ASIA-PACIFIC CONFERENCE ON UNDOCUMENTED MIGRANTS

PROCEEDINGS

19 – 24 October 2003
Port Dickson, Malaysia

Organized by:

The Asia Pacific Mission for Migrants

TENAGANITA

MIGRANTE International

TABLE OF CONTENT

PREFACE

CONCEPT AND PROGRAM

PLENARY 1
The Reality of Migrants

PLENARY 2
The Nunukan and Tawi-Tawi Tragedy

PLENARY 3
Trends and Changes in Laws and Policies

PLENARY 4
Issues and Trends from Sending Countries
Discussions of the Formation of the International Migrants Alliance (IMA)

PLENARY 5
Violence Against Women

PLENARY 6
Challenges for Advocacy, Services and Organizing
Women Caucus
Challenges and Action Planning

PLENARY 7
Unity Statement

APPENDICES
Workshop Reports
Appeal to the Taiwan Authorities on the Situation of Undocumented Migrant Workers

OTHER PAPER CONTRIBUTIONS
The Situation of Indonesian Undocumented Migrant workers in Malaysia
Taiwan Country Report by Fr. Peter O'Neil, Director of Hope Workers Center
A brief Insight of Migrant Workers Condition in Macau
Undocumented Migrants in Saudi Arabia by Kapatiran sa Gitnang Silangan

PREFACE

It was in August 2002, when news broke out on how the Malaysian government and immigration authorities treated undocumented migrants in Sabah that I began to question anew whether we have done enough to advocate for undocumented workers in the region.

Nothing prepared me as I absorbed the harrowing recount of the tragedies and hardships that these "undocumented migrants turned refugees" faced under the draconian and inhuman practices of the Malaysian authorities. The arrests, the imprisonment, the starvation, and even the alleged sexual abuse were stakes to the heart of every migrant advocate.

How can any civilized government allow 173 people, mostly women and children, to ride a 30-seater fishing boat across unsafe waters as their method of deporting undocumented migrants? It was truly revolting.

We at the Asia-Pacific Mission for Migrants wanted to go beyond the usual condemnation letters and public outcry. After more than a decade of advocacy and empowerment for migrant workers in the region, we felt a renewed vigor to work for justice to these victims.

We were so outraged at witnessing the vulnerability of undocumented workers, as dramatized in this tragedy of the Filipino refugees from Sabah, and later on by the massive crackdown of "illegal" workers in South Korea, that we pledged to raise the issues of undocumented migrants again in the regional and global agenda for migrants' rights.

An opportunity presented itself when we had a chance to seriously discuss these matters with TENAGANITA and Ms. Irene Fernandez. With TENAGANITA's uncompromising and courageous work for migrants in Malaysia and elsewhere, we have found a partner, an ally to the cause.

It was then that this three-day regional conference of migrant institutions and grassroots organization on undocumented migrants was conceptualized.

But then, this conference would be hollow were it not for the involvement of migrant associations and organizations themselves. As APMM and TENAGANITA were institutions for migrant advocacy, it is but proper to put in the center, the voice and the energy of the migrants themselves.

Fortunately, MIGRANTE-International, the global alliance of Filipino migrant organizations, co-sponsored with us the event.

And the rest, as they say, is history. Or is it?

I believe that for the participants of the conference, these proceedings will not be shelved like other researches and history books in their libraries or filing cabinets. The passion and conviction displayed during the meaningful three-day conference gives basis to the claim that we have been successful in magnifying and multiplying the perseverance of migrant groups and institutions in the struggle to defend the lives and rights of undocumented migrants in the Asia-Pacific.

Their vulnerability has to end. Their persecution must cease.

And this book is our testament to this worthy cause.

Ramon Bultron
Managing Director
Asia-Pacific Mission for Migrants (APMM)

INTRODUCTION

A. Contemporary Issues and Concerns of Undocumented Workers

There are various estimates on the number of undocumented migrant workers. The ILO says that of the 130 million migrant workers around the world, 10 to 15 million are undocumented. In a UN Press release on Item 14a on migrant workers last April 2002, some of the migrant experts were quoted, as saying that up to 40% of migrant workers are undocumented worldwide.

Like their documented counterparts, undocumented workers left their home countries to find work aboard. They came to their destinations like Malaysia, South Korea, Japan, Israel, Italy, the United States, Macau and several other countries as tourists or trainees with limited visa and then overstayed to gain or continue employment. A growing number of them like the two million Indonesians in Malaysia are victims of human traffickers who facilitate their entry as tourists in that country. Others like Filipino Muslims in the southern Philippines fled their troubled hometowns to settle and find work in Sabah, Malaysia.

In South Korea where there exists a trainee system, many run away from their employers because of low pay and long working hours. These runaways can usually find work in sweat shops and other kinds of jobs which pay relatively better for their labor. In Taiwan, migrants who become undocumented run away because of grave abuse from their employers. Others in several countries simply overstay when their working visas expire and they opt to stay to find new employers. They know that they would have a better chance of getting jobs abroad than in their home countries.

There are also undocumented workers in the Middle East countries like Oman, the United Arab Emirates, Bahrain and even Saudi Arabia. In the first three countries, they came in as tourists, businessmen or joined their families. Although Saudi Arabia does not usually allow tourists in their country, undocumented workers come in as religious pilgrims or through petitions of their families in the Kingdom.

There is always the threat of periodic crackdowns made by police and immigration authorities. This makes the undocumented workers fugitives in a foreign land before

or after their work. On the other hand while working, they are victims of abuse and exploitation by employers and, at the same time in many countries, denied access to social services.

In 2002, several countries have announced plans to crackdown on undocumented migrant workers because of grave economic crisis in these countries. Malaysia's case is unprecedented. It is the first time that they carried out a crackdown in Sabah and the magnitude and harshness of the measures that they implemented have caused uproar among migrants groups and institutions.

Israel on the other hand announced that it plans to deport 50,000 undocumented migrants by 2003. Prime Minister Ariel Sharon then announced later that the deportation would be limited to those who entered Israel illegally and those that used to work legally who overstayed or who ran away would be given a chance to become documented once again. He further announced a halt to the importation of foreign labor.

In South Korea, the government has implemented the registration of undocumented foreign workers who are only allowed to stay up to March next year. And like Japan, the Korean government is also preparing for the expansion on the number of trainees that are paid cheaper, work longer and are easily more cowed than the undocumented workers. Japan is also tightening its immigration controls to prevent the entry of would be undocumented migrant workers and of course is conducting its own crackdowns on these types of workers.

Although in Macau, immigration and police authorities are still relatively lenient on undocumented workers, the head of its Labor Department has called the attention of the Philippine Labor Representative to Macau of its concern on this matter. There are cases of apprehension and deportation of undocumented workers mostly done by new recruits in the police force.

Taiwan has a unique way of dealing with undocumented workers. Besides rampant crackdowns and harsh penalties on these workers, the Taiwanese government has even conducted collective punishment for nationalities with the most number of runaways. In 2000, the Taiwan government froze the hiring of Filipino workers for seven months. In the same year, it froze the hiring of Indonesian workers because

they have the most number of absconders. Taiwan's Council of Labor Affairs (CLA) even publishes a monthly bulletin on labor statistics with a particular item on Escapes of Aliens.

Not to be outdone and as part of its war against terrorism, the United States government passed the Absconder Apprehension Initiative Programme this June. Hundreds of thousands of undocumented workers are threatened of being deported. They might experience the fate of 63 Filipinos earlier arrested for being deported who are in chains a la Con Air during the flight from the US to the Philippines.

In response to this growing problems and attack on the basic human rights of undocumented migrants, the Asia Pacific Mission for Migrants (APMM), TENAGANITA and MIGRANTE International organized a three-day regional conference of migrant institutions and grassroots organizations of different nationalities in Malaysia from October 19 – 23, 2003.

The conference examined the common issues and problems faced by undocumented migrants in different countries in the region. It also strengthened relationship of different institutions working on the issue of migrants and to conduct different levels of coordination and cooperation through research and regional advocacy work.

B. Conference Objectives

1. To have a common understanding on the issue and problems faced by undocumented migrants in some countries in the Asia Pacific and Middle East regions;
2. To share experiences, analysis and strategies in dealing with the issue of undocumented migrants;
3. To draw up plans for coordinated research and advocacy action at the regional level;
4. To promote international solidarity among migrants of different nationalities in the Asia Pacific and Middle East region;
5. To generate regional and international awareness and support of the struggle of undocumented migrants in the region.

C. Programme

DAY ONE : 19 October (Sunday)	
Time	**Program**
4.00p.m. – 6.30 p.m.	➢ Arrival & Registration
7.00p.m. – 8.00 p.m.	➢ Dinner
8.00 p.m. – 9.00 p.m.	➢ Conference Briefing
DAY TWO : 20 October (Monday) ***The Reality of Migrants***	
Time	**Program**
8.30a.m – 9.00 a.m	➢ Registration
9.00a.m – 9.20 a.m.	➢ Formal Opening
9.20 a.m. – 10.45a.m.	➢ Panel Presentation – Migrant Voices (South Korea, Japan, Malaysia, Thailand, Hong Kong)
10.45a.m. – 11.00 a.m.	Tea Break
11.00a.m. – 12.00 noon	➢ Open Forum
12.00 noon – 1.00p.m	➢ Lunch
1.00 p.m. – 2.00p.m.	➢ Panel Presentation – Result of Fact Finding Mission Initiated by Tenaganita, MIGRANTE International & KOPBUMI
2.00p.m. – 3.00p.m.	➢ Open Forum
3.00p.m. – 3.15p.m.	Tea Break
3.15p.m. – 4.30 p.m.	➢ Workshop 1 Objectives: Deeper discussions on the issues and violations experienced by undocumented migrants (before becoming an undocumented migrants, being undocumented, when arrested, jailed and deported and post deportation) and how to address the problem in terms of Organizing, Welfare Services, Advocacy/Campaigns
4.30p.m. – 5.30p.m.	➢ Group Reporting
7.00 p.m.	Dinner

DAY THREE : 21 October 2003 (Tuesday) ***Trends and Changes in Laws and Policies***	
Time	**Program**
8.30 a.m. – 8.45 a.m.	➢ Recaps of Day One
8.45 a.m. – 9.00 a.m.	➢ Synthesis of Workshop 1
9.00 a.m. – 9.30 a.m.	➢ Questions/Clarification on the Synthesis
9.30 a.m. – 10.10 a.m.	➢ Panel Presentation: * Mr. Shahidul Haque, Regional Representative for South Asia, IOM (Post Bangkok Declaration) * Dr. Irene Fernandez, Representative, Tenaganita Sdn Bhd (Views and Response on the issues of Refugees and Undocumented Workers)
10.10 a.m. – 10.40 a.m.	➢ Open Forum
10.40 a.m. – 10.55 a.m.	Tea Break
10.55 a.m. – 12.30 a.m.	➢ Panel Presentation: Sending Countries - Nepal, Philippines, Bangladesh or India, Indonesia ➢ Open Forum
12.30 p.m. – 1.30 p.m.	Lunch
1.30 p.m. – 3.00 p.m.	➢ Workshop 2: Defining Rights of Undocumented Migrants Objectives:- To determine the rights of undocumented migrants for advocacy work in the international level.
3.00 p.m. – 3.15p.m.	Tea Break
3.15 p.m. – 4.15 p.m.	➢ Group Reporting
4.15 p.m. - 4.45 p.m.	Break
4.45 p.m. – 6.00 p.m.	➢ Synthesis of Workshop 2 ➢ Open Forum
7.00 p.m. – 8.00 p.m.	➢ Dinner
8.00 p.m. – 9.30 p.m.	➢ Forum on International Migrants Alliance (IMA)

DAY FOUR: 22 October 2003 (Wednesday) **Challenges & Action Planning**	
Time	**Program**
8.30 a.m. – 8.45 a.m.	➢ Recap of Day 3
8.45 a.m. – 9. 45 a.m.	➢ Panel Presentation: On the challenges (framework guide) for advocacy (national & international), Services & Organizing) * Advocacy – APMM * Services – Tenaganita * Organizing – MIGRANTE International
9.45a.m. – 10.45 a.m.	➢ Open Forum
10.45 a.m. – 11.00 a.m.	Tea Break
11.00 a.m. – 12.30 a.m.	➢ Workshop 3: Workshop for Action Plan on Advocacy, Services & Organizing
12.30 p.m. – 1.30 p.m.	Lunch
1.30p.m. – 2.30 p.m.	➢ Group Reporting
2.30p.m. – 4.30 p.m.	➢ Women Caucus Objectives: Identify particular issues & problems of women undocumented migrants and how to address them
4.30 p.m. – 6.00 p.m.	➢ Plenary (unity Statement/Resolutions) Closing
7.00 p.m. – 10.00 p.m.	Dinner and Solidarity Night
DAY FIVE: 23rd October 2003 (Thursday) - *Departure*	

D. Expected Results

1. A more coherent understanding and analysis on the issues and problems faced by undocumented migrants.
2. Closer cooperation among migrant serving institutions and grassroots migrant organization in different countries in the region.
3. Concerted and coordinated studies and campaigns for the recognition of the basic human rights of undocumented migrants.
4. Publication of the result of the conference which contain the workshop results and plan of action as well as the analysis and particular issues, problems and concerns of undocumented migrants in different countries in the region.

CONFERENCE BRIEFING

1 On the evening of 19 October 2003, Aegile Fernandez of TENAGANITA and Ramon Bultron of APMM briefed the conference participants on the background of the conference (see concept paper), the objectives and the program for three days from 20 October 2003 – 22 October 2003.

2 This was followed by participants introducing themselves, their organizational affiliation, areas of work and their expectations.

SUMMARY OF THE EXPECTATIONS OF PARTICIPANTS

- RENEWED solidarity based on common understanding of concepts particularly on undocumented workers and developing our own framework for understanding and defining undocumented workers. This is crucial in light of the fact that governments use their own terms and interpretations in regard to undocumented workers.

- Define undocumented workers.

- Understand through detail discussions, all issues and different perspectives on undocumented workers.

- Develop a common agenda of concrete plans, actions and following activities to respond to the needs of undocumented workers through research, advocacy and services.
- Actions must be unified and continuous in promoting welfare of undocumented workers.
- Ideas/Skills to organize campaigns targeted for governments.
- Build networks and solidarity between groups that work for migrants and among migrants.
- Protect the rights of all migrant workers.

OPENING

Welcome:

Ramon Bultron**,** Managing Director of Asia Pacific Mission for Migration (APMM) and Irene Fernandez, Director Tenaganita.

Ramon and Irene extended a warm welcome on behalf of the organizers – APMM, TENAGANITA and MIGRANTE International – to participants of the very crucial conference on undocumented workers.

Both Ramon and Irene highlighted the dire conditions of undocumented workers such as: criminalizing their status, threat to their security, denial of freedom of speech, access to justice and detention in camps set up for them. Their situation reflects the phenomena of growing human insecurity due to the elite dominating globally and with states moving into a direction of criminal repression of migrants.

It was important therefore for all these working with and for migrants to consolidate their strategies in promoting the rights of migrant workers to move forward and not be drowned by the repression.

A ray of hope has come from the Convention on the Rights of Migrant Workers and their families which will now be enforced. It is therefore vital for migrant workers-based

organizations to monitor the violations of this convention and be represented at the meetings and debates on the convention.

Commenting on her 8 year long trial and conviction for publishing the TENAGANITA Memorandum *'Abuse, Torture and Dehumanized Treatment of Migrant Workers at the Detention Camps'* Irene said, "The legal victory may belong to the Courts but the moral victory is ours". She spoke briefly on the case, followed by video shots of the last three days of the hearing and verdict.

The opening ceremony ended with the Tenaganita/Caram Asia song – A Ray of Hope – led beautifully by Glorene of Tenaganita.

PLENARY 1

MIGRANT VOICES (SOUTH KOREA, THAILAND, INDONESIA, JAPAN)

Moderator:

- Ramon Bultron, Managing Director of APMM

Presenters:

- **Pastor Jones Galang and Sister Cecilia Lee Keum Yeon, South Korea**
- **Nan Ying – Shan Women's Action Network, Pranom Somwong – Migrant Assistance Program (MAP)/APWLD, Thailand**
- **Daryani Sri Suryani and Eni Lestari Andayani, Indonesia**
- **Sachi Takahata – Osaka City University, Mercedes Ishihara – Filipino Migrants Center, Japan**

At the opening ceremony, Ramon Bultron and Irene Fernandez highlighted broadly the conditions of undocumented workers.

The presenters for this session shared insights into these conditions in the context of their countries and how it is possible to make change work.

SOUTH KOREA

Pastor Jones Galang

Sister Cecilia Lee Keum Yeon

Pastor Jones began his presentation with some data on migrant workers. He said there are 310,000 undocumented workers in South Korea (Figures as of 31 August 2003). They come from 24 countries.

The Figure of Undocumented Workers in Korea (31 August 2003)

Total	Chinese	Thailand	Philippines	Bangladesh	Indonesia	Vietnam	Mongol	Uzbekistan	Etc.
306,382	154,652	21,373	18,502	17,751	16,974	15,974	13,094	8,834	39,400

The Figure of Under 4 years (10 October 2003)

Total	Under 3 Years	3 Years – Under 4 Years
227,757	162,690	65,067

One major factor contributing to the large number of undocumented workers is the Trainee System, for technical training. The low salary for trainees forces them to seek employment as undocumented workers to earn higher incomes. But as undocumented workers they are exploitated, working long hours, are abused and discriminated.

On July 31st 2003, the Korean Government passed the Employment Permit System, which allows employers to hire workers legally. But the EPS effectively removes undocumented workers who have been in South Korea for more than 4 years.

From September 1 to October 10, 1,170 workers voluntarily left for their home countries. There are 77,000 long-stay undocumented workers who must leave South Korea by 15 November 2003. “They are skilled workers, speak Korean, know Korean culture and the government wants them to leave,” said Jones.

The migrant workers, particularly the undocumented, are not lying low. The massive crackdown and deportation of migrant workers during the financial crisis in 1997 provided some useful lessons.

Migrant workers decided to organize and form unions to promote their rights. And the EPS now was a rallying point to struggle against deportation. A migrant branch of the Equality Trade Union (MBETU) has been formed with a Nepalese as its leader. The MBETU and the An-Yang Migrant Workers Centre have organized mass rallies to protest the deportation of undocumented workers. The Unions have criticized the government for enacting the Work Permit System instead of abolishing the Trainee System. The EPS limits the rights of migrant workers. However, the positive element in EPS is that the migrant worker is recognized as labor.

On the 7th of April, 2002 there was a mass rally organized by ETU MB and An-Yang Migrant Workers Center in Metro Seoul which gathered more than 1,000 undocumented workers. It was the biggest rally in the history of migrants in Korea. They marched from Dong-dae-moon to Myongdong for an hour and were hosted by the police. Their Slogans

were 'Reject Registration!' 'Abolish the Trainee System!' 'Achieve Labor Rights!' 'Work Permit' 'Stop Crackdown' etc. At the end of the rally in Myongdong which is in metro downtown in Seoul, the citizens were interested in the issues of migrants. The participants were encouraged very much through this whole day struggle. The 2nd rally was planned on 21st of April. After the first rally, the union members and migrant community members had gathered in the evenings for meetings to prepare the next rally. An-Yang migrant workers' Center cooperated with ETU-MB for organizing the rally but before 21 April, the supposed date of the second gathering, during a meeting at the immigration office, the rally was not permitted to proceed. They said if we would have held a rally, they would arrest the major leaders of migrants. Therefore, the second gathering was canceled. Instead of a mass rally, there was a press conference by migrant leaders. Of course, mini rallies were organized by Korean students.

THAILAND

Nang Ying – Shan Women's Action Network

Pranom Somwong – MAP/APWLD

1 The Case of the Shans

Nang Ying from the Shan Women's Action Network in narrating the story of Naang Hla captured the Plight of Shans who have fled from Burma to Thailand.

Seven months pregnant Naang Hla was gang raped by Burmese troops near her farm in August 2001 and her husband tortured and taken away, never to return. Four days after the rape Naang Hla delivered prematurely. When she was strong enough, she fled to Thailand. She was not recognized as a refugee and therefore ended up as an undocumented migrant worker in an orchard.

Like Naang Hla, hundreds of Shan refugees who have fled from Burma to Thailand have become undocumented workers. In 1996 as part of an anti-insurgency programme, the Burmese military regime carried out extensive campaigns of forced relocation of over 300,000 Shans from their villages into military controlled relocation sites. Unable to bear the conditions in the relocation sites, about 150,000 Shans fled as refugees to Thailand. Unlike other ethnic refugees from Burma, the Shans are not

recognized as refugees. This situation forced them into the labor market as undocumented workers mainly in the construction and fishery industries. Shan women are forced into sex work to survive.

2. Burmese Migrants in Thailand

Somwong's presentation focused on the situation of Burmese migrants in Thailand.

The migration of people from Burma, Cambodia and Laos is complex and varied. The types of migration from these countries fall into these categories: legal, illegal, forced migration, refugees, political exiles and those who are smuggled and trafficked. The majority of migrants are from Burma.

When people from Burma arrived in Thailand fleeing any of the situations, they're divided into three different groups receiving three very different sets of services and protection. The migrants are classified as:

1 "People fleeing direct armed conflict" who will be housed in refugee camps along the Border
2 Democracy activists and exiles
3 All others are classified as migrants who enter the country illegally.

A fourth set of protection and services are also offered to people, particularly women and children who have been rescued from situations of trafficking.

Migrants who have no access to refugee camps seek work through brokers who prey on both sides of the border. Those unable to pay brokerage fees will have it deducted from their wages, leaving them in a situation of debt bondage.

The labor task force of the Asia Pacific Women Law and Development network describes the situation of one million migrant workers along Thai Burmese Boarder largely Burmese as critical and complex. They are displaced persons but denied refugee status. As such they are a captive market for bonded labor.

In 2001, Thailand initiated the registration of migrant workers. 500,000 registered and 450,000 of these were Burmese. However only 1,200 were able to obtain work

permits (WPs) for several reasons such as the amount of fees and language difficulties.

Today the vast majority of Burmese migrant workers remain undocumented and exploited. The exploitation is manifested in the dirty, dangerous work they do, vulnerable to sexual abuse, work long hours, paid low wages and inaccessibility to healthcare.

Women comprise 70% of workers in factories in Mae Sot, in the north. Abuse against women have been brought to the attention of APWLD. As migrant workers in Thailand, they cannot unionise even if they are victims of labor rights violations. But a landmark labor case in which 33 Burmese workers took their employer to the labor court has brought media attention to the conditions of migrant workers. The workers have been accorded the right to stay in Thailand during the period of their case.

The other issues of concern have been the mass deportation of Burmese workers, the growth of a sex industry that has increased trafficking of undocumented workers, mandatory HIV/AIDS testing at the holding centres and the absence of a legal framework for justice for the migrant workers.

INDONESIA

Daryani Sri Suryani
Eni Lestari Andayani

The rape of an Indonesian migrant domestic worker in Malaysia

Srini spoke courageously of the pain and shame she went through in the control of her employer, Tan Sri Datuk J.C. Chang who had raped her 21 times in 2 years from 1999-2002. She was 19 years old then.

Tan Sri is one of the highest title-holders accorded by the state to Malaysians in recognition of their contributions to the nation. Tan Sri J.C. Chang, the perpetrator of the violence against Srini had received this award.

On the 28th of January 2002, Srini escaped from her employer's house and sought refuge at the Indonesian Consulate in Johor Baru where her employer resided. No action was taken by the consulate for two months. Then Srini decided to make a police report, following which, she was taken to the Tun Aminah hospital in Johor Baru for a medical examination. Nothing happened for several months and Srini decided to return to Indonesia.

"I felt shame. I was a victim of sexual abuse. I had no money. I kept silent and sought justice in my heart."

"Both Indonesian and Malaysian authorities close their eyes to cases of sexual abuse although we bring income to both countries."

"What I want to do is to participate in the work to protect the rights of migrants. They don't understand what is being legal or illegal" – Srini.

Eni also spoke of the condition of Indonesian Migrants in Hong Kong. Eni being the Chairperson of the Asosiasi Tenaga Kerja Indonesia or ATKI is a domestic helper herself and the organization she represent is one of the pioneering organization of Indonesian migrants in Hong Kong. Most of the members of ATKI are working as domestic helpers.

Eni mentioned that a big percentage of Indonesian domestic helpers in Hong Kong are underpaid and experienced different forms of abuses and exploitations. They are being charged of exhorbitant fees before they left Indonesia and they are forcely dragged and become victims of loan sharks in Hong Kong. The borrowed money from the loan sharks serves as additional recruitment fees upon arrival in Hong Kong.

Thus, many of the Indonesian domestic helpers in Hong Kong are forced to overstay and become undocumented in order to avoid their exploitative condition with recruitment agencies and to in order to continue their stay in Hong Kong. Unfortunately, many of those who were caught by the Hong Kong authorities for overstaying end up in jail and deported back to their home country.

Eni also mentioned that despite the limited resources and capacity of ATKI, they continue to conduct advocacy campaigns and handles direct welfare and labor related cases within and outside of their organizations. ATKI is also being supported by various

migrant institutions in Hong Kong such as the Bethune House Migrant Women's Refuge, Mission for Filipino Migrant Workers and the APMM.

JAPAN

Sachi Takahata, Osaka City University, Japan
Mercedes Ishihara, Filipino Migrants Center, Nagoya Japan

Mercedes and Sachi highlighted the problems of undocumented migrants in the Sakae-Higashi Area in Naka-Ward, Nagoya City. Their presentation featured the work of the Filipino Migrants Center in Nagoya and the research undertaken by Sachi on migrant workers in Japan.

Some Facts About Migrants in Japan

- Increasing tendency of registered migrants while decreasing undocumented migrants.
- As of December 2002, registred migrants are 1,851,758 comprising Koreans (625,422), Chinese (424,282), Brazilian (268,332), Filipinos (169,359), Peruvians (51,722), Americans(47,970) etc.
- Total Undocumented migrants are 220,552, comprising of Koreans (49,874), Filipinos (30,100), Chinese (29,676), Thai (15,693), Malaysians (9,442) etc. as of December 2002.

Source: Ministry of Justice, Japan

Like elsewhere in Asia, undocumented migrant workers are deprived of their labor rights, paid lower wages, have no access to healthcare, subject to being caught in police raids, detained for two to three months and deported.

One of the biggest problems of undocumented workers is unemployment due to the stagnation of the Japanese economy. Interestingly Japan is very subtle in dealing with undocumented workers. The media sees undocumented workers as criminals highlighting cases of pick pocketing involving undocumented Chinese workers.

Undocumented workers may obtain legal status through:

1 Marriage with Japanese nationals

2 Single mother of a child acknowledged before birth and therefore granted Japanese nationality
3 Longtime-stayers (no clear-cut standard yet): overstaying families with children attending Japanese junior/senior high school

The Filipino Migrants Center (FMC) in Nagoya is situated in the industrial Nakawad district of Nagoya City. The FMC offers a range of programmes to Filipino migrants. The FMC is managed by an Executive Director and 12 volunteer staff, five of whom are Japanese.

The programmes include crisis intervention, immigration assistance, detention visits, education, advocacy, community integration, networking and solidarity with groups working with migrants.

The FMC is involved in the Ecumenical Learning Centre for Children, the only school for Filipino migrants. The school uses Filipino curriculum, preparing the children for future repatriation to the Philippines.

The efforts of networking are bearing fruit. Local women's groups (Asa-no-kai) participate in FMC's activities. The FMC has begun networking with Sakae-Higashi Committee for Development, a Japanese Resident's organization.
FMC members and staff participated in the Summer Festival 2003. This is significant as Sachi's survey of Japanese residents' sentiments towards foreigners in the Sakae-Higashi area revealed that only 20% had communication with foreigners but 70% welcome foreigners to *ehonaikai,* the local community organization. As a sign of integration, Filipinos join Japanese in cleaning the Ikeda Park twice weekly.

OPEN FORUM

Questions raised from the floor further probed the social conditions of undocumented workers, the programmes for them, trafficking of women, the role of trade unions in South Korea and deportation of skilled workers and the economic dimension of continued employment of new migrants in Japan and South Korea.

The Responses

Burma

The IDP stands for Internally Displaced Person i.e. those forced by the military regime to relocate within Burma as part of its crackdown against insurgents.

Burma has signed MOUs with Malaysia and Thailand. However it is difficult for the Burmese to obtain passports due to absence of IDs, certificates and the cost factor. So, the Burmese end up as undocumented workers.

South Korea

Despite the economic recession, new workers are brought into South Korea for the following reasons:

1. New Workers are Cheap Labor – The small and medium enterprises (SMEs) which are crucial for sustaining the economy exploit the cheap labor of migrant workers.

2. But the real hidden reason is that the Korean elite want to keep Korea "pure" ethnically and hence do not want foreigners to live in South Korea. South Korea only needs their labor for short periods.

3.Trade Unions are concerned mainly on the needs and rights of local workers. The Equality Trade Union Migrant Branch is affiliated to the Korean Confederation of Trade Unions.

Japan

Why is Japan still asking for more migrant workers?

A recent Policy Paper on Trade states that for revitalizing trade, Japan needs excellent overseas human resource. To stimulate the economy through innovation, research and technology, Japan

requires outstanding human resources too. Japan's population is aging and by 2020 this population cannot sustain the labor force. Migrant workers ensure economic sustainability. This is also the situation in other OECD countries like Sweden.

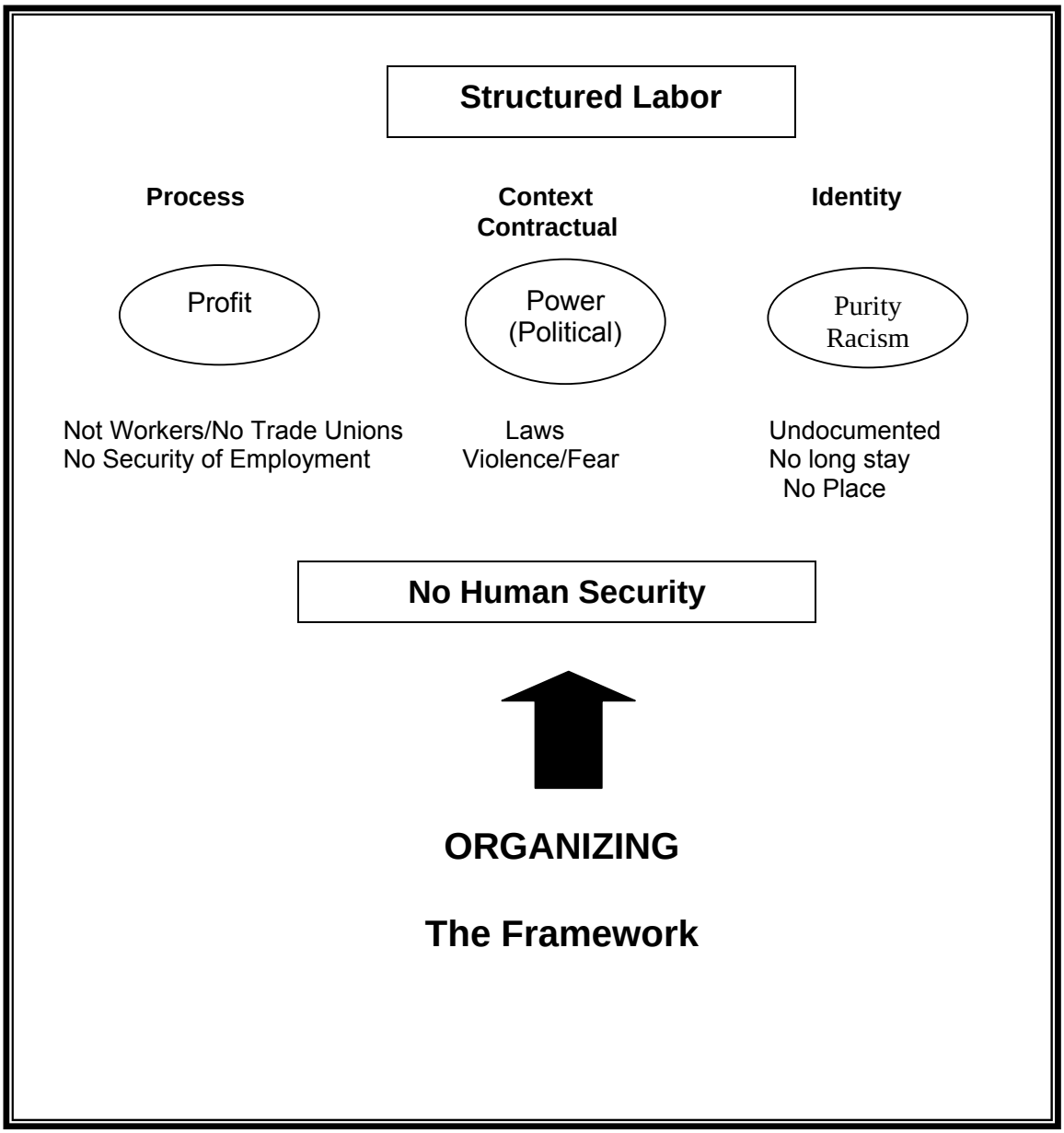
Victims of trafficking who are sent to Japan are forced to become sex workers. The FMC provides shelter to trafficked women including Indonesians.

South Korea There are many undocumented Indonesian migrant workers. The Indonesians joined a rally recently against deportation.

Hong Kong There has been an increase in the number of Indonesian workers to Hong Kong as the only solution for Indonesians to survive is foreign employment. We learnt about organizing from the Filipino groups led by United Filipinos in Hong Kong. As domestic workers do not have regular holidays, we even do mobile counseling. Despite the difficulties we have been able to mobilize 12,000 domestic helpers.

Taiwan Circulated a petition letter on Undocumented Workers (see appendix)

Irene summed up the 1st Plenary session within the following framework.



PLENARY 2

THE NUNUKAN AND TAWI-TAWI TRAGEDIES

Moderator: Edwina Antonio Santoyo

Presenters

- **Irene Fernandez, TENAGANITA**
- **Roy Anunciacion, MIGRANTE International**

The speakers presented each of their organization's fact finding reports with slides on the tragic consequences on human lives, families, children and livelihoods following Malaysia's mass expulsion of *"illegal immigrants"* from Sabah in August 2002.

A comprehensive final report of the 3 country fact finding missions will be made available later in the year.

UNDOCUMENTED WORKERS: REALITY, CONCEPTS AND CONFLICTS

1 The TENAGANITA Report

Irene underscored the historical, cultural and political dimensions of the presence of large numbers of Filipinos and Indonesians who have settled, worked and raised families in Sabah.

For centuries the movement of people between Indonesia and Malaysia took place unhindered by travel restrictions, visas and work permits. Unhindered, continuous migration historically resulted in close relationships with Malaysia and Indonesia.
Filipinos fled to Sabah decades ago to escape the miseries of the war between the Moro National Liberation Font (MNLF) and the Manila government in Mindanao. Sabah is only 45 kilometers from Tawi-Tawi but more than 2,000 kilometers from Peninsular Malaysia.

The outflow of Muslims from Mindanao to Sabah was welcomed by Malaysia. Muslim Filipinos were seen as a "balancing factor" in the religious composition of the people of Sabah who had been converted in large numbers to Christianity. Filipinos in

Southern Mindanao also fled to Sabah to escape the systemic poverty and political conflicts in Mindanao.

Economic development in Sabah and the realization of a growth triangle (EAGA) which focused on plantations, fisheries, tourism and infrastructure development brought waves of Filipino and Indonesian migrant workers into Sabah. In effect, they were political and economic refugees.

Given these historical, economic and cultural factors which explain the settlement of Filipinos and Indonesians in Sabah, what triggered their massive deportation by Malaysia? Perhaps the United States led war on terrorism?

The conflicts in Mindanao, the built up of an American base there, the Jemaah Islam from Indonesia found in Malaysia, may all have had implications for Malaysia to initiate its migration control agenda. The Immigration Act 1963 was amended in 2002.The amendments allowed for the enforcement of physical punishment such as caning, imprisonment and fines for those implicated in the hiring of illegal workers without proper documents.
A migrant found guilty of being undocumented is subject to a maximum fine of RM10,000, five years imprisonment and whipping with six strokes of the cane.

The war against terrorism saw increased security monitoring.

Against this background, the Filipino and Indonesian migrants and their families became victims of mobility brought about by geo politics, economics, religion and cultural ties.

The Nunukan Tragedy

A fact-finding team from TENAGANITA documented the following: (narration and slides)

- There was a large number of detainees in the detention camps. (pictures)
- Children were detained.

- The deported migrants were seen as individuals and not as families. The massive deportation tore families apart. Ironically at this time Malaysia launched its Happy Families Campaign.
- Children left alone and stateless
- Deported migrants suffered from lack of food, water and access to health care.
- Cases of torture and abuse were reported.
- Children deprived of education.
- Recruiting agents flourished as deported migrants who had the money for various fees could return to Sabah.
- Sex trade – It was reported that some mothers turned to prostitution to feed their children.
- Babies for sale in Singapore

Children in Tawau: Orphans and Stateless

Malaysian government mistreat Filipinos in deportation camps

A Philippine Navy officer, holding paper, checks a document as an illegal Filipino child and father look on before boarding the Philippines Bacolod City Navy ship at the Karamunting Port in Sandakan, Malaysia's eastern Sabah state, Tuesday, Sept. 3, 2002. AP Photo/Andy Wong.

Detainees

Children of illegal Filipino migrants manage to smile in spite of the fact that their houses (background) along the shores of Sandakan in Sabah were burned by Malaysian authorities to force them to leave.

Filipino illegal immigrant detainees wave from within the Sandakan detention camp in eastern Malaysia's Sabah state September 2002. A Philippine team led by a presidential adviser criss-crossed the Malaysian state looking at conditions in detention camps where Manila officials say three Filipino children have died from malnutrition and dehydration. REUTERS/Zainal Abd Halim.

Implications of The Nunukan Tragedy

- Unable to Return
- Remigration
- Family Reunification
- Recruitment is ON
- Too many, Too Little.
- Sale of Babies
- Prostitution
- Corruption
- High Mobility
- Impact on Health
- Reproductive Health
- Development of Support
- Government Intervention

Analysis: Concept and Conflict

A. The Nunukan and Tawi-Tawi tragedies raise some very fundamental issues on migration, human security and identity of people:

- Who is the migrant worker?
- Who is the asylum seeker?
- Who is the refugee?
- What is the difference and definition?
- The migrant worker becomes a “criminal” through administrative detention, he/she is imprisoned and becomes a criminal.

B. Equality

- Sending and Receiving Countries.
- Migrant and Local Workers
- Documented and Undocumented
- Gender Differences

C. Confinement

- Withholding of Passports.
- Denying Free Movement.
- Denying Access.

D. Concept of Migration And Concept Of Trafficking

The Nunukan and Tawi-Tawi tragedies testify to the fact that governments can change identities of people.

Conclusion:

"Before there was no illegal migrants, today the talk is about illegal migrants. At the end of it all, Malaysia has developed and we have been made illegal migrants"

2. The MIGRANTE International Report of the Fact-Finding, Relief and Medical Mission in Jolo and Tawi-Tawi, Southern Philippines

"After midnight of August 1, 2002, Navy Capt. Alexander Pama was prowling the Sulu Sea when he chanced upon an unlit fishing boat. Preparing to arrest possible smugglers, Pama was shocked to discover a 30-foot fishing boat – the 30-passenger capacity F/B Jamilla – growning under the weight of 173 people, mostly women and children."

"It has been a year since, but the appalling images and tales of Filipino refugees from Sabah continue to linger in our minds. The Malaysian government has regularly conducted crackdowns, mass arrests and deportation among refugees, even up to the present. But the atrocities and inhuman sufferings witnessed by the world in August 2002 remains incomparable."

Filipino Refugees in Sabah

The number of Filipino refugees in Sabah (North Borneo) is estimated to be more than 500,000. Like all other political and economic refugees, they fled in waves to Sabah to escape the miseries of the war between the MNLF and the Manila government decades ago. Sabah is only 45 kilometers away from the shores of Tawi-Tawi, and more than 2,000 kilometers away from Peninsular Malaysia.

With successive Philippine administrators implementing an all-out war policy in Mindanao, many civilians are continuously being forced to flee their villages. Displaced from their lands because of the armed conflict and given that the Philippine government offers them nothing in terms of stability or livelihood, many of them moved to Sabah with their families.

These refugees are also victims of the systemic poverty that millions of Filipinos, particularly those in Southern Mindanao suffer. The government always provides the smallest portion of the national budget allocations for education, health and other basic services to these provinces. Under the current administration, President Gloria Macapagal-Arroyo even laid the red carpet for American troops to engage in combat operations there.

The report is based on a relief and medical fact-finding mission to Jolo and Tawi-Tawi – the two Filipino ports to the Sabah coastline – between September 21 to 29, 2002. Other groups such as the organization of women workers, Gabriela and Moro Christian People's Alliance, as well as doctors and nurses were in the team.

Researchers received paralegal training from the Public Interest Law Centre before embarking on their mission.

The Crackdown

In August 26, 2002, there were already 8,838 refugees who came from Sabah. Few weeks before the waves of deportations, Malaysian police raided 300 shanties of poor Filipinos at Kampong Keransangan. The undocumented Filipinos, all appearing seriously malnourished, were brought to prison in truck. Barely fed, and short of

drinking water, the prisoners slept most of the time on the cement floor to stave off hunger.

To add insult to injury many of these Filipinos had escaped to Sabah "decades ago", among thousands displaced in the conflict between the Moro National Libertion Front and the Manila government in southern Philippines.

They had lived and worked in Sabah for decades, got married and raised families. A high proportion of individuals were also separated from their families.

In the interviews with 150 refugees – 17 of whom had affidavits – Migrante International noted that detainees received punishments that ranged from withholding of food and being forced to stand all day in the sun, to solitary confinement and alleged sexual abuse.

"One mother interviewed was only able to bring one of her children to Tawi-Tawi. After her papers are processed, she may go back for the other four".

"A father interviewed at the Kasulutan processing centre was separated from his entire family. He plans to return to Sabah but without job, he has no money for the boat fare".

The report found the mass deportation of the undocumented Filipinos violated international covenants, conventions and protocols, *"Most particularly the Geneva Convention 1951 and the Universal Declaration of Human Rights".*

But the burden over the violations does not only rest on the Malaysian Side. *"A closer look at the plight of the refugees revealed that the breadth of human rights violations they suffered can be traced from Mindanao to Sabah and back,"* emphasized Roy Anunciacion.

After the cry of indignation over the treatment of its citizens had subsided, there was no genuine political will on the side of the Philippine government to put out any comprehensive policy to support the returnees.

"We assert that after the media coverage subsided, President Gloria Macapagal-Arroyo abandoned the Sabah refugees," Anunciacion said.

In communities where refugees are concentrated – such as in Anuling Patikul, Sulu and Sitangkai, and Tawi-Tawi - "even modest assistance to build a home is non-existent" alongside the absence of medical support, counseling services, or livelihood projects.

In addition, the Philippine government also separately processed passports for the migrants' swift return to Sabah.

The Fact Finding Mission

The following objectives were set for the Fact Finding Mission (FFM):

- Document the alleged cases of abuse to serve as basis for further actions by non-government organizations.
- The Fact-Finding Relief and Medical Mission proper occurred between September 22 to 29 in Barangay Anuling, Patikul, Jolo; Barangays Panglima Alari and Datu Puti, Sitangkai, Tawi-Tawi and Bongao, Tawi-Tawi.
- An advance team, whose purpose was to conduct initial data-gathering and the preparations for the Fact-Finding Team proper, conducted its activities from September 15 to 21 in the areas mentioned above.

Origin of Refugees by Province: Top 4 Areas

Province/Area	**Number**
Tawi-Tawi	4,061
Sulu	1,763
Basilan	1,048
Zamboanga City	1,056
Total	**7,928**

The list of the patients who died

Name	Age	Date of Death	Illness
Sitti Aima Ibni	1.7 mos	Aug. 27/02	Gastroenteritis bronchopneumonia
Nursa Roslan	1 year old	Sept. 4/02	Severe malnutrition/ bronchopneumonia
Leviner Herman	3 years old	Aug. 29/02	Pneumonia/ dehydration
Josalih Asman *	7 years old	Sept. 19	---
Ofelia Asman *	3 years old	After Sept. 22	---
Baby Asman *	---	After Sept. 22	---

Source: *Refugee patients list from the Datu Hajun Sakilan Memorial Hospital, Integrated Provincial Health Office, Bongao, Tawi-Tawi*

** These three Asman children are not included in the patient list because they were admitted after the scope of their list; their death were reported during an interview by the Fact-Finding Team with their father, Utoh Asman, at the same hospital.*

OPEN FORUM

The reports on the findings of mass deportation of Indonesian and Filipino workers from Sabah in August 2002 elicited interesting questions and comments:

- What was the follow up after the fact finding missions?
- What was the public response in the countries concerned?
- There is competition among sending countries to send workers to Malaysia. So sending countries remain silent.
- Sending countries are making money from travel documents too…
- Most will seek livelihood whether they are documented or undocumented workers.
- Who are refugees?

Response

Philippines

- There was a national outrage after the death of 13 babies although the Philippines government downplayed the deaths.

- Follow up actions from Mgrante International and other NGOs included press conferences, picketing, rallies and some welfare assistance.

- The Philippines offered passport to the deported undocumented workers who wanted to go back to Sabah.

- Both sending and receiving countries benefit from cheap labor.

- Never expected the Philippines government to rise to protect Filipino refugees in Sabah.

Quote: In times of distress, migrants can only depend on themselves and the NGOs who care for them.

Indonesia

- Indonesians were angry at the manner in which Malaysia deported Indonesian migrant workers. This was expressed in the mass demonstrations and in the media.

- Bills were not rectified.

Malaysia

- There was a freeze on the deportation when it reached a Crisis Point with 70 deaths.

- The alleged rape of a 13 year "deportee" created a furor between Malaysia and the Philippines. Attention turned to the nationality of the victim rather than the issue of the alleged rape.

- TENAGANITA conducted interviews in Sabah and Nunukan on the status of the children without families and documents. One issue emerged: some teachers had collected the birth certificates from the children one month before the crackdown. These

children are now stateless.

- The UN Special Rapportuer on Human Rights had written to the government for an official visit to Sabah but was refused.

Nepal - Nepalese migrant workers had been promised high salaries but they soon discovered their income was not enough for them to send money home. Yet undocumented workers are being sent to Thailand.

Panels Response on the term 'refugees' – Refugees are those who are from armed conflicts; those who seek refuge when natural calamities occur and seek economic livelihood or alternatives from a foreign place.

WORKSHOP ONE

THE REALITY, CONCEPTS AND CONFLICTS OF MIGRANTS

The participants were divided into 4 groups to discuss the above issues. The following questions guided the workshop discussions:

1. How do we become undocumented workers?
2. How do we define undocumented workers?
3. What kind of conflicts are faced by undocumented workers and how do we resist those kind of conflicts?

Each group reported the salient points of their discussion. (See Annex)

SYNTHESIS OF WORKSHOP ONE

On the Reality of Migrants

By Ramon Bultron

Undocumented migrants are workers who work temporarily outside their homeland and due to oppressive and unjust structures/policies beyond the workers' control, do not or no longer possess valid documents to reside and work in the receiving country but continue to live and work there in order to ensure their families' survival.

The over concentration of financial and industrial capital brought about by globalization has exacerbated the world economic and political crisis so much so that mechanisms against migrants are applied in the receiving countries that create a condition that force documented migrants to become undocumented. This condition also pushes for the deregulation of the labor force in general and the flow of migrants in particular.

On the other hand, the condition in the sending countries such as the continuing economic slowdown, high rate of unemployment, intensified military repression such as the case in Burma and the existence of labor export policy not only pushes people to leave their countries and families behind and work abroad but also discourage them from returning back.

Thus, being an undocumented migrant is not an option but rather a creation of the economic and political structures in a society that only benefits the elite.

This pushes for a condition where undocumented migrants experience exploitation and abuses from employers and unscrupulous recruitment agencies, when their passports are confiscated for whatever reasons, when they arrive in the receiving country with discrepancies in their travel documents or passports, the existence of oppressive policies such as the two-week rule in Hong Kong, Employment Permit System in Korea, the policy to crackdown undocumented migrants in Taiwan, Korea, Japan, Malaysia, Thailand and Israel to name a few, and when the authorities of the receiving countries deny them justice. They also become undocumented after their employers/sponsors abandoned them and leave them behind being victimized by human smuggling and trafficking.

Worse, the policies of the sending government to ban their people from going to a particular country to work does not resolve the problem of migrants but rather forces people to enter the receiving countries through other illegal means at high risk of arrest and deportation.

This condition of undocumented migrants creates conflicts such as the following:

a Loss of their rights
b Deprived of their just wages and rights
c Deprived freedom to speak and access to information
d Deprived the freedom to take part in a movement, associations and trade unions
e Difficulty in accessing medical and legal services
f They are subject to arrest, detention, harassment and deportation
g No job security
h Stereotyped labeling

On the other hand, undocumented migrants can resist the above conflicts by building a strong movement among themselves and by building a strong solidarity link and network among other migrant groups and with movements in the receiving countries. They can do this by joining trade unions and forming associations or self-help groups among their ranks.

Migrant advocates together with migrant workers can conduct advocacy/ campaigns and lobbying for the recognition and protection of migrants in general and the undocumented migrants in particular.

PLENARY 3

TRENDS AND CHANGES IN LAWS AND POLICIES

Asian Regional Consultative Process in Addressing Undocumented Migration Potentials and Possibilities

Moderator:

- Fr. Paul Das

Presenters:

- Md. Shahidul Haque – Regional Representative for South Asia International Organization for Migration (IOM), Dhaka, Bangladesh.
- Mr. Md. Shahidul Haque was not able to attend the conference. His 18 page paper was read by Josie Fernandez.

A Summary

The paper primarily focused on exploring potentials and possibilities of Regional Consultative Process (RCPs) in addressing the problems related to undocumented migration.

The RCPs were crucial as globalization will expedite the pace of migration and governments must reconcile this reality with their immigration policies or face the consequence of aggravating inter-state relations.

"The rapid globalization process, demographic imbalances and unequal development among Asian countries are likely to fasten the pace of international migration, both documented and undocumented".

In underscoring the potentials of RCPs, the paper traced the genesis of regional multilateral arrangements which begun with the emergence of Westphalian nation states in 1648. While the Europeans moved ahead to resolve territorial disputes through regional multilateral arrangements, Asian states have been slow in adopting multilateral co-operation arrangements.

In the 1950s European countries formed multilateral arrangements to facilitate movement of people. Asian countries on the other hand have avoided taking a multilateral approach to manage migration.

However, more recently informal groupings, termed as Regional Consultative Processes have been formed to discuss migration related issues. Membership is voluntary, the processes are informal and the recommendations are non-binding. The Secretariats are facilitated by the IOM or UNHCR in a non-partisan way.

The RCPs emerged in Asia due to the complex and fundamental changes to migration in Asia such as the complexity of undocumented migration. The paper went on to describe in some detail the existing RCPs in Asia such as the Inter-Governmental Asia-Pacific Consultations on Refugees, Displaced Persons and Migrants, the Manila Process, Bangkok Declaration on Illegal Migration, Bali Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime and Labor Migration Ministerial Consultations for Countries of Origin in Asia.

The paper then outlined the limitations of the RCPs:
Some Asian states are attempting to restrict the movement of people across borders imposing strict control on the grounds of security, national interest and protection of their citizens.

The paper states that this notion of state sovereignty hindered progress towards the evolution of a global migration regime similar to that of trade.

"If not addressed in time, this 'tension' was likely to further aggravate, hampering the progress of the regional consultation, and could also spill over to inter-state relations in Asia", warned Shahidul.

A large number of migrants in Asia move in irregular situations and continue to remain outside their country of birth as undocumented migrants. *"Undocumented migration is the 'dark side' of migration that may place people in a 'harm' situation."*

People smuggling and trafficking were lucrative businesses worth a whopping US$10 (RM38) to US$20 (RM76) billion annually.

"In the globalized world, as more people seek to leave their homeland in search of better livelihood at a time when opportunities of legal migration are limited and difficult, more people become undocumented migrants."

The paper notes that governments found it difficult to curb such cross-border clandestine movements. Some non-governmental organizations estimate that the proportion of illegal migrants to legal entrants in Malaysia could be as high as one to one.

IOM states that some 2.6 million documented workers have left Asia between 1995 to 1999. Out of these, 50% were Southeast Asian and 46% were South Asian. By 2000, female migrants in East and Southeast Asia amounted to five million, surpassing the number of male migrants. Despite this, governments were hesitant to sign on regional agreements for fear of domestic social or political backlash.

Refugees: Concepts and Perspectives

Presenter:

- **Irene Fernandez, TENAGANITA**

It is often said there is a thin line between refugees and states. This thin line brings some serious consequences for refugees. If the state does not see refugees or asylum seekers as refugees, they become "illegal migrants" and risk being detained in detention camps. Two concepts are applied here i.e. illegal entry and detention.

The UNHCR says asylum seekers are not illegal. When the state recognizes refugees, it provides refuge on humanitarian grounds, meaning out of goodwill of the state.

In order to understand who refugees are, we need to contextualise the conditions that move citizens of nation states into the status of refugees.

As a post war effort, people who had to flee from their countries due to political conflicts, natural calamities , gender oppression and honour killing and female genital mutilation were deemed refugees.

However today there are conditions that have resulted in a new wave of refugees but are not recognized as such. The following examples of this situation viz: the Shang community from Burma who had fled to Thailand because of military oppression are not recognized as refugees; the Rohingas, a Muslim community, not recognized by Burma as refugees and the economic refugees, as a consequence of globalization.

The concept or perspective of refugees has taken a new dimension in recent times. The Rights approach as articulated in the UN Convention gives citizens the 'right to move'.

One is accepted as refugees even in countries that have not signed the Convention. The Sabah situation is a case in point. Sabah accepted as refugees for a period, Muslim Filipinos who had to flee the war between the MILF and the Philippines military. For a period they were accorded refugee status. But as political and economic conditions took on new dimensions, the status of refugees can change too. In the massive deportation of 'undocumented workers' in August 2002 in Sabah, among those deported were Filipinos given refugee status 30 years ago.

Is the concept of equality observed?

The European Union (EU) previously did not practice contract labor. Therefore after a period of time, migrant workers (and refugees) were recognized as "residents" thereby recognizing the concept of family.

But today market forces manage migrant labor/people on the move/economic refugees? With profit as the primary factor in the movement of people we see the flourishing of recruiting agents, trafficking and smuggling of people on the rise, trafficking and smuggling of people become lucrative and corruption becomes rampant. The concept of refugees in such conditions is complex.

PLENARY 4

SENDING COUNTRIES

Panel Presentation of Reports of Sending Countries

Moderator: Father Paul Dass

Presenters:

- **Chuda Mani Jangali, GEFONT, Nepal**
- **Bangladesh**
- **Roy Anunciacion, Philippines**

Nepal

The problems of migrant workers from Nepal are manifold similar to what we have heard from other sending countries.

The Changing Patterns of Migration in Nepal

The movement of people from Nepal started as the *Lahure* when the British Armed Forces employed Nepalese in the countries colonized by Britain in Asia and elsewhere.

A second wave known as the *Kanchha* saw the employment of Nepalese in small hotels and restaurants as well as gatekeepers in India. Currently there are a number of situations to which Nepalese labor migrates:

- The very poor go to India as casual industrial and service workers and as agricultural workers in Punjab and Haryana.
- As educated and skilled workers to Europe and the United States
- As migrant workers to Japan, South Korea, Malaysia and the Middle East.

Nepalese migrant workers are victims of human rights violations in receiving countries. Their commodification robs them of their dignity as human beings. They knowingly or unknowingly fall into a quagmire of bondage. But their remittances from their labor has grown:

1997	US$ 69 billions

1998	US$ 72 billions
1999	US$ 87 billions
2000	US$ 92 billions

The contemporary reasons for the outflow of Nepalese workers:

- Unemployment and underemployment
- Exclusion of majority from the returns of economic development
- Globalization of capital
- Displacement caused by Maoist terrorism
- Corruption and misuse of power by the ruling groups
- Lack of decentralization and no promotion of grass-roots democracy.
- Fast expanding consumerism
- Access to information and easy communication

Number of Nepalese Migrant Workers:

1999	Hong Kong	10,000
	Japan	5,000
	Korea	3,455
	Saudi Arabia	35,000
	Bahrain	9,000
	Kuwait	5,000
	Qatar	40,000
	Singapore	1,000
	Saipan	5,000
	Malaysia	10,000
	India	(Approx) 2,000,000
2002	Hong Kong	1,639
	Japan	2,200
	Korea	2,989
	Saudi Arabia	77,686
	Bahrain	2,929
	Kuwait	2,821
	Qatar	48,869
	Singapore	1,000
	Saipan	5,000

Malaysia	(fast increasing) 52,581
UAE	23,321
India	(Approx) 2,000,000
Others	1,679

But how do Nepalese migrant become undocumented in the receiving countries?

- Working on student visas
- Knowingly overstay
- Fake agreement by employment agency
- Fake identity of political refugees
- Entering for employment in the name of participation in Conferences/ Seminars/Workshops

Nepal has taken a number of measures to improve the situation of migrant workers seeking employment overseas. There are:

- Registration of foreign employment agencies
- Letter of demand for human resources from receiving country to the Nepalese government
- Mandatory advertising for workers
- Restrictions on sending women and children
- Pre departure contracts
- Annual reports from recruitment agencies
- Investigation by Department of Labor prior to departure of workers
- Criminal action against those who violate the laws on foreign employment.

GEFONT has taken a number of initiatives to improve the conditions of Nepalese migrant workers. The significant programmes are:

- Formation of GEFONT Support Groups (GSGs) by organizing Nepali workers in each of the countries where Nepalese are working
- Operation GSGs under GEFONT Department of Foreign Affairs
- Developing linkages for Nepali migrant workers with national trade union centers of the country concerned
- Developing international relation with other migrant groups and NGOs working on the issues, ILO etc.

- Organizing migrant workers under GEFONT's affiliates within Nepali and deal with their problem equally as its members.

Bangladesh

Migration is a regular phenomenon. Countries with surplus labor and problems of unemployment tend to send their nationals to work in countries having full employment and require foreign labor for their economic progress.

Today there are 2.4 million Bangladeshi workers toiling overseas mainly in the Middle East and South East Asia. Sadly, many will not "improve their lot economically or educationally".

The first wave of Bangladeshi migrant workers to Malaysia arrived in 1986 to work in the plantations, and the service sectors. By 1994, recruiters had brought in 300,000 workers into Malaysia, in excess of its human resource requirements. Unscrupulous agents entered into the system of recruitment. Travel agents were also involved in the recruitment and brought in workers through Singapore and Thailand.

Many workers become illegal and destitute. In 1996, the Malaysian government banned the intake of Bangladeshi migrant workers. At this time there were 126,000 legalized workers. Many remained undocumented and were exploited by recruiters and employers.

In 1998 in response to the Malaysian government's offer of amnesty to undocumented workers, 12,000 Bangladeshi's left the country. With a travel pass, they could leave without the payment of fines.

The Employment Act of Malaysia does not cover all the aspects of the welfare of foreign workers. There is no separate law guiding the employment of foreign workers. The existing labor laws are not adequate to protect their interest. Even a newly recruited foreign worker may be sent back to the country of origin on arrival without any compensation. As a result many workers who entered Malaysia through legal channels with valid documents turned undocumented, in many cases through no fault of theirs. Some of the reasons leading to legal workers becoming undocumented are:

1 Legal workers turn undocumented, face arrest and deportation if their employers fail to renew their work permit on time.
2 Contract substitution in terms of pay and allowances such as nonpayment of wages, improper accommodation in unhygienic condition compels one to runaway and become undocumented.
3 Loss of passports from the possession of employers reportedly through break-in.
4 Use of photo changed passports (PC) of Bangladeshi workers had once worked in Malaysia legally and left Malaysia before the end of the tenure still having valid work permits.
5 Disappearance of the agents along with the passports engaged by the employers for renewal of work permits.
6 Retrenchment without compensation and proper arrangement for repatriation.
7 Intake of workers by the employers in excess of actual demand for financial gain from the recruiting agents and driving the excess workers out of the workplace on flimsy grounds.

Laws and policies:

The Bangladesh government formulated rules following relevant laws with regard to the code of conduct of recruiting agents and published it in the Bangladesh Gazette on December 31, 2002. The salient points are as follows:

1 The recruiting agents will avoid competition among themselves while collecting demands for workers from the overseas employers.
2 If an employer is dissatisfied with performance of a recruiting agent with regard to the recruitment of workers and wants to engage a new recruiting agent, the latter will not in any way accept wages and other benefits for the workers lower than that offered to the former one.
3 Every recruiting agent will have to ensure that the workers during the entire employment tenure do not get wages and other benefits lower than that is laid down in the employment contract.
4 The recruiting agent must hand over a copy of the employment contract to the worker and explain the terms and conditions clearly in presence of the Registrar employed by the government for registration of persons departing Bangladesh for overseas employment.

5 The recruiting agent must not realize any fee from the workers in excess of the service charges fixed by the government.

The recruiting agents will strictly adhere to the following instruction while selecting workers for overseas employment:

1 To give correct information to the prospective workers about the employment condition through advertisement.
2 To inform the workers about all the benefits attached to the employment.
3 To claim service charges from the workers as determined by the government and not to demand extra charges at any rate.
4 To render all possible assistance to the workers during the contractual period while employed overseas.
5 To settle all claims of the workers immediately.
6 To ensure the attendance of the selected workers in the briefing centre before departure.

It can be predicted that Malaysia will need foreign workers at least few years more even if their own labor situation improves. The Bangladesh government has however made a legal framework to protect the interest of the workers seeking employment overseas. The receiving countries also should enact laws and make rules/procedure to protect the interest of the foreign workers and ensure that they do not suffer in the hands of the errant employers. Collaborative efforts amongst government, NGOs and civil society at large in motivating the workers both in the sending and receiving ends about their rights and perusing the respective governments on the rights, will prevent workers from turning undocumented.

In the host country the workers should be allowed to work peacefully and leave the country on completion of the tenure, safely with some savings.

Philippines

Trends in Laws and Policies in Relation to Philippine Migration

An examination of a chronology of laws and policies in relation to the migration of Filipinos overseas in search of employment shows how the Philippines has institutionalized the export of labor.

Poverty, the economic structure, educated workers and unemployment drove Filipinos to work in any country where there are opportunities for work. The government facilitated the exodus through the following policies and laws.

"The biggest concentration of workers are in the Middle East. Women comprise 50% of migrant workers."

Chronology of Laws and Policies that have Institutionalize Labor Exportation in the Philippines

- 1974 – The labor code of the Philippines was revised. Three agencies under the Ministry of Labor and employment were merge to form the Overseas Employment Development Board (OEDB).
- 1982 – The Philippines Overseas Employment Administration (POEA) was established to replaced and expand the scope of OEDB.
- 1984 – President Marcos issued Executive Order 857 compelling all overseas contract workers to remit 70% of their monthly salaries. It includes a penalty clause stating that failure to abide by the said executive order will result to non-renewal of passports.
- 1986 – The Overseas Workers Welfare Administration (OWWA) was established. The OWWA was created to manage a trust fund that will supposedly used to extend welfare assistance to overseas contract workers.
- 1986 – President Cory Aquino issued executive order 206 to impose 50% tax to all electronic items that are being brought by migrants from other countries. (The workers destroyed the items on arrival)
- 1987 – President Aquino ordered the banning of Filipino women migrants to Hong Kong and the Middle East.
- 1994 – The Mandatory Insurance and Repatriation Bond was imposed by the Department of Labor and Employment.

- 1994 – The Medicare Fee was made compulsory to all migrants before they leave the country.
- 1995 – The Artist Record Book became a requirement to all entertainers and other performing artist to work aboard.
- 1995 – The Magna Carta for Migrant Workers was enacted by the government. This response was primarily to appease the nationwide outcry brought about by the hanging of Flor Contemplacion, a domestic helper in Singapore who was wrongfully accused for the murder of a Singaporean child and another Filipina.
- 1996 – The Philippine government ratified the UN Convention on the Rights of Migrants and Their Families.

Poverty continues to plague the Philippines. Some of the present laws and policies on migration indicate the dependence on migrant labor as crucial to sustain the economy. They are:

Present Laws and Policies

- Bilateral agreements that are detrimental to the wages and the rights of migrant workers like the Unified Contract in Saudi Arabia.
- The blacklisting of seafarers and the recently issued standardize contracts for seafarers making them more helpless against abuses of ship owners.
- The privatization of the passport division of the Department of Foreign Affairs by commissioning private corporations to produce and issue passports that will triple the price of passports in the near future.
- The privatization of the Medicare fund for overseas workers that will transfer 4 billion fund to a corporate entity.
- The Overseas Absentee Voting Act and the Dual Citizenship Act were made into laws.
- Department of Labor and Employment implemented D.O. no. 10 reducing the age limit for women entertainers bound for abroad from 25 years old to 18 years of age.
- Congress is now on the process of deliberating the proposed Omnibus Amendments of the Labor Code.

Insights on evolution of the laws and policies:

- The laws and policies related to Philippine migration were created to reduce the unemployment problem and generate revenues through taxes and remittances.
- The government instutionalized the exportation of labor as commodities by enacting such laws and policies, and thereby creating government agencies that focuses mainly on overseas employment.
- The evolution of this laws and policies has enhanced the government in efficient exporting labor to pursue maximum benefit from migration of Filipinos.
- This has placed labor exportation as one of the most viable and most profitable programme of the government.
- And for a cash-strapped government facing a crisis-ridden economy such a viable and 'profitable' programme becomes so significant to the point of its very own survival.
- Therefore it is imperative for such a government to continuously develop this programme and protect it to all possible hindrances. Unfortunately, for the Philippine government, protecting the rights and welfare of migrant Filipinos is a hindrance to this viable programme.
- It is in this context, why past and present administrators consistently demonstrate callousness, indifference, criminal neglect up to its direct involvement in abusing its own migrant workers.

WORKSHOP TWO

DEFINING RIGHTS OF UNDOCUMENTED MIGRANTS

The participants divided up again into four groups to probe the following issues:

- The policies and laws in different countries that make status of migrant workers "undocumented".
- The interventions needed to protect the rights of undocumented workers.
- The conventions that can be used to improve the protection of the rights of undocumented workers.

SYNTHESIS OF WORKSHOP TWO

DEFINING RIGHTS OF UNDOCUMENTED MIGRANTS

Migrant workers irrespective of their status and conditions in the host countries possesses rights as a person and as human being as embodied in the internationally recognized conventions and legal instruments.

As human being they have the right to live humanely and to be recognized as a person. Undocumented migrants have equal rights and freedom with anyone such as the right and freedom to work, freedom of mobility, to receive just wages, right to form and be part of an association, a movement and trade unions, access to education, seek redress and legal assistance, and information.

However, these rights are commonly unrecognized by the state of both the host and sending countries and this is due to their policies that treated people as a commodity for trade and as source of cheap and docile labor.

The existence of repressive and anti-migrants policies in the host countries including the worsening economic and political condition in the sending countries creates a condition that force migrants to become undocumented. Such policies includes the two-week rule in Hong Kong, policies of arrest, detention and deportation, huge recruitment fees, pregnancy and mandatory medical test, trainee programmes to name a few.

With these conditions, the need for continuing education among migrants and the undocumented ones as well as building a movement among them is imperative. Continuing advocacy both in the international and national levels plays an important role in raising awareness and support for the struggle of the migrants. As well as the need for a continuous development of services and welfare assistance that will respond to the immediate needs of migrants.

The formation of the International Migrant Alliance is one way of forming close linkages and establishing strong solidarity among migrants themselves. NGO's and other support institution play an important role in realizing such international and national formations. Our effort should work towards building a movement of migrants.

The trade union must also take an active role by reaching out migrants and encourage trade union membership among them.

In this regard, the existence of international instruments can be maximized and used for the interest of migrant workers in general and the undocumented migrants in particular in doing education and advocacy work among migrants. Some of these international instruments are CEDAW, Bangkok Declaration, ILO and UN Conventions, Convention for the Rights of Children, Geneva Convention, International Civil and Political Rights and the Economic, Social and Culture Rights, etc.

OPEN FORUM

Questions, comments and responses dealt with the following areas and issues:

- Reports of incidents in detention camps.
- Concrete actions to be taken to get rid of recruiters and replace this recruitment agencies through direct hiring.
- Rights of migrant workers via-a-visa local workers. There are difficulties to campaign for rights of migrant workers when local workers are denied right to organize and minimum wages.
- The nature of engagement of migrant based NGOs and other civil society organizations
- Are we categorizing undocumented workers e.g. women?

DISCUSSION ON THE FORMATION OF THE INTERNATIONAL MIGRANTS ALLIANCE

Presenter:

- Mr. Roy Anunciacion, MIGRANTE International
- Mr. Jun Tellez, Global Council Member of MIGRANTE International

The highlights of the International Migrant Conference held last November 2001 in Manila, Philippines were shared. According to the presentors, more than 120 representatives of migrant people's organizations, Church groups, progressive NGO advocates and organizations from other sectors gathered at the Las Palmas Hotel under the conference theme "Rallying Global Strength and Solidarity of Im/migrants, Refugees, and Displaced People in Resisting Neo-liberal Globalization."

The delegates came from Australia, Burma, Nepal, Malaysia, South Korea, Japan, Hong Kong, Indonesia, Pakistan, Sri Lanka, Philippines, Canada, The United States, The Netherlands, Belgium, Germany, Turkey, Lebanon, Kingdom of Saudi Arabia, Taiwan and Paraguay.

It mentioned about the resolution entitled "Moving Forward" which contain the unity to form an international alliance of migrants. The idea for this formation came from a need for continuity and building up further of network of im/migrants organizations globally.

Together with this resolution is the formation of the international initiative committee composed of grassroots migrant leaders from different countries. The IIC members will plan and work for the realization of this formation. A founding assembly is being planned and to be held in the near future.

The participants were invited to support this formation and reecho the idea of forming an international migrant alliance among their networks and migrant partners.

PLENARY 5

VIOLENCE AGAINST WOMEN

Presenter:

- ***Pranom Somwong, APWLD, MAP Foundation, Thailand.***

The Hiring of Migrants in Thailand exhibits Gender – stereotype patterns. Therefore most of the jobs available for migrant women are those that are considered traditional women's work – domestic work, the services sector and the sex industry. These types of work are often stigmatized as being "inferior and unskilled" and they are associated with specific gender-biases vulnerabilities (physical, emotional, sexual, rights-based). Gender based wage discrimination also happens e.g. construction site, male construction workers receive around 100 -160 bath (US 2.3 – 3.6 $) per day while female migrant workers receive around 70 – 110 bath (1.6 – 205 $) per day. Women are paid around 70% of what men receive and in many factories employ women migrants because women can be paid low wages and poor working condition.

As domestic workers, women work long working hours, while wages are also among the lowest. Domestic workers often work all day, from early morning to late at night and receive only about 500 – 1500 bath (11.4 – 34.1 $) per month, although food and accommodation are usually provided free.

Both migrant men and women face violence. Migrant women are vulnerable to sexual violence, including rape during their travel to Thailand and while working there. For instance, due to the clandestine nature of their work undocumented migrant women who work as sex workers or domestic workers are more vulnerable than other migrants.

In August 1999, the government prohibited the extension of work permits and ordered the deportation of migrant women who become pregnant. All migrant women undergo mandatory pregnancy testing when they extend their work permits in Thailand. This discriminatory and anti-women policy has had severe impact on female migrants and undermines their reproductive health and human rights.

Each registration period has been followed by a period of mass deportation of migrants who failed to register or who were duped into buying false registration cards. Deportation puts women and children in particularly vulnerable situations.

Migrant workers arrested in Bangkok and processed through the detention centres have been repatriated to the holding centres in Myawaddy. Mandatory HIV testing continues in this holding centre.

The presentation then focused on the manual – Automatic Response Mechanism to Protect Women Against Violence.

HOW MIGRANT WORKERS BECOME UNDOCUMENTED

Presenter:

- **Wahyu Susilo, Consortium for Indonesian Migrant Workers Advocacy (KOPBUMI)**

The phenomenon of undocumented Indonesian workers in Malaysia goes far beyond the legal-formal context; historical and cultural factors must also be taken into account.

The people that are vulnerable under the new immigration act are the Indonesian migrant workers. Workers from Indonesia make up the largest portion of working migrants in Malaysia. Migrants enter not only by sea, air and through official border posts, but also through at least 100 clandestine routes along the Melaka Straits and through the forests along the Indonesian-Malaysian border.

There are also ancient sea routes between North Kalimantan and the Malaysian mainland, connecting the maritime communities of the Bugis, Tana Toraja in South Sulawesi and those in Madura (East Java), Lombok (West Nusa Tenggara) and Flores (East Nusa Tenggara).

Based on past cases, undocumented workers fall into a number of distinct categories. The first includes those who are simply used to not going through official channels, and deliberately don't get their documents because of past experiences and some guarantees from their network.

The second are those who take this shortcut because of economic pressure, and who will take any kind of work they can get. These include those people who are dissatisfied with their legal job for some reason, including unsatisfactory wages.

The third are migrants who have been conned by agents and brokers – victims of human trafficking (mainly women and children).

The fourth are those documented migrants who have run into trouble in Malaysia. They have had to leave their jobs for some reason and their documents are still with their employer.

Currently, there are numerous undocumented workers in the third and fourth categories. This is because of bilateral agreements between Indonesia and Malaysia which are highly unfavorable to Indonesian migrants.

The 1997 agreement on domestic workers and the 1998 agreement on non-domestic workers, for example, stipulate that the passports of these workers must be held by the employer. This means travel documents are virtually held hostage by the employers, thus restricting the mobility of workers. Indonesia must therefore work with Malaysia to revoke these rules, which are clearly detrimental to our workers.

A repressive new immigration act came into force on August 1, 2002. The Malaysian government deported thousands of undocumented migrant workers. This step followed a “rebellion” by Indonesian migrant workers in the industrial area of Nila in the state of Negeri Sembilan. The workers were upset by the actions of the police, who on January 17 conducted a drug raid on Indonesian camps.

This incident provided the momentum for the Malaysian government to review the relationship between migrants, particularly those from Indonesia, and the rest of Malaysian society.

The government has manipulated the “Indonesia-phobia” in Malaysian society to acquire the legitimacy to raid, arrest and deport Indonesian migrant workers. The government stepped up its antimigrant campaign. Raids increased and extend to the door-to-door

level. This situation led to overcrowded detention camps, leading to the deportation of many of the arrested migrants.

One of the early government measures was to burn down residential areas of undocumented workers on city outskirts, along riverbanks and in mangrove forests. The following stage, Operation Leave, comprised the arrest and deportation of undocumented workers.

Hundreds of migrant workers' residential areas have been burned down and 34,414 undocumented workers, mostly from Indonesia, have been deported *(Borneo Mail, May 25, 2002).*
During these operations at least six Indonesian migrants drowned in the Langat River near the Port Klang *(Utusan Malaysia, March 20).* There has been no investigation of these incident.

So far, there has also been very little response from the Indonesian government to the repressive policies on undocumented migrant workers in Malaysia.

Undocumented migrants who want to obtain their papers also raise the classic complaints about going to the Indonesia consulate general or embassy: Blackmail.

Officially, processing fees for new passports range from 12 ringgit to 20 ringgit (US$4 – 6); but migrants paying up to 800 ringgit or even 1,000 ringgit (US$210 – 263) because the processing has become big business for brokers.

It is difficult for migrants to get direct access to the consulate general or the embassy, so they must go through the hordes of brokers who wander around the building. This situation prevents many Indonesian workers from getting their papers and making sure they are within the law.

EPS/CRACKDOWN IN SOUTH KOREA

Presenter:

- **Lee Keum – Yeon, An-Yang Migrant Workers' Centre**

On July 31, 2003, the Employment Permit System for migrants (EPS) was passed in the national assembly in South Korea. EPS is the law for permitting employers to hire migrants legally. However, it is not a system to accept all undocumented workers who have been working many years in Korea. Although EPS is evaluated positively by some activists because migrant workers can be identified as labor with limited rights, it is hard to say if EPS is the most reasonable way to solve the chronic problems of migrants. 80% of migrants are undocumented workers, and only 20% of them are trainees or legal workers in Korea. The KCTU criticized that the EPS is detrimental to migrants. Every year all migrants under the EPS must renew their contracts. Furthermore, the government decided to continue the trainee system.

Under the EPS, the government is to allow an individual to stay and work further in Korea only if the individual has been in Korea for less than 4 years. Those who have stayed for 4 years have to leave for their homes by the 15th of November with no fines on them which the government calls the amnesty period.

On the other hand, the under 4 year-stayers have been registering to acquire legal status. However the rate of registration is too poor, only 9.4% registered to the Employment Security Center (ESC) and 16.2% in the immigration office for two months (10 October 2003). Why? For the undocumented workers to get a temporary visa is a complicated matter with uncooperative employers.

After the EPS

The crackdown on undocumented workers has been postponed from October 21st to November 15. As the rate of the registration is low, the government has to urge the undocumented workers as well as their employers to follow the EPS procedures. The labor ministry is concerned that the EPS might fail. The trainee system is still strongly advocated by the KFSB and the critics of the EPS. If the crackdown is carried out, undoubtedly human rights violations will take place.

Those who have worked over 4 years, especially women migrants who are pregnant and have children, women who need to deliver, those who haven't been payed fully and so on…. should not be deported. However, the 20 operation teams, 80 officials composed of the labor ministry, the justice ministry, the national police and the office of small-medium business do not care about the real situations of needy migrant workers. The team will search the industry sites where majority of the workers are migrants to deport them.

Actions

- On 26th of October, a mass rally, organized by the irregular workers association of the KCTU will take place. There will be a labor mass rally which is the biggest one every year in Korea, migrants will be a part of the programme.
- Every Sunday, ETU-MB organize a rally in different places together with some NGOs.
- The on going demonstrations and rallies call for a halt in the deportation and to legalize all workers. A resolution on this is to be presented to the President of South Korea.

CAMPAIGN FOR DOMESTIC WORKERS

Presenter:

- **Aegile Fernandez, TENAGANITA**

In 2002 many issues of concern related to domestic workers were raised at two significant regional meetings viz: The Regional Summit in 2000 held in Malaysia and the one in Sri Lanka. The delegates to the 2000 Regional Summit agreed on the production of a generic manual to assist migrants before departure, on arrival and in the process of integration. The manual has been produced.

Sri Lanka has ratified the ILO Convention (check with Aegile), given the fact that a large number of Sri Lankans comprise the migrant labor in the Middle East. While these developments are laudable, the situation of migrant domestic workers remains a serious cause for concern. To begin with, it is ironical that domestic workers are not seen as labor as they work in the "private domain" (households). They are therefore not protected by national labor laws.

The systematic abuse of domestic workers throughout the chain of migration continues – cheap labor, criminalization of women when they are victims of trafficking.

To address these issues and others of migrant domestic workers, a campaign kit is in the pipeline and will be ready for use by 2004. The kit will be used as a tool to organize domestic workers in all countries, to change labor laws and policies that discriminate domestic workers.

The voiceless must become the voice

OPEN FORUM

Participants provided numerous examples of violence against women such as the arrest of 118 women in Saudi Arabia with 3 pimps, domestic workers who are raped and become pregnant are sentenced to death.

How do we seek justice for women migrant workers?

PLENARY 6

CHALLENGES FOR ADVOCACY, SERVICES AND ORGANIZING

Moderator: Catherine Anne Graham

Presenters:

- **Ramon Bultron, APMM – Advocacy for Empowerment**
- **Aegile Fernandez, TENAGANITA – Services as Empowerment**
- **Roy Anunciacion, MIGRANTE International –Organizing Work Among Migrants from the experience of MIGRANTE International**

Advocacy for Empowerment

By: Ramon Bultron, APMM

There are various estimates on the number of undocumented migrant workers. The International Labor Organization said that of the 130 million migrant workers around the world, 10 to 15 million are undocumented. In a United Nations press release on Item 14a on migrant workers last April 2002, some of the migrant experts were quoted, as saying that up to 40% of migrant workers are undocumented worldwide.

Though the numbers vary, it cannot be denied that a significant section of migrant workers are undocumented workers.

Various reasons have forced millions of foreign workers to disregard immigration policies in order to continue working in their respective host countries. Abusive employers, lure of higher wages, sorry working conditions, and illegal recruitment – a host of reasons that boil down to the fact that any migrant worker is vulnerable to such a condition. Their economic situation brought by the situation of their home countries alone remains to be the fundamental reason why migrant workers take risks in order for them and their families to survive.

If migrant workers are oppressed and exploited, they are doubly exploited if they are undocumented migrants.

For employers, undocumented migrants mean cheaper wages and thus lower expenses and higher profits. From sweatshops to big time construction jobs, undocumented

workers are hired to ensure a steady flow of income. And what infrastructures can migrants do! Just look at the Chek Lap Kok Airport of Hong Kong and Malaysia's very own Petronas Towers.

Though some may argue that other undocumented migrants actually earn higher wages than regular migrants because they can easily take on other work, when it comes down to it, undocumented migrants are still at the losing end. They are not entitled to legal benefits, their job security is always threatened, and they don't have venues for redress lest they fall victims to abuse, imprisonment and deportation.

Host countries, have continuously carried out crackdown operations against undocumented migrants. For the past few years, countries like, Korea, Taiwan, Israel, Malaysia and Japan have been instituting more punitive mechanisms to curb the number of undocumented migrants.

These issues add to the personal anxiety that undocumented migrants feel. Who would really want to live in fear of prosecution? Who would willingly give in to such a condition that restricts one's mobility and takes away many of the legitimate rights that he/she must have as a worker?

In this situation, advocacy for undocumented migrants becomes imperative.

Advocacy Abused

For non-government organizations, advocacy is giving voices to the voiceless. It means taking up the cudgels for those who are prevented from doing so by the system in place.

However, there are NGOs who, advertently or inadvertently, view their advocacy work as a "messiahnic" task to those they are advocating for. They place themselves high and above the people they profess they are working for. At first glance, they may seem to act for the interest of the migrant workers. In practice, however, they subsume migrant organizations under their control and worse, sometimes even "use" them to gain advances for their offices.

There are also some NGOs who maintain the position that the issues of rights and well-being of migrant workers can be advanced only by instituting economic programmes that

can supposedly make them stand on their own feet. And that they just have to learn to be entrepreneurs to make their conditions better. They whip up project after project that entails migrant workers spewing out the funds while the NGOs give their "professional expertise" for the programmes.

Economic programmes are indeed important for migrant workers. It provides relief to their tight financial condition and may serve to cushion the impacts of policies that host and sending countries institute with regards to their wages and livelihood.

However, to focus solely on these programmes without addressing issues in the policy level or deeper systemic analysis and alternatives can also give false hopes to migrant workers. It does not take into account the larger picture where these economic programmes are situated. In the end, most of these projects can not be sustained.

Still, there are NGOs who choose to remain apolitical. Some say that being identified with a certain "political leaning" may impede the NGO's opportunity to advance other aspects of their work. Others may view themselves as arbitrators between contending groups such as the government and people's organizations or workers and employers.

But then again, how can one seriously claim to be apolitical if their work places them with the downtrodden? How can NGOs detach themselves from politics if political issues of the sector they are working with abound? To work with the migrant workers is to stand up with them and their interests.

These views on advocacy work all leads to the weakening of the migrant movement itself. They actually disenfranchise the people that our work aims to empower. They are geared towards the dissolution of the organizations of migrant workers. With these views, the mutually beneficial relationship between migrant organizations and NGOs is transformed into that of subservience. How can we then claim that we are indeed siding with the poor, oppressed and exploited?

Advocacy For Whom? To Whom?

Advocacy, in different levels and forms, is an integral part of NGO work.

For migrant-serving NGOs, one level of advocacy is to be the “conscience” of the society where we are in. We must actively question local policies that we believe derail the rights of the migrant workers. We are tasked to question to the local public, which we are also a part of, why we treat this underrepresented, undermined, and downtrodden section as such.

In this level of advocacy, we do not seek to be representatives of migrant workers. Rather, we are a separate entity from the migrant minority. We treat ourselves as a part of majority but we represent the progressive section of the majority.

Our tasks then are to conscienticize and sensitize the rest of the public on the issues and situation of migrant workers. We aim to create a wider and bigger base of advocates of migrants from the local community.

But not only are we local critics. As advocates we must utilize avenues where we can get involved in the policy-making processes on migrant concerns. This is an arena where we can also showcase to the community how the current societal structure treats the migrant workers and why then should the public strive to change it.

Migrant-serving NGO’s advocacy work always sides with the migrant workers. Even if it goes to the extent of working with government agencies, we do not lose sight of the migrant interests that we carry and thus we always take our advocacy actions from the point of view and stance of the migrant workers themselves.

NGO advocacy work for migrants is the giving of a voice to a sector that is, more usual than not, denied the opportunity and the venue to do so. This is especially true for undocumented migrant workers.

Their status is a great hindrance for undocumented migrants to organize themselves. Though there have already been experiences where undocumented workers can, to a large part, overcome the obstacle caused by their status to pursue organizing work, these are still limited.

For countries where the undocumented migrants are still relatively unorganized, NGO advocacy must be geared towards the building of the movement itself. This means that our advocacy work gives more emphasis on its education and organizing aspects. We

take the migrant workers through the experience of the struggle with the goal that they will be able to stand up for themselves. We utilize all available venues for our advocacy and in the process teach the undocumented migrants the importance of struggling for their rights and thus the need for them to get organized.

Meanwhile, for countries where the level of organizing of migrant workers is relatively high, NGO advocacy takes a secondary, but complementary, role to the campaigns that migrant organizations conduct.

Secondary because we believe that in order for campaigns to be sustained and victories to be fully protected, more crucial are the actions of the organized migrant themselves. We recognize the leadership of the migrant groups themselves on issues that affect them and that they are campaigning.

Though secondary, it does not mean however that our advocacy always rides on to the activities of the organized migrant movement. We may take the same issue, we may take the same analyses and stands but we can also plan for different advocacy activities that take the same issue and the same position on it from a different angle. These activities must, however, complement those of the organized migrants. For while our advocacy work at first is towards building the organized migrant movement, our advocacy work on this context is geared towards strengthening and intensifying the struggles of this movement.

Genuine advocacy is when we fully empower the people we are advocating for.

Advancing Advocacy Alongside Migrants

Even in situations where undocumented migrants are organized, there are still a lot of avenues that are closed to them to advance their campaigns. The role of the NGOs to project the stand and demands of the undocumented migrants in these avenues is of crucial importance in this situation. Concretely, the present conference has found it hard to bring undocumented migrants together with us due mainly to their status. Thus, we have here NGOs who are working with undocumented migrants and migrant organizations who take the issues of undocumented migrant workers or even have members who are undocumented.

Whatever the situation is, it is necessary for NGOs who advocate for the rights and wellbeing of migrant workers, documented or not, to have a wide and deep relationship with organizations of migrant workers. We must ensure that our lines of communication with them are always open. In as much as we speak of them, and sometimes for them, in our advocacy work, we must also listen to them. This way, we can be sure that we do represent their interests in our advocacy work.

The best defense that we can give for the rights of undocumented migrant workers is for them to take up the cudgels and the leadership of this struggle. Only then can we say that, indeed, we are advocates for their rights and well-being.

Services as Empowerment

By: Aegile Fernandez, Tenaganita

Tenaganita – Services

There is no differentiation of services for documented workers and undocumented workers. They receive the same type of services from Tenaganita. We have about 12 different nationalities working in Malaysia. Each one with their own language and culture. The officers in Tenaganita, will always have to be an alert and respond to each migrant who comes to the office for help differently.

Tenaganita provides the services that actually should be provided by the state and the diplomatic missions. At the end of the day both parties work only with Recruiting Agents.

Scenario in Malaysia

There are constant raids on undocumented workers. Code-named *'Ops Nyah'* or translated 'go away'. When arrested they are detained, charged, sentenced and whipped. To-date 9,000 migrant workers have been whipped. The world is silent. Malaysians are silent. This is TORTURE.

Legal Service

We work closely with the Legal Aid Centre of the Bar Council. Services offered are:

• Legal representation-provide a lawyer for court cases
• document and file their case
• help provide food and shelter, while the case is being held
• prepare the case with the migrant and the lawyer
• accompany the migrant for the case hearing
• daily follow-up of the case
• negotiations with the company
• refer case to our partners in sending countries

Arrest and Detention

• visit the migrant workers detained in the police stations, prisons, detention camps
• provide a lawyer
• negotiate with the employer
• send letters to the immigration department
• inform the respective diplomatic mission
• assist migrants who are arrested, when a case is pending in the labor department, eg:- write a letter to the • DPP's office against the arrest order.
• contact hers or his family and NGOs
• assist in court hearing

Repatriation

• inform the respective diplomatic mission
• process documents with the diplomatic mission
• find money to purchase ticket
• process exit papers with immigration department
• provide some money or inform partner in sending country to help migrant
• workers to return to village
• arrange transport and send to airport
• purchase clothes-for change (if in the detention camp)

Empowerment

Empowerment is the key word in all our services. The migrant worker herself or himself has to be empowered to intervene by themselves. The migrant worker has to make her/his own decision of how he/she wants to handle the case and what course of action to take.

They have to be strong. Peer Leaders are trained who in turn will help the migrant workers within the community itself.

Counselling

Counselling runs through automatically every step of the interventions and whilst the services are being provided.

Alert

Information is relayed to the migrant workers when there are changes in policies, laws and when raids are taking place.

Remittances

We assist migrant workers to remit their money to their families back home. Monies are also kept for them, as they constantly fear that their money will be stolen from them. (Aegile :- Is this Legal??)

Deaths

When a migrant worker dies, we assist with the following :

- in documenting the case
- liase with the employer on cause of death, obtaining death certificate and on monies due to the deceased migrant worker.
- inform and liase with diplomatic mission

• liase with the mortician
• liase with the family in the sending country
• follow-up on money to be sent to family
• arrange with an NGO in the sending country to assist the family

Other services:-

• Interpreters or obtain interpreters for the court cases
• Visiting undocumented workers when they are sick to help access medical care
• Assist the workers by negotiating with the Recruiting Agents to return monies that they have taken from the workers. We have handled a number of cases where Recruiting Agents have taken large sums of money from the migrant workers promising them jobs in Australia, Ireland and Germany.

Health

Being undocumented workers, they are unable to access health care. We take them to clinics and hospitals for treatment, especially in the deliver of babies.

The other form of medical care is when they have STIs or are infected with HIV/AIDS.

Accidents

A large number of undocumented workers are employed in construction sites and factories. When an industrial accident takes place, it is difficult for them to access proper treatment. They are unable to receive any compensation as they are deemed 'illegal'. We have to negotiate with the employer for continued treatment and often repatriation is the only way out for the victims.

Asylum Seekers and Refugees

We receive, constantly asylum seekers and refugees who come to the office for assistance. Although it is not within our mandate, but we have been offering services to them. Over the years we have assisted Rohingyas, Iranians, Poles, East Timorese and Afghans. Recently we offered services to the Chin community from Burma and the Achenese from Indonesia.

Our services include:

• documentation of their case
• intervention with UNHCR, especially application for refugee status
• assist in finding for shelter and food
• follow-up of their case
• provide medical access
• seek the help of locals to teach the children while in the country
• help to get funds, so that they can be repatriated upon rejection of their application to UNHCR
• assisted the Rohingyas to apply for PR status when government allowed this for long stayers
• interventions with NGOs and state governments (which country??) on their plight, especially in political conflicts
• counselling and referrals for assistance

Organizing Work Among Migrants from the experience of MIGRANTE International

By: Roy Anunciacion, MIGRANTE International

This presentation is not based on theories but on experiences and case studies of MIGRANTE International

1 ***Define the Objectives***

Why are you organizing migrant workers? Will the objectives address the unjust and human rights violations against migrant workers?

To be effective in the field, set clear objectives.

It is important to remember that the only reward for organizing migrants is seeing other organizations taking up the cudgels for migrants by organizing them.

2. ***Define Methods***

Organizing is a process that involves:

- Social Investigation (SI)

  Where are the migrants living, places of work, what are their issues of concern.
- Effective SI is done through actual integration with migrants.

This is a crucial stage, as the SI will determine the priorities and what you will do as an organizer. For example in Saudi Arabia, MI organizers visited industrial areas, hospitals (interacting with doctors, dentists and nurses), and residential areas.

- Do essential documentation

  Go along with what migrants think?
- Prepare an initial synthesis
- Find out what they think of themselves, know their struggles
- Make yourself known to them
- Identify actions in the organizations

Form Groups of Contacts

- You may classify them as Advanced, Middle and Backward
- From these categories form the group of contacts. This team will help in expanding the migrant network.

It is important to take note of the particularities in each country situation e.g. where are they congregating. This group will gather more information test your synthesis.

3. ***From the Organizing Committee form the Contact Group***

The primary function of this committee is to lay the groundwork for the formal meeting to set up an organization.

- Organize a mass gathering which could be a social event or a game like basketball.
- Distribute documents e.g. Constitution and by laws
- Elect an Organizing Committee.
- Hold General Elections

OPEN FORUM

Questions from participants raised issues of difficulties of organizing migrant workers particularly the undocumented due to restrictive laws on assembly, legal hurdles, reaching out and role of sending countries.

Responses

Roy

- Be legal and above ground. Use occasions to air grievances. For example we invited the Philippines Ambassador to the basketball match – an opportunity for migrants to raise their problems.
- Organizations in sending countries can be effective. For example in the Philippines, the seafarers organizations are well organized. There are groups working with returned migrants and their families.

Jones

- In South Korea, the entry point for organizing migrants is in the hospitals where migrant workers seek treatment for injuries caused by industrial accidents. And there are many such

accidents. We help the migrant victims immediately. We have done surveys on the industrial accidents in Seoul. The information from the surveys help us to organize.

Aegile - Access to education is empowerment. We carry out training programmes for peer leaders. However, there are difficulties in organizing undocumented workers. We do not want to put them at the risk of being arrested. We study each situation and employ different strategies for organizing migrant workers.

Paul - Human rights is embedded within the system in the Philippines, South Korea and Japan. Japan and South Korea are economic powers too. Organizing migrant workers in these countries is therefore easier. When economic and human rights fundamentals are weak, organizing is difficult.

Malou - In Australia, it's difficult to organize domestic workers as they have no off days. But there are organizations that help domestic workers.

Sr. Cecilia - In South Korea women's organizations help to organize women migrant workers.

Roy - In Saudi Arabia, migrant organizations cannot publish anything against the Saudi government. You cannot protest too. Yes, outside of Saudi Arabia, you can speak against the government which is very sensitive to international opinion.

On the Churches: Churches will not take strong political positions.

WORKSHOP THREE

WORKSHOP FOR ACTION PLAN ON ADVOCACY, SERVICES AND ORGANIZING

The participants, who were divided again into four groups worked on an action plan in the areas of campaigns, organizing, services and advocacy.

A Summary of the Group Reports

CAMPAIGNS

- **Intervene in emerging crisis:**
  - South Korea – Against the crackdown on undocumented workers
  - Malaysia – The Immigration Act, 1963 (Amendments)
  - Israel – deportation of undocumented workers
  - Domestic workers issues – recognize them as workers

- **Coordinated action for Irene's case – "Defend the defenders".**

- Campaign shall start several days before the court hearing Produce T-shirts for the campaign. Every country will produce T-shirts at local level with the same design, logo and words.
- Wahyu will use Irene's case as an entry point for organizing and mobilization issues about Indonesian undocumented migrant mass deportation from Malaysia.
- Create more media attention.

- Collect protest letters and signatures for July 2004 Asia Pacific Regional Consultation with UN Special Rapporture for Human Rights of Migrants.
- Involve in Domestic Worker Campaign with CARAM ASIA, make commitment to campaign for Domestic Work to be recognized as work
- Campaign for the ratification of the UN Convention 1990 (for the protection of migrants and their families).
- Campaign for anti-trafficking law.
- Campaign for recognition of domestic helpers as workers

ORGANIZING

- Push for the setting up of national organizations for migrant workers in sending and receiving countries. These organizations should put pressure on both governments to act on the plight of undocumented workers.
- Set up special NGOs to protect undocumented women's rights are needed.
- Set up an international NGO organization on migrant issues.

U. Receiving countries prohibit migrant workers to obtain a job while proceeding their court cases.

Question No. 2

a.Asylum seekers
b. Refugees
c. Traffic people
d. Smuggle people
e. Tourists and then become overstay
f. Foreign workers
g. Guest workers
h. Distinguish between semi/unskilled and expatriate

Question No. 3

CONFLICTS BRING:

a. They lose their legal rights, genuine income and freedom of movement
b. They are subjected to unwanted harassment
c. They are subjected to pay higher to all things in their daily life
d. They are arrested, detained and deported and whipping
e. Difficult to excess to health services
f. Difficult to register their children legally
g. Difficult to meet their family obligation, example sending money to their family

RESIST:

a. Change the policies in the favor of people
b. Joint the Union as well the Union itself must accept them
c. Recognize undocumented migrants
d. Educate them about their legal rights in the receiving country in order to prevent them to be undocumented migrants
e. Give them with equal rights – free movement in the region

Group 2

Question No. 1

a) Working Condition which is exploitative.
For example the trainee system in South Korea where they received very low salary, long working hours, abused etc. Thus, the migrant workers tend to jump to the other work.

b) Wrongfully dismissal
Migrant workers are wrongfully dismissed when they are asking for their rights. When the migrant workers continuously asking for their rights to be fulfill, the employer cancelled their work permit and they become undocumented.

c) Run away from physical and sexual abuse

For example Domestic workers who run away from their employer due to physical and sexual abuse.

d) Non-renewal of work permit – by employer/agent

e) Cheated by the agent/individual both in sending and receiving countries.

f) Government policy – Ban of Indonesian migrant workers by the Taiwan government make them remains undocumented. After expiry of their work permit they do not want to go back because very difficult to come back to Taiwan.

g) Foreigners married to local. Foreign wives depend on their husband to renew their visas.

Question No. 2

Undocumented is a worker who due to oppressive and unjust structures/policies beyond the workers control does not or no longer posses valid documents to reside and work in the host country but resides and work there anyway to ensure his/her survival and that of his/her family.

1. No rights and protection-unable to fight for their rights
2. Lack of access to services particularly health, legal etc.
3. Live in fear constantly (open to further exploitation).
4. Job security (undocumented migrant workers can be arrested by the police/immigration and subject to deportation).
5. Stereotyped label-undocumented involved in criminal activities.

Question No. 3

1. Passive resistance – undocumented migrant workers decided to go back to their country of origin, undocumented migrant workers in South Korea go on a hunger strike.
2. Marched on the street.

Group 3

Question No. 1

a) Government Policy
    -Trainee system
b) 2 weeks rule in Hongkong
c) 7 days policy in Thailand
d) Political and Historical situation(due to civil war
e) Belief and religion
f) Economic reason and working condition

Question No. 2

There is no undocumented migrant worker (we are all workers)

Question No. 3

A.
1. Deportation
2.Detention
3.Economic conflict
4. Exploitative working condition

B.RESISTANCE

1. Strengthen solidarity between migrants and local.
2. Organize and educate migrants and local.
3. Promote community integration.
4. Promote direct hiring.
5. Involvement in trade unions

Group 4

Question No. 1

Malaysia:

Migrant workers come into the country legally. If migrant with labor disputes and court cases, they are only allowed in the country with 3 months visa. Migrant workers have to find a Malaysian sponsor, to shelter and feed them, so Migrant workers could seek legal redress. Most migrant workers cannot find Malaysian sponsor, therefore they become undocumented.

Upon the arrival of Indian national migrant workers, all documents including air-ticket and passports are taken away from them, making them undocumented.

Macau:

Migrant workers come to Macau as tourist; the government gives visa for certain time. They have to find employer/sponsor, if they cannot do that, then they work without visa because they don't want to go home, they do part-time job as undocumented workers.

Burma:

Burma Government forced people to move / relocation of the village, so people go to the jungle however they have money or not they willing to go to Thailand to find job without any document. They just cross the border to work as harassment, construction worker, farm worker or sex worker.

Indonesia:

Indonesia Migrant workers with no proper document provided started from the region when they recruited by the agent in the village. The agent took them to the Agency to process their document without giving them the right information so they easily get

cheated and false documentation. While in the place of work – their document held by the agent /employer and they change employer, so their visa isn't valid anymore.

Japan:

Majority of Koreans comes to Japan as tourist. They work, because they are free to come. Filipino work as entertainers in poor working conditions, so they look for other jobs. Filipinos become undocumented by visiting relatives or for being seamen.

Trainee system also becomes the reason for undocumented workers.
Filipinos are put in the container to cross the sea
Chinese nationals are also put into containers to go out from Japan.

Question No. 2

- Not given due recognition by host country / government, even if they are present in the country
- They face many abuse and discrimination
- They are the source of income for employment agencies and government.
- Produces stateless children

Typology of undocumented migrants (the legal aspect) Ms Sachi Takahata

	Entry	Stay	Work
	ID/with true names	Visa	Work Permit
1	0	0	0
2	0	0	X
3.	0	X	X
4	X	0	0
5	X	0	X
6	X	X	X

No Problem	=	1
w/o with work permit ('Illegal workers')	=	2 and 5
Overstayed	=	3
Fake ID Legal workers	=	4
Literal undocumented migrant	=	6

Question No. 3

- organizing united actions – undocumented workers
- Lobbying the governments to enforce the Convention 90'
- Campaigns / Advocacy for the rights of undocumented Migrant Workers
- Resolutions to the UN Special Rapporteur

WORKSHOP 2

Defining Rights of Undocumented Migrants

Objectives:- To determine the rights of undocumented migrants for advocacy work in the international level

Questions:

1. What Rights do undocumented workers have (including women's right?)
2. How is the rights guarantee or taken away by policies and laws in the different countries
3. What policies and laws in the different countries make workers become Undocumented?
4. What interventions do we need to develop in order to ensure the rights of Undocumented workers are protected? e.g.: Challenge Criminalization of Migrant Workers and concept of equality
5. What other conventions can we use to increase protection of right of migrant workers?

Group 1

Question No. 1

1) Rights to :
    a) Join Unions (Korea)
    b) Negotiate Working conditions and wages with employers (Korea)
    c) To complain to Labour court (Korea)
    d) To get retirement allowance or service benefits (Korea)
    e) Join Social education programmed (Korea)
    f) Enquiries Legal Papers for them to be documented (Korea)
    g) Flexibility on working hours (Korea)
    h) Change employers (Korea)
    i) Having children and the right to education for them (Korea)
    j) Right to organize or join relly(korea)

Question No. 2

a)Guaranteed:
    k) Industrial Insurance benefits (Korea Labour Law, March 1995)
    l) Rights of undocumented workers are under the law and policies (Korea)
    m) To take legal action against sexual / physical abuses (Korea)

b) Taken:
a) Under the law in Malaysia, undocumented workers are not included.
b) Immigration act prevent them from joining unions or being involved in activities.
c) Prevent undocumented workers from leaving by imposing fines and imprisonment
d) Employment system takes away undocumented workers rights to stay longer in Korea.
e) Two weeks rule takes away foreign domestic workers to change employment and pursue their legal rights (Hong Kong)
f) Prevent them to remittance to their families
g) Immigration act implies arrest, detention, deportation, sentence and whipping
h) Govt policies dot recognize the domestic workers as workers

Question No. 3

a)Two weeks rule in Hong Kong
b) Trainee system and joint venture training in Korea.
c) Recruitment policies e.g Indonesia and Philippines.
d) Lack of standard in bilateral agreements
e) Family laws under immigration act e.g husbands abandoned / divorces wives
f) Difficulty in applying for work permits
g) Immigration laws restrict workers to stay in one occupation only no matter how exploited they are.
h) The absence of specific laws for foreign workers forced them to be undocumented.
i) Immigration act doesn't allow migrant workers to stay while they have ongoing labour / legal cases or follow-up medical cases in Malaysia and Thailand.
j) Ever changing policies in sending and receiving countries.

Question No. 4

a) Motivate undocumented workers to fight for themselves
b) Push the local workers to support the issues of undocumented workers
c) Regular dialogues and Educate stake holders such as employers, locals, foreign workers, Govt officers
d) Advocacy
e) Propaganda to expose the real situation of undocumented workers.
f) Research for alternative laws.
g) Set an International standardize law for migrant workers i.e ISO 9001….

Question No. 5

a) ILO convention (Internation Labour Organization)
b) CEDAW (Convention on Elimination of All forms of discrimination against women)
c) CRC (Convention for the right of Children)
d) UDHR
e) Geneva convention (Convention against torture -To be treated humanly)
f) Convention for the Rights of Refugees
g) Convention against all forms of racial discriminations
h) UN convention on the Rights of migrants and their families
i) ICPR (International Civil and Political Rights)
j) ESCR (Economic, Social and Culture Rights)

Group 2

Question No. 1

All Human Rights

- access to legal resolution
- education
- labor protection (fair wages)
- health
- freedom of expression
- organization of themselves and joining trade union
- marriage
- information
- movement (in the receiving country)

- work
- reproduction

Question No. 2

It depends on each receiving country.

(1) Rights guaranteed;
Japan – education, medical and labour rights.

(2) Rights taken away:

Malaysia – (a) Mandatory testing (15 diseases including HIV, STD, pregnancy, TB etc.) If tested positive, subject to deportation. (b) Double-fee policy (foreigners have to pay double medical expense compared to locals) (c) Single-entry policy (deny right to be with family; family reunion is not allowed) (d) Employment Act (Domestic worker are not covered under Employment Act. They are covered only for unpaid wages.) (e) Wages discrimination (domestic workers from different countries are paid different salaries.)

Taiwan – (a) No rights for undocumented workers.

HK – (a) medical fee

Singapore – (a) pregnancy test every 6 month. If a woman is found pregnant, the employer will cancel the work permit and she has to leave the country.

Question No. 3

HK – 2 weeks rule
Malaysia – Mandatory testing
Korea and Japan – trainee program
Taiwan – Compulsive medical checkup, high placement fee

- It is okay to ask migrants to be checked up at hospital, but the way it is used – a way to send them back to the homeland instead of sending them to a nearby hospital – is the problem.

Question No. 4

- Education, organization and empowerment of undocumented migrants
- Lobbying the government and campaign so that the government will allow the undocumented migrants to join trade unions.
- Lobbying trade unions to open doors to undocumented migrants.
- Regional collaboration among NGOs
- Monitoring of placement agencies

Question No. 5

- Convention on Rights of Children (CRC)

- Convention on the Elimination of Discrimination Against Women (CEDAW), (trafficking of women, employment, health, family laws, education, etc.)

Group 3

Question No. 1

1. Right to recognize as a workers
2. Right to live a decent life
3. Right to a basic human rights, e.g. food, shelter. education. Health etc.
4. right of women to access to health services full control of her body.
5. right to unionism;CBA

Question No. 2

1. Organise, Educate, Campaign advocacy, and networking
2. Actively involved in organizing ,educating, mobilizing the ranks of migrants, Doing advocacy works and networking to ensures that policies and laws guarantees the rights of undocumented workers.

Question No. 3

1. Trainee System
2. Visa connected to the employer
3. two week rule
4. employment act
5. registration policy
6. occupation and maternity protection

Question No. 4

1. Public awareness, national and international level
2. Trade union
3.International bodies such as ILO. UNCHR, Special Rapporture

Question No. 5

a) 1990 Convention
b) Cedaw Convention
c) Students/Children Rights
d) ILO Conventions

Group 4

Question No. 1

- Right to seek Redress *(Japan / Korea*)
- Right to Trade Union *(Hong Kong / Japan / Korea)*
- Right to Compensation in the cause of Accidents *(Hong Kong / Japan / Korea)*
- Right to claim for unpaid wages and overtime – *(Korea / Japan)*
- Right to choose workplace – Entertainer / Domestic Helpers *(Japan)*
- Right to Reproductive Rights
- Right for Equal Rights / Salary
- Rights for Reintegration
- Right NOT to be trafficked

Question No. 2

Guaranteed

- Labor Standard Policies *(Japan)*
- Trade Union supporting migrants *(Japan / Korea / Hong Kong)*
- NGOs / Advocates
- UN Conventions
- ILO Conventions

Taken away

- Racism and Discrimination
- Raids and Crackdowns
- Militarization

Question No. 3

- Labour Laws
- Immigration / Passport Act
- Mandatory Health Testing
- Labor Export Policy
- Memorandum of Understanding between countries

Question No. 4

- Lobbying the governments to enforce / implement the Convention '90 (UN)
- Awareness Raising Programs for General Public and Civil Society
- Education for undocumented workers and the public in the rights of the undocumented workers
- Solidarity with locals especially Trade Union and NGOs.
- Build a International Movement of Migrants
- Lobby the Government for Bilateral Agreements

Question No. 5:

- CEDAW
- Bangkok Declaration
- ILO Convention
- Child Rights Convention

- UN Convention on Trafficking and Smuggling of Persons
- UN Convention '90

WORKSHOP 3

Workshop for Action Plan on Advocacy, Services & Organizing

Group 1

Action plan on advocacy, services and organizing

- **Campaign**

Emerging crisis intervention:)

  - Korea- crackdown
  - Malaysia immigration act
  - Israel – deportation
  - Domestic workers issues- recognize them as workers

- **legal services**(nationally. Regionally and internationally)

-form a network of lawyers at sending and receiving countries

-arrange conferences with the lawyers.

- **Sharing and exchanging information and resources**

-Balance of resources among the NGOs or the groups who are working with migrants
-Help the organization to raise the funds

- dialogues among the groups on laws and policies of sending and receiving countries

- **form an egroup and select a moderator**.

- **Push for IMA formation**

- to conduct campaign in the international level
- Education and propaganda
- propaganda should be initiated by the central organization and then spread around to avoid unnecessary harassment

Advocacy on the sending and receiving countries.

-Bilateral agreement
- labour attaché and foreign affairs division at the foreign mission
- multilateral agreement among sending and receiving countries

Organising

- push for national org in sending and receiving countries

- those org should put pressure on both government to act on the plight of undocumented workers.

Group 2

1. Need to formally recognize and set up an international NGO organization in migrant issues.
2. Need to compile research on unscrupulous recruitment agencies. On completion take to the courts.
3. Request that governments limit the number of recruitment agencies.
4. Campaign for anti-trafficking law.
5. Address the gender issue and highlight the need for the protection of women. Encourage embassies to set up shelter for women who are being abused and exploited and forced to flee.
6. Set up an an international database of information on the situation of migrant workers both documented and undocumented. Documented information is required; stories of exploitation are not enough!
7. Pressurise receiving countries to sign the UN Convention and make sure it is ratified.
8. Campaign for recognition of domestic helpers as workers.
9. Educate the plight of migrant workers to the international community through NGOs and this delegation has the experience and knowledge to enable this to happen.

Group 3

ORGANIZATION

1) Interaction and Involvement of Migrant workers.
2) Identify & Focus of workers contact
3) Formation
4) Documentation :
a) Mapping of their needs
b) Directory of Migrant related organizations (International)
c) Data of the Laws & policies of the country
d) Structure of Organization

SERVICES

1) Linkage with local services i.e Government / Private
2) Information – inventory of institution services & organizations i.e health, welfare
3) Create a volunteer core for resources

ADVOCACY

1) Campaign for the ratification of UN Convention 1990 (For the protection of Migrants & their families)
2) Working with Trade Unions at international level
3) Form Alliance of Migrant Workers
4) Lobby ILO to recognize the migrant workers
5) Campaign against ADD – Arrest , Detention & Deportation
6) Irene's trial – more media attention.

Group 4

1. **NATIONAL-LEVEL ACTION**

    a. In Japan, we will push government to revise the Immigration Law, which can punish someone who assists undocumented ones (by introducing employment etc.), which may be a threat to NGO workers.
    b. Monitoring of employers in receiving countries
    c. Special NGOs to protect undocumented women's rights are needed.
    d. Make it easy for migrant women to approach NGOs.

2. **INTER-COUNTRY COORDINATION**

    a. Linkage of NGOs between sending and receiving countries to enhance services to migrant workers
    b. Issue of trainees – organize joint consultation of Indonesian and Filipino trainees in Japan to discuss their issues

3. **INTERNATIONAL-LEVEL CAMPAIGN**

    a. Coordinated action for Irene's case – "Defend the defenders".
        i. Campaign shall start several days before the court Hearing.
        ii. We will make T-shirts for the campaign. Every country will produce T-shirts at local level with the same design, logo and words.
        iii. Wahyu will use Irene's case as an entry point for organizing and mobilization issues about Indonesian undoc migrant mass deportation from M'sia.
        iv. Needs a legal advise so that our movement can be protected?

    b. Collection of protest letters and signatures for July 2004 Asia Pacific Regional Consultation with UN Special Rapporture for Human Rights of Migrants
        i. Involve in Domestic Worker Campaign with CARAM ASIA, make commitment to campaign for Domestic Work recognize as WORK!!!!

II. Appeal to the Taiwan Authorities on the Situation of Undocumented Migrant Workers

(Circulated by APMM and submitted to Taiwan President. This letter of appeal was endorsed by conference participants)

We, migrant groups, non-government organizations working for the rights and welfare of migrant workers, and human rights advocates, would like to express our deepest concern with regards to the problem of undocumented migrant workers in Taiwan which the government is trying to solve by ordering an intensified crackdown on undocumented workers from September 1 to November 30.

We local worker's groups are also concerned with these developments. Foreign workers are hired by employers to amass more profits or are employed because of their cheap labor. We should not fall into the trap of employers in trying to pit us with the migrants who like us are also workers. This will only divide the workers movement which is not good for fostering solidarity.

The problem of runaway foreign workers is common and consistent in Taiwan. Migrant workers usually run away from their work due to abuses committed by employers and brokers. If they should decide to complain they are not assured of an efficient and fair grievance mechanism and their employers usually do not rehire them.

Out of fear that they may lose their job and will be repatriated if they dare to complain, they often feel forced to face the risk of becoming undocumented workers even if their wages are lower than that of ordinary workers and they work under worse conditions.

Moreover, they are also afraid that jobs would not be available to them should they opt to go back to their home countries.

We also share the concern of the Taiwan government over the increasing number of undocumented migrant workers. However, if the root causes of the problem of runaways are not considered, the ongoing crackdown will not solve or even ease this problem. In 2001 the monthly average of runaways was 402.66 while in 2002 this increased to 550.08. During the same period the overall number of migrant workers was reduced and the fine for undocumented workers was raised from NT$ 300 to NT$ 10,000. The latter

shows that increased persecution of undocumented workers does not effectively deter migrants from running away.

We therefore urge the Taiwan government to:

1. Ensure the humane treatment of surrendered and arrested undocumented migrant workers;

2. Review the grievance bodies set up to settle the complaints of foreign workers;

3. Implement the waving of the fines for undocumented migrants who will be arrested as announced by the CLA and include even those who will not voluntarily surrender during the amnesty period;

4. Enhance the protection of the foreign domestic workers and caregivers by introducing a domestic service law and the standard contract for foreign domestic workers that was presented to the CLA on April 4, 2003 by local migrant groups and NGOs.

5. Include more and better conditions for foreign workers to be allowed to transfer to another employer;

6. Monitor and prosecute broker companies and blacklist placement agencies, who force the workers into indebtedness by collecting excessive placement fees;

7. Uphold the rights of migrants as stipulated in the United Nations Convention on Migrant Workers and Members of Their Families

III. Other Participant Papers

(Other Papers presented and circulated during the conference)

THE SITUATION ON INDONESIAN UNDOCUMENTED MIGRANT WORKERS IN MALAYSIA

By:
Consortium for Indonesian Migrant Workers Advocacy (KOPBUMI)
Seknas.kopbumi@lycos.com

Malaysia and Indonesia profit from Indonesian undocumented migrant workers

Problems related to Indonesian migrant workers continue to arise. It all started with our first five-year development plan when there was an oil boom at home.

Many did not get a share of the development cake and had to try their luckabroad. Neighboring Malaysia has become one of the main destinations of these migrant workers. Most went abroad without proper papers.

Recently, Mahathir Mohammad expressed his anger toward these migrant workers, particularly the illegal workers -- the pendatang haram -- following their clashes with Malaysian police. The planned measures to reduce Indonesian workers in Malaysia have raised an uproar here, but Malaysia points at the frequent misbehavior of Indonesian workers.

Despite earlier efforts, Indonesians willing to work Malaysia's plantations and construction sites continue to pour in illegally without much difficulty.

Take the case of Hosnan, 36, who comes from Bantur, Malang, East Java. He was lured by a broker who told him that he could help him earn millions of rupiah a month in Malaysia. He paid the broker Rp 5,200,000 for a passport and a visitor's visa. He then left for Malaysia through Belawan port in North Sumatra. In Malaysia he worked as a bricklayer earning 40 Malaysian ringgit (RM) a day, the equivalent of about Rp 104,000 compared to about Rp 20,000 a day in Jakarta for the same work.

For three decades now the same pattern has applied for workers wishing to enter East Malaysia, particularly through the towns of Tawao in Sabah and Kuching in Sarawak. One can get into Tawao through Nunukan and into Kuching through Entikong. A researcher from the Consortium for Indonesian Migrant Workers Advocacy (KOPBUMI) was told by an Indonesian passenger in a boat between Tarakan and Nunukan in October last year, that immigrants from his home province Flores were attracted by stories of relatives working in Malaysia.

People from Flores and Sulawesi have long stayed in Nunukan, working as brokers for aspiring migrants. They offer accommodation services and help process documents such as resident identity cards for Nunukan, passports and cross-border passes. They will also find you jobs in Tawao. So aspiring migrants need only tell them whether they want to work with or without proper documents.

The most popular method is to use a cross-border pass. Anyone with a Nunukan resident identity card is entitled to this pass. The pass enables one to stay in Tawao for one month. Immigrants with this pass will be taken to Tawao and then handed over to a

"foreman" to be employed at an oil palm or cocoa estate or at a plywood mill, earning between RM 8 ringgit (about Rp 20,800 or US$2) to RM 12 ringgit a day. The US$2 daily wage amounts to the globally recognized income of a person living under the poverty line, a marked contrast with what the workers were promised.

Another way is to include the name of immigrants in the pass owned by the people fetching them. They will be taken to the local immigration office to have their photographs taken. Then these photographs will be affixed to the pass belonging to those fetching them.

Obtaining the necessary documents does not always mean spending a lot of money or going through red tape. In every public service there is always a way to grease the wheels. One of the documents commonly used by illegal workers is the certificate of good conduct issued by the police in Indonesia.

When one is found in a police raid using the necessary certificate of good conduct to apply for a job, one only has to pay a fine of Rp 10,000 to Rp 25,000 at the office of the Kinabalu-based Indonesian Consulate.

A survey by another center working with migrants, the Malang-based Foundation for Rural Development (YPP) in 1998 found that the illegal method of seeking work in Malaysia was preferred because hardly any documents like diplomas were needed, and because costs were lower.

In Tawao and Sebatik, registered workers must pay a guarantee fee worth RM 100 to RM 500, depending on their job. Then they will have to pay a levy of between RM 200 and RM 550 and a monthly residence contribution fee of RM 100. Those who are unregistered only need to pay the residence contribution fee of RM 100 a month.

Malaysian workers generally avoid menial and dirty jobs. When Malaysia built various kinds of public works and a number of public facilities, the country received much help from migrant workers -- including illegal ones.

Illegal workers benefit employers given their vulnerability. Often Indonesian migrant workers do not receive their pay for three to six months under the pretext that this is intentionally arranged to ensure that they will not spend all their money while in Malaysia.

While still waiting for their pay, they are often raided, arrested and detained. Then the foreman or the employer will come to free them and tell them that all their money was spent to bail them out. "You have no more money left. If you want money, you must work again," they would be told. Things would go on like this until these migrant workers are deported, penniless and left virtually with only the shirt on their back.

Thanks to these migrant workers, Indonesia could see its earlier unemployment rate of 50 million people reduced without having to open up more job opportunities. Besides, the foreign exchange earnings from migrant workers in Malaysia in 2001 alone, for example, was some RM 2.5 million. This simple illustration shows that the two countries benefit from the presence of Indonesian migrant workers.

However, the labor policies of the two countries always find fault with these migrant workers, particularly those labeled as illegal immigrants.

In terms of rupiah, the earnings of Indonesian migrant workers are in the millions.

However, the standard of living in Malaysia is also high. This means that they live just above the water while at the same time they are overshadowed by the presence of the Malaysian police, who prey upon legal and illegal migrants if they are found without their passports.

This extortion of money is conducted in many ways: through door-to-door visits by the police, in raids at the workplace and in street raids. During police "visits", Indonesian migrant workers must prepare bribes of between RM 50 and RM 100 per head. Every month two visits are expected.

Any worker caught in a raid loses all the money he is carrying. Anyone caught in the workplace with no money on him will have his fine paid by the foreman, who will later deduct the amount from his salary.

Any worker nabbed in a street raid with no money will be allowed by the police to borrow money from friends. Those who fail to come up with the money land in an immigration camp. The Malaysian police seem to be nurturing this source of side income.

Indonesian government data shows that about 36,000 Indonesian migrant workers are being held in Malaysian immigration camps and that they have been mistreated by the Malaysian police. Those kept in these camps are often whipped with rattan canes or pummeled with fists.

The riot, or more accurately, the protest, involving Indonesian migrant workers in Malaysia broke out after 16 of their colleagues were arrested for alleged drug use. The solidarity protest to free these detainees led to clashes with the Malaysian police.

It is not yet clear how the migrant workers obtained drugs. Anyone with extra money would likely use it to bribe police for their release. Malaysia also exercises very tight control over drugs and capital punishment awaits anybody found using or trafficking drugs.

Therefore it appears questionable that the workers, who came to Malaysia to seek work, were indeed using or trafficking drugs which could mean risking losing their jobs and even their lives. Such allegations, if untrue, might have indeed led to their aggression.

In addition the accumulation of problems may have added to their pent-up anger and disillusionment.

Wisdom is hence needed in settling this problem on both the Indonesian and Malaysian side. Instead, Mahathir became furious and the response from Indonesia was confusing -- while many, also on Indonesia's side, blamed the Indonesian workers.

Despite demands to do so it does not seem that the Indonesian government is ready to take diplomatic measures at the level of head of state. Meanwhile, thousands of Indonesians are crying out for assistance. They have nurtured high hopes of seeking a better life for themselves and their families, but instead have been subject to insult, condemnation and torture.

For the sake of the nation and for the sake of humanity, it is time that a firm stance should be shown and diplomatic measures taken. In their rallies the workers were seen unfurling the red-and-white flag, a sign that they are Indonesians who now urgently need,

and are entitled to, protection at least from their own country, if not from their host country.

Revoke existing agreement on migrants in Malaysia

July 31 2002 is the deadline for undocumented migrant workers across Malaysia, following the enactment of Immigration Act 1154/2002, which is an amendment of a 1963 act. The focus of this amendment is the implementation of physical penalties in the form of caning, imprisonment and fines for those implicated in the hiring of illegals or workers without complete documents.

Potential targets are the migrants themselves, employers and businesspeople, officials and anyone protecting undocumented workers.

A migrant found guilty of lacking the proper documents is subject to a maximum fine of 10,000 Malaysian ringgit (Rp 23 million, or about US$2,527), a maximum of five years imprisonment and six lashes with a cane. Those found to have employed undocumented migrants face a maximum punishment of a 50,000 ringgit fine, five years in prison and six lashes with a cane. For officials involved with undocumented workers, the maximum penalty is a fine of 60,000 ringgit, two years in prison and six lashes with a cane. And those protecting illegal migrants can be fined up to 50,000 ringgit, given five years in prison and six lashes.

These new penalties come in response to increasing numbers of migrant workers found without proper documents. Many thought the penalties stipulated in the earlier regulation were too light -- arrested undocumented migrant workers were only detained and deported.

The people most vulnerable under the new immigration act are the Indonesian migrant workers. Workers from Indonesia make up the largest portion of working migrants in Malaysia. Migrants enter not only by sea, air and through official border posts, but also through at least 100 clandestine routes along the Malaka Strait and through the forests along the Indonesian-Malaysian border.

There are also ancient sea routes between North Kalimantan and the Malaysian mainland, connecting the maritime communities of the Bugis, Tana Toraja in South Sulawesi and those in Madura (East Java), Lombok (West Nusa Tenggara) and Flores (East Nusa Tenggara).

Therefore the phenomenon of undocumented workers in Malaysia reaches far beyond the legal-formal context; historical and cultural factors also must be taken into account.

Based on past cases, undocumented workers fall into a number of distinct categories. The first includes those who are simply used to not going through official channels, and deliberately don't get their documents because of past experience and some guarantee from their network.

The second are those who take this shortcut because of economic pressure, and who will take any kind of work they can get. These include those people who are dissatisfied with their legal job for some reason, including unsatisfactory wages.

The third type of migrants are those who have been conned by agents and brokers --

victims of human trafficking (mainly women and children).

The fourth are those documented migrants who have run into trouble in Malaysia; they have had to leave their jobs for some reason and their documents are still with their employer.

Currently, there are numerous undocumented workers in the third and fourth categories. This is because of bilateral agreements between Indonesia and Malaysia which are highly unfavorable to Indonesian migrants.

The 1997 agreement on domestic workers and the 1998 agreement on nondomestic workers, for example, stipulates that the passports of these workers must be held by the employer. This means immigration documents are virtually held hostage by the employers, thus restricting the mobility of workers. Indonesia must therefore work with Malaysia to revoke these rules, which are clearly detrimental to our workers.

Although the repressive new immigration act will become effective on Aug. 1, the Malaysian government already started "rounding up" workers in February. This step followed a "rebellion" by Indonesian migrant workers in the industrial area of Nila in the state of Negeri Sembilan. The workers were upset by the actions of the police, who on Jan. 17 conducted a drug raid on Indonesian camps.

This incident provided the momentum for the Malaysian government to review the relationship between migrants, particularly those from Indonesia, and the rest of Malaysian society.

Prime Minister Mahathir Mohamad has manipulated the "Indonesia-phobia" in Malaysian society to acquire the legitimacy to raid, arrest and deport Indonesian migrant workers. The government stepped up its antimigrant campaign. Raids increased and extended to the door-to-door level. This situation led to overcrowded detention camps, leading to the deportation of many of the arrested migrants.

One of the early government measures was to burn down residential areas of undocumented workers on city outskirts, along river banks and in mangrove forests. The following stage, Operation Leave, comprised the arrest and deportation of undocumented workers.

Hundreds of migrant worker residential areas have been burned down and 34,414 undocumented workers, mostly from Indonesia, have been deported (Borneo Mail, May 25, 2002).

During these operations at least six Indonesian migrants drowned in the Langat River near the Port Klang (Utusan Malaysia, March 20). There has been no investigation of this incident.

So far, there has also been very little response from the Indonesian government to the repressive policies on undocumented migrant workers in Malaysia.

Undocumented migrants who want to obtain their papers also raise the classic complaint about going to the Indonesian consulate general or embassy: Blackmail.

Officially, processing fees for new passports range from 12 ringgit to 20 ringgit; but

migrants find they pay up to 800 ringgit or even 1,000 ringgit because the process has become big business for brokers.

It is difficult for migrants to get direct access to the consulate general or the embassy, so they must go through the hordes of brokers who wander around the building. This situation prevents many Indonesian workers from getting their papers and making sure they are within the law.

Therefore, on Aug. 1 we can expect waves of deported migrant workers, and if this is not anticipated these workers will suffer even more in their own land.

Note: a contribution to the regional conference of undocumented migrant workers; 19-23 october 2003, kuala Lumpur, Malaysia. Co-organised by: apmm, tenaganita & migrante international

REGIONAL CONFERENCE ON
UNDOCUMENTED MIGRANT WORKERS
19 – 23 OCTOBER 2003
Kuala Lumpur, Malaysia

TAIWAN COUNTRY REPORT – by Fr.Peter O'Neill, Director Hope Workers' Center

HISTORICAL PROCESS OF THE TAIWAN EMPLOYMENT PERMIT SYSTEM

In order to understand the present situation of undocumented (irregular) migrant workers in Taiwan we need to first understand the historical process of the Taiwan Employment Permit System. In October 1989 the Taiwan Council of Labor Affairs (CLA) decided to open up Taiwan's job market to migrant workers. This was in response to pressure from employers who claimed there was a labor shortage in Taiwan. The government did not want to appear to be damaging the job opportunities for local workers. Migrant workers were therefore only allowed in to fill vacancies for which local workers could not be found. The CLA first legalized migrant workers for the government's 14 major construction projects.

There are no exact figures as to how many undocumented migrant workers were in Taiwan at this time. Estimates range between 100,000 to 200,000. Newspaper reports state there were approximately 70,000 undocumented Filipino workers and 40,000 undocumented Thai workers. The other large number of undocumented migrant workers came from Malaysia and Indonesia.

The governments of Malaysia, the Philippines and Thailand were all asking the Taiwan government to provide more job opportunities for their citizens. They called on the Taiwan government to help undocumented migrant workers from these countries to work legally in Taiwan. The Taiwan government refused to allow undocumented migrant workers to work legally in Taiwan. The government offered an amnesty whereby undocumented migrant workers could leave Taiwan without any penalty. In February 1991 the government launched a massive crackdown against undocumented migrant workers.

By the end of 1991 the CLA had approved entry of a total of 4,060 migrant workers into Taiwan to join governmental major construction projects. Of this figure 2,999 migrant workers had arrived in Taiwan to work. Migrant workers for the mass rapid transit systems and the Taipei underground railway systems were introduced soon after. By the end of 1992 migrant workers were working in the industrial and manufacturing sectors, as well as working as domestic workers, caregivers and fishermen.

The governments of Indonesia, Malaysia, the Philippines and Thailand each entered into official bilateral agreements with the Taiwan government. Migrant workers entered Taiwan under a one year employment contract which was extendable for a further one year. In 1998 the Taiwan government changed its policy allowing migrant workers to stay in Taiwan for an extra one year making it a maximum stay of three years. A migrant worker could come to Taiwan only once. In November 1999 the Vietnamese government entered into official bilateral agreements with the Taiwan government. With the knowledge of the CLA the Vietnamese government is the only sending government that taxes its citizens while they are working in Taiwan. The Vietnamese workers are taxed 12% per month by their government. (The Taiwan tax law is 20% tax for the first 183 days and 6% tax thereafter.) Since January 2002 migrant workers are now allowed to

stay in Taiwan for a maximum of six years. They can re-enter the country for employment as often as they like during this period.

GOVERNMENT POLICY WITH REGARDS TO MIGRANT WORKERS

Labor Standards Law

Migrant workers in the industrial and manufacturing sectors, in the construction sector and those working as fishermen are protected by the Taiwan Labor Standards Law (LSL). Therefore, they are covered by the Taiwan Minimum Wage Policy which stands at US$466 (15,840 New Taiwan Dollars) per month. In April 1998, after many years of lobbying the government, the government brought the foreign domestic workers and caregivers under the protection of the LSL. Nine months later, in January 1999, the government stripped the domestic workers and caregivers of this protection. The CLA stated the difficulty in calculating these workers' overtime pay was the main reason for their decision. The CLA quickly fell to the pressure of the Employers Association who was supported in their complaints by the brokers.

In July 1992 the CLA introduced the "Regulation on Employment and Management of Foreign Workers" (REMFN). In October 1992 the CLA promulgated the "Employment Service Act" (ESA). Chapter 5 of this Act entitled "The Recruitment and Supervision of Foreign Person" is pertinent to migrant workers. With the enactment of the ESA the government established its foreign labor policy. Article 41 of the ESA states: "To protect the rights of nationals for work, the employment of foreign persons shall not interfere with the job opportunities and labor conditions of nationals, economic development, or social stability."

Brokers fee

For migrant workers who arrived in Taiwan after 9 November 2001 they are covered by the government's new brokers fee system. For the first year the worker pays NT$1,800(US$53) per month; 2nd year – NT$1,700(US$50) per month; 3rd year – NT$1,500(US$44) per month. This totals NT$60,000(US$1,765) for a three year contract.

Placement fee

Since 9 November 2001 the Taiwan government suggests that the labor sending countries limit their placement fees to a maximum of one month's salary – NT$15,840 (US$466). No sending government follows this recommendation. Only the Philippine and Thai governments have policies for placement fees. The placement fee is one month salary plus processing fees. For Filipinos this is NT$25,000(US$735). However, they are paying two to three times this amount. For Thais it is NT$30,000 (US$882). However, they are paying as high as five times this amount – NT$150,000(US$4,400). Although the Indonesian government has no policy on placement fees it sets the maximum at NT$66,000(US$1,940). However, Indonesian workers are paying two to three times this amount. The Vietnamese government has no policy or standards at all for placement fees. Vietnamese workers are paying between US$4,000 – US$5,000 for their placement fees.

Food and Board

In September 2001 the Minister of Labor made a decision to allow employers to deduct a maximum of 25% from salaries of migrant workers who arrived after 1 September 2001 to pay for their food and board. This new policy does not include domestic workers and caregivers.

Living Conditions
Migrant workers have to live in quarters provided by their employer. They cannot live outside for even one night without permission from their employer. Most employers have very strict curfews. Some workers cannot leave their place of work except on their day off. Domestic workers and caregivers often suffer from arbitrary deprivation of liberty. In some cases migrant workers are never allowed to leave the house except with their employer.

Transfer
Migrant workers can only transfer to new employment under very strict guidelines – if the ward they are caring for dies; if an employer can no longer pay the worker's salary or immigrates to another country; no payment of salaries; if they are a victim of physical and/or sexual abuse and they have evidence to prove their case.

Health and Labor Insurance
Migrant workers covered by the LSL are automatically entitled to both health and labor insurance. They pay 30% of the premium – 1.33% (US$6.20) of their monthly salary for their health insurance and 1.36% (US$6.34) for their labor insurance. The employer and the government pay the remainder. Domestic workers and caregivers are to be covered by health insurance. It is not compulsory for them to have labor insurance. If they request to have labor insurance then their employer is to pay the employer's portion.

With health insurance the worker only needs to pay for the hospital registration fee of NT$150 (US$4.41). All medical consultations and drug prescriptions are covered by the health insurance. If hospitalized due to a common sickness the health insurance pays at least 90% of the hospital expenses. If it is an occupational accident the labor insurance pays the remaining 10%.

Labor insurance covers a worker if they have an occupational accident. Since compensation is calculated according to a worker's monthly salary the migrant worker's compensation is minimal. If a worker dies as a result of an occupational accident the family receives a compensation of 45 months salary (US$20,965). This is the highest compensation a worker can receive. While a worker is recovering from the accident 50% of their salary is paid by their employer and 50% comes from their labor insurance. The main benefit of labor insurance is retirement pay. Migrant workers cannot retire in Taiwan so they are not entitled to retirement pay.

GOVERNMENT POLICY WITH REGARDS TO UNDOCUMENTED MIGRANT WORKERS

Undocumented migrant workers are not protected by any law in Taiwan. They have no health or labor insurance. If arrested by the police they may have to stay at the Taipei Alien Detention Center while waiting to be a witness in court to identify their illegal employer(s). This legal process may take from 6 to 12 months.

When undocumented migrant workers either surrender or are arrested by the police they need to pay a maximum penalty of NT$10,000(US$294) for being undocumented for more than three months. Employers are fined between NT$150,000(US$4,410) to NT$750,000 (US$22,060) for employing an undocumented worker. Undocumented migrant workers have to pay tax on an average monthly salary of NT$24,740(US$728) whether they have work or not. This salary is 1.6 times more than the minimum wage.

PRESENT SITUATION OF UNDOCUMENTED MIGRANT WORKERS

Firstly, as of the end of August 2003 there were 295,840 migrant workers in Taiwan.

Thailand – 104,320 (35.26%) (Female – 16.52%; Male – 83.48%)
Philippines – 75,439 (25.50%) (Female – 70.04%; Male – 29.96%)
Indonesia – 69,014 (23.33%) (Female – 88.68%; Male – 11.32%)
Vietnam – 47,037 (15.90%) (Female – 78.13%; Male – 21.87%)
Malaysia – 30 (0.01%) (Female – 6.67%; Male – 93.33%)

They are employed as manufacturing and industrial workers (52.77%); caregivers (38.48%); construction workers (5.72%); domestic workers (1.89%); and fishermen (1.15%). Female workers comprise 56.79% and male workers comprise 43.21%.

"As of the end of May 2003, 60,619 migrant workers had absconded from their legal jobs, 50,986 of whom had been arrested and repatriated to their home countries. However, 9,633 of them remained unaccounted for, with Indonesians accounting for 41.10 percent and Vietnamese making up 24.01 percent." (Central News Agency 6/7/2003)

From January 2003 to the end of July 2003, 5,572 migrant workers had absconded from their legal jobs. This is an escape ratio of 1.85%. The Vietnamese workers have the highest escape ratio at 5.70% (2,165 workers). Indonesia has a ratio of 2.69% (2,214); Thailand has a ratio of 0.67% (734 workers); and the Philippines has a ratio of 0.64% (459 workers).

"The National Police Administration officials attributed the absconding of alien workers to a combination of factors, including poor working conditions at the jobs to which they were originally contracted, fleeing with the intent of finding a higher-paid job or a better working environment, or absconding with the hope of staying in Taiwan after the expiration of their original work contracts." (Central News Agency 6/7/2003)

As can be seen from the statistics the largest number of undocumented migrant workers are from Indonesia and Vietnam, and the large majority of these workers are women. 86.12% of Indonesian workers and 64.79% of Vietnamese workers are domestic workers and caregivers. Therefore, one can say that the majority of undocumented Indonesian and Vietnamese workers were working legally as domestic workers and caregivers. These women work in very vulnerable work situations and are easy victims of physical and sexual abuse. They work from 16 – 18 hours per day. Many of them only have one day off a month. They have no protection under the law.

Most of them would have no idea that there is a migrant workers counseling center in each county throughout the island. Even if they did choose to go to one of these counseling centers for assistance there is no guarantee they would receive justice under the law.

Since August 2002 there has been a ban on the employment of Indonesian migrant workers to Taiwan. The CLA cited the high rate of absconding as well as the high placement fee. This ban could be one of the reasons for the large number of Indonesian undocumented workers. The Vietnamese workers have the highest placement fee. This could also be a reason for the large number of Vietnamese undocumented workers.

From September 1 to November 30 the Taiwan government has introduced a crackdown on undocumented migrant workers. There may be several reasons for the crackdown at this time. Firstly, the government is afraid of another SARS outbreak. With around 10,000 undocumented migrant workers with no health insurance the government may be concerned that these workers would not go to a hospital if they had SARS like symptoms. However, there was no record of any undocumented migrant worker catching SARS. Secondly, the next Presidential elections are fast approaching and President Chen wants to portray a good image by reducing the number of undocumented migrant workers. Thirdly, since the employment of migrant workers is based on a very strict quota system, employers are complaining about the high number of undocumented migrant workers. It is not until an undocumented migrant worker leaves the country can a legal migrant worker enter and replace her/him.

HOW DOES THE HOPE WORKERS' CENTER RESPOND?

For many years the Hope Workers' Center (HWC) together with other church based migrant centers and local NGOs have had meetings with the CLA and shared with them our position that the main root causes for migrant workers becoming undocumented is due to abuse in the work place and high placement fees. For years we have lobbied the government for domestic workers and caregivers to come under the protection of the LSL. On 4 April 2003 we presented the CLA with a "Draft for Migrant Domestic Workers' Fixed Employment Contract". This contract is based on human rights standards.

We are in the process of presenting to the CLA a Domestic Workers Household Law. This law will need to be reviewed by the CLA before being submitted to the Legislative Council for discussion and approval.

We assist undocumented workers who wish to surrender to the police. According to a survey the HWC took of the 114 undocumented migrant workers who surrendered at the center in 2000 the majority of them went undocumented either because the work was too difficult; they were going to be repatriated; or they were victims of abuse. The worst part about being undocumented was the fear of being arrested by the police or the employer and not having a fixed job.

Every Wednesday morning the HWC social workers visit the undocumented migrant workers who have been arrested and are now staying at the Detention Center in Taipei. The social workers follow up the workers' cases by ringing their arresting officers; prosecutors; employers; brokers. They try to assist the worker to return home as soon as possible.

For undocumented migrant workers who are victims of occupational accidents we ask the hospital to lower the bill and we solicit the sending country for funds to cover all expenses. After returning from a meeting in Seoul at the end of 1996, the HWC initiated a meeting with a group of undocumented migrant workers to share with them the health care system that was set up in Korea for undocumented migrant workers. The HWC was willing to establish a similar system in Taiwan if the workers saw the need. Unfortunately the attitude of the workers was: "We've never been sick and we've never had an occupational accident." Consequently the idea went nowhere.

A large number of Vietnamese workers have absconded from our center's shelter due to the inefficiency of the government migrant workers' counseling centers in processing their complaints, and their blatant bias towards the employers. Our center's staff will

bring this matter to the attention of the CLA at a meeting this week being organized by the CLA to discuss shelters for abused migrant workers.

A brief insight of migrant workers' condition in Macau

By Cyril Cacay, Chairperson of the Macau Cordillerans Association (MCA)

To the

Macau has its glory days of economic boom reaped from its tourism and gambling industry, other businesses of the private sector and building infrastructures. Their need of migrant workers attracted migrant workers from poor countries like the Philippines, mainland China, Nepal, Indonesia, Vietnam, Burma, Thailand, East Timor and Russia. More than 22,000 foreign labours are recorded by the Macau special administrative region (SAR). No clear record as to the detail of statistics per country. The usual entry of Filipino migrants into Macau is as tourist, whether they come on their own or through recruiters from the Philippines. Job-seekers finds jobs through their relatives and acquaintances they met here or from private placement agencies accepting documented and undocumented migrants as long as they pay the fees, Once their tourist visa expired and still not employed, they add up to the undocumented migrant workers in Macau. It is widely known to the Philippine authorities and the Macau SAR that these trafficking of persons by recruiters put our compatriots in a delicate situation, ended-up working illegally, lesser pay and long working hours. The Macau SAR does minimal or occasional checking on the undocumented migrant workers. Like in other exporting and importing countries, both governments generate revenue. Unwanted jobs are filled-up. Becomes a “structural remedy” to solve unemployment. As to how Macau SAR helps to curtail illegal practices of recruiters deploying migrant workers in Macau and employers who take advantage of the labour service of undocumented migrants, we do not know.

The Philippine authorities estimated 10,000 migrant Filipinos including the undocumented and more than 5,000 have legal documents wherein Filipino domestic workers numbered almost 3,000, the rest are Filipino professionals and mostly skilled workers in the service sector. Since majority of Filipino migrants in Macau are undocumented, it is possible that over 15,000 migrant Filipinos.

Macau SAR has its own labor laws but only applied for the Macau residents. Employment contract of migrant workers are usually of the employers’ own terms because there is no implementing standard contract for the migrant workers. Compliance of the economics and immigration bureaus’ requirement shall grant the employer a quota to hire migrant workers and before we are issued a work visa or permit. Although there is a “model contract” done by the Philippine labor extension office in Macau as a result of the collaborative campaign of migrant groups in 2001-2002, it is difficult to negotiate your right as a migrant worker with your employer. This “model contract” is not officially recognised by the Macau Special Administrative government and not binding as it only serves as a reference. In most cases, especially for the foreign domestic workers, they tend to accept whatever terms offered by the employers.

Entry of migrant workers in Macau is relatively not that strict. Even during the economic down turn here up to present, employers needing migrant workers decreased compared to migrants workers seeking jobs. Some employers take this opportunity to employ the undocumented so that they will only have a minimum obligation to the migrant or none at all. This is one reason why change of employment is “seemingly easily done” by both parties.

Jobs like those in the security force are dominated by Filipinos and Nepalese. They possessed a work permit. Yet they are one of the most lowest paid migrants in Macau

SAR, works on a long hours shift, unpaid days off, or no days off at all. No strong union within this group of migrant workers because of fear to the consequence of losing their jobs. That is why one of the big security companies maintains its exploitative system. During the height of their grievance in 2002, they tried to bring their case to the management and filed a complaint and claims at the Macau SAR labour office. They were all set to raise their case to the judiciary court. All along, they had the support of APMM whom they asked for assistance after no progress and inadequate assistance from the Philippine labour extension office where they first sought for help. The concerted efforts by our compatriots and APMM pushed the Philippine government's consular and labor extension office to extend legal representation for them. Unluckily, not all of their claimed items were rejected by the management and most of their leaders lost their jobs that forced them to return to the Philippines because of their work visas are near expiration. This resulted to discouragement and helplessness to pursue their case to the higher authority although in the process of their struggle, they were able to get some concessions of their demands from the management.

In most cases, problems of unpaid wages and benefits are only claimed by the migrant worker when their employment is not renewed and when the employee is forcibly terminated. APMM has been sporting the need for migrant workers to get organised and to collectively assert their rights and welfare and that these are protected. In 2000 to present, organisations are formed based from their provinces, by region, by their religious belief, socio-cultural or having sports oriented interest. Long years back, there was only one organisation of migrant Filipinos; closed to and supported by the Hong Kong based Philippine consular office. Alleged personal and financial questions in the organisation became an issue by some leaders discourages the members until the organisation died a "natural death". The relatively cheap living condition in Macau SAR could also be a contributing factor why our compatriots are not equally keen with issues of migrants and national issues back home and in the activities and campaigns of newly formed migrant organisations. This mid-year, there are at least 7 provincial and regional based migrant groups that developed camaraderie and understanding to help one another starting with socio-cultural and sports activities. We hope this will progress for us to come together in another campaign that we all face.

In 2000-2001, APMM supported and guided the birth of Macau Cordillera Association towards the promotion and protection of our rights and welfare. We were made aware of the importance of need of a united cooperation and action among Filipinos and other migrant workers. APMM facilitated series of basic migrant education such as the migrant orientation, leadership training, film showing and group discussion. They shared to us the inspiring and successful united actions by migrant organisations in other countries. We were able to identify particular common problems of migrants in Macau such as there's no standard contract and the contract terms are written in the official languages, the Portuguese and Chinese languages. We did a signature campaign that was sent to then Philippine consul general Collinson and assistant labour attache' Ablan. A dialogue with them followed. Regrettably the issue did not received their full support

In 2002, MCA and APMM reached out to our compatriots. We discussed our common issues and concerns and united to spearhead a campaign. Our issues and concerns were made known seeking dialogue with the newly posted Philippine consulate general Bataclan in an open letter signed by 4 migrant groups, a Roman Catholic priest and APMM. We also requested her to send copy to the Philippine immigration head and other government agencies. Hereunder are some of our issues, problems, request and demands to our government to concretely, decisively and immediately act on them:

(1) We urged the Philippine government to negotiate with the Macau SAR for a bilingual contract document for migrants**.** We firmly believed it is necessary to add and be made mandatory at least the English language to ensure that migrant workers can read and understand. This is the only document that we have supposedly stipulating our rights, work condition and responsibilities of employers and migrant workers.

Outcome: Up to present there is no bilingual contract yet. According to our government officials, they had several dinner meetings with Macau heads of the economics and labour but due to bureaucratic processes and considerations, doing so is not that easy.

(2) To scrap the mandatory "Affidavit of Support". The Philippine immigration officials at the Manila airport require all Filipinos traveling to Macau, including our loved ones to show a copy of said document. Our government reasoned in a dialogue we asked, that this was implemented to prevent Filipinos going abroad falling prey from illegal recruiters. The problem remains. Partly because the requirement breeds corruption as the immigration officials extort 5 thousand pesos from each traveler who do not have such document or show money. Even some of those who already have the "affidavit of support" are subject to extortion attempts by these corrupt officials. At the same time, the HK$212.50 cost of obtaining said document at the Philippine Consular office in Hong Kong is too expensive. This is far beyond the notary charge by Macau authorities which cost 10.oo Patacas (MOP). Both governments of our country and Macau have the same notarial services of documents of those wishing to come to Macau.

Outcome: Middle of this year, Philippine immigration head Domingo issued a memorandum that "Affidavit of Support" is now abolished.

(3) To unconditionally investigate Philippine immigration officials who are accomplices of illegal recruiters. Prosecute and ban them for life from public office. To investigate and prosecute illegal recruiters who victimises job-seekers to Macau.

(4) For the Philippine government to concretely curb the perennial problem of illegal recruitment to Macau.

Outcome for #s (3) and (4): No concrete action. There have been cases of victims that were assisted by our organisations and by other organisations, whose complaints / plight were initially brought to the attention of our government agencies. However, the victims were disheartened to pursue their cases due to the slow process of our government, the recruiter had been freed and in hiding before she / he is investigated or before a warrant of arrest is issued. In most cases, it is the migrant organisations that eventually provide housing and airfare to the victims. Often times, it is the migrant organisations or individual members who make follow-up and referrals in the Philippines.

The initial gains that we had are results of our united action (migrant organisations and advocates) like said petition letters and dialogues. Examples cited and those we heard in various host countries, showed us even more the importance to get organise to assert our basic human rights and welfare. We need to continue what we have initiated and to strengthen more the unity within our respective organisations, to further develop the unity and cooperation among migrant organisations; and with non-Filipino fellow migrant workers in Macau**.**

Victims of illegal recruitment from the Philippines continue unabated and now for the other nationalities. It gives us some kind of bond with them as it does not only happen to us Filipinos. Some MCA members gave support to some Sri Lankans who were

promised high paying jobs in Hong Kong but were left stranded in Macau by their recruiter. We worked hand in hand with the APMM and with the Anglican Morrison Chapel to give them counselling and para-legal aid, some food, moral and spiritual support. Some churches they approached did so. Like us, their situation showed no sign of attention from their government represenative government representative in Hong Kong.

With this unfavourable work and living condition for both legal and undocumented migrant workers, we thank those who rendered sincere assistance. We appreciate the social action groups and individuals who selflessly advocate for migrants human rights and welfare, such as the non-government organisations, local organisations, church-based institutions, lay workers, lawyers and researchers who are always on around to share their time, guidance, experiences and their limited resources.

Known to all, migrant workers like me, hopes that one day our situation will no longer be a cycle haunting our lives and that we are re-united and will live happily with our family in our beloved hometown. With none of the humane social conditions possible in our respective countries, more and more undocumented migrant workers will remain a painful story in the lives of peoples.

Migrants undocumented in Saudi Arabia

By: Kapatiran sa Gitnang Silangan (KGS)

Background:

Foreign workers play a great role in the development of Saudi Arabia. Most households could not live without the help of foreign drivers, domestic help, gardeners, baby sitters, nurses and the likes. In most companies, the workers are foreigners.

Thus, for a long time, the Saudi government has already laid out a structured employment for foreign workers. All foreign workers in Saudi Arabia must posses a residence permit called iqama and passports of migrant workers are placed in the custody of their sponsors or employers. The iqama must be presented by foreign workers at all times when requested by local authorities. Without the iqama, a migrant worker could be detained until his employer vouch for his legitimacy.

Only in the most recent past, when the Saudi government realized the fast growing population of young Saudis whose age range between 16 to 25 years old are beyond 50 percent of the population.

With a growing unemployment rate among the Saudi youth, Saudization was mapped out to replace migrant workers with Saudi nationals.

Private companies are obliged to hire local nationals and given quota of their Saudi employees. Working visa for foreign workers is now strictly issued to companies for vital job categories. Instead, companies are advised to recruit Saudis.

From time to time, the Ministry of Labor issues regulations banning foreign workers in certain job categories.

Favoring foreign workers form anti-migrant sentiments

On the other hand, not a few companies expressed complaints on their failure to recruit committed Saudis to work for the companies, saying the company has to spend more time and money to train Saudi employees to be more skilled to work and be more diligent in the profession. They still prefer to recruit reliable foreign workers but working visa is not available.

With private companies favoring migrant workers, some locals are slowly forming a bias outlook to foreign workers if not turning anti-migrant.

Unified Contract

Meanwhile, recruitment agencies in Saudi Arabia have formed a tool to recruit cheaper manpower overseas with their scheme of requiring a Unified Contract.

Early this year, the Saudi Arabian National Recruitment Committee (SANARCOM) of the Saudi Council of Chambers of Commerce implemented the Unified Contract in importing manpower from the Philippines.

The contract, among other features, has two blatant anti-migrant provisions.

One is the provision that allows changing the salary of the foreign workers as stipulated in the contract between the foreign workers and the recruitment agency that was approved by the Philippine government overseas employment agency.

The second onerous provision states that foreign workers who run away from their employers is illegal.

These two provisions allows recruitment companies and their principals to amass profits by ensuring cheap migrant labors while criminalizing the workers should they reneged on the work contract.

With the howl of protest coming from Migrante International and other organizations against the anti-migrant scheme, the Unified Contract was frozen. However, during a recent visit of a business delegation in Riyadh, the SANARCOM officials tried to revive the Unified Contract. This means that the Saudi businessmen are still out to implement such anti-migrant employment scheme.

Runaway migrant workers becoming undocumented workers

While business remains usual in the Kingdom of Saudi Arabia, distressed migrant workers seeking repatriation and legal assistance at various embassies of labor-sending countries continue to rise.

These migrant workers who have expressed problems with their employers and sought embassy assistance mostly become undocumented migrants when their residence permit and workers permit expire since their employees are unwilling to renew these documents unless they return to their work.

At the Philippine embassy, a shelter -- albeit unlicensed but tolerated by the host government -- for distressed female workers is cramped with some 92 distressed female workers. Most of them are undocumented since their passports and iqama or residence permits are in the possession of their abusive employers.

Among the wards is Sitti, a domestic helper who is awaiting payment of her three years salary totaling SR10,000. According to Sitti, she was only paid SR2,000 and a plane ticket during their last meeting at the Saudi labor office. She is still waiting for the balance payment. Meanwhile, when Ramadan comes, it will be Sitti's three year stay at the female shelter.

The wards at the Filipino shelter complain of unpaid salary, physical maltreatment, sexual abuse, and long working hours, among others.

Aside from the Philippine embassy, there also exist shelters for distressed female workers from Indonesia, and Sri Lanka.

The Indian as well as the Nepalese governments had banned the export of female domestic helpers to Saudi Arabia a decade ago due to the long list of complaints of sexual abuse then lodged before them.

Despite the ban, however, the Nepalese and Indian embassies separately said that they estimate 10,000 domestic helpers of their nationals working in the Kingdom.

Meanwhile, male problematic migrant workers who run away form their cruel employers do not have shelter, food and jobs.

They are left roaming around the Saudi capital. However, with the terrorist bombing in Riyadh on May 12, the Riyadh streets are now securely guarded and runaway workers who have become undocumented migrants are always on the danger of being stopped and interrogated while on their way to the labor courts or to the embassy. They could no longer move freely to scout for menial jobs to feed themselves.

The Kapatiran sa Gitnang Silangan documented around 200 distressed Filipino workers; some of them are already seeking repatriation assistance for the last four years.

It should be noted that not all employers provide iqama to their migrant workers. This scheme is done by employers to ensure that their workers do not run away even if they are not paid regularly.

Danny Morales and Robert Victorillo, both Filipino workers seeking embassy assistance, finished their two-year contract with Khalifa Establishment as dump truck driver in a construction supply company.

For the past two years, the two migrant workers were not provided iqama and driving license. When they asked to go home after completing their contracts, the two were physically hit by their employer.

The two ran away by hiding themselves under a trailer truck that drove them to Riyadh, some 375 kilometers from their work place in Al-Rass, Qassim.

The two sought help from KGS and was referred to the embassy for assistance. Two months have passed but the embassy's labor office has still to work on their case. Their case officer has not contacted their employer since then.

The same is happening to the Pakistani, Bangladeshi, Indian and Sri Lankan runaway workers who are left with no shelter, no jobs, no food, and no money.

Most undocumented migrant workers who seek temporary jobs are often duped by their employers by not paying them of their agreed salary since the worker could not complaint in the Saudi labor court.

It should be noted that companies who hire or harbor undocumented worker is fine SR100,000.

Other undocumented migrants

Pilgrims who scout for jobs in Saudi Arabia after they performed their religious duties are automatically tagged as illegal migrants since it is easily noted that foreigners without iqama are illegal workers.

Some of these are Indonesian women who fall prey to syndicates and recruitment agencies that provide jobs as domestic helper and sexual partner to their employers. This women trafficking is not unknown to the Indonesian Consulate in Jeddah.

International Covenants

While the international community may suggest that the United Nations Convention on the Protection of Migrants Rights and their Families be signed and implemented in Saudi Arabia, one may ask if Saudi Arabia is already a signatory of the Universal Declaration of Human Rights.

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