

Workshop on Refugees, Migrants and Stateless: A New Era. How can Civil Society Respond Creatively?

Mindol Metta Karuna, Siem Reap, Cambodia

Day 2: Session 1 Minutes

Session Title: Civil Registration and Identification Management System of Cambodia

Date: 29/11/28

Time: 8:30am - 10:00 am

Presenters: Yin Malyna (Cambodian Ministry of Interior),
Christoph Sperfeldt (Peter McMullin Centre on Statelessness),
Anne Maureen (SNAP)

Yin

- The perspective from the govt side of registration, and why a lot of people are living stateless in Cambodia
- In Cambodia stateless is a very new term for the politciship?

Civil reg.

- In 1970, the war occurred in the country, the civil registration assembled in the urban areas, especially in Phnom Penh
- In 1975
- Legal Framework – Civil Code 2007
- Law on internationality
- Law on immigration
- Law on Family and Marriage

Registrar – today there are two levels of registrar, the general and the commune.

- Every registration is done by hand using the civil book or a manual book
- The registration is done at a commune level, the parents, guardians or concerned person or relative who lives in the same residence
- In 2016, a base line survey was conducted and found that 80% of people were registered
 - Children<5 78.0%
 - <1 74.4%
- Khmer – 93.7% registered birth
- Non khmer or mixed – 64.2%
- Total 89.7%
- Challenges:

If you are born a baby here, it is not an obligation to register

Any baby of any immigration or foreigner having lived lawfully in Cambodia may be registered at the ambassador – must have permanent address and be living here

Article 17 – when a baby is born

If they don't have a house or residence, when the baby is born it is very hard to bring the baby to the registrar

Statelessness in Southeast Asia: Causes and Responses

Christoph Sperfeldt – Melbourne Law School

Statelessness: “not considered as a national by any state under the operation of its law”

- Don't have documents
- UNHCR est. at least 10 mill people are stateless
- 40% of those identified live in the Asia Pacific Region
- Recently more attention is payed to the issue (tenure campaign to end statelessness by 2024)

Causes of statelessness

- Exclusion of minorities (legal, political and social) – legal non-persons, statelessness in the region largely *in situ*
- Discriminatory practices (inc. gender)
- Civil registration deficiencies (inc. hard to reach areas)
- Migration (intra-regional, inc. children of undocumented migrants)
- Mobile lifestyle and borderlands (inc. sea nomadic populations)
- Nationality laws – gaps and inadequate safeguards (inc. childhood statelessness and ratification of conventions), only 1 state signed up to the 1954 convention (Philippines)

States responses to statelessness

- Identifying and registering populations eg.:
 - Thailand
 - Indians of Tamil origin in Malaysia
 - Long term residents of Indonesian descent in the Philippines
- Civil registration (to reduce and prevent stat.)
- Achieve universal birth reg by 2024 (CRVS)
- Law reforms – closing legal faps and improve protection
- Naturalisation – long term for reducing stat.
- Strategies and ways forward:
 - Sustainable Development Goals (2016-2030)
 - Legal identify for all (inc. birth reg) – no definition of ‘legal identity’
 - Important in order to offer financial services,
 - 1 legal identity as a human right
 - 2. for vital statistics

- 3. For achieving development outcomes

Indicators for SDG:

- Percent of children under 5 whose birth is registered with civil authority

What is being done?

- World Bank Groups 'Identification for Development' – launched in 2014
- Collaborative Group in which the World Bank ENICEF and USAID coordinate work on household surveys
- Regional coordination of Civil Registration and Vital Statistics (CRVS)

Peter McMullin Centre on Stateless.

- Launched in March 2018
- Research, teach and engagement activities in Aus, Asia Pacific
- Understand scope of the issue

Statelessness Network Asia Pacific (SNAP)

Anne Maureen/Mao – Jesuit University in the Philippines

APRRN – Asia Pacific Refugee rights Network – specific for statelessness (est. 2015)

Statelessness in the region

- Suffer from discrimination in the country
- Thailand northern hill tribes that aren't registered
- Malaysia had influx from India – can practice right of nationality but isn't always (difficult accessing documentation)
- Also those in east Malaysia – Sabadilao (indigenous and nomadic) – Sea based and not being registered
- Territory dispute between Philippines and Malaysia (Saba)
- Brunei – women can't pass on citizenship to children
- Bangladesh and Pakestan – gender discriminatory laws

SNAPS impact

- Engaging with human rights bodies (UPR – Japan, Malaysia, Bang, Cambo, Viet, Brunei and also CEDAW committee – Nepal)
- Technical support for our members (fundraise, legal analysis, fellowship programs, develop events)
- Legal analysis: Jus sange policty – finding links and genetics (?)
- Capacity strengthen (public webinars highlighting stateless. Issue, online discussion with members (linking up members), WhatsApp group for easier access to members and sharing information and opportunities)
- Resources for evidence-based action on addressing statelessness (3 research projects to develop solutions to stateless, in Asia and the Pacific region, e.g. gender analyses, mapping of children statelessness, consults with our members of this research and using this documents for own country advocacy)
- Strengths
 - Diverse membership (NGO's, practicing lawyers, statless and formally statless person)
 - Challenges:
 - Resources (limited support/funds) – hence, much done online

- Able to look at different avenues/modes for exchange
- Small roundtable discussion and small online platforms

Next Steps

- Increase mapping and better understand of affected populations
- Increase outreach and engagement with cross-section of stakeholders (better network within and out of region)
- Seek accountability for states not addressing their statelessness – by engaging with UN Treaty Bodies
- Strengthen capacity of civil society

Q&A

- Sonny: People with yellow card that needs to be renewed after 7 years, happy to receive this but worry if in future what they will do and what they will do. What can give them hope for future?
- Big concern that gov recognises is the documents. Apply for permanent residency yellow card). But this is not citizenship. New law on citizenship: this year more clear procedures. Those that have yellow card will get nationality. Departments will assist in this.
- The children: some born from Viet father and Cambo woman. Removal of these birth certificate. How can we reregister these birth certificates? As at least one parent is citizen. They will reissue these citizenships
- Chris: Who has responsibility to address stateless issue and citizenship?
- Christof: For recent refugees: the country where they are from (?)
- Protracted situations (decades, ongoing): more difficult. Inter-generational
- Improve protections – give them status with basics (schooling and healthcare). Host countries to assist
- Anne: Indonesians in early 1900's, thought still apart of Indo but their nationality law requires them to register every 5 years when outside of country. If don't know this then they effectively lost their citizenship. Mapping in registration and analysis of this (some integrated in the Philippines thus given the option for their citizenship)
- Provided with the option from states.
- Fr. Jay: Is citizenship by law on convention?
- Anne: Parents must be legally married before father can pass citizenship (this case is by law, for father to pass on citizenship)
- CEDO – eliminate this practice, practice equal nationality rights – for women to be able to pass nationality too
- John: Those who aren't registered, what are their rights to accessing services?
- Yin: 2016 survey – much criteria to meet for their on ability to registration (some live far from register centre – disadvantaged)

Day 2: Session 2 Minutes

Session Title: Global Compact on Migration

Date: 29/11/18

Presenter: Brett Dickson (IOM) & Carolina Gottardo (JRS/APRM)

Time: 10:30am – 12:00pm

Brett Dickson

Safe and Orderly and Regular Migration

- **Background:**

IOM is committed to the principle that humane and orderly migration benefits migrants and society. Intergovernmental agency that started in 1951. Worked very much with UNHCR after WW2. Assists governments to better manage migration policies and implementation. Believe in an advanced understanding of migration issues, which includes conducting a great deal of research. Pragmatic, flexible, decentralized approach. Work along with governments and other UN agencies, NGOs and the private sector. The private sector plays a huge role in economic capacity in regards to migration. It's crucial to for IOM to work with big companies that hire a lot of migrant workers.

- **Definition of a Migrant:**

IOM has their own definition of a migrant as any person who has moved across an international border or state within their country, regardless of their legal status, regardless where it is voluntary or involuntary, the causes for the movement at regardless, & the length of stay. Reason they want to keep it broad is so that no one is excluded from this description, a very complex and dynamic issue.

- **Some statistics:**

1 billion people are considered migrants- more than ever in recorded history.
 -250 million international migrants
 -760 million internal migrants
 -1 in 7 of us would be considered a migrant

Forcibly displaced peoples:

-21.3 million refugees
 -40.8 million internally displaced persons
 -3.2 million asylum seekers

Migration as an Asian mega- trend:

Over 95 million people from the SEA region lived abroad in 2013.

Top 3 countries of origin living abroad are:

1. India
2. China
3. Philippines

Top 5 countries as destinations in SEA region 2013: (59 million migrants from this region were hosted across the world.

1. Russia
2. Australia
3. India
4. Pakistan
5. Thailand

- **Cross-border migration from Cambodia:**

- 1.1. Million international migrants according to UN data
- 600,000 of those living in Thailand due to high demand for low skilled workers, and higher wages.
- 350,840 migrants registered/verified and legally working in Thailand
- 100,000 enter and work illegally in Thailand
- 224,138 people enter and work in Thailand legally

- Regular channel for Cambodians: Migrate through private recruitment/ government visas etc.
- 450,000 migrants have gone through irregular channels

- **Overview & Process on the Global Compact on Migration (GCM):**

A result from the meeting at the UN in NY in September 2016.

- First ever intergovernmental agreement on international migration
- Unifying framework and a set of common principles, objectives and actions on all aspects, looking at it from a humanitarian, developmental perspective.
- 23 Objectives covering all aspects of migration
- A blueprint on how states could manage migration and cooperate to manage skilled migration through proper programs etc.

What is it? What is it not?

- Not a legally binding document under international or domestic law, it's an aspirational and guiding document for states to use and implement.
- The text was released on the 13th July 2018, and it will be adopted during the next GFMD in December 2018.

Process:

Phase 1- Consultations with governments and stakeholders, civil society, migrants and ministries to understand what are the key issues and priorities for this document. Thematic sessions looking at what contributions migrants can make and their possible role in new economies to maximize their benefits.

Phase 2- Stocktaking preparatory meeting, ideas are considered

Phase 3- International negotiations to finalize document

- Regional consultations were held in Asia Pacific region throughout this process

- **Vision and Guiding Principles:**

About working internationally and with states to produce safe and regular migration whilst minimizing associated risks. There would be a commonality between ministries and departments.

Overview of issues covered in sending and receiving countries as displayed in Venn Diagram:

Country of Destination: (Addresses issues of demographic changes, irregular migration, labor shortages and xenophobia and exploitation.

- Decent work
- Skilled Labor
- Services
- Economy
- Industry
- Development

Country of Origin: (Addresses issues of documentation, unemployment, irregular migration, smuggling, trafficking, poverty and climate change)

- Remittances
- Skills training
- Services
- Development
- Sustainable livelihoods
- Poverty reduction

- **Objectives & Commitments:**

-23 objectives, each with a statement of commitment and a set of actions

e.g. Objective

'Collect and utilize accurate/disaggregated data for evidence based policies'

Commitment:

- Strengthen Global database on international migration
- Accurate, reliable, comparable, disaggregated data
- Research, evidence based policy making, public discourse etc. e.g. Cambodia and migration labor

Actions:

- Comprehensive strategy improve migration data at local, national, regional global
- Comparability and compatibility of migration stats to measure migrant stocks and flows, patterns and trends.
- Build national capacity to collect, analyze and use data
- IOM Global Migration Data Portal and World Bank Global Knowledge Partnership on Migration and development

e.g. Objective:

'Enhance availability and flexibility of pathways for regular migrations'

Commitment:

- Improving pathways for regular migration and decent work
- Optimizing education skills development opportunities

Actions:

e.g. Cambodia migrants fulfilling working shortages in host countries and benefiting by ingesting new found skills into their country of origin

e.g. Objective:

'Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work'

- To ensure recruitment is ethical, stopping trafficking and slavery of people, large companies ensuring their supply chains are ethical
- Working with larger companies to ensure fair work

e.g. Objective:

'Prevent and combat & eradicate Trafficking of Persons'

E.g. Cambodia and men in fishing industry- forced labor

- Look at financial flows of money and using this intelligence to stop the facilitation of movement and exploitation of people

- **Next steps:**

- Adoption of GCM at Intergovernmental Conference Marrakesh December 2018 at the highest political level
- Implementation, follow up and review:
- UN to set up network on Migration, IOM will server as secretariat and coordinator of the group
- Continue conversation and dialogue in order to move this document to be implemented and actioned by countries

Carolina Gottardo**Complementarity and Opportunities of GCM**

- **Overview:**

- Historical achievement between members of states
- GCM is for ALL people on the move- trafficking, stateless, asylum seekers, migrants & refugees
- Carolina shared her perception, as she was involved in the consultation process throughout Asia, noted that Asian states were very interested in the compact.
- Many countries in this region see themselves as origin, transit and destination countries, therefore a great political interest. A huge amount of differing opinions. Discussions regarding regular and irregular migrants, and the prevalence of national sovereignty.
- Likeminded group was mostly from Latin America, Nepal, new Zealand Philippines and Bangladesh pushing for labor standers, safeguards for members of detention
- South East Asia- Malaysia, Indonesia and Japan quite open to the ideas
- Holy Sea was the mover and shaker, Pope Francis' 20 points

-The co-facilitators from Mexico and Switzerland have quite a strong human rights approach
 -Although US the Hungary and Austria and Israel a Czech Republic, Poland and Australia are likely to withdraw
 185 states will adopt this compact

- Achievements in the GCM

- Strong rights based approach and balance between sovereignty and rights
- Gender responsive and women's leadership not vulnerability
- Safeguarding children's rights and end child detention – major achievement in the compact
- Pathways for regularization
- Decent work and labor rights

- Gaps in the GCM

- Doesn't mention the GCR
- Non mentioning no refoulment directly despite including the meaning of the concept
- Lack of strong language on the non-criminalization of migrants and those that support them

- Complementarity between GCM/GCR

- Separate, distinct and independent processes- important for them to speak to each other
- All people on the move have specific protection needs and risks
- Commitments under international refugee law are non negotiable
- Ensure that rights of every person are kept

-There will be situations where they are going to have to work together

-Border states and the status of those people could change at this time- the reality is that it's much more complex. e.g. A woman in SEA who complies by the definition of a refugee, has been a victim of trafficking, but has a migration visa.

-Relevant in Asia Pacific as countries not signatories to refugee convention

-Mixed migration and precarious situations

-States politically interested about GCM outcome

-Implementing protection beyond international protection

- **Implementation, follow up and review**

- Potential of GCM to improve the lives of migrants, refugees and people on the move

- As good as its implementation: real effects on the ground

- Whole of society approach: migrants and civil society

- Participative national action plans

- Connection of local, national, regional and global

-Civil society has been included throughout the process, in round table groups. With the political interest and fluidity of migration. Civil society, migrants have a say on this.

- **What do we need to do now?**

- Doesn't matter unless it has a real impact on these people, the compacts are only going to be as good as their implementation, to have successful impact on the ground. This is where our challenge begins.

- It means that member states should be creating national action plans, so that it's relevant to their country
- We need a process to connect implementation on local, regional, global- as they're all interconnected
- It is very important that the IOM has a very rights based approach throughout the implementation
- There needs to be effective communication between governments and intergovernmental agencies

- E.g. Mexico have developed a road map to end child detention
- Costa Rica is looking at all the national legislations in accordance to the GCM, to ensure it corresponds
- South East Asia is looking at this particularly from a gender responsive perspective
- Australia is developing a scope and a study in the gaps from asylum and migration.

- We need to ensure member states are accountable to the GCM
- Civil Society to create initiatives to implement GCM to impact the lives of these people of concern

Discussion on Statelessness and Migration

Q: Sr Denise Coghlan – Is it going to be an intergovernmental process when talking about the implementation of the compact?

A: Carolina- Attended the framing conference in October 2018 and UN agencies are to create actions such as the Global Migration Group, as a tool to involve all the key stakeholders. The process is still in development for the idea for an annual conference. The UN core group will make decisions on this and then bring to the wider community.

Q: Yin Malyna MOI- It is not easy to coordinate with Thailand to negotiate on issues around migration, how show we approach this?

A: Brett Dickson- Cambodia & Thailand have the mandate to recruit and send migrants abroad. At the moment it's quite an extensive and costly process, so we need to look for an efficient way to facilitate quicker and simpler migration. Eg. For those who are in debt and need to migrate urgently, there needs to be a review of regulations, legislation and steps in order to see where this process can be simplified. There are other options to look at, including cross-border visas, where people can work for up to 20 days across the border. This would mean involving more of the private sector and hospitality, labor and tourism employers in Thailand. Compiling a skill development program between countries, in order for migrants to gain skills and return to their home country, as well as cross-border programs, present new pathways for regular migration.

Q: Benny Hari Julinan- A year ago, ASEAN member states agreed on a consensus document for migration documents, not legally binding like the GCM. It is challenging to implement this document, how can we piece out anything that can be enforced and implemented effectively on the ground? No progress so far.

A: Naoko Maruyama- Pope Francis' mandate highlights 20 points outlined in legal & simple language- can use this important tool because education around this is key.

Carolina Gottardo- This is a common issue with international law, the global and regional mechanisms will work together, need to look at how creative we are with engaging members of states, how do we do it? A fantastic instrument in terms of what we can do with it.

Q: Bernard Arputhasamy SJ- How do we approach the gaps in increasingly shrinking space of protection of the movement of people? Where is it going to go in terms of policy changes and implementation?

A: Brett Dickson-

Big challenge in the way we go to now, the fact that states are agreeing to it, gives us a road in to discuss issues such as this. The next step will be putting funding behind some aspects of this plan we will be developing. We need to work with civil society partners to implement pilot programs and learn from them.

The lack of data is difficult for countries. Assessments are needed, to influence policy development, need to advocate for governments who have signed up to fund programs to implement this.

Carolina- This is a developing space, so we will have to see how it works on the ground. With all the issues we have faced over the past several years, this is quite a feat to have created a document like this, 5 years ago it would never have happened. There's a great deal of potential.

Day 2: Session 3 Minutes

Session Title: The issues With Migration: Trafficked women
Presenter: Dr Angela Reed

Date: 29/11/28
Time: 2:00pm

- A life course/human rights approach to preventing human trafficking
- Looking at an ideological approach how human trafficking has been framed throughout the world.
- Specific research was in the Philippines and I have tried to carry out research in other parts of the world.
- Structure of the presentation
- Part One: What is the dominant discourse?
- How is human trafficking framed? For some the lens they look at human trafficking is through globalization. National borders have almost been eliminated. The movement of bodies across borders is seen to be a causal link. Literature suggests that globalization has benefited the wealthy nations.
- Others talk about economics. The demand for cheap sex. The sex industry makes money because it buys cheap raw materials and packages them well. It turns vulnerability into making a profit. Inherent link between sexin addition to women being encouraged to work abroad and send remittances back home. Need look at migration patterns and the root causes of the movement.
- Careful about using this paradigm.
- Others say this is a gendered phenomenon.
- I recognise the dominant aspect of woman. It is related to discrimination, and violence.
- The UN paradigm is the organised crime paradigm.
- It's a criminal justice issue.
- The local paradigm. There are different reasons for trafficking occurring in various places
- In the Philippines we could do some analysis of colonization, American bases, Catholicism and the different ways women have been framed.
- The human rights paradigm.
- Part of my work at the UN is to ensure that the policies that are presented in the NY arena have a human rights face "They have a person centered approach.

- Like migration it is complex – globalization, organised crime, etc all part of this.
- My research was based in Cebu- second largest city in the Philippines. Beautiful city but at the same time one of the hot spots of trafficking.
- When I ran a women’s refuge in Australia I encountered women from Philippines, Thailand who were trafficked.
- A human rights approach to trafficking is empty and meaningless if it does not place at the very core, the voice and agency of trafficked women.
- On Voice
- Voice is not simply about the right and opportunity to speak out. For poor people’s participation to work, not only must information be available.....
- I have a voice – Trafficked women – in their own words. Book by Mariana Latana and Angela Reed.
- Hear the voices of trafficked women.
- During my time of hearing these stories I began to realise that the narrative that was being portrayed across the world was that trafficking was a random act of victimisation. I learnt that trafficking was a cumulative acts across a life course.
- These vulnerabilities will differ according to their circumstances however the young girls being trafficked was not the first time that they had been brutalised.
- Part Two: Challenging the Narrative
- The film ‘Taken’ was a blockbuster not like our situation –a Hollywood movie
- I’ve met many trafficked women but none of them were changed up.
- If we only frame trafficking through that narrative people are going to fall through the cracks.
- These young women challenged the common image that trafficking was an isolated act. Human trafficking is about marginalisation, deprivation, etc.,
- The deprivation in childhood.
These children were not safe. Saw many who had been sexually, physical abused from very early ages.
- ‘Many mothers had to go overseas for work those mothers were leaving the family home and leaving the children with others. So they ran away and became extremely vulnerable.
- In the human trafficking they experienced by bondage – debt bondage, threats, intimidation corruption in the system was strong. They felt they were objective and stigmatized. They showed great resilience and courage.

- Part four: The optimal life course conditions
- The optimal life conditions must be:
 - Adequate standard of living
 - Human attachment and belonging
 - Quality education
 - Safety, security and emotional well being
- Human attachment and belonging example
- If all our human rights were endorsed we would not have human trafficking
- Social and community connectedness
- Lets cut off supply – where every girl has a safe home
- Psycho sexual development
- Cluster Three – Adulthood
 - Decent work and economic empowerment
 - Community cohesion and personal security
 - Self-Determination
- Part 5 Prevention as Key
- Downstream Problems Upstream Solutions
- Efforts to combat trafficking have proceeded from a narrow view of trafficking as a criminal justice problem with a clear focus on targeting the trafficker and to a lesser extent, protecting victims. Chuang
- Inherent dignity -An advocacy guidebook Mercy International
- What organisations can do about advocacy.
- To end : Pope Francis
- It should be acknowledged that very little has been done to address the “why” of many young people being tricked or sold into trafficking and slavery. Demand and supply, in turn, are deeply rooted in the three great issues of conflicts and wars, economic deprivation and natural disasters or what the victim....Pope Francis
- Questions:

- Fr Benny: Learnt a lot from religious sisters – at the forefront. Over the years of working with them focus on sex trafficking – trafficking also encompasses on labor exploitation and organ exploitation.
- There are many forms of trafficking my own experience is women being trafficked for sex. However, there are many women being trafficked for labour trafficking – men in the fishing industry. We need to expand the conversation. All forms of trafficking is a life course preying on vulnerability.
- Question: Many govts don't like us to use the language of human rights – so we are trying other language – e.g. the sustainable development goals.
- Angela - This is not only true for governments in the region. True for united nations gatherings. The problem is that the business and corporate sector are using our language
- Question: The Church is not only an agent of change but part of the problem. Gave an example.
- Its about recognizing the human dignity of people
- Angela. Our documents called Inherent dignity. There are no words to respond we must keep keeping on.
- Question: Military comfort women in the world – Korea, Japan.
- Issue of forced marriage fits into the definition. Emerging issue affecting many countries
- Question: Issues around defining people who have been trafficked as opposed to being refugees. Also sending handicapped children to go and beg. Also issue of forced marriage.
- Angela – highlights the complexity of trafficking – don't always have a clear understanding of the nature of the human trafficking.

Day 2: Session 4 Minutes

Session Title: Issues within Migration - Criminalization of Deportees

Date: 29/11/18

Time: 3.45pm

Presenter: Dr Benny Hari Juliawan

- Fr Minh introduces Dr Benny
- Seeing Migration like a State: The case of undocumented Indonesian migrant workers deported from Malaysia – a case from which many lessons can be derived that are applicable to many other cases
- In January 2016, Fr Benny met a group of 12 Indonesian men who had been deported from Malaysia recently as undocumented migrant workers
- Had come across similar cases prior
- However, these 12 men came from the same village, worked on the same site, and were arrested and deported by Malaysian authorities as one group.
- 3 important questions were raised:
 1. How does the regulatory state handle undocumented migrants?
 2. How does the state interact with established social networks that have facilitated irregular labour migration?
 3. How does the Indonesian-Malaysian migration regime seek to shape labour mobility?
- When trying to find framework to look at this case, quotes American anthropologist James Scott “Seeing like a State” – “[it] becomes an object that the state might manage and transform with a view toward perfecting it” (Scott, 1998: 92)
- Key argument: the state always serves its own interests when looks at society ie. The State is always a chaotic entity that waits to be put into order. In the eye of the state, society became an object that the state might manage
- The flip side of social engineering is that it is schematic, limited, serving a particular interest
Plans for control and interventions, often at odds with a functioning social order

Exploring the Case in Depth

- The 12 undocumented migrant workers were from Raburia village in Ende, Flores island, NTT (province to West of Timor Island)
- Their story began in 2016 when they were arrested while being transported by their employer to a new construction site in Perak, near KL.
- At a police checkpoint mid-journey, they were searched and found to all be undocumented (except for Malaysian driver) – driven in school van (suspicion high)
- Men were aged between 18 and 50, and several were ‘veterans’ (had previously gone to Malaysia seeking work three or four times, without being caught)
- Always a similar story of migration to Malaysia: men have no documents, recruited by people they know (siblings, relatives, friends) to work for same employers

Analysis

- Must be background story to this migration pattern
- Corridor, networks between the Indonesia and Malaysia were already established, manned by people from the same island (Florenese people)
- “Systematically linked technologies, institutions, and actors that facilitate and condition mobility” (Lindquist and Xiang, 2018: 154)
- Social networks as migration infrastructure has proved to be convenient to both migrants and employers (otherwise would need to go through formal channels, training processes, etc), reduced costs (both employers – doesn’t have to pay tax to Malaysian government, and wages usually lower than officially recruited workers; and migrants – don’t have to obey all paperwork, and strengthens the transnational community of Florenese. It is not necessarily dignified but has existed for the past 100 years.
- This functioning form of migration has increasingly become criminalised
 1. There were 1.9 million undocumented migrant workers in Malaysia in 2010; 2.5 million in 2014 (Low Dan Mokhtar, 2017: 148)
 2. Deportation regime: Operations Nyah (Nyah- means getting rid of, go away, removing people in Malaysian language) (ie. Operation ‘Removal’ 1991) 1 and 2 (1991), Hari Raya Amnesty (1996), caning as a punishment – for people found repeating the same offence (1997) – used to cover all migration crimes, biometric ID system (2005), major raids (2007)
 3. Cyclical opening and closing, conflicting interests but increasingly punitive regime - the ministry of human resources recognizes the importance of human labour, but the ministry recognizes it as a human rights issue
 4. As of 2015, Malaysian government ran 14 permanent and 3 temporary detention facilities with a total capacity of 18,530 inmates
- These men were deported by Malaysian authority as criminals then handed to Indonesian authorities, where they were received as victims

“Indonesian overseas migrant workers who have no work permits, legal documents and/or who work in violation of their work permits, [and have] encountered problems in terms of violence, exploitation, deportation, neglect, social disharmony, [or] inability for self-adjustment” (Decrees of the Minister of Social Welfare no. 22/2013)
- Why were these men not convicted when they reached Indonesian soil?
- Possible answer: news about badly treated Indonesian migrant workers around world – govt. can’t respond properly to such accusations
- Popular perception: government incapable of providing jobs and protecting its citizens
- Repatriation: arrival in Indonesia to home village, rehabilitation, no recourse to justice –
- Nobody asked them what happened in Malaysia – just assumed they were without documents, so were put in shelter for a week in Sumatra and put on next ship for Jakarta – never discussed justice with these deportees. Upon arrival in Jakarta, were placed in another shelter while they waited for a ship to take them to Flores Island. Eventually arrived in Malmeri city (about 4 hrs from their village), but since they arrived during the night, the local authorities were closed. The men re-contacted their social networks and arranged to be transported to their village without being detected by authorities.
- What was life like in their village?
- Back to subsistence farming (cash not as high as Malaysian work)
- 20 out of 179 families had a family member working in Malaysia (most had unpaid loans – loan scheme – interest 100% every year)
- No conversation in village that the returnees were failures – as failure perceived as normal in this respect.

“It is hard here. We really struggle to make ends meet. Food is not a problem, but other expenses are difficult,... I have a plan to go back to Malaysia”. (Bartolomeus)

- Experience of deportation doesn't deter people from returning to Malaysia
- Functioning social networks that can guarantee their safety

Conclusion

- “While the criminal/ victim categorisation helps to shape mobility, it does not significantly change the structure of migration opportunities. The regulatory state gives little consideration to the complexities that inform the reproduction of labour migration and the vulnerabilities experienced but rural populations from Indonesia's outer provinces.
- “shifting identification of criminal/victim reflects political imperatives more than the experiences of the migrants, who do not take centre stage and for whom the policies offer little innovation”

Questions

Sr Denise Coghlan, JRS

- *Q: If we were trying to advocate on this type of issue of informal trafficking networks, and we want to do what is ethically desirable but politically possible, what path would you take?*
- *A: One of the issues identified is the gap between social network practices and official migration scheme. The gap is such that incentive to switch over to official scheme is little – so goal is to close the gap by helping citizens to obtain documents – citizens have a human right to get documentations. State has to fulfill right to obtain documents. So instead of citizens travelling from village to city to get ID cards, govt. should be going to villages to issue documents to ensure protection. This option would be doable – requires a shift of perspective. Several other pathways, this is one.*

Sr Angela Reed

- *Q: Given the huge expense of informal way of migration, do you think it would be an incentive to work legally if recruitment fees were abolished?*
- *A: The Indonesian govt. changed the laws in 2017 to abolish recruitment fees. It still remains to be seen if it will be sufficient to make people switch to official channels. But Dr Benny's own suspicion- other important factors encourage the use of informal migration pathways. Eg. From a geographical perspective, migrant workers still have to travel, and this long distance doesn't exist when they take the informal route.*
- *Q: How do you consider this migration in Venezuela?*
- *A: Venezuela is interesting case, given sheer size of movement. Would not classify it as labour migration but rather it would fall under the GRC or GCM, which respond to large movements of people – not normal migration*
- *Colombians going to Ven. when Ven's. economy was going well. Now it is the reverse but numbers are larger. Doesn't believe that considered labour migration and cannot be applied to this scenario*

Carolina Gottardo (JRS/APRRN)

- *Comment – on Colombia-Venezuela situation – while massive migration occurring, Colombia has been one of the biggest producers of migrants in South America recently. So when they started talking with Venezuelans,*

interesting to see their position on the GCR from a Colombian perspective because they were vocal on migration rights, while America very silent

- A: Ultimately national interest shall prevail

John Haren

- Q: *Did you get a sense that the level of income that the men received was actually beneficial to the way of life?*
- A: Yes, most are small farmers, and when go to Malaysia, increasingly receive cash wages. Needs back home can only be fulfilled by cash payments – education, buildings materials etc. Hence, incentive to migrate is always there.

Fr Bernard Arputhasamy SJ (Human Development):

- *Has it brought about real financial benefit working in Malaysia? How is that benefit invested to uplift economic status of the people?* Human resource minister has been organizing meetings to try to come up with better policy to implement for movement of peoples. Gradually the agents have turned the migrant labour into a huge industry – about 25 years ago, there about 60 employment agencies, now about 200. Many have govt. level people earning huge amounts of money. Each worker cost in 6000 ringet. Huge arguments – why do we need to bring 1.5 million Bangladeshi workers? Who's company was handling the labour processes? The Deputy Minister's brother was. Even in biometric system, tender is given to close friends and relatives of minister. Labour is a lucrative industry. Have openly said that will reduce use of agencies and instead will be govt. – govt. So undercut agents.
- Listening for feedback on how they can implement change in a proper way – respecting rights, safety, access to services.
- A: When I went to the Philippines for first time – met village chief – veteran of Malaysian migration – showed about village – brick building – came back with capital – started business – everyone looked up to him as an example of success. There were failures also, but somehow it's not like they would do cost-benefit analysis before going to Malaysia.
- 2 of the deportees were 18 when Fr. Benny met them. Who gave them idea of going to Malaysia? As a child, one of their fathers had come back from work in Malaysia, and told him about the Malaysian dream of brushing your teeth with coca cola ie. idealization of work in Malaysia through families
- Additional point: in same shelter in Jakarta – also group of women who worked in beauty parlour had been arrested and deported. They asked him what they were doing there, and his response was that the govt. thought it had just saved them from trafficking. However, women felt that employer was kind, paid wages, - didn't feel that they were being rescued. When use framework of protection, not necessarily the experience of these people. If it's not the way they feel, it's going to repeat itself. We are not really addressing the root causes of this issue.
- How this will play out in implementation – still to be seen

