

Welcoming the stranger - migrant workers in a globalised economy

This paper sets out the policy priorities of the Anglican Alliance for the improvement of the working and living conditions of the world's 214 million migrant workers. It presents regulation of the recruitment industry as the top priority in a five-point advocacy package that also includes action on pay, abuse, legal status and access to services. Underlying many of the pressures on migrants is the need for ratification and implementation of existing conventions and protocols. This paper draws from the global experience of Anglican churches and agencies, with a particular focus on the experience of Anglicans in Asia.

1. Background – the scale of migration

Globalisation, market demands and economic push and pull are driving the migration of people legally and illegally: 214 million people are migrants and together this population is equivalent to the population of the fifth largest country in the world. For many people migration is voluntary: the drive for higher earnings and improved lifestyles in a globalised economy. However, voluntary migration can end in exploitation, and in addition people are being trafficked within and beyond their countries of origin, being forced into risky and marginal areas of employment, including as, forced labourers, and sex workers. Generally, the biggest concentration of migrant workers is in high income countries with large infrastructure projects or service sectors and limited populations, such as Qatar where an astonishing 87 per cent of workers are estimated to be migrants, United Arab Emirates, 70 per cent, Jordan, 46 per cent, Singapore 41 per cent, and Saudi Arabia 28 per cent. Trafficking in persons from Asian countries is increasing alarmingly and for the traffickers, trade in people is sometimes more lucrative and safe than other forms of trafficking such as drug and weapons. For many people the line between migration and trafficking is blurred: what starts as voluntary migrant to seek a better life ends in the misery of sweated labour in debt to gangmasters. In addition to these migrants, there are other mobile groups of workers. These include 15.4 million refugees, most of them now living in urban areas, 27.5 million internally displaced people, and rural to urban migrants living in countries with restrictions on internal mobility.

Migrants are an economic force, producing \$440 billion a year in remittances to their home countries. But the human cost of this can be severe: many migrants end up subsisting in subhuman conditions, with no legal safeguards, and this is a major concern from the humanitarian point of view for churches, and faith-based and other humanitarian organisations.

For the Anglican Alliance, the issues and status of migrants, refugees and trafficked people is a priority: identified by Anglicans in Asia, the region of origin for many migrants and also in Europe and North America, destination countries for many migrants and trafficked people. As the Bible exhorts us to treat refugees and foreigners fairly: remembering the experience of the Egyptian exile, and noting Ps. 82:4, Ex. 22:21, Lev. 19:33, Zech. 7:9-10, Deut. 23:15. The Alliance identified five key areas of concern - recruitment, pay, abuse, status and services – to be the focus for advocacy with the Anglican Communion UN Office in New York and the Migrant and Refugee Network to make an input to the High level dialogue in UN in October, with the NGO parallel conference, and to ASEAN and IOM meetings.

2. Recruitment agencies and the exploitation of migrant workers

The global exploitation of migrant workers is well-documented in reports by the ILO and Human Rights Watch (HRW), and the Trafficking in Persons (TIP) issued by the U.S. Department of State. For many migrants, exploitation starts when they are recruited by agents: the World Justice Project estimates that 30 to 40 per cent of all migration in south east Asia occurs through unregulated

recruitment channels. At worst there is little difference between a recruitment agency and a trafficker. Recruitment agents tend to target the poorest families and offer them loans in the form of cash or food, which end up having exorbitant interest rates, and which then lead to migrant contracts in low-paid jobs. On top of this, prospective migrants are charged recruitment fees, allegedly for administration and training costs: Amnesty International reports that these fees are at least \$1,000 in most countries. They also typically ask for the first six months of the migrant's wages. Agents recruit underage workers and falsify documents for them and sometimes mislead clients about the kind of work they will be doing. They fail to provide their clients with information concerning what they should do if they face problems in their new country or workplace. If the client changes their mind before migrating, they are often forced to repay the initial loans along with any number of other processing fees. Agents may provide documentation, sometimes forged, and sometimes confiscate migrants' passports or ID cards. In some countries recruitment agencies are alleged to have close ties to government officials, and the authorities have thus been reluctant to crack down on such practices. In other countries the government of the sending country is alleged to be directly involved in the recruitment process (Amnesty International 2010).

Issues of exploitation, debt bondage, and modern-day slavery are highlighted as well in the U.S. State Department's TIP reports, published annually since 2001. They are much more focused on severe types of trafficking including recruitment, harbouring, transportation, provision, or obtaining of a person for labour or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, debt bondage, or slavery. The major consistent theme in the TIP reports is that human traffickers lure victims with false promises of a better life, lucrative jobs, and other economic opportunities and then force them to toil in exploitative industries including sweatshops, construction sites and brothels. As stated in the TIP report: "The common denominator of trafficking scenarios is the use of force, fraud, or coercion to exploit a person for profit. A victim can be subjected to labour exploitation, sexual exploitation, or both. Labour exploitation includes traditional chattel slavery, forced labour, and debt bondage."

For these reasons the Anglican Alliance is prioritising the establishment of international standards for the registration and regulation of recruitment agencies as the key measure for improvement of the position of migrants.

3. Conventions and Protocols related to migrants

Despite the plethora of conventions to protect migrant workers, ratification and enforcement is inconsistent, leaving vulnerable migrants unprotected. International migration law comprises a broad range of principles and rules belong to numerous branches of international law including human rights legislation, and humanitarian, labour, consular and maritime legislation. The International Organisation for Migration has set up the International Migration Law Unit to work to improve the scope and effectiveness of international migration law. The International Labour Organisation also has a significant role to play with its 2011 convention providing a framework for a comprehensive plan of action to improve protections for migrant workers.

Meanwhile, reflecting the growing number of migrants in its member states, ASEAN passed the Declaration on the Protection and Promotion of the Rights of Migrant Workers in 2001. Since then it has been working on three focus areas: the protection and promotion of rights of migrant workers, strengthening good governance in the recruitment process, and countering human trafficking. Its blueprint for ASEAN Socio-Cultural Community sets out improved protocols for migrants, and in particular aims to provide for the free movement of skilled labour by 2015.

While new measures, especially regulation of recruitment agencies is needed, the Anglican Alliance strongly supports the pressure for wider ratification and stronger and more consistent

implementation of existing conventions and protocols as one of the most immediate ways to improve the position of migrant workers. In addition, given the rapid increase in the number of migrants, and their role in development, the Alliance supports the mainstreaming of migration into the post 2015 global development agenda.

4. Migrant workers in Asia

Anglicans in Asia have voiced strong concerns over migration and people trafficking in and from their countries. While East Asia is a leading destination for migrant workers, South Asian countries are the source of much labour. Countries such as Japan, South Korea, Hong Kong SAR, Macau SAR and Taiwan in particular are the hosts to migrant workers from south and southeast Asia. Japan alone hosts 2.07 million migrants. In Hong Kong and Macau most of the migrant workers are found in the service sectors such as in domestic work and 99 per cent of them are women, coming from the Philippines, Indonesia and Bangladesh. By November 2010 there were 687,326 migrant workers in South Korea, most of them from the Philippines, Mongolia, Sri Lanka, Vietnam and Thailand, and mostly to be found working in the manufacturing, construction and service sectors.

Southeast Asia is a region where countries both send and receive migrants. Indonesia, Vietnam, Cambodia, Myanmar and Laos are mainly exporters of labour and Malaysia, Singapore and Brunei are hosts to millions of migrants from neighbouring countries as well as from South Asia. Thailand has a very large number nationals working overseas, and is also a destination country for Myanmar refugees and for migrant workers from Cambodia, Lao and Indonesian. According to World Bank most of the Southeast Asian migrants working in East and Southeast Asia are unskilled, mostly grouped into three major sectors: women in domestic service, men in the construction industry, and men in agriculture, fisheries and forestry.

The Anglican Cathedral in Hong Kong SAR has a strong ministry for migrant workers, which has been closely involved in international advocacy for migrants. The Cathedral also provides support for domestic workers, mostly migrants. Anglicans in Durgapur have documented the abduction of people from rural areas by traffickers, and elsewhere in South Asia there have been concerns about people trafficking around the region, and also from the region to the Middle East, where there has also been an effective Anglican advocacy on migrants issues.

5. Key concerns for migrants identified at the Anglican Alliance E and SE Asia forum

From the global Anglican experience, the Anglican Alliance has identified recruitment as the focal area for action to improve the position for migrants, with the need for global standards and regulation for recruitment agencies. The four other key concerns are:

5.1. Abuse

Concern about verbal, physical and sexual abuse of migrant workers is widespread. In a case documented by the Mission for Migrant Workers at St Johns Cathedral, a Hong Kong woman became furious because her Filipina maid got lost while walking the family dog and burned the migrant worker with a hot clothes iron. Women in particular are at risk of physical and sexual abuse. Many are confined to small working spaces and are effectively coerced into forced labour. If they face abuse from their employer, they may have no choice but to continue to work or return to their home countries. Employers use intimidation to keep their employees, threatening to call in immigration officials. Police There is a culture of impunity surrounding the mistreatment of foreign workers, especially those who lack documentation (HRW 2010 and Amnesty International 2010). Domestic workers are especially at risk of abuse as they are confined to the living space they share with their employer. Helpers for Domestic Helpers, a support service provided by St Johns Cathedral

in Hong Kong, has highlighted the need for migrant workers to get legal support to pursue complaints against their employers.

Measures to protect migrants from physical and sexual abuse:

- Proper enforcement of the rule of law to prevent physical and sexual abuse.
- Removal of visa restrictions that limit the ability of migrants to change employers.
- Establishing a legal aid service to support migrants in making complaints against employers.

5.2. Pay

Wages are often below the national minimum wage or a realistic living wage: they may be withheld completely, or subject to arbitrary deductions by employers. Migrants have difficulty in getting redress for this exploitation, as they are often excluded from wage and employment protection legislation. In a study of migrant workers in Malaysia, Amnesty International (2010) found that many employees found that their Malaysian agents and employers “immediately began to deduct the cost of their work permits from their salaries. Nearly all of these workers had already paid for their work permits in their home countries, meaning that they were paying twice for the same permits. To most workers, these extra expenses come as a surprise. A War on Want Study shows the gross disparity in earning power between migrants in south east Asia, and in the UK: a migrant worker in Cambodia has to work for an hour to earn enough for a bag of rice, in Thailand nearly 2.5 hours, in Malaysia 2.7 hours, and in the UK 20 minutes.

Measures to protect migrants against wage exploitation

- Extension of employment and wage protection to all groups of workers, including minimum wage, unfair dismissal, work breaks, maternity and parental rights, time off and holiday entitlements
- Legal barriers to prevent employers from making arbitrary deductions to wages.
- Establishing a minimum wage based on realistic living costs.
- Rights to a written contract of employment in the language spoken by the employee.

5.3. Status

Many migrant workers in East and Southeast Asia are undocumented: numbers are hard to obtain, but in some countries it is estimated that there are more illegal than legal migrants. Workers enter their destination countries in a number of ways, including on tourist visas, or false documentation provided on a temporary basis by the recruitment agencies or traffickers. Malaysia in particular has a complicated and confusing visa process, and migrants sometimes unintentionally enter the country illegally. Typically, a worker’s passport is held by their employer or recruitment agent, on the pretext that they are responsible for visa renewals and obtaining work permits. This means that migrant workers are often unaware of their legal status in their new country. Migrants may also face restrictions on changing jobs, obtaining driving licenses, internal travel, or opening bank accounts, and lack of documentation excludes them from many activities and services in their destination country. In China, 93 percent of migrants work in “informal” jobs and therefore have no fixed employment status. In some places – notably Thailand and Hong Kong SAR – migrants who leave their employers, for example after abuse, have only a few days to find a new job or they are deported. St Johns Cathedral’s Helpers for Domestic Helpers project has assisted many migrants in this situation

Measures to improve the legal status of migrant workers

- The right for migrant workers to keep their passports and visas.
- Independent visa advice services and regulation of immigration services
- Information services for migrants in their country of origin to promote awareness of visa and immigration requirements.

5.4. Access to services

Migrant workers often have limited access to legal, social and health services. In some countries, provisions are made for migrants to access these services, but there are practical obstacles preventing them from doing so, such as language, or costs. In Thailand, for example, health care is free at point of need for those 400,000 migrant workers who have managed to obtain temporary passports . However, the 600,000 to 1.2 million migrant workers who register for semi-legal status have to pay. Human Rights Watch reports that, in China, “Migrant construction workers who seek redress through mediation, arbitration or lawsuits against their employers often give up due to obstacles stemming from their lack of household registration permits or a bureaucracy overburdened by and largely insensitive to the migrant construction workers’ problem” (HRW 2008). Some migrants are reluctant to use such services for fear of deportation or incurring fines because of their lack of legal status in the country.

Measures to improve migrant workers’ access to services

- Providing access to public services for migrant workers and their children on the same basis as local residents.
- Providing interpreters and materials translated into the migrant workers’ language relating to social, legal and health services.

6. Summary

As the movement of labour continues globally, driven by global inequalities and migrant aspirations, and fuelled also by the labour recruitment industry, there is a pressing need for more effective safeguards. Full ratification and implementation of existing conventions and protocols would mark an important step forwards. However, there is also a pressing need for global regulation of the recruitment industry, and the Anglican Alliance presses the high level meeting to make this a priority for the international community.