July 2023

Addressing labour exploitation of women workers through taking forward the outcomes of the Global Tribunal of Women Workers

Part F: Health rights, including occupational health and safety, mental health, and sexual and reproductive health rights

University of Nottingham Rights Lab

IWRAW ASIA PACIFIC Celebrating 30 years of Global South Feminism

GLOBAL SOUTH WOMEN'S FORUM ON SUSTAINABLE DEVELOPMENT

Addressing labour exploitation of women workers through taking forward the outcomes of the Global Tribunal of Women Workers

A toolkit for advocacy by women's human rights organisations in South and Southeast Asia advancing gender equality in the world of work

July 2023

Authorship and acknowledgements

This toolkit was prepared by Urmila Bhoola (Rights Lab Principal Research Fellow in Global Antislavery Justice, University of Nottingham) and Dr Katarina Schwarz (Rights Lab Associate Director Law and Policy) as part of the *Women worker rights and modern slavery in South and Southeast Asia* project.

This toolkit is part of a project that the Rights Lab, University of Nottingham conducted in partnership with IWRAW Asia Pacific, to understand the forms of labour exploitation in specific countries in South and Southeast Asia that create the conditions for modern slavery to thrive.

We would like to offer our thanks and appreciation to IWRAW Asia Pacific for its thematic research briefs. We also thank collaborating organisations, in particular: AWAJ Foundation, LWIRE Philippines, AMMPO, Pertimig, Women's Centre Sri Lanka and WOFOWON Nepal for contributing their time and expertise to roundtable discussions in Malaysia and Nepal and providing input for this toolkit. We are also grateful to the IWRAW Asia Pacific for their thematic research reports on the topics covered in the Global Tribunal of Women Workers. Lastly, thanks to the IWRAW Asia Pacific communications team for their editing support.

This toolkit was developed with support from the University of Nottingham's ESRC Impact Acceleration Account ES/T501992/1.

Table of abbreviations

CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CESCR	United Nations Committee on Economic, Social and Cultural Rights
CGFED	Research Centre for Family, Environment and Development (Vietnam)
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organisation
ITUC	International Trade Union Confederation
IWRAW	International Women's Rights Action Watch
JWG	Jury Working Group
OHCHR	UN Office of the High Commissioner for Human Rights
OSH	Occupational safety and health
PPE	Personal protective equipment
UDHR	Universal Declaration of Human Rights
UN	United Nations
UPR	Universal Periodic Review

Contents

1. About the toolkit

This toolkit is a collection of materials from the Global Tribunal on Women Workers ("the Tribunal"), designed to assist advocacy organisations and interested individuals in undertaking activities to take forward the outcomes of the Tribunal. The toolkit is part of a project that the Rights Lab, University of Nottingham conducted in partnership with IWRAW Asia Pacific, to understand the forms of labour exploitation in specific countries in South and Southeast Asia that create the conditions for modern slavery to thrive.

The toolkit provides information on:

1) The international human rights and labour laws that protect women workers from exploitation.
2) The key issues that women discussed at the Tribunal.
3) The testimonies presented by witnesses at the Tribunal.
4) The findings and recommendations of Jury Working Groups presiding at the Tribunal.
5) The areas for law and policy advocacy identified by organisations to take forward the Tribunal outcomes.

The toolkit is constructed as follows:

- **Part A:** Introduction to the Global Tribunal of Women Workers and the international conventions applicable to the human and labour rights of women workers
- **Part B:** Ending gender-based violence and harassment in the world of work
- **Part C:** Wage inequality, living wage, and equal pay for work of equal value
- **Part D:** Freedom of association, collective bargaining, and the right to unionisation
- **Part E:** Care work, social protection, decent work, and informalisation
- **Part F (this part):** Health rights, including occupational health and safety, mental health, and sexual and reproductive health and rights

1.1. Who should use the toolkit?

This toolkit can be used by women's rights organisations, trade unions, legal advocates, and activists to identify the relevant international and regional human rights and labour rights instruments relevant to the health rights of women workers. It provides detailed guidance on the use of international norms and conventions to enforce rights of women workers to occupational health and safety, mental health, and sexual and reproductive health and rights.

Table 1: Overview of content

1. List of relevant international human rights and labour standards	This section provides a list of the relevant international and regional human rights and labour rights instruments relevant to health rights, including occupational health and safety, mental health, and sexual and reproductive health and rights.
2. Key international norms protecting the right to health and safety at work	This section reviews key international norms applicable to the issue of health rights, including occupational health and safety, mental health, and sexual and reproductive health and rights.
3. Specific challenges in accessing rights	This section highlights key challenges faced by women workers in accessing health rights, including occupational health and safety, mental health, and sexual and reproductive health and rights.
4. Testimony about rights violations presented to the Global Tribunal of Women Workers	This section outlines the rights violations identified by witnesses providing testimony at the Global Tribunal of Women Workers relevant to health rights, including occupational health and safety, mental health, and sexual and reproductive health and rights.
5. Findings and recommendations of the Jury Working Group	This section summarises key findings and recommendations of the Jury Working Group on health rights, including occupational health and safety, mental health, and sexual and reproductive health and rights, with key takeaways for governments, businesses, non-governmental organisations, trade unions, and multilateral agencies.
6. Areas for law and policy advocacy identified by organisations to take forward the Global Tribunal recommendations	This section presents examples of good practice and advocacy by organisations that participated in the Global Tribunal, and key commitments from these organisations to take forward the recommendations of the Jury Working Group.

2. List of relevant international human rights and labour standards

This section provides a list of the relevant international and regional human rights and labour rights instruments relevant to health rights, including occupational health and safety, mental health, and sexual and reproductive health and rights.

This list reflects only those instruments relevant to addressing health rights, including occupational health and safety, mental health and sexual and reproductive health rights. Human and labour rights conventions applicable generally to women workers' rights at work and in the world of work can be found in Part A of this toolkit.

UN Conventions

- International Covenant on Economic, Social and Cultural Rights 1966 (ICESCR) (Article 7)
- CESCR General Comment No. 23 on the right to just and favourable conditions of work (7 April 2016)
- Convention on the Elimination of All Forms of Discrimination Against Women 1979 (Article 11)
- CEDAW Committee, General Recommendation No. 24: Article 12 of the Convention (women and health) (1999)

International Labour Standards: General

- ILO Convention on Occupational Safety and Health No. 155 (1981)
- Protocol of 2002 to the Occupational Safety and Health Convention, 1981
- ILO Convention on Occupational Health Services No. 161 (1985)
- ILO Recommendation No. 171 on Occupational Health Services (1985)
- ILO Convention on Promotional Framework for Occupational Safety and Health No. 187 (2006)
- ILO Protection of Workers' Health Recommendation No. 97 (1953)

International Labour Standards: Specific

- ILO Convention No. 148 and Recommendation No. 156 on Working Environment (air pollution, noise and vibration) (1977)
- ILO Convention No. 115 and Recommendation No. 114 on Radiation Protection (1960)
- ILO Convention No. 139 and Recommendation No. 147 on Occupational Cancer (1974)
- ILO Convention No. 170 on the Safe Use of Chemicals at Work (1990)
- ILO Convention No. 167 and Recommendation No. 175 on Construction (1988)
- ILO Convention No. 110 on Plantations (1958)
- ILO Convention No. 45 on Underground Work (Women) (1935)
- ILO Recommendation No. 4 on Lead Poisoning (Women and Children) (1919)
- ILO Convention No. 162 and Recommendation No. 172 on Asbestos (Construction) (1986)
- ILO Convention No. 127 and Recommendation No. 128 on Maximum Weight (1967)

- ILO Convention No. 136 and Recommendation No. 144 on Benzene (1971)
- ILO Convention No. 13 on White Lead (Painting) (1921)

Labour Standards

- ILO Recommendation on Reduction of Hours of Work No. 116 (1962)
- ILO Convention on Weekly Rest (Industry) Convention No. 14 (1921)
- ILO Recommendation No. 102 on Welfare Facilities (1956)
- ILO Convention No. 171 and Recommendation No. 178 on Night-Work (1990)
- ILO Convention No. 183 and Recommendation No.191 on Maternity Protection (2000)

ILO Codes of Practice set out practical guidelines for public authorities, employers, workers, enterprises, and specialised occupational safety and health protection bodies (such as enterprise safety committees). They are not legally binding instruments and are not intended to replace the provisions of national laws or regulations, or accepted standards. Codes of Practice provide guidance on safety and health at work in certain economic sectors (e.g. construction, opencast mines, coal mines, iron and steel industries, non-ferrous metals industries, agriculture, shipbuilding and ship repairing, forestry), on protecting workers against certain hazards (e.g. radiation, lasers, visual display units, chemicals, asbestos, airborne substances), and on certain safety and health measures (e.g. occupational safety and health management systems; ethical guidelines for workers' health surveillance; recording and notification of occupational accidents and diseases; protection of workers' personal data; safety, health and working conditions in the transfer of technology to developing countries).

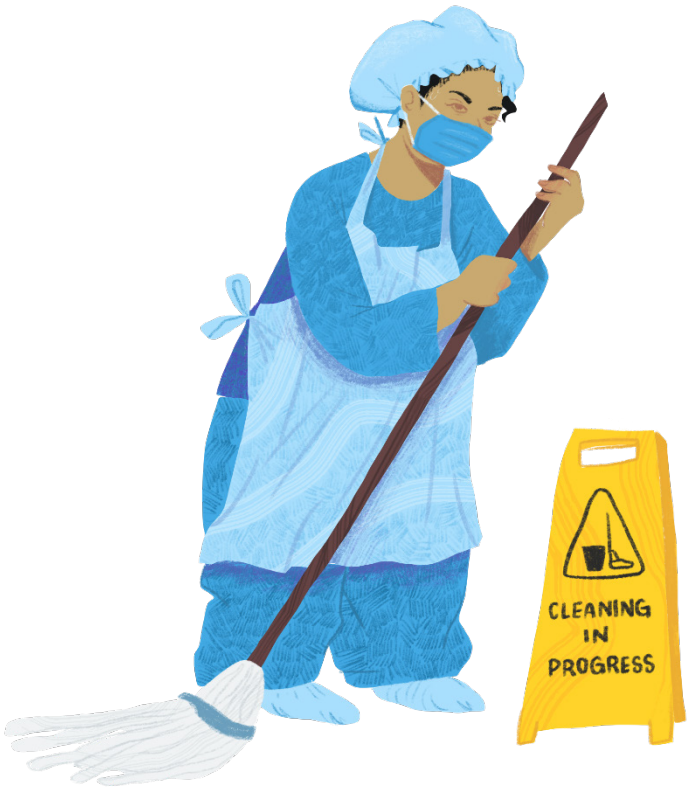

Illustration by: Appolonia Tesera

3. Key international norms protecting the right to health and safety at work

This section reviews key international norms applicable to the issue of health rights, including occupational health and safety, mental health, and sexual and reproductive health and rights.

3.1. The right to safe and healthy working conditions

Workplace-related deaths exceed the average annual deaths from road accidents, war, violence, and HIV/AIDS. The ILO estimates that 2.78 million workers die each year from occupational accidents and work-related diseases while an additional 374 million workers suffer from non-fatal occupational accidents. This means 7,500 people die from unsafe and unhealthy working conditions every single day. [1]

The right to safe and healthy working conditions is an international human right. It is a component of the right to just and favourable conditions of work to which everyone is entitled under article 7(b) of the International Covenant on Economic, Social and Cultural Rights (ICESCR). This right is related to several other rights protected in the ICESCR, including the right to the highest attainable level of physical and mental health by avoiding occupational accidents and disease, and an adequate standard of living through decent remuneration.[2] Just and favourable conditions of work also include rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.[3]

States are required to enact legislation on the maximum number of daily and weekly hours of work, which must also provide for employees to rest during the day, and particularly in occupations that require the operation of machinery or tasks that affect the life and health of workers, laws must have mandatory rest periods.[4] Legislation must also specifically address rest periods for night workers and acknowledge specific situations such as the needs of pregnant women, lactating women who need rest periods to breastfeed, or workers who are undergoing medical treatment.[5] Specific labour standards regulating working time and rest are complementary to this duty,[6] which is key to addressing all aspects of the physical and mental health of workers.

In elaborating the right to just and favourable conditions of work, the Committee on Economic, Social and Cultural Rights (CESCR) notes in its General Comment No. 23 that *preventing* occupational accidents and disease is a crucial aspect of the right to just and favourable conditions of work.[7] This means that States parties should adopt a national policy for the prevention of accidents and work-related health injury by minimising hazards in the working environment and ensure broad participation in the formulation, implementation and review of such a policy, in particular of workers, employers and their representative organisations.[8] The national policy should cover all branches of economic activity, including the formal and informal sectors, and all categories of workers, including non-standard workers, apprentices and interns. It should consider specific risks to the safety and health of female workers in the event of pregnancy, as well as of workers with disabilities, without any form of discrimination against these workers. In addition, workers should be able to monitor working conditions without fear of reprisal.[9]

The CESCR further noted that access to safe drinking water, adequate sanitation facilities that also meet women's specific hygiene needs, and materials and information to promote good hygiene are essential elements of a safe

[1] ILO and United Nations Global Compact, 'Nine business practices for Improving Safety and Health through Supply Chains and Building a Culture of Prevention and Protection' (no date) at https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/briefingnote/wcms_821481.pdf

[2] Article 12 (1) and 12 (2)(b) and (c).

[3] Article 7(d).

[4] CESCR General Comment No. 23 (2016) on the right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights) E/C. 12/GC/23 para 38 available at https://www.refworld.org/docid/5550a0b14.html.

[5] See footnote 4.

[6] For instance, see ILO Recommendation on Reduction of Hours of Work No. 116 (1962); ILO Convention on Weekly Rest (Industry) Convention No. 14 (1921).

[7] CESCR General Comment No. 23 para 25

[8] General Comment No. 23 para 25

[9] General Comment No. 23 para 26

and healthy working environment. In addition, paid sick leave is critical for sick workers to receive treatment for acute and chronic illnesses and to reduce infection of co-workers.[10]

Despite clear legal protection, the right to just and favourable conditions of work has been eroded by increasingly complex work arrangements and contracts, lack of national application and informalisation of work, among other factors.[11] In this context it is useful to note that the CESCR interpreted the right to health and safety in working conditions, including the safeguarding of the reproduction function, to also apply to new categories of workers, such as self-employed workers, workers in the informal economy, agricultural workers, refugee workers, and unpaid workers.[12]

3.2. International standards regulating occupational health and safety

International labour standards adopted by the ILO create specific duties and obligations on the part of both State and non-State actors to give effect to the fundamental right to a safe and healthy working environment. In 2022, the ILO added the right to a safe and healthy working environment to its 1998 Declaration on Fundamental Principles and Rights at Work. This means that the right is now recognised as a core labour right to which States are committed by virtue of their membership of the ILO. This recognition is significant as it reflects the acknowledgment by the ILO's tripartite constituency (government, labour, and business) that safe and healthy working conditions are fundamental to decent work. The Tazreen garment factory fire of 2012, and the Rana Plaza factory collapse of 2013—in which thousands of workers died and were injured—as well as numerous other incidents, are a constant reminder of the loss of life and injury that unsafe and unhealthy working conditions in the garment industry have caused. Such incidents reinforce the need for advocacy to continue to hold governments and businesses accountable for compliance with their international legal obligations to ensure safe and healthy working conditions.[13]

The ILO Occupational Safety and Health (OSH) Convention 1981 (No. 155) applies to all workers in the branches of economic activity that are covered by national policy developed by governments in consultation with representative trade unions and employer organisations. It states that national policy should aim to 'prevent accidents and injury to health arising out of, linked with, or occurring in the course of work by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment.[14] The Convention defines 'health' broadly as referring not merely to the absence of disease or infirmity, but also including the physical and mental elements affecting health that are directly related to safety and hygiene at work.[15] The Convention also creates specific duties and obligations on employers—they are required to ensure that: (1) so far as is reasonably practicable, the workplaces, machinery, equipment and processes under their control are safe and without risk to health; and (2) so far as is reasonably practicable, the chemical, physical and biological substances and agents under their control are without risk to health when the appropriate measures of protection are taken. Furthermore, they are required to provide, where necessary, adequate protective clothing and protective equipment to prevent, so far as is reasonably practicable, risk of accidents or adverse effects on health.[16]

Other key provisions of Convention No. 155 include articles 16 to 19, which create specific obligations on employers to engage with workers and their representatives in fulfilling their duties in relation to occupational safety and health at the level of the specific undertaking. Article 19 (c) requires arrangements which include the entitlement of worker representatives receiving adequate information on measures taken by the employer to secure occupational health and safety. Article 19(f) provides that if "a worker reports forthwith to his immediate supervisor any situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health; until the employer has taken remedial action, if necessary, the employer cannot require workers to return to a work situation where there is continuing imminent and serious danger to life or health." Article 20 confirms that co-operation

[10] General Comment 23 para 30.
[11] CESCR General Comment No. 23 para 3.
[12] CESCR General comment No. 23 (2016) on the right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights),E/C.12/GC/23, available at: https://www.refworld.org/docid/5550a0b14.html
[13] This is discussed below in the section on advocacy issues.
[14] Article 4.
[15] Article 3.
[16] Article 16.

between management and workers and/or their representatives within the undertaking shall be an essential element of addressing the employer's duties to ensure health and safety at the workplace.

The Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) stipulates the State obligation to set up a national Occupational Safety and Health (OSH) system with support mechanisms for a progressive improvement of OSH conditions in micro, small, and medium-sized enterprises and in the informal economy.[17]

The Protection of Workers' Health Recommendation, 1953 (No. 97) states that the employer must ensure that conditions of employment provide adequate protection for the health of workers. Moreover, the employer has specific duties to prevent, reduce, and eliminate risks pertaining to harmful substances and hazardous processes. National laws and regulations should provide for methods of preventing, reducing, or eliminating risks to health in places of employment. [18] These should contain special provisions concerning workers employed in occupations involving special risks to their health.[19] Their employment should be conditional upon medical examinations, either initially, periodically, or both. States also have a duty to ensure that laws and regulations on OSH are enforced through adequate inspection, and adequate penalties for violations.[20] Related to this, States must establish occupational health services through law, collective agreements or by other means, which are required to carry out several functions including risk identification and assessment, surveillance of factors affecting workers; health and organising first aid and emergency treatment.[21]

In relation to chemicals, ILO Chemicals Convention, 1990 (No.170) and ILO Chemicals Recommendation, 1990 (No.177)[22] provide the basis for the sound management of all types of chemicals at the workplace. Article 4 of Convention No.170 requires States, in consultation with employer and worker organisations, to formulate and implement a coherent policy on safety in the use of chemicals at work.

In relation to women workers specifically, international standards and guidelines have reiterated the need for focused protections and responses. In terms of article 10(2) of the ICESCR, States recognise that: "special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits. [23] In addition, Article 11(f) of CEDAW provides for the right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction. Article 12 of CEDAW requires States to ensure access to healthcare for women, particularly in relation to family planning, pregnancy and confinement, and during the postnatal period.[24]

The CEDAW Committee has noted that special attention must be given to the health needs of women belonging to vulnerable and marginalised groups, including migrant women, girls, older women, women in prostitution, and indigenous women.[25] States also have a duty to ensure the right to sexual health information, education and services for women and girls.[26] Importantly, the Committee notes that 'States parties should not permit forms of coercion, such as non-consensual sterilisation, mandatory testing for sexually transmitted diseases or mandatory pregnancy testing as a condition of employment that violate women's rights to informed consent and dignity.[27]

---

[17] Convention 187 Article 4(2).
[18] Recommendation 97 Article 2.
[19] Recommendation 97 Article 8.
[20] Convention No. 155 Article 9.
[21] See ILO Convention No. 161 on Occupational Health Services (1985).
[22] ILO, 'All you need to know ILO Chemicals Convention No. 170 and Recommendation No. 177' (2020) at https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/publication/wcms_731982.pdf
[23] ICESCR Article 10(2).
[24] '1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
2. Notwithstanding the provisions of paragraph I of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the postnatal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.'
See also ILO, 'Maternity Protection at work: Who are the main stakeholders?' (2017) at https://mprp.itcilo.org/allegati/en/m4.pdf
[25] CEDAW Committee, General Recommendation No. 24 para 6: Article 12 of the Convention (women and health) (1999), at https://www.refworld.org/docid/453882a73.html. Note: Article 14 (2)(b), CEDAW specifically notes States Parties' duties to provide adequate access to healthcare facilities for rural women.
[26] CEDAW Committee, General Recommendation No. 24 para 18.
[27] CEDAW Committee, General Recommendation No. 24 para 22. See also ILO Convention on Maternal Protection No. 183 (2000) and Recommendation No. 191.

4. Specific challenges in accessing rights

This section highlights key challenges faced by women workers in accessing health rights, including occupational health and safety, mental health, and sexual and reproductive health and rights.

4.1. Occupational segregation

The occupational segregation of women workers into specific economic sectors creates specific health and safety hazards. Women constitute a disproportionate percentage of workers in the informal sector, where they work as street vendors, petty goods and service traders, garment and textiles factory workers, domestic workers, subsistence farmers, seasonal agriculture workers, and industrial outworkers.

According to UN Women, in South Asia, over 80 per cent of women in non-agricultural jobs are in informal employment.[28] Work in the informal economy includes the most hazardous jobs, conditions and circumstances across all economic sectors—agriculture, industry, and services. Typically, informal sector units are small-scale, engaging mainly non-waged and unorganised workers in precarious work processes and labour arrangements, largely unregulated and unregistered, falling outside of state regulations and control, including those related to OSH and social protection. The necessary awareness, technical means, and resources to implement OSH measures are also lacking, as preventive measures, in the form of OSH management systems and a general safety culture, to reduce risks at work. [29]

Research conducted in garment and textile factories shows that women in this sector face specific health and safety challenges. One study found that female workers in the ready-made garment industry face a high risk of health problems.[30] Their work has led to back and joint pain, continuous headache, eye pain and difficulty in breathing associated with inhaling fabric dust. Inadequate lighting, constantly sitting in one position without back rest, and continuous noise from hundreds of machines makes them feel permanently tired. Further, the female workers reported that working in the factory and meeting the expectations of the families at home has doubled their workload. Doctors who were interviewed indicated that the physical work environment, their low job status, and the nature of the job affects the health of female workers. The study concluded that both government and non-government organisations need to be better involved in designing interventions targeting these women, to protect them from such health risks.

[28] https://www.unwomen.org/en/news/in-focus/csw61/women-in-informal-economy#:~:text=Working%20in%20this%20informal%2C%20or,including%20risk%20of%20sexual%20harassment.
[29] See https://www.ilo.org/safework/areasofwork/hazardous-work/WCMS_110305/lang--en/index.htm
[30] Sadika Akhter, Shannon Rutherford and Cordia Chu, 'Sewing shirts with injured fingers and tears: exploring the experience of female garment workers health problems in Bangladesh' [2019] BMC International Health and Human Rights 19:2. Open access at https://doi.org/10.1186/s12914-019-0188-4. Humayun Kabir, Myfanwy Maple, Kim Usher and Md Shahidul Islam 'Health vulnerabilities of readymade garment (RMG) workers: a systematic review' [2019] BMC Public Health 19:70. Open access at https://doi.org/10.1186/s12889-019-6388-y

4.2. Lack of gender mainstreaming

The testimonies indicate that women workers are affected by specific gendered impacts of occupational hazards, which arise because of the lack of gender mainstreaming in the workplace and in specific industries and sectors. Gender mainstreaming refers to:

> 'The systematic consideration of the differences between the conditions, situations and needs of women and men in policies and actions... In other words, gender mainstreaming is used to integrate concerns of women as well as men into policies and actions so that women and men benefit equally. It should cover design, implementation, monitoring and evaluation.'[31]

The lack of gender mainstreaming means that OSH hazards that impact on women workers are underestimated because many of the standards are based on male populations and tests.[32] A gender-neutral approach to OSH uses the average male worker as the standard. This means that ergonomic and biological needs are not considered when women engage in specific types of work. As the ILO notes, the risks to male workers are better known, as initially jobs identified as dangerous or hazardous were dominated by men.[33] Much less is known about the gendered impacts of specific tasks and jobs. In terms of best practices, the European Agency for Safety and Health at Work notes that some countries have taken specific gender mainstreaming steps such as systematic inclusion of gender into the daily work of the labour inspectorate; a campaign focusing on PPE for women; guidelines to alleviate menopause symptoms, among others.[34]

4.3. Under-reporting of occupational injuries and lack of disaggregated data

The lack of data on the varying impacts of certain chemicals, substances and designs on men and women inevitably leads to a lack of gender-mainstreaming in relation to OSH policies. The lack of data stems from the underreporting of occupational injuries and deaths, among other factors. In this regard, the CESCR, citing Protocol 2002 (P155) to the ILO Occupational Safety and Health (OSH) Convention 1981 (No. 155) states that an occupational health policy must look at data collection pertaining to occupational accidents and disease must respect human rights principles including confidentiality of personal and medical data as well as focus on the need for disaggregation of data by sex and other relevant grounds.[35] More broadly, the CEDAW Committee draws attention to the importance of data disaggregated by sex on the 'incidence and severity of diseases and conditions hazardous to women's health and nutrition and on the availability and cost-effectiveness of preventive and curative measures'.[36] Such interpretive guidance highlights the urgent need for a focus on the effective collection of disaggregated data.

[31] European Agency for Safety and Health at Work, 'Mainstreaming gender into occupational safety and health practice' (2014), at https://osha.europa.eu/en/publications/mainstreaming-gender-occupational-safety-and-health-practice
[32] ILO Working Paper, 'Women Workers and Gender Issues on Occupational Safety and Health' (2004) at https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/publication/wcms_108003.pdf
[33] ILO, 'Providing safe and healthy workplaces for both women and men' (ILO), at https://www.ilo.org/wcmsp5/groups/public/@dgreports/@gender/documents/publication/wcms_105060.pdf.
[34] See footnote 31.
[35] CESCR General Comment No. 23 para 28.
[36] CEDAW Committee, General Recommendation No. 24 para 9.

5. Testimony about rights violations presented to the Global Tribunal of Women Workers

This section outlines the rights violations identified by witnesses providing testimony at the Global Tribunal of Women Workers relevant to health rights, including occupational health and safety, mental health, and sexual and reproductive health and rights.

5.1. Summary of evidence

Workers from seven countries in Asia and Africa, including Thailand, Namibia, Uganda, India, Bangladesh, Vietnam, Egypt, Indonesia, and South Korea, testified before the Jury Working Group. They were from a wide variety of economic sectors and industries, including domestic work, healthcare, sex work, garment manufacturing and homebased industries such as fishnet weaving. Most of the witnesses were in informal employment, and some were self-employed.

Nellie, a domestic worker from Namibia testified about sexual harassment from her male employer and was denied the right to personal safety and security. She was also denied maternity protection, which affected her rights to occupational health and safety.

Cynthia Nalunga, a customer care attendant in Uganda working for a private company, was misinformed by her manager about her legal right to maternity leave. She was informed that she was only entitled to one month's leave, whereas her entitlement under the Uganda Employment Act, 2006 was sixty days. She had a miscarriage and only returned to work five weeks later. Her employment was terminated without notice or severance pay.

Mukti, an undocumented migrant worker in Jordan, was arrested from the hospital right after delivering her child, where she had no access to pregnancy after-care and suffered severe physical and mental health symptoms without any healthcare assistance. Her child was taken away from her and this resulted in further mental trauma. She was finally able to return to her home in Bangladesh following intervention from the AWAJ Foundation.

Vietnamese workers DTT and Kang Changi, testified about violations of the occupational safety and health rights of workers in a Taiwanese owned garment factory and an electronics factory owned by a South Korean brand. Workers were exposed to toxic fumes and chemicals, with no information about the risks of exposure, and workers have experienced physical symptoms of headaches, dizziness, shortness of breath etc.

Supriyatun, a migrant worker from Indonesia, was a victim of forced contraception, a precondition to her being recruited to work in Hong Kong. Coerced contraception is a form of sexual-reproductive health violence and discrimination. A practice targeting vulnerable and poor women such as women migrant workers as a requirement for working overseas. This caused her severe mental stress as a result of her fear that the contraceptive injection might make her sterile. The perpetrator is the employment agency that recruited her, compelling her to accept a form of contraception through an injection with long-term effects even though the compulsion for such contraception does not seem to be a condition imposed by the government of Hong Kong.

Thai fishing net weavers from Khon Khaen village worked over 12 hours a day in home-based work making fishing nets. They received no health support despite the intervention of the Department of Disease Control, which informed the employer about the health risks caused by high levels of lead in the blood of the workers.

The testimonies confirmed that women workers in these industries and sectors are particularly vulnerable to health rights violations and faced violations of their rights to occupational health and safety as well as denial of their sexual-reproductive health rights. Each violation stemmed either from an absence of legal protection or the non-implementation of national and international laws and policy standards. Many of the unsafe work conditions reported by witnesses prevail because of the failure of national labour inspectorates and the inadequate observance of health and safety laws by overseas brands and buyers. International clothing brands benefit from exploiting cheap labour in poorer countries because of the informal nature of such labour. Local factories and sub-contractors are not regulated by this results in unsafe and unhealthy working conditions being perpetuated.

5.2. Selected witness voices

D.T.T

My name is D.T.T from Vietnam. I am 40 years old. I graduated from a secondary school. I am married and have one child. I have been working in the washing, sandblasting, and painting pants department for a Taiwanese garment factory. While coming home from work, I do most of the housework.

My main task is spraying to whiten the pants. Therefore, I was exposed to this kind of bleach the whole day. In addition, I also have been exposed to the clothes bleach flushed from the next-door laundry factory every day. In the beginning, I just felt dizzy. However, after many years of working, I suffer severe headaches and stunning. I do not know what kind of chemicals used, but it smells as bad as the cleaning bleach that I buy at the market. The factory building is large but closed, that prevents the smell from escaping outside. As a result, we must live and breathe in an environment with that smell of bleach all day.

Employees are entitled to a 40-minute lunch break, including eating and resting time. In the course of break time, we spread the mat and lay on the floor to sleep. I feel lacking oxygen in the working environment.

Our factory is so noisy due to the sound of the machine that many people have headache, dizziness. Some people have low blood pressure because of eating too little. If anyone faint, he or she will be taken to medical room to take a rest and then goes back to work when awaking.

When having questions or complaints, we reach our team leader for support, such as lack of salary or miscalculation of working days. She explains, but I do not understand and could not verify it. Our leader is enthusiastic, but she is just a worker like us and has no power to solve problems. Therefore, I usually accept her explanation. On the other hand, if the amount of miscalculated wage is not much, I let it go without any questions. Regarding the trade union, I have never met or contacted the trade union representatives. I only pay the trade union fee for receiving gifts on special occasions. For example, they gave us a branding blanket last year, but I could not check it on the brand's website. I suspected it was fake, but I could do nothing. In addition, every year, the delegation of MOLISA comes to inspect the working environment. However, they only investigate some selected factories. As our factory has not been on the list, I have never seen them. The officials from the Department of Environment also visited to inspect the noise, dust, and light issues. But the results were not public to us and the working conditions has not been changed.

The first concern is the impact of toxic odours and substances. I have read the negatives of these chemicals on our reproductive health in magazines. It is fine for me as I already have a child, but I do not know how it affects my health and other functions and organs. Furthermore, after coming home from work, I carefully wash my clothes and take a bath to avoid spreading poison to our family members. But I am not sure if it works or not. Other female workers have the same confusion and worries like me. However, for people at my age, it is hard to find another better job.

My messages to the duty bearers are:

- To the company: they should inform us what kind of chemicals used and their impact on people's health to ensure our safe working environment.
- To MOLISA and the Department of Environment: they should publish their investigation report on the working environment each year.
- To the Government: they should consider regular inspections and have solutions to improve our working environment and reduce the chemicals, noise, and dust that impact our health.

I am sharing my story with the Tribunal to hope that my messages can reach the duty bearers and that our working conditions will be improved in the near future.

Kang Changi

My name is Kang Changi. I work in the field of internal environmental safety management and support to suppliers on environmental safety. I am married and currently live in Hanoi, Vietnam.

I continue to elaborate the situation of environment management, occupational health and safety management, and the unsafe working environment in Vietnam's electronics industry. There is lack of gas and odour treatment facilities, non-compliance with rules about regular replacement of active carbon, and inappropriate facilities management lead to harms to workers and environmental pollution. Paint dust, toluene, acetone and xylene emissions are not treated, and odours spread to the whole factory that make workers experience headache, shortness of breath. The sewage treatment systems there lack conductive equipment, collection equipment, and this leads to being unable to prevent sewage that is generated from water screen in painting house from discharging. Sewage come out from the highest floor of the treatment tower and run through rainwater drainage pipes of the factory to outside. Hence, sewage is discharged illegally, it violates the regulations on environment and on sewage discharges. Such waste water can become sources of water for agricultural activities and contributes to pollution. There is no installation of on-site air emission facilities. The printing machine in printing houses is not equipped with singular air emission pipes. This leads to hazardous substances of printing inks which include IPA (iso-propyl alcohol, iso-butyl alcohol), MEK (Methyl-ethyl ketone), MIBK (Methyl-isobutyl ketone) that directly impact on workers with potential occupational health. It is extremely risky to workers who directly are exposed to these substances.

At painting chain, paint containers and solvent containers are always open. Hazardous gas of these substances impact directly on workers. Gas emitted from paint include Xylene, Toluene, Acetone that cause occupational health for workers

Personal protection equipment (face masks/ anti-poison face masks) are not provided. Workers working with vacuum cleaners in printing houses and in lead soldering at wireless equipment repair are not equipped with personal protection equipment in accordance with the regulations. They are exposed to hazardous substances from the printing house which causes occupational health conditions and violates labour safety regulations. This is just one factory and similar problems occur at other factories as well.

Supriyatun

I am a former migrant worker and one of the coerced contraception victims when I went to Hong Kong for work in 2004. Back then, the middleman came and persuaded, "Would you like to work in Hong Kong? You will get a big salary, good work, a weekly day off, and many friends." At that time, I was interested in it, and I was taken to a private employment agency by the middleman. It was the Eid holiday, and all the orang in that shelter were permitted to go home with the requirement; we had to do the contraceptive injection. At that time, I was unmarried, never had sex, and was required to take the contraceptive injection. So, I obeyed it. I was taken to a clinic by the company's employee; in that clinic, I was injected with a contraceptive.

After returning home, I returned to the company shelter a few weeks prior to my departure to Hong Kong. I was distressed because I did not have menstruation for a few months after a contraceptive injection. I was a bit preoccupied, terrified of having a problem with my womb, whether I would be able to have a kid? Would I be infertile? Many questions were in my mind, but I would be embarrassed if I talked to others.

After several years of working in Hong Kong, I finally came home and got married, the anxiety that was once there appeared again in my mind, because more than 5 months of marriage had not yet become pregnant. Finally, I went to the doctor and to a baby shaman, a few months of treatment to the doctor and given drugs to fertilise the womb, finally I was able to get pregnant, and now I have 2 children, also my menstruation is smooth until now.

Forced sterilisation and coerced contraception are forms of sexual violence. Until now, such practice is still happening, targeting vulnerable and poor women such as women with disability, indigenous women, women living with HIV/AIDS, and women migrant workers. In Indonesia, women migrant workers are subjected to coerced contraception as a requirement for working overseas My hope for the government is to provide protection to workers, migrant workers in Indonesia and stop violence against women.

Now I am a member of KABAR BUMI Mertasinga Village Branch Cilacap. In KABAR BUMI I have independent economic activities with fellow KABARBUMI members, for example opening catering business. I have also attended paralegal training so we have a paralegal team in Mertasinga Village, training in reproductive health, human trafficking and learning our rights. Through learning these rights, I would like to invite my former migrant friends, prospective migrant workers and migrant workers to learn together about women's reproductive health rights. If anyone experiences forced contraception while in employment agency, I hope to complain to KABARBUMI. Let us together fight and stop the act of forced contraception on migrant workers.

Fishing net worker

I am a fishing net worker, from a village in Khon Kaen, Thailand. Khon Kaen is a province in the north-east of Thailand. I want to say my testimony without revealing my identity. I am 48 years old and have been making fishing nets for 10 years. I am a member of HomeNet Thailand Association. I also work as a Village Health Volunteer. In my family I have my husband, three children and elders. I have to take care of them. I started learning making fishnet as a child, while helping my grandparents in their work.

Earlier one village head used to take consignment from the company and distribute work among others. In 1998, they hired more people and we had 12 village leaders. I am also one of them. During Covid, company reduced the number of agents in village from 12 to 1 saying that the orders had reduced.

The main problem we face as home-based fishing-net workers are low wages and occupational health hazards. Even after working all day, we make very little money which is not enough to sustain the family. While working with fishing net we are exposed to lead. We have to assemble the lead line in the net. For this, the lead is flattened by biting it, so it causes poisoning and diseases. We have to keep touching lead.

At the end of the year, the leaders or agents have a meeting with the company owner about our problems and to give suggestions. I asked for higher wage per piece. They said they will give 22 Baht only. This was 10 years ago. Cost of living has increased so much since then. Earlier we had to pay for our transport also as we had to take the nets to the factory. Now they send their agent to take it, but we have to wait longer to get paid. Earlier we would take our payment directly when we go to the factory. Last few years, they started giving the work of making buoys to the prisoners. This is why we no longer work for this company.

My normal working day starts at 5 am. After waking up I put the breakfast to cook on the stove and start working. I take a quick lunch break for 30 minutes and continue the work. I take 1 or 2 hours for housework and then go back to the net. It is the same at night when after preparing dinner, eating, and cleaning, I work till 11 pm. There is no rest because we use all our free time to make the nets. And for the remaining time, we are doing housework. We work about 12 hours in a day. After becoming aware we work for 10 hours, and we do 12 hours only if there is urgent consignment. On average, we make 100 net per week by a group of 5 workers. Our fastest member may earn a maximum of 100 Baht for one day's work (that is 4-5 nets). The oldest person in our group is 80 years old.

In terms of health issues, I have a frozen shoulder and back which happens because of sitting all the time for the work. I have finger injuries -it is difficult to move them. I cannot lift my arms. This is occupational health issue. For these problems, I go to our local hospital under the universal health coverage card. It is free but we have to pay for the transport. If we go to private clinics, it costs our 200-300 Baht.

There are other women in the village working on fishing net who have faced more health issues during pregnancy, like anaemia and children born with deformities. In 2004, the Department of Disease Control contacted us. They said that the lead level in our blood is much above limit. But no action was taken. Much later in 2019, they came again and gave us health education. They asked us to change our habits and told us to do things like washing our hands more often so that lead doesn't enter our system; sweating more so that lead is removed from body. They asked us to wear gloves, but we cannot wear gloves as we have to work fast with our hands.

When we had problems regarding wages, I approached the Department of Labour Protection and Welfare, hoping that they would help. But they didn't. Former president of our association made a complaint to Homeworker Protection Committee, under Ministry of Labour, about wage and working conditions. Then they inspected the working conditions and told the company to improve the conditions but the company did not change anything.

I was getting work only for about 3 days in a week and was unable to pay the fees of the children. So I went to other companies and even to online shops. Even now it is not enough for pay for all our expenses. It is not the case that I do not want to work for the big fishing companies, but they do not give us work anymore, as they get it done by prisoners for almost no wages. A big fishing net corporate approached us. They said they will give us 150 Baht, if we put the materials from our side including weaving and putting buoys in the net. I calculated that we would make about 50 Baht, after spending on the materials. After inflation and rise in prices, I asked for a raise to 160 Baht per net, so that we can at least make a wage of 60 Baht per piece. They said they cannot give us more than 158 Baht. Meanwhile other fishing net shops in Khon Kaen noticed my work and contacted me. They pay me 50 Baht per net. Now I work for more than one place.

Our work cannot be done by machines, it requires hands. It needs expertise and skill. My village seems to be the only village so far to do this work and there are 50 of us doing this in our village. I tried to switch to other occupation so I went to dress-making training but could not get any work after that. Fishing net making is a work that I have expertise in, so I want to continue doing it.

I believe that our wages need to be increased. Workers should get standard wage, like all workers should get minimum wage. Big companies can easily afford to pay this but they do not, even though they make profits. The retailers are able to pay us more than these big companies. For our health problems, the National Health Security Office should give us more care. They should take the lead level blood tests every year for us. It is too costly for us to do it with our own money. Home-based workers are workers too and have a right to medical and other social security benefits.

Illustration by: Apolonia Tesera

6. Findings and recommendations of the Jury Working Group

This section summarises key findings and recommendations of the Jury Working Group on health rights, including occupational health and safety, mental health, and sexual and reproductive health and rights, with key takeaways for governments, businesses, non-governmental organisations, trade unions, and multilateral agencies.

6.1. Findings

The Jury Working Group (JWG) considered the violations of workers' health rights, including occupational health and safety, mental health, sexual and reproductive health within an overarching framework of international human rights and labour standards. It noted the physical and mental harm caused to the workers and the significant physical and mental costs and economic loss the women workers had to bear as a consequence of the violations of their rights. The JWG found that the evidence showed that the feminisation of certain work or roles has made women workers particularly prone to precariousness and exploitation. This was evident in domestic, care related work, sex work and home-based industries like fishnet weaving. It attributed the high levels of exploitation that workers testified about to the absence of legal protection and non-compliance with international standards, and reiterated the need for multiple duty bearers to be held accountable.

General rights violated

The JWG found that the rights protected in the following conventions had been violated:

- The Universal Declaration of Human Rights (UDHR), which enshrines everyone's "right to work."[37]
- The International Covenant on Economic, Social and Cultural Rights (ICESCR), which protects the right to just and favourable conditions of work, includes the right to safe and healthy working conditions.[38]
- The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), which provides that women workers are entitled to the "right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction."[39]
- The right to a clean, healthy and sustainable environment, which is intricately interlinked with other human rights and labour rights. This right was declared a universal human right by the UN General Assembly in July 2022.[40]

[37] Universal Declaration of Human Rights, Article 23(1).
[38] International Covenant on Economic, Social and Cultural Rights, Article 7(b).
[39] Convention on the Elimination of all forms of Discrimination Against Women, Article 11(f).
[40] https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_857164/lang--en/index.html

Specific rights violated

The JWG found that the following specific rights of the workers who testified had been violated:

› Occupational Health and Safety

The JWG reiterated the rights to occupational health and safety afforded by ILO instruments and noted that this right is now recognised as a core ILO right.[41] It noted that the testimonies are proof of violations and inaction on the part of duty bearers under the ILO Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) and Chemicals Convention, 1990 (No. 170), Convention No.187 and Articles 8 to 15 of Convention No. 155. The testimony included photo evidence of hazardous use of chemical substances and toxic workplace environments which had noise and air pollution, reckless handling of chemicals and other substances, and non-provision of PPE.

It noted the testimony of the fishnet worker, the two migrant workers in Vietnam and the testimony of the Vietnamese workers in garments and electronics manufacturing demonstrated that whilst there are laws in Vietnam that protect the health and safety of workers, these laws are not enforced by government. This includes: the Law of Chemicals, which lists the rights and obligations of organisations and individuals using chemicals for production of other products and goods; the Penal Code, which provides for punishment for breaching regulations on labour safety; and the Law on Occupational Safety and Health, which lists the rights and obligations of employers to provide safe equipment and tools, healthcare and medical examinations for detection of occupational diseases, and full compensation for workers affected by occupational accidents and diseases. Despite these laws, the workers were not successful in obtaining redress for their rights violations from factory owners.

The JWG confirmed that employers are liable for violations of workplace machinery, equipment, chemicals and other substances, protective equipment and risks and adverse effects on workers' health under the above-named conventions, and that Convention 161 further elaborates on the services that should be accorded to workers by the duty bearers, which has not been effective.

The JWG recognised the distress caused and hate inflicted on the workers, and said it was shocked to hear big brands acting irresponsibly in regard to their manufacturers in the supply chain, even when there are enforceable legal standards against violators and continuous civil society activism to address this.

› Migrant workers

The JWG noted that many workers who gave testimony under this theme were migrant workers. These workers remain unprotected at various stages of their journey, are prone to work in precarious conditions and are often subjected to rights violations in the form of forced sterilisation by unscrupulous recruitment agents. The rights of women migrant workers are often neglected by both employers and trade unions. It reiterated the protection afforded to migrant workers by the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990, which encompasses a broad definition a migrant worker and recognises multiple rights and safeguards that should be afforded to migrant workers who are legally residing or engaged in work, by States parties.[42] These protections apply during the entire migration process of migrant workers and members of their families, which comprises preparation for migration, departure, transit and the entire period of stay.[43] In addition, the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) addressed questions of irregular migration and explicitly incorporated reference to the application of the fundamental human rights norms embodied in the instruments of the UN Bill of Human Rights.[44]

[41] Specific instruments cited : ILO instruments: Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), Occupational Safety and Health Convention, 1981 (No. 155) and Occupational Health Services Convention, 1985 (No. 161).
[42] International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990, Article 2.
[43] International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990, Article 1(2).
[44] ILO Convention 143, Migrant Workers (Supplementary Provisions) Convention, 1975. The UN Bill of Human Rights comprises the Universal Declaration of Human Rights (UDHR), the International Covenant of Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR).

Maternity rights

The Universal Declaration of Human Rights stipulates that "[m]otherhood and childhood are entitled to special care and assistance."[45] It further recognises protection for mothers before and after childbirth. CEDAW emphasises the right to protection of health and safety in working conditions, including safeguarding the reproduction function, and highlights the need to provide special protection.[46] Two testimonies highlighted how this right was violated in the case of a domestic worker and an undocumented migrant worker. In the first instance, by the employer, a private party, and in the second instance, by State law enforcement authorities in the migrant worker's host country.

Sexual and reproductive rights

The JWG recognised that the worker's choice to use contraception has been violated, by forcing it on her, without her receiving adequate information prior to consenting. It noted that forced contraception violates Article 11(1)(f), 10 and 16 of CEDAW. CEDAW guarantees women equal rights in deciding "freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights."[47] CEDAW also specifies that women's right to education includes "access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning."[48] The Beijing Platform for Action states that "women's human rights include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence."[49]

Violence against women

The JWG noted that violence against women workers was a common theme across several testimonies and is an aspect of the health and wellbeing of women workers. Noting that violence as a thematic area is dealt with by another JWG, they nevertheless highlighted that the applicable international norms and standards (such as in CEDAW General Recommendations No. 1, 19 and 35 as well as ILO Convention No. 190) create obligations on States and employers to address gender-based violence at work.50 It noted that agreements at the international level provide the basis for the governments, UN agencies, civil society organisations, and other institutions to adopt, build, and implement laws, policies, and programs that prevent and respond to violence against women.51

The JWG found that the rights to physical and mental health of the women workers who testified were violated through inadequate protection under national labour laws. The States cited have not been held accountable for fulfilling their obligations under international law, or for gaps in their national laws and law enforcement. The workers themselves were not aware of their rights and were not successful in claiming their rights. It was also clear that there was widespread impunity of States, employers, and recruitment agents who recruit workers for foreign migration.

The testimony of Supriyatun showed that the government of Indonesia provides no protection for migrant workers against abuse from recruitment agents, despite their obligation to protect migrant women workers under CEDAW and the ICCPR as both treaties have been ratified by Indonesia. Supriyatun was denied the right to personal autonomy, bodily integrity, freedom of choice, and information, which are obligated under the ICCPR. Her rights under the ICESCR General comment No. 22 on the right to sexual and reproductive health were violated, as well as her rights under CEDAW. The JWG reiterated that CEDAW obligates States to protect the reproductive health rights of women, and that CEDAW's General Recommendation 24 specifies protection against coercive contraception. [52]

[45] UDHR Article 25 (2)
[46] CEDAW Article 11.
[47] CEDAW Article 16.
[48] CEDAW Article 10.
[49] Beijing Declaration and Platform for Action, United Nations Economic and Social Commission for Western Asia, Paragraph 96.
[50] Gender based violence and the international norms and standards applicable are discussed in detail in Part B of this Toolkit.
[51] UN Women, 'Ending violence against Women' at https://www.unwomen.org/en/what-we-do/ending-violence-against-women
[52] CEDAW, Article 12, Article 10(a) and (h) and General Recommendation 24.

Nellie's experience showed that despite her being covered under the Labour Act of Namibia, she was unable to exercise her right to maternity leave. She was also subjected to sexual harassment by her employer, in violation of the Namibia Labour Act which prohibits sexual harassment. [53] Namibia has ratified CEDAW and was obliged to provide protection and non-discrimination of women on maternity grounds. In Namibia's review by the CEDAW Committee, the Committee expressed concern about the high proportion of women in the informal economy, and that the Social Security Act had still not been amended to ensure maternity and social protection for women in the informal economy.[54] The JWG found, in addition, that Nellie's rights under the ICESCR were also violated. The ICESCR establishes mothers' right to special protection during a reasonable period before and after childbirth, including paid leave and leave with adequate social security benefits.[55] The ICESCR also states that laws and policies that prescribe involuntary, coercive or forced medical interventions violate the obligation of States to respect the rights of individuals.[56] Namibia has ratified ILO Convention 189 on domestic workers, which guarantees the rights of domestic workers, and which Nellie was denied. Nellie could have approached the Office of the Labour Commissioner with her dispute, but she testified that she was not aware of her rights.

The JWG expressed concern about the long-term impact of their experiences of exploitation on the workers who testified. The conditions they were subjected to might influence their well-being and quality of life through physical, mental, social, and financial challenges. In addition, severe injuries might cause chronic pain and suffering. Some of the testimonies indicated the possible lifelong consequences that might affect a person's health. For example, the testimony from fishing net workers in Thailand indicated the higher than-limit lead exposure in the workers' blood test, possibly impacting them in the long-term. According to WHO data in 2021, lead poisoning accounts for 21.7 million years lost to disability and death, with 30% of the global burden of idiopathic intellectual disability, 4.6% of the global burden of cardiovascular disease and 3% of the global burden of chronic kidney diseases. [57] For sexual abuse survivors, the trauma can heavily impact well-being through physical and mental health manifestations for the rest of their lives, and generally, only 40% of women seek help after any form of violence.[58] Workplace abuse is associated with long-term trauma, depression, sleep disturbances, and other problems. Unhealthy working conditions, exposure to hazardous/toxic materials, and a high stress environment can reduce one's lifespan and have severe health impacts.

6.2. Recommendations

Law and policy changes to be addressed by States

1) Ratify all international laws and instruments dealing with occupational health and safety measures, maternity protection, rights of migrant workers, domestic workers, sexual and reproductive rights of women and other protective legislation for women workers.

2) Ensure national laws are created in line with the country's internationally established and ratified occupational safety and health standards.

3) Ensure that private and public sector industries comply with these laws through regular checks and inspections carried out through labour ministries and other relevant government bodies. Take appropriate penal action against employers or employment agencies that violate the labour and human rights of women workers to reduce impunity.

[53] Labour Act, 2007, Republic of Namibia, Section 5.
[54] CEDAW Committee, 'Concluding Observations on Sixth Periodic Report submitted by Namibia', (2022) para 39 at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FNAM%2FCO%2F6&Lang=en
[55] ICESCR Article 10(2).
[56] CESCR General Comment No. 22 (2016) on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights), para 57.
[57] Workplace abuse is associated with long-term trauma, depression, sleep disturbances, and other problems. Unhealthy working conditions, exposure to hazardous/toxic materials, and a high stress environment can reduce one's lifespan and have severe health impacts. See https://www.who.int/news-room/fact-sheets/detail/lead-poisoning-and-health
[58] https://www.unwomen.org/en/what-we-do/ending-violence-against-women

4) Regularise reporting to treaty bodies, ILO, and relevant institutions.

5) Recognise and repeal the existing laws that might perpetuate more stigma and violation of rights, such as criminalising sex workers and migrant workers. Regulate informal sectors and local employers to bring informal sectors under the ambit of the law. Decriminalising work that is criminalised would allow marginalised workers to exercise their rights in law, health, and social spectra.

6) Gather data on the dispensation of justice to women workers, especially those in the informal sector and monitor trends in violating their labour rights.

7) Take strict punitive action against business owners and companies that violate these standards of occupational health and safety measures, labour protection, minimum wage standards, and protective legislation under national labour laws.

8) Educate all relevant government agencies on their obligations to women workers under domestic and international human rights laws.

9) The extra-territorial obligation of foreign companies indulging in violations of workers' rights within the state's territorial jurisdiction should be addressed through effective national laws and policies.

10) Ensure easy access to public/private healthcare facilities for workers exposed to toxic and hazardous substances via their workplace, occupational injuries, and who have experienced sexual violence and other forms of abuse or ill-treatment.

11) All public health measures must be directed to equal rights to the health of survivors, factory workers, domestic workers, sex workers, and other formal/informal workers without discrimination, rather than the surveillance mindset that objectifies women and women of minority backgrounds. Research, advocacy, policy-making, and legal interpretative efforts will benefit from this more comprehensive understanding of workers' right to health.

12) Organise training programs for all rungs of management and workers in occupational health and safety standards, wage inequalities, sexual abuse, health rights violations, maternity rights, gender-based violence in the workplace, and other gender-related issues. Build the capacity of agencies that receive complaints from women to dispense justice without bias based on gender or socio-economic status.

13) In collaboration with civil society organisations, support systems can be facilitated by claiming women's labour rights, rights to non-discrimination, and personal safety in the justice system. Raise awareness of vulnerable groups of women such as workers in the informal sector, domestic workers, migrant workers, and women of minorities from all socio-demographic backgrounds of their rights under the country's labour laws and under the violence against women laws as well as under international law. Such awareness should be raised in the national education system, highlighting the importance of human rights, equality, and dignifying another human being.

14) Create favourable conditions for trade unions to operate as effective tools for bargaining between workers and management. Enable trade unionisation of the informal sector by adopting appropriate laws. Strengthen labour inspectorates to monitor labour rights violations and dispense justice. Require them to provide half-yearly reports of actions they have taken.

15) Adopt standalone sexual harassment or anti-discrimination law/regulation for workplaces where this is not already in place, and promote the rights of women workers according to the international framework and recommendations, as reflected through the CEDAW Convention, that includes access to equal protection, non-discrimination, freedom of stigma, violence, right to work, privacy, health, economic, social security, and ensuring a safe environment for women.

Responsibilities of private sector businesses

Practice non-discrimination policies in the workplace of all forms of gender, sex characteristics, disability status, caste, race, religion, health condition, or any other background, and promote a workplace free of gender-based violence, health rights violation, and social discrimination.

Provide formal/informal workers equal benefits, protection, and opportunities to thrive in life and the workplace, including, but not limited to, payment of fair wages according to national laws in place, payment of overtime, paid leaves, health insurance, maternity leave, reasonable working hours, and more.

Ensure that effective grievance redressal systems to address individual complaints, focusing on gendered issues, are available in the workplace, including compensation for financial, health, law/human rights, and other areas. Increase transparency and due diligence on the part of the global brands, especially regarding the health of informal workers like garment factory workers.

Train workers on their health rights, focusing on gender sensitisation and other forms of cultural sensitivity training. We encourage trade unions to participate in bargaining with management for collective issues of workers with a focus on gender-sensitive topics and worker health related to multiple workplace settings: factories, domestic, healthcare facilities, government instances, migrant locations, and others.

Specific to factory workers: Make available full information to workers on the danger and health impacts of all toxic and hazardous substances used in factories, along with training in the proper safety management of the chemicals and equipment, followed up with timely maintenance and safety checks of the equipment and machines on factory premises. Factory premises to be built to facilitate ventilation and ensure minimal toxic exposure to workers inside the factory. Provide proper equipment for workers handling toxic chemicals and/or being exposed to harmful fumes and substances related to work.

Support regular health check-ups for factory workers exposed to all toxic or hazardous chemicals. Compensate and remedy workers for short or long-term health impacts, especially when workers are affected by toxic or hazardous substances, sustained injuries, or any other work-related exposure or ill-treatment.

Specific for healthcare workers: Support for healthcare workers should transcend beyond physical health but also mental health, including burnout mitigation. Public/private hospitals and clinics should reflect occupational safety, which includes: safe and respectful working environment, proper healthcare practitioners & patients ratio, fair pay, decent working hours, capacity building, and training.

S*pecific to sex workers:* Employers must not mandate sexually transmitted illnesses (STI) testing but rather promote safe practices and enable sex workers to take decisions informed by choice. The employee should protect their workers from structural discrimination related to health.

Establish accessible child-care facilities like crèches in workplaces close to workers who are caregivers. Support for family or other dependents should be made available for formal and informal workers.

What should non-governmental organisations do?

Provide information on shortcomings and improvements to government agencies and departments to assist them in making improvements within the existing laws. Regularly research the implementation of occupational safety and health laws while focusing on gender issues and gauging their effectiveness for workers in factories and other formal and informal industries.

Offer assistance and information to trade unions to better assist with their bargaining between management and workers on issues concerning women workers.

Conduct regular training on gender issues around occupational health and safety for workers, mental health, sexual-reproductive health, and other relevant health sectors. Capacity building should target beyond the community of sex workers, factory workers, domestic workers, and all other survivors but should include healthcare workers, social workers, and law enforcers who interact with the survivors. That includes gender sensitive, trauma-informed training to eliminate all forms of institutional abuse.

Due to intense stigma, discrimination, and criminalisation, survivors are reluctant to seek justice or service when they experience human rights violations. Collaboratively, communities should be involved in monitoring human rights violations. Community monitoring and advocacy can play a significant role in a real-life situation of human rights violations and law implementation. Working with networks of survivors from different backgrounds is crucial in identifying gaps between legal/law enforcement and actual implementation.

What should trade unions do?

Act as a channel between the management and workers to ensure effective implementation of labour laws and engage in effective bargaining on behalf of the collective issues of workers with a focus on gender-sensitive and intersectional lens related to workers health in multiple workplace settings.

Pay appropriate attention to the health and safety of workers in collective bargaining agreements with employers.

Ensure effective grievance redressal systems are in place for workers in all workplace settings.

Assist workers in filing their grievances with a labour court, or through mediation or arbitration, and where they cannot do so themselves, represent workers in the relevant forum regarding their issues around violations of their right to health and safety at the workplace.

Ensure that awareness-raising and attention-focused actions are brought to collective issues of workers with a focus on gender-sensitive and intersectional lens for workers in multiple workplace settings.

When there is no cooperation from employers, refusal to engage in collective bargaining, or failed negotiation, trade unions should be able to take effective industrial action in the form of strikes and proper legal action.

7. Areas for law and policy advocacy identified by organisations to take forward the Global Tribunal recommendations

This section presents examples of good practice and advocacy by organisations that participated in the Global Tribunal, and key commitments from these organisations to take forward the recommendations of the Jury Working Group.

7.1. AWAJ Foundation – Bangladesh

Following the 2012 fire at the Tazreen factory in Dhaka, which killed 112 workers, and the 2013 Rana Plaza building collapse, which resulted in the death of 1,129 workers and injuries to thousands, occupational safety and health has become an increased focus of most donors, brands and labour rights organisations in Bangladesh. AWAJ Foundation's work has been crucial to improving workers' rights to health and safety in Bangladesh and it works with brands, factories, and workers to achieve this. AWAJ has, since its formation in 2003, trained thousands of work workers on building and fire safety. It has also set up worker-led safety committees at factories where workers can monitor safety issues at their workplace and raise concerns collectively with management.

One of AWAJ's key projects to ensure that factories comply with health and safety laws it its factory advancement project. This project works on developing the capacity of workers and management on issues such as occupational health and safety, workplace cooperation and effective communication to improve working conditions in the sourcing factories of transnational corporations like ALDI. The project focuses on social dialogue as a mechanism to identify problems in the factories and finding solutions through cooperation between management and workers. Through this project, sourcing factories have seen significant improvements in health and safety, productivity and relationship between workers and management. In addition, it has also helped improve childcare services in factories, which has been very beneficial to female workers. The factory advancement project is currently operating in 37 factories in Bangladesh. To date, over 60,000 workers, supervisors, line managers, mid-level management and owners have been trained.

AWAJ was also instrumental in developing the 2013 International Accord for Health and Safety in the Textile and Garment Industry (which was revised in 2021), which promotes workplace safety through independent safety inspections, training programmes and a complaints mechanism for workers.

In 2021 the Accord signatories renewed their partnership and established the International Accord for Health and Safety in the Textile and Garment Industry. This agreement confirms the continued commitment of signatories to support workplace safety programs in Bangladesh through cooperation with the RSC and further commits to establishing workplace safety programs in other countries based on the outcome of feasibility studies. Over 175 company signatories signed the International Accord in the first year of this agreement with an additional commitment to exploring the scope of the agreement to address Human Rights Due Diligence issues in the textile and garment industry. Company signatories to the International Accord commit to:

1) Disclosing all factories producing for them in countries with International Accord programs.
2) Ensuring all listed factories participate in the inspection, remediation, and safety training programs.
3) Supporting factories to ensure remediation is financially feasible.

7.2. Research Centre for Family, Environment and Development (CGFED) – Vietnam

CGFED focuses on addressing the rights of women workers subjected to gender-based violence and lack of health and occupational safety in the work environment, among other activities. They have conducted numerous campaigns to address toxic and polluted factory environments, including holding the Vietnamese government accountable for complying with ILO and other conventions regulating health and safety and environmental rights violated by employers. They conduct awareness raising programmes and provide information to workers and community members about toxic and hazardous substances used in factories, and work to achieve access to justice for women workers who have experienced negative impacts from long-term exposure to hazardous chemicals used in factories.

Discover more about our world-class research


nottingham.ac.uk/rights-lab


rightslab@nottingham.ac.uk


@rightsbeacon


University of Nottingham Rights Lab


GLOBAL SOUTH WOMEN'S FORUM ON SUSTAINABLE DEVELOPMENT