

**UN Committee on the Protection of the Rights of All Migrant Workers
and Members of Their Families**

**Day of General Discussion on workplace exploitation and workplace
protection commemorating the tenth anniversary of the entry into force
of the Convention on the Protection of the Rights of All Migrant Workers
and Members of Their families**

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3:00 to 6:00 pm

Palais Wilson, Geneva

Statement by

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Singapore

Migrant workers go to countries like Malaysia, Singapore, Thailand, Korea and Japan to escape poverty and to seek a better life for themselves and their families. However, weak labour laws, insufficient protection and prejudicial attitudes often result in many of them becoming abused and exploited. They may not be paid for months or earn less than what is guaranteed by labour laws. Wage deductions for mistakes, 'insubordination' food and rent to already low salaries are other violations they have to endure. Most work long hours every day of the week and are threatened with harm or repatriation. Confiscation of passports, verbal and physical and sexual abuses are also common. Access to justice and redress are also limited

When industrial accidents happen, their employers may refuse to pay for their medical expenses or compensate them for injuries sustained. Many live in substandard, slum-like conditions and have taken out large debts borrowed from friends, relatives or loan sharks, or mortgaged their land and homes just for the opportunity to work in these countries. Deceptive recruitment, false promises and abuses of their vulnerability are common. Migrant workers' attempts to organise themselves are often met with hostility from employers and recruiters. In countries like Singapore, unions are weak and have little interest in promoting the rights of migrant workers.

Japan and Korea

Migrant workers in Japan are recruited under what is termed as an 'industrial training' and 'technical internship' programme. This a government program that is meant to train foreign employees with basic industrial skills but has turned into a programme to recruit cheap migrant labour. The majority of both trainees and technical interns come from China and are concentrated in the textile, food manufacturing/processing, and metalworking industries.

The majority of 'technical interns' and 'trainees' are from China, many of whom pay up to USD \$5,000 for their jobs. Some are made to sign punitive contracts which prohibit trade union membership or forfeiture of security deposits if they breach their contracts. Even though the Japanese government made moves to prohibit such measures, such violations continue to be reported.

Japanese labor laws are of limited use in protecting trainees who by legal definition are not workers. This is especially so if they have no proof to file complaints as documentary evidence such as pay slips and time cards are often kept by employers. Oftentimes, trainees do not have the resources and knows how to seek help and advice from labour unions and local labour standards offices. Inaccessibility to assistance is further exacerbated by the fact that companies that recruit trainees and technical interns are often located in suburban and rural areas throughout Japan.

Furthermore, employers have been reported to circumscribe their freedom by confiscating their passports and foreigner registration cards, depositing portions of their wages and stipends in inaccessible company-owned bank accounts, requiring 6-

to 7-day work weeks, banning contact with individuals outside of the company, etc. With limited access to their own personal bank accounts, menial wages which are often less than the country's stipulated minimum wage, and exorbitant debts accrued through broker arrangements to secure opportunities to train and work in Japan.

Unscrupulous employers have dismissed technical interns in mid-contract by using threats, lies, and force. To ensure that they do not seek help or compensation, some employers have hired security companies to escort the technical interns to the airport to repatriate them to their home countries. The forced repatriation process is often carried out very expediently, leaving the technical interns with little time and limited means to run away or seek help. Therefore, forced repatriation often goes unnoticed by the public and government.

In Korea, recent events involving migrant workers have brought the issue of their rights into the spotlight. The death of a worker in the fishery industry, the exploitation of foreign entertainers, harsh working condition of agro-livestock migrant workers have revealed existing discrimination and human rights violation of migrant workers in Korea. Those cases were reported at the press conference made by migrant rights groups including Joint Committee with Migrants in Korea (JCMK, a national network of migrant rights groups in Korea) on the 21 March, observing the International Day for the Elimination of Racial Discrimination.

In one tragic incident, an Indonesian migrant seafarer was beaten to death by Korean co-workers. He was new to the job as he had worked only 9 days. The National Human Rights Commission of Korea conducted a research on the human rights condition of fishery migrant workers and made the following recommendations:

- i) build a migrant worker recruitment system by public organizations
- ii) ensure that the principles of equal treatment of migrant workers and Korean nationals,
- iii) Continue the ban on discrimination against workers of foreign nationalities in the Seafarers Act, and correct wage discrimination by disseminating standard labor contracts
- iii) establish mid- to long-term plans to ensure fishing migrant workers an appropriate level of welfare services such as national health insurance.
- iv) Improve the working and living conditions for migrant workers in the fishing industry in compliance with the Maritime Labor Convention which the Korean government has ratified.
- v) conduct regular monitoring of the human rights situation of foreign sailors and build a system preventing all kinds of rights violations.

In addition, a recommendation was made to provide migrant workers in the recruitment and training stage with work-related information, and establish support centers in migrant workers enclaves and run interpretation services.

In 2005, the Migrants Trade Union (MTU), comprised of undocumented workers made an attempt to get legal status through an application in the courts. The

government appealed against it and the case is now before the supreme court, awaiting adjudication. The case has been going on for 7 years already.

Malaysia and Singapore

Even though a lot of attention is paid to the Middle East's *Kafala* system, let's not forget that this system exists in different forms in other parts of Asia such as Singapore, Malaysia, Japan and Thailand. All migrant workers brought into these countries are only allowed to work for the employer which sponsored them. Employers also have the unilateral right to cancel work permits and repatriate their employees. Even though Malaysia recently enacted a minimum wage law for migrant workers, reports of underpayment and deductions to wages to offset business costs have been reported. In Singapore, the absence of a minimum wage law has led to migrant workers earning as little \$1.50 cents per hour. Wage theft, delay in payments, arbitrary and illegal deductions are common. Wage discrimination by nationality is an epidemic with South Asian workers earning significantly less than migrant Chinese and local employees.

Women and men in both Malaysia and Singapore may have been promised higher salaries, only to discover when they arrived that the actual salary paid is vastly different. Hourly-rated workers have to work between 12 – 16 hours a day to earn enough to repay their debts and send money home to their families. Forced labour and trafficking continue to be huge problems that need to be resolved.

In Singapore, recruitment fees of up to USD 8000 are common and employers taking substantial amounts in kickbacks, leaving workers to labour under exploitative conditions for a year and more just to recover these costs. In Malaysia, recruitment fees can be as high as USD \$3500 and wages as low as USD300. Even though individual recruiters are responsible for such malpractices, the Singapore and Malaysian governments facilitate the exploitation of these workers through weak laws, ineffective enforcement and weak cooperation with sending countries. As a result, such abuses continue to be rampant. Written contracts and other documentary evidence are virtually non-existent making it difficult for workers to file claims.

In Singapore, all employers are required to put up a \$5000 security deposit which will be forfeited if they fail to repatriate their workers at the end of their contract. A similar deposit is also a requirement in Malaysia. Many employers therefore feel compelled to withhold passports and restrict the movement and freedom of their migrant employees. Some employers even hire security companies to forcefully repatriate their workers. These companies resort to violence, threats and intimidation to force workers to return. The Singapore authorities have done little to deal with this problem. The formation of associations or societies for migrant workers to promote their rights is highly restricted The Trade Unions Act also forbids foreigners from forming their own unions.

Injured workers and those awaiting resolution of their claims face insurmountable challenges navigating the bureaucratic system and access to justice. In Malaysia, migrant workers need to pay fees for a 'special pass' to legalise their stay while pursuing claims. Inadequate social support, food and shelter are significant challenges workers in Singapore and Malaysia face when confronted with such situations. Access to health services is limited because employers refuse to pay for treatment even though they are required to by law.

Cruel, inhumane and degrading treatment e.g. physical abuse, starvation and humiliation by employers are common occurrences. Both Singapore and Malaysia impose judicial caning on immigration offenders. In Malaysia, there is arbitrary detention upon arrival in Malaysia, while waiting for agents/ employers to receive them. Deportation without appeals is common and allowed in both countries. Delays in trials and investigations, no legal representation in some cases are significant challenges that have to be addressed in both countries.

Thailand

Migrant workers in Thailand are not only abused by their employers and recruiters but by police, military, and immigration officers, and other government officials, whether they are documented or undocumented. The main problem is that most migrant workers who enter Thailand from the neighbouring countries of Laos, Myanmar and Cambodia are undocumented. There is no long term migration policy framework which allows workers to enter the country legally and uphold their rights. As a result, a majority of migrants work without papers, leaving them vulnerable to abuse, deportation and abuse of authority. Undocumented migrants from other countries such as Bangladesh, Nepal and Vietnam are not even allowed to be regularised under current regulations.

In response to this, the Thai government instituted the Nationality Verification (NV) process and the labor import system with the intention to regularise those who enter the country illegally. However, the NV system is fraught with difficulties. The registration process itself is highly complex and bureaucratic, with exploitative brokers charging excessive fees to get a migrant worker registered. Information among employers and workers about what the process entails is also lacking.

Employers may also pay the registration fees in advance for the worker, which further indebts the worker to the employer. Those who fail to register are 'illegal' and vulnerable to deportation. In 2010, the Thai government instituted a labour import system to deal with the issue. Employers were allowed to apply an employment visa for a prospective worker before s/he arrived. This serves as a provisional approval for work in Thailand before an actual work permit is applied for long term employment. The labour import system is not an attractive option as excessive recruitment fees borne almost entirely by the worker, corruption and bureaucracy has hampered its effectiveness.

Migrant workers in Thailand suffer abuses of authority silently for fear of retribution and repatriation. Thailand's migrant registration scheme works in the same way as the kafala: forcing workers to continue labouring under abusive conditions. Workers who lose their jobs, or are found to be working for an employer for whom they are not registered, become liable to immediate arrest and deportation. Like Singapore, Malaysia and Japan, they are prohibited from forming associations and trade unions and face restricted freedom of movement. Extremely long hours for less than the minimum wage, and even fewer received correct wages with overtime factored in to their pay packet. Wage theft, lack of rest days, and deceptive recruitment are widespread.