

Clean
Clothes
Campaign

International Secretariat



Summary

False Promises

Migrant Workers in the Global Garment Industry

Introduction

As migration becomes an ever-present feature of the global economy, the protection of migrant workers' rights is becoming a central issue to many in the labour rights movement. 214 million people around the world are now living outside their country of origin, many of whom having left their homes in search of opportunities and a better future.

The garment industry does not escape this trend. Hundreds of thousands of migrant workers are employed throughout garment and textile supply chains across Asia, Europe, North and South America and Africa. The use of migrant workers is particularly prevalent in Taiwan, Malaysia, Thailand, Mauritius, Jordan, Egypt and the Maldives, where the industry is dependent on the import of foreign labour. Workers in the US, Western Europe and Australia are also predominantly from migrant communities.

Migrant workers are subject to much of the same abuses as local workers. Poverty wages, job insecurity and repression of trade union rights are all highlighted as major issues by migrant workers and the organisations that support them. However, these abuses are compounded by the specific context in which migrant workers are employed. Migrant workers tend to have temporary legal status that is dependent on their relationship with an employer meaning that workers can easily become 'illegal' should that relationship be terminated. This insecurity is magnified by the fact

that their ability to access legal protection or even advice is severely curtailed. Many have incurred substantial debts in the process of acquiring work and/or papers adding an extra burden to what is an already precarious livelihood.

The research carried out by the CCC for the False Promises report shows that, despite the obstacles they face, migrant workers are organising and fighting back against this exploitation. The research also illustrates new ways in which migrant worker groups, trade unions and NGOs are supporting this struggle.

The report outlines a number of recommendations for governments, industry and labour rights activists wishing to eliminate discrimination and exploitation of migrant workers. It recognises that any action taken must be focused on enabling migrants to defend their rights as workers rather than on controlling the movement of people who depend on migration for their livelihoods, security or as a refuge from oppression. ✂

Issues Facing Migrant Workers

Low pay

Throughout the garment industry migrant workers are paid wages well below living wage levels and may receive lower pay and work under worse conditions than local workers. During peak order periods, migrant workers are often employed on a piece rate basis and work excessive overtime. When orders are low, they may have no work and receive no pay.

Long hours

Migrant workers, like most garment workers, are often dependent on overtime to increase their meager salaries. The issue of excessive overtime can therefore only be addressed in tandem with the improvement of wages and the provision of legal contracts guaranteeing regular income. The fact that many migrant workers are employed on lower terms and conditions puts them into competition with local workers and this can make organising difficult. For example, unions may consider the presence of migrant workers as a threat to the pay and conditions of their members and may develop anti-migrant policies as a strategy to defend hard won rights.

Pay deductions and fees

Their low pay is further diminished by the deductions that are taken out of their wages. Employers using migrant workers, for example in Malaysia, have to pay a levy to the government that is often deducted from migrant workers' wages. In addition, deductions are usually made to cover accommodation, food, electricity, and uniforms. Any medical treatment the workers require can also be deducted from wages. Few migrant workers know what deductions are being made for since these are not clearly listed on wage slips, if wage slips are given.

Freedom of association and organising

Migrant workers face significant problems in exercising their right to freedom of association. The main barriers are:

- Legal prohibitions against forming their own trade union organisations and prohibitions in contracts included by employers and agents on the joining of local associations.
- Migrant workers are not always aware of their rights as workers or what trade unions can and should do.

- Unions rarely include migrant workers in their leadership and don't invest their resources in organising them due to their short contracts. For example in Malaysia, union regulations require workers to have been a union member for over three years prior to taking on a position in the union. Most migrant workers will complete their contract and leave within this time.
- Union leaders are likely to share the same nationality with employers, police and others in authority; this may discourage migrant workers from trusting them with workplace problems. This is particularly an issue for women migrant workers where most union leaders are men.

Legal status

The International Labour Organisation (ILO) is clear that all workers, regardless of their legal status, are entitled to the same rights, provided for by numerous international conventions and agreements. However, this is not followed in practice, and the lack of legal protection is at the root of the exploitation faced by migrant workers, regardless of the

According to NGOs working in Laos most workers leaving from Laos to Thailand or elsewhere do not know their rights, what wage they should be paid, or how much they are getting because the documents are almost always in English.

industry they work for. Undocumented migrant workers are usually entirely deprived of legal protection and therefore highly vulnerable to the worst forms of exploitation.

Documented migrant workers also face problems in the host countries. Employers may retain their documents meaning they are not able to move freely without fear of arrest. Migrant workers also rely on their employer to renew their work permit in order to keep not only their job but also their legal status placing their employer in a powerful position. They also risk deportation as a consequence of any kind of industrial action. Even in host countries where basic rights are covered by law, most documented migrant workers lack information about these rights and on how to seek redress.

Employment relationships

Direct employment relationships with the factories where migrant workers actually work are very rare. Most migrant workers sign numerous contracts - with the recruiters in their country of origin, with the employment agent in the destination country and with the factory management. These contracts are usually different in content: contracts signed with the recruitment agency will often stipulate better terms and conditions than those signed in the destination country. Many migrant workers don't know who their actual employer is and, as their work permit is tied to an agent rather than a place of work, are constantly moved around to different workplaces. Unless the responsibility for employment conditions is clarified and workers have a clear view of the terms and conditions of their employment it will remain difficult for migrant workers to demand improvements.

Role of labour agents

Labour recruitment from country of origin is a complex procedure. Workers can be recruited by labour contractors who come to their communities, are recommended by relatives or friends, or through government-run agencies;

these recruitment agencies usually work with brokers in destination countries and are paid based on the number of employees they provide. However, in most countries the regulation of these agencies is weak or non-existent and workers are often provided with false contracts and charged high commissions. Governments in the countries of origin may view labour exports as both an important foreign exchange earner and a strategy for tackling domestic unemployment. They are therefore reluctant to take measures against unregulated labour recruitment.

Forced labour and labour trafficking

Debt bondage, retention of legal documents and trafficking are issues faced by migrant workers in the garment industry.

Debt bondage

Many workers pay large and excessive fees to cover everything from visa arrangements to recruitment costs. As most workers are recruited from poor communities they are dependent on loans with often extremely high interest rates. The fees are paid in the hope that the high wages promised will allow them pay back the fees as well as provide for a better future. In reality the wages they receive may be significantly lower than what was promised at the point of recruitment. In some cases there is no work when workers arrive at the destination country leaving them unable to earn enough or even anything during their time overseas.

Retention of legal documents

The retention of legal documents by employers is common practice and prevents workers from leaving the workplace, changing jobs or even leaving the country. If for any reason they choose to leave, or the employment period is shorter than promised, not only they are obliged to pay their flight tickets they may also lose deposits paid and have to pay a fine to get passports returned. Retention of documents,

A Vietnamese worker in Malaysia injured his arm in a garment-printing machine. He was hospitalised, lost one of his arms, and had to take three months off without pay. When he returned to work the medical costs for the operation and treatment were deducted from his wages.

along with leaving fees and other costs means that workers are unable to freely leave their employment; according to the International Labour Organisation definition these workers are employed in conditions of forced labour.

Trafficking

Trafficking of people also exists within the garment industry, although it is difficult to exactly calculate its prevalence due to lack of clarity in definitions. Most anti-trafficking campaigns or legislation apply the definition of trafficking very narrowly and usually fail to address the exploitation of workers by labour agents. Anti-trafficking enforcement has tended to lead to anti-migration policies such as tighter border controls, which increases the power of labour agents and further marginalises the rights of workers.

Impact of the economic crisis on migrant workers

The situation of migrant workers is getting worse as the economic crisis hits both destination countries and

countries of origin. In countries of origin, governments who promote migration as a way of keeping local unemployment down may choose to ignore the exploitation facing their workers in order to maintain high migration figures. In destination countries governments can promote a 'migrant workers first out' policy and the only legal option for migrant workers is to return to their country of origin, as work permits are only valid while jobs exist. Often not having the money to pay their tickets, many migrant workers are unable to return home and many become undocumented workers.

Gender

Although the number of women who are migrating for work is increasing, very few organisations are addressing the gendered contexts of migrant worker exploitation. Gender discrimination is apparent in both the recruitment process and employment conditions.

Recruitment process

In some cases, the decision for women to migrate is not their own and may be taken by a member of their family (a father or other male relative). In these cases they may not have been involved in negotiations over for example contracts, country of destination, or length of service. Even when women themselves take the decision, once they leave their home they may feel more dependent on the agent for protection and safety and therefore are more open to abuse by these individuals.

Employment Conditions

Women migrant workers usually earn less than men, and face deductions for menstrual leave, forced medical checks, and pregnancy and HIV testing. Sexual harassment in factories and dormitories is also common and next to agents and factory owners often committed by their direct supervisor. Confronting sexual harassment becomes more difficult when the supervisor is of the same nationality. In

such circumstances workers may feel even more pressure not to report it, amid fears that the allegations could reach back to their own community and families and cause problems for them on their return.

Freedom of Movement and Freedom of Association

Women migrant workers face more barriers than men in regard to freedom of movement and freedom of association as they face high risk of sexual abuse. This results in women migrant workers (a) feeling unable to leave their dormitories or factories and (b) feeling an increased dependency towards the labour agent or employer. There is also a perception that women workers are easily controlled by management and are generally more reluctant to speak out than men. Women may face difficulties in assuming leading positions due to cultural pressure and perceptions that outspoken women have 'loose morality'. However, this is not the whole picture. Some women do speak out and often very effectively. For example in Thailand there are numerous women worker organisations and support groups. Many women are involved in the various Burmese groups there, although they remain in the minority. ✂

In Thailand many Burmese women have been forced to cut their hair short and in both Malaysia and Thailand marriage is prohibited for women workers. Either marriage or pregnancy can be grounds for deportation.

Organising and Supporting Migrant Workers

The ability to organise and get information about rights and services available are important elements in ensuring migrant workers are able to demand better working and social conditions. This chapter provides a short overview of some of the strategies being employed by migrant workers and their supporters.

Worker organising

Although migrant workers are vulnerable to exploitation, they are not silent victims. They are taking action to defend their rights and improve conditions. Migrant worker strikes and stoppages are a regular occurrence; however those considered leaders in such actions invariably lose their jobs or visas. Not all action involves direct confrontation with the employer: some workers try to get help and support from outside the factory, including their home government representative.

Such actions have had limited success to date. The most effective way of defending workers' rights is through the formation of independent trade unions. However, because of the significant barriers for trade unions to carry out this work (including legal prohibitions, cultural and linguistic misunderstanding, racism within the union and local/migrant workforces, as well as limited resources) organisations set up specifically to support and work with migrant communities have been more successful than traditional unions in contacting and organising migrant workers.

Building networks

Building networks with local unions and migrant groups is an important step to support and organise migrant workers, but the often prevalent mistrust between traditional unions and migrant workers associations prevents this from happening on a significant scale. In addition, as labour

The Center for Migrant Advocacy in the Philippines set up an SOS sms helpline for Philippine migrant workers facing problems, which would enable them to get in touch with partner organisations working in their host country and ensure their complaint was logged at the embassy.

and production supply chains are becoming increasingly transnational, there is a need for the response to be transnational as well. Developing networks between unions and migrant groups working on the ground both in countries of origin and destination countries can facilitate the exchange of information, ensure support for migrant workers at all stages of recruitment, employment and return, and can create a strong platform for lobbying and advocacy.

Education and awareness raising

There is a clear need for rights-based education work to take place in both country of origin and destination. In country of origin, safe migration workshops are run in communities with a high level of outward migration. Pre-departure trainings are also carried out covering subjects such as labour rights, legal rights, medical information, and health and safety. It is important that pre-departure training courses are carried out by groups that are independent of

labour agents, are done prior to workers signing a contract, and focus on information regarding workers' rights, welfare and access to information.

Since language barriers remain an issue in education and awareness raising work, materials (especially written ones) need to be produced in a variety of languages to make them accessible to migrant workers in their destination country. Migrant workers, especially women, deem health issues or access to services very important and training should also focus on these issues. It is very important for groups to find ways of reaching out to migrant communities and to distribute the material where migrant (especially women) workers are likely to be.

Legal support

One of the underlying causes of migrant worker exploitation is the assumption that, due to their vulnerability and status as migrants, they are unable to find redress. However, there have been numerous cases taken against employers by migrant workers despite their difficulties in accessing legal protection. These cases challenge the assumption that migrant workers can be employed at lower wages and remove the perceived impunity employers enjoy with regard to migrant labour rights. There are also cases of migrant workers pursuing, or trying to pursue, legal action after deportation, but this can prove extremely difficult unless support groups in both country of origin and host country are involved.

Campaigning

A number of organisations, including the Clean Clothes Campaign, have some experience campaigning on migrant worker issues in general or in specific cases of migrant workers rights violations. ✂

Industry Responses

Brand action is limited

Few brands and retailers have taken action to address migrant worker issues. Their primary motivation is their brand reputation, as 'no company wants to have their brand name linked with slavery'. A key issue in them pushing for improvement is however the ambiguity around who is the employer of the migrant workers. Many factory owners refuse to take responsibility for the working conditions of migrant workers on the basis that they are not the direct employer of these workers. However, the outsourcing agent or labour agent, who is legally and contractually the employer, would not consider themselves responsible for ensuring that workplace conditions meet good standards.

This confusion is useful for brand, agent and factory owner in evading responsibility. In cases where brands and retailers have been involved in pushing for improvements, factory management has often taken positive action to address complaints, particularly in relation to living conditions. However, with regard to compensation and protection of the migrant workers initially involved in these cases, there was usually no proper resolution.

Codes of conduct, audits and remediation strategies are seen by brands as key tools for pushing for improvement however the following issues still remain:

Codes of conduct and audits

Many brands and retailers believe that the issues faced by migrant workers are already covered by their code of conduct. But this is not enough. A few companies have included specific reference to migrant workers in their codes or issued particular guidance on the use of migrant workers. In general brands and retailers use audits as the standard tool for identifying violations of migrant workers' rights, but no specific guidelines are followed to ensure that migrant workers are properly and explicitly included.

In 2008 the conditions of Vietnamese migrant workers in a Malaysian factory producing for Nike were investigated. Most of the workers were working 16 hours a day. The living conditions were terrible, deductions were taken from their wages and their documents were held.

Nike acknowledged that there were problems and put in place some remediation plans. However, Nike failed on investing in long-term involvement of migrant worker organisations to combat violations regarding wage deductions and withholding of documents.

Remediation strategies:

Unsurprisingly, if brands and retailers are taking action, they are mostly interested in remediation strategies that can prevent situations of forced labour. These strategies include:

- The use of registered labour agents only
- Insistence on direct employment and direct payment of wages by factory
- Training of workers in home countries
- The checking of contracts and double signing of contracts
- Checks that workers understand contracts
- Reimbursement of agency fees
- Full access by workers to documents

There are some significant gaps in work being done by companies on migrant worker issues. For example no strategies seem to exist for preventing the deportation of workers or remediation of abuses involving workers that have already been deported. No company seems to have developed any guidance for dealing with retrenched migrant workers as a result of factory closures. There is no indication that brands have developed policies for finding and

dealing with gender specific violations or for ensuring that women migrant workers were specifically included in audits or remediation strategies.

Where migrant worker violations have been properly addressed, remediation has relied to a large extent on cooperation with local migrant worker support groups or local trade unions who were able to give an accurate analysis of the issues involved. Yet, brands and retailers appear not to have developed their relationships with these migrant worker groups either to facilitate better information gathering by auditors or to implement programmes aimed at preventing such abuses in the future.

Multi-Stakeholder Initiatives

Multi-stakeholder initiatives (MSIs) bring together companies, unions and NGOs, and have a set of core standards on labour rights and monitoring that company members have to follow to ensure improved labour practices in their supply chains. MSIs, to which a number of large brands and retailers belong, clearly have a role to play in developing a strategic approach to ensuring migrant workers' rights, and tackling the exploitation of migrant workers. However, responses to resolve the key underlying issues so far have been inadequate.

Actions that should be taken by MSIs include:

- Producing clear guidance on how to remediate violations of migrant worker rights
- Developing guidelines on the monitoring of and use of labour agencies and employment relationships
- The coordination of lobbying governments in both country of origin and host country
- More time and resources into developing links with those organisations working on the ground to support migrant workers. ✂

Moving Forward

CCC and migrant worker organisations have worked to developing a set of key actions that would help improve respect for migrant workers' rights.

Demands towards brands and retailers

- **Adopt a positive approach towards migrant workers and acknowledge that they can and do exist in supply chains:**
 - Ensure that migrant workers are explicitly mentioned in codes and implementation policies;
 - Ensure that references to migrant workers are focused on rights and not legal status;
 - Take a positive attitude to migrant work and avoid policies that aim to exclude the use of migrant workers;
 - Ensure standards are based on international conventions and not just on national law, which often offers weaker protection to migrant workers;
 - The gendered aspect of migration and work should be properly taken into account.
- **Auditing and monitoring of working conditions should include steps to adequately include the perspective and needs of migrant workers:**
 - Ensure an appropriate composition of workers and stakeholders (e.g. migrant groups) are involved;
 - Make sure the right areas are inspected (e.g. kitchens, dormitories, etc.);
 - Ensure contracts include labour standards that may not be included in local law (e.g. accommodation);
 - Ensure that the company covers all additional expenses of migrant workers (healthcare, etc.);
 - Provide access to the factory for local migrant groups;
 - Involve unions or migrant worker groups in monitoring of conditions.
- **Publicly disclose the location of both production sites using migrant workers and the details of labour agents being used to supply workers to these sites.**
- **Promote and support dialogue between company and migrant workers and their representatives.**

Migrants from Burma have little experience of organizing as workers due to the oppressive military regime in Burma. So the Burmese migrants in Thailand have no experience of organizing as workers and believe that any action puts labour activists at risk of arrest and long sentences of imprisonment.

- Demand the abolition, reform, or regulation of labour agencies and ensure direct employment of workers.
- Provide pre-departure training for migrant workers.
- Ensure suppliers pay all recruitment fees, government levies, etc.
- Compulsory medical testing should be prohibited.

Demands towards governments

There is a need to push for greater recognition of the benefits migration brings to the country of origin and destination, and for a more pro-migrant attitude from governments:

- Sign relevant agreements and conventions to protect migrant workers' rights:
 - Sign bilateral agreements with countries of origin and destination;
 - Sign and ratify the ILO and UN conventions on migrant workers and their families and ensure they are properly implemented.
- Foreign worker "first out" policies should be abolished.
- Improve legislation to protect migrant workers:
 - Employment law should take priority over immigration policies;
 - Laws should be changed to ensure better protection of migrant workers;
 - Enforcement of existing laws needs to be improved.
- Ensure that workers' universal rights to freedom of movement and employment are not restricted by visa regulations:
 - Visas should not be tied to a particular employer;
 - Application processes for visas and permits should be made simpler and more accessible to workers.
- Protect and support migrant workers:
 - When labour complaints are made the government should grant workers involved in legal action against employers the right to stay, work and have their complaint heard;
 - Embassies should take responsibility for protecting the rights of migrant workers from their countries, regardless of legal status or migration process;
 - Take a proactive role in promoting and informing workers about labour rights.

Demands toward civil society and the labour movement

Civil society and the labour movement can amplify the demands of migrant workers.

• **Representing migrant workers**

- Allow workers to join a trade union and include migrants in elections and negotiations;
- Ensure that migrant workers are represented in collective bargaining agreements;
- Civil society/labour organisations should not pursue/ support policies that discriminate against migrant workers;
- Ensure that information and research is done for the benefit of workers and is made available to migrant workers' groups working directly on the issue.

• **Advocacy**

- Civil society/labour organisations should work with marginalised people who need their support most, regardless of pressure or criticisms that might be made of them;
- Encourage trade union solidarity action with migrant workers along supply chains (e.g. transport unions could refuse to unload certain articles);
- NGOs should shift priority to focus on basic rights of migrants rather than welfare;
- Civil society/labour organisations should pressure governments and companies to respect workers' rights.

• **Information sharing**

- Unions and migrant worker organisations from sending and receiving countries should develop joint work on organising strategies and share information;

- Research needs to be done on the whole supply chain: who is involved, the situation of migrant workers and working conditions, the brands being produced;
- Research groups should work with migrant workers directly to ensure their work feeds into the movement for migrant workers' rights. ✂

Case Studies

Labour Recruitment from Bangladesh

Source: International Textile, Garment and Leather Workers Federation (ITGLWF)

The typical pattern for recruitment of migrant workers in Bangladesh is that sub-agents come to rural communities promising earnings for work abroad that are significantly higher than would be possible at home or even in Dhaka. The employment fee is discussed with the family who are asked to pay a deposit up front, with the remainder of the fee provided by the agent as a loan.

As soon as the contracts and loans are signed workers are taken to the capital, where they are placed in a 'holding centre' until documents are arranged, which can take up to two months. During this time workers are not allowed to go out on their own and are threatened should they decide to change their mind about working abroad. The threats include violence against the worker, the workers' family and demands for the immediate repayment of the fee or loan.

Once documentation is secured workers are dressed in distinctive overalls which makes them easy to spot on the way to and through the airport. Labour brokers reportedly pay bribes to airport staff to ensure workers do not run away from the airport. Workers are then flown to wherever work permits have been arranged for.

Once workers are transferred to the host country their documentation is withheld by the employer, they are housed in poor accommodation and required to pay additional recruitment fees and travel costs. Money is often deducted for the accommodation and workers will be fined if they talk or make mistakes.

They are paid directly from the labour broker straight into a bank account of the recruitment agent. The agent deducts fees before passing anything onto the workers. Often the family at home are also paying so are in fact double paying the loan. Almost all workers still owe money at the end of their working period.

Thailand: Burmese Workers Using the Rule of Law:

Source: Migrant Workers from Burma Organising in Thailand, Jackie Pollock, 2009

One group of Burmese workers from a knitting factory in Mae Sot, Thailand, decided to attempt to try using legal mechanisms to challenge their exploitation. Their struggle to take their case through legal channels exposed the many barriers and obstacles in the path of migrant workers taking collective action.

The Labour Protection Office was located one and a half hours away from the border town where they worked: a journey that as migrants they were not allowed to make. On arrival at the Labour Protection office, the official did not speak Burmese and therefore could not communicate with the workers. Meanwhile, the employer dismissed all the leaders of the group and eventually all the workers. They were blacklisted as 'troublemakers' from all factories in the town. Having lost their jobs, the workers lost their legal status and were harassed, arrested, and deported.

They organised themselves to ensure that a group of leaders, mostly women, stayed at the border to return for negotiations. When the employer did not follow the labour protection order the workers agreed to go to court. In the first court hearing the employer offered each migrant 10,000 baht although the ruling was for 160,000 baht per worker.

The judge said this was too little and suggested an increase of a further 2,000 baht. When the migrant representative was asked if the group would accept this, she said no. The judge said she did not believe the migrant was speaking on behalf of the other migrants who were all in court and so they were asked. Without a moment's hesitation, the group stood up and a resounding "Ma Houk bu" (no) echoed through the court.

These migrants eventually received about half of the compensation owed to them, but it changed the nature of all further negotiations. Instead of spontaneous strikes, workers in the area started to organise and negotiate. Each year since this case, approximately 1,000 workers in the area have taken cases forward and received compensation of between 1 and 4 million baht a year. ✂

Colophon

This document is a summary of

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Cover

Migrant workers from various sectors participating in a Migrant Worker Day demonstration to demand government protection of migrant workers rights, December 2009, Bangkok. Photo courtesy Thai Labour Campaign.

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The Clean Clothes Campaign (CCC) is dedicated to improving working conditions and supporting the empowerment of workers in the global garment and sportswear industries. Since 1989, the CCC has worked with trade unions, NGOs, and workers around the world to help ensure that the fundamental rights of workers are respected. CCC educates and mobilises consumers, lobbies companies and governments, and offers direct solidarity support to workers as they fight for their rights and demands better working conditions.

False Promises

Migrant Workers in the Global Garment Industry - Summary

“A Vietnamese worker in Malaysia injured his arm in a garmentprinting machine. He was hospitalised, lost one of his arms, and had to take three months off without pay. When he returned to work the medical costs for the operation and treatment were deducted from his wages.”

Hundreds of thousands of migrant workers are employed throughout garment and textile supply chains across Asia, Europe, North and South America and Africa.

They are subject to much of the same abuses as local workers. However, these abuses are compounded by the specific context in which migrant workers are employed.

This summary of the Clean Clothes Campaign report *False Promises* gives an overview of the issues migrant workers are facing, existing strategies for organising and supporting migrant workers, and the most prevalent industry responses. It ends with a list of recommendations for companies, governments and civil society.
