, Singapore and the United Arab Emirates (UAE).<sup>10</sup>

The ratio of male to female migrants in Thailand is closer to parity than for most other destinations, with the highest proportion of registered female migrants employed in the seafood processing sector. Significant numbers of Myanmar migrant women work in the service industry including domestic work, and in agriculture, entertainment, manufacturing, and construction.

In the Republic of Korea, the majority of workers migrate through the Employment Permit System (EPS) and the opportunities under this system are predominantly in male-dominated employment sectors including manufacturing (chemical, electronics and machinery); agriculture, livestock and fisheries; and construction.<sup>11</sup> In contrast, migrants to Singapore are fairly evenly split: the Census estimated 51 per cent of Myanmar migrants to be women.

The differences between men and women in terms of age on leaving Myanmar are generally not large. However, women tend to leave Myanmar earlier in life than men for moves to China, Singapore, and the Republic of Korea.<sup>12</sup> While many women migrants are single, they also migrate with their families, especially among the unregistered migrants.<sup>13</sup>

## **4. The national framework on labour migration**

### **4.1 Legislative and policy system**

Myanmar's two central international migration instruments are the Law Relating to Overseas Employment (LROE, 1999) and the Second Five Year National Plan of Action on the Management of International Labour Migration (2018-2022, NPA).

#### ***Law Relating to Overseas Employment (1999)***

The Law Relating to Overseas Employment (LROE) details the registration procedures for workers, licensing processes for employment agencies, and a range of rights and responsibilities of workers and employment agencies. It is currently undergoing a process of revision. The 1999 law does not

<sup>9</sup> According to a revision of the 2014 Census. This includes the 2.02 million people reported to be abroad in 2014 plus a backwards projection of people who left between 1983 and 2014. Of the 2.02 million, women made up 39 per cent (788,742).

<sup>10</sup> Government of Myanmar, Ministry of Labour, Immigration and Population, Department of Labour (2016). 2014 Myanmar Population and Housing Census – Thematic Report on Migration and Urbanization – Census Report Volume 4-D, p. 76.

<sup>11</sup> Ibid., p. 79.

<sup>12</sup> Ibid., p. 80.

<sup>13</sup> Ibid., p. 79.

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contain any dedicated provisions for women seeking overseas employment, it does not reference “men” or “women” at all, instead referring to “workers”, nor is there mention of gender. It affords a very limited set of rights to overseas workers generally, only the right to claim compensation for damages for injury sustained in a foreign worksite (Article 24(a)), and the right to take civil or criminal action for the loss of rights and privileges related to overseas employment (Article 24(b)). The law also requires the worker to undergo a medical examination before going abroad (Article 20(a)).

### ***Second National Plan of Action on the Management of International Labour Migration (2018-2022)***

The NPA aims to create a coherent national legal, policy and institutional framework in Myanmar for the systematic management of all aspects of cross-border migration for employment. It includes 15 strategic areas under three main objectives: 1) empowerment and protection of migrant workers; 2) increasing the development benefits of labour migration; and 3) improving the governance and administration of labour migration, which include some plans related to the protection and empowerment of migrants and for strengthened policy coherence. The plan recognizes in its introduction that a fundamental requirement for the successful achievement of better labour migration outcomes is a coordinated, whole-of-government approach to the management of international labour migration and mainstreaming of labour migration into the country’s policies for national development.

Under the first objective, on empowerment and protection, there are no specific plans for the empowerment of women migrants. However, there are two plans designed to protect women migrants. First, MoLIP and the Ministry of Social Welfare Relief and Resettlement (MSWRR) are to conduct a review of the migrant protection situation in different sectors and formulate appropriate policies and measures to enhance protection for example, for domestic workers. Secondly, MoLIP is to promote the creation of border services at key crossing points aimed at providing support to vulnerable migrants, especially women and children. Plans for the empowerment of all migrant workers are highlighted in Box 2.

According to the second main objective, on increasing the development benefits of labour migration, the government is committed to mainstreaming labour migration into a range of national development strategies, including the National Strategic Plan for the Advancement of Women (2013-2022) (NSPAW), (see Appendix 3 for a list of relevant instruments). Under the same objective, there are also some provisions for migrant workers and their families. For example, MoLIP and the Ministry of Foreign Affairs plan to collect data on welfare and protection issues related to the children of migrant families that need attention and to coordinate to provide services. MoLIP is also considering the establishment of a welfare fund for migrant workers and their families. There are further plans by MoLIP, the Ministry of Foreign Affairs, and the Central Bank of Myanmar to improve access to financial services for migrant workers and their families by promoting the opening of foreign-currency bank accounts in Myanmar; expanding financial institutions to rural areas; and facilitating potential and returned migrants’ access to these institutions through LEOs.

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**Box 2: Plans to empower migrant workers under the Second National Plan of Action for the Management of International Migration (2018-2022)**

- Safer recruitment systems and practices and more access to jobs: by decentralizing and increasing the number of recruitment centres through LEOs at township and/or district level; and by developing standard operating procedures for the recruitment process in Myanmar that link LEOs nationwide with recruitment agencies in commercial centres, to reduce costs and expand access to employment opportunities.
- Standardized and enforceable employment contracts: MoLIP plans to develop standard contracts between Myanmar OEAs and workers to ensure full rights for migrant workers, with enforceable provisions, and a standard employment contract between migrant workers and employers with a clear articulation of workers' rights.
- Access to an effective, efficient and customer-friendly complaints mechanism: MoLIP plans to improve the existing complaints mechanism.
- Protection from unfair financial loss: MoLIP, the Central Bank, and the Ministry of Finance and Planning are to design and launch an insurance scheme to compensate migrant workers for losses resulting from recruitment process failures; negligence in the employment contract; or excessive recruitment fees.
- Greater ability to protect oneself while living and working abroad and against exploitation: MoLIP will establish, in close collaboration with CSOs, a pre-migration capacity building programme for households in high out-migration areas to improve household planning for employment abroad. MoLIP and the Ministry of Information, through MRCs and in cooperation with MOEAF, CSOs and other stakeholders, will implement public information campaigns aimed at potential migrants on job opportunities in domestic and overseas markets, requirements for recruitment, administrative procedures, costs, the rights and responsibilities of migrant workers, and the risks of irregular migration.
- Access to effective pre-departure orientation and training: MoLIP will develop a national standardized pre-departure curriculum, drafted by MoLIP and MOEAF, to cover cultural orientation, language training, working conditions, financial literacy, occupational safety and health, HIV/AIDS, the rights and responsibilities of workers, and containing specific information on destination countries, to be delivered by certified trainers at agencies independent from recruitment agencies.

The third main objective on improving the governance and administration of labour migration aims to make policies more coherent and aligned with key international frameworks. This includes strengthening the LROE (1999) and related rules to better protect migrant workers and improve coherence with other laws, as well as to consider ratifying the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) and the ILO's Domestic Workers Convention, 2011 (No. 189). The NPA also aims to establish a centrally managed labour migration information system within the DOL to review existing data gaps, and collect sex-disaggregated data on migrants, their characteristics, destination, and other key information. Access to sex-disaggregated labour migration data would be an important first step towards to the design of gender-sensitive labour migration policy.

Finally, coordination between MoLIP and MSWRR has increased from five to fourteen areas in the 2018-2022 NPA compared to the 2013-2017 NPA. This allows much greater scope for issues pertaining to women migrant workers to be considered in migration governance. In practice, implementation of goals has been lagging. A Technical Working Group (TWG) was set up in October 2019 to design implementation plans, however as of July 2020 MoLIP was yet to convene a meeting of the TWG.

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**Myanmar National Sustainable Development Plan  
(2018 – 2030)**

“Currently Myanmar has myriad sectorial, ministerial and subnational plans. Genuine development will only come to Myanmar if, and only if, all these plans move harmoniously and coherently under the aegis of a single national strategy.” – H.E Daw Aung San Suu Kyi

The Myanmar National Sustainable Development Plan (2018-2030, MSDP) provides an overall framework for coordination and cooperation between all ministries for the implementation of Myanmar’s Development Strategy. It has three pillars: 1) peace and stability; 2) prosperity and partnership; 3) people and planet; and aims to align with the Sustainable Development Goals 2030 Agenda. Gender is considered a cross-cutting issue and has been mainstreamed across the Plan.

The Plan notes that migration has played a significant role in rural development, and poverty reduction, and that the government is trying to develop legal, convenient, affordable, and secure channels of migration to benefit migrants, their families, and communities of origin. Migration is addressed under Goal 4 of Pillar 3, in relation to human resources and social development for a 21st century society.

Goal 4 focuses primarily on improving access to social services and social protection, such as education and health. It also aims to protect the rights of inward and outward international migrant workers and strengthen positive linkages between migration and local development. To this end, Strategy 4.5 was developed to protect the rights and harness the productivity of all, including migrant workers. See Table 1 for relevant strategies from the National Sustainable Development Plan.

**Table 1: Myanmar National Sustainable Development Plan (2018-2030):  
Strategies relating to migrant workers and gender equality**

Ref	Action Plan	Strategic Outcomes	Relevant agencies	Economic policy	SDG
<b>Pillar 1</b>	<b>Peace and stability</b>				
Strategy 1.5	Increase the ability of all people to engage with government				
1.5.7	Place equity, inclusivity and gender empowerment at the centre of development strategies and policies at all levels and in all sectors	More inclusive, participatory and representative decision making.	All LMs, S/R Gov	n/a	5.1; 16.7
<b>Pillar 3</b>	<b>People and planet</b>				
Strategy 4.5	Protect the rights and harness the productivity of all, including migrant workers				
4.5.1	Provide a legal identity for all, including birth registration	Increased portion of legal migration	MoHS, MoLIP, MOSWERR	3	16.9
4.5.2	Promote legal, affordable and secure migration services	Increased contribution of migration towards development	MoLIP, MoSWRR	3.5	8.8
4.5.3	Provide improved cross-border financial services for migrant workers	Increased contribution of migration towards left behind families and social resilience	MoLIP, MoSWRR, MoPFI, CBM	3.5	10c
4.5.4	Develop measures to encourage our diaspora's contribution to our domestic economy	Increased contribution of diaspora towards economic development	MoLIP, MoSWRR, MoPFI, CBM	3.5	10c
4.5.5	Protect labour rights and promote safe and secure working environments for all workers, including migrant workers	Improved and safe working environment, leading to increased productivity	MoLIP, MoSWRR, MoPFI, MoIND, MoALI	3.5	8.8

### **Access to documentation and citizenship**

Access to documentation and citizenship, as well as possession of national identity documents, is essential to enable migration through regular channels, as well access to basic services including health and education. According to the 2014 census, some 25 per cent of Myanmar residents did not possess a legal identity. The Special Rapporteur on the situation of human rights in Myanmar has recommended the removal of provisions in the 1982 Citizenship law providing for granting citizenship on the basis of ethnicity or race.<sup>14</sup> Stateless and undocumented migrants are subject to multiple layers of disadvantage and discrimination, relating to race, ethnicity, gender and migration status. International laws uphold the right to identity (International Convention on Civil and Political Rights, Art. 24.3), and a child's right to birth registration and nationality, irrespective of

<sup>14</sup> See A/HRC/28/72, para. 67 (e).

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parental immigration status (Convention on the Rights of the Child, General Comment No. 6; International Convention on the Rights of Migrant Workers, Art. 29).

### ***Memoranda of Understanding on labour migration***

Myanmar has bilateral agreements with Japan, the Republic of Korea and with Thailand regarding migrant workers. The 2010 MOU with the Republic of Korea provides for formal migration through the latter's Employment Permit System (EPS). The 2016 MOU with Thailand on Labour Cooperation and its accompanying Agreement on the Employment of Workers outlines the principles and procedures for labour migration facilitated through recruitment agencies in Myanmar and Thailand. It also includes a non-discrimination clause which states: "workers of both Parties are entitled to wage and other benefits due for local workers based on the principles of non-discrimination and equality of sex, race, and religion."

Myanmar also has MOUs with China and Thailand concerning border migration. The MOU on Cooperation for Administration of Border Areas between Myanmar and China covers eight checkpoints on the Myanmar-China border, and a similar MOU regulates arrangements on the Myanmar-Thailand border.<sup>15</sup>

## **4.2 Institutional system**

### ***Government actors***

MoLIP is directly responsible for coordinating and overseeing the implementation of the LROE and the NPA. MoLIP is also the main actor overseeing migration-related memoranda of understanding (MOUs). In these contexts, high-level MoLIP officials are responsible for convening different actors and integrating policy activities. The Migration Division of the Department of Labour (DOL) under MoLIP acts as the focal point for the management of all aspects of international labour migration by providing technical expertise, contributing that expertise to relevant planning and policy making, and managing the implementation of policies and procedures that relate to international labour migration.<sup>16</sup>

Under the DoL is charged with ensuring peaceful industrial relations within Myanmar, managing employment issues, enhancing the skills of workers, enforcing workers' rights according to national laws and cooperating in international and regional labour affairs. Employment is managed by the DoL's Labour Exchange Offices (LEOs). Enterprises in the public and private sectors are required to inform a LEO when there are vacancies at their enterprises and LEOs provide labour cards to job seekers and maintain information on their education level and employment history in order to place them in an appropriate vacancy. LEOs are also informed when workers migrate via the registration of labour cards. Also under MoLIP, The Factory and General Labour Laws Inspection Department (FGLLID) is responsible for monitoring and inspecting workplaces according to the national labour laws and the Social Security Board (SSB) is responsible for overseeing the provision of social security benefits.

<sup>15</sup> This includes an arrangement for seasonal workers to work in Thailand in restricted border areas for 30 days.

<sup>16</sup> Myint, G. (2017). International Labour Organization. Building Labour Migration Policy Coherence in Myanmar, p. 15.

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## **Recruitment agencies**

As of August 2020, there were a total of 352 licenced recruitment agencies in Myanmar, of which 26 had their licences temporarily suspended. Formal labour migration takes place through recruitment agencies. In an effort to encourage ethical recruitment, the Myanmar Overseas Employment Agencies Federation (MOEAF) released a Code of Conduct (CoC) for its members in August 2016, which was developed by MOEAF with technical support from the ILO and endorsed by MoLIP. The code applies to licensed employment agencies that recruit Myanmar nationals to work in other countries, and had 272 signatories in August 2020. It promotes ethical conduct and professionalism by employment agencies, standardizes the quality of their services, and ensures that migrant workers' rights are protected throughout the process. It also aims to ensure coherence with Myanmar's national and international legislative framework, namely, the national laws of Myanmar, in particular the LROE (1999) and its accompanying Rules and Regulations (June 2016) the laws of destination countries, bilateral and multilateral agreements including MOUs; regional frameworks the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers of 2007 and the follow up ASEAN Consensus (2017) and international standards, primarily the ILO's Private Employment Agencies Convention, 1997 (No. 181) and the ILO Multilateral Framework on Labour Migration (see Box 1). The Code Compliance Monitoring Committee (CCMC) monitors the compliance of employment agencies who are signatories to the CoC and ranks their performance.

### **Box 1: Code of Conduct for Members of the Myanmar Overseas Employment Agencies Federation**

The CoC outlines minimum ethical business standards for subscribing agencies, including guidance on –

- legal compliance with Myanmar's laws, in particular the LROE (1999)
- guidelines for the proper recruitment of workers, including handling job advertisements, demand letters, and training local representatives who engage directly with migrant workers
- proper handling of workers' documentation
- providing pre-departure training for all migrant workers that is specific to the destination country, with the supervision of MoLIP and in coordination with ILO and CSOs
- deployment and transportation of workers overseas
- protection of workers overseas
- handling emergencies
- repatriation and reintegration, including assisting workers to recover any entitlements from destination countries and providing information about opportunities in Myanmar.

The CoC contains very little guidance concerning gender equality in overseas migration. Two provisions directly mention women:

- Recruitment agencies must ensure that the selection of migrant workers is based on the requirements of employers, as specified in the demand letter, and is free of discrimination (gender, ethnicity, religion, sexual orientation) (1.B.9);
- Under “Aspirational Goals”, agencies are encouraged to develop programmes to support workers, including vocational training, training for the disabled, and specialized training for women (3.6.B).

The CoC advises recruitment agencies, under the supervision of MoLIP and in coordination with the ILO and CSOs, to ensure all migrants receive pre-departure training. This should include, at a minimum, details of the employment contract; labour laws and labour rights; complaints mechanisms information; social security; information on health care and access to health systems;

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and information on local currency, wages, cost of living, remittances, and the banking system at destination (1.D.2). Training should also enable migrant workers to perform their work safely and efficiently and, if necessary, to include sector-specific skills training (1.D.2). Accompanying guidelines for OEAS on how to deliver gender sensitive trainings may be needed.

## 5. The national framework on gender equality and women's empowerment

Myanmar ranked 145<sup>th</sup> globally in the 2019 Gender Development Index which measures the gender gap in key areas of human development: health, knowledge and living standards.<sup>17</sup> Although Myanmar has ratified four of the eight ILO fundamental conventions related to freedom of association and recognition of the right to collective bargaining; elimination of all forms of forced or obligatory labour; and effective abolition of child labour; it has not ratified either convention related to discrimination (the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), or the Equal Remuneration Convention, 1951 (No. 100). To achieve the developmental goals outlined in the NPA, including increasing the developmental benefits of labour migration, and empowering migrant workers, attention to the legal and institutional gender architecture and how it aligns with migration goals is necessary.

### 5.1. Legislative and policy system

#### *The Myanmar Constitution (2008)*

The Constitution of the Republic of the Union of Myanmar (2008) provides that “the Union shall not discriminate any citizen of the Republic of the Union of Myanmar, based on race, birth, religion, official position, status, culture, sex and wealth” (Article 348). It states that women are entitled to the same rights and salaries as men in respect to similar work (Article 350), going some way towards ensuring equality, although not enshrining the right to equal pay for work of equal value.<sup>18</sup> Regarding civil service personnel, discrimination is prohibited in assigning duties (Article 352). However, it is noted that “nothing in this Section shall prevent appointment of men to the positions that are suitable for men only”.

Myanmar ratified the Convention on the Elimination of all Forms of Discrimination Against Women in 1997. However, the Committee on the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) has noted that the Constitution does not include a comprehensive definition of discrimination against women or an effective guarantee of substantive equality. A comprehensive definition of discrimination against women would encompass both

<sup>17</sup> UNDP. 2019. Human Development Report. Available at: <http://hdr.undp.org/sites/default/files/hdr2019.pdf> (checked 17 Sept 2020)

<sup>18</sup> The ILO Equal Remuneration Convention, 1951 (No. 100) holds that: “Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.” (Article 1)

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direct and indirect discrimination in both public and private spheres. An effective guarantee of substantive equality would include measures to counter disadvantage and facilitate real equality.

### ***National Strategic Plan for the Advancement of Women (2013-2022)***

The National Strategic Plan for the Advancement of Women (2013-2022, NSPAW) is the first national plan of its kind and aims to create a more inclusive society, one in which both women and men play equal and meaningful roles and where women can reach their full potential. It aims to ensure that women's rights are guaranteed, including women's equal access to resources, opportunities, and services, and their representation and participation in decision making at all levels and spheres of society.

The NSPAW explicitly mentions the need for cooperation and coordination: "it is an ambitious yet achievable plan that will require the political will and commitment of all ministries, national non-government organizations and Myanmar's development partners, to resource and implement the plan." It was developed by the Myanmar National Committee for Women together with 18 government departments in 15 ministries. The plan includes 12 priority areas that are linked to the CEDAW and the guiding principles in the Beijing Declaration and Platform for Action of 1995; each priority area was assigned to a corresponding ministry.

The Myanmar National Committee for Women helps implement the NSPAW through four technical working groups (TWGs), established under the Non-Sector Coordination Group, Gender Equality and Women's Development, chaired by the Director-General of MSWRR. These are: 1) Women, Peace and Security; 2) Violence Against Women and Girls; 3) Women and Participation; and 4) Gender Mainstreaming. While previously a ministry was assigned to each of the NSPAW's 12 key priority areas, coordination for implementation is now to be done jointly under each of the four TWGs, with a lead ministry and a co-chair from a development partner or NGO.

Key Priority Area 6, Women and the Economy, is the only priority area that mentions migrant workers specifically. It calls for an assessment on the situation regarding women migrants; and proposes budgeting to review, develop and implement specific policies related to economic opportunities for women and their rights, including women migrant workers and other groups (see Box 3). In 2013 this priority area was assigned to MOLIP.<sup>19</sup>

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<sup>19</sup> Ministry of Labour, Employment and Social Security (MoLES) became the Ministry of Labour, Immigration, and Population (MoLIP) in 2016.

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**Box 3: National Strategic Plan of Action for the Advancement of Women (2013-2022) plans relevant to migrant women**

The objective of Key Priority Area 6 – Women and the Economy – is: “to strengthen systems, structures and practices to ensure fairness and equal rights for women in relation to employment, credit, resources, assets and economic benefits.” Specifically of relevance to the advancement of women migrant workers, this priority area calls for –

- Research or surveys on women’s participation in the private economy; challenges faced in accessing economic opportunities; an assessment of the situation of women migrant workers; disparities in wages between men and women; and sexual harassment at the workplace;
- Awareness raising activities to improve the economic capacity of women in rural and urban areas; to improve women’s understanding of labour laws and equitable workplace practices, including gender equality and non-discrimination; to increase access to information about the economic sector; and to reduce the impact of cultural issues that create obstacles to women’s access and use of information about the economic sector;
- Establishment of service centres where women, including those with disabilities, can access opportunities and information, including for employment, credit, resources, assets and economic benefits; and
- Budget allocation to review and develop laws and implement specific policies related to economic opportunities for women and their rights, including women with disabilities, women migrant workers and women-led households.

Source: NSPAW (2013-2022), Women and Economy.

## 5.2 Institutional system

### ***The Gender Equality and Women’s Empowerment Coordination Group***

Due to limited implementation of the NSPAW, including on areas of policy coherence with migration, during its first four years, DSW initiated a mapping of initiatives and projects on women’s empowerment and gender equality related to the NSPAW, with technical support from the UK Department for International Development (DFID), which ultimately led to the institution of a new structure to facilitate better coordination for implementation.

The results of the mapping exercise were published in December 2016, concluding that: “...while institutional arrangements and operational planning have not taken place, there are many actions being taken that could fall under the umbrella of NSPAW. ... these activities are not being driven by NSPAW, or reported upon by ministries or other stakeholders under NSPAW planning or monitoring framework, and they are often perceived as being unconnected to NSPAW. There has been little alignment of NSPAW with the line ministries’ existing strategies and plans.”<sup>20</sup>

The report notes that one of the challenges for the MSWRR is a lack of financial and technical resources to implement a complex, cross-ministerial plan, receiving just 0.01 per cent of the government budget in the financial year 2014-2015. Further, the Women’s Development Division (WDD), the DSW division responsible for overseeing implementation in practice, received only 10 per cent of the total budget of DSW. The report explains that WDD “is severely stretched as

<sup>20</sup> Myanmar Ministry of Social Welfare, Relief and Resettlement. (2016). National Strategic Plan for the Advancement of Women (2013-2022): Mapping Analysis Report, p. 101.

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they react and respond to issues and offers of support from development partners [...] WDD has no staff at the state/region or township level and relies on the equally stretched staff from other divisions to implement at these levels.”<sup>21</sup>

To address these issues, MSWRR formed the Gender Equality and Women’s Empowerment Sector Working Group in accordance with the Nay Pyi Taw Accord for Effective Development Cooperation. In 2018, it was reconfigured as the Gender Equality and Women’s Empowerment Coordination Group. Chaired by the Director-General of DSW, the aim of the Coordination Group is to facilitate a nationally led policy dialogue, coordinate technical and financial support for the implementation of the NSPAW, and advance Myanmar’s regional and global commitments. The Development Assistance Coordination Unit, Development Assistance Policy, and Guidelines for Sector Coordination Groups guide the work of the Coordination Group. Technical Working Groups (TWGs), comprised of government representatives, development partners and CSOs, have been established to support the planning, implementation and monitoring of specific priority areas. These Technical Working Groups report to the Coordination Group and to the Myanmar National Committee for Women. The work of the Coordination Groups is to further Myanmar’s global and regional commitments, including CEDAW and the Beijing Platform for Action.

Following the 2<sup>nd</sup> Myanmar Development Effectiveness Roundtable (DER) held in December 2019, the Foreign Economic Relations Department of the Ministry of Investment and Foreign Economic Relations proposed a set of Strategic Coordination Groups aligned to the MSDP, including a Gender Equality and Women’s Empowerment Strategic Coordination Group. It was anticipated that the final set of Strategic Coordination Groups would be launched at the end of May 2020. Cooperation Partners stressed the need to recognize the existing Gender Equality and Women’s Empowerment Sector Working Group recognized as a Strategic Cooperation Group.

Although the NSPAW states that an Operational Plan will be developed to define roles and responsibilities of implementing bodies (para 24), as well as specific intended results, it is not yet clear whether this has been developed.<sup>22</sup> Similarly, review of progress is hindered as it is not clear whether a planned monitoring framework (para. 25) has been developed. Consequently, analysis of aims to promote coordination and coherence in practice is not possible.

### ***Gender focal points and gender budgeting***

NSPAW Key Priority 8 – Institutional Mechanisms for the Advancement of Women – includes a plan to “establish Gender Focal Points in designated ministries with clear terms of reference that include authority and responsibilities”. Gender focal points could play a more important role in ensuring the NSPAW objectives are integrated into national plans of action and other initiatives within each ministry. Within MoLIP and the Migration Division, gender focal points can enhance the integration of women’s advancement objectives in labour migration governance. In line with Priority 8, the MSWRR has advocated the need to include a gender budget line in each ministry’s annual budget, and in coordination with other development partners has begun to provide capacity building for government officials to understand the benefits of gender budgeting to ensure gender

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<sup>21</sup> Myanmar Ministry of Social Welfare, Relief and Resettlement. (2016). National Strategic Plan for the Advancement of Women (2013-2022): Mapping Analysis Report, p. 101.

<sup>22</sup> Women’s League of Burma (WLB). 2019. The prospects of advancement for women? WLB’s analysis of National Strategic Plan for the Advancement of Women. Available at: [https://www.womenofburma.org/sites/default/files/2019-05/WLB\\_NSPAW\\_Analysi\\_Eng.pdf](https://www.womenofburma.org/sites/default/files/2019-05/WLB_NSPAW_Analysi_Eng.pdf) (checked 17th Sept 2020)

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mainstreaming in national policies including migration policy.<sup>23</sup> Mechanisms for implementation of these plans are not identified, and as yet there is no publicly available information on whether focal points have been established.<sup>24</sup>

## 6. Policy coherence impacting overseas migrant workers: Opportunities and challenges

Around the world, gender-responsive migration policy can promote fair migration, with equitable employment opportunities, rights and outcomes for women and men.<sup>25</sup> A lack of coherence between national gender and migration policies horizontally, and with international labour and human rights standards vertically, reduces the benefits of migration for all.

This section examines the effects of policy incoherence on different groups of women migrants, and how an approach to labour migration based on traditional gender norms has fostered measures designed to protect women rather than empowering them, leaving large groups of women invisible in labour and migration law and more exposed to risk. Table 2 highlights key international standards and concepts related to gender equality in labour migration. Many of the key concepts regarding gender equality in decent work and international migration are addressed in the NSPAW and in the NPA; there is also policy alignment between the two plans however the NSPAW does not identify responsible actors, and implementation plans have not yet been developed for either Strategic Plan (see Table 3).

Regarding the key international standards identified, Myanmar has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the CEDAW.

**Table 2: Key international standards and key concepts in gender equality in decent work affecting women migrant workers from Myanmar**

Key international standards	
ILO	Migration for Employment Convention (Revised), 1949 (No. 97) Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) Right to Organise and Collective Bargaining Convention, 1949 (No. 98) Equal Remuneration Convention, 1951 (No.100) Discrimination (Employment and Occupation) Convention, 1958 (No.111) Maternity Protection Convention, 2000 (No.183) Domestic Workers Convention, 2011 (No. 189) Violence and Harassment Convention, 2019 (No. 190)
UN	UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979

<sup>23</sup> Consultation, MWAF, Nay Pyi Taw (8 Jun. 2018).

<sup>24</sup> Women's League of Burma (WLB). 2019. The prospects of advancement for women? WLB's analysis of National Strategic Plan for the Advancement of Women. Available at: [https://www.womenofburma.org/sites/default/files/2019-05/WLB\\_NSPAW\\_Analysi\\_Eng.pdf](https://www.womenofburma.org/sites/default/files/2019-05/WLB_NSPAW_Analysi_Eng.pdf) (checked 17th Sept 2020)

<sup>25</sup> International Labour Organization. (2016). Gender equality in labour migration law, policy and management (GEM Toolkit).

<b>Key concepts</b>	
Gender equality in decent work	Equality of opportunity and treatment in employment and in job recruitment Equal remuneration for work of equal value Protection from discrimination stemming from women's reproductive function Freedom of association and protection of the right to organize Equal access to safe work and to social security, including maternity and paternity benefits Equality in obtaining meaningful career development <sup>26</sup>
Gender equality in international migration	Equal rights to regular migration opportunities Equal rights within the migration process for safe and fair recruitment, transit, remuneration, control over earnings, decent working conditions, a right to personal and family life, access to legal services, education, sports and leisure, decision-making, and relevant health care and information Equal rights realized through migration, including accessing the positive outcomes such as increased autonomy and power to negotiate employment conditions; having control over earnings and more decision-making power in the family and in the country of origin; and having an increased capacity to build and maintain social networks Equal access to loans, start-up training and seed money for small businesses, skills recognition; access to further education and training <sup>27</sup>

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<sup>26</sup> International Labour Organization. (2016). Gender equality in labour migration law, policy and management (GEM Toolkit), p. 17

<sup>27</sup> Ibid., p. 20.

**Table 3: Policy alignment between the NSPAW and the NPA**

Theme	NSPAW Provision	NPA Provision
Assessment	Assessment of the situation of women migrant workers (12.a.6)	Conduct a review of the migrant protection situation for domestic work (A.1.2.1)
Sex-disaggregated migration data	When carrying out research (e.g. assessment of women migrant workers), collect data disaggregated by sex and other factors (12.a, remark)	Establish a centrally managed Labour Migration Information System with sex-disaggregated data (4.1.3). Documentation on profiles of migrants to include the sex of the worker (4.1.5).
Access to economic opportunities	Implementation of specific policies related to economic opportunities for women migrant workers and their rights (12.d.3)	Recruitment is decentralized to enable easier access to job opportunities and regular migration abroad for those in rural areas (A.2.2).
Access to financial services	Development of women's access to employment, credit, resources, assets and economic benefits (12.C.5)	Migrant workers and their families have improved access to financial services (B.3.1)

### **Restrictions on women's labour migration and implementation of migration and gender policy**

This section talks about implementation of national migration policy and its coherence with national and international gender and migration policies. A number of practices emerge in implementation that are discriminatory against women. While there are many deep rooted social and cultural reasons behind the discrimination, part of the cause of the practice lies with policy incoherence, pitting aims to “protect” against aims to “empower” in national legislation; incoherence between aims stated in the national policy design phase and implementation; as well as with international norms and standards. There is a need for more detailed analyses in order to understand to what extent policy coherence is indeed the main cause for discrimination.

#### ***Ban on labour migration for domestic work partially lifted***

In mid-2014 the Government of Myanmar imposed restrictions on the regular migration of women for domestic work overseas. The justification for the ban at the time was said to be the need to protect women migrant workers from human trafficking and abuse, and that no agreed rights mechanisms had been established between Myanmar and countries of destination with regard to this type of employment.<sup>28</sup> Despite the ban, women continued to migrate as domestic workers. In Singapore and Thailand they were able to get work permits but they were not recognised by the Myanmar authorities and were therefore not fully protected. The ILO raised their concerns regarding such bans and civil society groups called for the ban to be lifted.

The ban was not coherent with national policy objectives concerning women's empowerment. Key Priority Area 6 of the NSPAW is: “to strengthen systems, structures and practices to ensure fairness and equal rights for women in relation to employment, credit, resources, assets and economic benefits” and the NPA similarly aims to set up systems to promote safe migration. According to ILO guidance, equal access to regular migration opportunities is a core component of ensuring gender equality in migration governance. The CEDAW Recommendation 26 also recommends lifting discriminatory bans and restrictions on migration as a way to counter migration

<sup>28</sup> Napier-Moore, R. (2018). UN Women and International Labour Organization. Protected or put in harm's way?, p. 25 [online]. Available at: [http://www.ilo.org/asia/publications/WCMS\\_555974/lang--en/index.htm](http://www.ilo.org/asia/publications/WCMS_555974/lang--en/index.htm) [Accessed 15 Jul. 2018].

vulnerabilities. The vast majority of domestic workers are women, and the restriction hence represented a form of sex-based discrimination in Myanmar's governance of international labour migration.<sup>29</sup> The restriction had the effect of further establishing the domestic work sector as informal and devoid of social and labour protection, and placed women domestic workers in a more vulnerable situation, rather than protecting or empowering them.

In March 2019 the Education, Health and Human Resources Deployment Committee of the Government of Myanmar lifted the ban. However, this decision has yet to be activated at the time of writing (September 2020), as no directives had been issued to provide a process for such migration. In practice, this means that demand letters for domestic work are not accepted, and licensed Myanmar OEAs are unable to legally recruit and send women abroad for domestic work.<sup>30</sup>

**Box 4: Myanmar Government plans to improve policy coherence for domestic workers in Singapore**

The NPA (2018-2022) states that the government will consider signing the ILO's Domestic Workers Convention, 2011 (No. 189), which prohibits bans and restrictions on migrating for domestic work.

At the time of writing, the Migration Division, under MoLIP, is discussing options for a pilot allowing the legal migration of domestic workers to Singapore. Discussions are being held with the Foreign Domestic Worker Association for Social Support and Training (Singapore) and the Centre for Domestic Employees within the Association of Employment Agencies (Singapore).

If the pilot is successful, MoLIP will consider undertaking a similar initiative with Hong Kong.

Source: Consultation, MoLIP, Nay Pyi Taw, 8 Jun. 2018.

***Requirement for at least five women in one workplace***

Since 2014 a minimum of five women workers have to be present in workplaces in Thailand and Malaysia before a woman can migrate to work in the workplace. This requirement applies to categories of general workers, but not to higher-skilled workers who migrate to Japan, Singapore, or the United Arab Emirates. This restriction was put in place due to sexual violence cases reported in Malaysia. In practice, this means that MoLIP conducts a gender-specific check of employment demand letters from Thailand and Malaysia, including checking for accommodation, distance between factory and accommodation, and number of women employees. MOEAF-licensed agencies are only permitted to recruit women if the potential employer employs at least five women. This practice, while intended to provide further protection to women, may have the effect of further limiting women's opportunities for employment compared with men and runs counter to objectives on fairness and equal rights in relation to employment (NSPAW); and to promote migrants' access to jobs (NPA).

***Policy incoherence: Pregnancy discrimination at destination for international women migrants***

Employment requirements in countries of destination, particularly Malaysia, have led to discriminatory hiring procedures. The Malaysian government regulations require migrant workers to take a pregnancy test to prove they are not pregnant as a condition for receiving and keeping a work permit. These tests are conducted in the country of origin; where a positive test results in the

<sup>29</sup> This is not only due to cultural reasons but also destination country requirements. For example, Singapore requires women domestic workers to be between the ages of 23 and 50.

<sup>30</sup> However, there are some reports that MOEAF licensed agencies have sent domestic workers abroad.

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woman not being allowed to migrate, for women with a negative test, 30 days after arriving in Malaysia she will be tested again and if positive will be deported. Testing is then carried out annually during the first three years of employment. A migrant worker who tests pregnant is not eligible to receive or keep a work permit and is subject to immediate deportation.<sup>31</sup> The deportation costs are ultimately (and illegally) borne by the worker; the recruitment agency pays for the deportation and then charges the worker once they have returned to Myanmar, often with brokers waiting for the women at the airport.<sup>32</sup>

The practice of terminating the employment of pregnant migrants in Malaysia is contrary to Myanmar's national labour legislation, which does not include pregnancy as grounds for termination and specifically requires employers to provide paid maternity leave. It is also counter to provisions in the Maternity Protection Convention, 2000 (No. 183) which holds that maternity should not constitute a source of discrimination in employment (Article 9). In Myanmar, potential women migrants take the pregnancy test at a certified private clinic or hospital.<sup>33</sup> In Malaysia, the Foreign Workers Medical Examination Monitoring Agency oversees the administration of the pregnancy test, which is part of a comprehensive health and medical screening procedure that also checks migrant workers for the presence of a wide range of diseases including psychiatric illness, HIV, hepatitis B, syphilis, malaria, cancer, leprosy, kidney disease, diabetes, tuberculosis, as well as drug use.<sup>34</sup>

### **Labour Attachés**

Overseas migrants may receive assistance and can file complaints related to their employment with a labour attaché in a Myanmar embassy, or with general embassy representatives when an attaché is not present. In the latter case, the embassy will contact MoLIP. Among the top destination countries for Myanmar migrant workers, labour attachés are stationed in Thailand (five men), Malaysia (two men) and Republic of Korea (one man).

For several years, women officials were not eligible to apply for the post of labour attaché, only men were allowed to apply. In 2019 however, recruitment advertisements for labour attaché positions had removed the men only criteria. Women applied but no women candidates were recruited. While incoherent with Myanmar's commitments to international human rights law, the restriction could be imposed according to the 2008 Constitution, which holds that some civil service positions may be suitable only for men (Article 352). This principle is contrary to the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) which aims to promote equality of opportunity and treatment in respect of employment and occupation (Article 2); in part through the repeal of any statutory, or administrative policies or practices which are inconsistent with principles on non-discrimination (Article 3c). In the case of labour attachés, the restriction limited women labour officials from an opportunity to work in a different setting, gain new experience and have a well-paid position. It also reduces the ability of women to represent Myanmar overseas.

<sup>31</sup> Fair Labor Association (2018). *Triple Discrimination: Women, Pregnant, and Migrant: Preventing Pregnancy Discrimination among Temporary Migrant Workers: Lessons from Malaysia, Taiwan, and Thailand*, p. 20 [online].

[http://www.fairlabor.org/sites/default/files/documents/reports/triple\\_discrimination\\_woman\\_pregnant\\_and\\_migrant\\_march\\_2018.pdf](http://www.fairlabor.org/sites/default/files/documents/reports/triple_discrimination_woman_pregnant_and_migrant_march_2018.pdf) (Accessed 15 Jul. 2018).

<sup>32</sup> Information provided by Tenaganita by phone 1 June 2018.

<sup>33</sup> Consultation, MOEAF, Yangon (22 Jun. 2018).

<sup>34</sup> Fair Labour Association (2018). Triple Discrimination: Women, Pregnant, and Migrant, p. 20.

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Importantly, the lack of recruitment of women means that in all countries abroad women migrant workers do not have access to a women labour attaché to address their particular needs, represent them, or take up their concerns within the country.

## **7. Conclusions and recommendations for strengthened policy coherence and gender-sensitive labour migration governance**

Migration is part of the fabric of Myanmar’s workforce, with internal and international migrants making up quarter of the population. Migrant workers make significant contributions to Myanmar’s development through their work, skills development and sharing, with remittances estimated to be as high as US\$ 8 billion, or 13 per cent of GDP.<sup>35</sup> Effective and fair policy that is coherent on paper and in practice will enable women and men to benefit equitably from labour migration, and will have multiplier effects on the benefits generated for their families and communities.

The following recommendations aim to increase policy coherence, to promote gender-positive migration governance.

### **1. Strengthen policy coherence between the NSPAW and the NPA throughout the policy implementation cycle**

#### **a. Increase coherence at the design stage**

The NSPAW and the NPA should be explicitly linked within the texts, and each should make specific reference to the other in terms of the activity and the relevant actors involved in implementation. This will help ensure that the needed institutional arrangements, budgeting, and operational planning will take place. This includes the following (see Table 3 for full text):

- The links between NSPAW Article 12.a.6 on an assessment of migrant workers and NPA Article A.1.2.1 on a review of domestic workers;
- NSPAW Article 12.a. remark and NPA Articles 4.1.3 and 4.1.5 on collection of sex-disaggregated data on migrant workers;
- NSPAW Article 12.d.3 on promotion of economic opportunities for migrant women, and NPA Article A.2.2 on decentralization of recruitment for easier access to job opportunities;
- NSPAW Article 12.c.5 and NPA Article B.3.1 on promoting women’s access to financial services.

The four Technical Working Groups for NSPAW implementation under the Non-Sector Coordination Group on Gender Equality and Women’s Empowerment should involve MoLIP, as appropriate to ensure that the four areas address internal and international women migrants. In particular, the Department of Labour should play a prominent role in the third TWG on Women Participation in Politics and the Economy, to support the implementation of the two migration-related plans in the NSPAW and integrate the relevant outputs and activities into departmental and individual work plans.

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<sup>35</sup> International Growth Centre. 2017. Myanmar remittances. Available at: <https://www.theigc.org/wp-content/uploads/2018/06/Akee-and-Kapur-2017-Final-report.pdf> (checked 12 Dec 2019)

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**b. Strengthen implementation of the NSPAW**

The Government of Myanmar should allocate sufficient financial and technical resources to implement the NSPAW, including allocating enough budget to MSWRR, in particular to DSW, as the department is responsible for implementation of the NSPAW. The government should develop operational plans to implement and monitor the NSPAW, including assigned responsibilities and timelines for implementation. It must ensure that DSW receives sustained and increased technical assistance to lead, monitor, and report on the NSPAW and coordinate with other Ministries to mainstream gender into all action plans.

Activities undertaken by the Migration Division to support, protect, or empower women migrants should be integrated into NSPAW reporting, including amendment of the Law on Overseas Employment; negotiation and review of bilateral agreements with countries of destination and overseeing the migrants' complaint mechanism.

**b. Mainstream gender equality and women's empowerment in all migration policies**

**National Plan of Action**

In the full text of the NPA there is only one provision explicitly addressing women migrants, and three provisions on domestic workers. As migration is not a gender-neutral phenomenon and the issues facing male and female migrants are not the same, the NPA should fully mainstream gender and women's empowerment; and ensure the consistent collection of sex-disaggregated data, gendered analysis, and outcome indicators that measure changes in gender equality and the empowerment of women labour migrants. Table 4 suggests a number of revisions to mainstream gender so as to increase the empowerment of women and men migrant workers.

**Table 4: Recommended actions to mainstream gender and women's empowerment in the NPA**

Articles concerned	Suggested action
[Suggested addition]	Adopt equal opportunity policies that will aid in upholding non-discrimination and promote gender equality in the world of work
[Suggested addition ]	Increase the number of women service providers in government offices, including LEOs, MRCs, anti-trafficking officials, police, labour attachés, and providers of psycho-social support, and among trainers.
Planned reviews of steps in bilateral recruitment (A.1.1.1) and migrant protection situation (A:1.2.1), and assessments of existing support resources in key destination countries (A.4.2.1)	Explicitly mainstream gender in data collection, analysis and steps. Examine different experiences and outcomes for women and men and develop rights-based responses to promote empowerment.
A.2.3.4 : On the review of the existing complaints mechanism to ensure an effective, efficient and customer-friendly service	Needs a gender component to enable women migrants to have access to service providers trained in handling sensitive issues, including on sexual abuse and other forms of gender-based violence; this may require employing more women.
Planned training packages (A.3.2.2) on safe migration and pre-departure curriculum (A.3.2.1) for migrants	Mainstream gender in training packages, and provide separate components and training sessions on sensitive issues, such as gender-based violence, and sexual and reproductive health for men and women.
Capacity development of government service providers (A.4.1.1; A.5.1.1)	Ensure all front-line staff are fully trained in gender rights and women's empowerment.
Policy objective B.3.1	Specifically target women migrants and family members to increase their access to financial services and literacy

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training, as women typically have less access to formal financial services than men. Promote access to gender-sensitive training on financial literacy and household financial management to ease possible tensions over changes in household power dynamics arising from women's increased economic and financial role.

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Planned reviews, curricula (A.3.2.1) and training packages (A.3.2.2) should all explicitly mainstream gender and involve gender-specific components; and should be given by gender sensitive trainers.

The TWG on the NPA should review the policy objectives in the NPA for key areas in which there are opportunities to empower women migrant workers. The current provisions for women migrant workers and domestic workers under the section on *Empowerment and Protection of Migrant Workers* relate only to protection, and not empowerment.

The NPA should include a plan to carry out regular reporting on outcomes of migration policy to enable a gender impact assessments of existing migration-related laws and regulations, to determine their impact on the socio-economic empowerment of men and women migrants.

### **Law Related to Overseas Employment**

The LROE is currently under revision, recommendations are directed to this process:

Include a non-discrimination provision related to women seeking overseas employment in the revised law.

Expand the set of rights afforded to overseas workers to be broader (beyond compensation for damages and the right to take civil or criminal action) to include rights afforded to migrant workers under the ICRMW and CEDAW Recommendation No. 26 for women migrant workers.

Ensure that the Central Committee members under the revised law include key ministries and departments assisting women in particular in order to ensure that women's needs in international migration are met.

#### **c. *Strengthen gender sensitivity of relevant stakeholders***

##### **Overseas Employment Agencies**

OEAs should begin to implement the aspirational goal contained in the CoC, which states that "agencies should contribute to or develop programmes to support workers, including vocational training, training for disabled, and specialized training for women."

In addition to the pre-departure training components that OEAs are required to provide to migrant workers, OEAs should institute a specialized pre-departure training component for women. The session should be separate from the main pre-departure training so as to allow women a safe space in which to discuss difficult issues. In addition to existing components, the pre-departure session should include components on violence against women; feminine hygiene (e.g. where to buy sanitary products and how much they cost); where to buy contraceptives and costs; safe sex information; what to do if they become pregnant overseas and childcare options.

##### **MOEAF**

Training for recruitment agency staff should include discussions on discriminatory hiring practices and the exploitation that women could experience abroad, and should identify some special responsibilities of agencies towards women in line with the ILO guidelines for fair recruitment of migrant labour. OEA staff should learn the basics of women's reproductive rights to ensure that no

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unfair pressures are put on women with regard to their reproductive health before or during recruitment and employment.

### **Labour Organizations and CSOs**

Continue work with the migration network to strengthen capacity to effectively engage in stakeholder discussions; review and suggest amendments to legislation and policy. Provide gender equality and sensitivity to staff members and increase representation of women to enable strengthened service provision for women and representation of women's interests.

## **2. *Strengthen protection from discriminatory recruitment and employment processes***

Undertake advocacy with the Government of Malaysia and other destination governments to reform discriminatory policies that prohibit the recruitment of pregnant workers; or require mandatory pregnancy tests; or allow for the cessation of service and deportation of overseas women workers found to be pregnant.

If women migrant workers are deported on the basis of a positive result to a pregnancy test, take all measures to ensure that OEAs and related agents and brokers are strictly prohibited from requiring workers to pay for the deportation once they have returned to Myanmar.

## **3. *Further promote women's economic empowerment***

Together with the MoPFI and the Central Bank of Myanmar, the Migration Division should increase access to remittance and banking options, and harness MRCs' work with migrant women and their families through pre-departure training to raise awareness among women, who currently have least access to formal banking systems.

Work through MRCs to build on and expand existing financial literacy training schemes to enable women and men migrants to maximize the productive use of remittances; and integrate gender-sensitive components in training to enable women's financial empowerment.

Equal access to skills recognition and training further enhance the benefits of migration. The ILO has developed *general practical guidance on promoting coherence among employment, education/training and labour migration policies* (N. Popova and F. Panizica). MoLIP should work to ensure full implementation of NPA plans to develop labour migration information systems to better enable job to skills matching for returning women and men migrants; as well as mutual recognition of qualification with receiving countries and access to quality training in Myanmar.

## **4. *Promote ratification of conventions providing gender sensitive frameworks***

In order to achieve a whole of government approach to the promotion of gender mainstreaming and women's empowerment in migration, promote the ratification and implementation of:

### ***Migration for Employment Convention (Revised), 1949 (No. 97)***

Holds that Members are to facilitate the departure, journey and reception of migrants for employment (Article 4). Services provided by public employment services relating to recruitment and placing migrants for employment are free, and related administrative costs should not be paid by migrants (Article 5). This includes ensuring there is no discrimination against regular migrants in respect of "nationality, race, religion or sex" regarding various rights in the workplace, including

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“women’s work”, trade union membership, and access to social protection (Article 6). Limitations regarding social protection concern the potential need for special arrangements for acquired rights; payment of benefits paid wholly out of public funds or to people who have not contributed for the required period; and employment taxes (Article 6).

#### **Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)**

This Convention adds to the range of provisions addressing migrant work, it makes no reference to gender. The first part of the Convention concerns “migrants in abusive conditions” and contains measures to “suppress clandestine movements of migrants for employment and illegal employment”. Part II concerns equality of opportunity and treatment, stating that Members are to promote and guarantee “equality of opportunity and treatment in respect of employment and occupation, social security, of trade union and cultural rights, and of individual and collective freedoms” for migrants and their families who are lawfully in a territory (Article 10).

#### **ILO’s Domestic Workers Convention, 2011 (No. 189)**

As indicated in the NPA, ratify Convention No. 189 and revise national legislation, informal restrictions, and bilateral agreements with countries of destination accordingly.<sup>36</sup>

#### **ILO’s fundamental Discrimination (Employment and Occupation) Convention, 1958 (No. 111)**

Ratify Convention No. 111 and pursue a national policy designed to promote equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating all discrimination through cooperation between employers’ and workers’ organizations and other bodies, as well as through awareness raising and by enacting supporting legislation and repealing legislation that is inconsistent.

Incorporate a definition of discrimination in line with Convention No. 111 into national labour legislation.

#### **ILO’s Convention on Ending Violence and Harassment in the World of Work, 2019 (No. 190)**

Undertake a national evaluation to assess readiness to adopt Convention No. 190. The Convention recognises the right of everyone to a world free from violence and harassment, and provides a clear definition of violence and harassment which can be adopted at the national level for coherence across national policies. The Convention expands the scope of work beyond the immediate workplace and thus can provide protection during recruitment and migration. It also provides a clear framework for governments to adopt to eliminate violence and harassment in the world of work.

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<sup>36</sup> For detailed information on Convention No. 189, see Table 2: Key international standards and key concepts in gender equality in decent work affecting female migrant workers from Myanmar; and Appendix 1: Key Provisions in the Domestic Workers Convention, 2011 (No. 189).

## Appendix 1: Key international standards for gender equality in labour migration

This section presents key international standards crucial for promoting gender equality for migrant workers and their ratification status in Myanmar. Those that have been ratified by Myanmar or which are relevant to the research findings in this paper are discussed in detail below. For a comprehensive guide to international standards on gender equality and labour migration, see the GEM Toolkit: *Gender equality in labour migration, law, policy and management*.<sup>37</sup>

**Table 5: Relevant international conventions and Myanmar ratification status**

Convention	Myanmar ratification
<b>Relevant UN Conventions</b>	
UN Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW)	Ratified (1997)
UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Family Members, 1990 (IMWC)	-
<b>ILO Fundamental Conventions (Core Labour Standards)</b>	
Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	--
Worst Forms of Child Labour Convention, 1999 (No. 182)	Ratified (2013)
Minimum Age Convention, 1973 (No. 138)	Parliament voted to ratify (2019)
<b>Additional relevant ILO Conventions</b>	
Workers with Family Responsibilities Convention, 1981 (No.156)	--
Maternity Protection Convention, 2000 (No. 183)	--
Domestic Workers Convention, 2011 (No. 189)	--
Migration for Employment Convention (Revised), 1949 (No. 97)	--
Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and Migrant Workers Recommendation, 1975 (No. 151)	--
Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29)	--
Violence and Harassment Convention, 2019 (No. 190)	--

### 1. Relevant international human rights treaties

Under international human rights law, everyone, without discrimination, has access to the protection of basic human rights. Differences in treatment between citizens and non-citizens, or between different groups of non-citizens, can be made only if they are consistent with international human rights obligations, justified by a legitimate objective, and proportional to the achievement of that objective.<sup>38</sup> Two treaties relating to gender equality and fair migration and are discussed below:

<sup>37</sup> International Labour Organization. (2016). Gender equality in labour migration law, policy and management (GEM Toolkit). [online] Available at:

[https://www.ilo.org/asia/publications/WCMS\\_524144/lang--en/index.htm](https://www.ilo.org/asia/publications/WCMS_524144/lang--en/index.htm) [Accessed 28 Oct. 2019].

<sup>38</sup> International Labour Organization. (2016). Promoting fair migration: General survey concerning the migrant worker instruments. International Labour Conference, 105th Session, 2016 (Geneva), Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 1B), para. 279.

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***International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990 (ICRMW)***

The UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990 (ICRMW), which is referred to in the NPA, protects the rights of all migrant workers and their families. It provides a set of rights for all migrants regardless of their migration status, and an extra set of rights for regular migrants. The ICRMW affords migrant workers and their families (i.e. spouses, other legal partners, children and dependents) basic human rights and the rights contained in the International Covenant on Political and Civil Rights; the Convention Against Torture and other Cruel, Inhumane and Degrading Treatment; and the Slavery Conventions. These include the right to life, freedom of movement, to not be subjected to torture or cruel, inhumane or degrading treatment; to not be subjected to forced or compulsory labour or slavery or servitude;<sup>39</sup> to be free from arbitrary arrest and detention; and rights to due process under the law, equal with nationals of the State.<sup>40</sup> It also affords the rights contained in the International Covenant on Economic, Social and Cultural Rights as they apply to migrant workers and their families, including the right to freedom of thought, conscience, and religion; the right to hold opinions without interference in freedom of expression; and the right to privacy.<sup>41</sup>

***UN Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW) and its Recommendation No. 26 on women migrant workers***

The CEDAW provides guidance relevant to policy-making and coordination. It calls on States Parties to condemn discrimination against women in all its forms by incorporating the principle of equality between men and women into national constitutions; establishing legal protection for women on an equal basis with men; and to adopt, modify, repeal or abolish legislation including penal provisions that discriminate against women.<sup>42</sup> It calls on States Parties to adopt “temporary special measures” aimed at accelerating de facto equality between men and women, which shall not be considered discrimination, as the measures should not seek to maintain unequal or separate standards and should be discontinued when the objective of equality has been achieved.<sup>43</sup>

The CEDAW also provides guidance to States Parties relevant to the protection of women, gender equality, and non-discrimination in employment. These include –

- measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women (Article 6)
- provisions enabling men and women to have the same conditions for career and vocational guidance (Article 10,a)
- measures to eliminate discrimination against women in the field of employment to ensure their rights to work in relation to the same employment opportunities; to choose their profession and employment; to equal remuneration; to social security; to protection of health; and to safe working conditions (Article 11.1, a-f)
- the prevention of discrimination against women in the workplace on the grounds of marriage or maternity (Article 11.2)

<sup>39</sup> UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Family Members, 1990, Articles 8-11.

<sup>40</sup> Ibid. Articles 17-18.

<sup>41</sup> Ibid. Articles 12-14.

<sup>42</sup> UN Convention on the Elimination of All Forms of Discrimination against Women, 1979, Article 2(a-g).

<sup>43</sup> Ibid., Article 4.1.

- the elimination of discrimination against women in other areas of economic life, including the right to bank loans, mortgages, and other financial credit (Article 13.b)
- means to ensure women in non-monetized sectors of the economy benefit equally from rural development (Article 14).

In 2008, the CEDAW Committee adopted General Recommendation No. 26 on women migrant workers, thereby encouraging States Parties to develop laws and policies to protect women migrants. The Recommendation also includes sets of recommendations to counter discrimination by origin, transit, and destination countries (see Box 5).

**Box 5: Excerpts from CEDAW General Recommendation No. 26 on women migrant workers**

**Objectives**

- Contributes to the fulfilment of obligations of States Parties to respect, protect and fulfil the human rights of women migrant workers against sex- and gender-based discrimination
- Elaborates on the circumstances that contribute to the specific vulnerability of many women migrant workers and their experiences of discrimination
- Focuses on three categories of particularly vulnerable women migrant workers: a) those who migrate independently; b) those who join their spouses or other family members who are also workers; and c) undocumented women migrant workers.

**Responsibilities of States Parties**

23. Common responsibilities of countries of origin and destination include:

- (a) Formulate comprehensive gender-sensitive and rights-based policy on the basis of equality and non-discrimination to regulate and administer all aspects and stages of migration, to facilitate access of women migrant workers to work opportunities abroad, promoting safe migration and ensure the protection of the rights of women migrant workers
- (b) Active involvement of women migrant workers and NGOs in policy formulation, implementation, monitoring and evaluation
- (c) Conduct and support quantitative and qualitative research, data collection and analysis to identify the problems faced by women migrant worker [in order to] formulate relevant policies.

**Responsibilities of countries of origin**

24. Countries of origin must respect and protect the human rights of their women nationals who migrate for purposes of work. Measures that may be required include, but are not limited to, the following:

- (a) Lifting of discriminatory bans or restrictions on migration
- (b) Develop an appropriate education and awareness-raising programme in close consultation with concerned NGOs, gender and migration specialists, women workers with migration experience and reliable recruiting agencies;
- (c) Adopt regulations and design monitoring systems to ensure that recruiting agents and employment agencies respect the rights of women migrant workers;
- (d) Ensure the provision of standardized and authentic health certificates if required by countries of destination and require prospective employers to purchase medical insurance for women migrant workers. All required health exams and testing should respect the rights of women migrants and pay special attention to voluntariness;
- (e) Ensure women have equal and independent access to travel documents;
- (f) Ensure availability of legal assistance in connection to migration for work;

- (g) Establish measures to safeguard the remittances of women migrants and provide information on access to formal financial institutions;
- (h) Facilitate the right of women to return to their countries of origin;
- (i) Design or oversee comprehensive socio-economic, psychological and legal services aimed at facilitating the re-integration of women who have returned;
- (j) Properly train and supervise their diplomatic and consular staff to ensure that they fulfil their role in protecting the rights of women migrants abroad.

***Recommendations on bilateral and regional cooperation***

27. Measures that are required include but are not limited to the following:

- (a) States parties who are sending, or receiving and transit countries should enter into bilateral or regional agreements or MoUs protecting the rights of women migrant workers. [...]

## 2. Relevant international labour standards

In order to enable ILO Member States to cope with the competitive pressures of global economic integration and ensure that fundamental principles of equality and non-discrimination are recognized and respected, ILO constituents adopted the Declaration on Fundamental Principles and Rights at Work in 1998. In adopting the Declaration, Member States committed to respect and promote the principles and rights contained within eight fundamental Conventions, whether or not they had ratified the Conventions. The rights conferred by the Declaration are universal, and apply to all human beings, regardless of citizenship status, and include regular and irregular migrant workers, at all stages of migration.<sup>44</sup> Other ILO Conventions also offer rights and forms of protection specifically to women workers. This section discusses the Conventions most relevant to women migrant workers (see Table 5 for full list of Conventions).

### ***Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29)***

The Protocol adds to the body of international law aiming to achieve the effective and sustained suppression of forced labour. The Protocol makes no specific reference to gender, or to women and men, stating rather that it applies to all victims of forced labour irrespective of legal status (Article 4). It identifies measures to be taken to prevent forced or compulsory labour, including educating people considered to be vulnerable to forced labour; educating employers; making efforts to ensure legislation covers all workers and sectors of the economy; and that labour inspection services are strengthened (Article 2). Further, Members are to take appropriate measures to identify, release and aid in the rehabilitation of victims of forced labour (Article 3); and to ensure that victims have access to legal and compensatory remedy and are not subject to penalty for involvement in unlawful activities that they were compelled to commit (Article 4).

### ***ILO Fundamental Convention: Discrimination (Employment and Occupation) Convention, 1958 (No. 111)***

C.111 defines discrimination as “any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation”. It

<sup>44</sup> International Labour Organization. (2016). Gender equality in labour migration law, policy and management (GEM Toolkit), p. 43.

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recommends that governments promote equality of opportunity and treatment in employment and occupation, to eliminate discrimination. This goal can be achieved through cooperation with employers' and workers' organizations and other bodies; enacting supporting legislation; repealing inconsistent legislation; and awareness raising (Article 3). The Convention provides definitions of discrimination for translation into national law.<sup>45</sup> It further prohibits discrimination in vocational training, access to employment and to particular occupations, and terms and conditions of employment (Article 1.3). Special measures of protection or assistance provided for in other ILO instruments, such as protection of pregnant women workers against exposure to dangerous chemicals or regarding night work, do not constitute discrimination under Convention No. 111 (Article 5).

### ***Maternity Protection Convention, 2000 (No. 183)***

C.183 covers all employed women workers and includes recommendations to ensure national labour legislation provides adequate maternity protection for workers. The Convention provides that it is unlawful for employers to terminate a woman's employment during pregnancy, maternity leave, or the period following their return to work, except on grounds unrelated to pregnancy, child birth, or nursing. The Convention also prohibits any requirement for a pregnancy test when a woman is applying for employment. In the context of migration, Convention No. 183 requires that workers should not be excluded from migration on the basis of real or perceived pregnancy and States Parties should prohibit involuntary pregnancy testing.

### ***Domestic Workers Convention, 2011 (No. 189)***

Defines domestic work as work performed in or for a household or households, and a domestic worker is any person engaged in domestic work within an employment relationship (Article 1). Ratifying States are to respect, promote and realize the fundamental rights and principles of decent work in relation to domestic workers including: 1) freedom of association and the right to collective bargaining; 2) the elimination of all forms of forced or compulsory labour; 3) the abolition of child labour; and 4) the elimination of discrimination in respect of employment and occupation. Domestic workers are also to be guaranteed effective protection against all forms of abuse, harassment and violence at the workplace (Article 5). Domestic workers should enjoy fair terms of employment and decent working conditions and should be informed of the terms and conditions of their employment (Articles 6-7). In the context of international migration, national laws are to require that migrant domestic workers who are recruited in one country for domestic work in another country receive a written job offer and contract enforceable in the country in which the work is to be performed. Further, each Member is to specify the conditions under which migrant domestic workers are entitled to repatriation on expiry or termination of their contract (Article 8). In addition, the Convention stipulates that domestic workers should gain access to social security protection.

### ***Violence and Harassment Convention, 2019 (No. 190)***

At the Centenary International Labour Conference in June 2019, Member States adopted the Ending Violence and Harassment in the World of Work Convention, 2019 (No. 190) and Recommendation (No. 206). These instruments for the first time protect against violence and harassment at the workplace. They cover all workers, regardless of contractual status, and specifically highlight gender-based violence (see Box 6).

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<sup>45</sup> Nogami, N. International Labour Organization. (2014). Issues Paper: Review of Labour Legislation of the Republic of Myanmar. Unpublished.

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#### **Box 6: Excerpts from the Violence and Harassment Convention, 2019 (No. 190)**

##### **Definitions**

- Violence and harassment: a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, or result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment (Article 1).
- Gender based violence and harassment: means violence and harassment that is directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment (Article 1).

##### **Scope**

- Covers all types of workers in both the formal and informal sectors, as well as workers whose employment has been terminated and jobseekers (Article 2).
- Applies to violence and harassment at work or arising from work (Article 3):
  - in the workplace, including public and private spaces
  - in places where the worker is paid or takes a rest break or a meal, or uses sanitary, washing and changing facilities
  - during work-related trips or travel, training, events or social activities
  - through work-related communications, including those enabled by information and communication technologies
  - in employer-provided accommodation
  - when commuting to and from work.
- The approach to tackle violence and harassment should take into account the role of third parties (Article 4).

##### **Core principles**

- Protection, promotion and realization of the right of everyone to a world of work free from violence and harassment (Article 4).
- Members which ratify the Convention shall adopt an approach that includes (Article 4):
  - prohibiting in law violence and harassment
  - ensuring that relevant policies address violence and harassment
  - adopting a comprehensive violence and harassment prevention strategy
  - establishing or strengthening enforcement and monitoring mechanisms
  - ensuring access to remedies and support for victims
  - providing for sanctions
  - developing tools, guidance, education and training, and raising awareness
  - ensuring effective means of inspection and investigation.
- Respect, promotion and realization of the fundamental principles and rights at work (Article 5).
- Ensure the right to equality and non-discrimination in employment and occupation, including for women workers, as well as those belonging to vulnerable groups or in situations of vulnerability that are disproportionately affected by violence and harassment in the world of work (Article 6).

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#### **Workers with Family Responsibilities Convention 1981 (No. 156)**

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Convention No. 156 and its accompanying Recommendation (No. 165) provide guidelines for developing an integrated framework of work-family policies. Since migration can have huge impacts on families, this Convention is of particular relevance. Ratifying States are to formulate policy enabling persons with family responsibilities to engage in work without being subject to discrimination and, to the extent possible without conflict between their employment and family responsibilities (Article 3). All measures possible are also to be taken to enable workers with family responsibilities to exercise their right to free choice of employment; and to take account of their needs in terms and conditions of work and employment and social security (Article 4).

### **3. Other regional and international frameworks**

#### ***ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers, 2017***

The Heads of State of the ASEAN Member States adopted the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers in November 2017. Under the Consensus the Member States should develop action plans to implement the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (2007). Although the Consensus promotes cooperation and coordination between the ASEAN Member States on migration and promotes the rights of migrant workers, it is also clear that national laws take precedence over the Consensus. It also clearly excludes the protection of undocumented workers, apart from those who become undocumented through no fault of their own. The Consensus is generally gender-neutral: the definition of migrant worker makes it clear, by the use of pronouns, that the term “migrant workers” refers to both men and women migrant workers. In the General Principles States agree to uphold fair treatment with respect to gender and nationality, and to protect and promote the rights of migrant workers, particularly migrant women, in accordance with their obligations under international treaties. Under the section on Specific Rights of Migrants, the Consensus states that migrant workers, regardless of gender, have the right to fair and appropriate remuneration (Article 17). Receiving States must provide migrant workers with fair treatment in respect of protection from violence and sexual harassment, and gender and nationality in the workplace (Article 40).

#### ***Beijing Declaration and Platform for Action, 1995***

The Beijing Declaration and Platform of Action, 1995, adopted at the Fourth World Conference on Women, define a framework for States to realize gender equality and the human rights of women and girls. The Platform for Action covers 12 critical areas of concern: poverty, education and training, health, violence, armed conflict, economy, power and decision-making, institutional mechanisms, human rights, media, environment, and the girl child. For each critical area of concern, strategic objectives are identified, as well as a detailed catalogue of related actions to be taken by governments and other stakeholders, at national, regional and international level. These 12 areas form the basis of Myanmar’s National Plan of Action for the Advancement of Women. Guidance on women workers, including migrant workers, can be found under the fourth priority, *Women and the Economy*, which includes six main objectives:

1. Promote women’s economic rights and independence, including access to employment, appropriate working conditions, and control over economic resources;
2. Facilitate women’s equal access to resources, employment, markets, and trade;
3. Provide business services, training and access to markets, information and technology, particularly to low-income women;
4. Strengthen women’s economic capacity and commercial networks;

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5. Eliminate occupational segregation and all forms of employment discrimination;
  6. Promote harmonization of work and family responsibilities for women and men.<sup>46</sup>

Marking 25 years since the adoption of the Beijing Platform for action, the Beijing+25 review is at the time of writing examining progress needed on women's rights. A number of UN Member States, including Myanmar, conducted national reviews examining progress and challenges to implementing the Beijing Declaration which will feed into regional, and then global reviews. The process will culminate at the 64th session of the Commission on the Status of Women (CSW64) in March 2020 and it is expected that the outcome document will be a political declaration. The review conducted by Myanmar has a section on migrant women. It notes the important economic contribution of women migrants, while also underlining the need to protect women against violence in view of their higher vulnerability. While the importance of a rights-based approach to migration and trafficking is discussed, the empowerment of women is not mentioned.<sup>47</sup>

#### 4. Sustainable Development Goals

In 2015 world leaders gathered at the UN General Assembly to adopt 17 Sustainable Development Goals (SDGs) to be achieved by 2030, including two specifically addressing gender equality and the empowerment of women workers and migrants (see Box 7). Myanmar has written its own national plan in line with the SDGs.

**Box 7: UN Sustainable Development Goals related to gender equality and the empowerment of women migrant workers**

***Goal 5: Achieve gender equality and empower all women and girls***

- End all forms of discrimination against all women and girls everywhere (5.1)
- Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation (5.2)
- Recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate (5.4)
- Ensure women's full and effective participation and equal opportunities for leadership at all levels of decision making in political, economic and public life (5.5)
- Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws (5.A)
- Enhance the use of enabling technology, in particular information and communications technology, to promote the empowerment of women (5.B)
- Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels (5.C)

<sup>46</sup> To read the full Beijing Platform for Action, see <http://www.un.org/womenwatch/daw/beijing/platform/>.

<sup>47</sup> The Republic of the Union of MSWRR. 2019. National Review on the Implementation of the Beijing Declaration and Platform for Action (1995) and the Outcomes of the Twenty-Third Special Session of the General Assembly (2000). Available at: <https://www.unwomen.org/-/media/headquarters/attachments/sections/csw/64/national-reviews/myanmar.pdf?la=en&vs=2404> (accessed 16 Dec 2019)

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***Goal 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all***

- By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value (8.5)
- Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment (8.8).

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## **Appendix 2: List of resources on gender-sensitive labour migration management**

- ILO. [Addressing governance challenges in a changing labour migration landscape \(2017\)](#), Report IV, International Labour Conference, 2017.
- ILO. [Protected or put in harm's way? Restrictions on women's labour migration in ASEAN, 2017](#)
- ILO. [Promoting fair migration: General Survey by the Committee of Experts on the Application of Conventions and Recommendations concerning the migrant workers instruments, 2016](#)
- ILO. [Gender equality in labour migration law, policy and management \(GEM Toolkit\), 2016](#)
- ILO. [Gender sensitivity in labour migration-related agreement and MOUs](#)
- [ILO Multilateral Framework on Labour Migration: non-binding principles and guidelines for a rights-based approach to labour migration, 2006](#)
- UN Women. [Women Migrant Workers' Human Rights, 2015](#)

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## **Appendix 3: Myanmar laws, policies and national plans of action reviewed for this paper**

Myanmar laws and polices include –

- Constitution of the Union of Myanmar (2008)
- Labour legislation
- 9 Points Migration Policy
- Internal Migration Policy
- Myanmar Development Assistance Policy
- Penal Code (1974)
- The Child Law (1993)
- Law Related to Overseas Employment (1999) & Rules and Regulations (2014)
- Anti-Trafficking in Persons Law (2005)

National plans of action include –

- Myanmar Sustainable Development Plan (2018-2030)
- NSPAW (2013-2022)
- NPA for the Management of International Migration (2013-2017 and (2018-2022)
- NPA to Combat Trafficking in Persons (2017-2022)
- NPA on Social Protection (2014)
- Framework for Economic and Social Reforms (2012-2015)
- National Comprehensive Development Plan (2011-31)



## Livelihoods and Food Security Fund



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This paper provides an overview of the legal framework and actors involved in governing migration, gender equality, and women's empowerment in Myanmar, and examines examples of gaps in the design and implementation phases of the policy cycle that affect women migrant workers in particular. Invisibility is a key issue: large numbers of women migrant workers, particularly domestic workers, are engaged in sectors that are not covered by labour law and migrate through irregular channels. At the same time, gender discrimination is not defined in Myanmar legislation, despite the presence of policy objectives to advance gender equality. This triple invisibility leaves women more vulnerable to abuse and exploitation and less able to proactively achieve goals.

The paper includes a set of policy recommendations to strengthen and improve coordination between actors, to strengthen policy coherence and promote greater gender sensitivity in labour migration governance and more inclusion of women migrants in policies relating to women's advancement. Although there are many causes for gender inequality and discrimination against women, women's empowerment and the gender-equitable maximization of development benefits will require greater policy coherence in labour migration and gender policies, to ensure that women are empowered by law and policy to migrate safely and engage in decent work

This paper, Policy Coherence for Development: Gender Equality and Women's Empowerment in Labour Migration Governance in Myanmar, is the fourth in a series to support the development of improved labour migration governance in Myanmar supported by Livelihoods and Food Security Fund (LIFT). The first paper, Country of Origin Complaints Mechanism for Overseas Migrants from Myanmar was published in 2016, the second paper, Building Labour Migration Policy Coherence in Myanmar was published in 2017, Migration Data for Policy Development: An Appraisal of data statistics on International Labour migration in Myanmar was published in 2018.

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