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▶ Home truths

Access to adequate housing for
migrant workers in the ASEAN region



▶ **Home truths**

Access to adequate housing for migrant workers in the ASEAN region

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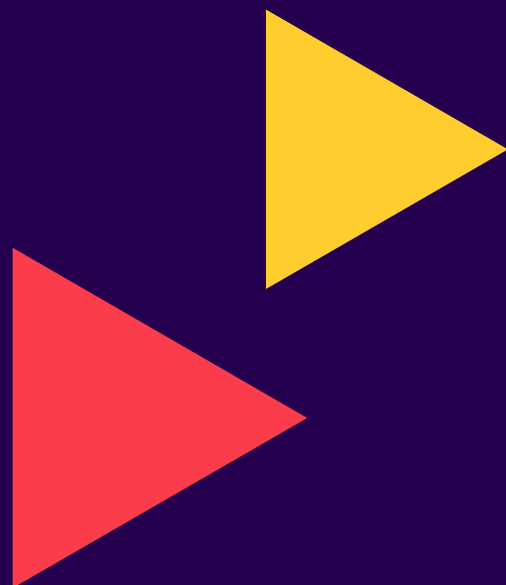
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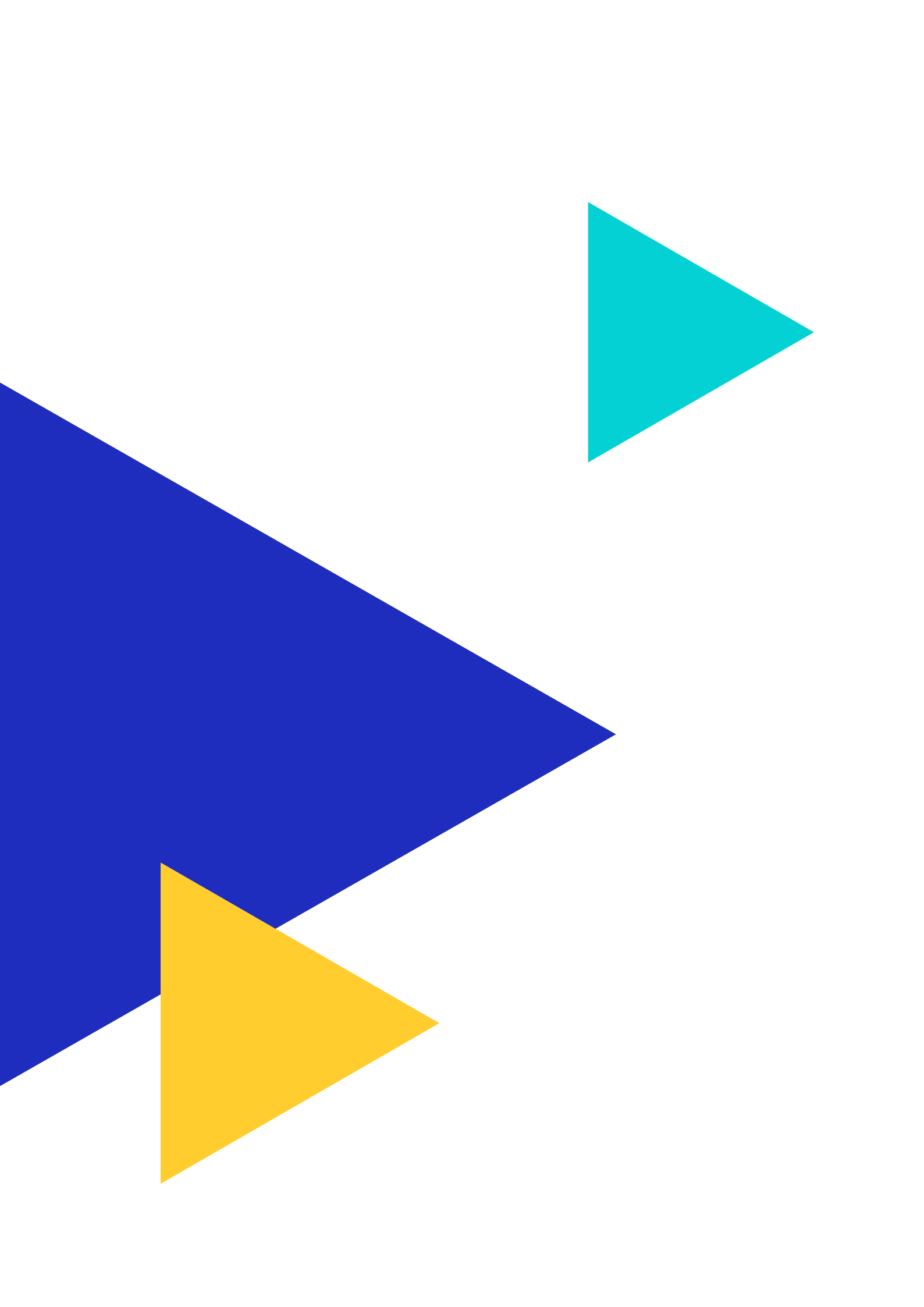
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Acronyms and abbreviations

ACE Group	Assurance, Care and Engagement Group (Singapore)
ASEAN	Association of Southeast Asian Nations
CCTV	closed-circuit television
Cebu Declaration	ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers
CSO	civil society organization
CTQ	construction temporary quarters (Singapore)
DASL	Dormitory Association Singapore Limited
DLPW	Department of Labour Protection and Welfare (Thailand)
ECOT	Employers' Confederation of Thailand
FCD	factory-converted dormitory (Singapore)
FEDA	Foreign Employee Dormitories Act, 2015 (Singapore)
FGD	focus group discussion
HDB	Housing Development Board (Singapore)
HOME	Humanitarian Organization for Migration Economics
HRDF	Human Rights and Development Foundation (Thailand)
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990
IPA	in-principle approval letter (Singapore)
MEF	Malaysian Employers Federation
MLC, 2006	Maritime Labour Convention, 2006, as amended
MOHR	Ministry of Human Resources (Malaysia)
MOM	Ministry of Manpower (Singapore)
MOU	memorandum of understanding
MWC	Migrant Workers' Centre (Singapore)
OSH	occupational safety and health
PPE	personal protective equipment
PRP	private residential premises
QBD	quick-build dormitory (Singapore)
RSE	Recognised Seasonal Employer (New Zealand)
SERC	State Enterprises Workers' Relations Confederation (Thailand)
TITP	Technical Intern Training Programme (Japan)
TOLQ	temporary occupation licence quarters (Singapore)
TWC2	Transient Workers Count Too
UN	United Nations
UN CESCR	UN Committee on Economic, Social and Cultural Rights
WHO	World Health Organization





▶ 1

Introduction

Securing accommodation is intrinsic to migration and part of moving to a new country. The housing options available to migrant workers can be determinative of the work they will accept; for example, workers may require work that pays enough for or provides housing that can accommodate both them and their family. For employers, even if not legally required, providing accommodation may be necessary in remote locations, or it can be a means to attract and retain workers. Decent housing is integrally linked to migrant workers' overall standard of living and well-being and to other human and labour rights.

Access to housing for migrant workers is related to the country of destination's regulations on entry and stay, as well as to the status and remuneration afforded to their work. In their search for accommodation in the country of destination, migrant workers have to engage with a different regulatory system, often in a different language, and navigate being non-citizens with no proof of income or rental history in the country. Those in private rented accommodation may be required to provide a month's rent (or more) as a deposit, which is prohibitive for many, especially those who have had to pay sizeable recruitment fees or have otherwise accrued debt to migrate (or where debt is driving their migration). Migrant workers may also face difficulties retrieving their deposit at the end of their tenancy for a range of factors, from language barriers to changes in migration status leading to deportations.

Inadequate housing for migrant workers has been a feature of the global housing crisis for years (Open Society Foundations 2020). Migrant workers' housing options are determined by their wages and contract provisions, as well as other factors (box 1). The options available to migrant workers in regular status with wages equivalent to those of nationals are very different to those for low-wage migrants or migrants in irregular status. This report centres on the housing situation of migrant workers in low-status, low-wage employment – who make up a large proportion of migrants worldwide – as they face more restrictions on their autonomy in choosing where to live and have few options to remedy bad housing situations. For some such migrant workers in the Association of

Southeast Asian Nations (ASEAN) destination countries that are the focus of this study – Malaysia, Singapore and Thailand – the only regular pathway available to them necessitates accepting the accommodation that the employer provides. Combined with more general challenges, such as the attitudes to migrants in the country of destination, migrants may be less likely than other marginalized or disadvantaged groups to find adequate housing (UN General Assembly 2010). Obtaining suitable, decent housing can be a significant challenge for migrant workers, in some cases amounting to a largely unrecognized area of exploitation (Segrave 2017).

► **Box 1. The types of accommodation that may be available to migrant workers**

The accommodations that migrant workers can access vary with factors such as the housing stock in the country, location within the country (urban/rural), migration status and type of documentation, labour sector, whether the work is static or requires the migrant to move with or between jobs, nationality, language, gender, whether the migrant worker is travelling alone or with (or joining) family members, xenophobia and discrimination against migrants in the country of destination, presence of an established diaspora, etc., and include:

- ▶ purpose-built residential properties;
- ▶ rooms in sub-divided properties;
- ▶ self-built houses on rented land;
- ▶ encampments on farms/plantations;
- ▶ dormitories;
- ▶ temporary structures on or separate to the work site;
- ▶ permanent structures on the work site;
- ▶ on construction sites/within the partially built construction;
- ▶ areas in sub-divided shipping containers;
- ▶ cabins or bunks in fishing, cargo or cruise ships; and
- ▶ areas within their employer's home: may be a private room allocated to the migrant worker or just space in, for example, hallways in the property.

(TWC2 2013; OHCHR 2014; Napier-Moore and Sheill 2016; Kusakabe et al. 2018; ILO 2020c).

In some situations, these accommodations may constitute informal settlements where inhabitants have no formal ownership or lease agreement for the land and/or dwellings they inhabit, such as informal rental housing, housing that does not comply with current planning and building regulations, or squatting. Such areas may not have access to basic services and infrastructure (UN-Habitat 2015; UN General Assembly 2018). Migrant workers may also be homeless (UN Human Rights Council 2015).


Furthermore, many of these accommodations will be multiple occupancy, often to high density.

Much of the attention to the situations of migrant workers in ASEAN by States, international organizations, employer representatives, trade unions, civil society organizations (CSOs) and others has focused on their working conditions and labour rights. The living conditions of migrant domestic workers is well-documented, as it is so closely tied to their working conditions. Otherwise, with some notable exceptions, migrant worker housing and living conditions have often been documented as an aside rather than the main concern of research and reports, although they are critical components of the migration experience, and inadequate housing is an important element in migrant workers' vulnerability to human and labour rights abuses.

This situation mirrors the attention paid to housing rights and conditions more broadly. The right to adequate housing – which is recognized in the foundational treaties of international human rights and labour law – has not been fully realized anywhere in the world (UN CESCR 1991). As such, housing is an indicator and a driver of growing socioeconomic inequality (UN Human Rights Council 2019). Housing is central to the lived experience; the United Nations (UN) Special Rapporteur on the right to adequate housing has stated, “The right to life cannot be separated from the right to a secure place to live, and the right to a secure place to live only has meaning

in the context of a right to live in dignity and security, free of violence” (UN General Assembly 2016, para. 27). The enjoyment of this right has been identified as among the most endangered human rights for migrants (UN General Assembly 2010).

1.1. Migrant worker housing in Malaysia, Singapore and Thailand at a time of COVID-19

 **Housing has become the front line defence against the coronavirus. Home has rarely been more of a life or death situation.**

▶ UN Special Rapporteur on the right to adequate housing (OHCHR 2020f)

Labour migration is a well-established feature of the ASEAN subregion. Malaysia, Singapore and Thailand are – and have long been – the main ASEAN migrant destination countries,¹ with intra-ASEAN migration accounting for about two-thirds of the subregion’s total international migrant estimate (ILO 2020h). As such, the focus of this study is on South–South migration. All three States are reliant on and resistant to low-wage migrant labour, understanding it as necessary to address labour shortages, especially in key economic sectors, while also announcing plans to reduce this dependency on migrant workers. For most migrant workers this means moving to countries with higher costs of living: Malaysia and Thailand are classified as upper-middle income countries, and Singapore as a high-income country. The financial challenge of this, combined in some situations with the legal requirements of their migration, mean that low-wage migrant workers have few options in their accommodation in the three destination countries. In all three States, especially in their major cities, there is increasing separation from the original social purpose of housing due to its value as a commodity for the accumulation of wealth (UN Human Rights Council 2017). Housing in Malaysia is provided by both the private market and the Government. The private market in Malaysia has been criticized for providing housing that is priced out of reach for those on a median annual household income and for an unregulated housing rental market with insecurity of tenure and risk of eviction. The social housing provided by the Government has been criticized for poor design and described as the new urban slums by some (Asian Coalition for Housing Rights 2018). In Thailand, housing development, especially in the capital, has been criticized for focusing on mid and upper socioeconomic groups, resulting in housing shortages for lower-waged groups (Asian Coalition for Housing Rights 2018). The poor housing conditions for migrant workers in some of these countries have been highlighted by human rights experts (UN General Assembly 2010, para. 43).

Many migrant workers are required to live in accommodation that is provided or organized by their employer. This is often in multi-occupancy residences, such as dormitories or shared apartments, with migrant workers sharing rooms or even beds. Migrant workers in the construction sector may live on the sites they are building – in temporary structures or in the unfinished building itself (TWC2 2013; Napier-Moore and Sheill 2016). Migrants who work at sea – in the fishing or cruise sectors, for example – may be on board for months at a time, interspersed with time in ports in cheap and overcrowded temporary accommodations, sometimes living with their families (ILO 2020d; Marschke et al. 2021). Many migrant domestic workers are required by law or by contract requirements to live in the residence of their employer, even though there may be no designated private space for them (TWC2 2016; ILO 2018c). Where migrant workers are left to organize their own accommodation, they may still face low-standard housing and overcrowding due to the cost of renting on a low wage. See more in section 5.1 below.

The reliance on stay-at-home and lockdown orders as part of the response to the COVID-19 pandemic has positioned housing as central to strategies against the virus while simultaneously also being a major risk factor, particularly in situations where collective and substandard housing impedes physical distancing and lacks necessary hygiene measures (including adequate ventilation) to reduce the risk and spread of infection.

1 Brunei Darussalam and, more recently, Viet Nam, are also countries of destination in the ASEAN region.

This has disproportionately affected migrant workers in low-wage employment during COVID-19 outbreaks in South-East Asia. Housing situations such as those that are common among low-wage migrant workers, including communal living arrangements and informal settlements, were quickly identified by health and human rights experts as sites of contagion risk during the pandemic (Yamin and Habibi 2020; UN CESCR 2020; ILO 2020g). Job losses, the expiration of contracts and documentation, wage cuts, and lockdown-related work closures have increased housing precarity for migrant workers at the same time as border closures have made it more difficult to return home. These factors have also pushed many into irregular status, bringing additional challenges to finding decent accommodation and increased risks of arrest, detention and deportation. With migrant workers often earning around the minimum wage and remitting what they can to families in their countries of origin, they do not have savings to draw on in times of crisis (Migrant Working Group 2021).

Malaysia, Singapore and Thailand have all faced COVID-19 outbreaks in migrant worker communities. What follows are brief snapshots of some of the housing-related elements of those outbreaks. During the research and drafting period (April to October 2021), all three countries experienced an increase in cases serious enough to trigger some degree of restrictions or lockdown measures.

Malaysia

By early April 2020, soon after the imposition of a Movement Control Order, a cluster of COVID-19 infections had been identified across three worker residences in central Kuala Lumpur that housed thousands of mostly migrant workers, largely from Bangladesh, India and Pakistan. The Government responded by placing them in lockdown under an enhanced movement control order. There were reports of migrants struggling with isolation and stress, as well as a lack of access to running water during the lockdown (Sciortino 2020). Soon after some restrictions were eased, another cluster of infections was identified among migrant workers on a construction site in the city (ILO 2020a; UN 2020).² The Director-General of Health is reported to have described the overcrowded migrant worker housing he visited as a hotbed for infectious diseases (Pandiyani 2020). Some migrant workers in Malaysia play an essential role in the supply chains of personal protective equipment (PPE) – specifically, rubber gloves – required for effective pandemic response across the world. As such, there has been international attention on and concern about the poor living and working conditions of these migrant workers, who were tasked with meeting this increased demand during the crisis. From late April 2020, the sector was allowed to lift the pandemic restrictions (such as operating with just half of the workforce to reduce the risk of transmission) and operate at full capacity. However, migrant workers complained about the lack of physical distancing possible at work and in their accommodations, as well as the risk of infection from national workers who were commuting from home (Khadka 2020; Thomas 2020b). The Malaysian Trades Union Congress (MTUC) identified poor living conditions as one of the common violations of migrant workers' labour rights arising from the pandemic response, especially for those who had lost their jobs (*Free Malaysia Today* 2020). The four-part regulations of the Workers' Minimum Standards of Housing and Amenities Act (Act 446) were published at the end of August 2020,³ and the Government sought rapid enforcement in the context of rising infection rates, including a spike among migrant workers in dormitory accommodations. Revisions made to Act 446 sought to improve workers' housing standards and expanded the Act's reach to all labour sectors that provide housing or accommodation to workers, either by the employer or through centralized accommodation providers. In addition, in February 2021 the Government published the Emergency (Employees' Minimum Standards of Housing, Accommodations and Amenities) (Amendment) Ordinance. This instructs employers who provide worker housing "to replace, alter or repair accommodation that does not comply with Act 446" (section 24FA), and immediately move workers from crowded and uninhabitable accommodation to temporary accommodation prescribed by the Director-General of Labour, or face a fine of 200,000 Malaysian ringgit (approximately US\$48,219) or up to three years imprisonment or both (Malaysia, MOHR 2021). See discussion in section 3.1 below.

2 At this time the Government also conducted large-scale arrests in these accommodations of migrant workers who were in irregular status. Conditions in immigration detention were also conducive to the spread of COVID19, and there was subsequent confirmation of increased cases reported in the facilities (Human Rights Watch 2021).

3 Employees' Minimum Standards of Housing, Accommodations and Amenities (Employees Required to be Provided with Accommodations) Regulations 2020.

Singapore

Most migrant workers in Singapore do not live in dormitories, but the congested dormitory accommodations provided for low-wage workers became synonymous with the country's experience of the COVID-19 pandemic in 2020. Migrant workers were reportedly excluded from the Government's national spatial modelling exercises and containment measures as well as the initial distribution of masks and hand sanitizer (Sciortino 2020; Yea 2020). With respect to the outbreak in dormitories beginning in March/April 2020, Singapore's Ministry of Manpower (MOM) reports that migrant workers had contracted COVID-19 from interactions outside of dormitories, at work sites or in common recreational areas.⁴ The authorities' response to the COVID-19 outbreak among these workers was then to isolate the migrant workers in the dormitories in order to contain the virus away from the wider Singaporean population.

From early April 2020, the 320,000 migrant workers housed in these facilities – all men – were held in lockdown.⁵ As part of the immediate response, more than 20 dormitories were declared as isolation areas, where residents were quarantined for 14 days, with segregation of healthy and infected migrant workers. However, many of these dormitories also do not meet the criteria for adequate housing, and the affected migrant workers faced confinement to rooms that were hot, overcrowded, poorly ventilated and often unsanitary, with shared sanitary facilities and inadequate cleaning regimes even before the lockdown. These conditions precluded physical distancing and adequate hygiene, facilitating the spread of the virus. Dormitory operators observed that migrant workers remaining in the dorm 24/7 kept mostly in their rooms. Dealing with the stress of isolation and their lack of control over being able to practice physical distancing, together with worrying about family at home and financial concerns, had adverse effects on migrant workers' mental health.⁶ This has included an increase in suicide ideation and attempts.⁷ Within four months there were over 52,000 recorded COVID-19 cases in the dormitories, at which point migrant workers accounted for more than 90 per cent of all documented cases in the country (Han 2020b; 2020c; HOME 2020; Koh 2020; Lim 2020; Yea 2020).

The authorities made efforts to reduce residential density in the dormitories to enable physical distancing, including by using public housing apartments, adapted exhibition centres, military camps and floating hotels. These temporary accommodations were required to adhere to strict public health requirements, such as the number of sickbay and isolated beds. The Government developed guidelines and briefed dormitory operators and managers on how to manage these new accommodation types, covering: safe distancing, planning for meal catering arrangements, ensuring cleaning and hygiene standards, and taking care of the migrant workers' well-being.⁸

The Singapore Government described a three-pronged strategy involving thousands of officials to manage the COVID-19 outbreak in the migrant worker dormitories: (i) physical distancing measures to minimize interactions and slow the spread; (ii) medical posts in the dormitories to treat any worker who is feeling unwell; and (iii) the implementation of an aggressive testing regime (Mirpuri 2020). The efforts to reduce residential density in the dormitories following the outbreak prioritized migrant workers who were employed in essential services that facilitated the stay-at-home requirement for citizens and permanent residents, such as cleaners of public housing estates or workers maintaining the broadband network (Han 2020b). Some construction workers were moved out to temporary accommodation on construction sites for the duration of the build, despite all the concerns about migrant workers' rights and safety in such housing (Han 2020c). The Government also arranged for food delivery, Wi-Fi that enabled access to entertainment and communication with family, hygiene maintenance and PPE for

4 Information provided by the MOM, 5 August 2021.

5 Though the authorities were keen to stress that the country was not under lockdown, preferring the term "circuit breaker" measures, they did call the action at the dormitories a lockdown, another way in which migrant workers are treated differently to the rest of Singaporean society (see Han 2020b).

6 Written response from Dormitory Association Singapore Limited (DASL), received 16 July 2021.

7 In November 2020, the authorities set up a multi-stakeholder taskforce to support migrant workers' mental health. Called Project DAWN, it comprises representatives from the MOM, government psychologists, the Institute of Mental Health, and two NGOs – the Migrant Workers' Centre (MWC) and HealthServe. The Project is focused on raising awareness and access to helplines, improving early detection of persons at-risk, and strengthening community support (Information provided by the MOM, 5 August 2021).

8 Information provided by the MOM, 5 August 2021.

the migrant workers in lockdown (Koh 2020). Any migrant worker needing treatment for COVID-19 received it for free (Singapore, Ministry of Foreign Affairs 2020). Starting in September 2020, the authorities also piloted new quick-build dormitories (QBDs) with living standards designed to improve the public health resilience of dormitories (discussed in section 5.2 below). An assessment published in November 2020 showed that the smallest dorms, housing fewer than 25 men, experienced the lowest infection rate seen in the dormitories (TWC2 2020e).

Once the lockdown at the dormitories was lifted in August 2020, CSOs reported that migrant workers were still restricted to their accommodation and only allowed to move between there and their place of work. They are also subjected to surveillance, required to download three apps on their phones through which the authorities can monitor their location and health, including for contact tracing (Han 2020c; Paulo and Grosse 2021). The MOM has clarified that workers were not being kept in indefinite quarantine, but that the dormitory clearance procedure – which involved testing, quarantine of close contacts and clearance cohort by cohort – resulted in a longer quarantine for some blocks or dormitories (ADB, OECD, and ILO 2021).

The Government has committed to undertaking a thorough review of their response when the pandemic is over (Mirpuri 2020).

Thailand

Thailand recorded only low numbers of COVID-19 infections through 2020 and did not see the same outbreaks in migrant worker housing as in Malaysia and Singapore. However, migrant workers in Thailand faced the same challenges in regard to adhering to physical distancing measures in overcrowded housing with poor sanitary facilities. The containment (partial lockdown) measures undertaken to achieve the low infection rate had various consequences for migrant workers. Those who lost their jobs often also lost their accommodation, either because it was tied to their employer or because they were unable to make rent. At the same time, many migrant workers were unable to return home following the closure of international borders in March 2020, leaving them stranded in Thailand, sometimes at border points and in many cases without access to housing (ILO 2020c).⁹ The border closures had particular consequences for some migrant fishing workers who were unable to return home (cross-border to Myanmar) on their short breaks between fishing trips, usually two to three days. Instead, they worked more days and longer hours and stayed on the boats, where physical distancing is impossible to practice in the crowded working and living conditions (Marschke et al. 2021). Construction workers were exempted from the partial lockdown and were expected to work even without adequate protective measures and equipment (Aziz and Basir 2020). Although Thailand is one of the few countries in the ASEAN to provide unemployment benefits to migrant workers, this is limited to so-called formal sector workers. Many migrant workers were excluded from accessing social security or financial assistance measures in the same way as nationals. Job losses and closures meant that they were not able to support rent and other payments during the pandemic. The Thai authorities' repeated extensions of temporary stays (visas) for registered migrant workers and their families avoided them moving into irregular status, where they would be at risk of detention and deportation; however, the entrenched informality of much labour in Thailand had major consequences for migrant workers during the public health emergency (ILO 2020c; Migrant Working Group 2021).

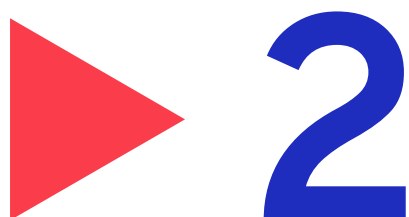

Samut Sakhon, a province near Bangkok, was put into lockdown in December 2020 following the identification of a cluster of COVID-19 cases associated with migrants working in the seafood market. The military confined migrant workers to the market area and nearby apartments (Kuhakan and Sriring 2020; Promchertchoo 2021). With cases increasing in early 2021, the Government adopted a policy known as “bubble and seal”. This was in place from 1 February to 10 March 2021, and allowed larger factories to provide transportation for their workers to commute between their accommodation and workplace with no stoppages and restricted movement (forming what has become known during the pandemic as a “bubble”), or required workers to stay in the accommodation provided by their workplaces or to live within the premises of their workplaces (“seal”). The seal policy also prevented movement and separated families, with workers having to live in the workplace away from their

9 After requesting that migrant workers delay their return to allow for the establishment of quarantine facilities, Myanmar subsequently imposed a 21-day quarantine in dedicated facilities (government schools and training centres across the country) followed by seven days home quarantine for all returnees. There was also considerable stigma associating COVID with returnees (ILO 2020b).

partners and children (Migrant Working Group 2021; for more on housing-related restrictions on freedom of movement see box 5 below). As the situation worsened, the Government ordered construction camps closed on 27 June 2021. Migrant workers have been locked in the unhygienic, unsafe conditions of the accommodations inside the construction camps. Migrant workers who test positive for COVID-19 are quarantined in the same congested construction camps.¹⁰ Migrant workers living in factory compounds reported that tested and untested people shared the space, creating tensions. Migrant workers sealed away like this received little support from their employers or the State, though many still faced costs for accommodation and food. Some migrant workers have faced a double rent burden: migrant workers at one seafood processing factory were ordered by their employers to quarantine at a designated place and were required to pay for this as well as their normal (private) accommodation (Migrant Working Group 2021).

While there have been years of advocacy by CSOs, migrant housing has received insufficient attention in migration policy and government action in the ASEAN region. As we have seen magnified during the pandemic, the lodgings for many migrant workers are not adequate, and this report is an exploratory study into migrant worker housing in Malaysia, Singapore and Thailand – including national laws and regulations that relate to migrant worker accommodation and relevant measures implemented in response to the COVID-19 pandemic. The report assesses these in the context of the existing literature and the international and regional standards related to adequate and decent housing. The report concludes with recommendations to increase access to decent housing for migrant workers, with pointers for ensuring minimum standards.

10 Information provided by the ILO.



International and regional standards on adequate housing

2.1. The right to adequate housing in international law

Access to adequate housing is recognized as a fundamental human right and as an element of the adequate standard of living. The right to adequate housing is understood as central to economic justice, recognized in the ILO's Declaration of Philadelphia (ILO 1944). It is recognized across international law (box 2) as well as in ASEAN regional standards (see section 2.2 below). It is central to the enjoyment of all economic, social and cultural rights, and strongly linked with other rights. Notably, housing is an underlying determinant of the right to health, and as such, States are required to ensure access to basic shelter, housing and sanitation, as well as an adequate supply of safe and potable water, without discrimination (UN CESCR 2000). States have committed to ensuring access to adequate, safe and affordable housing for all by 2030 (UN 2015).

The right to adequate and decent housing applies to all without discrimination, and is to be guaranteed to "everyone including non-nationals, such as refugees, asylum-seekers, stateless persons, migrant workers and victims of international trafficking, regardless of legal status and documentation" (UN CESCR 2009 para. 30; see also UN CESCR 1991; UN CESCR 2017a; UN CERD 2004; UN-Habitat 2016). As a right, adequate housing should be extended to all, irrespective of income or access to economic resources (UN CESCR 1991). For migrant workers, the right to adequate housing extends equally to those on temporary and seasonal contracts (ILO 2016). The right applies wherever the State exercises jurisdiction or effective control, including at sea on any fishing vessels flying the State's flag (see ILO Convention No. 188 and MLC, 2006).

► **Box 2. Main international standards addressing the right to adequate and decent housing****International human rights law**

- ▶ Universal Declaration of Human Rights (1948), Article 25.1;
- ▶ International Convention on the Elimination of All Forms of Racial Discrimination (1965), Article 5(e)(iii);
- ▶ International Covenant on Economic, Social and Cultural Rights (1966), Article 11.1;
- ▶ Convention on the Elimination of All Forms of Discrimination against Women (1979), Article 14.2(h);
- ▶ Convention on the Rights of the Child (1989), Article 27.3;
- ▶ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), Article 43;¹
- ▶ Convention on the Rights of Persons with Disabilities (2006), Articles 9.1(a) and 28.

International labour law

- ▶ Migration for Employment Convention (Revised), 1949 (No. 97), Article 6.1(a)(iii);²
- ▶ Plantations Convention, 1958 (No. 110), Articles 27.3 and 85–88;
- ▶ Workers' Housing Recommendation, 1961 (No. 115);
- ▶ Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117), Articles 5.2 and 11.7;
- ▶ Migrant Workers Recommendation, 1975 (No. 151), Articles 2(i), 13(2), 16, and 24(b);³
- ▶ Maritime Labour Convention, 2006, as amended (MLC, 2006), Title 3: Accommodation, Recreational Facilities, Food and Catering;
- ▶ Work in Fishing Convention, 2007 (No. 188), Articles 25–26 and 28;
- ▶ Work in Fishing Recommendation, 2007 (No. 199), Articles 16–34 and 47(l);
- ▶ Domestic Workers Convention, 2011 (No. 189), Articles 6 and 7(h);
- ▶ Domestic Workers Recommendation, 2011 (No. 201), Articles 5.2, 6.2(f), 14(c–d), and 17–18;
- ▶ Violence and Harassment Convention, 2019 (No. 190), Article 3.

Also:

- ▶ The 2030 Agenda for Sustainable Development (UN 2015), targets 1.4 and 11.1;
- ▶ The New Urban Agenda (UN-Habitat 2016);
- ▶ Global Compact for Safe, Orderly and Regular Migration (UN 2018), in particular in relation to Objective 15: “Provide access to basic services for migrants” (para. 31), and Objective 16: “Empower migrants and societies to realize full inclusion and social cohesion” (para. 32).

For a complete listing of relevant international and regional standards, see: <https://www.ohchr.org/EN/Issues/Housing/Pages/InternationalStandards.aspx>.

¹ Noting that this applies to migrant workers and members of their families who are documented or in a regular situation. The Convention also permits State parties to exclude temporary labour migrants from social housing (Articles 61 and 63).

² This provision applies to migrant workers in regular status.

³ This Recommendation applies to migrant workers in regular status.

Though some provisions need apply only to migrant workers who are in regular status, any differential treatment in allocating housing based on migration status must be reasonable and proportional and must not compromise the protection of the right to adequate housing for all and ensuring conditions consistent with human dignity (UN CERD 2004; UN 2018). The UN Special Rapporteur on the right to adequate housing has noted that efforts to ensure non-discrimination against migrants can require differential treatment or special measures in order to obtain substantive equal treatment with nationals, asserting that “the high degree of vulnerability that migrants experience as a mere consequence of their status requires the adoption of special measures to counter the cumulative negative effect of systemic marginalization and discrimination” (UN General Assembly 2010, para. 11).¹¹ For migrant workers there are also some specific considerations relating to employer-provided accommodation (box 3).



11 In the human rights system, the full title of the Special Rapporteur mandate – the independent expert appointed to report to the UN Human Rights Council on this issue – makes plain the interrelation of the principle of non-discrimination and the right to adequate housing: Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context.

At a minimum, States must show that they are making every possible effort, using the maximum available resources available within the State – or through international cooperation and assistance – to better protect and promote the right to adequate housing for all. This is regardless of external pressures, such as public health crises or economic downturns (International Covenant on Economic, Social and Cultural Rights; UN CESCR 1991; ILO Recommendation No. 115). Moreover, the right to adequate housing is not subject to derogation in times of emergency, including exceptional circumstances such as the COVID-19 pandemic (International Covenant on Economic, Social and Cultural Rights; UN General Assembly 2020).¹²

► Box 3. Employer-provided housing

As the international labour standards make clear, some (migrant) worker housing – specifically housing provided or organized by employers – effectively constitutes part of the workplace and therefore falls within the reach of labour law, as it is a location linked with or arising out of work (see, for example, ILO Convention No. 161, Art. 5(b); ILO Convention No. 190, Art. 3). This is also true for the commute to and from work: international labour law considers this as part of the world of work, with States having a duty to protect workers from violence and harassment when commuting (ILO Convention No. 190).

Notably, the international standard on worker housing states that it is generally “not desirable” for employers to provide housing for their workers directly. ILO Recommendation No. 115 (General Principles, Para. 12(2)) provides two exceptions: where the work site is located far from population areas, and where the nature of the work requires that the worker should be available at short notice, and affirms that the workers’ human rights should be protected in such situations. This latter condition would cover many migrant domestic and care workers, for example, who are required by their employers (or national law) to be live-in workers. However, this requirement for the migrant worker to be available at short notice should be implemented in conjunction with other legal standards, such as those recognizing time on call as constituting work time for which the individual should be paid (in line with national laws, regulations, collective agreements or other practices), and that they are entitled to decent living conditions that respect their privacy (ILO Convention No. 189).

This section sets out the international standards on the right to adequate housing, against which domestic laws and policies – and migrants’ experiences of them – can be assessed. Table 1 presents the international standards most relevant to migrant workers’ rights to adequate housing, and the ratification status of each Convention by the three study States as well as by other selected destinations in Asia and the Pacific, as a point of comparison. However, of the three ASEAN countries of destination that are the focus of this report, only Thailand has ratified (and, therefore, is obligated under) the International Covenant on Economic, Social and Cultural Rights, which forms the basis of the most comprehensive interpretation of the right to adequate housing,¹³ or any of the most relevant international labour standards. Nonetheless, as sources of international law, these treaties reflect international consensus, and as such, provide useful guidance on reasonable expectations of minimum good practice. Moreover, as Member States of the ILO, Malaysia, Singapore and Thailand have committed to upholding the fundamental principles and rights at work (ILO 1998) and have endorsed the principles and rights set out in the Declaration of Philadelphia (ILO 1944), which recognizes the right to adequate housing in its Article III(i). All three States have also affirmed their commitment to this right at the regional level (see section 2.2. below).

12 In addition to concerns about their housing, migrant workers are concentrated in sectors with high levels of temporary, informal or unprotected work, characterized by low wages and lack of social protection, putting them in a vulnerable situation during the pandemic (ILO 2020g). The ILO Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), emphasizes that the respect, promotion and realization of the fundamental principles and rights at work, other human rights and other relevant international labour standards should be part of responding to and mitigating the effects of the public health crisis (Paras. 7(b) and 43).

13 In particular through the authoritative guidance of the United Nations Committee on Economic, Social and Cultural Rights (UN CESCR). See also the work of the independent expert appointed by the United Nations Human Rights Council, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context.

► **Table 1. Ratification of international standards most relevant to migrant workers’ right to adequate housing, by country of destination**

Convention	Focus countries for this study			Other selected destinations in Asia and the Pacific		
	Malaysia	Singapore	Thailand	Australia	Japan	New Zealand
International human rights law						
International Convention on the Elimination of All Forms of Racial Discrimination (1965)	✗	2017	2003	1975	1995	1972
International Covenant on Economic, Social and Cultural Rights (1966)	✗	✗	1999	1975	1979	1978
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990)	✗	✗	✗	✗	✗	✗
International labour law						
Migration for Employment Convention (Revised), 1949 (No. 97)	1964 ¹	✗	✗	✗	✗	1951 ²
Plantations Convention, 1958 (No. 110)	✗	✗	✗	✗	✗	✗
Maritime Labour Convention, 2006	2013	2011	2016	2011	2013	2016
Work in Fishing Convention, 2007 (No. 188)	✗	✗	2019	✗	✗	✗
Domestic Workers Convention, 2011 (No. 201)	✗	✗	✗	✗	✗	✗
Violence and Harassment Convention, 2019 (No. 190)	✗	✗	✗	✗	✗	✗

✗ = Has not ratified. ¹ Malaysia-Sabah ratified in 1964, excluding the provisions of Annexes I to III. ² New Zealand as excluded the provisions of Annex I. Note: For more detailed ratification information, see: <https://indicators.ohchr.org> and <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:1:0::NO:::>

2.1.1. Criteria for rights-based housing

International labour law calls for all workers and their families to enjoy “adequate and decent housing accommodation and a suitable living environment” (ILO Recommendation No. 115, General Principles, Para. 2). The human rights framework has established that the right to adequate housing is to be interpreted broadly. The right encompasses more than just shelter or the structure in which people reside; rather it is “the right to live somewhere in security, peace and dignity” (UN CESCR 1991, para. 7). The World Health Organization (WHO) understands healthy housing as supporting a state of complete physical, mental and social well-being (WHO 2018). States should be working to realize the right to adequate housing for every individual, without discrimination, in the shortest possible time in accordance with the maximum of available resources (UN CESCR 1991).

The UN Committee on Economic, Social and Cultural Rights (UN CESCR) has elaborated that for housing to be considered adequate, it needs to meet seven criteria, at a minimum. These criteria address: (i) legal security of tenure; (ii) availability of services, materials, facilities and infrastructure; (iii) affordability; (iv) habitability; (v) accessibility; (vi) location; and (vii) cultural adequacy (UN CESCR 1991). These criteria overlap substantially with the general principles and suggested methods of application of the ILO Workers’ Housing Recommendation,

1961 (No. 115). The criteria are also interconnected: for example, housing affordability is linked to its habitability and probably with location, which is connected with the availability of services and facilities, etc.

Further guidance can be found in the work of the Special Rapporteur on the right to adequate housing – an independent expert appointed to monitor implementation of the right to adequate housing and report to the UN Human Rights Council – including in a set of guidelines of the key elements needed for the effective implementation of the right to housing as it has been elaborated under international human rights law (UN Human Rights Council 2020).¹⁴ The right to adequate housing is also applied in humanitarian contexts, taking into account planning, location and settlement planning; living space; household items; technical assistance; security of tenure; and environmental sustainability (Sphere Association 2018). The WHO (2018) have produced evidence-based recommendations for healthy housing conditions and interventions. As such, the concept of adequate and decent housing as used in this report is understood as comprising these criteria and in relation to other human and labour rights.

2.1.1.1. Legal security of tenure

Migrant workers in urban and rural settings should possess a degree of tenure security guaranteeing legal protection against forced eviction, harassment and other threats. This security of tenure should be legal or protected by law (UN Human Rights Council 2012a). Though States are permitted to progressively realize the right to adequate housing, security of tenure is one measure that should be taken immediately (UN CESCR 1991; ILO Recommendation No. 115). Tenure security is also an element of the 2030 Agenda for Sustainable Development: target 1.4 aims to ensure that everyone has equal rights to economic resources as well as ownership and control over land and other forms of property, measured by the proportion of adult population with secure tenure rights to land whether through documentation or who perceive their tenure rights as secure (UN 2015; UN General Assembly 2017). There are often gender discriminatory barriers to tenure security for women (UN Human Rights Council 2011; 2019).

Security of tenure is not solely about formal title or contractual rights to housing (or land). It should be understood broadly as “a set of relationships with respect to housing and land, established through statutory or customary law or informal or hybrid arrangements, that enables one to live in one’s home in security, peace and dignity” (UN Human Rights Council 2013, para. 5). Therefore, the sometimes-informal arrangements of migrant worker accommodation can still afford some tenure security.

For migrant workers, security of tenure is often precarious where they are dependent on their employer for both work and housing. In such situations, a migrant worker’s lease or occupancy needs to be in line with their contract (ILO Recommendation No. 115); however, they and their families are also entitled to a reasonable period of time to vacate their housing on termination of employment or if they become too ill to work. Migrant workers who have to leave their accommodation following termination should also receive fair compensation for any crops they are growing with permission on land belonging to the employer (ILO Convention No. 110, and ILO Recommendations Nos 115 and 201).

Forced evictions – that is, evictions without appropriate legal or other protection – are a prima facie violation of the right to adequate housing (UN CESCR 1997).¹⁵ They are often violent and may result in violations of a number of other rights, such as the right to life, the right to security of the person, and the right to non-interference with privacy, family and home. For migrant workers, forced evictions may be followed by deportations. Protection against forced eviction does not prohibit all evictions, but obligates the authorities and actors carrying them out to protect the human rights of affected individuals. This includes ensuring that all legal recourses and remedies are available to the affected individual(s), including exploration of feasible alternatives and provision of adequate compensation. Undocumented migrant workers are at particular risk of eviction, as their migration status prevents them from seeking judicial remedy (UN CESCR 1997; UN General Assembly 2010; 2020; UN Human Rights Council 2010).

14 The work of the Special Rapporteur can be found at: <https://www.ohchr.org/en/issues/housing/pages/housingindex.aspx>.

15 Forced evictions are defined as the “permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection” (UN CESCR 1997, para. 3).

- During the COVID-19 pandemic the UN called on States to ensure security of tenure, including a moratorium on all evictions of anyone, anywhere, for any reason, until the end of the pandemic and for a reasonable period of time afterwards (OHCHR 2020a; 2020b; 2020d; 2020e). Forced evictions during a pandemic may also constitute grave violations of humanitarian law (UN General Assembly 2020).

2.1.1.2. Availability of services, materials, facilities and infrastructure

The right to adequate housing is part of the right to an adequate standard of living and is interrelated with the other components of this right. Thus, for housing to be adequate, migrants require access to: adequate food and to means of food storage; safe drinking water; clothing; energy for cooking, heating and lighting; sanitation and washing facilities; refuse disposal; medical care and necessary social and emergency services; schools; and the right to social security, as well as recreation areas, including open spaces. This is especially important in areas where these services and facilities are not otherwise available in the community (Universal Declaration of Human Rights, 1948¹⁶; UN CESCR 1991; ILO Conventions Nos. 115 and 188; ILO Recommendation 199; and MLC, 2006).¹⁷

- COVID-19 has plainly demonstrated that services and facilities – including a reliable electricity supply, safe running water and reliable internet access – are criteria of the right to adequate housing that are essential to survival (UN General Assembly 2020). The UN has advised that measures taken during the COVID-19 pandemic to reduce infection rates, such as lockdowns, should not affect essential services. This includes prohibiting the cutting off of water and electricity services to tenants or residents unable to pay their bills and allowing the distribution and reselling of food and other goods and services, including where these rely on the local informal economy (OHCHR 2020e).

2.1.1.3. Affordability

Housing is not adequate if its cost leaves individuals struggling to meet their other basic needs or puts any of their other rights at risk. Therefore, adequate housing should be provided at reasonable cost and guaranteed to all migrant workers, irrespective of their income or access to economic resources, allowing them to live in dignity. Employers should not provide accommodation to migrants in payment for work or should do so only under regulations that protect the interests of the workers (ILO Recommendation No. 115).

Low-income households often face spending a higher proportion of their income on housing. Migrant workers leasing housing should be protected from unreasonable rents and from rents that include a speculative profit. They should also see the percentage of their income taken up by rent progressively diminish. Migrant workers who cannot afford adequate accommodation due to low pay or onerous family responsibilities should have access to special financial assistance (ILO Recommendation No. 115; UN CESCR 1991). Generally speaking, accommodation is considered affordable if housing and related expenses (such as service payments) cost no more than 30 per cent of monthly household income (UN-Habitat 2019). The recommended maximum ratio for affordable rented housing is when the rent-to-monthly household income ratio is 25 per cent or less (UN Statistics 2020, footnote 13).

- With work curtailed or shut down as a result of the COVID-19 pandemic, many migrant workers – and their employers – have struggled to meet rental or utility payments. Recommendations by the Special Rapporteur on the right to adequate housing to protect renters and mortgage payers during this time include that, for the duration of the pandemic and a reasonable period thereafter, States should cap the rent obligation of tenants who pay rent to 30 per cent of their monthly net income. Similarly, to ensure that employers who are providing housing to migrant workers are able to continue to do so during and after the pandemic, they may benefit from receiving subsidies, perhaps as part of a larger stimulus package or compensation scheme that, for example, cover or offset the difference between any pandemic rental cap rates and the rental rates that were in place prior to the pandemic (OHCHR 2020d).

16 Article 25.1; see the discussion in OHCHR 2014, 61.

17 For migrants working as fishers, food and water should be provided by the fishing vessel owner at no cost to the worker (unless otherwise agreed in their work agreement or collective agreement governing a share system), as per ILO Convention No. 188, Art. 27(c).

2.1.1.4. Habitability

Migrant worker housing must be habitable. This is assessed in terms of the durability of the construction and materials used, and the protection afforded to migrants, both in regard to their physical safety and from the elements (for example, from cold, damp, heat, rain, wind or other threats to health and structural hazards). It also includes fire safety measures. To be habitable, housing should also provide access to safe drinking water; adequate water, sanitation and hygiene (WASH) facilities; and food preparation and storage. These criteria also address the amount of space available per individual or family, and the need to provide reasonable levels of decency and comfort (UN CESCR 1991; Sphere Association 2018; and ILO Conventions Nos 110 and 188; MLC, 2006; and ILO Recommendations Nos 115 and 199).

Workers' housing and associated facilities should be of durable construction, and there should be no reduction in standards for workers' housing and related facilities in order to lower building costs. There is a dispensation in the international standard in relation to housing and associated facilities for temporary deployments (ILO Recommendation No. 115); however, allowing substandard accommodation for migrants, or for specific categories of migrant workers, entails differential treatment that could be considered discriminatory (UN General Assembly 2010).

For workers migrating alone, the minimum standard is shared accommodation, such as dormitories, with gender-segregated accommodation that provides a separate bed for each worker (ILO Recommendation No. 115; see also section 2.1.2.2 below on requirements for migrant workers accompanied by family members).

Crucially, habitability also relates to hygiene and protection from disease vectors (UN CESCR 1991, para. 8(d)). As the COVID-19 pandemic has exposed to wider scrutiny, this element of inadequate housing is frequently associated with higher rates of infection and mortality. Adequate space per person and quality washing, sanitary and hygiene facilities are essential to enable individuals to adhere to physical distancing and hygiene guidelines.

- The habitability of migrant worker housing has been crucial during the COVID-19 pandemic, as poor quality housing and living conditions increase the risk of infection and the spread of the virus. Like everyone the world over, migrant workers were suddenly restricted for weeks or longer to accommodation that they had mostly used previously as a place to sleep. Rights-based and public health approaches required measures to reduce occupation density, including through the implementation of extraordinary measures using available temporary housing such as short-term rentals (OHCHR 2020f). This allows migrant workers to self-isolate and quarantine as necessary, and in reducing congestion, also helps reduce transmission risk and improve quality of life for those who are restricted to their accommodation.

2.1.1.5. Accessibility

Housing is not adequate if it is not accessible to those who need it – meaning that any requirements that deliberately limit migrant workers' access to decent accommodation infringe upon this right. For example, where States criminalize housing providers who rent to or accommodate migrant workers in irregular status this has a detrimental effect on their access to housing, making it more likely that they will have to live in substandard conditions. Disadvantaged or marginalized groups, such as migrant workers, should be included in housing law and policy and assured some priority and sustainable access to adequate housing resources. In addition, any cooperation between housing providers and immigration authorities should not exacerbate the vulnerabilities of migrants in irregular status (UN CESCR 1991; UN General Assembly 2010; UN 2018).

- Some States issued extensions on migrant worker documentation and suspended renewal and registration requirements to ensure that migrant workers remained in regular status while borders and government offices were closed due to the pandemic. However, there were also concerns about the arrest and detention of migrant workers in irregular status during the COVID19 pandemic.

2.1.1.6. Location

The right to adequate housing encompasses the area in which the accommodation is located (Sphere Association 2018). Migrant workers should enjoy the right to choose their residence and to determine where to live (OHCHR and UN-Habitat 2009). They should be able to live within easy access to community services and facilities, whether in urban or rural areas, and within an affordable distance and reasonable and safe journey time from their place of work. Regulations and decisions determining worker housing location must not be discriminatory; for example,

in situations where the labour force is stratified on the basis of nationality, zoning designations could effectively relegate low-status migrant workers to remote or industrial areas, in breach of the International Convention on the Elimination of All Forms of Racial Discrimination. The location of migrant housing also needs to be safe: it is not adequate if it is on environmentally hazardous or unhealthy sites such as on polluted land, close to sources of pollution/sewage, or areas prone to flooding (UN CESCR 1991; 2017; UN CERD 2004; ILO Recommendation No. 115; Sphere Association 2018).

Migrant housing in some contexts is geographically segregated from the local community. This may be due to land/accommodation availability and costs, but such segregation also results from and fuels discrimination and xenophobia against migrants. This breaches their right to adequate housing both in itself and because it often results in migrant workers living in poor conditions, with insufficient infrastructure and access to services (UN General Assembly 2010).

- Migrant workers living in remote areas were particularly affected by travel restrictions when it came to accessing community services and facilities during the pandemic.

2.1.1.7. Cultural adequacy

Adequate housing requires that individuals can express their cultural identity (UN CESCR 1991, para. 8(g)). For example, there may need to be structural requirements so as to accommodate specific cooking practices or appropriately located space for religious or cultural practices (Cittadini 2014).

The cultural adequacy requirement recognizes that what constitutes adequate housing varies between and within countries due to differences in social and cultural factors (as well as economic and environmental factors), and also has to consider gender, age, disability and other specificities (UN-Habitat 1996). This inclusion of cultural practices is important in efforts to leave no one behind (UN-Habitat 2016).

- Restrictions imposed during the COVID-19 pandemic, for example on movement within the accommodation or on food provision, may further limit the cultural adequacy of the housing (see, for example, Lim 2020).

2.1.2. Additional requirements

2.1.2.1. Continuous improvement in living conditions

The provision of adequate housing is not a one-off investment. Everyone should see a continuous improvement in their living conditions – this is part of the legal definition of the adequate standard of living, of which housing is a part (International Covenant on Economic, Social and Cultural Rights, Article 11.1). This is still required during times of economic downturn or other externally caused problem, such as a public health pandemic. It requires the upkeep, improvement and modernization of housing and related community facilities (UN CESCR 1991; ILO Recommendation No. 115). Indeed, international labour law holds that the improvement of standards of living (including housing) should be regarded as the principal objective in the planning of economic development (ILO Convention No. 117, Article 2).

2.1.2.2. The families of migrant workers

The international labour standards explicitly extend the right to adequate and decent housing to the family members of migrant workers. For example, the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117), states that for migrant workers, “Where the circumstances under which workers are employed involve their living away from their homes, the terms and conditions of their employment shall take account of their normal family needs” (Article 6). The international labour standard on worker housing – ILO Recommendation No. 115 – sets out general principles and advice on implementation with the objective of ensuring adequate and decent housing accommodation for all workers and their families. Recommendation No. 115 also calls for families to have their own separate, self-contained accommodation if they want it. International human rights law calls on States to ensure the protection of the unity of the families of migrant workers (see, for example, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Article 44).¹⁸

¹⁸ However, the Convention limits this obligation to migrants in regular status and defines family quite narrowly (Article 4) compared to other human rights texts that recognize and affirm that various forms of family exist.

2.1.2.3. Privacy

In addition to the families of migrant workers having their own separate accommodation (see above), migrant worker housing should afford privacy to household members, both from external disturbances and between individuals within the household (ILO Recommendation No. 115). Shared accommodation for migrant workers travelling without family members is permitted by the international standards as long as it ensures reasonable levels of decency, is gender-segregated and each worker has their own bed (ILO Recommendation No. 115).

2.1.2.4. Participation and social dialogue

Adequate housing is interrelated with other human rights, including the right to freedom of association (such as for tenants); the right to participate in public decision-making; and the right to be free from arbitrary interference with their home, privacy and family (International Covenant on Civil and Political Rights, 1966; UN CESCR 1991; ILO Recommendation No. 115). This engagement should extend to coordinating the creation and implementation of housing policy at the national level (see below), with this coordination being handled by a tripartite body (ILO Recommendation No. 115).

2.1.2.5. National housing strategy

States are required to take whatever steps are necessary to achieve the full realization of the right to adequate housing — including ensuring decent accommodation and a suitable living environment for all migrants. Given the complexity of the housing issue and its governance, States should adopt a rights-based national housing strategy that includes the provision of decent accommodation and a suitable living environment to all migrant workers and their families. States should establish the minimum standards and specifications of these accommodations and ensure non-discrimination by public and private actors. These standards and specifications should be informed by research into the housing needs of migrant workers and their families, and should be developed in genuine consultation with and participation by migrant workers, as well as with employers and the trade unions and CSOs that work with migrant workers. The programmes, strategies and plans of action that follow from this consultation should be under the responsibility of a coordinating body comprised of representatives from all public authority bodies that have a remit related to housing, those responsible for migrant workers and migration governance more generally, as well as representative employers' and workers' organizations. This body should also ensure coordination and coherence between related policy areas and across regional and local authorities (UN CESCR 1991; UN General Assembly 2010; Sphere Association 2018; ILO Convention No. 110; and ILO Recommendation No. 115).

Public authorities should ensure that all private and public resources that can be made available for national housing programmes are coordinated and utilized for the construction, maintenance and improvement of workers' housing and related community facilities, with States requesting international cooperation if this is beyond the maximum resources available to the State (CESCR 1961; ILO Recommendation No. 115).

2.1.2.6. Accountability

Where accommodation is provided to migrant workers as part of their job – that is, provided or arranged by the employer – the details of the housing and sharing arrangements should be provided in a written contract in a language and format that the migrant worker can understand (ILO Convention No. 189 and Recommendation No. 201). This ensures transparency about the type of the accommodation and how costs are covered (for example, by the employer, or by the migrant worker through payments or salary deduction). It also enables the migrant worker to complain if the accommodation provided differs significantly from that which is described in the contract.

States have an immediate obligation to effectively monitor housing situations of migrant workers, and this obligation should encompass effective systems of inspection and enforcement. It is important that migrant workers have access to complaint and grievance mechanisms that protect them from any retaliation or – for migrants in an irregular situation – from immigration enforcement. States need to adopt appropriate mechanisms to prosecute and sanction any actor responsible for unfair or degrading treatment against migrants regarding their accommodation and provide effective remedy (UN CESCR 1991; UN General Assembly 2010; OHCHR and Global Migration Group 2018).

2.1.3. The role and accountability of the private sector

Many migrant workers have their accommodation provided or arranged by their employers, including through contracting a separate company, such as dormitory operators.

Where migrant workers live in employer-provided housing, this is recognized as part of the world of work, and therefore engages in the range of rights at work (for example, ILO Convention No. 190¹⁹). Employers should respect the fundamental rights at work in these spaces, in particular freedom of association. This should include allowing trade union/worker association representatives access to migrant workers in the accommodation (ILO Recommendation No. 115).

International human rights and labour law are primarily the responsibility of the State, and governments cannot evade their obligations by consigning responsibility for (migrant) housing to private actors. In situations where the State is not the housing provider, they are still required to ensure that migrant workers receive fair treatment. The UN Guiding Principles on Business and Human Rights establish that States are obligated to protect against human rights abuses by business enterprises within their territory and/or jurisdiction (UN 2011). For example, States should “enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights” (Guiding Principle 3). This includes guaranteeing that the private actors providing or managing housing for migrant workers act in accordance with the principle of non-discrimination, and that the housing and related services are available, accessible, habitable and affordable for the migrant (UN General Assembly 2010). Furthermore, housing differs from most other business activities in being a social good as well as a human right (UN Human Rights Council 2019).

Employers have an independent responsibility to understand and address how their business affects human rights, including the right to adequate housing. The UN Guiding Principles on Business and Human Rights set out as a minimum responsibility of businesses that they should respect human rights, including of workers. This is more than just complying with national laws and regulations. It means avoiding causing or contributing to adverse human rights impacts through business activities and addressing such impacts when they occur, and also by seeking to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts (UN 2011, guideline 13). These responsibilities clearly apply in the context of accommodation. Business entities involved in migrant worker housing, whether they are the employer or only responsible for providing housing, are required to exercise specific human rights due diligence as part of a rights-based approach to migrant housing. This entails being aware of and taking steps to prevent and mitigate any adverse human rights consequences of the company’s activities, and providing complaints mechanisms and effective remedies for victims of human rights abuses.

2.2. Regional law and standards: The right to adequate housing in ASEAN

A guiding principle of the ASEAN Charter (2007) is respecting the promotion and protection of human rights and the promotion of social justice (Article 2.2(i)). Though not referencing any human rights specifically, the Charter also promotes the enhancement of the well-being and livelihood of the peoples of ASEAN by providing equitable access to opportunities for human development and social welfare (Article 1.11).

In the ASEAN Human Rights Declaration (2012) Member States affirm all the economic, social and cultural rights in the Universal Declaration of Human Rights (1948), which includes the right to adequate housing (Article 25.1). The ASEAN Human Rights Declaration explicitly protects the right to adequate and affordable housing for every person and their family (Article 28(c)), and also, in line with international human rights law, affirms that the lack of development may not be invoked to justify the violations of internationally recognized human rights (article 35). This is similar to the provision in the International Covenant for Economic, Social and Cultural Rights (1966) that everyone should enjoy a continuous improvement in their living conditions (Article 11.1). ASEAN States

19 Specifically, Article 3(e). More broadly, the Special Rapporteur on the right to adequate housing notes that with the home increasingly being a workplace for many during the lockdown, “protecting the right to work is intimately connected with protecting the right to housing” (UN General Assembly 2020, para. 20).

during the adoption of the Declaration acknowledged that the ASEAN Intergovernmental Commission on Human Rights has a role in ensuring “progressive social development and justice, the full realization of human dignity and the attainment of a higher quality of life for ASEAN peoples”.²⁰

The ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (“Cebu Declaration”) reaffirms ASEAN’s people-centred aims. It also references in its preamble the Universal Declaration of Human Rights (1948) and two of the core international human rights law standards, the Convention on the Elimination of All Forms of Discrimination against Women (1979) and the Convention on the Rights of the Child (1989). All three treaties affirm the right to adequate housing (in Articles 25.1, 14(h) and 27.3, respectively). The Cebu Declaration in its Article 8 calls on ASEAN Member States to promote “adequate access to decent working and living conditions for migrant workers”. Realizing this is part of realizing one of the Cebu Declaration’s general principles: to promote “the full potential and dignity of migrant workers” (Article 1, see also Articles 3, 5, 15) and the commitment to “enhancing the quality of life and well being of its people” (preamble). The obligations on countries of origin include regulating recruitment agencies and employers, work that should also encompass housing when it is provided by the employer (Article 14). However, implementation plans to date have not given attention to the situation of migrant worker housing.²¹

Similarly, the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers (2017) affirms that migrant workers – limited here to those in regular status (Article 1.2) – have the right to “adequate or reasonable accommodation” (Article 16) and that the destination State is required to ensure that this is provided (Article 39). Both articles are further qualified with reference to the national laws, regulations and policies of the country of destination. The ASEAN Consensus also recognizes the right of migrant workers to access information on “employment-related conditions” (Article 13), which would include accommodation when that is provided by the employer. Under the Consensus, ASEAN countries of destination are obligated to treat migrant workers fairly, protect their human rights, promote their welfare and uphold their dignity (Article 30). Although not written in relation to their accommodation, decent migrant worker housing is central to realizing these commitments. Under the ASEAN Consensus, the country of destination is also obligated to provide conditions under which migrant workers can integrate with local communities (Article 35), which is precluded by the use of segregated housing areas for migrant workers (see discussion on the location criterion of the right to adequate housing in section 2.1.1.6 above).

The ASEAN Declaration on the Rights of Children in the Context of Migration (2019) does not explicitly address the housing situations of migrant children, but in its Article 1 does affirm States’ commitments under the UN Convention on the Rights of the Child (1989), to which all ASEAN States are party and which recognizes the child’s right to adequate housing as part of the right of every child to a standard of living adequate for their physical, mental, spiritual, moral and social development (Article 27).

The ASEAN Forum on Migrant Labour (AFML), an annual regional tripartite platform to discuss issues faced by migrant workers from and within ASEAN, is a forum to develop recommendations to advance the implementation of the principles of the Cebu Declaration.²² However, until the pandemic, the AFML’s recommendations have rarely addressed housing or living conditions (table 2).

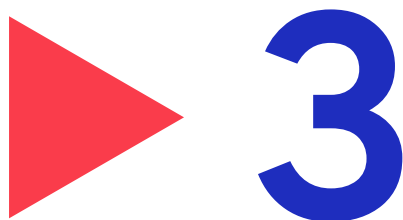
20 The Phnom Penh Statement on the Adoption of the ASEAN Human Rights Declaration (2012), preamble.

21 See for example, ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, “[Work Plan 2016–2020](#)”, 2016.

22 For more information, see ILO, “[ASEAN Forum on Migrant Labour](#)”.

► Table 2. ASEAN Forum on Migrant Labour (AFML) recommendations relating to accommodation

AFML (Year)	Recommendation	
4th (2011)	1(a)	Deliver comprehensive pre-departure education in sending countries, not only about culture and social norms, but also working and living conditions , reality of migration including financial implication, laws and procedures, rights of migrant workers, among others.
7th (2014)	1-12	Set of 12 recommendations under heading of “Promotion of fair and appropriate employment protection, payment of wages, and adequate access to decent working and living conditions for migrant workers”, though none directly address housing/living conditions.
8th (2015)	4	Strengthen occupational safety and health (OSH) policy implementation through awareness-raising on OSH among stakeholders, including governments, employers and workers, and clear actions taken for non-compliance by employers including on the provision of OSH training and measures to minimize OSH risks, statutory working hours, working environment and employment conditions and, where applicable, accommodation for migrant workers.
13th (2020)	2	Improve safety and health standards at the workplace and employer-provided housing for migrant workers including hygiene, sanitation living conditions, and Personal Protective Equipment (PPE) as preventive measures to reduce migrant workers' exposure to the COVID-19 infection. In this regard, minimum standards for decent living conditions of live-in domestic workers that respect their safety and privacy should be ensured.
14th (2021)	3	Enable and enforce effective social distancing during recruitment, deployment, repatriation, at work, in housing , and during transportation for all workers by allocating more resources and effective planning in the work cycles across all sectors and industries, where possible. Industries must ensure all workers have access to appropriate Personal Protection Equipment (PPE) without cost according to work environment. Workers shall strive to adhere to and comply with all standard operating procedures (SOPs) as implemented by the authorities and agreed policies implemented by the employers at the workplace, transportation and accommodation .
	4	Strengthen minimum safety and health standards for workplaces and housing , where necessary, for migrant workers with sufficient spaces for social distancing and access to medicine and food, in alignment with international and regional standards. Take measures for effective implementation of such standards, including through supporting labour inspectors and training for employers and migrant workers.



National laws and policies for migrant housing

The range and complexity of the issues that make up adequate housing demonstrate the need for a whole-of-government response, which for migrant workers also needs to encompass immigration authorities. Such a response framework would encompass multiple government departments and responsibilities, and would operate at the national, provincial/state and local/municipal levels. This section outlines the main elements of the national frameworks on migrant housing in Malaysia, Singapore and Thailand and the measures taken in response to the COVID-19 pandemic.²³

3.1. Malaysia

At the federal level, spatial planning and current and future housing requirements are planned through the National Physical Plan, which coordinates and rationalizes various sectoral policies, including the National Housing Policy, and is guided by Malaysia's five-year development plans. The 11th Malaysian Plan (2016–2020) had as one focus area "Providing adequate and quality affordable housing to poor, low- and middle-income households", which comprised three strategies:

1. increasing access to affordable housing for targeted groups;
2. strengthening planning and implementation for better management of public housing; and
3. encouraging environment-friendly facilities for enhanced liveability.

²³ As of the end October 2021.

However, the Plan did not address migrant worker housing specifically.²⁴ At the state and local levels, housing development is guided by various housing policies and guidelines formulated by the State Authority and local planning authorities (Malaysia, Ministry of Urban Wellbeing, Housing and Local Government, Federal Department of Town and Country Planning Ministry of Urban Wellbeing, Housing and Local Government 2016).²⁵

Malaysia has had legislation on minimum standards for accommodation for workers and their families, including migrant workers, for over 50 years. However, in the versions introduced in 1966 and amended in 1990, the Workers' Minimum Standards of Housing and Amenities Act (Act 446) applied only to workers (and their families) in the mining sector and on plantations or agricultural estates larger than 20 acres, and only required basic necessities and accommodation. As such, even though it was enacted in response to the ILO Workers' Housing Recommendation, 1961 (No. 115), it did not protect migrant workers on smaller estates, in other labour sectors, or in urban environments. The Act's provisions included the following elements concerning affordability, availability of services, and accountability:

- ▶ that workers were not required to make any payment for rent or be charged in respect of any housing (including sanitation, nursery, community and recreational facilities) (article 13);
- ▶ "free and adequate" running water, adequate electricity in buildings that are "kept in a good state of repair" (article 6);
- ▶ health, hospital, medical and social amenities (part III); and
- ▶ weekly inspections of the housing conditions and facilities by the employer (article 23).

The 1990 Act did not meet the habitability criteria for adequate housing, as it provided no cap on occupancy (the number of workers permitted to share a room) and did not require employers to supply bedding and other core necessities that represent a cost to migrant workers if they are not provided (ILO 2018b).

Revisions made to Act 446 in 2019 sought to improve workers' housing standards and expanded the Act's reach to all labour sectors that provide housing or accommodation to workers, either by the employer or through centralized accommodation providers – that is, it applies to both dormitory and non-dormitory accommodation.

Some of the main obligations in the amended Act are those relating to accessibility, habitability and accountability:

- ▶ Employers/centralized accommodation providers are required to obtain a Certificate for Accommodations to house workers on the premises. Failure to obtain this from the Labour Department would result, on conviction, in a fine of up to 50,000 ringgit (approximately US\$12,085) for employers or the same fine and/or a prison term of up to one year for centralized accommodation providers (section 24D).
- ▶ Employers are required to inform the Labour Department within 30 days of the accommodation of each worker. Failure to do so would result in a fine of up to 10,000 ringgit (approximately US\$2,417) on conviction (section 24E).
- ▶ Requirements around various good practice and health and safety measures were added to the Act, including around fire safety measures, preventive measures to contain the spread of infectious diseases, and the provision of separate accommodation to workers of different genders (section 24j).

Employers or centralized accommodation providers were also obligated to comply with guidelines on minimum standards for worker accommodation (issued in 2018 by the Department of Labour for Peninsular Malaysia) and to ensure decent and adequate amenities (sections 24F and I) – addressing elements of the adequate housing criteria around habitability and availability of services, materials, facilities and infrastructure.

These amendments applied to all employers and centralized accommodation providers who supply accommodations to employees in Peninsular Malaysia and Federal Territory of Labuan. They were announced in September 2019 and due to come into force in June 2020, though this was pushed back to September 2020, granting employers a further three months to make the necessary adaptations, and were fully enforced as of 26 November 2020 (Thomas 2020a; Khor Gee-Weon 2021). The amended regulations of Act 446 were published at the end of August

24 The 12th Malaysian Plan (2021–2025) was in development during the period of this research, having been delayed in 2020 due to the COVID-19 pandemic. For more information see: "Tok Pa: Deferment of 12th Malaysia Plan Tabling Allowed for Further Refinement", *Bernama*, 12 March 2021; and Afiq Aziz, "Mustapa: Careful Consideration on State Govt's Request for 12MP", in *The Malaysian Reserve*, 6 April 2021.

25 Malaysia's report to the 3rd United Nations Conference on Housing and Sustainable Urban Development (Habitat III) makes no mention of migrant workers.

2020, and some employers' groups asked for more time – one to three years – to make the mandated changes (Augustin 2020; Basyir 2020; Mahpar 2021a; FMM 2020). The Malaysian Trades Union Congress (MTUC) called for the amended regulations to be swiftly enforced, noting that there had been no significant improvements during the delay in enforcing the new law (*Free Malaysia Today* 2020).

The four-part Employees' Minimum Standards of Housing, Accommodations and Amenities (Employees Required to be Provided with Accommodations) Regulations 2020, comprise:

- Employees' Minimum Standards of Housing, Accommodations and Amenities (Processing Fees for Application of Certificate for Accommodation) Regulations 2020;
- Workers' Minimum Standards of Housing and Amenities (Nurseries) (Amendment) Regulations 2020;
- Employees' Minimum Standards of Housing, Accommodations and Amenities (Maximum Rental or Charges for Accommodation) Regulations 2020; and
- Employees' Minimum Standards of Housing, Accommodations and Amenities (Accommodation and Centralized Accommodation) Regulations 2020.

The Regulations also increase the cap on accommodation charges to the worker (salary deductions) at 100 ringgit (approximately US\$24) for workers in all labour sectors (Maximum Rental or Charges for Accommodation Regulations 2020, para. 2(1)). This is double the previous maximum deduction.

The Accommodation and Centralized Accommodation Regulations 2020 set out the minimum requirements for the housing (see table 3), including:

- the provision of electricity and water to the accommodation (para. 6);
- the minimum bedroom floor area or sleeping area for each worker residing in the accommodation for dormitory accommodation and other forms of accommodation (para. 5)
- the basic amenities that should not be shared among workers, including a single bed, mattress, pillow, blanket, and a locked cupboard for valuables including the worker's passport, noting that this should always be accessible (para. 4). The regulation further specifies the size of these items, including the amount of space between double-decker beds;
- the ratio of toilet and bathroom facilities, whether separate or combined, to workers residing in the accommodation (Schedule, Subregulation 3(1)).

► **Table 3. Minimum requirements under Malaysia's Accommodation and Centralized Accommodation Regulations 2020**

Aspect of accommodation	Minimum requirement	
	Dormitory	Non-Dormitory
Floor area of sleeping space	3 m ²	3.6 m ²
Sanitary facilities: No. of workers per toilet and bathroom	15	6
Basic amenities – per worker (not shared)	Single bed: 1.7 m ² <ul style="list-style-type: none"> ► Double-decker (or bunk) beds should be a minimum of 0.7 m apart ► Mattress at least 4 inches thick, with pillow and blanket ► Locked cupboard: minimum measurements of 0.35 m long, 0.35 m wide, 0.9 m high 	
Shared/common amenities	<ul style="list-style-type: none"> ► Living room ► Dining area ► Kitchen ► Area to dry clothes ► Fan and lamp for each living room, dining area, kitchen, bedroom, toilet ► Adequate electricity and potable water 	

For each requirement, the penalty on conviction for any centralized accommodation provider who houses workers in accommodation that does not meet the minimum standards set out in the Regulations is a fine of up to 1,000 ringgit (approximately US\$242) and/or a prison sentence of up to six months.

As part of the COVID-19 pandemic response, the Government further amended Act 446 with the Emergency (Employees' Minimum Standards of Housing, Accommodations and Amenities) (Amendment) Ordinance 2021 ("Emergency Ordinance") that went into operation on 26 February 2021. The Emergency Ordinance extends protection to (migrant) workers (in sectors that provide worker accommodation) throughout Malaysia, including in Sabah and Sarawak (section 1(2)), and includes centralized accommodation (under section 24B). The Emergency Ordinance still excludes migrant domestic workers (Alagaratnam and Quin 2021), for whom the Malaysian Government sets only vague standards, including that: "Room amenities / accommodation provided for the FDH [foreign domestic helper] are equipped with basic facilities. The FDH should be given nutritious food and proper rest, including sleeping time" (Malaysia, Ministry of Home Affairs, Immigration Department, n.d.-a)

Additional protections under the Emergency Ordinance include empowering the Director-General of the Department of Labour to issue notice to an employer/centralized accommodation provider to replace, alter or repair any accommodation or amenities that do not meet the minimum standards or any regulation under the Act. Furthermore, the Director-General is authorized to instruct employers who provide worker housing to move workers from crowded and unsanitary housing to temporary accommodation prescribed by the Department, including to centralized accommodations and hotels, with a temporary accommodation package costing 200 ringgit for rent and 20 ringgit for utilities per month for each worker (approximately US\$53 in total), which is to be borne by the accommodation owner. In addition, provisions must be made for transport to and from work for the workers who were moved to temporary accommodations, with an estimated cost of 50 ringgit (US\$12) per month for each employee, again borne by the accommodation owner. Conviction for failing to comply with such a directive may result in a fine of up to 200,000 ringgit (approximately US\$48,340) and/or imprisonment for up to three years (Malaysia, MOHR 2021).

There are also two new Regulations under Act 446:

- the Minimum Standards of Housing, Accommodation and Facilities for Employees (Employees Required to be Provided Accommodation) Regulations 2021, which require employers to provide accommodation for all employed foreign workers, except migrant domestic workers; and
- the Minimum Standards of Housing, Accommodation and Employee Facilities (Compounding of Offenses) Regulations 2021, which allow all offenses under Act 446 to be compounded.

The Cabinet Committee on Foreign Workers decided that by July 2021 employers would be obliged to obtain a Certificate of Accommodation as a precondition for the hiring of migrant workers (Khor Gee-Weon 2021). However, some business and employers' representatives were critical of the expectation to implement these amendments starting from 26 February 2021, as the Emergency Ordinance had been published only the previous week (Achariam 2021; Mahpar 2021b). In April 2021 the Human Resources Minister announced that enforcement of Emergency Ordinance would be delayed until the end of the year (*Dagang News* 2021). Also in April, it was reported that Labour Department inspections had found that nearly three-quarters of employers were not complying with the Workers' Minimum Standards of Housing and Amenities Act 1990 (Act 446) – 10,961 employers, or 73.9 per cent, during inspections carried out from 1 February to 15 April (*Bernamea* 2021). Over a longer inspection period (1 February to 31 July), the non-compliance rate came down to 63.54 per cent – 14,104 employers out of 22,189 inspected over this period, covering a total of 126,047 accommodations.²⁶

The Malaysian Government have announced that the emergency ended in August 2021, but that the Emergency Ordinance will still apply until February 2022 (Loheswar 2021). It has also indicated its intention to amend laws similar to the measures in the now-annulled Emergency Ordinance, to include stricter provisions to ensure a minimum standard for workers' accommodation (Carvalho, Rahim and Tan 2021).

26 Ministry of Human Resources presentation at the online workshop, 10 August 2021.

3.2. Singapore

The Government of Singapore cites the size of the country and associated scarcity of land for its decision to house (low-paid) migrant workers in communal accommodation. They also maintain that this sort of accommodation contributes to the social and emotional support that migrant workers need when they are away from home (Mirpuri 2020).

Under the Employment of the Foreign Manpower Act, employers must ensure that the migrant workers in their employment, including migrant domestic workers, live in “acceptable” housing, though the Act does not define the scope of that requirement. Under the Act, employers are also required to provide workers’ residential addresses to the Ministry of Manpower (MOM) (Singapore, MOM, n.d.-a).²⁷

Three types of housing are used by migrant workers, each regulated by a different part of the Singaporean Government:²⁸

1. dormitory-like housing, including:
 - a. purpose-built dormitories (PBDs);
 - b. factory-converted dormitories (FCDs);²⁹
 - c. construction temporary quarters (CTQs), of which there are two types:
 - i. standalone temporary quarters – a structure used for housing workers on a construction site that will later be demolished or removed;
 - ii. quarters in uncompleted permanent building – parts of buildings still under construction that are used for employees’ quarters;
 - d. temporary occupation licence quarters (TOLQs): Pre-fabricated temporary buildings or refurbished buildings that allow employers to establish temporary quarters on a plot of land that is typically near a construction site to support a specific project.

These are dedicated housing for migrant workers mostly from the construction, marine and process sectors; TOLQs are only for migrant workers in the construction sector. All of these housing types must comply with a comprehensive set of requirements set by the MOM and other regulatory agencies.

1. public housing or Housing and Development Board (HDB) flats that may be rented out as a whole flat or by the room, subject to the HDB’s approval, and that are subject to occupancy caps and other requirements under the HDB.
2. private residential premises (PRPs) (such as condominiums, landed residential properties, terrace houses, residential units in shop houses, etc.) that are permitted to house a maximum of six occupants per unit, regardless of the unit size, and are subjected to requirements under the Urban Redevelopment Authority.

The Inter-Ministerial Committee, established in 2008, oversees the management of the migrant workforce in Singapore, including that there is sufficient supply across the different housing options for migrant workers. The Committee also coordinates the enforcement of regulatory standards across different migrant worker housing types to ensure the well-being and safety of migrant workers.³⁰

Although the dormitories receive most of the attention, especially since the COVID-19 pandemic, they do not account for most of the migrant worker accommodation in Singapore. In 2015, HOME estimated that approximately 19 per cent of migrant workers in Singapore were resident in purpose-built dormitories, with the

27 This requirement includes notifying the MOM of any changes to the residential address of the migrant worker within five days of the move.

28 Information from the MOM, received on 5 May 2021. The MOM details seven types of migrant housing, each having its own requirements; for more see: Singapore, MOM, “[Various Types of Housing and Their Specific Requirements](#)”.

29 FCDs are “industrial or warehouse developments which have been partially converted to dormitories” (Singapore, MOM, n.d.-b).

30 Written response from the MOM, received on 5 May 2021. The committee includes members from the MOM, Ministry of National Development, Ministry of Trade and Industry, Ministry of Sustainability and Environment, Ministry of Transport, and Ministry of Home Affairs, and also includes representatives from other relevant regulatory agencies, such as the National Environment Agency, Singapore Police Force, Housing Development Board (HDB), and Urban Redevelopment Authority.

majority distributed across the other housing types (HOME 2015). This remains the case – with approximately two-thirds of migrant workers living in private accommodation (excluding domestic workers).³¹

Of the 280,000 migrant workers who do live in dormitories, 60 per cent stay in just 50 large dormitories with 1,000 beds or more, with the remaining 40 per cent living in FCDs, CTQs and TOLQs (Singapore, MOM 2021a). Each of these large dormitories accommodates over a thousand workers in rooms measuring a minimum of 90 square metres that are shared by between 12 to 20 migrant workers. The minimum ground floor area per person in these dormitories is 4.5 square metres (Singapore, URA, n.d.-a). Many of the dormitories accommodate the migrant workers in bunk beds, and there are dorms where these are spaced only one metre apart. Activists estimate that the 90 square metre minimum includes three shower rooms and, separately, three toilets, giving a ratio of one toilet or shower for six or seven men. Some dormitories house up to 25,000 migrant workers. The occupants are men, mostly from Bangladesh, China and India. The larger dormitories have common recreational facilities, mini grocery stores and remittance services. The MOM regulates the companies that manage the dormitories. Migrant workers are also housed in former industrial buildings (about 1,200 factory-converted dormitories that house 95,000 workers in groups of between 50 and 500); in on-site lodgings (for example, there are about 20,000 construction workers living on their worksites in temporary quarters); or privately rented accommodation (Han 2020b; Koh 2020; Mirpuri 2020; TWC2 2020d).

Dormitory housing that accommodates 1,000 or more migrant workers is regulated by the Foreign Employee Dormitories Act, 2015 (FEDA).³² This Act sought to improve standards in the dormitories by setting accommodation standards together with enforcement mechanisms to realize continuous improvement in conditions (one of the requirements of the right to adequate and decent housing) and to provide a regulatory framework for the provision of the facilities and the amenities and services available to the migrant workers living there. Migrant worker advocates criticized the FEDA as a missed opportunity to realize adequate housing for Singapore's migrant workers – or even all dormitory residents (HOME 2015). The FEDA establishes that the dormitories must be managed by a licensed operator (part II),³³ and that implementation of the Act is overseen by the Commissioner for Foreign Employee Dormitories (section 6). The FEDA carries possible penalties of fines of up to S\$50,000³⁴ (approximately US\$37,880) and up to 12 months' imprisonment for dormitory operators in breach of the Act (with higher fines and sentences for operating a dormitory without a licence). About 20 operators and an average of 1,200 employers are found in breach of the Act annually, the result of thousands of investigations by inspectors (Han 2020b; Koh 2020).

The FEDA places some limits on migrant worker behaviour, designating the dormitories to be a public place, which places limitations on the hours during which the consumption of alcohol is permitted (section 29). Civil society raised concern that this provision restricted the rights of migrant workers and fuelled and was informed by a stereotype that the migrant workers living in dormitories were unruly (HOME 2015). The FEDA includes a provision (section 13(4)(d)) that permits the licenced operator to restrict the movement of the dormitory residents in the case of any occurrence that endangers their health, for example, a public health crisis. Civil society activists have warned that this could make a dormitory a “de-facto internment camp” (HOME 2015). As a result of the COVID-19 pandemic, the MOM plan to expand the scope of the FEDA to cover all dormitories, regardless of size and including FCDs and CTQs. As of 15 October 2021, details are yet to be announced, but this would bring the regulation of all dormitories under a single Act. This has been welcomed by civil society, who reported that most COVID-19 cases came from smaller dorms that were not covered by the FEDA.³⁵ In addition, the authorities have piloted new quick-build dormitories (QBDs) designed to cater to migrant workers clustered in smaller groups (see section 5.2 below for more).

31 Written response from HOME, received 27 March 2021.

32 The Act came into force on 1 January 2016. Requirements from other legislation, such as those relating to environmental health or fire safety, also apply (FEDA, Article 5).

33 The MOM website lists 50 dormitories and their operators at: <https://www.mom.gov.sg/passes-and-permits/work-permit-for-foreign-worker/housing/foreign-worker-dormitories/#?page=1&q=>.

34 The symbol “S\$” is used in this report to denote Singaporean dollars.

35 Interview with the MWC, Singapore, 19 March 2021.

The Singapore Government's Urban Redevelopment Authority caps occupancy of all types of private residential properties at six unrelated persons. Domestic workers are considered part of the family unit (Singapore, URA, n.d.-b). Similarly, the maximum occupancy permitted in HDB flats varies with the number of rooms in the property: one and two-room properties can house four persons; three-room properties and larger can house up to six persons. There is also a "Non-Citizen Quota for Renting Out of Flat" for HDB flats (Singapore, HDB, n.d.).

Under the Employment of Foreign Manpower Regulations, the employer is responsible for providing acceptable accommodation for a migrant domestic worker in their employment that is consistent with any written law, directive, guideline, circular or other similar instrument issued by any competent authority.³⁶ Women migrant domestic workers in Singapore are legally required to live in their employers' homes. The MOM lists the following requirements for accommodation provided to migrant domestic workers:

- ▶ Adequate shelter: the accommodation must adequately protect the domestic worker from environmental elements such as sun, rain or strong winds.
- ▶ Basic amenities: employers must minimally provide a mattress, pillow, blanket, bathroom amenities and toiletries (such as soap, shampoo, toothbrush, toothpaste, etc.) for the domestic worker.
- ▶ Sufficient ventilation: the accommodation must be sufficiently ventilated, using mechanical ventilation (for example, by electrical fan) if natural ventilation is inadequate.
- ▶ Safety: the employer must ensure that the domestic worker does not have to sleep near any dangerous equipment or structure that could potentially cause her harm or injury.
- ▶ Space and privacy: employers should provide the domestic worker with a separate room. Where that is not possible, they must ensure that her accommodation has adequate space and privacy.
- ▶ Modesty: the employer must ensure that the migrant worker has a separate room to any male adult or teenager in the household. If the employer has any video recording devices installed in their home, they must inform the migrant worker about the devices and where they are placed. Employers are not permitted to install them in areas that will compromise the worker's privacy or modesty, such as where she sleeps or change clothes or in the bathroom area (Singapore, MOM, n.d.c).

Employers of migrant domestic workers are also required to provide them with adequate food, in line with the individual's religious beliefs. The MOM goes so far as to detail an example of a day's food intake for a woman engaged in moderate activity (Singapore, MOM, n.d.-c).

CSOs, however, criticize the lack of clear legal standards and the vague language of some of these requirements (HOME and TWC2 2017). There are also considerable challenges to enforcement of these regulations for migrant domestic workers. However, in 2021 as a step towards improving enforcement, the MOM initiated inspections of randomly selected homes in which migrant domestic workers are employed to monitor their working and living conditions (Ang 2021). In addition, the MOM partners with the Centre for Domestic Employees to interview all first-time domestic workers to ensure that they are well settled in. The MOM also states that it follows up on all complaints by migrant domestic workers, referrals by NGOs or concerned neighbours, and conducts the appropriate checks and investigation.

3.3. Thailand

Thailand has no legislation addressing migrant worker housing. Housing policy is instead set through a series of plans. Under the 3rd National Human Rights Plan (2014–2018), all agencies were required to promote and protect the right to national housing as it applies to their area of work (Permanent Mission of Thailand to the United Nations Office 2014).³⁷ However, there is little consideration of (worker) housing, an important omission given its necessity in many sectors and the role of certain employers in providing housing to both national and migrant workers. A 2013 survey by the National Housing Association found that "all local governments with the exception of the BMA [Bangkok Metropolitan Authority] lack both the funding and the technical capacity to implement affordable housing, [and] no new housing supply has been added by local governments yet" (cited in Asian Coalition for Housing Rights 2018).

36 Information provided by the MOM, 5 August 2021.

37 The author did not have sight of a translation of the current plan.

Although Thai law mandates a written contract between the employer and worker, it does not require that it detail any housing provision, though employers' representatives recognize that it is good practice to do so.³⁸ Thai labour law does not permit employers to deduct costs for accommodation or amenities from workers' wages.³⁹

Under immigration legislation, the employer or property owner or manager is required to register with the immigration authorities or the police that a migrant worker is resident at that address within 24 hours of the worker's arrival.⁴⁰

There are some specific points about housing standards encoded at the level of ministerial regulations and other recommendations that apply in sectors with significant numbers of migrant workers. For example:

- ▶ The Ministerial Regulation Concerning Labour Protection in Agricultural Work B.E.2557 (2014) provides in clause 8, "An employer shall provide adequate hygienic drinking water to an employee. In case an employee lives with an employer, an employer shall provide a clean, hygienic and safe accommodation to an employee."⁴¹ This is, however, insufficiently detailed, affording much leeway to the employer to assure the migrant worker of decent accommodation.
- ▶ In 2016, the Labour Welfare Committee established the Standards of Accommodation as Labour Welfare for Employees in the Construction Sector.⁴² These Standards recommended a minimum area per person of 3 square metres in the accommodation, with sufficient rooms for the number of employees, and provided that the accommodation should be of sound construction, meeting minimum specifications for ventilation and spacing from other accommodation units (clause 1). Employers are required to appoint at least one employee to be a supervisor for any accommodation housing ten or more workers (clause 6). The recommended standards also address gender-segregated toilet and bathroom facilities, with standards around minimum ventilation, ceiling height and overall size (clause 2). Other clauses address waste management (clause 3); first aid equipment and health contact information (clause 4); fire safety and maintenance of electronic devices (clause 5); cleaning and hygiene and penalties for use of narcotics (clause 6). Sites that are operated by more than one employer should see each employer having joint duty in providing accommodation in line with these standards (clause 7).

In February 2021, the Ministry of Labour published a notification on employer-provided worker housing in the context of the COVID-19 pandemic.⁴³ This extended the requirements previously established for the construction sector (above) to all employer-provided housing. However, the notification is only a guideline with no penalty for non-compliance.

3.4. Examples of national laws and regulations relevant to migrant housing in selected high-income countries of destination in Asia and the Pacific

Looking briefly at accommodation provision and regulations for low-wage migrants – often on temporary/seasonal visas – in selected high-income countries of destination in the wider Asia and the Pacific region, there is a focus on centralized/communal housing. In some cases this is because of the nature of the work (seasonal agricultural work) and its location in relatively remote areas where it might otherwise prove difficult for migrant workers to secure housing. For similar reasons, there is also an emphasis, and in some cases a requirement, on employer-provided or employer-arranged housing.

38 Information provided by the Employers' Confederation of Thailand (ECOT), during online workshop, 10 August 2021.

39 Labour Protection Act of 1998, sections 76, 131.

40 Immigration Act B.E. 2522 (1979), section 38. The provision applies to all foreigners.

41 This replicates a provision in the 2004 Ministerial Regulation Concerning Labour Protection of Employee in Agricultural Work B.E. 2547 (clause 9).

42 Dated 13 January B.E. 2559 (2016).

43 Notification of the Ministry of Labour Re: Provision of Welfare for Business Establishment which Provides Accommodation for Employees to Prevent any Risk of Contracting Corona Virus 2019 (COVID-19), 10 February B.E. 2564 (2021). Working from an ILO-provided translation into English.

3.4.1. Australia⁴⁴

Certain categories of migrant workers in Australia are likely to be dependent on their employer for housing. For example, employers in the Seasonal Worker Program are required to submit an Accommodation Plan as part of the Application to Recruit. The employer must include photographs of all the rooms in the migrant worker housing as part of their Accommodation Plan and must demonstrate the setup of furniture required for living arrangements. Seasonal workers are also allowed to arrange their own accommodation (Australia, DESE 2020, sect. 4.1.5).

For employers providing accommodation to seasonal workers, the Government has issued detailed guidance to enable them to meet four principles for their housing (Australia, DESE 2020, sect. 4.1):

- ▶ fair and provide good value;
- ▶ costs are transparent;
- ▶ fit for purpose and in good condition; and
- ▶ accessible, safe and secure.

Under these principles, the Australian Government details various measures that employers of seasonal workers must take, with many of these measures implementing the requirements of the international standards discussed in section 2.1 above. The various required measures include:

- ▶ Adequate and decent housing should not cost the seasonal worker more than a reasonable proportion of their income.
- ▶ The accommodation complies with state, territory and local government rules, such as health and safety legislation.
- ▶ Seasonal workers must be provided with adequate facilities to store food safely, cook and eat either inside or under cover in their accommodation.
- ▶ The property must be lockable, and seasonal workers must have 24-hour access to their accommodation.
- ▶ Seasonal workers' privacy must be respected in their living quarters.

In addition, the government measures outline detailed requirements for bedrooms, bathrooms, and leisure, social and telecommunication facilities (Australia, DESE 2020, sect. 4.2). Monitoring visits of the living and working conditions of seasonal workers include an inspection of their accommodation arrangements to check that they match the approved Accommodation Plan (Australia, DESE 2020, sect. 6.2).

ILO standards indicate that employers providing accommodation to workers is "generally not desirable" (ILO Recommendation No. 115). However, the Seasonal Worker Program recruits workers for deployment in rural areas, which meets the criteria for exceptions to this standard in rural areas. However, there have been reports of substandard accommodation as well as concerns about high rental charges that exceed prevailing market conditions and constitute a major expense for the migrant worker (Bailey 2018; Hermant 2020).

3.4.2. Japan

In Japan, employers looking to hire migrant workers in the "skilled worker" category must demonstrate that they have secured a registered "support organization" responsible for ensuring the migrant worker will have the necessary support, including with regard to housing assistance (Milly 2020; Japan, Ministry of Justice, n.d.). This does not apply to workers in the Technical Intern Training Programme (TITP) category.

The Labour Standards Law provides for companies to ensure that workers living in company-provided dormitories/communal housing are able to enjoy their autonomy; while also allowing the employer to establish a set of rules for residents (articles 94–95). The employer must "must take the necessary measures to provide ventilation, lighting, illumination, heating, damp-proofing, cleanliness, evacuation, maximum accommodation, and sleeping facilities, and other measures necessary to maintain the health and moral order of the workers and to keep them

44 Sections 3.4.1. and 3.4.3 benefited from information received from extracts of an ILO draft report: Review of seasonal workers programmes with respect to international human rights and labour standards and participation of women and marginalised groups (February 2021)

alive” (article 96).⁴⁵ These provisions of the Labour Standards Law are elaborated in regulations for companies providing dormitory accommodation.⁴⁶ These regulations set out some standards on the habitability of the worker housing, specifically that each bedroom in the dormitory should ensure at least 2.5 square metres per person, excluding closets, and accommodate a maximum of 16 people in each room (article 19).⁴⁷ The accommodation (bedrooms and bathhouse) should be gender-segregated (articles 8, 27). In addition, each worker should be provided with storage equipment for personal belongings.

Reports of unsanitary housing have featured in the frequent reports of abuse of TITP workers (Takahashi 2019). According to a Ministry of Health, Labour and Welfare (2020) press release, 1.7 per cent (162) of the investigated employers of TITP workers were found to be failing to meet the safety standards for employer-provided accommodation. There are also reported cases of injuries and casualties due to inadequate safety measures in dormitory housing (Japan, MHLW 2008).⁴⁸

3.4.3. New Zealand

Under Immigration New Zealand requirements, the employer must ensure that workers under the Recognised Seasonal Employer (RSE) scheme have suitable accommodation, and that this forms part of the Agreement to Recruit process. The employer is obligated to arrange the housing, but the migrant worker has the responsibility to pay for the accommodation (New Zealand, MBIE, n.d.). Costs and standards vary based on the employer and the housing availability in the area, but this represents one of RSE migrant workers’ largest expenses (Bailey 2018; Wall 2020). According to industry research, employer-provided accommodation is cheaper for the migrant worker than options provided by third parties (an average of NZ\$105 per week compared to NZ\$123) (NZIER 2020).

There are also restrictions on what type of housing the employer can offer, with employers in some regions not permitted to house seasonal workers in residential houses. Citing rental shortages, the rationale given is that the “Government wants to ensure employers do not use housing for their RSE workers that would normally be available to local residents” (New Zealand, Immigration New Zealand n.d.). In these locations, the authorized options are:

- a. purpose-built seasonal worker accommodation;
- b. a converted or re-purposed property converted into seasonal worker accommodation;
- c. a house on a commercial orchard or vineyard;
- d. guest accommodation, such as:
 - i. a designated boarding house;
 - ii. a home-stay or billeting arrangement;
 - iii. motels or campground cabins.

Comprehensive guidelines regarding accommodation standards are established in the Health and Safety at Work Act (2015), and further government guidance sets out specifications for worker accommodation. This includes minimum dimensions for bedrooms – floor space per person as well as minimum height and width of the room – depending on the number of workers sharing the room:

- a. For one person: 6 square metres of floor space, 2.4 metres high in any part, 1.8 metres wide in any part;
- b. For two people: 9 square metres of floor space, 2.4 metres high in any part, 2.1 metres wide in any part;
- c. For more than two people: 9 square metres for the first two people and 4.5 square metres for every extra person – 2.4 metres high in any part, 2.1 metres wide in any part.

45 Labour Standards Law (Law No. 49 of 7 April 1947, as of Amendment of Act No. 71 of 2018).

46 Ministry of Labour Ordinance No. 7 (1952): Business Dormitory Regulations.

47 Different standards apply depending on how long the dormitories house the workers. The standards listed here are for dormitories housing workers for six months or more. Dormitories housing workers for less than six months and temporary dormitories are required to provide bedrooms with 2.5 square metres or more per person, the same as for longer-term workers, but the number of residents in one room shall be 50 or less (articles 37–39).

48 Correspondence with ILO Tokyo Office, 7 December 2020, regarding background for ADBI, OECD, and ILO 2021.

The guidelines do not mandate a maximum occupancy, but they do cover a range of other habitability and facilities requirements: cooking, dining, washing, and laundry facilities, sanitary conveniences, sick rooms/areas, water, lighting, ventilation, heating, refrigeration, rubbish disposal and smoke alarms (New Zealand, WorkSafe 2016). There is no mention of Wi-Fi, which is essential for migrant workers to maintain contact with their families and community members in the Pacific, and access to free Wi-Fi and affordable mobile data was recommended in a recent review (Nunns, Bedford, and Bedford 2020).

The government guidance also states that caravans and tents are not suitable accommodation, though their use for seasonal workers has been documented. Research has also demonstrated that some accommodations provided to these migrant workers are overcrowded and have substandard facilities, jeopardizing the health and well-being of the migrant workers (and possibly undermining productivity) (Bailey 2018). Some criticism has described conditions for migrant workers on seasonal work visas as being “lockdown-like conditions” long before the COVID-19 pandemic, with curfews, “no visitor” signs and surveillance cameras (Wall 2020). Such conditions constitute inadequate housing, in breach of New Zealand’s obligations under international law (see table 2). A 2020 review of the RSE scheme advised that it “cannot be a scheme that only provides the legal minimum to RSE workers, that is, paying minimum wage rates to skilled and experienced workers, and providing the lowest possible standard of accommodation” (Nunns, Bedford, and Bedford 2020, 19).



Methodology

This exploratory study investigated the housing situation of migrant workers and how relevant national laws and regulations are implemented in Malaysia, Singapore and Thailand prior to and during the COVID pandemic. It is informed by the experiences and analyses of migrant workers, government officials, and representatives from trade unions, employers' groups and CSOs, which were gathered through mixed methods during March and April 2021.

Data was collected through a desk review of relevant literature on migrant housing and earnings, and of laws and policies at the national, regional and international levels. This was complemented by focus group discussions with migrant workers, and semi-structured interviews and written questionnaires for key informants from government, employers' representatives and trade unions. In addition, the data from a recent ILO survey of migrant workers in these countries of destination was made available to the author and integrated throughout (see ILO 2021).

Interviews and questionnaires

The researcher drew up sets of interview questions to use in in-depth, semi-structured interviews with the different key informants identified by the ILO: government officials and representatives from employers' groups, trade unions, and migrants' rights organizations. Interviews were conducted online. Given the added pressures during the pandemic (and restrictions imposed as a result of the pandemic), key informants were invited to respond to the questions in writing where that was easier for them. The research questions focused primarily on:

- ▶ how the government addresses the need for migrant housing in the country – in law and policy, at the national/local level, and whether it is covered in migrant workers' contracts;
- ▶ how migrant workers find and secure housing, or how employers organize housing for migrant workers;
- ▶ how costs for housing and utilities are covered, including any charges to the migrant workers;

- ▶ measures taken by the government to support employers/housing providers and migrant workers – and measures that employers have taken to protect migrant workers – with regard to the right to adequate housing during the pandemic;
- ▶ complaint and/or accountability mechanisms available to migrant workers; and
- ▶ all interviewees were asked about the most significant challenges with regard to housing for migrant workers and the lessons to be learned from the pandemic in order to improve migrant housing.

Focus group discussions

Focus group discussions (FGDs) were used in the three countries to learn about migrant workers' experiences of their housing and their recommendations on how it could be improved. The ILO contracted with national researchers in Malaysia, Singapore and Thailand to conduct FGDs with migrant workers. These researchers were tasked with recruiting migrant workers to participate in two FGDs in each country,⁴⁹ ensuring that together these covered more than one type of housing and labour sector and were gender-inclusive (see table 4). Sites for the FGDs were selected and sessions organized in line with COVID-19 safe practices, including with regard to restrictions on meetings or gatherings, physical distancing, temperature checks and masking. Interpretation was provided as needed: between Hindi and English for one of the FGDs in Malaysia; Chinese and English for one in Singapore, and between Thai and Shan in Chiang Mai, Thailand.

The author drafted the guideline questions for the FGD and held a briefing with the national researchers to prepare for the FGDs. The guideline questions focused on four thematic areas:

1. Finding housing – whether migrant workers arranged for accommodation before moving to the destination country, whether they had a choice to determine where they wanted to live, and the affordability of their housing;
2. About the housing – the type and location of the accommodation, and what was important to them about their housing;
3. Housing conditions – the habitability of migrant workers' housing, including with respect to occupation density, ratio of bathroom facilities to occupants, and space for leisure activities. These questions also explored safety measures at the housing, including any changes that have been made in the housing situations of migrant workers during the COVID-19 pandemic;
4. Recommendations – what improvements migrant workers would like to see in their housing/living situation.

Researchers obtained the explicit consent of participants prior to conducting the FGDs. The purpose of the research, the uses of the findings, as well as the assurances of confidentiality were explained to the research participants, both verbally and in written format. Participation was voluntary, with participants having been assured they could decline to answer any questions or withdraw at any time during the FGD. Consent forms were signed by all participants. The researchers were requested to have ready information for referrals if participants requested assistance with any housing issues.

Across the three countries, 17 women and 22 men participated in the FGDs. In Malaysia, these were mainly South Asian migrant workers; in Singapore, they were from the ASEAN subregion, China and India; and participants in the Thailand FGDs were from Myanmar (table 4).

⁴⁹ In Thailand, given the different contexts in the capital (Bangkok) and the country's second city (Chiang Mai in the north-west), the ILO contracted with an organization in each city to conduct one FGD each.

► **Table 4. Profile of focus group discussion participants**

FGD country	Profile of participants			
	Labour sectors (No. of workers)	Gender	Countries of origin	Documentation / migration status
Malaysia	Manufacturing (5), construction (2), cleaning (4) and service sectors (1)	4 women, 8 men	Bangladesh, India, Indonesia, Nepal	4 (men) documented; 4 men and 4 women who are undocumented
Singapore	Domestic work (2), service sector (4), construction (4)	3 women, 7 men	China, India, Indonesia, Malaysia, the Philippines	All in regular status
Thailand – Bangkok	Domestic work, manufacturing, service sector, market seller, food service	5 women, 4 men	Myanmar	All entered through irregular channels
Thailand – Chiang Mai	Cleaning (3), food service (4), construction (1)	5 women, 3 men	Myanmar	Entered through irregular channels and have gone through the nationality verification process and secured passports.

Data gathered from the FGDs was thematically analysed to understand the housing situation of the migrant workers in each country. Particular attention was paid to understanding migrant workers’ experience of and any changes in their housing situations pre- and during the COVID-19 pandemic.


The main findings of the research were discussed at an online workshop in August 2021 with officials from the governments of Malaysia, Singapore and Thailand, as well as representatives from employers’ organizations, a dormitory operator association, trade unions, civil society and intergovernmental organizations. Their feedback informed the final report.

Limitations

This is an exploratory study on the housing provided for or available to migrant workers in the three study countries. The right to adequate housing is wide-ranging, and the research did not aim to be comprehensive at this stage. Although the research sought input from the ILO’s tripartite partners as well as NGOs, the short research period and restrictions imposed by the pandemic created a few limitations:

- It was not possible to engage with representative numbers of migrant workers across different nationalities, labour sectors and types of housing. Focus groups were necessarily small due to restrictions required for safe work during the COVID pandemic. In one country, the researcher reported that women migrant workers were more risk averse and did not think it was safe to move beyond their housing or place of employment due to the COVID-19 pandemic.
- Representatives of the employers’ groups in the three countries were invited to participate. Again, the diversity of labour sectors and types of housing would require a larger and more in-depth study than was possible at this time.

With these limitations in mind, it is not possible to generalize from the findings. However, important insights are obtained to complement the legal and literature review.



▶ 5

Findings

COVID-19 revealed the pre-existing risks of migrant housing to the wider public, bringing about some response in each of the three study countries in this research. This section starts with the findings on the types of migrant worker housing reported by participants in this study and moves on to deeper analysis utilizing the criteria for adequate and decent housing found in international standards.

5.1. Migrant worker housing in Malaysia, Singapore and Thailand

▶▶ When people think migrant workers, they don't think housing.

▶ Migrant Workers' Centre (MWC), Singapore⁵⁰

This section describes some of the main types of migrant worker housing available in the three study countries, drawing on the research findings from this study as well as other literature. It should be noted, however, that given the limits of this exploratory study it is not possible to give a comprehensive picture of migrant worker housing in each country that details the different types of accommodation available and how they vary by labour sector, urban/rural location, migration status and type of documentation, and other factors related to the situation of migrant workers (gender, family, etc.).⁵¹ Employers point to the diversity of needs – driven by labour sector requirements as well as the range of migrant worker situations – as one of the most significant challenges

50 Interview with the MWC, Singapore, 19 March 2021.

51 There are also concerns about the standard of accommodation provided to migrant workers during any pre-departure trainings in their countries of origin, but this was outside the scope of this research.

with regard to housing for migrant workers.⁵² In addition, even though the ILO standard on worker housing states a preference against employers providing housing for their workers directly, in some cases it is a legal requirement for any employer who seeks to hire migrant workers (determined by the type of documentation or the labour sector).⁵³

In a recent survey, the ILO found that apartment accommodation was the most common for migrant workers across the three countries of destination, with men being more likely than women to live in dormitories (table 5). However, there was a difference between the three countries: in Malaysia and Singapore most migrant workers live in apartments, but in Thailand most reported living in dormitory accommodation.^{54 55} This contrasts with previous findings that most migrant workers in Thailand live in rented housing (Kusakabe et al. 2018). Other research for Singapore has reported that approximately 32 per cent of migrant workers live in dormitories (including temporary dormitories) and 28 per cent in rented accommodation, in addition to the 25 per cent who are domestic workers living with their employers. A further 15 per cent commute daily from Malaysia (TWC2 2020f).

► **Table 5. Type of accommodation reported by migrant workers in Malaysia, Singapore and Thailand, by country of destination and gender (%)**

Type of accommodation	Total	Malaysia	Singapore	Thailand	Women	Men
Apartment	40	40	45	30	42	37
Dormitory	22	19	12	41	18	25
House	30	32	39	11	35	24
Temporary structure off worksite	4	2	-	13	3	5
Temporary structure on worksite	5	7	4	5	2	9

- = nil.

Source: Unpublished survey data collected for ILO 2021.

5.1.1. Dormitories

► I have lived in a dorm before and there were more than 10 people to a room and people were coming in and going out of the room frequently. ... Bunk beds are not a good idea. ... I was disturbed by the person climbing up to the top bunk. ... Four people to a room is acceptable but there should only be single beds.

► Male migrant worker, Singapore⁵⁶

52 Written response from the ECOT, received 31 March 2021.

53 Information provided by Datuk Shamsuddin Bardan, Executive Director, Malaysian Employers Federation (MEF), during online workshop, 10 August 2021.

54 Based on unpublished survey data collected for ILO 2021.

55 Noting that in the Thai context, the use or definition of “dormitory” and “apartment” is not as clear as it is in Singapore, for example.

56 Focus group discussion, Singapore, 18 April 2021.

Migrant worker dormitories have been described by Peth et al. (2018, 466) as “the most iconic structures of the labour migration system”. Dormitories are multi-storey accommodation providing shared bedrooms, often with bunk beds. These reduce the useable space and ventilation flow available to the migrant worker. Bathrooms may be en-suite for each bedroom or there may be centralized bathrooms on one floor of the building. Dormitories may offer anything from basic cooking and laundry facilities, to effectively being mini-cities with their own infrastructure (Peth et al. 2018; Kusakabe et al. 2018). For example, in Singapore there are seven purpose-built migrant worker recreation centres providing remittance services, food courts and supermarkets, and some have recreational options that include cinemas, sports courts as well as parks.⁵⁷ Dormitories will likely have some visible security measures such as CCTV or their own dedicated security team on regular patrol.⁵⁸

In this research, dormitory accommodation was mostly discussed by respondents from Singapore, where, pre-COVID, the State promoted the use of dormitories as a solution to migrant worker housing, providing high density accommodation, often 20 men to a room in double-decker bunks (HOME and TWC2 2020). The Ministry of Manpower (MOM) views this centralized housing model as meeting migrant workers’ social and recreational needs and providing a supportive environment for them.⁵⁹ Most of the dormitories, especially the larger ones, are commercial operations run by companies separate from the employer(s) of migrant workers. Pre-COVID at least, it was a lucrative sector and commercial dormitory operators had a vested interest to maximize occupancy.⁶⁰ In one example, the average monthly rent in one dormitory was given as S\$250 (US\$189) per resident with a per person monthly operating cost of S\$50 (US\$38) per person. Activists have questioned the costs and lease arrangements of the dormitory model (TWC2 2020c). There are also smaller dormitories that employers run solely for their own workers.

For migrant workers in the construction, marine and process sectors in Singapore, the employer will provide housing, but workers often bear the cost. Such housing may be in purpose-built dormitories or in industrial premises occupied by the workers’ employer itself.⁶¹ In the FGDs for this study, of the four participating migrant workers living in dormitory accommodation, two stay onsite and two off-site. The onsite accommodation (CTQ) is a three-story dormitory with bedrooms measuring approximately 20 square metres. Each bedroom accommodates five migrant workers in single (not bunk) beds. There is no common room at the dormitory, meaning that residents have nowhere in the accommodation other than their beds for rest and relaxation outside of working hours and on days off – as well as during any lockdown periods.⁶²

The two offsite dormitory residents in this study live in two FCDs located in a light industrial area. One of them lives in a dorm that occupies one floor of a five-storey building with shops on the ground floor and offices on other levels. As a converted factory, the large floor space has been partitioned into nine rooms. The FGD participant shares a room measuring approximately 16 square metres with one other person. The other offsite dorm resident had recently moved to a FCD in an industrial area and reported that there were 14 people sleeping in one large room with double-decker beds and an en-suite bathroom. The dorm also had a living room with a TV and a dining area.⁶³

Although the majority of the migrant worker dormitories in Singapore house men, there are some employers who also house women migrant workers in dormitories.⁶⁴ CSOs advise that most women migrant workers who are not domestic workers are not work permit holders but rather in higher status work (with associated documentation) and are able to access other housing options. The women migrant workers who do live in dormitory accommodation work mostly in the manufacturing and services sectors. These dormitories tend to be smaller, purpose-built to house women and tend to be of higher standard, more like studio apartments with

57 Interview with the MWC, 19 March 2021; written response from DASL, received 16 July 2021.

58 Written response from DASL, received 16 July 2021.

59 Written response from the MOM, received 5 May 2021.

60 Interview with the MWC, 19 March 2021.

61 Written response from HOME, received on 27 March 2021.

62 Focus group discussion, Singapore, 25 April 2021.

63 Focus group discussion, Singapore, 25 April 2021.

64 The MOM report that most women migrant workers live in HDB flats and private residential premises (PRPs) – written response from the MOM, received on 5 May 2021.

a maximum of three or four persons per room with single deck beds, en-suite toilets and en-suite kitchens.⁶⁵ Where men and women migrant workers reside in the same dormitories, operators are legally required under the FEDA to take care to provide segregation in sleeping and sanitation facilities to ensure the privacy and safety of the women migrant workers.⁶⁶

Multiple-occupancy accommodation needs careful planning to meet the adequate housing criteria, particularly with regard to space per person and safe storage of workers' belongings (in connection with criteria around personal space, privacy), as well as hygiene/sanitation and washing facilities. In addition, the locations of these dormitory complexes often risk creating situations of segregation (ILO Recommendation No. 115; UN CESCR 1991). Moreover, dormitories, as a means of keeping labour costs low, facilitate a system of cheap labour that disadvantages all workers (TWC2 2020g). There is an obvious conflict of interest between the profit motive and the duty of care of these companies. The possibilities for abuse in this arrangement necessitates the establishment and enforcement of rights-based standards.

5.1.2. Construction sites and compounds

There is an overlap between accommodation for construction workers/accommodation provided on compounds for manufacturing workers (for example) and dormitory accommodation, but there are elements that make it worth considering these separately.

CSOs that work with migrant workers have voiced concerns about workers living on their work sites, sometimes even within the partly built constructions they are working on. Such precarious housing situations offer little or – especially in the case of workers housed in the construction itself – no tenure security. They also do not meet the habitability and availability of services and facilities criteria of the right to adequate housing, as they may not be structurally sound or protect migrant workers from the elements, as well as being dirty and not offering sufficient protection from pests – dengue outbreaks have been reported. The sites have not had sleeping areas delineated from the rest of the space and may lack proper kitchen and inadequate water or sanitary facilities (HOME 2015). Living on site can be hazardous, including due to the risk of fires and accidents on site, which may not always be reported, especially where employers fear being reprimanded for employing undocumented workers, thereby undermining workers' access to redress and compensation for any injuries.⁶⁷

Other housing options for migrant construction workers include dormitories or accommodation akin to dormitories in compounds, as well in a range of private rental options. For example, in Thailand, construction workers have been documented living in former shipping containers provided to them by their employer or recruitment agent, or in makeshift camps constructed out of remaining supplies, and characterized as “rough”, with corrugated metal, wood with nails sticking out, gaps in floors and walls, etc. (Napier-Moore and Sheill 2016; Tasleem, Ajis, and Abidin 2020; see also the discussion on *kongsis* in section 5.2.1.1 below).⁶⁸ These conditions may explain why previous research on construction workers in Thailand identified the need for better accommodation as second only to the need for higher pay (Ogunlana and Chang 1998).

In Thailand, accommodation for workers who migrated via the MOU process⁶⁹ is usually in a compound on or near the workplace, and is commonly owned and rented out by the employer. Housing for factories is usually its own compound, sometimes on the factory premises and sometimes off-site. These accommodations can be characterized as crowded, dank, humid and poorly ventilated. There is commonly little personal space. Migrant workers who have family members with them will typically rent houses near the workplace.⁷⁰ In the garment and other larger-sized factories in the Mae Sot area, near the Myanmar border, migrant workers are housed

65 Interview with the MWC, 19 March 2021.

66 Written response from the MOM, received on 5 May 2021.

67 Interviews with Persatuan Sahabat Wanita Selangor, 26 March 2021, and Tenaganita, 13 April 2021.

68 Written contribution from the MAP Foundation, received 14 April 2021. The MAP Foundation noted that while there are construction camps in Chiang Mai, these are usually for large projects.

69 Regular labour migration from Cambodia, the Lao People's Democratic Republic, Myanmar and Viet Nam to Thailand is primarily governed by bilateral memoranda of understanding (MOUs) between Thailand and each of the four countries of origin.

70 Written response from the SERC, received 5 April 2021.

in compounds in single sex dorms with bunk beds pushed together to make one long platform. A woven mat is usually laid down instead of mattresses, or else they are cheap, lumpy mattresses made of a natural fabric called “noon” made from a local plant.⁷¹

5.1.3. Plantations and the agricultural sector

Housing for plantation workers in Malaysia is typically in workers’ quarters on the plantation (Tasleem, Ajis, and Abidin 2020). These are semi-detached or terrace houses that typically have three rooms.⁷²

In Thailand, most migrant workers in the agricultural sector live in accommodation provided by their employers (Junghus, Siripatthanakosol, and Ishida 2019). This is often free of charge, though the migrants may need to pay for their use of utilities (Mekong Migration Network 2020). Most migrant workers on rubber or palm plantations live with their employers, or the employer allows them to build their own houses in an area of the plantation.⁷³ The land is provided by the employer or someone the worker knows or they rent the land from a Thai person, and migrant workers are permitted to build their own housing from any materials available, such as metal sheeting and remnants of wood, sometimes with nails in them or of inadequate length, requiring pieces to be nailed together. This is the situation for many migrants in Mae Sot and Chiang Mai who have their own accommodation. Usually this means rough housing, shared bathrooms (possibly with pit toilets) and centralized water sources.⁷⁴ CSOs have reported that the bathroom facilities are unsafe, especially for women and children, and pose health risks to all inhabitants (Mekong Migration Network 2020). Although the Thai Ministerial Regulation concerning Labour Protection in Agricultural Work states that seasonal migrant workers are entitled to safe and hygienic living conditions, migrant workers are often accommodated in temporary encampments in or close to the plantations, with limited access to clean water or sanitation facilities employers – in contrast to year-round workers, who tend to be accommodated in more robust or permanent constructions that offer decent sanitation facilities and access to clean water (Junghus, Siripatthanakosol, and Ishida 2019).

As the FGDs for this study were convened in cities, none of the participants worked on plantations, but CSOs noted some specific threats to the habitability of accommodation for agriculture/plantation workers due to the remote location and/or hazardous substances involved in their work that they may store in their accommodation.⁷⁵

5.1.4. Fishing sector and at sea

Migrants who work at sea – in the fishing, seafarer/cargo or cruise sectors, for example – may be on board their vessel for months at a time, in relative isolation from families and communities, interspersed with shorter periods in port in cheap and overcrowded accommodations, sometimes with their families (Ellis et al. 2012; Marschke et al. 2021). The widely-ratified MLC, 2006, provides detailed specifications and guidelines for worker accommodation and facilities on board seafaring vessels, requiring particular attention to the size of rooms and other accommodation spaces; heating and ventilation; noise and vibration and other ambient factors; sanitary facilities; and lighting. The ILO’s Work in Fishing Convention (No. 188) and Recommendation (No. 199), 2007, are similarly detailed on accommodation standards on board commercial fishing vessels. However, the detailed accommodation requirements apply only to new vessels or those undergoing major renovations.

Fishing workers have to live near the vessels and many will stay on the fishing boats. The ease of finding housing depends on where they work. For example, in Thailand, it is very easy to find accommodation or an apartment near the vessels in the south of the country, but difficult in the central region and most fishing workers report that they live in the vessels and stay there because it is free.⁷⁶ A 2020 ILO survey found that most migrant workers in the Thai fishing sector live in shared accommodations: 13 per cent of Cambodian workers and 23 per cent of

71 Written contribution from the MAP Foundation, received 14 April 2021.

72 Written response from the MEF, received 21 March 2021.

73 Written response from the SERC, received 5 April 2021.

74 Written contribution from the MAP Foundation, received 14 April 2021. See also, Mekong Migration Network 2020.

75 Interview with Tenaganita, 13 April 2021.

76 Interview with the Human Rights and Development Foundation (HRDF), 12 April 2021; written response from the SERC, received 5 April 2021.

Myanmar workers had their own rooms, compared with 74 per cent of Thai workers. Of the migrant workers sharing rooms, only 31 per cent reported that they had their own bed. However, workers generally perceive housing conditions to have improved since 2015 (ILO 2020d). Migrant workers working in fish markets often rent houses around their workplaces, and if they have a spouse/partner working on a boat, it is in this housing near the market that the seafaring spouse/partner will stay when ashore.⁷⁷

Seafarers cited accommodation-related issues among the negative aspects of their work, including the lack of privacy, space and recreational facilities, especially on smaller vessels (Ellis et al. 2012). In one survey, most seafarers reported that they had their own cabin, but a minority shared cabins with just over two other seafarers, on average. Some of these shared cabins were mixed-sex occupancy. Most of those who shared cabins reported that they did not like doing so but had no choice. About a quarter of respondents shared bathroom facilities. Of these, most (57 per cent) shared a toilet and a shower with five seafarers or more; a quarter with colleagues of a different gender. Over half the respondents (54 per cent) were happy with the size of their quarters (Ellis et al. 2012).

5.1.5. In employers' homes

Migrant domestic workers in Malaysia and Singapore are required by law, policy or practice to live with their employers during the course of their employment.⁷⁸ Data for Malaysia indicates that about 86 per cent of migrant domestic workers are live-in, compared to 66 per cent in Thailand, which does not make it a requirement (Anderson 2016). Migrant workers and CSOs advocate for domestic workers to be able to live separately from the household that employs them.⁷⁹ Providing this as an option would be in line with international standards (ILO Convention No. 189).

In Singapore, where an estimated one-in-five resident households employs a live-in domestic worker (HOME and TWC2 2017), migrant domestic workers are usually placed in agency accommodation (typically a bed space that agencies rent out from dormitory operators) before they are deployed to their employers' houses.⁸⁰ In a country where space is at a premium, there are challenges to providing decent housing for migrant domestic workers, and the MOM does not forbid employers the use of corridors, store rooms, living rooms or kitchens as sleeping quarters for migrant domestic workers (HOME and TWC2 2017). Similarly, much of the housing in Malaysia, especially older properties, are not built to accommodate a domestic worker. As a result, domestic workers end up either sharing the room with family elders or children or sometimes sleeping in the hall or the kitchen. Migrant domestic workers who leave their employment can find it very difficult to secure other housing. Without assistance from a CSO or the embassy they may become homeless.⁸¹

The governments of both Malaysia and Singapore set only broad guidance on accommodation and living standards for migrant domestic workers (see sections 3.1 and 3.2 above). As a result of this lack of clear legal standards, the accommodation provided for migrant domestic workers will often fall short of the habitability and other criteria for adequate and decent housing.

Government-issued domestic work contracts in Thailand and Malaysia require clauses detailing the provision of food and accommodation (Anderson 2016). In Singapore, the MOM provides guidance to employers on food allocation for domestic workers (see section 3.2 above). However, the majority of migrant domestic workers who seek assistance have reported not getting sufficient food (HOME and TWC2 2017).

The two women migrant domestic workers who participated in one of the Singapore FGDs had their own bedrooms in their employers' homes, but reported issues relating to their lack of autonomy or full control over the use of their allocated room, which affected their sense of privacy.⁸² A previous survey found that 40 per cent

77 Written response from the SERC, received 5 April 2021.

78 Interview with Our Journey, 16 March 2021; focus group discussion, Singapore, 18 April 2021.

79 Focus group discussions, Singapore, 18 April 2021; interview with Our Journey, 16 March 2021; written response from HOME, received on 27 March 2021. See also, TWC2 2016.

80 Interview with Our Journey, 16 March 2021; written response from HOME, received on 27 March 2021.

81 Interview with Persatuan Sahabat Wanita Selangor, 26 March 2021.

82 Focus group discussion, Singapore, 18 April 2021.

of domestic workers in Singapore shared their sleeping space with their employer's family members, including 5 per cent with a male teenager or adult member (HOME and TWC2 2017, citing a 2016 TWC2 survey). COVID restrictions further curtailed their freedom of movement, keeping them in the house – including on their days off, on which they were now expected to work – causing additional stress and negatively affecting their mental health.⁸³ Other research has documented many cases where migrant domestic workers are made to sleep in common areas in the employer's house, including the living and kitchen areas, or in crowded, poorly ventilated and unhygienic areas such as storerooms, where they also run the risk of injury from items falling on them. With such inadequate accommodation they also lack a proper place to rest on days off.⁸⁴

Migrant domestic workers faced specific restrictions under the COVID-19 response measures. In Singapore the authorities advised that they should remain in their employer's home during their rest day (Singapore, MOM 2020a). Even where not mandated, migrant domestic workers have reported that they have not been allowed their day off (Aziz and Basir 2020). In many cases this increased their workload and it kept them restricted to accommodation with little or no private space (TWC2 2020f).

5.1.6. Private rental accommodation

There are many forms of private rental accommodation that migrant workers may source independently or have provided or arranged by their employer or agent. Private rental accommodations usually offer more autonomy for the migrant worker; though unlike dormitory or compound accommodation there is likely no security facility at the property.

Although dormitories receive the most public attention for overcrowding, conditions in private rental accommodation can be as bad (Kusakabe et al. 2018). One male migrant worker in the Singapore FGDs shared: "This is my third place. My first place was extremely crowded ... there were 20 people crowded into the flat. Then I found a flat with a better environment but there were residents who drank heavily and got into fights. My current situation is the best."⁸⁵

Rented, shared flats and houses are commonly used for migrant workers in the manufacturing and service sectors in Malaysia (Tasleem, Ajis, and Abidin 2020). In this study, some FGD participants in Malaysia (migrant men in regular status) shared three-bedroom apartments that accommodated up to 10 to 12 migrant workers (each room with four migrant workers). Such arrangements may use double-decker bunks. The residents share one toilet/bathroom. Civil society advocates noted that this housing option usually offers decent lighting, ventilation, cooking and sanitation facilities, electricity and water.⁸⁶ Three other men shared a house with three other workers, and a fourth shared a house with two other migrant workers where each had their own room. All of the FGD participants that were sharing houses were undocumented. The four women migrant workers who participated, who are also in irregular status, lived in two- or three-bedroom (one bathroom) flats. Prior to the pandemic they shared these flats with at least five other people.⁸⁷

About one-third of migrant workers in Singapore live in dormitory accommodation. An estimated two-thirds of migrant workers in Singapore (excluding domestic workers) live in private rental accommodation, including most services and manufacturing workers, but also many construction workers, and some process and marine workers. Most migrant workers in the service sector have to make their own housing arrangements, and usually obtain contact details for housing providers from their recruitment agent.⁸⁸ Many such places are not in compliance with applicable regulations, but are still favoured by migrant workers over the purpose-built dormitories because they allow for greater autonomy, agency over their living conditions and communal living.⁸⁹

83 Focus group discussion, Singapore, 18 April 2021.

84 Written response from HOME, received on 27 March 2021. See also, TWC2 2016; HOME and TWC2 2017; and HOME 2018.

85 Focus group discussion, Singapore, 18 April 2021.

86 Interview with Tenaganita, 13 April 2021.

87 Focus group discussion, Malaysia, March 2021.

88 Written response from HOME, received on 27 March 2021.

89 Written response from HOME, received on 27 March 2021.

Although Singapore's Employment of Foreign Manpower Regulations require that employers provide acceptable accommodation for their migrant workers that meet the standards set out in relevant law, directives and other instruments, migrant workers in private housing have been documented in sub-standard facilities. Civil society have reported that to save costs, employers in Singapore have accommodated 10 to 15 migrant workers in one room (HOME 2015). Studies have documented an average of 20 migrant workers sharing amenities in some sites (Kornatowski 2017). One study reported a ratio of 80 people to one toilet. Hot-bedding (shift workers rotating the use of a bed) has also been reported (Yea 2020).

In Singapore, the six migrant workers in this research who lived in non-dormitory accommodation lived in shared flats with the landlord in residence. One woman migrant worker described her housing as a flat that she shared with three other women and their male landlord, with bunk beds in the tenants' rooms. Two men share a flat with five other people, including the landlord. The participating migrant workers share an en-suite room with a double bed that they also share with another migrant worker who is on a different shift and occupies the room at different times over the course of the day. The landlord has their own room, and the other tenants (mixed-gender couples) share two bedrooms. Another migrant worker, who secured his accommodation through a job agent, shared a flat with five others. The flat had two people to a room and one bathroom/toilet and adequate cooking facilities. The flat also has air-conditioning, internet and washing machines.

A 2015 study on migrant housing in Thailand found that more than 70 per cent of migrant workers lived in rented housing (IPSR 2015, as cited in Kusakabe et al. 2018).⁹⁰ For example, some migrants also rent a single room accommodation in "row" room housing, that is, in buildings where a family lives in a single room next to other attached rooms.⁹¹ Accommodation for migrant workers in Chiang Mai is in small, usually shared rooms measuring 4 by 5 metres with a mattress and a place to sit and eat on the floor. There is not a lot of personal space. One FGD participant mentioned there being space for children to play outside.⁹²

5.2. Habitability

The habitability of migrant worker housing in ASEAN countries of destination has been the subject of concern for many years, including in relation to health risks.⁹³ During the COVID-19 pandemic it has proven critical to workers' physical and mental health, and by extension, to the health of the wider population in countries of destination. In a recent ILO survey conducted with migrant workers in Malaysia, Singapore and Thailand, approximately two-thirds of the men who responded, but fewer than one-fifth of the women, reported that they had adequate space in their accommodation to practice the recommended physical distancing (ILO 2021).⁹⁴ This could be linked with the labour sectors in which they work, with inadequate accommodation that lacks private space being common in domestic work, and with gendered norms that see women spending more time in the housing. This study found that many migrant workers were able to take the necessary preventative measures; for example, all the migrant workers who participated in the Malaysia FGD, whether renting their own premises or living in employer-provided housing, reported that they were able to adhere to physical distancing in their accommodation.⁹⁵

90 Of the remainder, 20 per cent were in employer-provided accommodation, and others lived with relatives.

91 Written contribution from the MAP Foundation, received 14 April 2021.

92 Focus group discussion, Chiang Mai, Thailand, 29 April 2021.

93 Interview with Persatuan Sahabat Wanita Selangor, 26 March 2021; written response from HOME, received on 27 March 2021.

94 Few of the migrant workers surveyed answered this question, but of those that did, 49 of 74 men and 9 of 47 women responded that they had enough space in their accommodation to practice the recommended physical distancing (ILO 2021).

95 Focus group discussion, Malaysia, March 2021.

5.2.1. Sharing space

Household crowding can be a marker of social deprivation and stressful to health and well-being. The WHO makes preventing and reducing crowding one of its top recommendations (WHO 2018). The occupation density of migrant housing has been a critical factor during the pandemic, with overcrowded accommodation facilitating the spread of COVID-19. Expert advice has focused on decongesting and lowering the density in such places and reducing overcrowding to enable residents to practice the necessary physical distancing to live safely and with dignity (Global Shelter Cluster 2020). ILO standards require States to establish minimum housing standards that relate the minimum allowable space in terms of reasonable proportions per person or per family (ILO Recommendation No. 115). All three States in this research have set minimum space criteria, but the allocations, especially in centralized housing, are low (table 6).

► Table 6. Selected standards regarding minimum floor/personal space per worker

Source of standard	Minimum floor or personal space per worker
Malaysia (2020) ¹	3 m ² (dormitories) or 3.6 m ² (other accommodations) sleeping space per worker
Singapore (pre-pandemic standard) ²	3.5 m ² (dormitories) minimum living space per resident
Singapore (2021) ³	<ul style="list-style-type: none"> ▶ Temporary quarters during COVID measures: At least 6 m² (sleeping quarters space, excluding toilets) for CTQ or TOLQ ▶ Revised standards (September 2021): At least 4.2 m² living space per resident in new dormitories
Thailand – construction sector (2016), ⁴ extended to all employer-provided worker housing in the context of the COVID-19 pandemic ⁵	<ul style="list-style-type: none"> ▶ 3 m² ▶ The minimum width of accommodation should be no less than 2.5 metres with the total area of no less than 9 square metres and the height shall be no less than 2.4 metres.
Sphere Association (2018)	Minimum 3.5 m ² of living space per person, excluding cooking space, bathing area and sanitation facility (4.5–5.5 m ² of living space per person in urban settings where internal cooking space and bathing and/or sanitation facilities are included). Internal floor-to-ceiling height of at least 2.6 metres in hot climates at the highest point.
New Zealand	<ul style="list-style-type: none"> ▶ For one person: 6m² of floor space, increasing to 9m² for two people; ▶ For larger groups: 9m² for the first two people and 4.5m² for every extra person.

¹ Employees' Minimum Standards of Housing, Accommodations and Amenities (Accommodation and Centralized Accommodation) Regulations 2020, para. 5.

² Urban Redevelopment Authority, "Civic and Community Institution: Independent Workers' Dormitories". This current minimum living space standard per resident of 4.5 square metres includes shared living facilities (such as, en-suite kitchen, toilets, yard spaces). MOM have noted that "excluding the shared living facilities, this broadly works out to a minimum living space per resident of 3.5sqm" (Singapore, MOM, "Press Release on Improved Standards for New Migrant Worker Dormitories to Strengthen Public Health Resilience and Enhance Liveability", 17 September 2021).

³ Singapore, Ministry of Manpower, "On-Site Workers Quarters Application Form", Annex A: Design Specifications for CTQ: Standalone Temporary Quarters or TOL Land. The lower standards will apply to all new applications to develop a dormitory submitted on or after 18 September 2021. MOM are "reviewing improvements that are feasible within current built infrastructure constraints" of existing dormitories: Singapore, MOM, "Press Release on Improved Standards for New Migrant Worker Dormitories to Strengthen Public Health Resilience and Enhance Liveability", 17 September 2021.

⁴ Labour Welfare Committee, 2016. Standards of Accommodation as Labour Welfare for Employees in the Construction Sector, Clause 1(1).

⁵ Notification of the Ministry of Labour Re: Provision of Welfare for Business Establishment which Provides Accommodation for Employees to Prevent any Risk of Contracting Corona Virus 2019 (COVID-19), 10 February 2564 (2021).

As can be seen in table 6, Singapore, which recorded the most serious COVID-19 outbreak in migrant worker housing of the three study countries prior to this research, mandated the highest minimum space standards for temporary centralized migrant worker accommodation as part of its pandemic response. This was a best practice example in the region, with minimum standards that were double those of Malaysia and Thailand. It was the same minimum standard as that which was ordered for the housing provided to migrant workers on Qatar’s World Cup project (Qatar Workers Welfare 2016). However, this standard has not been retained for new-builds or applied to existing dormitories; in September 2021 the MOM announced lower space standards for new dormitories, though this new standard is above the current dormitory standard (Singapore, MOM 2021b). Civil society in Singapore had recommended a minimum standard of 7.5 square metres per person (TWC2 2020b). The Sphere Association (2018) standard, which is higher than the minimum designated in Malaysia and Thailand, is intended for emergency or temporary humanitarian situations. They indicate that the habitable space calculations should be revised for stays of extended duration. The minimum space standards for seasonal workers in New Zealand take into account the cumulative effect of multiple occupancy of the sleeping quarters, which is a good practice.

International labour standards for maritime workers and for fishers set out detailed size specifications depending on the size and type of ship, and (for officers) whether the workers also have access to a sitting room or day room (MLC, 2006; and ILO Convention No. 188 – see table 7).⁹⁶

► **Table 7. Selected minimum areas prescribed in international labour standards for sleeping rooms for seafarers and fishing workers¹**

Type/size of ship	Sleeping rooms requirements
Less than 3 000 gross tonnage	Single room with minimum floor area of 4.5 m ² , or maximum of two workers may share sleeping rooms but the floor area of such rooms must be at least 7 m ²
Between 3 000 and 10 000 gross tonnage	Single room with minimum floor area of 5.5 m ²
Over 10 000 gross tonnage	Single room with minimum floor area of 7 m ²
Passenger ships and special purpose ships ²	<ul style="list-style-type: none"> ► 7.5 m² in rooms accommodating two persons; ► 11.5 m² in rooms accommodating three persons; ► 14.5 m² in rooms accommodating four persons.
Special purpose ships	Sleeping rooms may accommodate more than four workers with a minimum floor area of 3.6 m ² per person.
Fishing vessels of between 24 and 45 metres in length	Minimum floor area for sleeping rooms of 1.5 m ² per person, excluding space occupied by berths and lockers.
Fishing vessels over 45 metres in length	Minimum floor area for sleeping rooms of 2 m ² per person, excluding space occupied by berths and lockers.

¹ The MLC, 2006, and ILO Convention No. 188 give specifications for sleeping rooms in vessels of different lengths and weight classes as well as berth dimensions and spacing. There are additional specifications for ships’ officers.

² For seafarers not performing the duties of ships’ officers.

Source: MLC, 2006, and ILO Convention No. 188.

96 The Conventions allows some dispensation on smaller ships, passenger and special purpose ships.

A significant factor in the spatial provision in housing for low-wage migrant workers is that most share their accommodation, including sleeping quarters, with others. The United Nations Human Settlement Programme (UN-Habitat) had previously set a standard for overcrowding as occurring if there are more than three people per habitable room (UN-Habitat 2004).⁹⁷ For maritime workers, the international standard is for each seafarer to have their own sleeping room of adequate size and properly equipped so as to ensure reasonable comfort and to facilitate tidiness (MLC, 2006).⁹⁸ The WHO (2018, 22) note that “[w]hether a household is ‘crowded’ depends not only on the number of people sharing the dwelling, but on their age, their relationship and their sex”. In recent ILO survey work in Malaysia, Singapore and Thailand, 60 per cent of migrant worker respondents lived with other migrant workers (ILO 2021). A minority live with their spouse and/or children, and some also reported that they share the accommodation with their employer or manager (table 8).

► **Table 8. Proportion of migrant workers sharing accommodation in Malaysia, Singapore and Thailand**

Sharing with:			Gender-disaggregation				Ibid
	Total (%)		Yes (%)		No (%)		
	Yes	No	Women	Men	Women	Men	
Your spouse	29	71	44	56	47	53	182 (46% : 54%)
Your children	20	80	42	58	46	54	169 (46% : 54%)
Other migrant workers	60	40	27	73	72	28	187 (45% : 55%)
Your employer or manager	31	69	84	16	39	61	167 (53% : 47%)

Source: ILO 2021.

The migrant workers who participated in the Bangkok FGD reported that they do not have enough space to relax in their accommodation. Those living in private rooms share the space with at least one and up to five other persons.⁹⁹ Migrant workers, for example in Mahachai subdistrict (in Samut Sakhon Province, the site of a COVID-19 outbreak in March 2021) may have ten people living in a room on a shift basis: five work in the daytime and five at night.¹⁰⁰ Such sharing arrangements are especially problematic during the pandemic, as the conditions were not intended for all residents to be living there at the same time. The dormitory residents who took part in the Singapore FGDs for this study recommended an occupancy cap of four to six persons in a sleeping area of 20 square metres.¹⁰¹ By way of comparison, accommodations provided to migrant workers on Qatar’s World Cup project have a low room occupancy (maximum of four people per room) and prohibit the use of bunk beds or bed sharing (Qatar Workers Welfare 2016). This is also the maximum room occupancy proposed by activists in Singapore for “apartment-style” arrangements within dormitories (TWC2 2020b).¹⁰²

97 See also, UN DESA. 2008. *Principles and Recommendations for Population and Housing Censuses: Revision 2*. ST/ESA/STAT/SER.M/67/Rev.2, at Annex III, H6-R: Housing units, by number of rooms, cross-classified by type of housing unit and number of occupants per housing unit. This is the standard cited by the WHO (2018). The WHO also sets out some national measures of crowding, mostly in Western countries.

98 For smaller ships (less than 3,000 gross tonnage) a maximum of two workers may share sleeping rooms, but the floor area of such rooms must be at least 7 square metres. On special purpose ships, more than four workers may share sleeping rooms with a personal space allowance of at least 3.6 square metres per person (MLC, 2006). For fishing vessels, the use of single person rooms is also the recommendation for officers, but for other workers the standard is to have no more than six workers share a sleeping room, or no more than four on vessels of 24 metres in length and over (ILO Convention No. 188).

99 Focus group discussion, Bangkok, Thailand, 31 March 2021.

100 Interview with the HRDF, 12 April 2021.

101 Focus group discussions, Singapore, 18 and 25 April 2021.

102 In this proposal, eight migrant workers would be housed in self-contained two-bedroom apartments with four beds (two bunk beds) in each bedroom and two toilets and two showers (ratio of four people per amenity). There are also recommendations relating to ventilation and cooking facilities. The proposed design does not offer much in the way relaxation space separate to the sleeping quarters (TWC2 2020b).

The standards for new dormitories introduced by the MOM in September 2021 set the maximum sharing occupancy at 12 persons per dormitory room, which is the lower end of the recommended range for existing dormitories of 12 to 20 persons (Singapore, MOM 2021b).

Migrant workers and some key informants who contributed to this research also noted that flexible work hours and different shift patterns made it easier to share the space and facilities.¹⁰³ For example, in the shrimp processing zones in Thailand, some places rotate people through accommodation in shifts, with six people staying in one room and rotating with three people there per shift – one day shift and one night shift.¹⁰⁴ Hot-bedding, where multiple tenants share the bed in shifts, is not hygienic and has other safety concerns. ILO standards require a separate bed for each worker (ILO Recommendation No. 115), which implicitly, at least, rules out this practice.¹⁰⁵ For the property owner, bed sharing may also have implications for the wear and tear of the facilities; for example, some migrant workers in Samut Sakhon, Thailand, live in dilapidated conditions where only two of ten toilets are in working order – an unacceptable situation even before the pandemic response restricted them to their accommodation (Migrant Working Group 2021). The feasibility of arrangements of this sort ended once migrant workers were restricted to their housing during the pandemic.¹⁰⁶

An ILO (2021) survey found that the majority of migrant worker respondents in Malaysia, Singapore and Thailand felt that they had sufficient space in their housing, though a slightly higher proportion of women migrants reported that they did not have enough space (see table 9). Other research has shown that migrant workers cite overcrowding in employer-provided accommodation as a reason for seeking independent housing (see for example in Malaysia – as per Tasleem, Ajis, and Abidin 2020 – though in this study migrant workers in Malaysia were more likely to cite cost as the reason for such a move).

► **Table 9. Migrant workers’ perceptions of space in their accommodation in Malaysia, Singapore and Thailand, by country of destination and gender (%)**

Is there enough space?	Total (n=219)	Malaysia	Singapore	Thailand	Women	Men
Yes	83	81	93	71	77	88
No	17	19	8	29	23	12

Note: Percentages have been rounded, which may result in a total greater than 100%.

Source: ILO 2021.

Though the focus on the overcrowding found in much migrant worker housing has been on the increased risk of viral transmission, human rights workers have raised other concerns, including crimes and human rights abuses such as rape or other form of sexual violence, and social and health problems relating to drug use or fights between community members.¹⁰⁷ Dormitory operators in Singapore report that large-scale communal living can see challenges arising, sometimes causing conflict between residents of different countries of origin, cultures and habits.¹⁰⁸ Thai Government representatives noted that employers also have concern about such issues occurring in migrant worker accommodation.¹⁰⁹ However, it is poor housing conditions such as overcrowding that give rise to many such social tensions (WHO 2018), and improving the adequacy of migrant worker housing will help address these concerns.

103 Focus group discussions, Malaysia, March 2021, and Singapore, 18 and 25 April 2021.

104 Written response from the SERC, received 5 April 2021.

105 However, some safety recommendations for fishing workers include recommendations for using the on-board berths on a shift basis: “The minimum number of berths should not be less than half the number of crew on board” (FAO, ILO, and IMO 2012, para. 11.3.2).

106 Interviews with Our Journey, 16 March 2021, and Tenaganita, 13 April 2021; Migrant Working Group 2021.

107 Interview with the HRDF, 12 April 2021.

108 Written response from DASL, received 16 July 2021.

109 Interview with the DLPW, 22 April 2021.

5.2.1.1. Habitability during COVID

The habitability of migrant worker accommodation in Singapore, specifically in the high-density dormitories, has received a great deal of attention since the outbreak of the COVID-19 pandemic. With migrant workers confined to the shared dormitory rooms for as much as 22 or 23 hours a day, the lack of personal space and privacy has had negative effects on their physical and mental health (TWC2 2020f).¹¹⁰ The MOM reported that it has increased the availability of migrant worker housing options, including by providing temporary housing facilities for migrant workers in essential work and who had recovered from COVID-19. This process started in April 2020 in order to reduce the overall density in the dormitories, and continued until August 2020 when, as the dormitories were declared cleared of COVID-19, migrant workers living in the temporary housing facilities were progressively moved back to their original dormitories or to the new quick-build dormitories (QBDs). The QBDs were a pilot of new living standards to improve the public health resilience of dormitories, with the pilot starting in September 2020. QBD rooms have a capacity capped at ten residents and have en-suite toilets. Other facilities (kitchens, dining areas and laundries) are also designed to cater to a smaller group of residents in order to support reduced density across all living conditions (Singapore, MOM 2021a). The QBDs have increased the supply of migrant worker housing across seven sites with a total of 15,000 bed spaces, and more will be completed by 2021 for a total of 25,000 bed spaces. In addition, the MOM has supported employers' requests to build 46,000 bed spaces at new construction temporary quarters (CTQs) for their workers since April 2020. These measures (new QBDs and CTQs) have created housing for around 60,000 migrant workers. The average occupancy in the purpose-built dormitories (PBDs) was at around 60 per cent of their maximum occupancy limit in April 2021, as opposed to 88 per cent a year prior.¹¹¹ This figure corresponds with civil society estimates that density in the dormitories had not been reduced by more than 15 per cent (HOME and TWC2 2020). In addition to reducing occupancy, the Singapore authorities introduced a number of Safe Living Measures to reduce residents mixing in the dormitories during pandemic restrictions. These measures included dedicated access routes and dedicated lifts for different floors to ensure physical segregation, staggered use of communal facilities, and crowd control measures such as staggered timing or points for pick up/drop off. With these measures in place, they were able to use targeted quarantine measures when a case of COVID-19 was detected, rather than locking down the entire dormitory.¹¹²

In an FGD for this study, a migrant worker living in FCD accommodation in Singapore reported that, in the nine rooms partitioned out of the factory floor, there were three people occupying the two larger corner rooms and two people in each of the seven rooms in between, each measuring approximately 16 square metres, following a MOM spot check as part of COVID-19 response measures. The occupancy was higher before the pandemic. The migrant worker expressed a hope that these current conditions will be maintained, especially with regards to the number of persons in a room, and that the conditions could be improved in future with government oversight.¹¹³

Overall, all the migrant workers who participated in the FGDs in Malaysia, whether renting their own premises or living in employer-provided housing,¹¹⁴ reported that they were able to adhere to physical distancing in their accommodation.¹¹⁵ Several reported that occupational density in their housing had been reduced during the pandemic to meet physical distancing requirements. In some cases, migrant workers were moved to new accommodation to overcome inter-district travel restrictions.¹¹⁶ For example, in the Malaysia FGDs, the migrant

110 This change in dormitory occupancy and use – increased usage of the communal amenities and of decentralized refuse with meals catered and consumed in the migrant workers' rooms – necessitated a quadrupling of the dormitory workforce (written response from DASL, received 16 July 2021).

111 Written response from the MOM, received 5 May 2021. The main group of migrant workers in dormitory accommodation – those in the construction, marine and processing sectors – reduced by 15 per cent in 2020 (Singapore, MOM 2021a).

112 Information provided by the MOM's Assurance, Care and Engagement (ACE) Group, during online workshop, 10 August 2021.

113 Focus group discussions, Singapore, 18 and 25 April 2021.

114 In 2021, the Government introduced the Minimum Standards of Housing, Accommodation and Facilities for Employees (Employees Required to be Provided Accommodation) Regulations 2021, which mandates that all migrant workers must be provided with accommodation by their employers. However, some of the migrant worker participants in this research had sourced their own housing.

115 Focus group discussion, Malaysia, March 2021.

116 Information provided by Sumitha Shaanthinni Kishna, Director, Our Journey, during the online webinar, 10 August 2021.

workers in regular status living in employer-provided accommodation experienced the highest occupation densities pre-COVID, but saw these reduced by half, from 12 (per flat) to five or six workers in three-bedroom apartments.¹¹⁷ In their press statement on the Emergency Ordinance, the Malaysian Ministry of Human Resources (MOHR) stated that their long-term plan is “to encourage the construction of centralized accommodation that meets the conditions and requirements of Act 446” (Malaysia, MOHR 2021). The Manpower Department of the MOHR is to develop a special framework soon on the building of Centralised Labour Quarters (CLQs) to assist developers in meeting specifications and standards in line with the Emergency Ordinance (*Bernama* 2021). Especially now that COVID-19 has made plain the risks inherent in such large-scale housing models, it is vital that any such policy be in line with international human and labour rights standards and that it incorporates best practice guidance and lessons learned from the pandemic.

In other situations, however, density in migrant worker accommodation increased during COVID. For example, in Thailand, some migrant workers moved in with others after losing their jobs when they could not make the rent, increasing the density in these residences, and in Mae Sot, many factories required their workers to move into and stay in the factory compound.¹¹⁸ Migrant workers having to move in with each other, due to job cuts or non-payment, and thereby reducing the possibility of safe physical distancing in the accommodation, was also documented in other countries (such as Malaysia: see Aziz and Basir 2020).

The efforts to reduce occupational density in migrant worker housing were not without their downsides. In the Malaysia FGDs, the women migrant workers reported that their rent had increased during the pandemic as a result of sharing with fewer tenants (see section 5.3.4 below). As a result, two of them expressed a wish to move into cheaper accommodation, specifically into a *kongsi*. This is the term used in Malaysia for community-based housing usually in the form of a shipping container or structures manufactured from wood and other waste materials. Workers living in a *kongsi* may not have to pay for rent, water or electricity.¹¹⁹ *Kongsis* are crowded and have no ventilation, and are therefore a health risk especially during the COVID-19 pandemic. The women said that they were willing to accept poorer living conditions to reduce accommodation costs: “As long as there is a bathroom, it is ok with me, even if it is overcrowded. We were struggling without income.”¹²⁰ According to the amendments to Act 446, *kongsis* are no longer allowed (Khor Gee-Weon 2021).

Some migrant workers moved out of the affected dormitories in Singapore, including into hotels, for 14-day quarantines, and struggled with the isolation of these alternative accommodations and suffered from depression, including suicide ideation.¹²¹ Also, contrary to the efforts noted above to reduce density in the dormitories, civil society activists reported that from May 2020 some migrant workers who had been living in private housing were moved into dormitories following government inspections of their housing conditions and the enforcement of occupancy limits.¹²²

5.2.2. Conditions

Adequate housing is structurally sound, physically protecting its residents from the elements and protecting them from other threats to health, such as disease vectors (ILO Recommendation No. 115; UN CESCR 1991). There are concerns about the structural quality of some migrant worker housing, which can often be quite poor (Mekong Migration Network 2020; Napier-Moore and Sheill 2016). Although the ILO standard indicates some leeway in housing quality for temporary labour migrants (ILO Recommendation No. 115) this cannot be at the expense of the safety of the migrant workers or of their rights. Participants in this study who lived in a construction temporary quarters (CTQ) (dorm) accommodation in Singapore felt it was structurally sound, even although it was a temporary structure.

117 Focus group discussion, Malaysia, March 2021. This is critical but can have cost implications (see section 5.3 below).

118 Focus group discussion, Bangkok, Thailand, 31 March 2021; written contribution from the MAP Foundation, received 14 April 2021.

119 Focus group discussion, Malaysia, March 2021; interview with Our Journey, 16 March 2021.

120 Focus group discussion, Malaysia, March 2021.

121 Interview with the MWC, 19 March 2021.

122 Written response from HOME, received on 27 March 2021.

Housing conditions are not static. There will be wear and tear over time and there needs to be attention to the upkeep and improvement of the accommodation, in line with the right of everyone to the continuous improvement of living conditions (ILO Recommendation No. 115; International Covenant on Economic, Social and Cultural Rights; UN CESCR 1991). Some FGD participants in Chiang Mai, Thailand, reported structural issues with their housing, such as a leaky roof, that they had to fix themselves as their landlord never did.¹²³ In the FGDs conducted for this research, migrant workers in employer-provided housing in Malaysia reported that although they had been informed prior to arrival in the country that the company would maintain the property and fixtures during their stay, this was not the case. They also reported that they were not allowed to make their own renovations, for example by painting their room. At the same time, the employer was unresponsive to requests to fix broken items in the accommodation.¹²⁴ Where employers are providing the housing, they may be looking to keep costs down and opt for substandard options and/or not maintain the housing and facilities. Where this responsibility falls to the migrant worker – either in the terms of their housing contract/agreement or by default through the inaction of the owner or housing provider – this is connected to the amount of disposable income migrant workers can spend – or are willing to spend – on accommodation, which is a function of their low wages. Given the imperative for many migrant workers to minimize their costs and maximize their income/remittances, not all will want to undertake their own maintenance and repairs, even when permitted (Kusakabe et al. 2018). Cheap or rundown accommodation compromises on various criteria of adequate housing, including on space and hygiene. Reportedly, conditions in some migrant worker housing can be so poor that some officials are reluctant to visit during the pandemic, including public health workers.¹²⁵ This could amount to discrimination on the basis of housing status (UN General Assembly 2018). Crucially, where there have been good practices instituted or planned in response to the COVID-19 pandemic, they should be maintained in line with the overall requirement to improve living conditions (for example, some of the increased space standards (see table 6)).

Migrant workers and activists in Singapore have raised numerous concerns about factory-converted dormitories (FCDs) given that these are premises that were not built for human habitation. These concerns include inadequate ventilation and bad drainage, which can create difficult living conditions in Singapore's hot and humid conditions, as well as being disease vectors, in particular for insect-borne diseases, and are not in line with international legal standards.¹²⁶ Some activists also raised concerns that some dormitory operators and employers do not provide proper bedding (mattresses and other essentials) in the accommodation.¹²⁷ One of the FCD residents in this study reported there was a bedbug infestation in the accommodation.¹²⁸

In Singapore, the MOM has announced a comprehensive review of housing standards in dormitory accommodation and strengthening of regulatory controls. One specific measure announced is that the law regulating conditions in the largest dormitories (Foreign Employee Dormitories Act, 2015) will be expanded to include all dormitories, regardless of size. The details on this are still pending, due to be released later in 2021, but over time all dormitories will be brought in line with a consistent set of housing standards (Singapore, MOM 2021a).¹²⁹ There are plans for new purpose-built dormitories with improved standards over the next few years to house up to 100,000 workers. This will follow the pilot of QBDs with improved standards, including more living space per migrant worker and a smaller occupancy in each room, as well as a lower ratio of residents to sanitary facilities of at least one toilet, bathroom and sink for every five migrant workers (Asokan 2020). One important development in this plan is the use of a single bunk system dormitory-wide, an improvement that was recommended by migrant workers in this research.¹³⁰ That would immediately halve the occupancy in most dorms, improving conditions

123 Focus group discussion, Chiang Mai, Thailand, 29 April 2021.

124 Focus group discussion, Malaysia, March 2021.

125 Interview with the HRDF, 12 April 2021.

126 Written response from HOME, received on 27 March 2021.

127 Written response from HOME, received on 27 March 2021.

128 Focus group discussion, Singapore, 25 April 2021.

129 MOM anticipate that there will be a set of common requirements for all dormitories on issues such as cleanliness, space and ventilation, with additional requirements that depend on the size of the dormitory, such as recreational facilities in some of the larger dormitories (Singapore, MOM 2021a). The review of infrastructure standards for new dormitories to better prepare them for future pandemics has drawn on feedback from public health experts, employers, dormitory operators and other stakeholders as well as the Government's experience of measures introduced over 2020/21 (information provided by the MOM's ACE Group, during online workshop, 10 August 2021).

130 Focus group discussions, Singapore, 18 and 25 April 2021.

for migrant workers and representing a significant change to the commercial dormitory operator model.¹³¹ Dormitory operators note that the changes will increase costs, which will be passed on to the end users.¹³² Similarly, the MOM recognize that the higher standards they are looking to introduce may result in higher costs for employers and dorm operators, and that this may make such businesses more cautious in bidding to own or build new dormitories (Singapore, MOM 2021a). In work by TWC2 (2020c), the cost per worker of some substantial reforms – in that research, apartment-style accommodation for a maximum of eight workers – cost only S\$6 (US\$5) per worker more per month over a long (30-year) lease.

5.3. Affordability

Housing has become a financial asset and a driving force for economic growth, with housing policies more focused on housing finance than on the social aspects of housing. This approach has led to a global financial crisis (the sub-prime mortgage and resulting financial crisis of 2008) and drives a wider affordability crisis with reduced investment in the construction of adequate housing for marginalized and disadvantaged groups, and this has increased housing precarity for many (UN General Assembly 2012). Such precarity has long been the case for low-wage migrant workers in Malaysia, Singapore and Thailand, in particular for those in major cities, whose salaries do not keep pace with the cost of living and who cannot afford to rent decent housing at market rates, or in some cases even the cheapest rental accommodation (Ogunlana and Chang 1998). This creates the need for employer-provided accommodation.

5.3.1. Wages and benefits

For migrant workers who have to pay rent or other accommodation-related costs such as utilities, the affordability of housing is a function of their wages, benefits, and costs like recruitment fees and remittances. Wages vary by labour sector, length of service, nationality and other factors (see, for example, ILO 2018c). Data on migrant worker wages also needs to be read in tandem with migrant workers' access to and rates of overtime pay and their differing access to social security provisions, which vary based on labour sector and documentation status. These benefits may also be determined by the terms and conditions of relevant bilateral agreements. Migrant workers' access to social security schemes and other social protection mechanisms is especially important during times of crisis, but is often limited in law or in practice (ILO 2017; Olivier 2018). Comparison of wages or accommodation costs is made difficult by the different ways in which employers retrieve their spending on accommodation and utilities (Ogunlana and Chang 1998).

In an ILO (2021) survey of ASEAN migrant workers in Malaysia, Singapore and Thailand, more than 200 migrant workers were asked about their wages (table 10). Comparing that with data on minimum and living wage levels:

- In Malaysia the minimum wage is about three-fifths' the 2017 suggested living wage (Asia Wage Floor Alliance 2017). On average, migrant workers are earning above minimum wage in Malaysia, even during the pandemic (though for women migrant workers this is only narrowly the case). Still, none meet the level of the living wage recommended four years ago.
- Singapore does not mandate a minimum wage, which undermines accountability and puts migrant workers at risk of exploitation (HOME 2020). Migrant men were on average earning close to the suggested net living wage before the pandemic, which was still a fraction of the nominal wage. Low-wage migrant workers hold Work Permits, a category of work pass with salaries under S\$2,400 per month (approx. US\$1,812).¹³³ This is less than half the median monthly salary of citizens and permanent residents, and not in line with increasing living costs, primarily of food and housing (HOME 2017; TWC2 2020f).¹³⁴ Singapore pays much lower wages than other high-income countries in Asia and the Pacific, such as Japan, the Republic of Korea, Australia and New Zealand, where there are minimum wage provisions.

131 Interview with the MWC, 19 March 2021.

132 Information provided by Johnathan Cheah, President, DASL, during online workshop, 10 August 2021.

133 All currency conversions in this chapter as of 26 May 2021.

134 As an example, recent reports on the low wages paid to migrant workers found that migrant workers took an average of 3.5 years to pay off their recruitment fees on their monthly salary of about S\$500 to S\$650 (Awang 2021).

- The minimum wage in Thailand is about half the amount suggested as a living wage in 2017 and excludes workers in the agricultural and domestic work sectors, for example. The average wage for men and women migrant workers was above the minimum wage before COVID-19. During the pandemic, the average for men has remained above this level, but women migrant worker's average wages have fallen below. Even before the pandemic, men migrant workers' average wage was only about two-thirds of the living and nominal wage levels.¹³⁵ Although this sample gives average (pre-pandemic) wages as being above minimum level, many migrant workers in Thailand still receive less than the minimum wage, and in some locations, overtime was also far lower than the legal minimum rate, a situation that is manageable only where wages – even if below the legal minimum – are sufficient to meet the local cost of living (Boonwara and Panpiemras 2019).
- Average wages of migrant workers in all three countries have fallen during COVID-19 (see tables 10 and 12).
- Of the migrant workers surveyed by the ILO, men earn more than women in all three countries of destination. The gender pay difference is especially large in Singapore, where men's reported wages were more than US\$270 higher than women's pre-COVID and US\$468 higher during the first phase of the pandemic.

► **Table 10. Living, minimum and nominal wage in Malaysia, Singapore and Thailand compared with average salaries reported by migrant workers before and during COVID-19**

Type of wage/salary		Malaysia	Singapore	Thailand
Living wage		RM1 960 (2017 figure, US\$473) ¹	S\$1 500 in take-home pay (US\$1 134); or S\$2 055 in gross wages (US\$1 553) ²	15 140 baht (2017 figure, US\$484) ¹
Minimum wage		RM1 200/month for workers in the peninsula and RM1 100 in Sabah and Sarawak (US\$290/265) ³	None	Daily rate of between 313 baht (US\$10) and 336 baht (US\$10.75) ⁴
Nominal wage 2019 ⁵		RM3 699 (US\$893)	S\$5 549 (US\$4 193)	15 200 baht (US\$486)
Average salary reported by migrant workers before COVID-19 (pre-March 2020), n=225 ⁶	Women	RM1 493 (US\$361)	S\$1 128 (US\$852)	7 933 baht (US\$254)
	Men	RM1 939 (US\$468)	S\$1 488 (US\$1 124)	9 950 baht (US\$318)
Average salary reported by migrant workers during COVID-19 (after March 2020), n=223 ⁶	Women	RM1 268 (US\$306)	S\$710 (US\$536)	6 526 baht (US\$209)
	Men	RM1 516 (US\$366)	S\$1 329 (US\$1 004)	8 724 baht (US\$279)

RM = Malaysian ringgit

¹ Source: Asia Floor Wage Alliance, "Asia Floor Wage 2017 = 1187 PPP\$".

² This figure has been suggested, only for local workers, by Non-Constituency Member of Parliament Leong Mun Wai from the Progress Singapore Party (Ong 2021).

³ This does not apply to domestic workers (*Free Malaysia Today* 2021).

⁴ Source: Thailand, Ministry of Labour, "Minimum Wage". This does not apply to domestic workers.

⁵ Source: ILO 2020e, Appendix 1.

⁶ Source: Unpublished survey data collected for ILO 2021.

135 In Malaysia and Singapore the suggested living wage is a fraction of the nominal wage; whereas in Thailand they are about the same.

5.3.2. Accommodation costs

Across all three study countries, the onus for paying accommodation costs is split fairly evenly between employers and migrant workers, with 42 per cent of migrant worker respondents to an ILO (2021) survey reporting that employers pay all the costs and 45 per cent of migrant worker respondents saying they pay all the costs themselves. However, who pays for accommodation varies greatly between countries and housing type (see table 11 and box 4). In Singapore, most (73 per cent) migrant workers report that their employer pays all accommodation costs; whereas in Thailand these are typically the responsibility of the migrant workers themselves (88 per cent). See further in the discussion on salary deductions in section 5.3.3 below.

► **Table 11. Who pays for migrant workers' accommodation in Malaysia, Singapore and Thailand? (%)**

Who pays accommodation costs?	Malaysia	Singapore	Thailand	Total (n=242)
I pay for all of my accommodation and utilities.	44	16	88	45
My employer pays 100% for my accommodation and utilities.	36	73	5	42
My employer pays for the accommodation and I pay for all/some of the utilities.	17	8	7	11
Other	3	3	0	2

Source: Unpublished survey data collected for ILO 2021.

Malaysia places a cap on the amount that can be deducted from workers' salaries to pay for employer-provided accommodation. Previously this cap was set at 50 ringgit per month, but was doubled in 2020 to 100 ringgit (see the next section on salary deductions). In research for this study, eight migrant workers in Malaysia (four men and four women, all of whom were undocumented) sourced their own accommodation rather than living in employer-provided housing, and they paid between 60–300 ringgit (US\$14.50–US\$72) per month for rooms/bed space in shared houses. Three of the men paid an average of 300 ringgit (US\$72) per person per month in rent – well above the maximum deduction for employer-provided accommodation – and also paid for utilities and to make repairs around the house. The employer of the fourth undocumented male migrant worker paid all accommodation-related costs.¹³⁶ The four undocumented women migrant workers paid between 300 and 600 ringgit per flat per month in rent and also paid for utilities. With the usual occupancy rates given as being at least five people per flat, that works out to at approximately 60 to 120 ringgit per month per person (US\$14.50–29). This range is above the previous maximum salary deduction for employer-provided housing of 50 ringgit, but within a range closer to the new maximum of 100 ringgit, which came into effect in 2020.¹³⁷

Migrant workers who participated in the Singapore FGDs who reported housing costs (rent and utilities) as a proportion of wages estimated it to be between 17 and 30 per cent. Housing costs were at least S\$350 or more for a shared bedroom in an HDB flat, a significant proportion of a migrant worker's pay. This amount might drop to around S\$250 if the flat is rented out illegally. One migrant worker in this study received a housing allowance (subsidy) from his employer, which was documented in his pay slip, but this was inadequate to meet his rent and he had to pay an additional sum.¹³⁸ The rental cost to the employer for housing migrant workers in dormitories ranges between S\$260 and S\$320 (US\$193–238) per person per month. Some of these rental costs would also include utility costs and laundry costs.¹³⁹ Civil society reports cases where a migrant worker might co-pay up to

136 However, this migrant worker reported that he had to pay for his own work permit.

137 Focus group discussion, Malaysia, March 2021.

138 Focus group discussions, Singapore, 18 and 25 April 2021.

139 Written response from DASL, received 16 July 2021.

S\$130 of the dormitory costs (TWC2 2020g). The accommodation most commonly available to migrant workers on a Special Pass is in very small subdivided shared cubicles on the upper floors of traditional two-story shop houses that cost more than dormitory accommodation, and which, taken as a cost per unit area, makes them extremely high rent (Kornatowski 2017).¹⁴⁰

In Thailand, participants in the Bangkok FGD who paid for accommodation reported housing costs accounting for between 4 per cent and one-third of their salaries.¹⁴¹ Before the COVID-19 pandemic, the migrant workers who participated in the FGD in Chiang Mai earned above minimum wage, and rent accounted for between one-third and a half of their income. Their rent and utilities averaged 3,500 baht (US\$112), ranging from 2,000–2,500 baht (US\$64–80) up to 4,000–4,800 baht (US\$128–154).¹⁴² This represents a significant rise on the accommodation costs reported in previous research with migrant construction workers, where the cost for private rented accommodation in Chiang Mai had averaged 1,772 baht (at the time, US\$50) per month (Napier-Moore and Sheill 2016). Migrant workers in both Thailand FGDs discussed the issue of deposits for private rental accommodation, citing issues such as the agreed notice period to recover the deposit (together with cleaning and condition criteria that some owners use to reduce the returned amount) and language barriers if they need to negotiate with their housing provider to have their deposit returned to them.¹⁴³ Kusakabe et al. (2018) report deposits of up to 12,000 baht for townhouses (shared by 8.5 persons on average).

Transparency concerning any costs charged to the migrant worker and any salary deductions is essential. Migrant workers in Chiang Mai (Thailand) also reported that for those living in dormitory accommodation (factory compounds in Mae Sot), utilities were charged above the actual rate, with workers subsidizing the factory's electricity bill so that the owner could profit, which constitutes exploitation.¹⁴⁴

This exploratory research indicates that for at least some migrant workers, accommodation costs are too high. States have set a target of ensuring access for all to affordable housing by 2030 (UN 2015). Migrant workers in Malaysia have reported being shocked at the cost of accommodation in the country (Tasleem, Ajis, and Abidin 2020). Housing costs should not be at such a level that compromise obtaining other basic needs. Rent accounting for more than a third of income, as in Chiang Mai, indicates that this criterion of adequate housing is not being met. The percentage of housing-related costs should be commensurate with income levels and, moreover, should progressively diminish (ILO Recommendation No. 115; UN CESCR 1991; UN Human Rights Council 2019). This should be assessed not merely as the relationship between the migrant worker's income and rent, but also take into account other housing-related costs such as the cost of transportation between the accommodation and the workplace (see discussion on location in section 2.1.1.6 above). To address this for migrant workers the options would be to: reduce the rents charged to migrant workers, which would have consequences for the property owners unless this reduction was subsidized; provide some sort of housing subsidy to enable migrant workers to afford adequate housing at the market prices; or increase migrant workers' wages. Given gender wage disparities, particular attention should be paid to measures to ensure affordable housing for women migrant workers.

140 Migrant workers holding Special Passes are those who remain in Singapore after their Work Permit has been cancelled pending resolution of their cases, which may be on issues such as unpaid wages or workplace injuries.

141 Focus group discussion, Bangkok, Thailand, 31 March 2021.

142 Focus group discussion, Chiang Mai, Thailand, 29 April 2021.

143 Focus group discussions, Bangkok, Thailand, 31 March 2021, and Chiang Mai, Thailand, 29 April 2021.

144 Focus group discussion, Chiang Mai, Thailand, 29 April 2021; information provided by Brahm Press, MAP Foundation, during online workshop, 10 August 2021.

▶ **Box 4. Some examples of migrant worker housing costs**

Housing is considered affordable when the rent-to-monthly household income ratio is 25 per cent or less (UN Statistics 2020).

Malaysia

- ▶ *This study:* Accommodation costs reported by migrant workers in this study ranged from a deduction of 50 ringgit (about US\$12) for employer-provided accommodation, up to 300 ringgit (US\$72) per person per month for a place in a private shared house.

Singapore

- ▶ *This study:* Migrant workers estimated accommodation (rent and utilities) cost between 17 and 30 per cent of their wages.
- ▶ Figures from 2003 showed that dormitory bed-space costs on average S\$104 including utilities. Rents varied from S\$150 to S\$350 for a shared cubicle in the upper floor of a shop house (TWC2 2013).
- ▶ In 2017, HOME documented the cost of migrant worker housing at about S\$270 for a single bed space plus utilities at a purpose-built dormitory. Food costs (catered meals) ranged from S\$120 to S\$130, or S\$150 if workers prepared their own meals and split the cost between a small group (HOME 2017).
- ▶ In one case study a migrant worker had an in-principle approval letter (IPA) that stated that his monthly salary was S\$1,600, with a \$200 deduction for housing and amenities (HOME 2017).¹
- ▶ One migrant worker reported that his salary after all the deductions was S\$493 (US\$372), and he had S\$75 (US\$57) in housing costs (Yea and Chok 2018).
- ▶ Dormitory rents are approximately S\$260–320 (US\$193–238) per person per month; in some cases this includes utility costs and laundry costs.²
- ▶ The monthly dormitory operating cost per worker varies with the length of the lease, but it is estimated to typically be in the range of S\$79 to S\$118 (US\$59–88), though it can be as low as S\$50 (US\$37) (TWC2 2020c).

Thailand

- ▶ *This study:* Rent accounted for between 4 per cent and a third of migrant worker salaries in Bangkok, and between one-third and one-half of their income in Chiang Mai.
- ▶ Housing costs ranged from 800 Thai baht (US\$22.67) in a poorly kept camp in Bangkok, to 3,000 baht (US\$85.00) for a room in Chiang Mai. The average documented cost for private rented accommodation (often rooms) in Chiang Mai was 1,772 baht (US\$50.22) per month. The average cost per month for those who paid for their housing was 1,692 baht (US\$47.95). These costs included utilities, but not necessarily maintenance (Napier-Moore and Sheill 2016).
- ▶ Affordable rent from migrant workers' perspectives was 1,651 baht (US\$53) per month (Kusakabe et al. 2018, citing 2015 figures).
- ▶ Rents in dormitory accommodation ranged between 2,000 and 3,000 baht per month, shared on average by 1.65 persons. Utilities (water and electricity) cost an additional 660 baht per month (Kusakabe et al. 2018).
- ▶ Rooms in shophouses/rental rooms on the outskirts of Talad Thai (north of Bangkok) divided into three units rent for between 800 to 2,400 baht including utilities, and are shared by an average of 1.38 people. For a shared townhouse, rents are 6,000 baht and utilities 1,500, per month, on top of a deposit, shared between an average of 8.5 persons (Kusakabe et al. 2018).
- ▶ A courier worker in regular status who works at the central shrimp market in Samut Sakhon reported that he paid for 4,200 baht (inclusive of utilities) for a room that was occupied by four people (the courier worker, his wife and two younger siblings), all of whom worked at the shrimp market (Migrant Working Group 2021).
- ▶ Eighty per cent of surveyed migrant workers in the agricultural sector lived in accommodation provided by their employers free of charge. However, they pay for their use of electricity and water, which costs up to 600 baht (US\$19.90) a month (Mekong Migration Network 2020).

¹ In this case study of a Chinese construction worker, the breakdown of salary and fixed monthly allowances detailed on the IPA allowed the employer to significantly reduce his legal obligations to the worker, effectively halving the overtime pay rate.

² Written response from Dormitory Association Singapore Limited (DASL), received 16 July 2021.

5.3.3. Salary deductions


The few migrant workers in this exploratory study who lived in employer-provided housing in Malaysia reported salary deductions of 50 ringgit (about US\$12) for the accommodation.¹⁴⁵ They also paid 10 ringgit each for housekeeping and paid for cooking gas; the company paid for the other utilities.¹⁴⁶ As noted above, Malaysia caps deductions for accommodation, but this cap were increased during the pandemic from 50 ringgit to 100 ringgit.¹⁴⁷ CSOs identify the salary deduction as a prime reason for migrant workers choosing to source their own housing on the understanding that they can find accommodation at a rate below the usual deduction.¹⁴⁸ However, this was not always the case in the small sample for this study, as a number of workers paid three times the maximum deduction cap for their share house accommodation (see section 5.3.2 above). For migrant workers in the plantation sector in employer-provided housing, ILO research has documented that the most common salary deductions were for utilities at their accommodation, rather than for covering migration costs (ILO 2020f).

In Singapore, any deductions for housing are supposed to be declared in the in-principle approval letter (IPA) that the Ministry of Manpower issues on approval of the work permit for the migrant worker, though employers have been known to later change the amount (Yea and Chok 2018). Employers are allowed to deduct up to 25 per cent of the worker's salary for services that the employer provides, such as accommodation, food and utilities. In some cases, it is reported that employers note a deduction as being for housing, when in fact it is to cover expenses such as recruitment agent fees that they are not permitted to reclaim from workers (HOME 2017).

Employers in Thailand are not permitted to deduct costs for accommodation or amenities from workers' wages (Labour Protection Act of 1998, sections 76, 131). However, a lack of transparency on pay and benefits means that migrant workers are not always clear whether they had deductions associated with their employer-provided housing (Napier-Moore and Sheill 2016; ILO 2020d).

This ambiguity over housing or utilities costs and associated salary deductions complicates assessments of migrant worker wages where accommodation, utilities, transportation or food costs could be considered as benefits to be taken into account when calculating their wages.¹⁴⁹ On the other hand, this ambiguity may also be one manifestation of wage theft (Yea and Chok 2018), with the confusion over costs and lack of transparent documentation available to the migrant worker being part of deliberate fraud, with employers making excessive salary deductions. For example, in this exploratory study, all but one participating migrant worker in Singapore reported that they could not tell from their pay slips whether an amount for accommodation was deducted from their salary.¹⁵⁰ This lack of transparency concerning housing deductions could constitute a labour rights abuse.

5.3.4. The human cost of accommodation costs

 We used to pay a lot less because there were more people sharing the accommodation with us but due to the pandemic, many have returned to Indonesia so, we end up paying higher rental prices.

► Woman migrant worker, Malaysia¹⁵¹

145 This was the maximum deduction permitted for employer-provided accommodation until the introduction of the four-part Employees' Minimum Standards of Housing, Accommodations and Amenities (Employees Required to be Provided with Accommodations) Regulations (2021), which doubled the maximum permissible deduction. See the section 3.1 above.

146 Focus group discussion, Malaysia, March 2021.

147 Employees' Minimum Standards of Housing, Accommodations and Amenities Act 1990; Employees' Minimum Standards of Housing, Accommodations and Amenities (Maximum Rental or Charges for Accommodation) Regulations 2020, para. 2.

148 Interview with Our Journey, 16 March 2021.

149 In some cases, accommodation and food may be provided as an in-kind payment for work.

150 Focus group discussions, Singapore, 18 and 25 April 2021. By comparison, deductions for meals provided were indicated in the pay slips.

151 Focus group discussion, Malaysia, March 2021.

Given the disparity between migrant worker wages and accommodation costs in the three study countries, migrant workers who are able to source their own housing may choose to take unfurnished properties as they are more affordable, but they offer very basic conditions.¹⁵² Issues with housing affordability can also compromise the safety of migrant workers in their accommodation. For example, many migrant workers, especially in construction, prefer to live on-site even though it is not safe, because there are no accommodation or transportation costs and water and electricity are also often free.¹⁵³

Similarly, a lack of affordability in the migrant worker accommodation model requires cheap rents, in some contexts subsidized by the employer; a scenario that is driving some of the widely documented substandard conditions, including the overcrowding that has rightly received so much attention during the COVID-19 pandemic. Companies or employers who do not have their own housing for migrant workers have to rent housing for them, and these employers may struggle to keep up with housing costs on the open market.¹⁵⁴ The right to housing requires that States regulate the real estate market and the financial actors operating on it in order to ensure that everyone has access to affordable and adequate housing – including housing that is responsive to the needs of marginalized communities, including migrant workers. This may involve adjusting taxation measures and financing models to incentivize affordable housing and its upkeep (UN CESCR 2017b; UN Human Rights Council 2017; 2019).¹⁵⁵

It has been suggested that this financial pressure may drive some employers to house more workers than is appropriate for the amount of space and facilities in a given property, creating inadequate conditions and health risks that were exacerbated by COVID-19. For example, in Malaysia, employers who provide housing have to cover any shortfall in costs between the maximum permitted salary deduction and the cost of the rental, which can be much higher (even with the maximum deduction being doubled in 2020).¹⁵⁶

The COVID-19 pandemic has changed the affordability of accommodation for migrant workers and for employers who provide housing. In some locations, measures to reduce the residential density in accommodation or migrant workers returning home before borders closed have left fewer people contributing to the rent and bills. This reduction in the number of people sharing the housing cost burden may be felt even more keenly by the migrant workers who remain in areas where reductions in income due to restricted working hours, lack of overtime, business closures or lockdown measures are already making it difficult to pay rent. Several FGD participants in this study reported that since the onset of the pandemic they were struggling to meet their living costs — some had been fired and some had to accept a reduced salary.¹⁵⁷ All four women who participated in the Malaysia FGD could not work during some of the pandemic due to restrictions on travel, and they were struggling to meet the rent with fewer migrant workers sharing their accommodation. As a result, two of them expressed a preference to move to cheaper but poorer quality and more crowded housing, rather than stay in the safer, more hygienic rental apartment (see section 5.2.1.1 above).¹⁵⁸ In one study, 69 per cent of migrant respondents in Kuala Lumpur, Malaysia, reported housing loss as a result of lost income during the pandemic, leading to an increase in homelessness (Mixed Migration Centre 2020). The Malaysian Government reported that they had urged landlords to ease the rent burden of their tenants (Malaysia 2020). Participants in the FGD in Chiang Mai reported that they had heard of migrant workers in other places having rent reductions by as much as half until the situation improves or that had some payments, such as utilities, delayed. None of the participants in this study had benefitted from such initiatives.¹⁵⁹ Some migrant workers in the service sector in Samut Sakhon, Thailand, continued to live with their employers and did not pay rent during the COVID restrictions. For others, mandated quarantines brought additional accommodation costs, as they were expected to cover costs of quarantine housing as well as their regular accommodation (Migrant Working Group 2021). There is provision

152 Information provided by Sumitha Shaanthinni Kishna, Director, Our Journey, during the online webinar, 10 August 2021.

153 Interview with Our Journey, 16 March 2021.

154 Written response from the ECOT, received 31 March 2021; interview with the DLPW, 22 April 2021.

155 Both Malaysia and Singapore have instituted taxes on luxury properties, with Singapore using these revenues to subsidize homeownership by low-income individuals (UN Human Rights Council 2017, para. 71).

156 Interview with Our Journey, 16 March 2021.

157 Focus group discussions, Bangkok, Thailand, 31 March 2021, and Singapore, 18 and 25 April 2021

158 Focus group discussion, Malaysia, March 2021.

159 Focus group discussion, Chiang Mai, Thailand, 29 April 2021.

in Singapore law that migrant workers are entitled to their salary regardless of whether there is actual work for them; however, CSOs reported that migrant worker salaries were reduced during the circuit breaker measures in 2020 (HOME and TWC2 2020).¹⁶⁰

Employers' representatives in Malaysia report that employers who own or manage migrant workers' housing have received no support or relief from the Government and were facing severe financial constraints during the pandemic, including related to costs incurred to comply with revised legislation.¹⁶¹ The Malaysian Government report that the Central Bank of Malaysia instructed all banks to give the option of a moratorium or suspension of payment on housing loans for six months from April to September 2020 (Malaysia 2020; UN General Assembly 2020), a provision which, if enacted, may have reduced the financial burden of some employers that provide accommodation.

One measure afforded to employers whose workers lived in the dormitories at the centre of Singapore's COVID outbreak was that they were not required to pay the costs of rehousing migrant workers to reduce the occupation density in the dorms, but they remained contractually obligated to pay rent to the original dormitory operators.¹⁶² During the circuit breaker period in 2020, the MOM supported dormitory operators by offsetting the increase in operational costs of the different types of dormitory accommodation arising from the longer hours that migrant workers were spending in their rooms.¹⁶³ For migrant workers in private accommodation, which is the majority of migrant workers in Singapore, new requirements instituted in response to the pandemic also meant that housing providers suddenly increased rents.¹⁶⁴

The right to housing should be guaranteed to everyone irrespective of their income or access to economic resources (UN CESCR 1991). The Special Rapporteur on the right to adequate housing has urged States to cap rents at 30 per cent of tenants' monthly net income, prohibit any increases in rental costs, and ensure housing affordability for tenants whose incomes decline as a result of COVID-19. The pandemic response will also have hit employers' income, which might affect their ability to pay rents for migrant housing, including dormitory payments. For private housing providers, the Special Rapporteur on the right to adequate housing has made a number of recommendations in the context of COVID-19, including that the State implements a compensation scheme for landlords to offset any shortfall from these capped/reduced rental rates, as well as tax credits or other financial easing tools for landlords, utility providers and banks affected by tenants or mortgagees unable to pay their housing costs, and/or to provide rent and mortgage relief to ensure that tenants and homeowners will not suffer eviction or foreclosure owing to their inability to pay outstanding debts, including for a period after any such relief terminates (OHCHR 2020c; 2020d).

Migrant workers in all three States have reported salary loss during the pandemic of between 11 and 37 per cent (table 12). This is in addition to any pay difficulties (late payment or non-payment) they may have been experiencing before the onset of COVID-19, which the pandemic will have worsened (Aziz and Basir 2020). The effect can be significant: in Chiang Mai, some migrant workers in this study reported that their accommodation costs now accounted for most of their income.¹⁶⁵ In accordance with the principle of affordability, tenants should be protected by appropriate means against unreasonable rent levels or rent increases (UN CESCR 1991). As with other migrant rights abuses, COVID-19 has worsened an already challenging situation:

160 The provision is subject to any other written law: Employment of Foreign Manpower (Work Passes) Regulations 2012, Fourth Schedule, Part III, paragraphs 4, 4A, 4B, 4C and 4D.

161 Written response from the MEF, received 21 March 2021.

162 Written response from the MOM, received 5 May 2021.

163 This helped cover the costs of additional staffing, cleaning, maintenance, utilities and infrastructure in the PBDs, FCDs and CTQs during this period (written response from DASL, received 16 July 2021).

164 Information provided by Jaya Anil Kumar, Case Manager, HOME, Singapore, during the online webinar, 10 August 2021.

165 Focus group discussion, Chiang Mai, Thailand, 29 April 2021.

► Table 12. Salary loss during COVID-19, by country of destination and gender

Country	Per cent of respondents reporting salary loss ¹	
	Women	Men
Malaysia	15	22
Singapore	37	11
Thailand	18	12

¹ Of the 225 respondents who answered the question on salary before COVID-19, and 223 respondents who answered the question on salary during COVID-19.

Source: ILO 2021.

5.4. Accessibility

By deliberately imposing limitations on the access to housing of non-citizens, States are interfering with the rights of migrants under their jurisdiction.

► UN Special Rapporteur on the right to adequate housing (UN General Assembly 2010, para. 71)

All three States in this study classify migrant workers based on their documentation, and condition access to adequate housing to some degree on proof of regular status. Migrant workers in Malaysia, Singapore and Thailand reported that they were required to show their documentation to rent accommodation.¹⁶⁶ Requiring checks on migration status risks criminalizing housing providers and making them reluctant to rent to migrant workers, and has been ruled discriminatory in other jurisdictions (JCWI 2021). There are also other restrictions that apply to migrant workers in particular sectors, such as legislation criminalizing renting to those working in the sex sector.¹⁶⁷ The imposition of such limitations that restrict migrant workers' access to decent accommodation constitutes an interference by the State with the rights of migrants (UN General Assembly 2010; 2021). Ensuring the right to adequate housing, regardless of migration status, is in line with international human rights standards, and is a part of the right to an adequate standard of living.

The situation is particularly complex in Thailand given the range of migrant worker documentation, including MOUs, passports and visas secured through the national verification process, and also a number who have "highlander cards", also known as "ten year" or "stateless cards" because the holders have no identification proving Myanmar citizenship.¹⁶⁸ Participants in the FGD held in Chiang Mai, north-west Thailand, identified documentation as an important requirement for accessing housing; a situation that had worsened with policy changes regarding migrant worker documentation and that was a burden on both migrant workers and those renting to them.

166 Focus group discussions in Malaysia (March 2021), Singapore (April 2021) and Chiang Mai, Thailand (29 April 2021).

167 For example, in Thailand, section 6 of the Prevention and Suppression of Prostitution Act, B.E. 2539 (1996) criminalizes "association with a person in an establishment for the purpose of prostitution" in such a way that the law could be applied against those living with or renting to sex workers (NSWP 2018).

168 Another form of documentation applies to migrant factory workers in Mae Sot (border area with Myanmar), who are often under the Section 64 border pass, which only provides a three-month work permit and one-month renewable visas, and which is meant for agriculture but is being abused by factory owners. These short stays require the migrant worker to find new housing each time (written contribution from the MAP Foundation, received 14 April 2021; interview with the HRDF, 12 April 2021).

Until recently, migrant workers only needed to show what is known as a Pink Card (which confers temporary status including the right to work) to be able to rent housing. Since the push to complete the nationality verification process, migrant workers are now required to present to their landlord three documents – passport, visa and work permit – for everyone of working age who will be staying in the premises in order to secure accommodation.¹⁶⁹ The landlord or owner then needs to submit copies of the documents to the Immigration Department.¹⁷⁰ This process needs to be completed any time that migrant workers change accommodation. The same process exists in Singapore, requiring employers to provide the MOM with the workers' residential addresses and any changes to the residential address of the migrant worker within five days of the move.

Such registration requirements are a particular burden for anyone in jobs that require mobility, such as in the construction sector – another reason why this sector tends to rely more on employer-provided accommodation. These requirements also risk migrant workers in irregular status not being able to secure housing. The Special Rapporteur on the right to adequate housing has called on States to ensure that housing providers are neither permitted nor required to convey information to authorities that would discourage undocumented migrants from seeking shelter for themselves and their families (UN Human Rights Council 2019).

The administrative requirements continue for migrant workers in Thailand renting independently, with requirement on landlords to provide periodic notification to the immigration authorities of the tenants living at the address every 90 days. Activists report that very few landlords are willing to do this, leaving the migrant worker in a precarious position with the authorities.¹⁷¹ One of the consequences of these documentation and administrative hurdles is that landlords are becoming reluctant to rent to migrant workers at all because of the burden of reporting to immigration authorities.¹⁷²

► Landlords are bored with submitting documents to immigration. Finding a new place is difficult.

► Migrant worker, Chiang Mai, Thailand¹⁷³

Migrant workers in Thailand who lack proper documentation will find it very difficult to secure housing and are at risk of arrest, detention, and possibly deportation.¹⁷⁴ Under immigration law, migrant workers who lose their job have only 15 days to secure employment before they have to return to their country of origin. With housing tied to their job, either because the migrant worker lives in employer-provided housing or because they need to be in regular status to obtain private housing, this requirement is a risk to migrant workers' right to adequate housing and puts them at risk of deportation.

Strict documentation requirements on accessing housing also restrict the assistance available to migrant workers at risk of homelessness. CSOs or others that step in to provide shelter accommodation to migrant workers who have no safe housing may face criminal charges resulting in imprisonment for housing migrants in an irregular status.¹⁷⁵ This creates a chilling effect on the provision of assistance to migrant workers in need of shelter, as often what drives them to seek shelter also renders them undocumented, such as when migrant domestic workers leave abusive employers. As a result, there is little that civil society and unions can do in these situations.¹⁷⁶ A rights-based approach would be to ensure that housing providers, CSOs and individuals are not

169 Focus group discussion, Chiang Mai, Thailand, 29 April 2021.

170 Civil society advocates note that there seems to be little penalty for property owners/managers if they do not comply with this requirement. There may be a small fine or the Government may simply inform the owner of the building that they need to report how many migrant workers are living there (interview with the HRDF, 12 April 2021).

171 Written contribution from the MAP Foundation, received 14 April 2021, referencing section 38 of Immigration Act B.E.2522 (1979) (enforced by the Immigration Bureau). This applies to all foreigners in residence in Thailand.

172 Focus group discussion, Chiang Mai, Thailand, 29 April 2021.

173 Focus group discussions, Chiang Mai, Thailand, 29 April 2021. Migrant workers may be only partially documented as a result of the complexities involved in changing employers, losing an employer and not finding a new one in time, or incomplete registration during complicated and time-bound registration periods (written contribution from the MAP Foundation, received 14 April 2021).

174 Interview with the HRDF, 12 April 2021; written contribution from the MAP Foundation, received 14 April 2021.

175 Interview with the HRDF, 12 April 2021.

176 Written response from the SERC, received 5 April 2021.

penalized for assisting migrants to secure shelter or housing, regardless of their migration status (OHCHR and Global Migration Group 2018; UN Human Rights Council 2019).

Migrant workers may also encounter other discriminatory barriers to securing decent housing. For example, civil society have reported that, in Malaysia, single women migrant workers experienced more difficulty in accessing suitable housing, as they had to find a safe environment for their children and within reach of childcare. Similarly, in Thailand, many employer-provided communal housing situations are not suitable for children. Women migrant workers with children also face increased costs, as they often have to pay for a whole room and are not able to share with other migrant workers. These situations also raise the issue of the provision of childcare by employers of migrant workers.¹⁷⁷ Safe and accessible housing is especially critical where women migrants risk penalties (arrest and detention) arising from legislation or regulations that bar them from being pregnant or having children in the country of destination.

International law does not permit any form of discrimination in realizing the right to adequate housing. Any differential treatment in qualifying for different types of housing based on migration status must be reasonable and proportional and, crucially, must not compromise the protection of the right to adequate housing for all people within the State's territory or jurisdiction. Moreover, the housing rights of disadvantaged groups, such as migrants, and those living in unfavourable conditions should be given special attention, with housing law and policy taking their needs into account and setting a high bar to justify differential treatment (UN CESCR 1991; UN CERD 2004; UN Human Rights Council 2019). International labour standards call for equality of treatment between migrant workers and national workers to be instituted as rapidly as possible with regard to housing (ILO Recommendation No. 115).

5.5. Legal security of tenure

In this exploratory study, migrant workers rarely raised issues relating to security of tenure, and the forms of tenure across the spectrum of migrant housing – and the security they confer – requires more focused research. States are required to grant security of tenure to all those who lack it (UN Human Rights Council 2012a). Low-wage migrant workers face numerous impediments to security of tenure:

- They face legal and financial barriers to owning land or property.
- Rental arrangements available to them may be informal, without legally enforceable contracts.
- Their perceived or actual short-term residence in the country of destination may also be a barrier.

Despite this latter assumption, some migrant workers will be long-term residents – this exploratory study heard from individuals who had lived as migrant workers in the country of destination for more than 20 years.¹⁷⁸ Some of these migrant workers will feel sufficiently confident that their residence is stable and that they have perceived security of tenure.¹⁷⁹

Even so, migrant workers' security of tenure is also restricted by their dependence on employers, in some cases directly for housing and otherwise for documentation ensuring the regular status that is increasingly required to secure housing independently of the employer. Both Singapore and Thailand require employers to register the addresses of migrant workers, whereas Malaysia reportedly keeps no record of where migrant workers live.¹⁸⁰ Thailand has further registration requirements that run through the period of residence in the country (see section 5.4 above). Arguably, this registration recognizes the individual's right to live in the accommodation, conferring a degree of tenure. However, rather than through tenure, most migrants derive a sense of security from community ties (Kusakabe, Khuenta, and Hemsakul 2017), and therefore location and community are of greater importance to them. But while it may not be prioritized by migrant workers, the lack of security of tenure is one element keeping them in economic and political precarity (Hohmann 2017; UN Human Rights Council 2012a).

177 Information provided by Sumitha Shaanthinni Kishna, Director, Our Journey, and by Brahm Press, Director, MAP Foundation, during the online webinar, 10 August 2021.

178 Focus group discussions, Singapore and Chiang Mai, Thailand, April 2021.

179 That is, where they do not perceive the “involuntary loss of the land within the next five years due to, for example, intra-family, community or external threats” (SDG indicator 1.4.2), see the discussion in UN Statistics, “SDG Indicator Metadata”, 2021.

180 Interview with Persatuan Sahabat Wanita Selangor, 26 March 2021.

The COVID-19 pandemic increased this tenancy precarity, with most migrant workers excluded from financial assistance, and also in some cases, little support was offered to employers who provided housing. Measures such as postponing rent payments and providing rent assistance by reducing or subsidizing rent are examples of actions that could be taken to protect the housing rights – and specifically enhance the security of tenure – of tenants in private rental housing (OHCHR 2020d; Open Society Foundations 2020; see also section 5.3 above).

5.5.1. Prohibition of housing discrimination

The Special Rapporteur on the right to adequate housing recommends that States adopt measures to ensure that discrimination, harassment or criminalization on the basis of tenure or housing status is prohibited in all areas. This requires taking positive measures to address housing disadvantages and to eliminate any adverse effects on migrant workers to ensure equal enjoyment of the right to housing (UN General Assembly 2018; UN Human Rights Council 2019).

The Department for Labour Protection and Welfare in Thailand report that regardless of their gender or nationality, both Thai and migrant workers have equal access to accommodation under the same standard.¹⁸¹ This has not been the practice on the ground, however. For example, Kusakabe et al., (2018) reported the practice by some employers of providing migrant workers with documents giving them Thai names so that they can rent accommodation that is usually rented out only to Thais.¹⁸² Moreover, nationality is a factor for migrant workers looking for housing in Thailand, requiring the proactive supply of relevant information to migrant workers in a language they understand and in accessible formats. Migrant workers from Myanmar have well-established communities – both online and in real life – through which they can find accommodation and many Lao migrant workers can speak Thai, which aids them finding housing and negotiating terms, but Cambodian migrant workers are less established in the country and can face difficulties in some regions. In the south-east, some Thai people can speak Khmer, which will help Cambodian migrant workers in securing housing, but in the south or central region it is more difficult for Cambodians because they have no connections there.¹⁸³ Legal prohibitions for renting apartments to individuals due to their migration status or any other basis constitute discrimination in security of tenure (UN General Assembly 2021). Though this matter did not arise in the interviews or FGDs for this study, barriers of this sort are likely to be faced by low-wage migrant workers from countries with a shorter history of migration to Thailand and no (or only a small) diaspora who can provide support.

5.5.2. Contracts

Tenure security as it could apply to most migrant workers also demonstrates the legal breadth and complexity of decent housing, as it is more likely to be covered in the area of contract law. In Thailand, for example, security of tenure is specified in the commercial code on the rental agreement, with all tenants, regardless of nationality, protected under the civil and commercial code.¹⁸⁴ Similarly, the only applicable law between housing providers and tenants in Malaysia is in contract law (Malaysia 2020). Where migrant workers in Singapore have signed a tenancy agreement for their housing, they have equal legal protection with citizens.¹⁸⁵ In particular where migrant workers live in private rental accommodation, they are required to pay a deposit that is – or should be – returned when they leave, conferring some degree of tenure even if there is no written contract.

Employment contracts or MOUs do not always provide information about housing arrangements. They may state that the employer will provide accommodation, but for example, among the FGD participants in Malaysia, those few who were in regular status had employment contracts before leaving their countries of origin that said this, but the contract did not give details of the type of housing or how many workers would be sharing the accommodation.¹⁸⁶ Furthermore, although Malaysian employers are required to submit the migrant worker contracts to the Immigration and Labour departments to obtain the necessary documents for the migrant worker, they do not need to present any proof of the listed accommodation booking and there is no follow up and no complaints procedure if the housing listed is not provided to the migrant worker on arrival. Differences

181 Interview with the DLPW, 22 April 2021.

182 This may no longer be feasible due to registration requirements (see section 5.4 above).

183 Interview with the HRDF, 12 April 2021.

184 Interview with the DLPW, 22 April 2021.

185 Written response from the MOM, received 5 May 2021.

186 Focus group discussion, Malaysia, March 2021.

between the housing listed in migrant worker contracts to that provided in reality – an example of contract substitution – are reported by civil society advocates and by migrant workers.¹⁸⁷

Thai law does not mandate a written contract between the employer and worker, though it is recommended. However, according to information provided by the Department of Employment, “any employment contract should contain period of employment, place of work, working hours, holidays, overtime pay, holiday pay, meals and accommodation as well.” The agreement as to who bears the cost of the accommodation is left to the employer and worker to resolve.¹⁸⁸

For many low-wage migrant workers in these destination countries, housing arrangements are more informal. For example, permission to use land may be a type of tenure afforded to migrant workers who rent land from Thais and build their own accommodation (Bhatkal and Lucci 2015).¹⁸⁹

5.5.3. Evictions

The reliance on the employer for accommodation creates precarity for migrant workers, who risk eviction as well as job loss if they are in dispute with their employer. Provisions that cancel regular status on termination of contract, or shortly thereafter, do not give migrant workers time to secure other work (where that is permitted) or find other accommodation. For example, in Singapore, the employer is required to cancel the migrant’s work permit within seven days of termination of employment.¹⁹⁰

In Thailand, the employers’ representative maintained that migrant workers have to vacate their housing at the end of their contract or on termination of employment.¹⁹¹ This is not in keeping with international standards. International labour law calls for the worker and their family members to have “a reasonable period of continued occupancy to enable a satisfactory alternative dwelling to be obtained” if leaving employment due to retirement, injury or ill-health, or on the death of the worker. However, it also calls for the employer being “entitled to repossess the accommodation *within a reasonable time* in the event of termination of the worker’s contract of employment”, indicating that eviction should not be immediate (ILO Recommendation No. 115, Para. 15; see also, ILO Convention No. 110, Article 88(2); ILO Recommendation No. 201, Para. 18). For example, in Malaysia, migrant workers are supposed to have four weeks’ notice to leave their employer-provided accommodation at the end of their contract, whether this is through resignation, termination or end-of-contract. That is, if they are given four weeks or more notice, then they leave at the end of the contract, and if they are given less than four weeks’ notice they should be granted that period before they have to vacate the accommodation.¹⁹² However, during COVID, when the human rights guidance was to implement a moratorium, Malaysia chose not to prohibit evictions during the pandemic (Malaysia 2020; OHCHR 2020a; 2020b).

The dependency on the employer creates another dimension of eviction risk for migrant workers in employer-provided accommodation when the employer is in arrears for the rent; for example, as in the situation in Singapore where dormitory accommodation is often owned and managed by a separate company (dormitory operators) with which employers contract.¹⁹³ In such instances the financial woes of the employer will fall upon their workers, who may lose their accommodation due to the employer’s inability to pay for it.

Given their usual daytime working hours, most migrant worker evictions take place at night.¹⁹⁴ This creates a situation of vulnerability for the migrant who has limited time to find somewhere safe to sleep that night and to secure new accommodation. The Migrant Workers’ Centre (MWC) cited this issue as a key reason why they had extended their helpline for migrant workers to a 24-hour operation.¹⁹⁵ Evictions should not happen without notice: Singaporean law requires a 21-day notice period before any eviction or locking out of dormitory residents. During

187 Focus group discussions, Malaysia, March 2021; interview with Tenaganita, 13 April 2021.

188 Written responses to the research questionnaire from the Department of Employment, 7 April 2021.

189 Written contribution from the MAP Foundation, received 14 April 2021.

190 Under Employment of Foreign Manpower Act (chapter 91a); Employment of Foreign Manpower (Work Passes) Regulations 2012.

191 Written response from the ECOT, received 31 March 2021.

192 Written response from the MEF, received 21 March 2021.

193 Written response from the MOM, received 5 May 2021.

194 Interview with the MWC, 19 March 2021.

195 Interview with the MWC, 19 March 2021.

this period, the MOM will follow-up, for example, by requesting the employer to resolve the rental arrears issue with the dormitory operator or ensuring that the employer provides an acceptable alternative accommodation for the migrant worker.¹⁹⁶ This is in keeping with a rights-based approach to evictions that looks to prevent them whenever possible and, when that is not viable, to ensure procedural safeguards, consideration of all practicable alternatives, relocation to adequate housing (that is agreed to by the affected individual(s)) so that they are not rendered homeless, and protection of all other human rights. Failure to meet these criteria constitutes a forced eviction, a violation of the right to housing (UN CESCR 1997; UN Human Rights Council 2019).

5.6. Location

Oh, I can see them from here.

► Neighbour's complaint about migrant workers in their housing¹⁹⁷

The location of migrant worker accommodation is important for a number of reasons, but three stood out in this exploratory research: (i) community-building; (ii) proximity to the workplace; and (iii) the opposition of some local community members.

5.6.1. Community as location – Location as community

Where migrant workers live is also a function of the wider diaspora. Undocumented migrant workers in particular will rely on community contacts to secure housing in areas where others from their country of origin, or even a specific region within it, are already living.¹⁹⁸ This communal location of migrant workers can also drive development in the area, with businesses including remittance services and stores stocking food from their countries of origin setting up in the vicinity of migrant worker accommodation or areas where migrant workers congregate on their days off (Peth, Sterly, and Sakdapolrak 2018). See also section 5.11 below .

The dormitory model is held up in Singapore as creating a community for migrant workers, providing a supportive environment and meeting their social and recreational needs.¹⁹⁹ Dormitory operators note that they may accommodate migrant workers with peers from similar backgrounds or even the same country or hometown, and that this can be a source of support for them.²⁰⁰ Most employers that rent space in the dormitories locate migrant workers from the same work site in the same dormitory. This is convenient and economical for the employer in terms of transporting the migrant workers between the dormitory and the work site, and also may foster community-building. However, it may also mean the migrant workers have no respite from their co-workers, and in some cases, their supervisors.²⁰¹ A further location challenge for migrant workers in obtaining decent housing occurs when the job requires mobility, such as in construction work, where workers have to move from site to site. This is one reason why these workers often live in temporary quarters on the construction site itself (NapierMoore and Sheill 2016).²⁰² For migrant construction workers housed in the dormitories, it can mean frequent changes of dorm based on the location of their work sites,²⁰³ which is disruptive to any community-building outside of the specific work cohort and undermines one of the arguments for this type of migrant worker housing.

196 Written response from the MOM, received 5 May 2021.

197 Reported in interview with Our Journey, 16 March 2021.

198 Interview with Persatuan Sahabat Wanita Selangor, 26 March 2021; written response from the SERC, received 5 April 2021.

199 Written response from the MOM, received 5 May 2021.

200 Written response from DASL, received 16 July 2021. DASL also note, "Many dorm operators organize various activities and events to help the residents get to know each other, bond, feel welcomed and enjoy the social aspects of life at the dormitory."

201 Written response from DASL, received 16 July 2021.

202 Also interview with the HRDF, 12 April 2021.

203 Written response from DASL, received 16 July 2021.

5.6.2. Commuting distance

 I want to be close to the workplace to reduce transportation costs and reduce risk of a road accident.

► Shan migrant worker, man, Chiang Mai²⁰⁴

Access to employment is a key element of the location criteria of adequate and decent housing (ILO Recommendation No. 115; UN CESCR 1991). Migrant workers and key informants in all three States in this exploratory research reported that proximity to the workplace was of primary importance in migrant worker housing. Transport links are a factor when migrant workers can choose their own accommodation.²⁰⁵ Employers who provide accommodation and migrant workers who source their own housing will want to minimize the distance between the housing and the workplace to keep transportation costs and commuting times down.²⁰⁶ This was part of the rationale suggested for migrant construction workers living on the construction site, even though it is unsafe.²⁰⁷

Finding accommodation close to work is important because commuting has a range of costs – financial and otherwise – for migrant workers. There are safety concerns for migrant workers who are often transported between their accommodation and workplace on the backs of lorries or in open-sided trucks lacking safety belts or protection from the elements or traffic-related pollution, as well as providing no protection in case of accidents. Thailand in particular has very high road traffic accident casualties: with 61,101 recorded in 2019, compared to 8,877 for Malaysia and 9,833 for Singapore (ASEANstats, n.d.). There are also infrastructure considerations for the State: centralized housing creates a large movement of migrant workers travelling between the accommodation and the work site at certain times of day, putting public transport systems under strain where migrant workers can afford them and are allowed to use them.²⁰⁸ As a result of these considerations, and to ensure that they have workers on site for the start of a shift, employers often provide transportation for their workers between their accommodation and the work site. International labour law requires States to minimize the time as well as the risks of commuting to and from work (ILO Recommendation No. 115).

However, there are temporal costs associated with this company-arranged transportation. For example, in Singapore, the migrant workers described wasting a lot of time every day as the company-arranged transport made several pick-ups for other workers in both the morning and evening, resulting in commutes of two to three hours on the road each way per day, severely cutting into their rest time.²⁰⁹ For an 8 a.m. work start this can mean migrant workers having to wake up as early as 3 a.m., posing a risk to their health, including through increasing the risk of accidents at work (TWC2 2014).²¹⁰ Such transport challenges undermine the location criteria of adequate housing, as it does not allow “easy reach” – the language of the ILO standard – of places of employment (ILO Recommendation No. 115, Suggestions Concerning Methods of Application, Para. 41; UN CESCR 1991). Another challenge of employer-provided transportation is that it means that migrant workers are unable to stay back for overtime work.²¹¹

204 Focus group discussion, Chiang Mai, Thailand, 29 April 2021.

205 Information provided by the ECOT, and also by Sumitha Shaanthinni Kishna, Director, Our Journey, during the online webinar, 10 August 2021.

206 Focus group discussion, Bangkok, Thailand, 31 March 2021; interview with Our Journey, 16 March 2021; written response from the SERC, received 5 April 2021; interview with the HRDF, 12 April 2021.

207 Focus group discussions, Singapore, April 2021.

208 For example, the potential impact of this on public transport systems is given as one reason why Singaporean law requires migrant workers in the construction, marine and process sectors to live in institutional (employer-provided) housing, meaning dormitories (Interview with the MWC, 19 March 2021).

209 Focus group discussions, Singapore, April 2021.

210 TWC2 note that the workers are not paid for the hours spent commuting or waiting at the work site when dropped off early. This issue of commutes requiring early starts also been reported for migrant workers in the Thai construction sector (Napier-Moore and Sheill 2016).

211 Information provided by Sumitha Shaanthinni Kishna, Director, Our Journey, during the online webinar, 10 August 2021.


There are also security considerations about the location of migrant worker housing. Some migrant worker housing is located in areas that are unsafe (see the Malaysia example in section 5.10.1 below). Migrant workers may face harassment or detention by law enforcement officials on their commutes (IHRB 2017). This was the case in Thailand, where migrant workers reported that by minimizing their journey time they reduce the risk that they will encounter the police on their commutes.²¹² They know that police will ask for their documents, even if they are the registered workers (migrants in regular status).²¹³ For migrants who are not carrying their documents or whose documents are not in order, this can result in fines or arrest, detention and deportation. This is a long-standing problem that may see migrant workers restricting their activities during their time off work to the environment immediately around their accommodation (Napier-Moore and Sheill 2016; Kusakabe et al. 2018; Boonwara and Panpiemras 2019; Mekong Migration Network 2020).

5.6.3. Social tensions and xenophobia

The location of migrant worker accommodation may be a source of tension in the local community. There have been instances where hostile attitudes of local communities about having migrant housing in their neighbourhood have manifested into action, including complaints to the local council that may result in evictions. Communities in Singapore have complained when dormitories are built close to their neighbourhood (Kornatowski 2017; Han 2020a). One example from Malaysia cited in this research was prompted merely by migrant workers being housed nearby, not even on the same housing estate, which was fenced off from where the workers were living. That the migrant workers were visible to the complainant was apparently sufficient for them to protest.²¹⁴ When an area rises in popularity, for example for tourism, and therefore sees properties or land increase in value, this can change State attitudes towards the migrant worker accommodations in the area and give rise to more checks and police raids (Kornatowski 2017).

Such xenophobic attitudes underlie the creation of centralized accommodations for migrant workers. Though migrant worker dormitories are most associated with Singapore, these also exist in Malaysia and Thailand. For example, on the island of Penang, Malaysia, the local government has developed what they call “hostels” to house migrant workers; as of February 2021 one “hostel” housed more than 2,000 workers and another more than 3,000, and there are plans to build more like this (Mok 2021). Civil society activists expressed concern about the intention for migrant workers to live only in such housing: “I don’t agree, because then you are isolating workers and not allowing integration into the society.”²¹⁵

5.6.4. Spatial marginalization

 **The way in which the status and rights of migrants are recognized determines their degree of integration in the country of destination. Legal and administrative restrictions imposed in the field of housing affect the living conditions of migrants and prevent them from living a dignified life, fully integrated into the community that hosts them.**

► Special Rapporteur on the right to adequate housing (UN General Assembly 2010, para. 80)

This disconnection of migrant workers from the local community is a common feature of migrant worker housing (Hohmann 2013; UN Human Rights Committee 2019). For example, a lot of the housing for low-wage migrant workers in Singapore is “spatially and socially” separate from the local community, located in outlying areas of the city state (Yea 2020): “[T]he underlying policy of housing for low-wage migrant workers still seems to be

212 This contrasts with migrant workers in Malaysia, who reported fearing the police at their accommodation; see section 5.10.2.1 below.

213 Interview with the HRDF, 12 April 2021.

214 Interview with Our Journey, 16 March 2021.

215 Interview with Our Journey, 16 March 2021.

segregation of such workers from ‘Singaporean society’.²¹⁶ This is not limited to the centralized housing model (dormitories), but also applies to the purpose-built migrant worker recreation centres keeping migrant workers separate from the citizenry during their time outside of work. In this way, the dormitories are “constructed in such a way that there is little reason to leave, except for work, and no outsiders are allowed to enter” (Peth, Sterly, and Sakdapolrak 2018, 466). Although dormitories represent a site where thousands of (mostly) men from different cultures navigate their everyday interactions in shared space (Peth, Sterly, and Sakdapolrak 2018), some segregation can still exist. For example, in Thailand some dormitories segregate the quarters between migrant workers and nationals, allocating the lower storeys (that have air conditioning) to Thai workers (Kusakabe et al. 2018). Elsewhere, this geographic segregation can effectively exclude migrant workers from access to necessary services and facilities, confining them to areas with poor conditions and infrastructure (UN General Assembly 2010).

Just as the geographic and/or social segregation of migrant workers is driven by negative attitudes in the wider population, it also fuels such attitudes. Interactions with marginalized groups, in this case migrant workers, are vital in building and maintaining public support for them (ILO 2019a). However, the spatial and social separation of migrant workers from the wider community is not only driven by official policy; it is also a consequence of migrant workers’ own practices in how they preferentially form close-knit communities with other migrant workers often from the same country of origin (Kusakabe et al. 2018; see further discussion in section 5.11 below).

In both the 2030 Agenda for Sustainable Development and the Global Compact for Safe, Orderly and Regular Migration, States have committed to fostering community cohesion and inclusive societies, including by enabling migrants to be active members of society in countries of destination; recognizing that this means avoiding polarization; and developing national short-, medium- and long-term policy goals regarding the inclusion of migrants in societies (UN 2015; 2018). In particular, the creation of recreational facilities only for migrant workers goes against a recommended action of the Global Compact for Migration to “establish community centres or programmes at the local level to facilitate migrant participation in the receiving society” (UN 2018, para. 32(f)).²¹⁷

Access to adequate, affordable and suitable housing is a significant step to minority groups – such as migrant workers – integrating into their country of destination (Hohmann 2013). There is evidence that the populations in the three study countries are open to more integration, which is in line with the ASEAN Consensus (2017); research indicates destination country nationals already have considerable interaction with migrant workers. In Malaysia and Singapore, this is in line with these being multi-ethnic countries with a large proportion of migrant workers in their workforce, and a significant increase in interactions with migrant workers has been recorded in Thailand. A majority of respondents to an ILO (2019a) survey responded positively that they would help a migrant worker integrate into their community or get ahead in their work (Malaysia: 57 per cent; Singapore: 62 per cent; Thailand: 74 per cent).

5.7. Availability of services, materials, facilities and infrastructure

Adequate housing must provide facilities essential for health, security, comfort and nutrition (ILO Conventions Nos 188 and 189; ILO Recommendations Nos 115, 199, and 201; UN CESCR 1991).

5.7.1. Cooking facilities

The availability of cooking facilities, along with the freedom to cook food of their own choosing, emerged as migrant workers’ main concern about accommodation facilities in this research, whether this was for dietary, nutrition, cultural or religious reasons. Cooking restrictions may derive from limited facilities or prejudiced views of migrant workers and their cuisines. Only two of the ten participants in the Singapore FGDs indicated that they were able to prepare their preferred food in their accommodation. The eight other migrant workers reported that they were prevented from doing so due to either their employers’ or landlords’ restrictions: one woman migrant worker reported that she was only allowed to make simple things like instant noodles.²¹⁸ Similarly, participants

216 Written contribution from HOME, received on 27 March 2021.

217 Singapore abstained in the General Assembly vote on the Global Compact for Migration.

218 Focus group discussions, Singapore, 18 and 25 April 2021.

in the Bangkok FGD noted that even in private rental accommodation cooking facilities were limited, with some owners not allowing cooking in the room.²¹⁹ Cooking facilities for migrant workers in Chiang Mai are usually outside the room (for example on a balcony).²²⁰ This is consistent with previous research. For example, in a previous survey, 80.6 per cent of Bangladeshi migrant workers surveyed (403 out of 500) reported poor quality food in catered facilities. Concerns included that the food was unclean or stale. Migrant workers (90.4 per cent of respondents) recommended the solution of having cooking facilities in the dorms for workers to prepare their own meals or, where food was catered, for greater regulatory oversight of the catering companies (over 99 per cent) (Dutta 2015). To be adequate, housing must provide facilities essential for health and nutrition, such as cooking facilities that include energy for cooking and means of food storage (ILO Recommendation No. 115; UN CESCR 1991).

In a recent ILO survey, migrant workers in Malaysia, Singapore and Thailand were asked if they were able to get enough food at their accommodation (table 13). Overwhelmingly they reported that they were, though fewer responded positively in Thailand than in Malaysia and Singapore.

► **Table 13. Migrant workers' access to adequate food at their accommodation in Malaysia, Singapore and Thailand, by country of destination and gender (%)**

Do you have enough food?	Total (n=195)	Malaysia	Singapore	Thailand	Women	Men
Yes	86	93	93	69	84	88
No	14	7	7	31	16	12

Source: ILO 2021.

Though migrant workers in this study expressed concerns about access to adequate food in relation to nutrition and health (see also Dutta 2015), food still serves a powerful role in maintaining ties with home and building social cohesion with other migrant workers in the country of destination:

► **Food is significant for its ability to evoke a multifaceted experience of place, for by cooking and eating Filipino food on Sundays, domestic workers consume different experiences of Hong Kong [China], home and nation.**

► Law 2001, 267

► **This sharing of food and alcohol, as well as the exchange of information and emotions, stimulates social cohesion and leads to the creation and maintenance of the translocal group.**

► Peth, Sterly, and Sakdapolrak 2018, 465

Concerns about food security also emerged early in the pandemic, including in relation to migrant status – for example, among migrant workers in Malaysia (Aziz and Basir 2020; Sukumaran 2020). In Thailand, migrant workers living in remote locations during the COVID-19 pandemic have suffered specific problems such as food shortages.²²¹ The migrant worker participants living in the dormitories in Singapore described a lack of cooking

219 Focus group discussion, Bangkok, Thailand, 31 March 2021.

220 Focus group discussion, Chiang Mai, Thailand, 29 April 2021.

221 Written contribution from the MAP Foundation, received 14 April 2021.

facilities, which would prove critical during the “circuit breaker” measures in 2020 when they were confined to the dorms.²²² Even where there were cooking facilities in the dorms, these may not have been sufficient to practice even minimal physical distancing once all of the migrant workers were in the residence at the same time (Lim 2020). Advocates reported an increase in complaints from migrant workers about the quality, cultural suitability and portion size of the food provided to them during the pandemic (TWC2 2020g). The migrant workers in Singapore living in the on-site dormitories (CTQs) were receiving pre-packed meals due to the restrictions on their movement (see also section 5.8 on cultural adequacy below).²²³ At the time of the FGD for this study, they were permitted only a maximum of three hours on their assigned rest day outside the CTQ other than for work, limiting their options for finding their preferred foods.²²⁴ This small measure of freedom of movement was only introduced in August 2020, and the outside hours were timed throughout the day to prevent overcrowding outside the migrant worker housing, with slots managed through an app or assigned by employers (HOME and TWC2 2020; Singapore, MOM 2020b). The Singaporean authorities state that migrant workers who face issues with access to adequate and proper food should report their cases to MOM, which will address the issues raised with employers and take enforcement actions in serious cases (Singapore, MOM 2021a).

5.7.2. Water and sanitation

Adequate housing should provide sustainable access to safe drinking water and to sanitation and washing facilities (UN CESCR 1991; ILO Recommendation No. 115). Not all migrant workers have access to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses in their accommodation.²²⁵ This is one way in which housing is an underlying determinant of the right to health: unsafe water and poor sanitation are linked to transmission of numerous diseases. The WHO recommends as optimal access to a supply of water through multiple taps within the accommodation (WHO 2018).

For migrant agricultural workers in Thailand, the Mekong Migration Network (2020) has noted that poor sanitary equipment and unsafe water sources have had health consequences for migrant workers who suffer frequent cases of diarrhoea. A lack of safe drinking water was also reported for plantation workers in Malaysia, with some migrant workers in the construction and plantation sectors have to dig their own wells because the piped water is not clean. In addition, some plantation workers also have to store the pesticides they use in their work in their accommodation, close to where they sleep and often in the kitchen where they cook and eat, raising concerns about contamination and health risks to the workers.²²⁶ For migrant workers living in remote areas in Thailand, water sources are uncertain and often come from wells and open irrigation, or are brought in by private sources that may not be reliable.²²⁷

In the fishing sector, not all workers have use of showers and toilets in their accommodation, although that is improving. A 2020 survey of the Thai fishing sector found that among the fishers surveyed (approximately two-thirds of whom were migrant workers) the percentage with access to showers and toilets had increased since 2017: from 67 per cent to 83 per cent for access to toilets, and from 69 per cent to 83 per cent for showers (ILO 2020d). For seafarers, research suggests that length of service and rank in the industry were more associated with private accommodation and bathroom facilities (Ellis et al. 2012). International standards for seafarers and for fishers require that sanitary facilities meet minimum standards of health and hygiene as well as reasonable standards of comfort, that they are within easy access of the navigating bridge and the machinery space or near the engine room control centre, and that there are separate sanitary facilities provided for men and for

222 Focus group discussions, Singapore, 18 and 25 April 2021.

223 The Singaporean Government reported that they have provided more than 10 million catered meals to these migrant workers, and that these meals were suitable for varied diets (written response from the MOM, received 5 May 2021). An activist coalition also worked to provide food to migrant workers restricted to their dormitory accommodation (Phua 2020).

224 Focus group discussions, Singapore, 18 and 25 April 2021. See Singapore, MOM, “[Press Release on Eligible Migrant Workers Will Be Able to Visit Recreation Centres on Rest Days from 31 Oct 2020](#)”, 28 October 2020; and Singapore, MOM, “[Frequently Asked Questions](#)”, 12 August 2020. This was later increased to being allowed time outside the dorm lasting three hours, four times a week (Lai 2021).

225 This framing of the right to water is from UN CESCR 2003.

226 Interview with Tenaganita, 13 April 2021.

227 Written contribution from the MAP Foundation, received 14 April 2021.

women. The standards also prescribe a minimum ratio of workers to each toilet and to each wash basin and tub or shower (or both) (MLC, 2006, and ILO Convention No. 188).²²⁸

In the FGDs for this study the migrant workers living in a dorm (CTQ) in Singapore reported it had centralized bathrooms on one floor of the building. One of the participants who was in an FCD reported there were 14 people sharing a room with an en-suite bathroom that had two to three shower cubicles and three toilets (giving a ratio of approximately four to seven people per shower and 4.67 per toilet).²²⁹ Only two of the group who took part in the Bangkok FGD have access to a private (en-suite) bathroom. The others use shared bathrooms in the property. They said that this is not a problem at the moment because some of the other migrant workers in the housing returned home due to the pandemic, but pre-COVID, the facilities were not sufficient in busy periods. Bathroom facilities were not gender-segregated.²³⁰

5.7.3. Other facilities

Similarly, decent housing requires reliable access to other facilities and services, including ventilation and rubbish disposal systems (UN CESCR 1991; ILO Recommendation No. 115). Migrant workers living in remote areas may not be covered by government services such as garbage collection, leaving them to burn their refuse or let it pile up.²³¹

Migrant workers in Thailand also raised issues of limited use of utilities, such as the landlord turning the lights off at 10 p.m. In Chiang Mai they highlighted the limited number and quality of laundry facilities; that did not leave the clothes feeling clean and proved a challenge given that most have the same days off, resulting in long lines to do laundry.²³² In remote areas, electricity in migrant worker housing can be illegal hook-ups or done by the employer, who then charges a higher rate than the actual cost.²³³ Conversely, participants from the CTQ dormitories in Singapore reported being satisfied with the comfort and hygiene level of the dormitory and with the free laundry service.²³⁴

All three States are tropical countries with pronounced rainy seasons. Migrant worker accommodation needs to have adequate sanitation and drainage to ensure protection against flooding and insect-borne diseases such as dengue.²³⁵

Housing standards are a work issue: substandard accommodation and lack of facilities may result in higher levels of fatigue that give rise to occupational safety and health (OSH) risks and work-related accidents. In hot environments this is particularly linked to ventilation quality, including the provision of air conditioning specifically (Sandberg et al. 2014; Adhikary et al. 2017; TWC2 2020g). International labour standards require that workers, including migrant workers, have appropriate protection against heat in their accommodation, as well as adequate ventilation (ILO Recommendation No. 115). The Asia and the Pacific region is the most affected region globally in terms of working hours lost to heat stress,²³⁶ and the increasing heat levels resulting from the climate crisis will worsen conditions, with workers in the agricultural and construction sectors in particular being at high risk of heat exposure. Improved ventilation and air conditioning are the most effective OSH measures to protect indoor workers – logically this extends to communal housing situations (ILO 2019b). Air conditioning is also

228 For example, for seafarers, the minimum ratio is one toilet, one wash basin, and one tub or shower or both for every six persons or fewer who do not have personal facilities, provided at a convenient location (MLC, 2006, Title 3, Standard A3.1, para. 11(c)). For fishers, the requirements vary with the size of the vessel: for those 24 metres in length and over, the minimum ratio is at least one tub or shower or both, one toilet, and one washbasin for every four persons or fewer, where they do not have facilities attached to their rooms; though there is some leeway for the competent authority to increase this if, after consultation, they find it reasonable and not discomforting to the fishers (ILO Convention No. 188, Annex III, Arts 61–2).

229 Focus group discussion, Singapore, 25 April 2021.

230 Focus group discussion, Bangkok, Thailand, 31 March 2021.

231 Written contribution from the MAP Foundation, received 14 April 2021.

232 Focus group discussions, Bangkok, Thailand, 31 March 2021, and Chiang Mai, Thailand, 29 April 2021.

233 Written contribution from the MAP Foundation, received 14 April 2021; focus group discussion, Chiang Mai, Thailand, 29 April 2021.

234 Focus group discussion, Singapore, 25 April 2021.

235 Information provided by Brahm Press, Director, MAP Foundation, 10 August 2021.

236 For example, 2030 national level GDP losses in Thailand are projected to be substantial, with reductions of more than 5 per cent expected (ILO 2019b).

a requirement of the international standards in relation to some on-board accommodation for seafarers and fishers (MLC, 2006, and ILO Convention No. 188). Many forms of migrant worker housing – such as the use of storage containers or constructions with tin roofs – are heat traps.²³⁷ Heat mitigation and decent ventilation in indoor settings is crucial to realizing adequate housing for migrant workers in the region, including to reduce the spread of COVID-19. It is also important in areas or during seasons with high pollution levels, as seen across the region.²³⁸

FGD participants in this study reported different standards of ventilation: those living in the CTQ dorms in Singapore reported having ventilation through windows as well as wall fans in the bedrooms, whereas several of the Bangkok participants mentioned poor ventilation in their housing.²³⁹ None of the migrant workers in this study mentioned having air conditioning, and this absence was most keenly felt by the participants who lived in dormitory accommodation, who considered it essential.²⁴⁰ Any ventilation or air conditioning system in place in migrant worker housing must be regularly cleaned and maintained to prevent or control the spread of disease.

For seafarers, there are important issues of personal comfort such as being able to control the light levels and temperature in their cabins; in one survey 52 per cent reported that they could not adjust the light levels and 41 per cent that they could not control the heat in their sleeping quarters (Ellis et al. 2012). This was also reported as a problem in this study by shift workers who need to sleep in shared accommodations during the heat of the day.²⁴¹ The international labour standard also stresses the importance of natural light for seafarers, in addition to adequate artificial light – which may determine the use of tiered berths – for example, recommending that there should be only a single tier where a sidelight is situated above a berth (MLC, 2006).

5.7.4. Wi-Fi

Everyone has an equal right to access and use a secure and open internet connection (UN Human Rights Council 2012b; Internet Rights & Principles Coalition 2019). The Singapore Government reported that it had provided Wi-Fi access and distributed more than 200,000 SIM cards during the lockdown of the dormitories so the migrant workers could keep in touch with family and friends.²⁴² However, civil society have raised concerns about dorms not having Wi-Fi, or having inadequate bandwidth or coverage across all floors and rooms, especially with all the migrant workers resident in the dorm at the same time during the lockdown. Dormitory operators in Singapore report that all purpose-built dorms have Wi-Fi in the communal areas, but this is not always adequate when all of the migrant worker residents are present in the dorms all day and are kept in their rooms, especially given that only some dorms provide in-room Wi-Fi service.²⁴³ Charities and telecommunications companies have also stepped up to give out phone top-ups to migrant workers who could not go out to purchase them (TWC2 2020a; 2020f). A lack of internet connectivity was also an issue for migrant workers living in remote areas during the pandemic.²⁴⁴ Some employers' groups argue that they should not be expected to provide Wi-Fi, which they view as an additional service.²⁴⁵ However, with more and more services being provided online and through apps,²⁴⁶ including those supporting migrant workers in sending remittances,²⁴⁷ Wi-Fi can be seen as an essential service. Wi-Fi provision in migrant worker housing should guarantee users' right to privacy, including commitments not to track browsing histories on users' own devices and not to retain or sell user data.

237 Information provided by Brahm Press, Director, MAP Foundation, 10 August 2021.

238 For example, a new study reports that inhabitants of the destination countries featured in this report could gain between 1.2 and 3.8 years of life expectancy if the level of air-borne pollutants was reduced to the recommended threshold (AQLI, n.d.).

239 Focus group discussions, Singapore, 25 April 2021, and Bangkok, Thailand, 31 March 2021.

240 Focus group discussions, Singapore, 18 and 25 April 2021.

241 Focus group discussion, Malaysia, March 2021.

242 Written response from the MOM, received 5 May 2021.

243 Written response from DASL, received 16 July 2021.

244 Written contribution from the MAP Foundation, received 14 April 2021.

245 Information provided by the MEF during the online webinar, 10 August 2021.

246 For example, in Singapore, the MOM describes using an online portal to facilitate contact tracing and communication among migrant workers, employers and dormitory operators during the pandemic (information provided by the MOM's ACE Group, at the online webinar, 10 August 2021).

247 See, for example, the ILO's SaverAsia app and web portal, available at https://www.ilo.org/asia/projects/WCMS_761767/lang-en/index.htm.

5.8. Cultural adequacy

Housing plays a key role in forming communities and culture: “housing is important in the formation and protection of identity, community and place in the world” (Hohmann 2019, 2). Low-wage migrant worker culture in the countries of destination emphasizes and relies on community, and this is reinforced through measures such as centralized housing (Peth, Sterly, and Sakdapolrak 2018). As such, migrant worker housing should provide communal facilities where people can mix and relax, particularly where such facilities are not otherwise available in the community (ILO Recommendation No. 115). Not all housing for migrant workers, including in this study, meets this criterion.²⁴⁸

One civil society respondent reflected that one of the challenges related to the COVID-19 response in centralized migrant housing was in the way the measures to reduce occupancy density were experienced in this migrant worker culture. In Singapore, where some workers were moved out to quarantine in hotels left empty by closed borders, what seemed an ideal solution to many, proved psychologically very challenging to some migrant workers who reported suicidal thoughts brought on by the isolation. In the pressure of the pandemic response, there had not been adequate consideration of the culture and behavioural norms of the migrant worker community, and there needed to be greater effort in balancing the human rights, public health and cultural needs of the affected migrant workers.²⁴⁹

Authorities made efforts to maintain cultural rights in the pandemic response. For example, the Singaporean Government reported they were delivering meals to Muslim workers in lockdown in the dormitories before dawn in order for them to observe their religious practices during Ramadan (Mirpuri 2020); though Bangladeshi workers reported problems with the catered food quality and quantity (Han 2020b).

5.9. Privacy and autonomy

► Staying with the employer there is no freedom. Can't come and go as you please. It's not convenient.

► Shan migrant worker, man, Chiang Mai²⁵⁰

Adequate privacy is part of adequate housing (UN CESCR 1991). Housing and the concept of home is also intrinsically linked with the right to privacy provided in Article 17 of the International Covenant on Civil and Political Rights.²⁵¹ Similarly, ILO standards state that housing should provide privacy, including in shared accommodations (ILO Recommendation No. 115).

There are some gender differences in migrant workers' reported sense of privacy and the degree of autonomy they enjoy in their accommodation. Based on the ILO (2021) survey of over 200 migrant workers in Malaysia, Singapore and Thailand, most migrant workers overall (76 per cent) felt that they had enough privacy in their accommodation. However, this was true of a smaller proportion of women than men (68 per cent of surveyed women to 83 per cent of men). And again, though most migrant workers overall reported that they were not locked into their accommodation (87 per cent), when that data is gender-disaggregated, more women than men migrant worker respondents (18 versus 8 per cent) reported that they are sometimes confined to their accommodation (table 14). This may be linked to gendered labour sectors where, for example, women domestic workers are likely to be subjected to limitations in their right to privacy and freedom of movement (see box 5). For example, in this study, the two women migrant domestic workers who participated in the Singapore FGD

248 Such as the CTQ accommodation (focus group discussion, Singapore, 25 April 2021).

249 Interview with MWC, Singapore, 19 March 2021.

250 Focus group discussion, Chiang Mai, Thailand, 29 April 2021.

251 Article 17.1 states, “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.” Of the three focus countries of this research, only Thailand has ratified the Covenant.

were assigned bedrooms in their employers' homes, but did not enjoy sole use of these spaces. One woman reported intrusions on her privacy such that she now locks the door when she sleeps and also places something up against the door, as the employer has a key. The other domestic worker described how her employer stored belongings in the cabinets in her room and entered whenever they wanted to retrieve an item.²⁵² Especially once the pandemic restrictions were imposed, including the MOM advisory that migrant domestic workers should stay home on their day off, isolation was a major issue for live-in migrant domestic workers.²⁵³

► **Table 14. Migrant worker perceptions relating to privacy and autonomy in their accommodation in Malaysia, Singapore and Thailand, by country of destination and gender (%)**

		Total	Malaysia	Singapore	Thailand	Women	Men
Do you have enough privacy? (n=214)	Yes	76	77	84	63	68	83
	No	24	23	16	37	32	17
Are you allowed to leave? (n=207)	Yes	72	82	76	53	67	66
	No	28	18	24	47	33	24
Are you locked in with a key/bolt? (n=205)	Yes	13	3	14	23	18	8
	No	87	97	86	77	82	92

Source: ILO 2021, and unpublished survey data collected for ILO 2021.

252 Focus group discussion, Singapore, 18 April 2021.

253 Information provided by Jaya Anil Kumar, Case Manager, HOME, Singapore, during the online webinar, 10 August 2021. The MOM advisory was issued on 11 April 2020 (HOME 2020).

► **Box 5. Restrictions on freedom of movement in migrant worker housing during the COVID-19 pandemic**

Migrant workers should enjoy freedom of movement outside of work hours, unimpeded by any security personnel at their accommodation. Most migrant workers surveyed by the ILO in these destination countries (72 per cent) reported that they were free to come and go from their accommodation, with no gender difference in the responses. However, this was much lower in Thailand, with only about half of respondents saying they were free to leave their accommodation when they wanted (see table 14). Migrant workers may experience restrictions on their freedom of movement in association with their housing. For example, migrant domestic workers frequently report such restrictions. If the housing provider does have legitimate security concerns that necessitate such restrictions in migrant workers' personal time, these should be clearly stated as part of their employment contract (IHRB 2017). Even where there are no official restrictions on migrant worker movement, many feel restricted to the area around their housing for fear of being targeted by law enforcement officials on the streets (see section 5.10 below).

During the pandemic, all three States have seen periods with some restrictions on freedom of movement imposed to slow the spread of infection. Although these applied to everyone, they were sometimes applied differently to migrant workers – such as being applied for an extended period – or had different effects on migrant workers, for example, as a result of being in employer-provided communal accommodation or during “bubble and seal” measures and closures of construction sites. Measures that treat migrant workers differently to nationals risk being discriminatory if they are not proportional to achieving a legitimate aim (UN CERD 2004).

In Malaysia, although restrictions on movement during the Enhanced Movement Control Order or quarantine-at-home were implemented for nationals and migrants in affected areas, migrants in some areas were left out of the government-organized provision of food and basic hygiene products. Some migrant workers also reported that they were locked in their accommodation by their employers and allowed out only under supervision.¹ During the circuit breaker measures in Singapore, all migrant construction workers were subject to a stay-at-home notice, whether they lived in a dorm or in private accommodation. They were not permitted to leave their accommodation even to buy food. The restriction was imposed with such little notice that employers did not immediately have the means to support their workers. Other migrant workers who were not based in the dorms could still go out within the restrictions.² Even with the lifting of restrictions in Singapore, dorm-based migrant workers' freedom of movement was severely limited even though rates of community transmission were low. Migrant workers are allowed out only to be taken to and from work, and a few exceptions to visit doctors or nearby shops, though this is subject to centralized government permission, which civil society report is rarely given.³ Those subjected to Thailand's bubble and seal policy faced restrictions on their freedom of movement, with consequences for other rights (on that see, section 1.1 above).

However, expert and rights-based guidance on quarantines state that they should be proportional and time-limited, comply with human rights norms, and be imposed only if there is no alternative measure available to prevent or respond to the spread of the infection. Extended use of quarantines and related restrictions do not meet these tests (OHCHR and WHO 2020). Importantly, quarantines must not be used to justify discrimination or the imposition of harsher or less adequate conditions on a particular group – such as migrant workers:

[S]ufficient and appropriate measures should be put in place in order to prevent violations of the prohibition of ill-treatment. Such violations can include (or flow from) discriminatory practices and actions that have the effect of stigmatizing or marginalizing particular groups of persons. Such persons may include those individuals and groups who are considered to be at risk of contracting, or being potential carriers of, viruses (UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It's a treaty body, same as UN CESCR or UN CERD 2020, para. 9).⁴

¹ Information provided by Sumitha Shaanthinni Kishna, Director, Our Journey, during the online webinar, 10 August 2021.

² Information provided by Jaya Anil Kumar, Case Manager, HOME, Singapore, during the online webinar, 10 August 2021.

³ Information provided by TWC2, Singapore, during the online webinar, 10 August 2021.

⁴ See also ILO Recommendation No. 205, Para. 27(c).

Where respondents to the ILO (2021) survey named privacy concerns, these arose from the crowded conditions, the lack of locks in the accommodation, not having private sleeping quarters and/or surveillance by their employer. Respondents also raised some issues about theft or the lack of safe storage for belongings, which are addressed below in section 5.10 on safety concerns.

In Chiang Mai, Thailand, FGD participants stressed the difficulty of finding the balance between convenience and independence with regard to housing. They recognized that staying with their employer provided more security but that it also limits freedom, and that few employers will accept migrant workers who have family members with them, which is common in Chiang Mai.²⁵⁴

Migrant workers in the FGDs for this study reported using the living rooms of apartments, rather than their shared bedrooms, to find enough privacy to speak to their families. Some reported that the issue with shared occupancy accommodation was less about privacy and more about noise levels, and that this was disturbing their rest after a long work day.²⁵⁵ This became more of an issue once migrant workers were restricted to the accommodation during the pandemic, all together; civil society actors reported hearing more complaints about the noise and conditions in the housing.²⁵⁶ Women migrant workers in Malaysia reported that if they wanted time alone it meant leaving the accommodation, to visit a shop or a park area nearby. Participants in the Malaysia FGDs identified more privacy as an improvement they would like in their housing situation.²⁵⁷

Closed-circuit television (CCTV) monitoring occupies an ambivalent space in migrant workers' lived experience of their accommodation. There is a danger that without strong oversight, safeguards and transparency measures the use of CCTV or any other security measures in migrant worker accommodation could be used for the surveillance and over-policing of migrant workers. In Singapore – a country with widespread surveillance – migrant workers viewed its use only as a security measure.²⁵⁸ In Bangkok, one woman migrant worker reported that her employer had set up CCTV camera in her room that made her feel trapped; however, another said that their room was not safe and they had asked the owner to set up CCTV monitoring.²⁵⁹ Concerns over CCTV use have also been documented in Singapore, where advocates report that complaints about CCTV being a violation of the right to privacy are usually not accepted by the MOM and result in the termination and repatriation of the migrant domestic worker (HOME and TWC2 2017).²⁶⁰

In addition, some migrant workers reported restrictions due to the pandemic: “employers do not allow workers to leave their homes because they fear COVID-19 infections” (ILO 2021, 16). In Singapore, migrant workers in the dormitories are allowed out with advance permission from the MOM for only three hours once a week on their rest day, and are only permitted to visit the migrant worker recreation centres (HOME 2020).²⁶¹ This latter restriction was also raised by migrant workers in the Singapore FGD for this study as being an inconvenience. In addition, at the time of the research, dormitory residents in Singapore were having to comply with additional surveillance measures (use of phone QR code scanning for contact tracing) as part of the COVID-19 response.²⁶²

There are strict rules in dormitory accommodation, such as the closing and opening times, a prohibition against making loud noise at night, prohibitions on gambling, etc.²⁶³ In this exploratory study, the migrant workers who had sourced and were paying for their own private accommodation valued the autonomy that this afforded them, free of the restrictions imposed on dormitory residents, and also felt they enjoyed better (less crowded) conditions than those in employer-provided housing. One participant in Malaysia commented: “We can pick where we want to live and who and how many people we want to live with. We can also decide to change our housing if we feel like it. If a boss picks a place, it is tough. We have rules to follow. Our friends have told us how crowded their housing is when provided by employers, and they can't do anything about it.” Similarly, women migrant workers linked this autonomy with helping them feel safe.²⁶⁴ This tallies with civil society concern that many migrant workers were dependent on their employers or outsourcing agents for their housing, leaving them exposed to substandard and unsafe conditions, as well as to restrictions such as curfews.²⁶⁵

254 Focus group discussion, Chiang Mai, Thailand, 29 April 2021.

255 Focus group discussions, Malaysia, March 2021; focus group discussions, Singapore, 18 and 25 April 2021.

256 Interviews with Our Journey, 16 March 2021, and Tenaganita, 13 April 2021.

257 Focus group discussions, Malaysia, March 2021.

258 Focus group discussions, Singapore, 18 and 25 April 2021.

259 Focus group discussion, Bangkok, Thailand, 31 March 2021.

260 Written response from HOME, received on 27 March 2021.

261 On the recreation centres, see discussions under sections 5.1.1 and 5.6.4 above.

262 Focus group discussions, Singapore, 18 and 25 April 2021.

263 Written response from the ECOT, received 31 March 2021.

264 Focus group discussions, Malaysia, March 2021, and Singapore, April 2021; written contribution from the MAP Foundation, received 14 April 2021.

265 Interviews with Our Journey, 16 March 2021, and Tenaganita, 13 April 2021.

5.10. Safety concerns

Adequate housing must guarantee the physical safety of residents (UN CESCR 1991), and most migrant workers surveyed recently by the ILO (2021) in all three States perceived their housing as safe – and there was no gender difference in the responses (table 15). However, respondents shared a range of threats, including: theft; drug users in the accommodation or vicinity; predatory, sexually and physically abusive employers; and the operations of the authorities (police, immigration). One also reported feeling unsafe due to the conditions of her sleeping quarters, which were in a storeroom with the air conditioning exhaust flowing into the room (ILO 2021, 16). From the FGDs for this study, migrant workers' safety concerns in relation to their accommodation can be grouped into two categories: (i) concerns connected to the housing itself; and (ii) concerns arising from people who pose a risk to migrant workers in their housing.

► **Table 15. Migrant workers' perceptions of safety in their accommodation in Malaysia, Singapore and Thailand, by country of destination and gender (%)**

Is it safe?	Total (n=216)	Malaysia	Singapore	Thailand	Women	Men
Yes	82	87	88	67	82	82
No	18	13	12	33	18	18

Source: ILO 2021, and unpublished survey data collected for ILO 2021.

5.10.1. Safety concerns arising from migrant worker housing

Overall, the participants in the FGDs in Singapore and Thailand reported that did not have any safety or security concerns in their accommodation.²⁶⁶ In Malaysia, the migrant workers in employer-provided accommodation reported that they felt unsafe living there, the result of a combination of a lack of security in the accommodation, structural safety concerns and the crime rate in the local area: "There is no safety here. The room locks are broken and there is no security guard outside the building complex. The building is not well maintained. Many robberies have happened here and the robbers are always around. There are also many drunk and unruly people who move around this building complex."²⁶⁷ This may be a function of the affordability and location of migrant worker accommodation – that it will often be in neglected neighbourhoods. The isolation of accommodation for migrant workers in the agricultural and plantation sectors is a factor in violence and other crimes against migrants when they occur. Migrant workers have reported using their phones to monitor each other's safety when working at night, and also noted that they are not comfortable reporting incidents to their employer (Mekong Migration Network 2020).

A common safety issue raised in the focus groups for this study concerned insufficient storage for personal belongings. For example, one of the domestic workers who participated in Singapore described how her employer still used all of the cabinets in her room, forcing her to keep her belongings under the bed.²⁶⁸ For the migrant worker men sharing flats provided by their employer in a building complex in Malaysia, there were only two storage lockers provided per flat, even with six to 12 people living there. Another of the migrant workers who sourced his own accommodation there reported that he and his three housemates had to purchase their own lockers to store their belongings.²⁶⁹ All of the study participants who lived dormitory accommodation (in Singapore) reported that they had adequate storage for personal belongings.²⁷⁰ This is also reported in other sectors, for example, in a survey of the Thai fishing sector the share of workers (mostly migrants) who had their own locker

266 Focus group discussions, Bangkok, Thailand, 31 March 2021; Singapore, 18 and 25 April 2021; and Chiang Mai, Thailand, 29 April 2021. One migrant domestic worker in Singapore reported a situation of concern (see discussion under section 2.1.2.3 above).

267 Focus group discussion with men migrant workers in regular status, Malaysia, March 2021

268 Focus group discussion, Singapore, 18 April 2021.

269 Focus group discussion, Malaysia, March 2021. Conversely, women migrant workers in the FGD reported that they did not feel that they needed to have lockers in their flats because they had no valuable possessions or extra money to keep or save.

270 Focus group discussion, Singapore, 25 April 2021.

dropped from nearly half (48 per cent) in 2017 to less than one-third (30 per cent) in 2019, though this was linked to an increase in workers having their own rooms (ILO 2020d). This study did not hear from migrant seafarers, but international standards prescribe detailed specifications for the personal storage facilities to be available to these workers (MLC, 2006). Similarly, for fishers, the labour standard details requirements on accommodation factors such as headroom, insulation, and openings into and between accommodation spaces (ILO Convention No. 188). Both standards also address measures to limit noise in accommodation spaces.

A lack of dedicated space to store personal belongings can result in migrant workers keeping their belongings around their beds, which can lack privacy and security and could constitute a health and safety risk.²⁷¹ For example, activists note that cultural norms for many workers to remove shoes before entering the accommodation – or in the context of the dormitories, before entering the sleeping quarters – creates a trip hazard that could be addressed through the provision of shoe lockers (TWC2 2020b). This is a particular concern in conjunction with the overcrowding common in migrant worker housing. It may also lead to tensions in the neighbourhood between migrant workers and nationals; for example, where migrant workers do not have storage facilities in their accommodations (possibly because they choose not to as they take up valuable space) and instead hang clothes outside the house as they would in their countries of origin (see more in section 5.6.3 on social tensions and xenophobia).²⁷² In addition, none of the housing (apartments) for migrant workers who joined the Malaysia FGDs had first aid kits or fire extinguishers.²⁷³

The FGD participants in Singapore reported a mix of available/observed and absent security measures in some accommodation. For example, the migrant workers living in CTQ accommodation reported that they felt safe in the dormitory, even though the main door was not locked and the individual bedrooms (partitioned spaces) did not even have doors. Similarly, some reported that they did not secure their personal belongings in the cabinets provided. At the same time, the dormitory residents and one of the participants in private rented housing expressed some level of comfort with the use of CCTV cameras installed by employers or landlords. They view it as a measure of security and did not highlight privacy concerns, with the cameras possibly alleviating any concern they might otherwise have over the lack of locks in some accommodation.²⁷⁴ There remain questions about the purpose, proportionality and efficacy of the use of CCTV and other security measures in migrant worker accommodation, especially given the costs involved (TWC2 2020c). See further discussions on CCTV under section 5.9 above.

5.10.2. Safety concerns arising from people who pose a risk to migrant workers in their housing

5.10.2.1. Police

Some migrant workers in Thailand had reported fearing engagement with police during their commutes (see section 5.6.2 above). In Malaysia, women migrant workers who otherwise felt safe in their flats, identified the external threat of being at risk of arrest, detention and deportation. They explained that this is because law enforcement officials like the police, paramilitary corps (RELA) and immigration officials have entered private premises without a warrant and without proper reason. Immigration enforcement officials usually target flats occupied by migrant workers or refugees for raids in order to solicit bribes from foreign nationals, especially those who are undocumented. There has been widespread criticism of Malaysia's use of raids and detention throughout the pandemic (Chhoa-Howard and Yesudas 2020; OHCHR 2020g). The four women migrant workers who participated in the Malaysia FGD for this study, all of whom are in irregular status, reported that they were usually forewarned by others living in the apartment complex of potential raids by enforcement authorities, and they avoided being at home during the raids so that they did not have to pay bribes or be arrested.²⁷⁵ Kusakabe et al. (2018) note that raids are rare in dormitory accommodation, at least in Thailand.

271 Written response from HOME, received on 27 March 2021.

272 Information provided by Sumitha Shaanthinni Kishna, Director, Our Journey, during the online webinar, 10 August 2021.

273 Focus group discussion, Malaysia, March 2021.

274 Focus group discussions, Singapore, 18 and 25 April 2021.

275 Focus group discussion, Malaysia, March 2021.

5.10.2.2. Violence against women

Housing policy is directly related to issues of violence against women.

► United Nations Economic and Social Council Commission on Human Rights (2000, para. 68).

The home is well known as a major site of violence against women, and women migrant workers are at risk from people with whom they share their housing. States have a responsibility to exercise due diligence to protect the rights of all persons in its territory, including by taking measures to prevent, investigate and prosecute actions by non-state actors that violate the human rights of those within the jurisdiction of the State. This applies to migrant worker housing even when the State is not the provider of housing or related services. Where that housing is provided by the employer, it is also directly a work issue, requiring employers to take appropriate steps to prevent violence and harassment in accommodation (or during the commute) – for example, by ensuring housing is included in their workplace risk assessment (ILO Convention No. 190).

The Human Rights and Development Foundation (HRDF) reported cases of sexual violence against women in migrant worker accommodation, perpetrated by members of the community or family members. This is linked in some cases to substandard accommodation; for example, where it is not possible for women migrants to lock their door.²⁷⁶ This need – of women migrants being able to secure their room – was also raised by the FGD participants in Bangkok and was also evident in the contribution of a migrant domestic worker in the Singapore FGD (see section 5.9 above).²⁷⁷

Other research has identified bathrooms, especially open communal bathing areas, as unsafe for and a site of possible violence against women and also children (Mekong Migration Network 2020; Napier-Moore and Sheill 2016). Isolation increases the perception of risk: women migrants in the Thai agricultural sector reported feeling unsafe in the remote and isolated living and working conditions, in some cases locking themselves into their accommodation when the men of their household were not home (Mekong Migration Network 2020).

The risk of violence, sexual harassment and other forms of harassment will have increased with the COVID-19 pandemic and response measures to the pandemic. Inadequate housing is associated with several of the main exacerbating factors of domestic violence: cramped living conditions; movement restrictions; isolation with perpetrators; and concerns about security, health and finances. The increased and extended occupancy and confinement as well as other stressors brought on by pandemic measures, including lockdowns and quarantine, build tensions in the household or accommodation at the same time as they prevent migrant workers from seeking help (UN Commission on Human Rights 2000; UN Women 2020).²⁷⁸

5.10.2.3. Anti-migrant attitudes in the country of destination

Inadequate housing and other human and labour rights abuses, including the lack of justice and remedy for harm done, take place in a context of negative attitudes against migrant workers, especially migrant workers in low-wage work. In their written response for this research, Thailand's State Enterprises Workers' Relations Confederation (SERC) stated the following:

The most significant challenge in securing housing is Thai people's bias against migrant workers. Local people are afraid that migrant workers will dirty their community such as Myanmar workers who like to spit the chewing betel on the street (Thai people perceive this image from the media). And it includes the lack of understanding of the cultures of neighbouring countries.²⁷⁹

²⁷⁶ Interview with the HRDF, 12 April 2021.

²⁷⁷ Focus group discussions, Bangkok, Thailand, 31 March 2021, and Singapore, 18 April 2021.

²⁷⁸ See for example, the infographic at: [UN Women, "Explainer: How COVID-19 Impacts Women and Girls"](#).

²⁷⁹ Written response from the SERC, received 5 April 2021.

The ILO has researched public attitudes to migrant workers; some of those most applicable to migrant worker housing are shown in table 16. These attitudes are realized and enacted in complaints by citizens about the location of migrant worker housing in their neighbourhood (see section 5.6.3 above), and more generally in low housing standards and the lack of attention and care paid to migrant workers in the pandemic response.

► **Table 16. Public attitudes towards migrant workers in Malaysia, Singapore and Thailand (%)**

	Malaysia	Singapore	Thailand
The country does not need “low-skilled” migrant workers	56	25	53
Migrant workers cause the crime rate to go up	83	52	77
The influx of migrant workers threatens our culture and heritage	68	53	58
Should not receive the same work conditions as nationals	73	36	38

Source: ILO 2019a.

5.11. Family and community

It is more secure to stay with employer, but once you have a family, the employer doesn’t want your family ... so you have to find place of your own.

► Shan migrant worker, woman, Chiang Mai²⁸⁰

It is not only about a house or residence but a whole community that migrants are located in.

► Kusakabe et al. 2018, 177.

Although often not permitted by the terms of labour migration programmes, international standards make clear an understanding and acceptance by States and other parties during negotiations of these texts that migrant workers can live with family members. For example, the ILO Workers’ Housing Recommendation, 1961 (No. 115) calls for national policy “to ensuring that adequate and decent housing accommodation and a suitable living environment are made available to all workers and their families” (General Principles, Para. 2), and further provides, “Each family should have a separate, self-contained dwelling, if it so desires” (General Principles, Para. 7). In addition, the standards provide that migrant workers in regular status should be able to access housing for their families of the same standards normally applicable to nationals (ILO Recommendation No. 151). The MLC, 2006, has as a guideline that worker accommodation should be as comfortable as possible “for the seafarer and any partner who may accompany the seafarer” (Guideline B3.1.5.1). In addition, several ILO instruments specifically protecting migrant workers stipulate that States should facilitate family reunion (OSCE, IOM, and ILO 2006).²⁸¹ Similarly, the UN’s International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990, (ICRMW) states in its Article 1 that it is applicable across the entire migration process for migrant workers and members of their families, and obligates States to “take appropriate measures

280 Focus group discussion, Chiang Mai, Thailand, 29 April 2021.

281 For example, ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Art. 13(1); ILO Migrant Workers Recommendation, 1975 (No. 151), Para. 14.

to ensure the protection of the unity of the families of migrant workers”.²⁸² The almost universally ratified UN Convention on the Rights of the Child also carries obligations on family reunification.²⁸³ International human rights law stipulates that family should be understood broadly and that this is part of the understanding of non-discrimination with respect to the right to adequate housing (UN CESCR 1991).²⁸⁴

However, Malaysia does not permit low-wage migrants to be accompanied by family members (Malaysia, Ministry of Home Affairs, Immigration Department, n.d.-b). Therefore there is no obligation on employers to provide accommodation for or to consider the situation of families of migrant workers.²⁸⁵ Nonetheless, some migrant workers do have family members with them. Civil society interviewees expressed concern about migrant workers in the construction sector who have families with them in Malaysia. Though some migrant construction workers choose to take housing separate to the workplace, others live with their family on site, sometimes without any proper water or sanitary facilities in addition to the workplace hazards associated with the industry.²⁸⁶ With no legal requirement on employers to respond to this situation, there is a protection gap for migrant families. Similarly, Singapore strictly regulates the right of low-wage migrants to marry and found a family while on a Work Permit or after it is expired, cancelled or revoked. They are not allowed to marry a Singaporean citizen or permanent resident inside or outside the country without the prior approval of the Controller of Work Permits. Nor are they allowed to get pregnant or deliver a child in the country, unless they are already married to a Singapore citizen or permanent resident with the approval of the MOM.²⁸⁷ In Thailand there are no such restrictions, but migrant workers report difficulties finding accommodation that accept children.²⁸⁸

Migrant workers find and form communities, connecting with their diaspora in the country of destination to find housing on arrival or to identify preferred locations for housing once they are more established (Peth, Sterly, and Sakdapolrak 2018; Kusakabe et al. 2018; Yea and Chok 2018 – and see section 5.6.1 above).²⁸⁹ This community connection is sufficiently important that it is viewed as a necessary element of migrant housing.²⁹⁰ As discussed, it provides them a sense of security in what may be a long-term – or, in some cases, permanent – “temporariness” that is otherwise characterized by precarity and dependence (Kusakabe, Khuenta, and Hemsakul 2017; Segrave 2017; Peth, Sterly, and Sakdapolrak 2018).

However, connections with the diaspora community do not necessarily confer more control in migrant workers’ housing choice. For example, among FGD participants, the migrant workers who travelled to Singapore on their own had no more freedom of choice in their housing than those whose migration was facilitated by an agent and who moved directly into agent- or employer-provided housing, as they were reliant on their first point of contact (friends or associates) for housing on arrival.²⁹¹ Furthermore, given the challenges that migrant workers face in securing adequate and affordable housing, although family and community contacts may feel obligated to house newly arrived (or otherwise homeless) migrant workers, they may not be living in decent conditions with sufficient space or facilities for them (UN General Assembly 2010).

282 Article 44 of the ICRMW addresses family reunification. Furthermore, Article 50(3) imposes important obligations on States of employment with regard to giving family members an authorization to stay in the country after the death of a migrant worker or, if this is not possible, a reasonable time to settle their affairs before departure. Similarly, Article 69 calls on States to consider the possibility of regularizing the situation of migrant workers and members of their families within their territory who are in an irregular situation. However, the Convention also provides for States to establish their own criteria governing admission of migrant workers and members of their families (Article 79).

283 For example, in its Article 10.

284 However, Article 4 of the ICRMW contains the Convention’s definition of family, which is limited to partners who are married or in an equivalent relationship and dependent children and other dependent persons “who are recognized as members of the family by applicable legislation or applicable bilateral or multilateral agreements between the States concerned”.

285 Written response from the MEF, received 21 March 2021; Employees’ Minimum Standards of Housing, Accommodations and Amenities Act 1990 (Act 446).

286 Interviews with Our Journey, 16 March 2021; Persatuan Sahabat Wanita Selangor, 26 March 2021; and Tenaganita, 13 April 2021.

287 Under Employment of Foreign Manpower Act (chapter 91a): Employment of Foreign Manpower (Work Passes) Regulations (2012), paras. 6–8. CSOs have also raised concerns about these regulations vague and broad wording, which potentially criminalizes migrant workers who form intimate relationships with Singaporeans or permanent residents (HOME and TWC2 2017).

288 Focus group discussion, Chiang Mai, Thailand, 29 April 2021.

289 Interviews with Persatuan Sahabat Wanita Selangor, 26 March 2021, and the HRDF, 12 April 2021.

290 Written response from the SERC, received 5 April 2021.

291 Focus group discussions, Singapore, 18 April 2021.

The propensity of migrant workers to find or form communities in their country of destination is both a strength and risk. The enclaves created are a source of support and provide sense of home, but they also cut migrant workers off from other sources of information and connection, in some cases restricting their work options. They also contribute to migrant workers' isolation from the host community (Peth, Sterly, and Sakdapolrak 2018; Kusakabe et al. 2018).

Migrant worker communities can also replicate the social norms and expectations of their communities at home, which may limit migrants' enjoyment of their rights. For example, for migrant women this can result in restrictions on their autonomy and reinforce scrutiny of their behaviour (Kusakabe et al. 2018). Similarly, LGBTQI+ migrant workers may find communal accommodation a limiting factor on their ability to live openly, which can have harmful consequences for their mental health and well-being (UNDP 2019).

5.12. Accountability challenges to realizing migrant workers' right to adequate and decent housing

Migrant workers in ASEAN have long experienced precarious working and living conditions. Compared to issues related to wages (low pay, non- or underpayment, etc.) and unsafe working conditions (including excessive working hours), housing has not been subject to the same attention or concern by employers or companies, trade unions, governments, or by civil society — and is not often raised by migrant workers themselves. There needs to be effective monitoring to ensure accountability (CESCR 1991). For that, there needs to be documentation of migrant workers' housing problems and responses to these problems when they are raised, a system of inspections, and the political will to prioritize migrant workers' experiences, rights and well-being over profit and other concerns of employers, housing providers and the government. Efforts to improve migrant worker accommodation should be part of realizing the full range of their human and labour rights, including the right to freedom of association. The ability to organize is essential to improving housing conditions.²⁹²

5.12.1. Few complaints

Housing does not typically feature in migrant worker complaints to CSOs, which tend to be centred on wage concerns. However, the pandemic had seen some change in this, as migrant workers were confined to accommodations that were not designed or allocated for all residents to occupy simultaneously or for such extended periods, and civil society groups reported an increase in complaints about housing conditions as a result.²⁹³ Migrant workers who participated in FGDs for this study reported that employers were unresponsive to simple complaints about broken fixtures and facilities, and also to concerns about their safety in the area of the housing.²⁹⁴ This lack of response may discourage them from pursuing complaints elsewhere.

In Thailand, civil society advocates report that migrant workers rarely bring complaints about their housing. Instead, they just break the contract and move to other accommodation.²⁹⁵ Though these workers may find a better situation, this does not contest or remedy the poor housing they left, nor does it obtain any justice to the migrant workers for any harm or abuses of their rights that they experienced in the housing they have moved away from. This also shows that the lack of tenancy protections is not just an issue for migrant workers; it is also disruptive for employers and private housing providers.

In Singapore, the geographical isolation of many migrant workers far from government services may be a deterrent to filing official complaints (Kornatowski 2017); though civil society do make efforts to reach migrant workers where they are, such as by setting up help desks in the recreation centres.²⁹⁶ One measure being planned by the MOM is the development of volunteer networks of migrant workers who will act as peer support workers in every dormitory with 100 or more residents, based on the Migrant Workers' Centre (MWC) volunteer ambassador programme. The MWC had a network of about 5,000 members before the pandemic, available in

292 Information provided by Brahm Press, Director, MAP Foundation, during online workshop, 10 August 2021.

293 Interviews with Our Journey, 16 March 2021, and Tenaganita, 13 April 2021.

294 Focus group discussions, Malaysia, March 2021, and Chiang Mai, Thailand, 29 April 2021.

295 Interview with the HRDF, 12 April 2021.

296 Interview with the MWC, 19 March 2021.

places that migrant workers frequent to provide advice.²⁹⁷ The MOM plan to offer counselling training to these volunteers to support migrant worker mental health (Singapore, MOM 2021a).

Migrant workers who lodge complaints with the Ministry of Manpower or who are injured are supposed to remain in their employer-provided accommodation or have employers provide them with “acceptable” housing while they are on Special Passes after their work permit has been cancelled (Singapore, MOM 2014). Advocates report that pre-COVID it was migrant workers holding Special Passes, rather than Work Permit holders, who were most likely to complain about housing (TWC2 2020g). This situation is likely to be stressful for the migrant worker, as employers resent paying costs for these workers, leaving them in tenuous legal status and most having to find their own accommodation (TWC2 2013). It creates new situations of vulnerability for the migrant that could be open to abuse, including coercion to drop the complaint or even forced return prior to the complaint being resolved and possible blacklisting (Yea and Chok 2018; Chin 2019; HOME and TWC2 2020).

Although supervisors, employers or the authorities may hold that the housing is of acceptable standard or that the lack of complaints indicates that there are no problems, the lack of migrant worker complaints should not be understood as an indication of satisfaction with their accommodation, nor should it be viewed as a failure by migrant workers to understand their conditions as being substandard or a violation of their rights (Ogunlana and Chang 1998; Kornatowski 2017). It may be that they accept the housing situation as the norm. They know that companies provide certain types and standards of accommodation, and they know that they face limitations on access to and affordability of other options. Effectively, migrant workers strike a bargain to accept the housing, even when its substandard, for the limited timespan of their temporary migration programme in order to maximize their income over the contract. Especially where they have formed social bonds in the migrant community, migrant workers may choose to stay in poor housing conditions (Kusakabe et al. 2018).

Supporting the idea that migrant workers absolutely understand the substandard nature of their housing, this research has shown that they are well able to articulate the improvements in housing conditions that they would like to see. But especially when they are dependent on their employer for accommodation, migrant workers know that they risk their housing and/or their jobs – and right to stay in the country – by complaining: “It is really between rights violations versus job security”.²⁹⁸ Migrant workers who are terminated from their employment lose their housing if that is also provided by their employer, or if they can no longer cover the cost of private rented accommodation. In many situations employers can unilaterally terminate the contract, at which point the migrant worker faces increased difficulty finding housing due to being in irregular status, risking becoming homeless, or possibly being arrested, detained and deported. This risk of retribution for making a complaint was articulated by activists in Malaysia who noted the power of the Immigration Department in this situation: “It is easy to get someone undocumented in this country: you make a police report the person has run away and they can be arrested. So, some of these threats are used when one of the workers or leaders complains. ... Even in our work, we have to be very careful when we negotiate with companies.”²⁹⁹

For migrant workers in Singapore, the MOM cites an app, DormWatch, that migrant workers living in dormitories can use to report problems with the accommodation by sending photos or videos of the problem directly to the dormitory operator, and the app also informs the MOM of progress made on reported issues.³⁰⁰ There are also various other reporting options that can be used to report housing issues or other related issue to the MOM and relevant agencies, including email, phone, walk ins, online e-service and the MOM’s Forward Assurance and Support Teams at dormitories for migrant workers.³⁰¹ However, the MOM website directs complaints about migrant worker housing to relevant agencies only with regard to environmental health; water quality, improper drainage and sewerage system; fire safety; and structural safety.³⁰² CSOs report that cases where migrant domestic workers have submitted complaints that relate to their substandard living conditions, including intrusive employer surveillance, have typically not been taken seriously by the authorities (as they not viewed as

297 Interview with the MWC, 19 March 2021.

298 Interviews with Our Journey, 16 March 2021; Persatuan Sahabat Wanita Selangor, 26 March 2021; and Tenaganita, 13 April 2021. Quote from Tenaganita. See also Chin 2019; Harkins 2016.

299 Interviews with Tenaganita, 13 April 2021, and with Persatuan Sahabat Wanita Selangor, 26 March 2021. Quote is from Tenaganita.

300 For more information, see: Singapore, MOM, “DormWatch”.

301 Written response from the MOM, received 5 May 2021.

302 See: Singapore, MOM, “How Do I Report Housing Violations for Migrant Workers?”.

being “valid claims”) (HOME and TWC2 2017). However, when housing-related cases related to migrant domestic workers are taken up for investigation, the workers have been allowed to seek new employment without their employer’s consent, a significant development given that the usual practice is that migrant domestic workers need their current employer’s consent to change employers.³⁰³

Given the power asymmetries between migrant workers and their employers, migrant workers need access to an assured confidential complaints mechanism. These complaint mechanisms need to be firewalled to ensure that migrant workers of any status can use them with confidence and without fear of reprisal.³⁰⁴ This means that the process – and the data generated – must be entirely separate from immigration enforcement, and that there should be no obligation on the actors involved in assessing or responding to the complaint to inquire or share information about migrant workers’ immigration status.

5.12.2. Few inspections

Even where there are decent laws and regulations in place, enforcement of adequate standards in migrant housing remains an issue. Inspections are a key means of enforcement, but they rarely extend to housing. This changed for the better in Malaysia and Singapore during the pandemic, but there is still the challenge of being consistent in implementation.³⁰⁵

Employer-provided housing in all industrial sectors in Malaysia is supposed to be monitored through routine labour inspections by officers from the Department of Labour, who give recommendations for the employers to comply with if there are defects or non-compliance with the law (Act 446).³⁰⁶ However, civil society interviewees also noted that there was an attitude or belief among some authorities and front-line workers, such as inspectors at the local and municipal level, that housing laws and policies did not apply to migrant workers.³⁰⁷ This points to the need for an investment in improving the knowledge and understanding of these authorities, as well as with companies. There are regular calls for and investment in pre-departure trainings for migrant workers – and these should cover the right to adequate housing – but if employers are not aware of or not committed to realizing their obligations when they provide accommodation to migrant workers, the problem will not be resolved. The Malaysian Employers Federation (MEF) similarly acknowledged that an educational programme to promote appropriate housing for employees should have been introduced long before the outbreak of the pandemic.³⁰⁸

It was only after the onset of the pandemic and its connection with substandard housing that the authorities in Malaysia visited migrant worker accommodation and confronted the overcrowding and other inadequate conditions. Following this, there were more spot-checks on employer-provided accommodation to assess whether employers are complying with the legal standards. These spot-checks can lead to fines for the employer, though they are also given some time to comply, for example, by rehousing some residents to increase the spatial allowance per migrant worker in line with safe physical distancing requirements.³⁰⁹ The Malaysian Human Resources Minister announced in December 2020 that their research had found that more than 90 per cent of migrant workers were in housing that is not in compliance with the minimum legal standards (Act 446); that is, approximately 1.4 million migrant workers in Malaysia live in substandard accommodation (*Channel News Asia* 2020; Khor Gee-Weon 2021). A subsequent review found that of 22,189 employers, 63.56 per cent were not in compliance with Act 446.³¹⁰

303 Written response from HOME, received on 27 March 2021.

304 This also applies to the MOM’s new measures to check the living and working conditions of migrant domestic workers; although the MOM aims to ensure that these visits create a conducive environment in which migrant workers can raise issues, they do not prevent employers from listening to the interview (Ang 2021). This could be counterproductive to the effort where migrant workers fear retaliation if they complain.

305 With thanks to Sumitha Shaanthinni Kishna, Director, Our Journey, for this point at the online webinar, 10 August 2021.

306 Written response from the MEF, received 21 March 2021.

307 Interview with Tenaganita, 13 April 2021.

308 Written response from the MEF, received 21 March 2021.

309 Interview with Our Journey, 16 March 2021, and Persatuan Sahabat Wanita Selangor, 26 March 2021.

310 That is, 36.4 per cent of inspected employers were in compliance. Data for 1 February – 31 July 2021 of 126,047 accommodations inspected (presented by MOHR during online workshop, 10 August 2021).

In Singapore, dormitory operators report that they conduct regular inspections on migrant workers' rooms and communal spaces to ensure they are clean and identify any issues that need to be addressed.³¹¹ The MOM and other regulatory agencies conduct regular enforcement checks for FEDA-licensed (larger) dormitories and take action against dormitory operators who are in breach of their legal obligations. The MOM and other regulatory agencies also conduct regular enforcement checks of the smaller dormitories under the relevant regulations.³¹² Such checks now also extend to migrant domestic worker accommodation, that is, to private Singaporean homes. Following an announcement in April 2021, the MOM aims to conduct checks on living conditions of migrant domestic workers in 200 randomly selected homes per month at the outset and to expand this to in-person interviews with domestic workers, aiming to interview 2,000 migrant domestic workers a month and reach all first-time workers by the end of the year (Ang 2021).

Since the onset of the pandemic, some of the migrant workers participating in the Singapore FGD who lived in dormitory accommodation reported that the MOM had conducted spot checks as a result of the pandemic, that these checks had resulted in a reduction in the occupancy in the dorms, and that regular checks on the cleanliness and hygiene of the premises were continuing. However, migrant workers participating in the FGDs also reported that during the pandemic the MOM and law enforcement officials had made also checks into migrant worker accommodations that resulted in many people being deported.³¹³ Activists report that prior to COVID-19 it was only in the most severe cases that the authorities acted on housing-related complaints. When such cases involve migrant domestic worker housing the affected individuals are allowed to seek new employment without their employer's consent – which, though not addressing the housing issue, is still significant for the domestic workers involved, as they are usually not allowed to change employers without this permission. More often, when migrant workers make housing complaints – covering issues such as overcrowding; poor or no maintenance of common facilities, such as toilets, which are heavily used; poor ventilation; pests and disease vectors – they see some improvement in response, but it is often short-lived.³¹⁴ The MOM anticipates that their plan to expand the scope of the Foreign Employee Dormitories Act, 2015, (FEDA) to bring the regulation of all dormitories under a single Act will “allow the Government to raise housing standards and safe living requirements in all dormitories through FEDA. This also allows the Government to respond more quickly during future public health outbreaks.”³¹⁵

In Thailand, the situation is unclear, the result of the complexity of housing provision but also of the fragmented approach that divides responsibilities across government departments. In a written response for this study, the Employers' Confederation of Thailand (ECOT) advised that, as there are some regulations issued by the Government, it is the responsibility of labour inspectors and local government officers to monitor (migrant) worker housing.³¹⁶ However, previous research found that housing was not covered by Thai labour inspectors (Napier-Moore and Sheill 2016). The government representatives who contributed to this study, from the Department of Employment and the Department of Labour Protection and Welfare (DLPW), indicated that labour inspectors were focused on inspecting business establishments – and therefore, by implication, not worker housing, even when this housing was provided by the employer.³¹⁷ The Ministry of Labour shared that labour inspectors sometimes face difficulties when it comes to properly inspecting dormitories and employer-provided accommodations without having received any complaint or report from workers.³¹⁸ Further information provided by the DLPW stated that they do not have the duty to carry out inspections of workers' accommodation on construction sites, as this is not specified in the laws and regulations within their purview; instead, this is the responsibility of the Ministry of Interior.³¹⁹ The DLPW further asserted that “the accommodation provided to migrant workers are beyond what is required by law, so it is an additional provision, it is not required by law”.³²⁰ They later clarified

311 Written response from DASL, received 16 July 2021.

312 Written response from the MOM, received 5 May 2021.

313 Focus group discussion, Singapore, 25 April 2021.

314 Written response from HOME, received on 27 March 2021.

315 Written response from the MOM, received on 5 May 2021.

316 Written response from the ECOT, received 31 March 2021.

317 Written response from Department of Employment, received 7 April 2021; interview with the DLPW, 22 April 2021.

318 Information provided by the Ministry of Labour during the online webinar, 10 August 2021.

319 Such accommodation is considered a temporary building according to the Building Control Act B.E. 2522 (1979), which is under the responsibility of the Ministry of Interior (information provided by the DLPW, 18 August 2021).

320 Interview with the DLPW, 22 April 2021.

that workers' accommodation is considered welfare that is not required by the Labour Protection Act, B.E. 2541 (1998); however, they recognize that although they are not the main agency responsible, the DLPW still has a role to encourage employers to provide a better standard of living "in order to improve the quality of lives in all aspects of physical, mental, social for workers and their family by using the ILO [recommendation] No. 115 as a guideline".³²¹ Migrant worker housing may not be addressed in Thai law, but as a State party to the International Covenant on Economic, Social and Cultural Rights, the Thai Government is obligated to respect, protect and fulfil the right to adequate housing for all, including migrant workers.

Extending labour inspections to employer-provided housing will require increasing the number of inspectors and ensuring that they receive quality training in human and labour rights, including on the right to adequate and decent housing and its associated concerns, such as utility charging (Napier-Moore and Sheill 2016).³²² Furthermore, housing inspections must be focused on the objective of enforcing legal provisions and standards related to worker accommodation and protection of worker's rights, and this effort should be entirely separate from immigration enforcement so that migrant workers know they can engage with the inspectors and raise concerns without fear of arrest, detention and deportation of themselves or any of their family members who may be in irregular status (ILO 2016; OHCHR and Global Migration Group 2018.)

5.12.3. Lack of enforcement

Civil society actors in Malaysia situated the challenge of realizing adequate and decent migrant worker housing as being more about enforcement than a lack of policy or legislation. For example, employers in Malaysia are required to submit migrant worker contracts to the immigration and labour departments to obtain the necessary documents for the migrant workers.³²³ However, they have not needed to present any proof that their description of the accommodation listed in the contract is in fact accurate, and there is no follow up and no complaints procedure if the housing described is not actually provided to the migrant worker on arrival. It remains to be seen if the measures established in the revised legislation requiring the employer to procure certification from local and national authorities will address this practice.³²⁴

Accountability concerning the poor standards of migrant worker housing requires effective enforcement. New standards have little meaning if they are not comprehensively enforced with deterrent punishment against employers, property owners/agents and dormitory operators for breaches. In Thailand, for example, ECOT recognizes that employers are responsible for worker housing and identify some basic criteria, such as that it is clean and safe; provides separate accommodation for women and men workers; offers some privacy; and meets the minimum requirements set by the Government.³²⁵ However, without clear and enforced laws and regulations, it is too easy for employers to provide substandard accommodation. CSOs point to the large profits of some of the companies that also have been documented to be providing substandard housing for migrant workers, and note the inadequacy of the fines for non-compliance with housing standards. In this way companies benefit financially from the current lack of a systemized approach, and activists have called for increased penalties.³²⁶ However, in response to government efforts to improve migrant worker housing standards, employers have complained about the costs of implementing the required improvements.³²⁷

321 Further information provided by the DLPW, 18 August 2021.

322 Point on the need for transparency on utility charging and the need for inspections to pick up on such issues provided by Brahm Press, Director, MAP Foundation, 10 August 2021.

323 There is a similar requirement in Singapore, see section 5.5.3 above.

324 Act 446 (part IIIA); interviews with Our Journey, 16 March 2021, and with Tenaganita, 13 April 2021; written response from the MEF, received 21 March 2021.

325 Information provided by the ECOT, during online workshop, 10 August 2021.

326 Interview with Persatuan Sahabat Wanita Selangor, 26 March 2021, and Tenaganita, 13 April 2021.

327 Written response from the MEF, received 21 March 2021.

5.12.4. Lack of political will?

 That it took a pandemic to push States to adopt more serious measures to protect the right to housing shows that what was missing was mainly political will.

► UN Special Rapporteur on the right to adequate housing (UN General Assembly 2020, para. 14)

Trade union and civil society interviewees in all three countries were clear that migrant worker accommodation was not a priority of the government, which showed little concern or action at the local or national level on the issue.³²⁸ For example, in Malaysia, activists voiced frustration that it had taken pressure from abroad (such as the threat of sanctions) that threatened the economy or companies' profits for action to be taken to improve the housing and working conditions of migrant workers. Activists noted that after decades of experience in employing migrant workers, the country should be in a position to set best practices, but that there is no political will for this.³²⁹ The Malaysian Ministry for Human Resources identified employers' readiness to comply with Act 446 as one of the main challenges related to migrant worker housing.³³⁰ However, the lack of notice given to employers and housing providers to comply with the required housing improvements – published on 28 August 2020 to be in effect from 1 September 2020 – demonstrate that the Government was not taking a realistic approach, according to employers.³³¹ In response to a UN questionnaire that asked about measures to protect migrants' right to housing during the pandemic, the Malaysian authorities' response was merely that "During the MCO [Movement Control Order], migrant workers were housed by their employers while domestic workers should stay with their respective employers. Malaysian and foreign citizens were not allowed to travel in or out of the country" (Malaysia 2020).

Several participants in this study observed that authorities are invested in registering migrant workers' addresses and therefore are aware of the number of occupants in any accommodation – but had not used this information to improve housing conditions or to assess pandemic risks and form and implement a protection policy. Instead, this practice drives a security framework for migrant housing that forms part of efforts to address irregular migration. As COVID-19 has demonstrated, this is insufficient, and States need to ensure that they utilize a rights-based and health-oriented perspective with regard to worker housing.

The many different aspects of adequate housing, including its connections with other issues such as transportation and its intersections with migration and migrant workers, result in operational fragmentation across myriad government ministries and departments. For example, Malaysian authorities identify the variation in local authority legislation on the use of accommodation as an issue in ensuring adequate housing for migrant workers.³³² Another interviewee reflected on the difficulty of navigating this complexity as an advocate: "There are policies on housing, but these are not very well known or enforced. It is uncertain what Ministry they would even fall under."³³³ In order to prevent protection gaps and ensure accountability, these responsibilities need to be streamlined, and there needs to be adequate coordination between all bodies with a mandate relevant to migrant worker housing as well as between national, regional, provincial and local governments to ensure a whole-of-government approach in line with international labour standards (ILO Recommendation No. 115). There also needs to be a mechanism through which relevant stakeholders and advocates can engage to ensure a coordinated response for protecting migrants' rights in housing. Singapore's Inter-Ministerial Committee, which aims to coordinate the enforcement of regulatory standards across different migrant worker housing types, could

328 Interviews with Persatuan Sahabat Wanita Selangor, 26 March 2021; the HRDF, 12 April 2021; and Tenaganita, 13 April 2021; written contributions from HOME, received on 27 March 2021; the SERC, received 5 April 2021, and the MAP Foundation, received 14 April 2021.

329 Interviews with Persatuan Sahabat Wanita Selangor, 26 March 2021, and Tenaganita, 13 April 2021.

330 Information presented by the MOHR during online workshop, 10 August 2021.

331 Written response from the MEF, received 21 March 2021.

332 Information presented by the MOHR during online workshop, 10 August 2021.

333 Written contribution from the MAP Foundation, received 14 April 2021.

be an example of good practice in this regard – though there have been criticisms of other such committees with regard to resourcing, visibility and engagement (AWARE 2011).³³⁴ The coordinating body should not be limited to a focus on enforcement but should take a holistic approach, assessing the needs of migrant worker housing and community facilities, developing programmes to meet their needs as part of a national housing strategy, and monitoring implementation. This body should be tripartite – with representative employers' and workers' organizations – and also include other relevant stakeholders, such as CSOs. It should also include and engage with migrant workers, regardless of their status, in extensive and genuine consultation those affected (ILO Recommendation No. 115; UN CESCR 1991).

Authorities in the three study States have taken action on migrant housing – for example, local authorities in Thailand have previously drafted their own migrant housing guidelines in response to inadequate accommodation (Kusakabe et al. 2018).³³⁵ All three of the study countries have made improvements in their approach to migrant worker housing since the onset of the COVID-19 pandemic, and some further efforts are still in development. However, implementation takes time and there remain questions over the political will to enforce significant and sustainable improvements for migrant workers that will last beyond the attention driven to this issue by the pandemic. For example, employers' representatives in Malaysia expect the emergency measures requiring the provision of worker housing only upon certification by the Director-General of Labour, requiring repairs to worker housing, and requiring the moving of workers from crowded and unsanitary housing to end once the emergency rule is lifted.³³⁶ This perception of temporariness is an obstacle to implementing costly repairs and substantive improvements.

5.12.5. Too much control

 I don't see why we must put a migrant worker in the control of the employer.

► Our Journey, NGO, Malaysia³³⁷

Whereas for most workers, including migrant workers, there is a separation between work and home life, employer-provided housing puts both of these major elements of a worker's day – and life – in the control of their employer. This is particularly acute where migrant workers live with their employer or their supervisors stay in the same accommodation.³³⁸ Such a degree of dependence – relying on employers to provide not just work/income but also housing, food and rest time – all but eradicates migrant workers' power to challenge inadequate conditions or negotiate improvements, and “reinforces their disempowerment” (Chin 2019, 536). Migrant worker and civil society participants in this study recommended that staying in employer-provided housing should not be a mandatory requirement for all migrant workers.³³⁹ States' approach of trying to pass much of the responsibility for migrant housing to private actors (employers/employer-contracted actors or private housing providers), only deepens this dependence. In building such a system, the responsible parties have also created an accountability gap, with government officials and employers each locating responsibility for migrant worker housing with the other party. This gap has resulted in conducive conditions for COVID-19 transmission, and while the measures introduced during the pandemic are an improvement that could effectively enforce better conditions for migrant workers, increased inspections of migrant housing should be firewalled so they are not linked with immigration enforcement.

334 Written response from the MOM, received on 5 May 2021.

335 Referencing the Samut Sakhon Province Labour Office.

336 Written response from the MEF, received 21 March 2021.

337 Interview with Our Journey, 16 March 2021.

338 Written response from DASL, received 16 July 2021.

339 Focus group discussions, Singapore, 18 and 25 April 2021; interview with Our Journey, 16 March 2021.

The already high degree of dependence outlined above is also further exacerbated by systems of migrant worker documentation in which a migrant worker's migration status is almost entirely in the hands of their employer. The resulting difficulty for a migrant worker to leave their employer without risk or penalty is a characteristic of forced labour. Indicators of forced labour also apply to migrant workers' living conditions, including concerns raised in this research (box 6). Although the Malaysian authorities took action over indicators of forced labour, including those relating to migrant worker accommodation, following international sanctions, concerns about conditions, including living conditions, remain (*Reuters* 2021a; 2021b). In October 2021, the Human Resources Minister announced that the Government would amend the laws to ensure a minimum standard for workers' accommodation (Carvalho, Rahim, and Tan 2021).

► Box 6. Migrant worker housing as an indicator of forced labour

Workers' living conditions are recognized as characteristics of forced labour that are important to include in data collection. A person is classified as being in forced labour if they are engaged in work that is both under the threat of menace of a penalty and involuntary. Both conditions must exist for this to be statistically regarded as forced labour. Many of the means of coercion that constitute threat and menace of any penalty apply in worker housing situations or abuse of migrant workers' vulnerability through threats of dismissal or deportation – including witnessing such threats imposed on co-workers. Involuntary work refers to any work taking place without the free and informed consent of the worker and may arise from degrading living conditions imposed by the employer, recruiter or other third-party (ILO 2018a). The ILO's indicators of forced labour include several dimensions arising in or from worker housing (ILO 2012):

Dimension of forced labour: Work and life under duress

Strong indicators include:

- ▶ degrading living conditions;
- ▶ limited freedom of movement and communication;
- ▶ isolation;
- ▶ locked in living quarters;
- ▶ constant surveillance;
- ▶ denunciation to authorities.

Medium indicators include:

- ▶ multiple dependency on employer, including for housing;
- ▶ dismissal;
- ▶ exclusion from future employment.



▶ 6

Conclusions: Towards recommended minimum standards on migrant worker housing

▶ The pandemic made the poor housing very visible because it affected the whole community.

▶ Persatuan Sahabat Wanita Selangor, NGO, Malaysia³⁴⁰

Before the COVID-19 outbreak, many migrant workers in Malaysia, Singapore and Thailand were living in substandard accommodation with deficits across the criteria for adequate and decent housing. The pandemic worsened many of these conditions, but also brought attention to the issues and, finally, action.

With the advent of the COVID-19 pandemic, low-wage migrant workers were at increased risk of COVID-19 exposure and transmission due to structural factors such as their economic status, working conditions, and overcrowded and poor standard accommodations that are often in deprived areas that are at higher risk of repeated outbreaks. These socioeconomic inequalities see migrant workers in housing and workplaces that do not permit adequate safe physical distancing to minimize the risk of aerosol transmission or provide the space and financial resources to self-isolate as needed.

340 Interview with Persatuan Sahabat Wanita Selangor, 26 March 2021.

International standards on adequate and decent housing and on migrant workers provide that States should take deliberate, concrete and targeted efforts towards the full realization of the right to health, without discrimination. This includes States' obligation to protect the right to health of migrant workers where third parties, such as employers, dormitory operators, housing providers or agents, interfere with that right – for example, by limiting access to health-related information and services or by not addressing overcrowding or other harmful conditions in migrant worker accommodation (International Covenant on Economic, Social and Cultural Rights; UN CESCR 1991; 2000; ILO Recommendation No. 151). It is critical that the steps taken towards improved standards are maintained and developed into a more permanent solution in full compliance with international law, and that they are not abandoned once this crisis has passed. Realizing the right to adequate housing is, together with other human and labour rights, central to the COVID-19 response and recovery and to protecting against future public health crises. Although the next pandemic or crisis may present different challenges, most modes of disease transmission (airborne, vector-borne, fomite transmission (via contaminated objects), water-borne, etc.) are aggravated by poor housing standards.

Social dialogue with and meaningful participation of all the different stakeholders are necessary to improve migrant worker housing, with relevant representatives of governments at the local, provincial and national levels; employers' representatives; unions and workers' organizations; CSOs; and migrant workers themselves. Crucially, this should be informed by more detailed research that learns from the lived experiences of migrant workers about their needs and recommendations across the types of housing available to them, labour sectors and locations, migration status and documentation types, genders and nationalities, and other relevant factors.

Adequate and decent housing for migrant workers cannot be realized in isolation away from broader efforts to respect, protect and fulfil migrant workers' rights at work. Migrant workers in this study reported that they felt disrespected by their employers, with their low wages and the expectation they work long hours with few breaks, and their strongest recommendation was with regard to changing this attitude of disrespect.³⁴¹ It is telling that most of the recommendations made by research participants would be realized if States implemented the minimum requirements set out in the international standards.

It is not possible to give definite recommendations on spatial allowances in migrant worker housing due to the diversity of accommodation types across different labour sectors and the different situations of migrant workers, in particular whether they are living alone or with family. Therefore, what follows are some basic principles to ensure that migrant workers and their families have sufficient space, in line with best practice guidance and in light of lessons learned from the COVID-19 pandemic.

Recommended measures towards the provision of minimum standards of adequate housing for all migrant workers include:

International standards

- Ratify and implement relevant international standards including the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol, and include information on how migrant housing meets these minimum standards in the periodic reporting requirements. Where this is not possible, commit to observing the principles of the standards.
- Issue standing invitations to the Special Rapporteur on the right to adequate housing and the Special Rapporteur on the human rights of migrants to assess the human rights situation in the country when country visits become feasible again.
- Ensure that companies/employers that provide housing to migrant workers undertake human rights due diligence to identify and address any human rights impacts of this housing provision and take the necessary steps to meet or exceed the minimum standards for adequate and decent housing as set out in the international standards.

341 Focus group discussions, Singapore, 18 and 25 April 2021.

National law and policy

- ▶ Ensure all laws, policies and guidelines related to housing – including migrant worker accommodation – meet the minimum legal standards of adequate and decent housing, with equality of treatment between migrant and national workers.
- ▶ Develop and implement a national housing strategy to realize decent accommodation for all, including migrant workers, that is compliant with human and labour rights standards, in particular the ILO Workers' Housing Recommendation, 1961 (No. 115), the criteria of the right to adequate housing (UN CESCR 1991), the work of the Special Rapporteur on the right to adequate housing, and in line with the Sustainable Development Goal targets 1.4 and 11.1, including the latter's call for affordability.
- ▶ Implement clear and binding rights-based standards across the range of migrant worker accommodation in line with international human rights and labour standards as a minimum requirement for housing provided to all migrant workers, regardless of status and including subcontractor employees, and include regulation on private rental accommodation to ensure adequate conditions. Ensure participation of all relevant stakeholders, including migrant workers across labour sectors, in the development, implementation and monitoring of these minimum standards. Institute a participatory process by which these standards can be reassessed and revised as necessary.
- ▶ Adopt comprehensive anti-discrimination legislation that is inclusive of migrant workers and prohibits any form of discrimination in relation to the right to adequate housing by all public and private entities, including public and private housing providers.
- ▶ Ensure that MOUs and contracts include accurate information about housing provision and standards, including any sharing requirements, as part of strengthening human and labour rights protections in MOUs. Make public all strategies and policies, including any MOUs entered into between countries of origin and destination.
- ▶ Revise and amend any laws or policies that make living in employer-provided accommodation compulsory for migrant workers and allow migrant workers, including domestic workers, to choose this option or to make their own living arrangements, and to change their minds concerning accommodation during their contract period without penalty.
- ▶ End the requirement for migrant domestic workers to be live-in workers, and support their living in independent accommodation (live-out model) to improve privacy for both employers and domestic workers, as well as increasing protection of migrant workers against other human and labour rights abuses.
- ▶ Offer assistance to migrant workers in securing decent housing local to the site of employment.

Affordability

- ▶ Ensure that migrant worker wages – before overtime – are commensurate with the cost of living in the country of destination in order that they can realize income security and afford adequate and decent housing without having to work excessive hours, including during the pandemic.
- ▶ Include in migrant workers' contracts clear information – in a language and format each migrant worker understands – on accommodation options, their rights with regard to adequate and decent housing, any provision of utilities or other amenities, details of transportation to and from the workplace, and all related costs.
- ▶ Where migrant workers pay rent, ensure that adequate and decent housing does not cost them more than a reasonable proportion of income (that is, within the guidelines of a maximum of 25 to 30 per cent).
- ▶ Where costs are not covered by the employer, ensure that migrant workers are charged directly for any costs relating to their accommodation (including for food, utilities or transport) rather than by salary deductions to avoid excessive charges and wage theft and to ensure transparency.
- ▶ End exploitation: Where migrant workers have to pay for utilities these should be charged at their base cost and not at an inflated rate to generate profits for housing providers.

- ▶ Require caps on and protection of tenancy deposits on rental accommodation, and establish a mechanism to facilitate the prompt resolution of disputes arising in connection with such deposits that is accessible to all migrant workers regardless of status without fear of retribution.
- ▶ Implement a compensation scheme for private housing providers to offset the difference between the pandemic rental cap rates and the rental rates that were in place prior to COVID-19; for example, where migrant workers are unable to pay the full or any rent due to lost income during the pandemic. Other measures to consider for private employers providing housing to migrant workers include mortgage relief or forgiveness during the pandemic and for a reasonable time thereafter.
- ▶ Establish or maintain non-discriminatory national social protection systems that are accessible to migrant workers as well as mechanisms for the portability of social security entitlements and earned benefits.

Habitability

- ▶ Work to minimize the requirement that migrant workers share rooms in their accommodation. Where migrant workers do share, set a low limit on the number of workers to a room. This number will depend on the size, layout and facilities of the room and the genders, ages and any relationships between the residents. Ensure that spatial allowance calculations for shared rooms take into account the cumulative effect of multiple occupancy.
- ▶ Ensure there is housing available to migrant workers that is large enough to accommodate families.
- ▶ Ensure all migrant worker housing is structurally sound, even if it is intended to be temporary. Where migrant workers are expected to or request to build their own quarters, provide a reasonable budget for construction materials and ensure the construction is of a quality and in a location to survive the rainy season.
- ▶ Provide single beds in communal/centralized migrant worker accommodation and stop the use of bunk (double decker) beds to improve spacing/density measures and ventilation and to increase privacy for migrant workers.
- ▶ End the practice of “hot bedding”, and ensure that migrant worker accommodation provides a separate bed for each worker and does not require the sharing of any beds.
- ▶ Ensure continuous improvement in living conditions, including by providing timely repairs or replacement as necessary. Allow migrant workers who so wish to improve their own living conditions with permission from the housing provider.

Availability of services, materials, facilities and infrastructure

- ▶ Ensure sleeping quarters are well-ventilated in line with international standards and best practice guidelines to reduce the risk of heat stress and the spread of infection, taking into account conditions in multiple occupancy sleeping areas such as dormitories.
- ▶ Ensure that all migrant workers, including those living in informal settlements, have access to adequate and safe piped water and sanitation facilities, and that these facilities are designed in such a way and provided in sufficient quantity to allow residents to protect themselves from ill-health.
- ▶ Provide secure, safe and private gender-segregated toilet and bathing areas.
- ▶ Ensure that migrant workers each have a sufficient safe place to secure their belongings in their accommodation.
- ▶ Ensure the hygiene of all facilities in the accommodation, and respond promptly and effectively to any environmental health hazards.
- ▶ Provide migrant workers with the necessary living amenities, including mattresses, bedding, furniture and fixtures, with all being to a decent standard.
- ▶ Ensure that public services, such as for rubbish collection, are provided in all migrant housing areas.
- ▶ Provide sufficient and adequate facilities to enable tenants to cook for themselves without the areas becoming too crowded, and allow migrant workers the freedom to cook food of their own choosing.
- ▶ Ensure that where food is provided – for example, in dormitory canteens – that this food is culturally appropriate, taking into account migrant workers’ dietary needs related to health or religious requirements.
- ▶ Guarantee that during any periods of lockdown or similar measures limiting freedom of movement that migrant workers have access to adequate food and other necessities, or that these are provided by their employer.

- ▶ Ensure that migrant workers in employer-provided housing have access to recreational facilities, including outdoor space.
- ▶ Provide access to Wi-Fi in migrant worker accommodation of sufficient coverage across all floors and rooms and with enough bandwidth for the number of residents.

Accessibility

- ▶ End the practice of requiring proof of documentation of prospective tenants, as this constitutes a barrier to adequate housing for migrant workers and creates a strong incentive to discriminate.
- ▶ Amend legislation or policies that penalize employers or accommodation providers for housing migrants in irregular status, as this is a barrier to undocumented migrant workers being able to raise any issues with their housing (or work).

Security of tenure

- ▶ Promote increased security of tenure for all, recognizing the plurality of tenure types.
- ▶ Ensure that migrant workers are entitled to a reasonable period of time to vacate their employer-provided or arranged housing on termination of employment.
- ▶ For the duration of the COVID-19 pandemic and a reasonable period afterwards, ensure that no migrant worker is evicted for their inability to pay rent or because they or their employer are unable to pay the mortgage.
- ▶ Ensure that migrant workers are not arbitrarily evicted and that all evictions follow due process, including exploration of feasible alternatives. Ensure that no migrant worker is left without shelter if they are evicted. Prohibit evictions until the end of the pandemic and for a reasonable period of time afterwards.
- ▶ Where accommodation cannot be reasonably provided by their employers as a consequence of the COVID-19 pandemic, the State is obliged to provide affected migrant and domestic workers with alternative secure accommodation.

Location

- ▶ Facilitate there being private housing available to migrant workers on decent transport routes and with access to necessary services and social facilities.
- ▶ For purpose-built (migrant) worker housing or where employers provide housing to migrant workers:
 - ▶ End the geographic segregation of migrant worker accommodation.
 - ▶ Work to house migrant workers within easy reach of their workplaces to reduce commutes.
 - ▶ Ensure migrant worker accommodation is situated to allow migrant workers to access to all necessary services, including health services, schools and childcare centres.

Safety

- ▶ Protect migrant workers' privacy, including online, and avoid surveillance. Ban the use of cameras in sleeping quarters.
- ▶ Involve migrant workers in identifying and implementing priority measures to address violence and harassment in migrant worker accommodation and to ensure that all upgrading addresses their safety and security risks.

Freedom of movement

- ▶ Ensure that migrant workers are allowed to come and go from the housing site outside of working hours.
- ▶ Ensure that migrant workers can exercise their right to freedom of movement in line with nationals, including during the pandemic, and are not subject to additional restrictions.
- ▶ Ensure that restrictions imposed as part of the pandemic response, including on freedom of movement, are proportional, time-limited and comply with human rights, including that they do not discriminate against migrant workers, regardless of status.

Accountability

- ▶ Provide all migrant workers with access to legal remedies for unfair treatment.
- ▶ Set, publicize and monitor rights-based minimum standards for migrant worker accommodation.
- ▶ Extend labour inspections to employer-provided housing, including for domestic workers, to ensure that employers abide by regulations and minimum standards. Provide effective sanctions for companies and housing providers found to be in breach.
- ▶ Establish and promote a confidential complaints mechanism so that migrant workers can bring complaints about their housing.
- ▶ Ensure that inspections and complaint mechanisms and the data that they generate are entirely separate from immigration enforcement.
- ▶ Establish social dialogue with tripartite partners and all relevant stakeholders, including migrant workers regardless of status, to identify and resolve barriers to decent accommodation.
- ▶ Ensure that migrant worker housing is included in assessments of forced labour risks.

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▶ Home truths: Access to adequate housing for migrant workers in the ASEAN region

As underscored during the pandemic, the lodgings for many migrant workers are not adequate. The ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers (2018) recognizes that “migrant workers have the right to adequate or reasonable accommodation”. Further, ILO Workers’ Housing Recommendation, 1961, (No.115) states that as a general principle, “the competent authority should, in order to ensure structural safety and reasonable levels of decency, hygiene and comfort, establish minimum housing standards in the light of local conditions and take appropriate measures to enforce these standards”.

Going forward, fair wages, equal treatment in social protection and decent living conditions for women and men migrant workers should be key considerations when admitting migrants and during their employment.

The ILO has produced this exploratory study, looking at international standards, national laws and regulations, and deficits (in decent accommodation) that became apparent during the pandemic. Focus group discussions with migrant workers and interviews with key informants were conducted in Malaysia, Singapore and Thailand. Results of an on-going ILO survey among migrant workers in the three countries were also incorporated in the study. The draft report and recommendations were discussed at an online workshop in August 2021 attended by representatives from governments, employers’ organizations, trade unions, dormitory operators and civil society organizations from the three countries.

The Report provides recommendations towards minimum standards on migrant worker housing that are of relevance to policy-makers, migrant workers and advocates for advancing decent work in the region.

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