



**ASIA PACIFIC FORUM ON WOMEN,  
LAW AND DEVELOPMENT**

Proceedings of the  
TRIPARTITE CONFERENCE  
on  
MIGRANT WOMEN'S RIGHTS

11 - 14 November 2001

Manila, Philippines

a project of the  
LABOUR AND MIGRATION TASK FORCE



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## **Executive Summary**

### **Introduction**

The idea of having the tripartite conference was in recognition of a growing need to address the increasing and continuing violations of basic human rights of women migrant workers and the lack of support available to them in the Asia Pacific region. The APWLD Labour & Migration Task Force (L&M TF), at its annual task force meeting in May 1999, decided to organise a tripartite conference of trade unions, migrant workers associations and women's organisations on the rights of migrant women workers. The conference was organised in partnership with Migrante International that saw the participation of 29 individuals representing national organisation from the three different sectors in the Asia Pacific region.

The vision of the Task force was to bring together representatives of the three different sectors to address the concern particularly in view of the trends and impacts of globalisation on developing countries with a women's agenda. The conference set out on the very basic premise that in migration, women have been the most vulnerable to oppression. For this reason, the conference is a means of finding out how the different sectors can work together to develop strategies to address the situation of women migrant workers.

The Conference's primary objective was to address the growing negative impact of globalisation on migrant women workers by providing a platform of dialogue among workers organisation, women's organisation and trade union groups on the rights of migrant women workers. It was also an attempt to create an avenue to discuss and address specifically the gender aspects of problems confronted by migrant women workers.

Utilising the conference to its maximum, the group also aimed to explore the possibility of establishing a regional network of local trade unions, migrant workers associations and women's organisation. It was also envisaged that the conference would build and strengthen the alliances between these groups, increase and guarantee better understanding of migrant women workers issues amongst trade union organisations, particularly in shifting discussions from gender neutral to gender sensitive perspectives.

### **Context**

Globalisation has significant adverse effects particularly on labour migration. Privatisation and liberalisation of national economies to ensure the free flow of capital, goods and services are the major instruments of globalisation. In this globalised free-market, states are weakened by transnational corporations and international institutions that wield power in global transactions. For many governments in the Asia Pacific region, the pursuit to protect the interests of their citizens is eclipsed by the primary

pursuit for capital accumulation. Labour, for instance, has been traded as a “commodity” – kept at the lowest cost and with least protection at all times to maximise profits for international capitalist production.

As a result, most developing economies have adopted, either implicitly or explicitly, labour migration as a national strategy to address unemployment, at the same time earn foreign exchange capital from the remittances of migrant workers. Since the primary objectives of many governments, is to accumulate capital, both developing and developed, receiving and sending, neither is willing to adequately address the interest of migrant workers. Rising unemployment over the last years, without any state welfare provisions in most instances, have resulted in the marginalisation and impoverishment of the great majority of workers. Women are affected the most, given the existing gender discrimination in our society.

Women are playing a big role in migration, and due to their overall lower social status, endure more suffering than men in the process. Traditional family structures are being changed as a result, including an increased burden for women to adapt to the change required. The fact that the women are being placed in the globalised work force does not mean they are receiving more skills as they are usually kept in the same lower work sector. Women migrant workers are mostly involved in the sex industry, entertainment, domestic work, and factory work.

## **Main Issues**

Discussions throughout the conference focused on the effects of globalisation on women in developing countries as the prominent link in addressing poverty, unemployment and the social problems caused by migration. The conference recognised the commodification of domestic workers, a trade where women are concentrated in. Traditionally, women have always borne the burden of household work, and historically, women have been migrating on their own to do household work on a contract basis in a foreign country. What is striking about this type of labour migration in its more recent forms, is that it has grown into a big money making business in which states are also quiet deeply involved.

Studies have been made on overseas employment and its impact at different levels i.e. the individual, community and national. Most of the studies highlight the negative effects of overseas employment especially on women. They reveal that families and relatives of migrant workers are the first ones to feel the impact of migration. They suffer loss of separation, loneliness, solo-parenting etc. While economically they may have benefitted from overseas employment, the earnings during the first two years usually go to the repayment of loans incurred in applying for an overseas placement. Should the worker lose her job, her family suffers as in many cases to date, women have become the sole breadwinner of the family. That is why adequate education and

self-help programs have also been identified as a service to be provided for the families and relatives of migrant workers in understanding the consequences of relying solely on the migrant worker for the family survival.

Some of the issues identified during the conference included:

- The need to address the lack of or type of information available to women migrant workers before leaving their home country and during their term of employment abroad. This includes information on health and health services available to them in their country of employment, appropriate and relevant information on the nature of work they will be performing with other contractual agreement and most importantly basic human rights that they are entitled to wherever they are. It was noted that in some instances, information is not sufficient to enable the migrant worker to understand the basic concept of her role as agreed to, let alone her legal and human rights.
- Language barriers and the lack of proper training to warrant better understanding between workers and employers, workers and government agents in host country. For this discussion, participants noted that problems confront women migrant workers at three different levels – structural, cultural and psychological. They reaffirmed the need for migrant women workers to be in regular contact with an organisation for purposes of information/ linkages and to increase her awareness and knowledge of her rights and obligations in the host country and also for counseling activities.
- Maltreatment, abuse, and exploitation of overseas women workers - exorbitant placement fees, delayed remittance, non-payment of wages, contract substitution, poor working conditions, alienation, illegal recruitments, etc. They also identified that women employed as entertainers and domestic workers are vulnerable to sexual harassment, social and moral degradation.
- Racism was also an issue highlighted by the different working groups as a factor in the ill treatment and violations of workers basic human rights. The need to recognise the intersectionality of forms of discrimination faced by women migrant workers.
- The right to join or form a union should be encouraged wherever possible. Participants also called on union leaders to encourage the participation of women in their groups to enable different perspectives and views on issues of concern.
- Education of women on the hazards of overseas employment, their role as women, their rights as workers and conscientious raising on the causes of migration should begin at grassroots' level.

The conference recognised and reiterated that women migrant workers are concentrated in either domestic or sex work. In both these major areas of employment, studies prove that they are the most vulnerable due to the lack of or non-existence of appropriate legislation that would protect or provide re-dress mechanisms.

Throughout the three days of the conference, participants discussed the need for the formation of a regional network of local trade unions, migrant workers associations and women's organisation. This is in the hope to strengthen alliances and build better understanding of the issues facing women migrant workers. It is believed that with a better understanding of the difficult situation of women migrant workers, local groups will be in a better position to support and develop strategies with migrant workers to address the diverse circumstances affecting the lives of migrant workers.

### **Conclusion/Outcomes**

The conference concluded that the three sectors need to work together in mobilizing support, strategizing for activities to address situations of women migrant workers and supporting each other as the first step in achieving the primary objective of recognition of women migrant workers basic human rights. To this end, participants shared information and highlighted that it is crucial to conduct educational programs to both nationals and migrant workers on social, cultural and traditional diversities of the two groups.

The need to disperse information to educate migrant workers, employers, government officials the society as a whole is crucial in addressing racism amongst the different groups.

Concerted effort must be made to support local groups in countries like Korea where local workers organisation are supporting migrant workers groups in addressing the system of employment practiced in the country. The conference has at the very least, enabled people to recognise the work each is doing at the national level and identifying partners from within the region for future support. The participants hoped to generate a wider support base and participation in the just struggles and aspirations of women migrant workers throughout the region.

Participants agreed that they would take on the phenomenon of women migrants as an issue that will bond and unite them to ensure the provision of better conditions for women and the protection of their rights as human beings, as women and as workers.

At the end of the Conference, participants agreed upon a number of activities to work on at home. These include the following:

- Organise a meeting with trade unions and mainstream women's groups at national level to discuss collaborative efforts to address concerns of women migrant workers and develop strategies to address findings;
- Gather relevant information on situation of women migrant workers for the purposes of a general report that presents an updated information on the situation of women migrant workers;
- Organise consultation at national level with stakeholders to raise awareness on issues affecting migrant workers;
- Utilisation of internationally recognised days to raise the concerns of women migrant workers, i.e. International Women's Day (March 8), No Violence Against Women Day (November 25), International Human Rights Day (December 10), International Migrants Day (December 18);
- Formation of a coalition of national organisations to address and mobilise against illegal recruitment agencies at the same time highlighting debt bondage of migrant workers;
- Open forum and protests on Violence Against Women;
- Signature campaign that highlights situation of women migrant workers in each country, result of which to be provided to host governments;
- Keep groups such as the International Migrant Alliance informed as they have the capacity to raise issues at all levels to raise awareness on the situation of women migrant workers;
- Lobby Congress, Senate, local trade unions;
- Publications – preparation of materials in simplistic form in a language that can be understood by migrant women; and
- To develop a list serve where campaign plans can be shared throughout the newly formed network.

**Vani Dulaki**  
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**Labour & Migration Task Force**

Sept. 2002

# GLOBALIZATION AND MIGRANT WOMEN WORKERS

**Joy Sison-de Guzman**

Vice-Chairperson, Migrante International

*(A contribution to APWLD's Task Force on Labour and Migration's Tripartite Conference on Women Migrant Workers, Nov. 11-14, 2001, Las Palmas Hotel, Manila, Philippines)*

## **Introduction**

If we listen closely, we may hear it. The frantic scrubbing of a toilet by a domestic helper in a Hong Kong flat. The gyrating melody of a pop tune in a Japanese night club and the constant whirring of a production line in a South Korean factory. Increasingly, these are the sounds framing the lives of thousands of migrant women workers.

If we press further, we may also hear the cries of peasants displaced from their lands and the anguish of workers unable to meet their daily needs on low wages. These are the voices of a people soon to be uprooted from their homeland and forced to migrate abroad.

More and more, these are the voices of our mothers, daughters and sisters.

I have been asked today to discuss globalization and women migrant workers. I will do so by addressing three questions often raised when we speak of migrant women:

1. What is the link between neo-liberal globalization and migrant women workers?
2. Do the increasing number of migrant women workers mean there is now a "feminization of migration"? and
3. What are the strategies of resistance migrant women workers are taking or may take, to combat the roots of their oppression and exploitation?

As a representative of an alliance of overseas Filipino organizations, I will draw mainly from the experiences of our members and people to illustrate our responses to the above points.

## **1. What is the link between neo-liberal globalization and migrant women workers?**

Neo-liberal globalization refers to the liberalization, deregulation and privatization schemes that regional and international financial institutions and major foreign investors foist on Third World countries. Often, this is done so through formations like the Asia-Pacific Economic Cooperation (APEC), the International Monetary Fund (IMF), the World Bank (WB) and the World Trade Organization (WTO).

The main players that force this agenda onto sovereign states are the United States, Germany, and Japan, the three biggest trade and investment centers in the world, with the US leading it.

**a. In the home country**

By effecting changes in the basic economic structures of a country, these "-tions" make it appear as if a country's underdevelopment is of their own doing. This way, the role of neo-liberalism in creating the impoverished condition of Third World countries is blurred.

The reality is that by forcing open the countries to foreign investors and flooding its market with foreign goods, the import-dependent and export-oriented nature of their economy is perpetuated. And advanced capitalist countries are assured a continuing source of cheap labor and market for their surplus goods.

The result is an economy unable to genuinely develop a strong national industry capable of sustaining its people. The selling-off of public institutions and services to the private sector jeopardizes further its people's access to education, health care and other social services.

More unemployment, low wages, chronic balance of payment and trade deficits and widespread misery for the people are effects of the neo-liberal global agenda.

Through more foreign borrowings, more imports of finished goods, and more exports of raw products at much lower prices - imperialists dangle the false promise of "development" and "NIC-hood" (Newly Industrialized Countries) to Third World countries.

In reality, these countries become even more tied to serving the needs of advanced capitalists states.

For women, the effects are suffocating.

Out of the 1.38 people living in poverty, 70% are women and of the 960 million illiterate people in the world, two-thirds are women.

In many cases, women's wages are also lower by 30 to 40% compared to those of men and about 90 million girls have no education at all.

This bleak picture is seen many times in countries across the Asia-Pacific, Africa and Latin America. Here in the Philippines, we are also witness to the ravages this wreaks on our people.

In this light, neo-liberalism clearly creates the conditions why millions of women are torn apart from their families and forced to work abroad.

For the Philippines, this translates into 2,600 workers leaving the country everyday.

In some host countries, the number of female contract workers make up about 80 - 90% of the total number of Filipino contract workers.

Following illustrates the rise in the number of Filipino migrant women workers around the world:

**Table 1: Number of Filipino Women Workers, Estimated Number of Migrant Workers and Type of Work**

Country	No. of Women Migrant Workers (MWs)	Estimated Total # of MWs	Type of Work
<b>ASIA:</b> Hongkong	150,000+	216,700 (all FDHs) 160,000 (Fil only)	DW
Macau	10,000+	15,000+	DW
Taiwan	100,000+	270,000+(all MWs) 120,000+ (Fil only)	DW, factory, caregiver
Japan	180,000+	242,000+(Fil only)	Entertainers, DW, trainees
Korea	20,000+	658,852 (all MWs) 40,000+(Fil only)	Factory, DW
Malaysia	60,000+	350,000+(Fil only)	DW
Singapore	70,000+	70,000+(Fil only)	DW
Brunei	150,000+	170,000+ (Fil only)	DW, entertainers, service
<b>Pacific:</b> Australia	48,216	65,000+	Factory, MOB's
Trust Territories	100,000+	120,000+	Entertainers, service
<b>Middle East:</b> KSA	253,000+	700,000+	DW, service
Bahrain	14,000+	22,000+	DW, service
Jordan	7,000+	8,000+ (Fil only)	DW, service, nurses

UAE	90,000+	125,000+	DW, service
Qatar	30,000+	50,000+	DW
Kuwait	50,000+	65,000+	DW
Oman	15,000+	24,000+	DW, nurse
<b>Europe: Italy</b>	200,000+	230,000+	DW, service
Spain	90,000+	100,000+	DW
UK	90,000+	100,000+	DW
Germany	40,000+	40,000+	Wives (DW)
Greece	90,000+	90,000+	DW
France	10,000+	12,000+	DW, service
Belgium	14,000+	18,000+	DW, service
Netherlands	14,000+	16,000+	Au pair (OW)
Africa	No available data	170,000+	Skilled, nurses, aids, service
<b>North America: Canada</b>	200,000+	300,000+	OW, factory, caregivers
USA	2 million+	4 million +	Caregivers, factory, service, nurses
<b>ESTIMATED TOTAL</b>	<b>4,315,216+</b>	<b>8.1 million</b>	

DW – domestic worker  
FDHs – foreign domestic help  
MOBs -

### **b. labor export policy and commodification of migrants**

To offset chronic debt problems and shortage of dollars, the Philippine government has been implementing a Labor Export Policy (LEP). This LEP systematizes the commodification and exploitation of women migrant workers.

Commodification of migrants is when human beings are traded as commodities in exchange for profits by the class which owns or dominates the business, while the former work under exploitative conditions.

Under President Gloria Macapagal-Arroyo, the export of Filipino workers is part of her government's national development strategy. No longer is the exodus of workers seen as a temporary measure to infuse the country with needed dollars. Instead it is the long-term economic development plan that this administration has mapped out for its people. Behind this is the political agenda to stem the tide of political unrest among the people brought about by rising unemployment and underemployment, very low wages, rising costs of basic commodities and costs of living, etc.

As such, no longer can we consider the exodus of people going abroad for work as simply an individual concern or choice but a sign of a deeply-rooted social malaise that forces people to migrate and eke out a living in order to survive.

Unfortunately, for the millions of overseas Filipinos and their families, this road leads only to more heartaches and hardships.

Yet, this is the route this government takes because it is one which brings much needed dollars into the Philippine economy. In the last year, migrants remitted around \$7B US home to their relatives.

The government also earns through the host of fees it collects from migrants before and after they go abroad.

Through fees for passports, medical certificates, police clearances and other processing fees, the government collects about P7,639,200,000 from the minimum of 720,000 Overseas Filipino Workers (OFWs) it deploys annually.

## SCHEDULE OF FEES MIGRANTS GIVE TO PHIL GOVT

FEES	AMOUNT	ANNUAL ESTIMATE
POEA Processing fee (for all countries except Korea & Taiwan)	One month salary in host country (min. of US\$200)	US\$5.2 million x 365 days = US\$ 1.898 billion
POEA Processing fee (Korea & Taiwan)	One month salary + P5,000	US\$ 480 million + P800 million
Medicare	P 900/pax	P 2.34 million x 365 days = P 854 million
OWWA membership fee	US\$ 25	US\$65,000 x 365 days = US\$ 23.725 million
Mol #7	US\$ 25	US\$ 23.725 million
Entertainers: Artist Record Book	P 5,000/pax	P 25 million + (minimum)
Seafarers: Seaman's Book	P 5,000/pax	P 25 million+ (minimum)
Passport fee (first time)	P 550/pax	P 1.43 million x 365 days = P 521.95 million
Authentication fee	US\$ 23/contract (minimum)	US\$ 21.827 million
NBI clearance	P 100/pax	P 260,000 x 365 days = P 9.49 million
<b>TOTAL</b>		<b>US \$ 2.48 billion + P2.32 billion</b>

\* POEA - Philippine Overseas Employment Agency

### 2. Situation of migrant women workers

As migrant workers, women continue to occupy traditional roles located in the private sphere, such as domestic work or they are hired for jobs whose skills, women are "naturally" thought to possess.

A look at the type of jobs Filipino migrant workers' illustrates this point.

#### a. Violence against women

Women migrant workers fall prey or are victims of domestic violence. They are doubly oppressed - as workers and as women - because they are further victimized by racist and unjust laws of the state. Governments of receiving countries play a significant role in perpetuating structural violence against women migrant workers through discriminatory immigration and labor policies.

#### b. Increasing migrant women workers

The increasing number of women migrating to work overseas can be seen in the desire of capitalist countries to accumulate super profits by employing cheaper labor in women and farming-out labour-intensive production to its satellites where labour and raw materials are cheaper.

Assembly plants of electronic industries and garments are industries tapped for farmed-out production, especially in underdeveloped countries and so-called "NICs" in Asia. More local women and "imported" women migrants are employed to the production of these industries as the intricate process of assembling electronic chips and garment manufacturing are stereotyped women's jobs.

Domestic work, entertainment for men and services are the usual jobs available for women migrants. As technology advances and automation is the name of the game, the intricate jobs in assembly plants of microchips and garment manufacturing are left to women.

As such, the rise in the number of migrant women workers is inextricably linked to the type of jobs increasingly available to migrants in industrialized countries. And it is explained by the reality that currently, these are the needs of the neo liberal global agenda.

Imperialism designs the global assembly line and gives rise to the conditions that eliminate the need for some occupations while creating the demand for other kinds.

Now I would like to turn to two questions often raised when we discuss the phenomenon of increasing numbers of migrant women workers:

**c. Is there a feminization of migration?**

Not exactly. While there is an increasing number of migrant women workers, use of the above term may hinder us from articulating a more comprehensive class analysis of migration and women.

Feminization of migration is not just a descriptive term - it is becoming a theoretical concept that stretches far into concepts on women's "liberation." Meaning, more and more women are so-called "liberated" because there are more women migrants financially contributing to the families' income. "Feminization of migration" while on the one hand states the reality that there is an increasing number of women migrating for work overseas, it however limits the understanding of class analysis in society. It stands as a supra-class description that blurs the role of classes in society that are deeply affected by this forced migration.

**d. Are more women being liberated because more are becoming migrant workers?**

The jobs migrant women workers occupy are still in the private realm, which is the traditional scope of "women's work". For example, domestic work, entertainers or garment/electronics factory workers. Thus, the work migrant women do does not challenge the patriarchal concepts of "women's work". It reinforces it.

Women are still not liberated when they migrate because the very reason why they were pushed out of their country continue to exist. As such, they will still continue to face the basic problems that compelled them to migrate and they will still continue to face the patriarchal system that has been so deeply rooted in society and that makes them occupy traditional roles.

It's not the "women" who made the decision to migrate in increasing numbers. Instead, it is the basic problems of society that are systemic which forces them to migrate. One of these problems is imperialism which creates and maintains economies backward and without basic industries and which sets up the "global assembly line". This is the reason why the jobs "opening up" are ones that are suited for women (i.e. domestic work, factory work), even in some so-called "industrializing" countries.

As such, we need to be clear about the definite role imperialists/monopoly capitalists play in being the reason why the women migrate. Imperialists create both the impoverished conditions in the women's homeland - that pushes the women abroad; and they also create the conditions that give rise to the type of jobs in host countries that are suited for women workers.

#### **4. Strategies of resistance against neo-liberal globalization**

Women migrant workers have become victims of neo-liberal globalization and imperialist's design for super profits. Women migrant workers have also become victims of states or governments that perpetuate such designs or systems. It is these conditions that women migrant workers should be propelled to organize, organize, organize. And continue to resist systems that perpetuate their exploitation and oppression. Such is the basic strategy of resistance that women migrants should take.

In view of the foregoing, women migrant workers must resolve to:

1. Call on all migrant women workers to close ranks and unite with their sisters and all progressive forces in their country of work/residence against neo-liberal globalization, oppression, domestic violence, trafficking of women, etc. on the basis of mutual support and benefit.
2. Support and participate in the people's struggles in their home countries to resist imperialist globalization policies out to further control their national and local economies.
3. Repeal racist, anti-women, anti-migrant laws.
4. Be vigilant to further the gains of the women's movement in advancing women's liberation.

Thank you very much.

## **GLOBALISATION AND MIGRANT WOMEN WORKERS**

**Aegile Fernandez**

Tenaganita, Malaysia

This presentation focused mainly on domestic workers, who are known as household helpers or maids. They are not recognised as workers. The domestic sector is not included under employment laws. There are about 210 to 220 thousand domestic workers in Malaysia, many from Indonesia. Many Cambodian girls who were formerly working in the entertainment industry in Cambodia were sent to Malaysia to work as domestic workers. Many of them could not adjust and ran away.

Human Rights Watch reported on the situation in the Gulf and reported consistent abuse of domestic workers. Complaints and deaths of migrant workers come mainly from women. Many times the women go abroad and the husband stays in the home country with the children. Often times this will lead to such problems as rape of the girl child, or early marriage.

Entertainers and Sex Workers are the least protected and the most in the undocumented sector. Even if they have contracts, there are frequent violations of them. They are forced to provide sex. Trafficking happens a lot in Thailand, Indonesia, S. China, the Philippines, Burma, and India to Malaysia. These syndicates came from place such as Japan and the Philippines. These girls go through Malaysia and are given Malaysian passports even though they may be from other countries. Many are drugged during the day and have contracted STDs and had numerous abortions.

Spouse visas are now determined by the husbands- they must sign.

Registered domestic workers are given very little information at pre-departure.

A lot of emphasis is put on labour issues and rights, while health is ignored. Health issues have serious political and economic implications. Policies must be developed to address the key concerns in both sending and receiving countries. Many receiving countries have mandatory testing. This is a violation of human rights. A person's health should be confidential between the doctor and the patient. Every year there are statistics of women, who are "unfit" to work, including such things as pregnancy. This attacks the honour and reputation of the migrant women, because statistics show, for example, which country has the highest pregnancy rate. A lot of pregnant migrant women will hide themselves. A lot of times babies are killed or abandoned.

Policy does not reflect human rights because a lot of government officials have no concept of human rights. Health is being compromised- women have no access to health care.

The right to redress in receiving countries is inefficient. Migrant workers are afraid that their employers will take away their work permits. So they must apply for a special pass and pay a fee per month, while at the same time not being allowed to work and having nowhere to live. The cases take anywhere from 6 months to 3 years. Many of the migrant workers leave for home without settling the case. On one hand, the migrant worker receives the protection of the employment act, but other laws and policies override the employment act.

Unions are male dominated. Even though today women play a very significant role in unions, propositions and control are still held by men. On paper it says there must be participation of women, but this remains on paper only. How can unions be gender sensitive without the representation of women? The ILO in 1997 stated that 30% of workers participating in ILO Meetings must be women. If there is not 30%, then the head of that union must be removed. In some countries migrant workers are allowed to join unions, but contracts will state the contract will be cancelled if the worker joins a union. This represents the weakness of the unions.

In conclusion, the UDHR, CEDAW, ILO Convention 97 and 143, the Convention on Migrant Workers emphasize the equality and dignity of the worker. All rights are inherent, inalienable, and indivisible. Many countries have not ratified these conventions. Migrants are seen as aliens who do not have equal rights with locals. In reality, these conventions are unfamiliar to the migrant workers. Let us start with the community, move to the masses, and then move across nations to have a more integrated approach and intervention. We need to stand together with migrant workers. We have to fight the system. We have to break the barriers as we get more and more globalised and human rights are eroded away. People united will never be defeated.

End

# **GENDER PERSPECTIVE ON ORGANIZING MIGRANT WOMEN WORKERS**

**MS. CONNIE BRAGAS-REGALADO**

*Chairperson of United Filipinos in Hongkong*

*(A contribution to APWLD Task Force on Labour and Migration's Tripartite Conference,  
Nov. 11-14, 2001, Las Palmas Hotel, Manila, Philippines)*

## **The Situation of Asian Women Migrants in Hong Kong**

In Hong Kong, there are more than 216,000 foreign domestic helpers who come from the Philippines, Indonesia, Sri Lanka, India, Nepal and Thailand. They work on a two-year contract, at an average of 12-16 hours a day, six days a week, 24 hours on call. Almost all FDH pass through a recruitment agencies that charge them fees ranging from 60 to almost 100,000 pesos for Filipinos while others, in the case of Indonesians, they are charged HK\$10,000 to HK\$21,000. Before leaving the country, they are already heavily in debt. Upon arrival in Hong Kong, they are also victimized by the counterpart recruitment agencies by facilitating loans to money lending agencies. The "loan" is supposedly to pay the expenses incurred in coming to Hong Kong. They are conditioned to believe that they can pay back the money easily because of the two-year contract that they have signed. They are not aware that the employment contract is essentially a monthly contract wherein both parties can terminate the contract any time.

Generally, a domestic helper will not terminate the contract unless her condition is unbearable. Termination would mean several months of waiting for the case to be settled for those who have cases against their employers and potential loss of income. Practically, they are not allowed by the Immigration department to take up any legal job while cases are on going so they are dependent on charities for their sustenance not to mention that they only have fourteen days to stay upon termination of the contract.

Aside from the burden of being away from loved ones, migrant workers are faced with exploitative and abusive conditions. Aside from contract violations such as underpayment/non-payment and delayed wages, insufficient food, no proper accommodation, there are more serious cases such as rape, sexual and physical assault.

Not only do they have to contend with problems arising from their workplace, domestic helpers still have to face the issues that deal with policies both of their home and host countries. These issues include wage cuts, non-provision of benefits, state exactions and the non-existent services of embassies and consulates.

## **The Vulnerability of Women Migrants**

Living in the third world, women and men suffer under the program of globalization through massive dislocation, commodification and modern day slavery. However, women suffer more than men because of their social class, as a citizen of the country and by simply being women. Women for a long time have been characterized as weak, meek, submissive and afraid to speak. Women are made more vulnerable, forced into migration, prostitution and abuse by the worsening economic crisis. Poverty leaves women very little, if any choice at all.

But among the women, the peasant women and working women suffer most from the systemic, systematic and institutionalized oppression of women. Women from the basic sectors carry most of the brunt of capitalist exploitation and the prevailing feudal relations especially in the third world countries.

Under these extreme conditions, women are forced to leave their countries with dreams of providing their families a decent and humane life and better working conditions abroad.

Even abroad, women are usually confined to the service sector, doing the work that has been "traditionally" relegated to them. As such, they are most of the time underpaid and overworked. They suffer from the most inhumane treatment because of being a migrant and being women that puts them in a second-class or even third class status.

Thus, it is also very important to put women's perspective on the organizing work of migrants. This is especially true in countries where the majority of migrant workers are women.

## **Using Women's Issues to Organize Migrant Workers**

It is very important to bear in mind that migrant workers are basically part of the working class. Organizing migrant workers by using women's issues can be successful if it can complement migrant worker's organizing.

Organizing migrants through women's issues can never be devoid of any class standpoint. In Hong Kong, the exodus of local women to the workplaces has contributed to the opening up of the domestic work sector to migrants. In our experience with labor and criminal assaults done to migrants, women employers are as equally capable perpetrators as with their male counterparts. Thus, when we talk about women's issues for migrants, we are primarily talking about the issues of being a worker abroad.

Though this is not to say that building organizations of women migrants is not important. It is an integral part of the whole migrant worker's movement. This is because we cannot deny that women themselves also have issues that need to be addressed as women.

Even abroad, the feudal and colonial view of women still persists. In the cultural and social arena, the view on women, their historical and present role in societal development, remains backward. They treat women in low regard and they are very much discriminated in factories and offices. What persists in their home country still persists in their host country.

For women migrants, we can conduct women's encounter, cultural workshops, women's seminar and specific activities to highlight the issues of the women sector. Education work among women is very important so that they can realize their place in society and they can themselves, put into proper perspective their situation as a migrant and as a woman. The International Women's Day is also a very important day for celebration for migrant's women. It is our experience that these women activities help a lot in bringing out the views and ideas of women and has transformed women migrant workers from meek and submissive workers to workers who know and will fight for their rights as a woman and as a migrant.

The situation of women migrant in the host countries cannot be addressed fully without addressing the women's issues at the home front. Women are usually blamed for family breakups because they work abroad. Women migrants are also usually blamed for their children's anti-social activities. Women are forced to work abroad because the situation of women in their home country leaves a lot to be desired.

While the migrant's issues are integral to national issues, women migrant issues are also very much a part of the prevailing condition of women in the home front.

The issues of women and of migrant workers are integral to building the migrant's movement. Though they have specific fields and characteristics of their own, we just need to learn their concrete situation so that we can effectively combine our efforts on each respective issues.

For our objectives are same. To fight for the rights and well-being of workers, as migrants and as women. To fight for a society where the women are free and the people are not anymore forced to experience the travails of working abroad just to survive.

end

# WOMEN WORKERS AND TRADE UNIONS

**Nanette Tampico**

**GABRIELA-National Capital Region I Philippines**

*Tripartite Conference on Migrant Women Workers Rights  
November 11 to 14 2001  
Manila, Philippines*

We are pleased to be invited to participate in this Tripartite Conference. In the coming days, we hope to learn from your experiences so that we may apply some of your lessons to our daily organizing work. We also look forward to sharing our experiences in the Philippine context.

This morning, I have been asked to present our experience in organizing women workers and the challenges it poses.

My presentation is in three parts. First, I will discuss how we organize women workers, second I will elaborate the effects of globalization on this sector, and lastly, I will outline our response to these challenges.

## **Organizing women workers**

The women workers movement recognizes that the basic organization of women workers is the union, wherein they defend and advance their class interests and gender issues. The stress is to build a genuine and militant trade union at the workplace, where women workers' concerns and issues are also the union's concerns.

Trade unions must respond to all issues confronting the working class. The recent crisis brought about by globalization has worsened the displacement, commodification and modern day slavery of women. Retrenchments and joblessness increased. In the Philippines, the unemployment rate for women went up to 15% in April 1998. Those employed have to contend with labor flexibilization schemes that squeeze out every sweat from their bodies through forced overtime, high quota, piece rate system, multiskilling and other similar practices.

Since there is still a big part of the Filipino workforce that is still unorganized in unions, especially in women worker formations, organizing is stressed in industries where women workers are dominant. These industries are: garment and textile, semiconductor, retail/department stores, and food processing.

Organizing varies depending on the conditions of the workplace. Where there are no unions or if the dominant unions are yellow or independent, the primary stress is to either organize a

union or turn the union into becoming a genuine trade union. Issues particular to women workers are brought up in the context of organizing a genuine trade union at the workplace. This does not mean, however, that women issues play second fiddle to the organizing of the union. It comes side by side with issues concerning the workers.

Where genuine trade unions are already in place, the organizing stress is in the building and consolidating of the women committees. The women committee, bureau or department has the primary task of drafting plans and programs that would respond to the particular needs and conditions of women workers. This plan and program must be in consonance with the overall plan of the union at the local, federation, regional and national levels.

It is also the task of women committees to popularize and implement women orientation throughout the organization. This is done through the implementation of *Kursong Kababaihan sa Manggagawa* (Course on Women Workers). This course contains the following:

- Particular situation of women workers;
- History of women's oppression;
- Basic social problems;
- The demands and agenda of women workers; and
- The organization and organizing of women workers

This course is offered not only to women workers, but to male trade unionists as well.

### **Organizing women workers and Globalization**

Globalization in factories and the workplace translates into labor flexibilization schemes. Because of globalization, the need for organizers to explore various ways in encouraging women workers to join or participate in union organizing is great.

Labor flexibilization in the workplace means additional workloads, no job security and different forms of mental and physical harassment for women. Given their traditional roles in society, such as maintaining the family and making ends meet as part of the social orientation for women, organizing women workers poses many challenges.

At present, many companies resort to labor flexibilization as a form of union-busting. Companies mostly garments, textiles and electronics, whose workforce are mainly women (90%), are quite notorious for such schemes. In export processing zones (EPZs), subcontracting is rampant. Even as it boasts the advantage of EPZs calling them "vehicles of globalization", the International Labor Organization (ILO), in its most recent report, has been forced to admit that these zones are characterized by "very low wages, poor working conditions, and underdeveloped labor relations systems (euphemisms for non-recognition of unions/workers' rights)". To put it more bluntly, the motor of globalization is all of these features that are brazenly violative of the country's labor code. And government, with all its incentives for companies in EPZS, has aided them to no end.

These conditions challenge the worker's movement into being creative in encouraging women to participate and take action against the threats of globalization to their livelihood and their right to organize. Since the union is the basic organization that will fight for their rights to a living wage, job security and human rights, it is all the more imperative that workers form organizations that will address these issues.

### **Building international solidarity**

It is our urgent task to build a broad solidarity of women from all workers of society based on common concerns. Let us continue to maximize local, regional and international venues for advocacy of women's issues and struggles and realize concrete gains in this advocacy, especially for the women at the grassroots.

Let us all the more strive to build and develop a network that will be the venue where we may continue to exchange experiences and formulate strategies that will strengthen our solidarity and commitment to fight against our common enemy, imperialism.

Let us build a mass-based organization of women at the local level. This organization will carry the aspirations of women workers and peasants who are most affected by the ravages of imperialism. I speak of a movement that is rooted in the analysis that the conditions of women, though distinct and particular, cannot be separated from the economic, political and cultural realities of a society. It is a movement integral to the struggles for national liberation, against imperialism and for genuine social transformation.

end

## REALITY OF MIGRANT WOMEN WORKERS IN KOREA

### The Association for Foreign Workers' Human Rights in Pusan

#### Overview: Past and Present Situation on Migrant Working in Korea

Korea, which is one of the representatives of worker export country, has received migrant workers from Asia countries in order to solve the lack of labor force since 1991 by name of 'Alien Industrial Trainee Plan (AITP)'. There are about 310,000 migrant workers officially and about 400,000 if informal workers are included. As the 'Employment Permit System' was not implemented, even if it was proposed by the Korean government for granting ordinary legal status as workers to immigrants, many migrant workers' human rights are being violated as the government is implementing the trainee system.

Before observing the general situation of all migrant workers in Korea, let's have some understanding of the situation of migrant women workers in Korea.

**Table I. Run-down of migrant workers number in Korea**

Total	Legal Stayers				Undocumented Workers
	Sum	Legal workers		Industrial Trainee	
		Professionals	Post trainees	KFSB trainees / TUJVs	
311,544 (100.0)	122,549 (39.3)	15,634 (5.0)	2,068 (0.6)	104,847 (33.6)	188,995 (60.6)

(Source: Ministry of Justice) January, 2001/ (Unit: person, %)

#### Present situation on migrant women workers in Korea

There are about 34.5% women of all migrant workers who stay in Korea. In case of Asian women workers, they occupy 38.9% which is more than women workers' portion of all. They come to Korea mainly from China (45.6% of all Chinese migrant workers), Mongolia (43.3%), Thailand (36.4%), Philippines (34.0%), Vietnam (33.0%), and Indonesia (18.8%).

It is divided into 4 sectors according to their working type of industry which migrant women work in: the "manufacturing industry", "Sex industry", "Service industry" and "English school".

The number of manufacturing industry women workers almost come from South East Asia and in case of sex industry, come from the Philippines and Russia. Korean-Chinese women occupy the service industry.

First, we will explain about the problem of women workers who work at the manufacturing industry. Second, we also explain about the sex industry migrant women workers worth taking seriously.

### **Migrant Women Workers in Manufacturing Industry**

Regard on migrant women workers in manufacturing industry according to the their nationalities, highest number is Chinese, especially Korean-Chinese (Chosunjoks) (57,343 people). The next is Philippine women (7,780), Vietnamese (6,078), Mongolian (5,878) and Thailand (5,442).

The migrant women workers in manufacturing industry are not guaranteed legal status as workers, but are partly protected by the Korean Labor Standard Law<sup>1</sup> under the regulation of the Ministry of Labor since 1995. Therefore, the migrant women's health and protection is not considered at all.

According to the Korean Labor Standard Law, it has regulated protection of women workers, but it is the reality that the law does not protect migrant women workers.

The followings are the articles for protecting women workers of the Labor Standard Law.

Table 2 : Number of each nationality migrant workers

<Source: MOS "Statistics of MOS", February 23, 2001 >

Section Nationality	Total	Sum		Professionals		Industrial Trainees		Undocumented	
		Male	Female	M	F	M	F	M	F
China	125,706	68,363	57,343	930	491	16,378	12,282	51,055	44,570
Philippines	22,888	15,108	7,780	1,112	1,388	5,689	1,809	8,307	4,583
Indonesia	18,963	15,392	3,571	397	102	12,377	2,896	2,618	573
Vietnam	18,426	12,348	6,078	295	175	6,493	3,677	5,560	2,226

<sup>1</sup> Guide on the protection and management of foreign industrial trainees (Enactment 2.14.1995, The establishment regulation of the ministry of labor No. 258), Article 8 (the protection of trainee) A. Trainee should be protected about each clause in accordance with basic legislation of the Labor Standard Law, Minimum Wage Law, Industrial Health and Safety Law, Industrial Accident Compensation Insurance Law and Medical Insurance Law. 1. The prohibition of violence and compulsory working; 2. Fixed, direct payment in cash and liquidation of money and other valuables; 3. Training time., rest day off, overtime-night working, day-off training; 4. The guarantee of minimum wage standard; 5. Insurance of industrial health and safety; 6. The benefit of industrial accident compensation insurance and medical insurance B. As to the guarantee of minimum wage standard of training allowance about trainee, the period of the first 3 months is regarded as training use period.

Bangladesh	16,345	16,027	318	185	0	1,666	19	14,176	299
Thailand	14,938	9,496	5,442	46	26	11,915	502	7,535	4,914
Mongolia	13,564	7,686	5,878	47	17	363	49	7,276	5,812
Others	54,676	42,599	12,077	8,119	5,733	9,989	1,344	24,491	5,000
Total	285,506	187,019	98,487	11,131	7,932	54,870	22,578	121,018	67,977
		285,506(100%)		19,063(6.67%)		77,448(27.12%)		188,995(66.19%)	

#### **Article 68 (Restriction on Night Work and Holiday Work)**

(1) When an employer intends to have a female aged 18 or older work from 10 P.M to 6 AM and on holiday, the employer shall obtain the consent of the female concerned.

#### **Article 69 (Overtime Work)**

An employer shall not have, a female with less than one year after childbirth, work overtime exceeding 2 hours per day, 6 hours per week, and 150 hours per year, even if provided for in a collective agreement.

#### **Article 71 (Menstruation Leave)**

An employer shall allow a female worker one day's menstruation leave with pay per month.

##### **□ Long-hour labor**

Most of migrant women workers work the simple and long-hour work such as the textile, dress making and marine product company. Particularly, in case of the textile company, women workers are demanded to work around 16 hours and even holidays. Because many textile companies are operated for 24 hours and migrant workers should work there in two or three shifts.

##### **□ Detained work**

Many trainee companies try to control the calling phones, receiving letters, visiting other place and shopping of their migrant employees under the pretext to prevent walking out their company. Even some companies make their employees work with closing the door of outside. Most of them are the Trainees Under Joint Venture (TUJVs) and migrant women workers. We estimate there are numerous other cases.

##### **\* Case**

D company in Busan city was hiring 12 trainees importing from their joint venture company in China. The company threatened the trainees to confiscate their house in China if they leave their company and compelled them to make a contract.

They had to be together with their co-worker whenever going out and it was their responsibility if one of the trainees left from the company. The company also locked the 7th floor trainees' dormitory door from outside.

#### ❑ **Sexual harassment inside workplace**

Sexual Harassment Prevention Law has been implemented since 2000. But most of migrant women workers don't know about the existence of such a law. Migrant women workers who have such a problem are in trouble physically and mentally because they feel difficult to communicate with others and also difficult to find out the solution themselves.

We estimate that kind of cases happen frequently. There are many cases that most of women workers can't inform the truth to others but they only leave their workplace.

##### **\* Case**

Grace from the Philippines working at a B company in Yangsan City was afraid with her boss whenever he comes to her dormitory, drunk at midnight. Because he often got closer to her breast on her backside during working time. When a counselor at a migrant support organization contacted with the owner, he was angry with the counselor "How does she do like that. I treated her kindly because she was obedient and pretty." Even though the employer promised not to touch her again, Grace couldn't help stopping the work in the middle of the contracted period.

#### ❑ **Health and Medical services (pregnancy etc.)**

In case of trainees, they are entitled to get periodic medical checkups but there are almost no companies that allow trainees to get the checkups. Undocumented workers are excluded from systemic medical services entirely.

In case of female trainee's pregnancy, a pregnant woman should go back to her country as soon as her company notices the matter. That is why many women workers take a operation of artificial abortion. Even if a pregnant woman take a operation of artificial abortion, she must work without taking a rest enough. In this case, women workers' health will get damage seriously.

#### **Sex industrial migrant women workers**

Since late 1990's when foreign entertainers such as dancers or singers were allowed to work in Korea, migrant women workers have been increasing rapidly by every year. They enter to Korea with entertainer status (E6 visa). Especially the reason of increasing immigrants' number is that building of the agency producing entertainer has been simplified office procedure since 1997.

#### ❑ **Situations**

Since late 1990's when foreign entertainers such as dancers or singers were allowed to work in

Korea, migrant women workers have been increasing rapidly by every year. Migrant workers at the bars have two categories; one is dancer in night clubs who entered with entertainment visas, and the other is undocumented workers possessing tourism visas. As of 1999, totally 4,486 workers, increased by 113.1 % from the previous year, are working at the Korean clubs with entertainment (E6)<sup>2</sup> visas.

Among 998 foreigners working with entertainment visas as of end of 1999, Russian women occupied the most portion (421 persons, 52.4%), and the following was Filipinos (233, 29.0%). Russian women staying with short-term visas (C3)<sup>3</sup> are 1,224 (native Russians-1,036/Korean Russians-188). And classified by ages, 680 are 21 – 30 years old, 33.4% of total Russians, and ages of 11-20 years old are followed with 401 people (19.7%).

**Table 3 : E6 stayers' sexual & national statistic in end of 1999**

Nationality	Male	Female	Total
Total	195 (persons)	803	998
Asia	121	342	463
Philippine	105	233 (29.0%)	338
Europe	52	452	504
Russia	22	421 (52.3)	443

□ **Russian women migrant workers**

Due to Russian economic recession currently, many Russian women are working out of their home. In Russia generally women's salary is around 100 - 200\$, but they can earn more money even as illegal situation or prostitution in Korea more than 800\$ in a month. So they decided to come to Korea. Particularly, the number of Russian women is rapidly increasing these days who enter Pusan from Vladivostok and Havaropsk, relatively near cities to Korea. Mostly they are working at nightclubs as dancers, and are forced to enter prostitution with entertainment visas

<sup>2</sup> Arts and entertainment (E6): this visa is available to foreigners who, for the good of profit making, wish to engaged in art activities such as music, art, literature and so on. (quoted from foreigners' stay status, guide of Immigration Control Law).

<sup>3</sup> Short-term visitors: this category applies to foreigners who visit Korea for pleasure, transfer, medical treatment, relative-visiting, goodwill match, events, conference, cultural art, training, religious ceremony, academic data - gathering, and for other purposes similar to the above during the short term period of time. However, profitmaking activities are excluded. Foreigners who have this status can be allowed to stay up to 90 days.( quoted from foreigners' stay status, guide of Immigration Control Law).

for six months or tourist visas.

## Research upon Russian women in Pusan

**Table 4 : Immigrants with art and entertainment visas (1994 -1999)**

Year	1994	1995	1996	1997	1998	1999
Total of E6 visa visitors	649(persons)	1009	1550	2211	2150	4,486

**Table 5: Temporarily staying Russian women classified by ages**

Nationality	Total	0-10	11-20	21-30	31-40	41-50	51-60	Over 61
Russian	1,836	72	393	634	199	252	116	170
Korean-Russian	201	7	8	46	35	61	22	22
Total	2,037	79	401	680	234	313	138	192

Source: Statistics book published by the Ministry of Justice

### 1. Pusan area

As of August 2000, Russian women working at nightclubs with E6 visas are about 100, and Russian women working at entertainment sites in Texas Street with C3 visas are around 350. According to the Pusan Immigration Office, totally 50 Russian women were deported from January to August 2000. 35 (75 %) of them were due to illegal staying, and other 15 were due to drug smuggling and prostitution.

### 2. Overview of Texas Street

Texas Street, foreigners only district in Pusan is located in Cboryang-dong has been a Chinese village since a long time ago; still there are Chinese schools, Chinese churches, and Chinese newspaper here, and the Chinese Consulate is nearby. Located on the opposite side of Pusan Station, this street with many passers-by has gotten the name of "Texas Street" since 1950 when US soldiers stationed in Pusan during the Korean War. As many battle ships anchored in Pusan port, so many US soldiers' only clubs opened here, and Pusan local government designated here as foreigners only district. The clubs have declined after the Korean war (1950-1953). The decreased number of clubs met boom again in 1990's when Korea-Russian trade was picked up. As more Russian merchants rushed to Pusan port, more and more

entertainment sites in Texas Street changed its customers to Russians; the street came to be a Russian street in the late 1990's. Besides, foreign seaman who landed from Pusan port, and migrant workers in Pusan are also frequently visiting here; many black businesses such as illegal foreign currency exchange and arranging smuggling to Japan are taking place here.

### **3. Analysis of entertainment sites**

We divide Texas Street into five blocks.

#### **❖ A Block**

15 pubs and entertainment shops, 7 stores selling clothes and shoes, 3 restaurants, 4 accommodations, and 1 foreign exchange office.

#### **❖ B Block**

14 pubs and entertainment shops, 11 stores, 6 restaurants, and 3 accommodations

#### **❖ C Block**

7 pubs and entertainment shops, 11 stores, 6 restaurants, 2 accommodations, and 1 foreign exchange office

#### **❖ D Block**

4 entertainment shops, 8 stores, 1 restaurant, 2 accommodations, 1 Chinese school, and 1 Chinese church

#### **❖ E Block**

13 entertainment shops (4 foreigner only clubs included), 26 stores, 6 restaurants, and 19 accommodations

In the Blocks A-E, there are 53 entertainment shops, 63 stores, 22 restaurants, 30 accommodations, and 2 foreign exchange offices. 90% of restaurants in this street are run by Chinese.

### **4. Situations of Russian women**

#### *a. Entrance and stay*

90% of Russian women in this street entered with tourism visas (C3), and 50% of them are overstaying, and other 50% repeatedly depart and enter again. They spend \$600 in average for air bill and visa fee, some of them go to Bangkok for reissuing visas.

#### *b. Employment*

Even though working is not allowed with C3 visa, it is connived in Texas Street. Each pub in Texas Street has 3-5 Russian women working as bar girls, and of them, older women are attracting visitors out of shops. Each foreigners only club has generally 5-7 Russian women, average age 18-25. Average age of hired as storekeepers are 35--45, 2-3 hired per each store. Particularly, the stores hire many Russian Koreans because they are able to speak Korean.

#### *c. Working conditions (Club)*

Working from 6pm to 5am, and receiving \$25 per day (\$750 per month). Profit from selling juice and cocktail ordered by the customers go to shop owners and serving girls by 60% to 40%. Regular holiday is not stipulated, and they have day-off once a month.

*d. Food and accommodations*

They prepare foods; generally take foods at restaurants around the stores. They generally share stay inns in the district, sharing a room with two persons, and the Russians pay the bill.

*e. Crackdown*

Totally 50 Russian women were deported by Busan Immigration Office from January to August 2000. A strong crackdown took place by the police in May and June, but it was not for checking illegal staying foreigners but to investigate drug smuggling.

**\* Case**

Angela, 26 years old, has deep blue eyes and from Vladivostok in Russia has been working at a club since right after coming to Korea in November 1997 with 3 month tourist visa. She earns \$25 per day for working 7pm to 5am. She and her two friends were arrested by the immigration office as someone else in neighborhood reported them. They were detained more two weeks in charge of prostitution and deported to Russia. But she couldn't find any jobs in Russia and came to Korea with a forged passport with a different person's name, because Korean government doesn't allow for the person to enter who had stayed illegally. And now she overstays again.

**5. Problems Faced**

*a. Language problem*

They are isolated from information because generally they don't speak English and Korean. They find it hard to ask for assistance from outside of clubs because of language barrier.

*b. Disadvantage of status*

As 90% of them possess visas that prohibit from getting jobs, they are working illegally and 50% of them are overstaying, they are not able to act positively even if their rights are violated.

*c. shop owners' association*

Foreign serving girls in Texas Street can't move to other clubs because the owners of clubs have their association. The clubs don't recruit the workers in blacklist, and wage level is also similar as they set minimum level of wages.

*d. Medical matter*

Because they are not formally hired, periodical medical checkup is not obliged, no medical service is offered to them if they are ill, and no VD and AIDS test is done on them.

**6. Russian women working at nightclubs in Busan area**

*a. Night clubs hiring Russian women in Busan*

Las Vegas in Lotte Hotel: 19-20

Mammoth Night Club in Commodore Hotel: 13

Savana Night Club in Tokyo Hotel: 16

Pan-Korea Night Club: 14

Kayasong Night Club: 12

New World Night Club: 14

Yuna NightClub: 12

*Total 101 dancers working at 7 nightclubs*

*b. Entrance and stay*

Russian dancers in nightclubs in Busan come to Korea with entertainment visas. Agents in Russia firstly recruit them, and Korean correspondent agents send and manage them. The entertainment visa expires within 6 months, extended three times, and 2 years stay is available maximum. There are two agents of 'Euro-Asia' and 'Elite', and the agents manage 100 Russian women.

*c. Working conditions*

: The nightclubs, but being members of agents do not directly hire Russian women, they receive wages from agent for working at nightclubs.

: Their basic salary is US\$400 per month. They receive 3,000 won per one cup of juice ordered by customers.

: They perform dances from 7pm to 2-3 am following respective schedules.

: If there are problems of marriage or pregnancy, the woman should leave Korea, all the amount of entrance, arrangement fee, and department are paid by the woman.

**\* Case**

**Dina, 24 years old - Dina had applied to come to Korea as dancer seeing the advertisement of employing in Havaropsk in Russia. Since arriving in Korea in November 1999, she had worked at a nightclub in Kumi for three months, and then, worked at a nightclub in Kimhae with other seven dancers. As she didn't follow her managers' order to serve a customer after working (offering more service for the customer after finishing her regular work), the manager didn't give her a job and salary either. Dina wanted to go back to Russia and demanded that her passport and air ticket be given back to her, but the agent refused.**

*d. problems faced*

: language problem - They are out of information because they mostly don't speak Korean and English. If there is a problem in the club, they are not able to seek assistance from outside because of language barrier.

: In the process of managing them, agents violate human rights of them: confiscate passports,

and restrict their going out. Like Dina, the managers openly ask them to go into prostitution. A number of Russian women do prostitution because that makes much more money than their salaries.

: Charge for prostitution is 200,000 won in average; it goes to manager and the girl by 5:5 or 6:4. It is assumed that sometimes the charge for forcible prostitution is not paid to the girls.

## **7. Conclusion**

This field survey means a fundamental material figuring out situations of Russian women in sex industrial factor in Busan. The mostly difficult problem on the process of research was language barrier. As most of Russian women couldn't speak English and Korean, and Korean researchers couldn't speak Russian, conversation with them was impossible without help of translators. However, many Russian women and Korean Russian women helped us a lot. As this result is yielded from a hard process, I hope we ought to think over the status and conditions of Russians again, and hope to discuss them more on the aspects of general women's affair, and migrant workers.

I think we need more in depth research on them; not only their lives in Korea but also the reason that they have to come to Korea suffering a lot of ethical denouncement, and the changed lives after going back home.

I think we are able to achieve the goals by assistance and counseling to solve their problems.

## **EXPLOITED INDONESIAN MIGRANT WORKERS**

***Recky Supit P.***

IMC, Manila, 6 November 2001

In Indonesia, there are some reasons to become a migrant worker. From one side, there are many opportunities to get a larger wage than you would at home and to travel. Another reason has to do with the present weak economy the country is facing. This is understandable, though it may not legitimate the cause, since it is the task of the Indonesian government to create work. At present days the unemployed numbers reach the amount of 38 million, while there are about 10% addition on yearly base. In early days the geography and infrastructure in Indonesia encouraged people to stay in their villages and work. There were farming jobs, gardening, and other types of local works. The yields from this labour was enough to meet one's daily needs, which is much different than the conditions now. Land is limited and living conditions have changed.

However, regardless of the reasons a person becomes a migrant worker, whether it is global changes, a lack of education, or opportunities, becoming a migrant worker offers the employee a job which is able to give more than what s/he receives at home.

Unfortunately, in these times, migrant worker protection is very low and the reported cases of unfair treatment of migrant workers is growing rapidly. What is ironic is that one of the sources that is allowing the atrocities to the workers to happen is the same one that signs and ratifies the international conditions, associated with migrant workers rights.

The laws that regulate and protect migrant workers have not yet been made by the government. There are government stipulations regarding migrant workers that work against them and do not serve to protect. If the government really wants to help migrant workers it must work hard to ensure protection inside and outside its own country.

One large example of how the government must work inside the country concerns the private placement agencies. The majority of migrant workers go abroad with the assistance of private agencies that are notorious for exploiting the people they are supposed to help. It is not uncommon for migrant workers to be forced to pay various charges including ones that are not close to legitimate. Internationally, organisations that conduct that type of business are called mafia. It is unfortunate then that the government, through its actions and lack of actions, gives mafia type organisation, like this a chance to survive and thrive.

Most concerningly, out of many a migrant worker experiences, it is the agency that profits at the expense at the worker. These agencies are ruthless and are not afraid to play with the law. To avoid authorities, agents have been known to falsify passports, adding incorrect ages and contact numbers. These practices seriously disadvantage the migrant worker.

Admittedly, the government has taken some steps to guarantee the safety and protection of migrant workers. A decree was made where all migrant workers have to sign their contracts

with the private agency companies in the presence of a representative from the department of labour.

This was to ensure the validity of the contract and to let both sides know their rights and responsibilities. The decree was also helpful because it waived the travel tax and assured migrant workers were a part of the social security program. In reality this program is not working at all and the same atrocities against the worker continue. In fact it seems that the government is turning a blind eye, are uninterested in the complaints, and justify their inaction by saying the event is an anomaly.

Outside of Indonesia, the women migrant issues are incredibly complex. These problems go beyond the agents and into many more grievous matters. In reality, there is basically no protection for women migrant workers who need legal and other assistance. Many women's organisations have reported that there are no rules and regulations protecting migrant women from criminal and violent abuse. This will go on unless Indonesia gets serious about the problem.

The main problem is that migrant women really have nowhere to go if the problems occur abroad. Inevitably, they are trapped and can find themselves in the worst possible situations. In many cases women migrant workers are made false promises and end up in the sex trade with no way out.

This is quite a shameful way to treat an industry that brings in the second highest foreign revenue next to oil. Can it be that the government does not want to develop strained ties with its international partners if it supports full migrant worker rights? Migrant workers are valuable asset and they need to be protected. We cannot allow migrant workers to be ignored by their government in times they are in need.

This migrant worker phenomenon taken from an economic and political angle is similar to the struggles of workers around the world. Focus on the capitalist machine has at many times ignored the needs at the worker. By only viewing the economic results of migrant workers, the government is content with realizing very large foreign reserve gains (see tables 1 and 2). As I said, foreign exchange gains second only to the oil and gas industry.

It is ironic. Governments have great gains from migrant workers, and yet no actions are taken to protect the valuable asset. The end result is an exploited people. Exploited by the agents, exploited by their perpetrators, and exploited by their own government.

Table 1

**THE PLACEMENT OF MIGRANT WORKERS VIZ-A-VIZ FOREIGN REVENUE  
1993 – 1998**

SEX		HOST COUNTRIES		CATEGORIES		FOREIGN REVENUE (in US\$)
Male	Female	Saudi Arabia	Non Saudi Arabia	Skilled	Semi-Skilled	
440,133	1,021,103	550,218	911,018	1,136,215	325,031	4,183,979,813
(30.12%)	(69.88%)	(37.65%)	(62.35%)	(77.76%)	(22.4%)	
M + F = 1.461.236						

**NOTE: The sectors category of skilled migrant workers:**

- Plantations	= 158,994
- Mines	= 4
- Processing Industries	= 199,390
- Electricity, Gas and Water	= 1
- Constructions	= 102,920
- Hotels	= 1,808
- Transports	= 103,097
- Finance and Service Enterprises	= 305,286
- Services and Health	= 264,715

**Total of skilled migrant workers** **1,136,215**

**Total of semi-skilled migrant workers** **325,021**

**Sources:**

Directorate of Services for Migrant Workers  
Date of compiled data: 30 April 2001

Table 2

**THE PLACEMENT OF MIGRANT WORKERS VIZ-A- VIZ FOREIGN REVENUE  
1999 - 2003**

SEXES		HOST COUNTRIES		SECTOR		FOREIGN EXCHANGE (in US\$)
Male	Female	Saudi Arabia	Non Saudi Arabia	Formal	Informal	2,608,186,530*
275,033 (29.16%)	668,251 (70.84%)	275,614 (29.22%)	667,642 (70.78%)	537,817 (57.02%)	405,469 (42.98%)	
M + F = 943,286						

Notes:

The formal sectors category of migrant workers:

- Plantations	=	163,618
- Mines	=	-
- Processing Industries	=	206,646
- Electricity, Gas and Water	=	57
- Construction	=	8,216
- Hotels	=	198
- Transports	=	44,170
- Finance and Service Enterprises	=	114,910
		-----

<b>Total of skilled workers</b>		537,817
<b>Total of semi-skilled migrant workers</b>		405,469

- 
- 
- \* data of December 2002
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- source: Directorate of Services for Migrant Workers
- Date of data compiling: 30 April 2001

## **WOMEN'S AID ORGANISATION'S (WAO) Advocacy on the issue of Foreign Domestic Workers in Malaysia**

This presentation was prepared by Ivy N. Josiah and presented by Meera Samanther for the

"Women at the Intersection of Racism and Other Oppressions: A Human rights Hearing"

Organized by the Center for Women Global Leadership

for the NGO World Conference Against Racism, Durban, South Africa

WAO's services in giving support and advocacy around the issue of Foreign Domestic Workers (FDWs) began when we started sheltering foreign domestic workers primarily from Indonesia. Since 1995 we have received 35 Indonesian women, 7 Filipinas, 6 Thai women and 1 Bangladeshi woman.

Although WAO was primarily set up to shelter battered woman and their children, as we encountered more and more women who had suffered physical and sexual abuse and in some instances amounting systematic torture, it became incumbent on WAO that we take on this issue in a concerted way. This decision to expand our advocacy to include migrant women did meet with resistance within the organisation and the public, as it was seen as a waste of resources. There were some who felt that WAO's stretched resources will be better spent on Malaysian women as opposed to foreign women. Needless to say, this position was accompanied by an attitude that amounted to racism if not xenophobia. Fortunately, the majority of the WAO Collective reminded dissenting parties that WAO was set up to assist all women in crisis irrespective of nationality, creed or class.

WAO learnt very quickly that the advocacy around migrant women is not a simple issue.

In the case of Dioh, her battle with the various institutions is not unique but symptomatic of an unrelenting and unsympathetic system that serves to protect the interests of the employer first.

We will like to describe to you some of our interventions on behalf of Dioh.

First, we had the task of making sure that the police complete their investigations and bring charges against the abusive employer. For many months there was no news as to the progress of the case and after several letters and calls to the police we were told that the police were unable to locate the employer. We had to take matters into our own hands and initiate our own investigations. One night, 2 members, one intern and Dioh set out to find Dioh's former employer's house. They managed to park nearby and saw a woman come out of the house. Dioh confirmed that it was her former employer. The group then went to the neighbour's house. The neighbour recognised Dioh as he was the person who had in the first place alerted the police, he informed the WAO group that even he was a little afraid to testify as the employer's husband is a "gangster". What was more alarming was when he told us that Dioh's

former employer had managed to get a new foreign domestic worker who was also being abused.

We immediately wrote a letter to the district chief of police and it was only after this letter and several more calls that the police did charge the employer in court. It took 12 months for her case to be brought to court.

In court, Dioh's case was to be presented by a Police Prosecutor and as part of our protocol WAO had a volunteer lawyer to hold a watching brief for Dioh during the court proceedings and presumably work with the Police Prosecutor so that Dioh's interests will be fully represented. But the court proceedings was yet another obstacle as the defence lawyer was able to convince the court to postpone the hearing 6 times.

The watching brief lawyer could merely protest and reiterate the importance of a speedy hearing. Furthermore it was very disconcerting when we saw the Police Prosecutor in very friendly terms with the defence lawyer and the husband of Dioh's employer. The Police Prosecutor did not even speak with Dioh to give her any reassurances. WAO did write to the Prosecutors' office to appeal that they have a Deputy Public Prosecutor, i.e. a more senior prosecutor to handle the case on grounds that this case was of public interest but the DPP's office were not responsive to our appeal. However, WAO was relieved when the Police Prosecutor was replaced by another woman Police Prosecutor, who has been more engaged with Dioh's lawyer.

At the Labour office, if not for our watchful presence and intervention, Dioh would not have had her day in Labour court. The labour officer who was initially quite sympathetic to Dioh's plight and had agreed that Dioh should be paid her due wages for 22 months, did a 180 degrees turn. She began facilitating the needs of the employer encouraging Dioh to negotiate a settlement which was fraught with duplicity.

So, after 6 years of advocacy for the protection of foreign domestic workers, what are the lessons learnt? What are the challenges that WAO face?

## **Contracts**

WAO's initial advocacy centred around the issue of contracts and responsibility of the employer and the agents. The existing contract between the employer and agent, not the employer and FDW, emphasise only what the worker should do with absolutely no mention of the duties and responsibilities of the employer. Furthermore some agencies also had the workers sign a "surat akuan", i.e a promissory note that outlined among other conditions that she will be at all times be respectful and say good morning, good afternoon, good evening, thank you, sorry, sir/madam. She will promise not to use the telephone without prior permission, she will not steal nor lie. She will not marry any Malaysian; if she is cheated by anyone or caught by the police it will be entirely her responsibility.

We also learnt that many employers do not give the salary directly to the worker or bank it into the FDW's bank account. But to prevent the worker from running away and holding her captive open a separate bank account under the employer's name and every month she will be shown

that a sum of money was entered. To our mind this was very sophisticated form of slavery.

WAO highlighted these unfair terms and conditions to the public and relevant government agencies, i.e the Ministry of Human Resources. But unlike the Philippines which has a bi-lateral agreement, that Filipina domestic workers must all have a standard contract which outlines days of rest, mode of payment and the moral responsibility of the employer, the Indonesian domestic workers do not enjoy these basic rights.

## **Compensation**

Besides seeking redress through the criminal justice system, WAO also initiates with consent from the FDW, a civil suit - whereby compensation for physical injury is claimed. We have found that by initiating a civil suit, employers were willing to come to the negotiating table. Our volunteer lawyers have been successful in getting monetary compensation from US\$1,000 to US\$6,000 for a FDW.

There has been some criticism against this strategy because in some cases, once compensation is paid, there is an implicit understanding that the FDW will drop the criminal charges. But WAO has emphasised that this is a clear choice on the part of the FDW - and most times she preferred to receive a monetary compensation rather than going through a gruelling process of waiting for the case to be heard and have it postponed several times.

## **CRIMINAL JUSTICE SYSTEM**

### **Police**

The first agency we need to deal with is the Police. Although there were sympathetic police officers who brought women to the shelter, not all police officer were diligent in following up with the case - this could be due to lack of resources and a case overload thus making the FDW's case a low priority. We have had situations whereby the investigation officer did not immediately take the injured worker to the hospital, but only 2 weeks later when the wounds had healed. In another case 2 police officers had asked for payment from the FDW when they brought her to the shelter. She gave her precious money thinking that this was the usual practice, It has been our experience that without the persistent phone calls and letters to the authorities cases will not be brought to court.

### **Courts**

Since 1995, only 7 cases were brought to court. If the abuse had been particularly horrific and had captured the attention of the media, the case is heard quite quickly, however if the abuse was not sensational enough, WAO had to keep a close watch so that the interests of FDW were being fully represented by the Police Prosecutor. In most cases, the Police Prosecutor, was not interested in talking to the victim but only at the last minute just before going into court. And when they do interview the victim, the Police Prosecutor does not fully understand what the FDW has undergone due to a language barrier. Having a watching brief lawyer has helped as Police Prosecutors would rather deal with criminal lawyers than social workers from WAO.

Another obstacle faced is the delay tactics by the Defence - whereby cases are postponed

because of various reasons ranging from the accused being ill to being unable to obtain documents. It was WAO's belief that these delaying tactics were employed to get the FDW frustrated with the system and hopefully return to her home country without pursuing the case. However, we must also put on record that there have been 2 court cases, whereby the magistrate had been sympathetic and firm that the hearings should not be postponed because the FDW needed to return to the safety of her home country as soon as possible.

### **Immigration**

The Immigration policy in Malaysia deems that any migrant worker who has a matter pending in court against the employer, will have to apply for a special permit to enable them to stay in the country. This special pass costs US\$35 per month. Pursuant to that the Employment Restriction Exemption Order, 1972, prohibits migrant workers holding a special pass seeking redress from engaging in any gainful employment. The impact of these 2 regulations discourages migrant workers from taking any legal action.

This US\$35 fee hike is a recent change in policy, as prior to this, it only costs US\$5 to renew the special permit and in some circumstances, Immigration was willing to waive this fee. It appears that Immigration has inadvertently protected the interests of the employer who desperately wants the migrant worker to leave the country so that he does not face the consequences of charges.

### **An Immigration Raid**

WAO has had a very good relationship with Immigration officers who have been largely sympathetic to the plight of the women. In fact one of the women who is on special pass because of a pending rape charge against her employer's son, has managed to get a special permit to work with another employer. The Immigration Department possesses this discretionary power. However WAO has come under threat. In October of 2000, when WAO was handling a sensitive case whereby the FDW was planning to file a claim from the employer's father who had allegedly raped her and was the father of her daughter, it was no coincidence that an Enforcement Immigration officer with a party of 11 officers including 2 police officers chose to conduct a raid on WAO in search of this FDW in our shelter. During this raid, officers entered our premises, shouted at the staff, took photos of sleeping children and women, threatened to handcuff the Executive Director for asking too many questions, and went from room to room in search of undocumented workers and detained 4 FDWs. WAO held press conference and sent a memorandum protesting the brash actions of Immigration officers. Two woman ministers also publicly lambasted the Immigration raid on WAO. The Director General of Immigration also met with WAO and apologised in a round about manner by giving us a hearty breakfast.

We understand that the Enforcement Officer was basing his raid on an anonymous letter that suggested that we were housing undocumented workers. What was most disconcerting and suspicious was that this particular officer was very familiar with WAO and had come to the Refuge on official business before. Unofficial sources informed WAO that a threatened employer had a dirty hand in this raid. The Enforcement officer still remains in office with no apparent disciplinary action against him.

WAO has also heard from sources who do not want to go public, that we are perceived as an

NGO with Christian influences and that we actually take a cut from the monetary compensation that the FDWS receive. We believe we must be doing something right if threatened parties start inventing lies about the organisation.

### **Racism and Intolerance**

The negative perceptions of foreign workers contribute to the frequency and severity of abuse cases. Domestic workers are viewed as culturally inferior, wanton women out to seduce husbands and less than human. As such, they are not deemed deserving of the same respect and consideration given other human beings. Many Malaysians view foreign domestic workers as having a corrupting influence on Malaysian society. Thus the institutions also reflect this underlying prejudice.

Racist comments from officers ranging from "you cannot trust these women, they must have secrets; they are not educated, they have negative influence on our children, they are stupid" are said with utter conviction.

Although the picture looks bleak the Malaysian government has established the following:

- A Cabinet committee on Foreign Workers

- A Police hotline to report FDW abuse

- Speedier police investigations and charges against the perpetrators if the case attracts media attention.

- Age requirement for FDWS is at 25 years

- FDW must consent to work with employer from other religion if the FDW is Muslim.

- Immigration Department has a blacklist of employers who have abused their domestic help

But although these initiatives are a move forward, many women like Dioh are still facing multiple forms of discrimination and isolation. What is still urgently needed is the political will of both sending and receiving countries to come to the table and recognise migrant workers rights as outlined in the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

### **Dioh's Story**

This presentation was prepared by Jaclyn Kee and presented by Rozana Isa for the "Women at the Intersection of Racism and Other Oppressions: A Human Rights Hearing" organized by the Center for Women Global Leadership for the NGO World Conference Against Racism

*What I am about to present to you is the story of one of our residents. Unfortunately, she is not able to be with us today because of documentation problems. Her passport was with her employer, but he employer denied it. It is currently lost. We would like to thank Dioh for sharing her experiences with us. This is what she has to say:*

My name is Dioh binti Sharif. I am 41 years old, married with three children. Because of the economic hardship I was facing in Indonesia, I decided to go to Malaysia to earn a living. I have worked in Malaysia once before, and even though I was sad to leave my family behind; I hoped that working in Malaysia will help to relieve the poverty that my family was facing.

I left Batam on a ferry and arrived in Malaysia on 7<sup>th</sup> March 1998. The employment agency met me at the port, and took me to the office. I thought I was going to work in a restaurant like I did before, but I was told I was going to be a domestic worker, a maid.

After six months of working in Seremban, I was taken without any explanations, by my employment agency to a different state. My new employer was a Chinese lady in her 30s. She told me it was safer for her to keep my passport in the bank. I believed her and entrusted my passport to her. Nobody advised me how important it was to keep my passport with me at all times.

My day started at 5.00 am every morning. I would prepare breakfast for my employer and her 5-year-old son. After that, I would do the laundry and wash the car. My duties included cleaning the house, sweeping and mopping the floors, cleaning the windows and cooking the meals. At the same time, I would be taking care of her son. I was forbidden to use the telephone, and was only allowed out of the house to buy groceries. In addition working at her house, I was also expected to clean her other house, which she rented to some students.

In the first month, I did my work peacefully. But I was unlucky, because she became very fierce. She began to be very abusive, and screamed at me constantly. She would grab me by my blouse and shove me roughly to wherever she wanted me to be. That was also when she started slapping and hitting me with her hands. She did not care if there was food for me or not, and soon I developed gastric pains. This made her so angry that she would throw me out of the house until the pain subsided.

All this I bore quietly because I had no choice. She still has not paid me any wages despite having promised me \$92 a month. Although her husband gave me \$130 after six months of working, she borrowed \$80 from me knowing I could not say no. When I asked her about my wages, she told me she would only pay me the total sum at the end of my two-year contract.

After a year, the abuse became terrible. By now, she has stabbed me with keys, thrashed me with a cane, slapped me with her slippers, poured scalding water over me, threw chairs at me. If I forgot her instructions, she would lock me up in the toilet for hours to "repent" and to remember the tasks that she had set out for me. I realized my complete dependence on her when she abandoned me on a dark isolated road at 1 o'clock in the morning. If she did not come back for me, I thought I would never see my family again. She has even threatened me with a kitchen knife to my throat. Ya Allah, I could not believe what was happening to me. What if she loses control one day and kills me?

I have never felt so frightened and degraded in my life. There were so many times where I would just cry silently because of my desperation. I did not know anyone in Malaysia, I did not even know how to call the police. Who could help me? All I could do was cry out in pain when she physically assaulted me.

Mercifully, that was what saved me. On 7<sup>th</sup> July 2000, I was giving her son a bath. She began to whack me on the head and behind my back with a cane for apparently letting her son play with the soap. One of the neighbours heard my cries and rang the police. When I saw the

policeman at the door, I was shaking with tears of relief. "Help me. My employer has been beating me. I cannot stand working for her anymore. Please help me." That was all I could say. The policeman was very sympathetic and angry at my employer. My employer and I were driven in the police car to the police station, with her cane placed between us. After making the police report, he took me to WAO for refuge.

I was so relieved to be out of my employer's house. The social worker was very patient and understanding. At first, I could do nothing but cry because I could finally express my bewilderment over my employer's treatment to me. I did my work properly. Why did she treat me like something less than a human?

The social worker then advised me on my rights and what I could do. I believed that finally the whole thing will end, and I would see justice for all that my employer has put me through.

I was told I would be taken to the hospital for a medical check-up the next day. But each day, the policeman did not come. After waiting for three weeks, my bruises have completely disappeared. My social worker decided that we shouldn't wait anymore, and took me to the hospital herself.

After that I was told I had to wait again, this time for the Investigating Officer to open and investigate the case. Then there was an issue of a missing letter from the Investigating Officer to the Deputy Public Prosecutor. We even had to go back to my employer's house to determine if she was still living there because all the letters and summons did not reach her. It all became very confusing. By now I have been in WAO for five months.

I could see that my social worker was also getting very frustrated, and she was constantly reassuring me that she has been trying to get in touch with the relevant authorities to press the matter. I was very thankful to be at WAO. I felt completely safe and knew that everyone there had my best interest at heart. I have also made some friends at the Refuge, but it saddened me to see other Indonesian women who came and left. I was really missing my family and longed to return home to Indonesia. But how could I go home when the reason I have been away for more than two years was to bring some money home to help my family? I have nothing to show for my work but a painful experience.

Finally, my employer was charged and I had to go to court for the hearing on 26<sup>th</sup> June 2001. I have been at WAO for almost a year. I could see newspaper people there with their cameras. I truly believed that my employer will get the punishment she deserves for what she has done at last. To my disappointment, the case was postponed. My social worker told me it was because of some paper that was not given to my employer's lawyer. The next time I went to court, the same thing happened. This made me very frustrated. When I went to the court again, the case was postponed once more. The same thing happened at the Labour Court. I have, by now, faced seven postponements. Each time I hoped that it would be the last. Every time I saw my employer, I felt so small and worthless. How could she continue abusing me with this unending wait and denials? I was so angry at her I forgot myself and burst out in Court "I am not the one who cheated you, you cheated me!" The judge had to intervene. I was so embarrassed by what I had done, but I was so angry and frustrated with her lies. How can the judge not see that this woman had physically tortured me for 22 months and four days, and cheated me of my pay?

The past 13 months seemed like an eternity. Everyone has a life that goes on, but all I can think about is "Will I get my salary? Will my employer be punished for being so cruel to me? When will I be able to go home?" It has been so difficult to be strong. I even had to miss my daughter's wedding because I knew it was important for me to be here for my case. I have fasted and prayed, but now I am starting to lose faith in the system. The entire process is so slow, not punctual and full of delays. This makes me fear that there is no justice for what has happened to me. I ask you, should I give up?

end

**THE INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL  
MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES:  
STRENGTHS & LIMITATIONS, & ACTIONS UNDERTAKEN TOWARDS  
RATIFICATION**

**ASIAN MIGRANT CENTRE**

**Nov. 2001**

**1. Importance of International Instruments**

\* International instruments (e.g. conventions, declarations) with all their weaknesses and lack of immediate impact on peoples' daily lives, are crucial as they establish what is universally accepted as the protection of human rights.

\* A central concept of universal human rights is that the recognition of the dignity and equal rights of all persons is the foundation of freedom, justice and peace in the world.

\* Conventions describe obligations & responsibilities of States/Governments that ratify or accede to those instruments. Their main elements/strengths:

- provide legal basis/standard for national law
- try to hold govt. accountable
- provide broad HR framework that can help in our advocacy work
- provide the possibility of appealing to the international community if local-national channels fail

\* UN system, along with its complicated conventions, protocols, covenants, etc, is largely criticised for its failure in bringing direct benefits to affected groups; dominated by interests of a few superpowers; time-consuming/labour-intensive/require specific type of knowledge and skills of advocates. Nonetheless, the weakness of the system does not only represent the shortcomings of the structure itself, but ALSO, our limitations as advocates and activists.

\* 20 nation states must ratify the Migrants Convention before it "enters into force"; Convention will only be binding once it has "come into force".

\* Currently there are 17 Ratifications, of which the only Asian governments are Sri Lanka & Philippines; and 7 signatories, Bangladesh has signed. Other Asian governments that maybe close to signing include Indonesia and Nepal

\* The Migrants Convention is by no means a comprehensive solution to the problems of migrant women, but it can benefit our fight for migrants' rights if it is used as just *one* (among other) responses/strategies.

**2. Importance of Migrants' Convention for Advocates of Migrant Workers' Rights?**

\* Recognition on the need for the Convention emerged in the 1970s, when it was realised that migrants and migrant workers remain largely undefined in international laws and instruments.

- Refugees defined by 1951 Convention on the Status of Refugees (& 1967 Protocol)
- But at this time, no established international standards for persons displaced by war, asylum seekers and economic migrants.

\* Until the Convention comes into force, migrant workers (MWs) will remain a largely unprotected group in the international community.

\* Migrants Convention (MC) is based on the principles of the Universal Declaration of Human Rights. It specifically addresses *migrant workers* and would provide protection for MWs and members of their families world-wide. But ratification and implementation would also provide protection to most other migrants.

\* Forces the Int'l Community to accept:

a. INTERNATIONAL DEFINITION OF MW:

*"a person who has engaged in a remunerated activity in a State of which he or she is not a national"*

b. EQUALITY OF TREATMENT between women & men migrants, documented & undocumented migrants, nationals & non-nationals.

\* Recognises critical role that MWs contribute to the global economy.

\* Provides Minimum Int'l Standards:

a. Treatment, welfare & rights (legal, political, economic, civil, social & cultural) of MWs and their families

b. Obligations & responsibilities of States involved (sending, transit & host)

c. Seeks to end illegal recruitment of MWs

d. Enforces duties upon both sending & receiving countries

\* When a *State / Government* ratifies the Convention, it provides its commitment to bring national law into compliance with the above legal standards. This would provide migrants' advocates with new opportunities & "handles to grasp" to pressure their governments to provide MWs with their rights.

### **3. Migrant Workers' Human Rights As Recognised by the Convention**

- Defines different types of MWs: e.g. seasonal workers, project-tied workers, itinerant workers, project-tied workers, seafarers, self-employed workers.....

- "*human rights of migrants & members of their families*" (doc & undoc.)

a. basic freedoms

b. due process

- c. right to privacy
- d. equality *with* nationals
- e. transfer of earnings
- f. right to information
- g. right to be temporarily absent
- h. freedom of movement
- i. access to educational, vocational & social services
- j. employment contract violations
- k. family reunification

\* *"other rights of MWs"*: recognise that illegal MWs are exploited even more seriously  
 \* *Seeks to end irregular or undocumented situations (clandestine/illegal entry)*

- a. non-discrimination
- b. promotion of humane conditions
- c. provision of info
- d. institutions to address MWs
- e. remittances, tax & customs duty exemptions.

#### **4. Some Problems with the Convention**

\* DOES NOT PROVIDE FOR THE SPECIFIC RIGHTS OF MIGRANT WOMEN. i.e., *gender-neutral*

\* family reunification not a right

\* As it was drafted in 1980s, it does not address many issues:

- a. Children of mixed marriages
- b. Stateless children
- c. Social costs of migration, e.g. family separation, paternity claims

\* Some advocates claim that it does not contain enough obligations / steps for States to take.

#### **5. Problems in Ratification & Implementation**

\* Ratification is a complex & lengthy process and requires advocates to develop long-term/sustained lobbying efforts

\* Once ratified, still needs to be incorporated into national and local legislation before it becomes applicable to local contexts of MWs, e.g. Philippines experience

\* *When can benefits of Ratification actually be felt by MWs themselves???*

#### **6. Existing Actions Towards Ratification: Gains, Limitations, Lessons Learnt**

*Migrant Forum in Asia's (MFA) Work in Ratification*

- a. MFA's Regional Coordinated Actions

- \* Coordinated actions during Migrant Campaign Month  
Nov 26th (VAW Day), Dec 10 (Intl Human Rights Day) & Dec 18 (Migrants Day)
  - \* Public dialogues & consultations with governments
  - \* Public education campaign
  - \* Publication of primer, summaries & training materials
- b. Sri Lanka & ACTFORM (Action Network for Migrant Workers)
- \* Ratification has forced the government to establish the Sri Lankan Bureau for Foreign Employment; enforce pre-departure trainings & bilateral agreements w/ some receiving countries.
  - \* Bureau now consults and works together w/ NGOs & TU groups in PDOs and policy development.
  - \* Even if Bureau itself is aware of its obligations under the Convention, situation of Sri Lankan migrant women is still very bad, especially in Gulf countries; embassies in host countries are barely aware of the Convention's provisions.
  - \* Migrant workers' issues still not a priority at the national level; Sri Lankan Government still a silent advocate of the Convention and migrants' issues at international conferences and fora (e.g. WCAR)
- c. Bangladesh & WARBE (Welfare Assn. for Repatriated Bangladeshi Employees)
- \* Campaign strategy since 1998 has included holding public dialogues with government and NGOs; submitting memos; annual rallies on Dec 18
  - \* After Bangladesh signed, WARBE extended strategy to coalition-building w/ other NGOs & TUs
  - \* Also using language mentioned in Convention in its lobby for Immigration Ordinance; pushing for Ratification so that the new law will be consistent w/ Convention.
  - \* Limitations: ratification and migrant workers are not a political priority of Bangladesh Government even though it has signed.
- d. Japan & NSSMW (Natl. Network in Solidarity for MWs Rights)
- \* Ratification campaign in its introductory stage.
  - \* Ratification low priority as Japan highly reluctant to ratify; most Japanese NGOs and migrants' advocates view intl. conventions as unable to bring about benefits to migrants.
  - \* NGOs more focused on policy/procedural changes at national/local level
  - \* However, ratification campaign has increased solidarity & networking between Japanese migrants' advocates and regional/international groups; the Convention has been used to educate advocates on what are migrants' rights.
  - \* Even if government does not ratify, hope that Japanese government will respond more positively to migrants' issues
- e. Other Strategies for Ratification
- \* Reminding Governments that there is a Convention; that they have a social & moral responsibility towards MWs.
  - \* Training and building lobby capacity of MFA members to promote and implement the Convention.
  - \* Strengthening Regional & Intl. Coop and coordinated action; coordination with UN agencies, ILO & IOM.

- \* Using the Convention in our mass & human rights education work with MWs; getting MWs to speak out.
- \* Reviewing MC's gaps and limitations.

### ***Global Campaign for the Entry into Force of the Migrants' Rights Convention***

- \* Headed by Global Steering Committee, key member/coordinator is Migrants' Rights International, Geneva-based NGO.
- \* Target countries for 2001: Bangladesh, Chile, Ecuador, Guatemala, Guinea-Bissau, Zambia

### **7. Other Uses of the Convention (even if States have not ratified/Convention has not "entered into force")**

- \* Very existence of intl. standards on treatment of MWs is powerful information and pressure tool in natl. & especially international events against governments.
- \* During WCAR process, the Convention was crucial in providing advocates with progressive & alternative language on migration; the WCAR final documents contained over 30 paragraphs specific to migration, including specific mention of discriminatory policies against migrant workers and the particular vulnerability of migrant domestic workers.
- \* Can be used as constant reference for lobbying work at national level when explaining migrants' issues to press & public.
- \* Through lobbying the Convention:
  - builds capacity for networking for constructing mechanisms for future monitoring & promotion of Migrants' Rights.
  - opportunity for coalition-building w/ your possible allies (TUs, NGOs, media, etc..)
  - increase in public education & awareness on migrants' situation, & and their basic rights.
- \* Potential benefit/impact for migrant workers: - serves as an organising & educational tool
- confirms some form of international support for their situation/problems getting MWs involved in advocacy work, especially rallies, e.g. Hong Kong, Japan, Korea, Bangladesh, Indonesia, Sri Lanka.
- \* Ratifying the MC and promoting it and other international instruments will not solve the problems of migrant women in the near future, but it should not be ignored in our advocacy work as this will only mean that international law will continue to ignore the rights of migrant workers. Migrants' advocates need to develop more coordinated and intensive actions to ensure that the Convention is ratified, comes into force, and is implemented by their governments.

## **Main Sources**

1. *Rights of Migrant Workers: Primer on the UN Convention on the Protection of All Rights of Migrant Workers and Members of Their Families*, Philippine Migrants Rights Watch, Asian Partnership in International Migration.
2. *Achieving Dignity: Campaigners Handbook for the Migrants Rights Convention*, Migrants Rights International & Global Campaign on Migrants' Rights.
3. MFA inputs & recommendations as raised at the 6th & 7th Regional Conference on Migration
4. Asian Migrant Yearbook 1999 & 2000.

# POSITION OF MIGRANTE INTERNATIONAL

## CONCERNING THE UN CONVENTION FOR THE PROTECTION OF THE RIGHTS AND WELFARE OF MIGRANT WORKERS AND THEIR FAMILIES

13 NOVEMBER 2001

### **Introduction**

In 1990, the General Assembly of the United Nations passed the UN Convention on the Protection of all Migrant Workers and Members of Their Families. At least 20 countries must ratify the said Convention document to be able to enforce it. At present, only 10 countries ratified it and another 16 signed but with reservations.

At least, the passing by the UN General Assembly of the UN Convention pertaining to the protection of the rights of migrant workers is a strong indication that the human rights violation on migrant workers can never be ignored nor taken for granted anymore. It is so blatant that it necessitates the coming out of such international instruments by the United Nations. It sets out at least the minimum international standard on the protection of the rights of migrant workers.

But while the said instrument is a good development it has generated debates from lobbyists and NGOs in terms of handling, and how it will be best utilized in the protection, promotion and advancement of migrants' interests. It has loopholes and safety valves beneficial to the governments and big corporations like disqualifying in the definition of migrants, the trainees who are in reality doing the job of a regular worker but only receiving allowances. For one, in the provisions of the said document, it explicitly states that the national laws will prevail over the UN Convention document.

Thus, the said international instrument must not be viewed as "be all and end all" of the struggle to protect and promote the rights and well being of the migrant workers.

### **Context of Laws**

At present, laws and instruments are but concrete expressions of the dominant interests of any given social order. In every stage of the development of economic and political systems, the interests of such laws are replete with safety valves and loopholes designed to preserve the existing social order. This is so especially in this era of neo-liberalization, the imperialist super-power, its allies, tentacles and network of international institutions are the ones who dominate and control laws, conventions and policies concerning almost everything.

These laws are however constantly being challenged by peoples' struggles and mass movements seeking social reforms and justice, forcing the dominant class to adopt instruments and laws as accommodations and concessions to the ever-growing

legitimate grievances, protests and demands. These accommodations and concessions are schemes that create illusions and are based on mere rhetorics giving premium to lobbying over militant struggles that seek social transformations.

### **Our position**

The long struggle of migrant workers, even handed down to us by our migrant ancestors, along with other peoples organizations, has taught us a very important lesson in legal battles and in forwarding legislative agenda: that such struggles are inextricably linked, if not dependent on, the continuing struggle of migrants to address the root causes of forced migration.

Migrant workers can make use of these international instruments to their own advantage by exposing national laws and regulations that run contrary to the said instrument, even if the instrument is not enforceable yet.

Likewise, aims to amend or ratify any law and instrument should rely on mass and protest actions and therefore must serve in the continuing formation and strengthening of migrant organizations. Otherwise, our efforts will be trapped in a never-ending cycle of advocacy and assistance without cumulative gains that will ensure the stock of a decisive strength - the collective and decisive strength of the migrant workers -- that will reap our victory.

As a matter of tactics, we will campaign for the ratification of the UN Convention with the aim of exposing and opposing labor-exporting and labor-receiving countries that are wantonly violating the rights of migrants. Taking to account, however, that the said convention contains safety valves, loopholes and flaws contrary to the genuine interest of all migrants.

Our struggle, therefore, with regards to the UN Convention will be under the arch of addressing the root causes of forced migration. It shall then branch into a two-prong approach: (1) call for the ratification and implementation of the aforementioned UN Convention and call for issues and enabling mechanisms that are absent on the said convention and (2) make use of the campaign for the ratification of the said convention to advance the movement of migrant workers internationally.

We in Migrante International are determined to pursue this path of struggle. As a major sponsor and part of the recently concluded International Migrant Conference, we will persistently implement our unities especially in creating the International Initiative Committee that will pave the way in raising the movement of migrants, immigrants, refugees and displaced peoples in an international level.

Substantial reforms beneficial to our sector, both nationally and internationally can only be achieved through the formation of strong migrants' organizations that will create the strong mass movement of migrants.

We do this for the interest of migrants -- along with their children's' children to eradicate forced migration along with its perpetrators.

## TRIPARTITE CONFERENCE DECLARATION

**We, the participants of the Tripartite Conference for Migrant Women's Rights, organised by the Asia Pacific Forum on Women, Law & Development and Migrante International, held on the 11<sup>th</sup> -14<sup>th</sup> November 2001 in Manila, Philippines representing trade unions, women's organisations and migrants organisations from Bangladesh, Canada, Fiji, Hong Kong, Indonesia, Korea, Malaysia, Nepal, Philippines, Sri Lanka, Thailand, Taiwan, and the United States of America, commit ourselves to work together to promote and protect the rights and well being of all women migrant workers, documented and undocumented, and their families**

**Noting that the impact of neo-liberal globalisation on women migrant workers and their families exacerbates forced migration, discrimination based on race, gender and class, poverty, commodification of women, reinforcement of patriarchal stereotypes, poor working conditions, violence against women, exploitation and abuse, modern slavery, trafficking in women, mail-order brides, alienation and family breakdown. As such, we oppose neo-liberalisation globalisation.**

**We enjoin trade unions, women's organisations, and the rest of the NGO communities and peoples' organisations to campaign for women migrant's rights, support women migrant organisations, and build alliances among trade unions, migrant's organisations and women's organisations.**

**We therefore call on all States throughout the world to:**

- (a) Recognise 'Domestic Work' as formal work through the formation of appropriate legislation;**
- (b) Recognise Trainees as workers;**
- (c) Enact laws to uphold the rights of women migrant workers, and abolish laws that discriminate against them;**
- (d) Eliminate violence against women migrant workers and enact laws to uphold their reproductive rights;**
- (e) Recognise the rights of women migrant workers to form and join unions and associations;**
- (f) Create policies and programs to address the issues of women migrant workers in consultation with women migrant workers, unions, non-government organisations and peoples' organisations;**
- (g) Provide equal access to basic services, such as health care and education, for women migrant workers and their families;**
- (h) Enter into bilateral and multilateral agreements for the advancement of the rights of women migrant workers and their families;**

- (i) **Be accountable and transparent on all issues and decisions affecting women migrant workers and their families;**
- (j) **Grant equal protection under the law to undocumented women migrant workers;**
- (k) **Ratify and implement the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families;**
- (l) **Not to use remittances and revenues from migrant workers for debt servicing and purchase of arms but for national industrialisation that would generate jobs;**

SIGNED on this 14th day of November 2001 in Manila, Philippines.

	<b>NAME</b>	<b>Country</b>	<b>Organisation</b>
1.	Aegile Fernandez	Malaysia	Tenaganita
2.	Arunee Srito	Thailand	Alliance for the Advancement of Women in Thailand
3.	Bimal Biswas	Bangladesh	Bangladesh Agricultural Labour Union
4.	Chura Bahadur Thapa	<i>Hong Kong</i>	Far Ear Overseas Nepalese Association (FEONA)
5.	Concepcion Bragas-Regalado	<i>Hong Kong</i>	Asia Pacific Mission for Migrant Filipinos
6.	Dadang Muchtar	Indonesia	Solidaritas Buruh Migran Karawang
7.	Manuweera Dharmasena	<i>Hong Kong</i>	Association of Sri Lankans
8.	Eni Lestari Andayani Adi	<i>Hong Kong</i>	Association of Indonesian Migrant Workers in Hong Kong
9.	Enizahura Abdul Aziz	Malaysia	Women's Aid Organisation
10.	Huang Qio-xing	Taiwan	Labour Rights Association
11.	Huang Su-en	Taiwan	Labour Rights Association
12.	Joy de Guzman	Philippine	Migrante International
13.	Kao Wei Kai	Taiwan	Labour Rights Association
14.	Laisa Bale	Fiji	Fiji Women's Rights Movement

15.	Manuel Sarmiento	Philippine	Kilusang Mayo Uno (KMU)
16.	Minjung Kim	Korea	Association of Foreign Workers in Pusan
17.	Munawaroh	Indonesia	Independent Labour Union Federation
18.	Nanette Miranda	Philippine	GABRIELA-National Capital Region
19.	Navin Singh	Nepal	Sancharika Samuha
20.	Nurul Qoiriah	Hong Kong	Asia Migrant Centre
21.	Pranom Somwong	Thailand	Migrant Action Program
22.	Recky Pandeiroot	Indonesia	Indonesian Trade Union Federation 2000
23.	Sajida Ally	Hong Kong	Asia Migrant Centre
24.	Shook Fong Lee	Malaysia	Women's Aid Organisation
25.	Tati Krisnawaty	Indonesia	Solidaritas Perempuan
26.	Victoria C. Cabanatac	<i>Hong Kong</i>	United Filipinos in Hong Kong
27.	Victor Wong	Canada	Vancouver Association of Chinese Canadians
28.	German E. Angent	Indonesia	Indonesian Students Christian Movement
29.	<b>Ligaya Lindio-McGovern</b>	U. S. A.	Associate Professor - Researcher
30.	<b>Mary Jane Real</b>	Thailand	Asia Pacific Forum On Women, Law & Development
31.	<b>Vani Dulaki Ravula</b>	Thailand	Asia Pacific Forum On Women, Law & Development
32.	<b>Cara Dilts</b>	Thailand	Asia Pacific Forum On Women, Law & Development
33.	<b>Maita Santiago</b>	Philippines	Migrante International
34.	<b>Esther Bangcawayan</b>	Philippines	Migrante International



## Asia Pacific Forum on Women, Law and Development (APWLD)

It is an independent, non-government,  
non-profit organization.

It is committed to enabling women  
to use law as an instrument  
of social change

and promoting women's human rights  
for equality, justice and development.

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