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Labour Migration and the Plight of Migrants in the Asia-Pacific

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Introduction

Labour migrants in the Asia-Pacific region are facing numerous challenges pertaining to the protection and promotion of their rights and welfare. These challenges are compounded by the fact that much of labour migration in the region falls outside of existing official and regular mechanisms. Further complicating these challenges is the involvement of a complex and myriad network of private (and oftentimes informal) recruitment entities and brokers. This essay presents some of the key observations on the circumstances of migrant workers specific to their rights and welfare. It also briefly enumerates some of the challenges that need to be confronted to address the plight of migrants in the Asia-Pacific region.

How significant is labour migration? The International Organization for Migration (IOM) estimates that a third of the world's international migrants (around 82 million) live in the Asia-Pacific region. The International Labour Organization (ILO) states that migration for employment is the dominant form of migration in the region. It is important to note that migration has transformed many countries in the world, whether sending or receiving.

Migration brings about a great deal of cultural diversity. No country in the world today can say they have not benefitted from the cultural and other material contributions of migrants be it fashion, healthcare, and labour. Whether one talks about immigration or labour migration, many countries that both send and receive migrants are better off multiculturally and economically than before migration. Not only is the region enriched by migration culturally but also financially through the remittance incomes of millions of these migrants. Such migrant incomes make migration a multi-billion-dollar business.

What drives labour migration? The migration situation in the Pacific rim area has not only increased and intensified but has also diversified. Labour migration is a function of the development disparities found between different societies and economies. Migration for employment is fuelled largely by the economic disparities between sending and receiving areas most notably in terms of the wages of workers.

The region is largely made up of migration corridors between net labour-sending and net labour-receiving countries. What we find in the region is that net sending countries are usually countries with high population growth rates (relatively young labour force), economically poor, and in some cases, unstable socio-politically, while net receiving countries are typically those with low population growth rates (an ageing population), financially rich, and relatively stable socio-politically. Many of these flows are characterized by the movement of young women. The United Nations estimates that half of the international migrants in the Asia-Pacific region are women. For certain countries like the Philippines and Indonesia, that percentage can be much higher. In East Asia, the major labour-receiving countries are Japan, South Korea, Taiwan, Singapore, Thailand, and Malaysia while the key labour-sending or source areas are Indonesia, Cambodia, Laos, Myanmar, Vietnam, Philippines.

The Plight of Migrants

Making a distinction between sending and receiving countries can help us better understand the conditions under which migrants live and work and the rights and benefits that they enjoy in different countries – not all rights are created and implemented equally and consistently. In Southeast Asia, at least, we find that labour migration has been taking place since the 19th century and even before that. This has implications for modern-day labour migrant flows since flows have been taking place long before the states in these countries were established.

Modern migration modalities have their respective peculiarities. In the cases of North America (US and Canada) as well as Western Europe, we find more immigrant flows coming from Asia. But in West Asia (Middle East), much of the migration that takes place is by temporary labour migrants, mostly from South and Southeast Asia, and that the migrants cannot become permanent residents (much less citizens). Nor can many bring their families with them.

In many parts of Southeast Asia, documented migration occurs in parallel with informal or undocumented and irregular migration. The migrants are dominated by low-skilled labor from factory workers to domestic workers and pretty much everything in between. These flows also include the trafficking in human beings including children. The IOM estimates that around 60% of the world's human trafficking victims are in the Asia-Pacific countries. The predominance of irregular low-skilled flows take place owing to a largely market forces combined with lax regulatory enforcement by governments and the operations of extensive networks of private and informal agents, recruiters, and brokers.

The conditions in which migrants live and work are such that exploitation and abuse are commonplace. Moreover, different intergovernmental reports provide scattered evidence that the living and working conditions of most migrant workers are said to be dirty, dangerous, and demeaning (3D jobs). At the same time, the outmigration of skilled labor particularly of a large number of trained and experienced healthcare professionals can also have serious implications especially in sending / source areas—most notably in terms of shortages and decline in the quality of healthcare providers.

The Challenges

In many ways, the challenges faced by migrant workers specific to upholding and promoting their rights and welfare can be rooted in the operative regulatory and commercial infrastructures. Scores of conventions and standards exist that provide adequate safeguards to migrant workers' rights when fully implemented. These include ILO conventions on forced labour, freedom of association and collective bargaining, and discrimination, among many others. Insofar as the regulatory framework in the Asia-Pacific region is concerned, countries (particularly those that receive migrant labour) have yet to harmonize their national standards with that of existing international conventions. For instance, major labour-receiving countries

like Thailand, Malaysia, and Singapore have managed to ratify only a few of what might be considered the ILO's core conventions on the rights of migrants. Adherence to international conventions and standards is at best an attempt on the part of some countries to "look good" internationally without committing the authorities beyond what they are willing to commit.

Speaking of international commitments, in cases when governments are willing to "commit" to an intergovernmental arrangement, this is usually the case for non-binding agreements. The two major criticisms, for instance, towards the 2017 ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers is its non-binding nature and its non-commitment to regularizing undocumented migration. While some see the ASEAN Consensus as a big step towards enumerating the rights of migrants in Southeast Asia, it does not compel member-states to abide by internationally accepted norms and standards pertaining to the rights of migrant workers. In any case, it is seen as the best initiative that ASEAN can offer at the moment – given its consensus-style of governance.

In many countries, private recruitment entities and labour brokers are the ones that manage the deployment and even the return of the migrants, while government agencies exercise only limited jurisdiction over their operations due to limited financial and human resources. Inspections and regulations, for instance, of these private entities, are done only in a limited fashion, making it possible for unscrupulous recruiters and brokers to escape detection and punishment.

Different countries possess different labour migration policies and programs making it difficult to synchronize and harmonize them at the regional and international levels. For instance, migrant labour issues are usually confined to a country's labour ministry, ignoring the fact that labour migration also has social and economic dimensions. At the same time, governments tend to look upon migration as a stop-gap measure leading to ad hoc bureaucratic perspectives and glossing over the long-term impacts and implications of migration. When its labour outmigration programme began in the mid-1970s, the Philippine government described it as a temporary stop-gap measure. More than four decades later, however, the same "temporary" perspective is still in place.

No discussion of the rights of migrants would be complete without mentioning the role played

by civil society organizations and other NGOs that do their best to protect and promote the rights and welfare of migrants. These NGOs provide much-needed services, resources, and representation to and for the migrants and their families who have, ironically, despite their billions of income remittances, have become voiceless in many ways. Unfortunately, migrant NGOs cannot substitute for public institutions. In certain instances, the actions and initiatives of these NGOs are seen as suspect by national authorities, making it difficult for them to perform their self-declared mandates to uphold the rights and welfare of the migrants.

Some Ways Forward

The global pandemic has further exposed and intensified the adverse conditions and vulnerabilities of migrant workers – their deplorable living and working conditions, their lack of access to health care, the abuse they suffer at the hands of employers and brokers, and the racial discrimination and xenophobia in the larger society. Migrants are typically excluded from the usual social protections and health insurance accorded nationals and other professional permanent residents. The pandemic has made these even more obvious.

Protecting and promoting the rights of migrants requires mechanisms that will address the vulnerabilities of migrants. Protecting the rights of migrants requires the institutionalization of safe, orderly, and regular migration channels. Promoting regularization can go a long way in promoting the rights of migrants. Regularizing their status (for those who are undocumented) will give them the social and political recognition and voice they deserve regardless of their nationality.

Reducing, preventing or eliminating the vulnerabilities of migrants entails policies and programs that pay attention to all the aspects of migration from recruitment to deployment, to return in both sending/source and receiving/destination areas. Education and information dissemination are important but should also be accompanied by more serious efforts at managing and regulating migration flows.

The experiences in both sending and receiving countries show a wide gap between what is the pronounced policy and the actual practice. Violations of the rights of migrants are sometimes caused by disparities between the written policy or regulation and the actual practice. One example of this is in the area of recruitment regulations. Countries employ different regulatory

mechanisms to address illegal recruitment practices and human trafficking. However, their actual enforcement is often limited due to the lack of resources or political will.

Many countries have shown a growing desire to promote safe, orderly, and humane migration. The Global Compact for Migration (GCM) is the first intergovernmentally-negotiated agreement that looks at migration from a comprehensive and holistic manner and seeks to promote common standards and norms for protecting and promoting the rights of migrants. However, many government claims are rarely backed up by action. There is a clear need for governments to go beyond and fully implement their rhetoric on the rights of migrants.

At the end of the day, no single country holds the key to protecting and promoting the rights and welfare of all migrants. There is a need for more legally binding, multilateral, multi-level, and multi-stakeholder arrangements that will facilitate dialogue and cooperation as well as engender effective and innovative approaches to promoting the rights and welfare of migrants. It is important that measures be undertaken on a mutual, multilateral, and binding basis between all stakeholders – sending and receiving countries, employers and migrants, between recruitment entities and migrants and public authorities, between governments and NGOs, etc. – that gives everyone a voice, most of all the migrants themselves.

Making migration safe is key to ensuring the security of migrants. It is important to regularize migration to be able to address the vulnerabilities and insecurities of migrants. Proper monitoring of migrant flows can lead to more evidence-based policies and programs especially in managing healthcare services. It can also lead to the recognition of the many health issues and problems facing migrants so as to develop initiatives, programs, and mechanisms to address or reduce their occurrence. Most importantly, the authorities in both sending and receiving areas need to generate, access and disseminate timely and reliable migration data to allow for more evidence-based policy-making.

Based on a presentation made at the Webinar on “Interventions from the South: Theoretical Perspectives and Pragmatic Issues of Migration, Logistics and Unequal Citizens in the Context of the Covid-19 Pandemic” organized by the International Center for Cultural Studies, National Chiao Tung University (14 January 2021)