

## **Problems of Migrant and Guest Labour – with a particular focus on the Asia/Pacific Region**

**(A paper compiled for the International Trade Union Forum in Beijing, China – December 2006)**

Greetings comrades,

Firstly let me express my appreciation to the ACFTU for the opportunity to participate in this important forum. This is my first visit to the People's Republic of China and I am eager to learn as much as possible about the dynamic growth and changes your society and economy are going through.

Let me also at this point convey fraternal good wishes and solidarity from the Trade Union International of Workers of the Building, Wood and Building Materials Industries (UITBB), of which I am the President.

I similarly convey warm sentiments from the Australian union, the Construction, Forestry, Mining and Energy Union (CFMEU), of which I am the National Secretary.

In my contribution today, I will be dealing with the rapidly growing threat posed to the organized working class movement by the accelerating phenomenon of migrant or guest labour.

In doing so, I will borrow heavily from a paper one of my Australian union colleagues presented to the seminar the WFTU held in Brussels, Belgium in May 2006 on the topic of "The Social Phenomenon of Immigration in the 21<sup>st</sup> Century".

The issues of immigration and the movement of labour between countries are not something that we have just stumbled on, indeed they have been occurring since history has been recorded. What is new however is that with the advent of globalization and the ascendance of the free marketeers in most of the advanced capitalist countries, we have seen the encouragement of the movement of labour become part and parcel of everyday capitalist economic policy. This movement of labour, which is a result of both opportunism and desperation, has with the advances in transportation, led to increases in both the number of people involved and in the speed at which it can occur. This has raised a number of challenges for workers in all countries and the trade union movement.

These issues were recently discussed at the 4<sup>th</sup> Asia/Pacific Meeting of Construction and Wood Unions held in Tokyo, Japan in March of this year. A number of papers were presented which outlined the situation

in either the union's home country or region. Some of the major issues identified in these papers were that:

- There are three types of countries involved in labour migration: labour sending countries (e.g. Bangladesh, China, Indonesia, Nepal, Philippines, Sri Lanka, etc) labour receiving countries (e.g. Australia, New Zealand, the Middle East, Brunei, Taiwan (China), Japan, Singapore, etc) and countries that send and receive labour (e.g. India, Malaysia, Pakistan, Thailand, etc).
- The migration of workers from labour sending countries is usually a result of high levels of domestic unemployment and underemployment, and a high incidence of poverty. On the other hand labour receiving countries mainly do so because of labour shortages.
- There has been a shift in migration policies from permanent settlement to short stay with temporary visas, irrespective of whether the workers are skilled or unskilled.
- Very few countries have ratified the relevant ILO conventions such as the Migration for Employment Convention (revised) (no.97, 1949) and the Migrant Workers (Supplementary Provisions) Convention (no.143, 1975).
- Remittances from overseas based workers have become an important source of foreign exchange for many developing countries (e.g. in the case of India it is now around US\$12 billion per annum).
- There is considerable debate as to whether or not migrant workers have a relatively neutral impact on the labour market for employment.
- In many countries migrant workers are generally employed in the jobs that native workers do not want to take up (i.e. low skilled manual labour jobs).
- The migration of labour puts economic pressure on the families of workers, especially where they have to raise money to pay for travel expenses.
- Migrant workers are often subject to exploitation and have little knowledge of their rights and obligations in the receiving country.
- Many industrially advanced countries do not recognise the trade union rights of migrant workers.
- There is an increasing involvement of transnational subcontracting firms in the movement of labour.
- Legal migration and illegal migration need to be looked at from different perspectives and may require different solutions to the problems that they create.

- There is a potential for conflict of interests to arise between trade unions from sending and receiving countries.

Following the discussion the delegates at the 4<sup>th</sup> Asia/Pacific meeting adopted the following resolution on Migrant Labour:

*“we note the central principle of globalization being the free and unimpeded movement of capital and labour across borders presents enormous challenges for trade unions, particularly for construction unions in the Asia/Pacific. We resolve to study the latest trends and patterns involved in the use of guest labour in our industry; we resolve to communicate with each other on developments in our own national setting; we resolve to seek to organise the growing numbers of workers involved and seek to regulate the standards applying to these workers by fighting to implement the prevailing standards of the host country; and lastly we determine that this issue shall feature as a priority policy issue at our Manila Seminar.”*

The 5<sup>th</sup> Asia/Pacific Seminar is intended to be held in Manila, Philippines in February 2007. We do hope our comrades from the Chinese Construction and Seamen’s Union will be able to attend the Manila meeting.

### **Experience in a Receiving Country**

I wish to now briefly inform you of the current situation in Australia. Since the arrival of European settlers in the early 1800’s, the development of Australia has been dependent on the waves of immigrants to our country. The overwhelming majority of these workers and their families were permanent migrants who were entitled to the protections and benefits of our industrial and social legislation, including the right to be members of and to be represented by trade unions.

In recent years however we have seen significant changes to the legislation and immigration policies adopted by our social democratic and conservative governments. They have pursued neo liberal economic and free market philosophies, including the deregulation of the labour market, the promotion of subcontracting and independent contractors, and more recently the introduction of draconian industrial legislation with the intent of reducing real wages and conditions and preventing trade unions from operating effectively. At the same time we have seen changes in the immigration policies with a greater emphasis on skilled migrants, and huge increases in the number of temporary migrant visas issued.

Australia however has experienced a continued period of economic growth over the last 15 years (mainly as a result of high demand for our natural resources such as coal, gas and iron ore), and the increased economic activity has led to many industries experiencing skill shortages. There is also a growing recognition that our ageing population and low birth rate will not assist in reducing these skill shortages.

The main response from our conservative Federal government, supported by the majority of employers, has been the pursuit of short term solutions based on importing labour from overseas. Since the election of the conservative Howard government in 1996 we have seen the number of skilled (permanent) migrants increase from approximately 25,000 in 1995-96 to the current level of 97,500 per year. Some could argue that this number is not all that significant given the fact that Australia has a total workforce of just over 10 million, but the skilled migration program is only part of the capitalists' solution.

The main tool that is being used is the temporary visas being issued for visitors to stay in Australia for periods of up to 4 years. Under the Australian system temporary visa holders such as overseas students, working holiday makers and temporary business entrants, all have an entitlement to work. The number of temporary visas issued has ballooned over the past 10 years from just over 70,000 in 1994-95 to nearly 700,000 in 2004-05. With an official unemployment figure of 5.1% or 500,000 (which we contend is an underestimation as people who work at least 1 hour per week are no longer classified as unemployed), the significance of the temporary visas becomes more apparent.

The trade union movement in Australia has been accused of being xenophobic by the Minister for Immigration for raising concerns over the increase in the number of skilled migrants and migrants on temporary work visas. But this is not the case. The unions are not opposed *per se* to the introduction of skilled migrants or skilled workers on temporary visas, but rather this should only occur in areas where it can be clearly demonstrated by proper labour market testing that there are no local workers available. Where this is demonstrated and subject to a number of other conditions being met then the unions will accept skilled workers on temporary work visas.

However, Australian unions have exposed numerous examples where temporary visa holders have been grossly exploited. The following examples are indicative of some of the abuses:

- In October this year four Indian construction workers were evicted from their accommodation, sacked from their jobs and threatened with deportation, after asking the CFMEU for assistance with

employment and wage problems. These workers were charged by labour hire agents \$6,000AUS each to come to Australia plus air fares, and are further obliged to pay an additional \$6,000 to the agent next year under their contract.

- Recently, a Chinese welder Zhihong Fu was forced to return to work despite breaking his right wrist at work. This worker ceased work in accordance with medical orders and was sacked by his employer, he was notified that he would be deported from Australia within 28 days. Fu had been brought to Australia by a labour hire firm known as Worldlink to China Services and was charged more than \$21,000AUS to gain entry to our country.
- A beef processing company in South Australia locked out 20 of its permanent workers over a pay dispute, whilst workers on temporary migrant visas continued working inside.
- Three Filipino workers complaining to the Unions earlier this year about their wages and conditions were threatened with deportation. Their employer had not only been underpaying them by 30% under the legal rate but they were also working excessive hours. Further, they were charged \$450 per week for bunk style accommodation. These workers were even being charged for access to a television.
- But perhaps the most relevant example of exploitation for this conference is that involving Chinese nationals working in Australia this year for a business known as Hunan Industrial Equipment Installation Company. After investigation by Australian trade unions it was discovered that the company in just six months had underpaid 38 of its employees collectively \$650,972AUS for work carried out in Australia. Moreover, their company had such disregard for worker safety that government authorities ordered the project to stop until safety breaches were rectified. The Union movement is campaigning to ensure that these workers are backpaid.

Delegates, Australian unions can provide many more of these examples of gross exploitation of overseas workers in Australia, while many more go on undetected. We hope you can pass the message far and wide throughout your large membership, that workers must be very wary of agents who may offer tempting contracts for work overseas. These contracts are often not what they seem to be and may result, not only in the guest workers being underpaid and injured, but also deported if they complain.

Comrades, after having outlined the problems – what of the solutions?

A paper presented at our 4<sup>th</sup> Asia/Pacific seminar in Tokyo by our Indian comrades from the Construction Workers Federation of India is the best articulation of the actions and solutions that should be undertaken. Those recommendations are as follows:

### **Actions by Government**

- Facilitate the early passage of appropriate migration legislation to enable the Government to play a direct role.
- Launch awareness campaigns on a regular basis on the pitfalls of migration through touts or promoters and give wide publicity to the plight of migrant workers in specific cases, so as to discourage intending migrants from being duped.
- Strictly enforce any existing legislation and penalize those involved in human trafficking. Consider setting up a separate Tribunal for Migrant Workers, where cases can be speedily tried. The names of recruiting agents whose licences have been suspended should be publicized both in sending and receiving countries.
- Involve a range of government agencies, such as police, in building people-friendly programmes that help in creating confidence among the public as well as apprising them of the problems faced by migrant workers.
- Enter into bilateral labour agreements, wherever possible.
- Set up 'reception centres' or 'facilitation centres' at airports to assist intending/returnee migrant workers in case of any problems with the immigration/custom authorities. These should also become focal points in facilitating smooth resettlement in their respective areas.
- Effectively monitor various agencies involved in the process of migration.
- Compile data on migrants, disaggregated on the basis of occupation and gender, especially in respect of emigrating workers.

### **Requirements on employers**

- Sign bilingual employment contracts, with a view to obviating problems faced by migrants, as experience shows that original contracts are changed after arrival in the receiving countries.
- Facilitate the registration of all new migrant workers with the respective diplomatic missions abroad.
- Send annual reports on the status of migrant workers to the respective diplomatic missions.
- Give prominent publicity to deregistered employers, who have violated the terms of employment agreements. For example, their names should be displayed on the notice board in diplomatic missions abroad.

### **Action by trade unions**

- Compile data on the focal points in the trade unions and the role that they are playing or can play. Such information should be made available on the internet.
- Prepare a brochure on success stories of international/national trade unions in protecting the rights of migrant workers.
- Launch an 'awareness campaign' at the grassroots level. According to capability, each year a district or province which is known for human trafficking should be targeted.
- Preparing data and making contact with those trade unions in the receiving countries which are already involved in looking after the rights of migrant workers.
- Encourage migrant workers to join local trade unions in the countries where they are working, as setting up separate unions for migrant workers is likely to be counter-productive.

### **Action by the ILO**

- Provide assistance to trade unions and other bodies in the collection of data and preparation of appropriate directories.
- Help in evolving a model employment agreement and advisory service for migrant workers.
- Consider launching an awareness campaign on December 18, International Migrants Day, with activities being organized at the grass roots level.
- Encourage cultural artists/folk singers/dramatists to prepare suitable messages in the form of skits etc for the benefit of intending migrants.
- Hold seminars on a regular basis for trade union leaders, especially at the grassroots level, with a view to sensitizing them on migrant workers' issues and encouraging them to spread the message. A suitable training module could be developed.
- Consider holding meetings in the sending countries, as their equal involvement would be necessary to achieve the overall objective of protecting the interests of migrants.

### **Conclusion**

The statistics tell us that there are around 10 million Indian citizens working as guest workers around the world. I am unaware of the number of Chinese workers in this situation but it is bound to be a large number.

One conclusion from this presentation is that it is important both for the Chinese citizens who are migrant workers and for the sake of those trade unionists in the receiving countries that joint efforts are made to stem this ever-growing problem.

I suggest that further discussion at this forum could focus on the exact mechanisms that should be developed to facilitate international trade union co-operation on this issue. Clearly, establishing lines of rapid communication between union centres in the affected countries will be a central part of an effective response to this issue.

I look forward to hearing your views.

Thank you.

John Sutton  
21 November 2006