

Facilitating Legal Labour Migration: The Role of Destination Countries

Andy Hall
Migrant Forum in Asia (MFA)
Mahidol Migration Center (MMC)

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Where I am Coming From? East and South East Asia

**Estimated 12 Million
'International
Migrants' in East and
South East Asia (IOM,
2009)**

- 'Destination Countries' include Thailand, Malaysia, Hong Kong, Korea and Taiwan
- 'Home Countries' include Myanmar, Cambodia, Vietnam, Indonesia and Philippines



International Legal Framework for Receiving Countries

- Basic Instruments of the United Nations (UDHR etc.)
- 1990 UN *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*
- International Labour Organisation
 - Preamble of ILO Constitution states that the ILO shall have the task of protection '*the interests of workers when employed in countries other than their own.*'
 - 1998: ILO adopted *Declaration on Fundamental Principles and Rights at Work* which made specific reference to the protection/promotion of the rights of migrants as of pressing importance and interest
 - 2004: *Resolution concerning a fair deal for migrant workers in a global economy*
 - *Migration for Employment Convention (Revised) 1949* (ILO C-97)
 - *Migrant Workers (Supplementary Provisions) Convention 1975* (ILO C-143)
 - 2007: *ILO Multilateral Framework on Labour Migration*
 - ILO recommendations 86 and 151

Fundamental Issues for Destination Countries (I)

- Clear role for 'migration' in national economic, social and development plans
 - Migration policy developed taking into account national, economic and human security
 - Labour market need 'analysis' crucial (n.b. informal sector challenges)
 - Flexibility but realism in jobs migrants 'can' do
 - Acknowledge benefit of migration
- Inclusive policy development
 - Avoid conflict, develop understanding
 - All relevant actors and stakeholders involved
 - Citizenship vs. temporary migration debate and issues of children/education/healthcare

Fundamental Issues for Destination Countries (II)

- Migration Management Authority
 - Migrant cross cutting issue (labour, industry, gender, development, security, interior, welfare, public health)
 - Need a policy led from the center
 - Resourced for research and strategy planning – *crucial role of reliable data and statistics*
 - Inclusive and participatory all stakeholders
- Prioritising Regional/International Agreements
 - Migration and borders less complex when regional understanding and agreements brokered
 - Can balance benefits and burdens
 - Central role of regional protection mechanisms/standards for migrants – *ASEAN Framework on Migrant Workers*
 - Need clear import/deportation standards and processes, utilising amnesties where policy becomes imbalanced

Fundamental Issues for Destination Countries (III)

- Combating abuse of power and acknowledging migrant 'risk' group
 - **Law enforcement (police/immigration) officials** - involved in smuggling, trafficking, unlawful arrest and detention, violence (including sexual violence), intimidation
 - **Labour officials** involved in assisting brokers to make excessive profit, demanding bribes from migrants and employers for registration processes and failing to enforce labour laws for bribes
 - **Brokers** who continue to work without a governing legal framework and, together with officials and employers, continue to overcharge and exploit migrants
 - **Employers** involved in breach of labour protection law, trafficking and forced labour
 - **Migration officials** (interior/labour) often key beneficiaries in unlawful migration practices and abuse of power/corruption

Fundamental Issues for Destination Countries (IV)

- **Migrant Rights Protection**

- ALL migrants human/social beings
- Prioritisation of 'human rights' over 'illegality'
- Flexibility on employer change to prevent forced labour and migrant registration as 'individual'
- Regularisation of 'brokers'/document confiscation
- Non-discrimination and right to organise
- Migrant social protection
 - Wider definition from basic human/health/labour rights to social security/welfare/housing
 - Regional and bilateral agreements important
 - Responsible welfare agency
- Realisation of 'child/dependents' reality
- Gender sensitive policies
- Rights awareness
 - National NGO not substitute for migrant communities
 - Raising awareness of migrants as 'independent' human beings crucial



THANKYOU