



Prisoners in a Foreign Land: Migrant Workers in Jail

A research project of the
Asia Pacific Mission for Migrants
(APMM Company Limited)

*with the support of
Evangelisches Missionswerk in Deutschland (EMW)
General Board of Global Ministries, The United Methodist Church*

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PREFACE

THE PHENOMENON OF MIGRANTS IN JAIL, or what some quarters prefer to call “immigration detention”, has been a cross-cutting concern in the work of the Asia Pacific Mission for Migrants (APMM Company Limited) since its inception. Whether it is with undocumented workers, marriage migrants, domestic workers or migrant unionists, the possibility of dealing with the incarceration of migrant workers is a constant concern for any migrant advocate in the Asia Pacific, and in this rule the APMM cuts no exception – it has been handling migrant detention cases for most of its 28 years of existence.

Forced economic migration systematizes the exodus of a large body of workers seeking gainful employment abroad, and inevitably creates maximal conditions for migrant detention. Strangers in a foreign land, migrant workers are instantly awash in a sea of socio-cultural contradictions that they are oftentimes ill-equipped to deal with, save for the primordial instinct to survive and send money back home.

It is a social cost that promoters of labor-export programs turn a blind eye to, and makes the responses of governments on both ends of the migration flow inadequate, legalistic and superficial. With a myopic, profit-driven view of labor migration as merely one of remittances and upward-pointing GDPs, neoliberal “talk-shops” on migration like the Global Forum on Migration and Development (GFMD) and related intergovernmental bodies disregard the inherence of human rights violations in the “migration for development” paradigm itself.

As a step towards creating greater awareness of this advocacy stream among migration stakeholders, APMM has allocated more focus on migrant detention in recent years. We aim to contribute to current discourses on the subject by raising it to the level of comprehensive human development and towards a more strategic approach to the problem. Like most international NGOs working on “immigrant detention”, APMM takes the position that incarceration should not be the supervening response to misdemeanors committed by foreign workers, and that rights-based measures should instead be given primacy by host-country governments. We are also of the opinion that immigration detention itself should be treated as a fundamental violation of migrant human rights, that leads to the misguided policy of criminalizing immigration cases such those in South Korea, Malaysia and Taiwan and many countries in the Middle East.

Taking the discourse forward, however, APMM believes that the long-term solution to migrant detention lies not even in its abolition, even if that were possible. It lies in the abolition of the labor-export paradigm itself, which in turn is deeply entrenched in the neoliberal agenda and its history of colossal miscarriages. It lies in the negation of labor power’s unbridled commodification, and the brutal economics of modern-day slavery that

consigns ever-larger numbers of the world's productive population to itinerant mendicancy.

It is our sincerest hope that this current research on “migrants in jail” will be put to good use by migrant and human rights organizations as a material for furthering this stream of advocacy. As the global economic crisis deepens and compels us to face the problem of forced migration in an increasingly collective way, we humbly offer this report as an initial effort that we will be building on in the coming years.

Ramon Bultron
Managing Director
APMM Company Limited

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THIS RESEARCH IS A PRODUCT of a collective and concerted effort of many movements, organizations and individuals:

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~ the various organizations of migrants and those working with them, namely Migrants International and its country chapters, especially Migrants Middle East, Saudi Arabia and Qatar chapters, KASAMMA-KO, Migrants Japan, Tenaganita, TransAsia Sisters Association Taiwan, Migrant Care-Indonesia, Asosiasi Tenaga Kerja Indonesia (Association of Indonesian Migrant Workers, or ATKI), and many others who have contributed their time, energy and knowledge to this research;

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~ and last but not the least, the many migrants, especially those in jail, who braved the current conditions they are in to share with us what they know, what they are going through and how they are coping with it, and their will to continue and fight what seems to be a system of repression, discrimination and exclusion.

To all of you, we say thank you.

I. ABSTRACT

“PRISONERS IN A FOREIGN LAND: Migrant Workers in Jail” is an exploration of the vulnerability of migrant workers to imprisonment and detention on the context of existing policies and practices both in the host and sending countries; the condition of migrant workers in jail and in detention centers, and; the response of grassroots migrant organizations, various civil society organizations (CSOs), and the governments of sending and receiving countries.

Through a study of the human rights concerns of migrants in jail and in detention in major migrant destination countries in Asia-Pacific and the Middle East regions – the Kingdom of Saudi Arabia, Qatar, Lebanon, Japan, Malaysia, Taiwan and South Korea – the research shows that human rights of migrants in jail and detention centers are routinely violated. The crisis situation of migrants serves as the context that put them in a condition where their rights are violated even before their deployment overseas and during the period of their employment.

Methodologies used in the research include surveys, interviews, focus group discussions and a review of available published materials on the topic.

In the presentation of the general picture of migrant workers in host countries, the research deals not only in the demographics of the migrant population. It also shows that majority of the migrant workers in these countries are employed in sectors that are most vulnerable to human and labour rights violations such as domestic work, the construction industry, entertainment industry, and in manufacturing. More importantly, it shows that in host countries, there either is a lack of protective laws and policies for migrant workers or there exist pernicious laws that push migrant workers to the wall to the point of resorting to actions that are considered criminal in host countries.

The increasing numbers of migrants in jail and/or immigration detentions are highly attributed on the kind of treatment migrants receive in the said host countries. While the condition differs among the countries focused by the study, there is evidences that points to the relation between the living and working condition of migrant workers – bound by laws and policies of host countries – and the imprisonment and detention of many of them.

While the research focuses on host countries, it also expounds on the response, or the lack thereof, of sending governments to the plight of their nationals in jails and in detention. It shows in the case studies and in interviews with migrant community leaders that governments of sending countries either ignore cases of their nationals in jail and in detention or only act during the period where the window of opportunity to get their nationals off the hook is already very narrow. With the latter, experiences of advocates for the release of those in jail

and detention show that governments of sending countries only act when pressure has been mounted by families of jailed and detained migrants, grassroots migrant organizations and CSO advocates.

This research also explores the actual experiences of migrant workers organizations and advocates in addressing the concerns of migrants in jail and in detention from their response to immediate welfare needs of arrested and detained migrants to the actions they do to save the life of those in death row, release those who are unjustly imprisoned and detained, and the improvement of services and assistance to the jailed and detained migrants. An interesting and inspiring finding of the research is how grassroots migrant workers' organizations in countries in the Middle East – known for their strict rules on CSOs and organized actions – are creatively and effectively overcoming their difficult conditions to be able to address their fellow workers in jail and in detention.

To make more concrete the issue tackled by this research, various case studies of migrants who have been or are currently in detention and jail are presented. Their stories are testimonials to the points the research wants to prove on the correlation of policies governing migration and migrant workers and the imprisonment and detention of many migrants, the inaction of governments to their plight that aggravate their condition, and the importance of migrant community groups and advocacy actions to address the problems of migrants in jail and in detention.

Finally, the research presents recommendations to ensure full protection of human rights of migrants based on the existing United Nation's conventions on the rights of migrants. It proposes changes in laws and policies both of receiving and of sending countries that will reduce the vulnerability of migrant workers to imprisonment and detention. It also includes recommendations for CSOs, advocates and migrant workers in assisting migrants in jail and in detention and shows the interrelationship of various aspects of work – welfare and legal assistance, education, advocacy and promotion, and organizing – to effectively address the dire condition of imprisoned and detained migrant workers.

II. METHODOLOGY

THE RESEARCH, “PRISONERS IN A FOREIGN LAND: Migrants Workers in Jail” is a combination of primary and secondary resources that deal with different issues of migrants in detention. We used survey as the primary method among migrant workers in the host countries to gauge their awareness on the condition of migrants in jail, support and services provided by both the host and sending countries to migrant workers and ability of the sending government in addressing the issue and concerns of migrants in jail.

Focus group discussions (FGDs) among leaders of migrant organizations in the host countries were used to ascertain the socio-political environment in host countries that tend to affect the conditions of migration. Of similar concern was the way migrant organizations responded to the needs of migrants in jail, and their perception of support mechanisms provided by both sending and host governments.

Key-informant interviews (KIIs) among representatives of sending country governments, leaders of migrant service institutions and migrants in jail were also conducted. KIIs provided firsthand information on the capacity of sending governments to act on issues related to migrants in jail, responses of the migrant service institutions in saving the lives of migrants inmates and the actual conditions of migrants with prolonged jail terms.

Secondary materials were also utilized for this research, such as articles and position papers that are available in the internet and libraries. Both the primary and secondary data-gathering served to highlight the current situation of detained migrants.

III. REVIEW OF LITERATURE

SECONDARY RESEARCH MATERIALS that are relevant to the issue of immigration detention in the Asia Pacific are currently few, especially those that delve into the conditions of jailed migrant workers. More often than not, such materials aggregate labor migrants with refugees and asylum-seekers, especially in papers issued by the International Detention Coalition (IDC), Asia Pacific Refugee Rights Network (APRRN) and Amnesty International (AI).

Among publications of these three international civil-society organizations (CSOs), those of IDC¹ yielded content most relevant to this research. Its submission to the UN Special Rapporteur on the Human Rights of Migrants (SRHRM) presents global trends in immigration detention, the regional situation of migrants, asylum-seekers and refugees and recommends to the UN Special Rapporteur what it deems to be viable alternatives to detaining foreign persons.

With regard to the general situation of apprehended migrants, asylum-seekers and refugees, the IDC (2012, p2) made the following statement:

States worldwide are increasingly using various forms of detention as a one-size fits all approach to migration management in an attempt to address irregular migration. When detaining arriving refugees, asylum seekers and migrants, states give little consideration to specific vulnerabilities such as age, gender, medical conditions and protection needs.

Detention can last for months or, in some cases, years, during which time men, women, boys and girls are deprived of their liberty, often in overcrowded and unhygienic conditions that do not meet international standards. In some cases detention is arbitrary, with little or no independent oversight of detention conditions or reasons for detention. Many migrants are denied access to bail hearings, judicial review or a right to challenge their detention.

The IDC report also said that “human rights violations can and do occur” in immigration detention and especially victimizes women and minors. It argues that incarcerating unwanted migrants punishes more people than is intended, and that governance-wise, is not even cost-efficient. “Migration-related detention not only creates incredible hardship for those in detention, it also separates families and disrupts communities. It diverts both governmental

¹ The IDC is an international coalition advocating for greater respect for the human rights of detainees; which includes preventing and limiting the use of, seeking alternatives to, and using the least restrictive forms of, immigration detention. Its 250-strong membership of 250 non-governmental organisations, faith-based groups, academics, practitioners and individuals does research, advocate and provide direct services to and on behalf of refugees, asylum-seekers and migrants. Their website is <http://idcoalition.org/>

and nongovernmental actors from more humane, reasonable and cost-effective alternatives to detention.” (IDC, p2)

Even in the absence of human rights violations, immigration detention itself exacts a heavy toll on the wellbeing of the inmate and is not an appropriate tool for dealing with irregular migration. “Detention has been shown to harm health and wellbeing. The potential impact of detention on the health of those detained is so severe that its use as a message of deterrence and control cannot be justified. Research has demonstrated that being in detention is associated with poor mental health including high levels of depression, anxiety and post-traumatic stress disorder (PTSD) and that mental health deteriorates the longer someone is detained.” (IDC, p11)

In terms of deterrence to irregular migration, the IDC asserts that detention has been proven to be an ineffective measure. “Existing evidence and government statements suggest a policy of detention is not effective in deterring asylum seekers, refugees and irregular migrants. Despite increasingly tough detention policies being introduced over the past 20 years, the number of irregular arrivals has not reduced.” (IDC, p12)

While the IDC submission makes for a strong case against the practice of immigration detention, it presents little documented evidence on the conditions of migrants in jail. The annual reports of the Amnesty International² (AI) offer more detail on the condition of migrants in jail of which 2012 report is a good example. In the case of Malaysia, AI (2012) had this to say:

In April, detained migrants rioted at the Lenggeng Detention Centre near Kuala Lumpur. A police investigation cited poor detention conditions and indefinite detention as some of the causes for the incident. Undocumented migrants in Malaysia are routinely detained and, if convicted, face prison sentences and judicial caning. (AI, p228)

In the case of South Korea’s treatment of apprehended migrants, AI reported that “hundreds of migrant workers were arrested and deported, following a crackdown against undocumented migrant workers which began in September.” (AI, p207) It also cited the death of a Chinese migrant worker in an immigration vehicle just after his arrest by immigration.

As useful as the AI reports are in making spot assessments of migrant human rights situations in each host country or even region, it does not provide fine-grained information on the current conditions of migrants in detention. Case studies are also lacking, which is understandable given the comprehensiveness of such annual reports in covering the whole gamut of human rights advocacy.

These shortcomings in the existing literature and research on immigration detention in the Asia Pacific provide the compelling rationale for APMM’s own study. What needs to be seen are the actual conditions of these detention centers, and how apprehended migrant workers are treated inside these jails. Accounts of how host country governments handle each case of migrant detention must also be documented and shared, in order for research to guide policies and legislation more effectively.

As sources go, no one is better equipped to report on these concerns than those who are involved in the process of immigration themselves: the detained migrants, their families and

² Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights. Its vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. Their website is <http://www.amnesty.org>.

government officials on both ends of the migration flow. These are people who have first-hand knowledge of immigration detention in the region, and can provide vivid proof that the practice of immigration detention in itself is a human rights violation and needs to be changed in favor of more humane and pro-development alternatives.

INTRODUCTION

MIGRANTS LIVE AND WORK IN A STATE OF CRISIS. The crisis itself breeds forced migration on one hand, and on the other, feeds on the continued exploitation of migrant labor in the false assumption that it can be resolved by making labor – including that of the migrants – as cheap, as docile and as flexible as possible.

Following the global meltdown in 2008, labor-exporting countries with their weak and dependent economic foundations immediately turned to even more aggressive and sophisticated labor export programs to address the economic and political impacts of the crisis.

Often called “modern-day slavery” in more emotive contexts, migrant labor has become an even cheaper commodity, sold at bargain-basement prices, with the objective of relieving labor exporting countries from the pressure of a rapidly constricting economy and the potential upheaval of a dislocated and discontented populace. Remittance has become the lifeline – and the credit line in order to borrow or beg for aid – of labor exporting countries while huge incomes from oftentimes dubious government fees offered a seemingly bottomless source of cold cash, sadly to be drained by corruption and mismanagement leaving nothing for assistance to migrants in distress.

Meanwhile in labor-receiving countries, a similar drive to get the most out of migrant workers prevails though in different forms from the sending countries.

Labor flexibilization as applied to migrant workers has been implemented resulting to the further erosion of wage, social benefits and the general labor and human rights of migrants. Social exclusion has been intensified with migrant workers further relegated to the sidelines. Xenophobia and discrimination are fanned by states to widen the divide between migrants and local workers who are themselves also victims of the crisis. While governments scramble to bail out businesses, the people are left with crumbs to fight over.

Big businesses and their government patrons cheapen the labor of locals and even more of migrants. Profit-driven policies are instituted that make migrants increasingly vulnerable to abuse, exploitation, restriction on rights, arrest, detention, deportation, sickness and even death.

Yet, due to a global system that enriches a few in a number of countries and impoverishes the many in majority of these, the supply of migrant labor is endless.

With the unresolved crisis as the background and the “benefits” that forced labor migration supposedly gives, it is almost natural for governments to turn their eyes to this lucrative

business. Thus, the paradigm of migration for development was conceived and promoted through the Global Forum on Migration and Development (GFMD) that was started in 2007 and would have its sixth session this year in Mauritius.

With the remittance of migrants (numbering 214 million) reaching US\$325 billion in 2010 alone and which was projected to steadily increase in the next two years, governments are eager to corner a process to source such reliable finance capital (Global Migration Group, 2011). Thus, the GFMD focuses on managing migration and ensuring that migration is coherent with other national policies. They do this while cosmeticizing the GFMD and its neoliberal paradigm in order to hide the real cause and intent of the migration for development agenda.

However, it is now fairly a well-established truism among migrant advocates that labor migration can never be used for development. No country in history has developed mainly because it capitalized on its people being exported as chattel.

Labor migration shall only maintain the system and structure that brought about the economic crisis and intensify it thereby repeating the process at an even faster and worse way.

But in the midst of the crisis, there stems opportunities that can lead to long-lasting and fundamental changes if pushed for by an informed, organized and empowered people.

This was precisely how the global movement of migrants was built.

Migrant workers have learned to organize themselves for the defense of their rights and wellbeing, in a condition where their rights are perpetually under attack. They have learned that if they do not act, then policies and practices that put them in extreme distress will continue with impunity. They learned that commonality of their concerns regardless of nationality, and they have also learned that forging solidarity with local workers and other fellow marginalized is the way forward.

Crucial to the organizing and empowering of migrants is advocacy work. Through advocacy, issues that are intentionally hidden are made public. Analyses are sharpened and migrant workers learn the ropes of sectoral and multisectoral advocacy. Successful advocacies can bring immediate relief to migrant workers through reforms in policies or, for those in any type of legal battle, positive outcome in their case.

Advocacy keeps issues of migrants as community concerns. It makes the public aware and can gather the support necessary to further advance these issues.

In truth, advocacy and campaign actions are at the core of the process of the empowerment of migrants. Without advocacy and campaign work, discussion of issues will merely be academic. Without this work, migrant workers will never realize the importance of getting organized.

To be able to conduct effective advocacy for migrant workers, the role of advocates is invaluable.

Advocates broaden the number of people reached by information and education on the issue. They also help widen the arena of struggle where the issues can be advanced and where grassroots migrants can engage in. There are also arenas for advocacy work that are, sadly, closed from the intervention of grassroots migrants. For example, lobbying during election

period for the migrant rights is an arena that is not open to many in the sector because of their status in the host country. But this can be used by advocates to expose those who hold regressive and discriminatory views.

Migrant advocates put primary importance to the role of grassroots people it is advocating for. They make it a point to always be in touch with the grassroots to learn from them, gather their opinion and echo their ideals. They do not profess to be saviors of the grassroots, but instead do their utmost to provide as much support as they can give for the grassroots to be empowered.

In the end, however, grassroots migrant workers can only do so much to assist their fellow migrants who get detained and imprisoned. While community of migrants in various countries help those in detention in whatever way they can, their help is very much limited by the conditions they themselves face. Advocates can help bridge these limitations by providing legal assistance, regular visitations, and other types of support.

I. OVERVIEW: MIGRANT WORKERS IN JAIL

MANY MIGRANT WORKERS ARE DEEP in debt long before they secure jobs overseas. They end up owing money to relatives and friends, lending agencies, placement agencies, and loan sharks.

With the decreasing number of jobs available abroad, more and more impoverished people still leave their home countries to try their chances abroad. Many become victims of trafficking and illegal recruitment, and many others eventually become classified as “undocumented or illegal migrants.”

The Middle East chapter of Migrante International, the largest Filipino organization for overseas Filipino workers, said during a focus group discussion that as of 2011 there were at least 400 Filipino overseas workers in various jails in the Middle East.

Every year as the most hallowed Muslim season of Ramadan comes to a close, jailed migrant workers intensify their pleas for a royal pardon. During the month of Ramadan, the Saudi King and Custodian of the Two Holy Mosques His Highness King Abdullah, as part of tradition grants clemency to all petty crime offenders. In some instances, he also orders the expatriation of inmates who have been meted out the death sentence through beheading.

The Saudi pardon committee has jurisdiction over the granting of the royal pardon. According to reports, the Saudi government has created 15 provincial pardon committees tasked to review the cases of inmates who have committed petty crimes without private rights liabilities.

The royal pardon grant only covers petty crimes or offenses such as illicit affairs, involvement in “mixed” crowds, gambling, harboring criminals and absconders, and illegal possession and selling of liquor, among others, which do not constitute private rights aspect of the offense committed.

Migrant advocacy organizations assert that the high and ever-increasing number of migrant workers in jail underscores the need for governments to orient their citizens on laws of the countries where they intend to work, such as in the Kingdom of Saudi Arabia.

In the case of the Philippines, for instance, as of 2011, a total of 330 Filipino overseas workers who have served their sentences or have been pardoned remain in jails in Saudi Arabia, Africa, United Arab Emirates, Syria, Malaysia, Kuwait, Iran, Hong Kong and Thailand (Reyes, 2011).

The primary reason why so many people leave their own countries to find jobs overseas is because they want to earn bigger wages and salaries, substantially bigger than what they used

to get at home. Processing the documents, securing clearances and finalizing all the other requirements for employment abroad cost an arm and a leg for many migrant workers and their families, so much so that many go deep into debt.

Then, at the end of the long, arduous, and financially draining process, not all migrant workers are able to secure work that will genuinely utilize their educational achievements skills, and many more will end up in jobs where the salary or wages are not commensurate to their labor.

When they arrive in their new countries of employment, there are no guarantees in place that ensure that they will always be protected from abuse, exploitation, racism and other forms of discrimination. Many migrant workers, particularly women, have the great misfortune of working for employers who not only violate labor standards and their provisions on wages, benefits, working conditions and other terms of reference, but also cause physical, psychological, and emotional damage to their employees.

What exacerbates the situation is the tragic fact that governments that send migrant workers have little or no means to assist their citizens abroad and protect them legally. In the Asia Pacific and Middle East regions, many cases of rights violations against migrant workers have been documented by migrant organizations. Many of these cases usually are of an economic nature; for instance, many migrant workers report their employers as being guilty of non-payment of salary or of cutting the legally-mandated or agreed upon amount. There are also valid and confirmed reports of unfair labor practices like unpaid overtime and the refusal of managements and employers to recognize their workers' rights to weekly day-offs and holiday breaks.

The worst forms of violations range from illegal confiscation of passports and other pertinent documents, to sexual harassment, physical abuse, psychological abuse and rape.

Despite the rising statistics on abuses against migrant workers, most migrant workers persist and persevere in remaining abroad. They think of their families, and remind themselves that their sacrifices are for the parents, the wife or husband and children they left behind. They persevere because of the knowledge that because they are the main breadwinners, that they are the ones their families greatly rely on for financial security and comfort.

But a line has to be drawn when it comes to self-sacrifice.

Ever so often, the news sites feature reports of migrant workers who were arrested, sentenced and jailed. Then there are the reports of many others who were executed after having to suffer years in prison. The cases of Marilou Ranario (see this report, p68), a Filipina domestic worker jailed in Kuwait, and Ruyati Binti Sapubi (Burke, 2011), an Indonesian migrant worker executed in Saudi Arabia in 2011, are only two of many stories of migrant workers who were thrown in jail after falling into situations where they were forced to defend their own lives and dignity.

For resisting abuse, for defending themselves against violent or abusive employers, many migrant workers have been sent to jail and sentenced for life. Or worst of all, they are subjected to the death penalty.

In the meantime, many other migrant workers rightly choose to escape their employers to save themselves and their dignity. They, too, often end up being arrested and jailed. Charges against them are often false or at the least greatly exaggerated. Some are accused of petty theft; others

are charged of more ludicrous crimes. In fabricating cases against migrant workers, employers are usually motivated by the desire to escape their legal responsibilities and obligations to their erstwhile workers.

II. GENERAL CONDITION OF MIGRANT WORKERS IN SELECT HOST COUNTRIES IN THE ASIA PACIFIC AND MIDDLE EAST

MIDDLE EASTERN COUNTRIES

In a paper presented by Seta Hadshian³ (2012) during the Interfaith Solidarity Conference on the Conditions of Migrants in Jail, she states that 35 million people live in the six member countries of the Gulf Cooperation Council-GCC - Saudi Arabia, Kuwait, Qatar, Oman, Bahrain, and the United Arab Emirates (UAE) (Hadshian, 2012, p2). Around 17 million of them are migrants. Qatar, Kuwait and UAE have the highest percentage of foreigners. Westerners comprise the largest sector of the population who dominate the white collar jobs, followed by Asians, Arab and Iranian nationals. Less than 20 percent of the workers are Emirati citizens, headed by sheikhs and the powerful elite.

Migrant laborers from Africa, Asia, and Middle East comprise about 95 percent of the workforce and are recruited into the construction industry and domestic work (Hadshian, p2). In the last decade, the oil business in the Arab Gulf witnessed an unprecedented construction boom, attracting large numbers of Western expatriates and increasing the demand for cheap migrant labor. The conditions of migrant workers are very deplorable.

Various migrant rights advocacy groups and human rights institutions say that systemic violations of human rights of migrant workers take place in the Arab League countries and the UAE, but concrete evidence on the conditions of migrant labor in the UAE is very scarce.

Strict government controls on outside research have made it difficult for scholars to document information and problems, which is why most information comes from gray literature and investigative journalism. Reliable sources include Human Rights Watch (HRW), the International Labor Organization (ILO), the United Nations (UN), and the American Centre for International Policy Studies, Amnesty International, Anti-Slavery International, the US Department of State and various media reports.

Migrant workers in Gulf countries work in the construction industry, where as of 2011, US\$350 billion worth of active construction projects are either in the planning or construction stage (International Business and Diplomatic Exchange, 2011).

³ Seta Hadshian is Seta Hadshian is the unit director of the Diakonia and Social Justice programme, Middle East Council of Churches. The unit focuses on the “active and concrete involvement of God’s call, in peoples’ struggle for self-realization, self-reliance, renewal, development and liberation as the core and essence of the mission of the churches and as a unifying force of churches. The MECC’s website is http://mcc-churches.org/main_eng.htm.

In Dubai, said Hadeshian, government projects such as the Burj Khalifa (world's tallest building), Dubai World Central International Airport (which when completed will be the most expensive airport ever built), the three Palm Islands (the largest artificial islands in the world), and Dubai Mall (the world's largest shopping mall) required hundreds of thousands of construction workers from various countries to complete these projects (Hadeshian, p5). There is also the construction of Dubailand, which is expected to be twice the size of Disney World; and of Dubai Sports City which will not only provide homes for local sports teams but may also be part of future Olympic bids.

She said, "The construction industry is founded on the blood of an army of migrant workers whose daily compensation is US\$5 to US\$7 a day. They work 18 hours/day in a hot weather of 50° centigrade, and majority of them are detained in "safe houses" or "labor camps." They live in very hard conditions; their passports are confiscated by recruiting agencies or the employers. Some eight to 10 persons live together in each room, no ventilation, food is insufficient, and health conditions are very much at risk, over crowdedness, lack of privacy and inhumane conditions that lead to aggression and depression." (Hadeshian, p5)

The migrant workers, she added, are taken every early morning by buses to the work sites and brought back at 10 or 11 o'clock in the evening. They are not allowed visitors, and are not allowed to bring in their families. As an immediate consequence of this, suicide rates are very high, but official statistics are not available to the public. (Hadeshian, p5)

In 2006, the Indian Embassy in the UAE recorded 109 suicidal cases of their nationals in the UAE (Al Jazeera, 2007). They are detained and forced to labor slavery for years. They are denied the right to organize themselves in unions or seek the support of non-government organizations (NGOs) to speak for them.

As of 2010, the Abu Dhabi government began building a new labor house that will host one million migrant workers (Hadeshian, 2012).

QATAR

According to Migrant Qatar, migrant workers in Qatar are covered by labor laws insofar as contractual obligations go. Migrant workers can seek reprieve from the labor courts for unfair labor practices.

Specifically in the case of migrant workers from the Philippines, complaints of unfair labor practices are not immediately attended to, particularly if the employment contract was drawn up in the Philippines.

A crucial difficulty, according to Migrant Qatar, is how the courts use Arabic even when addressing cases involving foreigners. More often than not, there are no interpreters to translate the legal developments and proceedings to the defendant.

According to a recent article by Regan Doherty of Reuters (2012), Qatar is currently under scrutiny for its treatment of its migrant workers.

The article also stated that there is no minimum wage in Qatar. Migrant workers earn \$8 to \$11 a day, but often the wage is as low as \$6.75 a day. Considering that the country registers a per capita income of around \$100,000, one of the highest in the world, it's easy to feel outraged.

Doherty added that the New York-based Human Rights Watch (HRW) has issued a report in June 2012 condemning abuses in Qatar. The institution said that there is a need to overhaul its labor practices. Migrant workers live at the bottom of the rung in the country which only has 1.7 million people and of which only 250,000 are nationals. Qatar is the world's biggest exporter of liquefied natural gas, but it is also a country that pays lowest to migrant labor. In late 2011, the government increased the basic salaries and social benefits of Qatari public sector employees by 60 percent. Those in the military, in the meantime, received 50-120 percent pay hikes. No increases were given to migrant workers, majority of whom come from India, Nepal and Bangladesh.

Doherty also said that while foreign contractors are often to blame for worker abuse, human rights groups criticize the Qatari government for not ensuring that companies abide by local laws.

Qatar's current labor law was passed in 2004. It sets a limit on the working hours of local and migrant workers, as well as for domestic workers. It also has provisions for workers' health and safety. Employers are required to pay workers on time on a monthly basis and prohibit recruitment agencies from imposing workers' fees. It has also set rulings against employers confiscating passports, while at the same time imposing strict requirements concerning accommodations for workers. It also prohibits employers from making workers labor during midday in the summer months.

For all these regulations and laws however, many employers still get away with violating them. Human Rights Watch and migrant organizations have pointed out that the labor department in Qatar, like its counterparts in Dawadmi, Riyadh, Kingdom of Saudi Arabia, are unable to monitor employers and their adherence to labor regulations.

In Dawadmi, stated Migrant Qatar, skilled workers are obliged to render extra work hours without compensation and work schedules often last 10 to 12 hours. There are also cases wherein the amount of salary stated in the employment contract is intentionally reduced after the migrant worker begins his employment. In the meantime, foreign workers are forced to shoulder the costs of the resident permit or IQAMA when it's supposed to be paid for by the employer.

KINGDOM OF SAUDI ARABIA

Employment in the Kingdom of Saudi Arabia (KSA), according to the participants of the focused group discussion in the KSA, involves many restrictions and prohibitions, particularly when it comes to matters of faith and religion. Women are not allowed to show their faces in public, men are not allowed in public to speak to women who are not their wives and alcohol is prohibited.

KSA is a conservative Muslim country where, migrant groups say, many of the basic rights and freedoms of citizens including migrant workers are overtly suppressed. Based on the experience of migrant groups and their members, the KSA authorities are highly authoritarian and their attitude towards foreign workers is very strict.

It is not surprising that many migrant workers find it very difficult to adjust to the relatively harsh social situation in KSA.

Interviews made with various migrant workers attest to these difficulties.

“We are forced to obey all the laws regardless of how unreasonable and even irrational some of them are. We are foreigners here,” one said during the focus group discussion.

In the meantime, migrant rights groups have pointed out the existence of strong discrimination against foreign laborers. The sponsor system is said to be a barrier stopping workers from earning enough. Some employers are also unscrupulous, delaying the release of wages even as their workers continue to contend against the rising prices of basic commodities and rent.

The migrants in the FGD said that for the most part, laborers and migrant workers from the United Kingdom, the rest of Europe and the United States receive better wages and experience better work conditions than their counterparts from the South East Asia, such as those from the Philippines. They are said to be allowed more privileges when it comes to choosing their accommodations and modes of transportation. They are also given living allowances, as well as opportunities for promotion.

Consistently documented are cases of migrant workers, specifically overseas Filipino workers being verbally or even physically abused by their employers. Among the documented problems confronting migrant workers in KSA are contract substitution, illegal recruitment, salary downgrading, racial discrimination, maltreatment and abuse. They are not given sufficient food and forced to suffer bad accommodations. They are not given health insurance and medical benefits. Vacations are often prohibited. There are many employers who also rape or sexually abuse their female migrant workers, and this has through the years resulted in many rape cases filed against employers which tragically did not prosper.

For the most part, those who work in households fail to report their ordeals to the authorities because employers have means and ways of prohibiting them. Some employers threaten their help against reporting the abuses of the authorities by saying that they will be immediately deported. In the meantime, the delays in the release of salaries and wages are not monitored either by the host or sending governments. There is no system that checks the process of compensation based on signed employment contracts.

As for healthcare benefits, there are no clear implementing guidelines. Migrant advocacy groups say that many employers tend to be indifferent when it comes to their responsibility to provide ready medical benefits to their employees.

Because of these circumstances, the migrants in the FGD concluded, many migrant workers are forced to take to quick and easy (albeit illegal) means to earn more money, such as making bootleg alcoholic beverages.

LEBANON

In a paper written by Seta Hadesian, entitled *Migrant Workers in the Middle East and Lebanon*, the conditions faced by migrant workers in Lebanon was described as very trying.

It also estimated the number of Asian workers in Lebanon based on statistics from the Ministry of Labour is 200,000. By the end of 2010, only 100,000 work permits were issued, and 90 percent were given to female domestic workers. They were mainly from Sri Lanka, Ethiopia, Philippines, India, Thailand, Ghana, Cameroon and Madagascar.

Neither Arab Gulf countries nor Lebanese authorities have enacted policy guidelines governing the employment of migrant workers meaning that they are not covered by existing labor laws. All of the Middle East countries have been using the Kafala system since 1950.

The Kafala or sponsorship system states that women migrant domestic workers must attain a legal local sponsor for the duration of their contracts. This makes them subject to restrictive immigration rules based on employer-specific sponsorship, that in turn puts workers at risk of exploitation.

The sponsorship system makes it difficult for migrant workers to leave abusive employers. It does not allow migrant workers to leave the country without first getting the written permission of their employers. When they fail to get permission and leave, the migrant worker loses legal status and risks getting arrested and detained for illegally remaining in the country if they chose to change employers. Migrant workers who also “illegally” leave abusive employers can be put in prison for absconding.

Employers, when signing contracts with domestic workers, tend to ignore the Lebanese labor law in the sense that employment arrangements are made directly between the employer and the worker. These contracts lead to abusive situations in which workers do not receive a minimum salary, do not have a maximum number of working hours, are not guaranteed vacation periods, are denied accident or end-of-work compensation, and lack the right to join labor unions.

Though migrant workers are numerically large, even in relation to any major community in Lebanon or the Gulf countries, they are not one entity. They are composed of groups of Filipinos, Sri Lankans, Ethiopians, Indians; each with a different religious, cultural and linguistic identity. The common denominators are the challenges they face: racial, financial, legal, education of their children, health insurances and logistic. They are communities in a perpetual state of flux, barred from forming labor unions that would have ensured their rights and are constantly subjected to abuse, violation, arrest, detention or deportation.

Many surveys documented by the International Labour Organisation, Lebanese Center for Human Rights (CLDH), Human Rights Watch, Michael Young, Dr. Ray Jureidini, Caritas Migrant Center, Frontiers and other civil society groups include more or less the same percentage of human rights violations, abuse and discriminative behavior of the Middle Eastern societies on migrant domestic workers. Their findings indicate that migrant workers in Lebanon and in other Middle Eastern countries are stripped of financial, material and legal rights.

Hadeshian also wrote in her paper:

“Their wages are withheld, or delayed for months and years; they have excessively long working hours, confined to the workplace, refused of any time off for rest, are not provided adequate medical treatment; their passports are withheld and they are mistreated, physically and verbally; they receive no compensation, are denied rights to movement or liberty, and if they lack legal papers or their status is illegal, they are arrested by the police and clapped into detention centers for months. They are not integrated into the local communities and the national laws do not offer them any benefits. They are considered as 3rd class citizens and are left to the mercy of their employers. They face xenophobia, racism, discrimination,

abuse, marginalization, detention, exploitation, abuse and even death. They don't have sufficient support from local churches, NGOs or government. Their embassies being financially and politically incapable to put pressure on powerful governments, they are incapable of dealing with emerging problems as they are themselves are subject to the same challenges." (Hadesian, p3)

There are some churches and NGOs in Lebanon which bring migrant workers together around which communities can be formed, like the Caritas Migrant, Evangelical Church, and MECC Philemon project for the Sudanese, the Afro Asian Migrant Centre-Laksehta, Pastoral Care of Afro Asian Migrants, Lebanese Center for Human Rights, Working Group on Contemporary Forms of Slavery, KAFA-Violence & Discrimination, Anti-Racism Movement, The Migrant Network; and Migrant Legal Research Group. These NGOs aim at providing social, psychological, and legal assistance rather than building or strengthening migrant communities.

JAPAN

According to Migrante Japan, there are no specific labor laws or policies for migrant workers in Japan because in principle and practice, Japan is not open to migrant labor. The country, however, does have contract workers who are expatriates employed either as professionals or as workers in factories and in the entertainment sector. They are the only ones covered by Japan's general labor policies. "Trainees" and Japanese descendants, in the meantime, are the economy's main source of cheap labor, although trainees are not considered in the same category as workers.

When it comes to foreign workers running afoul of the law, it's important to focus on the situation of entertainers and trainees. They are the ones who are often caught violating laws on the allowed period of stay in Japan. Some individuals who enter Japan on tourist or visitor visa are also eventually discovered guilty of overstaying and of working as undocumented entertainers or factory workers.

For the most part, many entertainers decide to overstay because they have limited contracts (six months per contract for entertainers; a maximum of three years for trainees). They need to recover the relatively large amount of money they spent to get to Japan. Working for six months will not generate enough surplus income for most entertainers, so they opt to overstay. While it is true that they return to Japan for another six months through a new contract, that also means having to pay again exorbitant amounts for placement fees.

The same goes for trainees because they are not considered in the same category as local workers, they earn only allowances; this allowance is equivalent to only half of what ordinary workers earn in Japan which prompts many to overstay after their three-year contracts expire.

In the meantime, when it comes to the justice system in Japan and how it generally treats migrant workers, a recent case involving a Nepalese man is a telling and chilling example of how it runs. Details relayed below were sourced from Prem Dhakal's article, entitled "Govinda Mainali walks free after 15 yrs in Japan jail", in the Republica news website (2012).

Last June 7, 2012, Govinda Prasad Mainali, 45, a Nepalese migrant worker was released from prison after serving 15 years in a Japanese jail for a high-profile murder he did not commit.

In 1997, he was found guilty of killing a 39-year-old Japanese woman, but 15 years later,

DNA tests confirmed he could not have committed the crime.

In interviews with the media, Mainali said that he was treated “very badly” inside the jail. He was verbally abused and prohibited from seeing visitors including his family.

Human rights activists have also made the claim that Mainali was tortured in prison.

The case hogged the headlines in Japan’s tabloids. The victim, Yasuko Watanabe was a Tokyo Electric Power Company (TEPCO) employee and was reported in the tabloids as a businesswoman by day and prostitute at night. The body was discovered 11 days and that the cause of death was strangulation. According to several news websites, TEPCO was accused of silencing her and using Mainali as a scapegoat. TEPCO has not commented publicly on the case.

Mainali happened to live near the murder scene. He was initially arrested in 1997 for overstaying his student visa by three years to work at an Indian restaurant in Tokyo’s Shibuya entertainment district. In prison, however, the police charged him of murdering Watanabe.

Mainali was acquitted in April 2000, but he was forced to remain in prison pending an appeal by prosecutors. He was accused of robbing and then murdering the victim.

According to Nepalese human rights activist Gopal Krishna Siwakoti, the Japanese justice and prison systems mistreated Mainali and subjected him to physical and mental torture.

In a separate report by journalist Christopher Johnson (2012), it was said that activists and social commentators are demanding that Japanese authorities compensate Mainali and overhaul the justice system.

In the same article, US-born academic and naturalized Japanese activist Debito Arudou was quoted as saying that the case is proof “that there are two systems of justice in Japan: one for Japanese, one for foreigners.”

He said that once the public prosecutor has a foreigner in his grip, it means indefinite incarceration without habeas corpus or bail for the accused. “Even if judged innocent in court, prosecutors usually appeal and foreigners are still jailed.”

Last June 7, the Tokyo High Court ordered a retrial and released Mainali. New DNA findings revealed that the discovered semen and hair at the 1997 crime scene were not his.

Mainali was released from a Yokohama prison, but adding insult to injury, Japanese immigration officials detained and deported him on a visa-overstay charge. Human rights group said that this was a tactic to deter him from seeking compensation.

Gopal Krishna Siwakoti said that the case was the “trial of the century in terms of migrant workers” and an example of how a “xenophobic attitude was entrenched in the Japanese judicial system”.

For their part, Japan Justice Minister Makoto Taki in a press conference denied that authorities and guards mistreated Mainali in jail. He did not say whether Japan would order Mainali to return for a retrial. Japan and Nepal do not have an extradition treaty.

In his article, Johnson stated that in Japan, activists believe that 99 percent of foreign suspects are held in custody and denied bail, compared with 76 percent of those who are Japanese.

Latest reports state that Mainali has not made up his mind whether he will seek compensation or legal action against the police, prosecutors and judges. The Japanese government reportedly paid 80 million yen (about US\$1 million) to Toshikazu Kasuga, a Japanese man jailed for 17 years on a murder conviction until acquitted in 2010.

SOUTH KOREA

In the Republic of Korea (ROK, or South Korea), economic experts in the country in 2002 were divided on the matter of granting working permits for foreign workers (Park, 2002). Legislators, labor experts and economists debated over the advantages and disadvantages of the Employment Permit System (EPS) which is now in place.

At the time, despite the acknowledgment of labor experts and economists alike that South Korea was facing a labor shortage, there was no public consensus on how to address the problem. The government and the ruling parties declared that they did away with the previous “industrial trainee system” after the backlash from human rights groups charging that the system birthed unfair labor conditions for foreign workers in the country. The trainee system was first introduced in 1994 to address the labor shortage for mostly small- and medium-sized firms, but has since been seen as the cause for worsening problems of illegal aliens and human rights abuses against foreign workers (Park, 2002). As of 2002, 63.2 percent of the estimated 243,330 foreigners who worked in Korea at the time did so illegally.

Under the industrial trainee system, foreign workers mainly from South East Asia were allowed to work in Korea for up to three years. During that period, they underwent training and then worked for salaries much smaller than those received by their local counterparts. Many were forced, after their contracts expired, to continue as illegal, overstaying workers. Many employers then took advantage of these foreigners’ illegal status by withholding their wages, dismissing them from their jobs without warning and violating their basic human rights.

South Korea’s previous foreign labor system was resulting in a wide variety of social and human rights problems. Most Koreans were unwilling to take on employment in environments that necessitated the so-called “3D jobs” - dirty, difficult and dangerous work (Seol, 2000). The government had to hire foreign workers.

Beginning 2002, the South Korean government has taken over the management of inviting and deploying foreign laborers in the country’s various companies. The “permit regime” provides foreign workers and local employers the right to secure and settle a one-year contract which can be renewed for up to three years.

At first, there were views that the mass entry of foreign workers might have the effect of destabilizing the local labor market. To head off apprehensions on this point, leading parties and their legislators included a clause stating that local companies should prioritize the hiring of South Korean workers before resorting to hiring foreigners. Additionally, the permit system includes restrictions against foreign workers’ involvement in strikes related to hiring practices or attending mass actions that demand for the extension of the employment contracts.

The business sector reacted to the planned implementation of the permit system for foreign

workers. Small- and medium-size businesses, in particular, were the first to express concern on this policy. They feared that the entry of more foreign workers will prompt an increase in wages and related benefits; they alleged that the slightest rise in pay will force many small companies to lose money and close shop. There was also a worry in the sector that foreign laborers will stage protest actions precisely because they are prohibited from doing so.

The permit system bars foreign workers from demanding an extension of their contract or a withdrawal of legitimate dismissal. Foreign workers are also prohibited from bringing their families into the country for extended periods, or to having them settle there for the duration of the workers' contracts. When they arrive in South Korea, they are required to put their contract deposit, including return travel expenses, in a local financial institution. This is as a guarantee against any attempt by the foreign worker to overstay after the expiration of his/her contract.

Against all these restrictions, foreign workers are allowed an extension of stay to settle disputes over back pay or compensation for industrial mishaps. Their concerns on these matters are relegated to the Korea Federation of Small Businesses for settlement. The body has a special panel chaired by the prime minister and is composed of representatives of employers, labor and the private sector.

Foreigners who have been fired for violating the contents of the work permit system are placed under a ban that lasts 10 years during which they will not be allowed to return to the country. Conversely, companies who illegally hire foreign workers or who have violated other rules in the permit system are prohibited from hiring foreign workers for six years.

In November 2011, migrant organizations and labor advocacy groups in South Korea including the Katipunan ng mga Samahang Migranteng Manggagawa sa Korea (Kasamma-Ko, or Coalition of Migrant Workers' Associations in Korea) expressed outrage over what it said was the Korean government's intensifying crackdown against migrant workers (Silverio, 2011). According to Kasamma-Ko chairman Pol Par, the Korean government's Bureau of Immigration is committing grave human rights violations.

According to reports from PressTV, South Korean migrants led by trade unions and migrant groups have been holding daily rallies and other forms of protest against the Seoul government's month-long crackdown against undocumented migrants. Migrant groups and allied organizations charged the Korean government of "hunting workers down like criminals." (Silverio, 2011)

According to 2009 migrant labor statistics, roughly 680,000 migrant workers live in South Korea and work in a number of industries, in particular, manufacturing, construction and services such as in the restaurant and entertainment industries.

Yun Ji-Young, a lawyer from the Korean Public Interest Lawyers' Group, said that despite the South Korean government's declaration that it was only doing research into the working conditions of migrant workers, the actual procedures it was implementing constituted a crackdown against illegal migrants. Ji-Young said it was likely that the crackdowns will result to various violations against individual and human rights, among them violations against personal liberty.

Many migrant workers in South Korea originally come from South or South East Asia. They are usually employed in factories, shoring up the country's manufacturing industry. In the

meantime, labor right advocates said that inhumane working conditions in many factories force migrant workers to run away, and in the process end up becoming illegal migrants. Many of them arrive in South Korea using tourist visas and are subsequently offered good paying jobs by company recruiters, but, in the end, they faced exploitative labor conditions and given no legal recognition as legitimate migrant workers.

This was not the first time the Seoul government launched attacks against migrant workers. For the past decade, the government has been pushing for increasingly stringent measures against migrant labor. In May 2010, 32 OFWs were nabbed by immigration police a few days after the Ministry of Justice announced the conduct of an intensified crackdown.

According to Par, they have legitimate reasons to oppose the crackdown by the Lee Myung-Bak government and that “he should not let his unpopularity worsen with this obsolete strategy of labor outsourcing.” (Silverio, 2011)

Par explained that the Lee Myung-Bak government’s Employment Permit System (EPS) has already been exposed as a “defective labor arrangement.”

“It should be scrapped. All employed migrant workers should be processed for legalization. The employment of migrant workers in dirty, difficult and dangerous jobs in the Korean small and medium-scale factories made significant contributions to the growth of the South Korean economy. They have the right to unhampered employment in the country. Local residents won’t even consider applying for these same exploitative jobs,” he said. (Silverio, 2011)

One of the objectives of the EPS was supposedly to increase openness between sending and receiving workers, and consequently protect migrant workers’ rights and prevent discrimination.

The labor leader said attacking migrant workers on the basis of their visa status is a violation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families which came into force in July 2003.

“The Convention’s primary objective is to protect migrant workers and their families, a particularly vulnerable population, from exploitation and the violation of their human rights,” Par said.

The EPS is the main system governing migrant labor in South Korea. It differs from the trainee system in that it gives legal acknowledgement to migrant workers as “workers.” Migrant groups said the EPS was actually designed to ensure the preservation of profits and protect the interest of business owners. (Silverio, 2011)

The EPS was introduced in 2004. Under it, small and medium enterprises (SMEs) that employ less than 300 workers and can hire migrants from 15 approved countries, mainly from China (especially Korean-Chinese), Vietnam, Philippines and Thailand.

Under the EPS, migrant workers are not allowed to change employment or move workplaces when they need or want to. A migrant worker who wants to find other work should first gain consent from his employer and file an application with the Ministry of Labor. The labor rights groups point out that the process is very difficult for many workers, particularly when employers will not release their employees.

Migrant workers are only allowed to change workplaces a maximum of three times except in exceptional circumstances. This rule forces many migrant workers to stay with companies despite the unsafe working conditions or the low or unpaid wages and inhumane treatment they suffer. Reports also reveal that female migrant workers also have to contend with continuing sexual harassment or abuse from employers.

According to a 2008 survey conducted by Amnesty International (2009), more than 50 percent of migrant workers indicated that their wages, working hours, provision of food and accommodation, and breaks and rest days were different than what their employer had originally promised. Wages were often withheld from migrant workers, especially in the months leading to the conclusion of a contract because employers knew that workers would not have the time nor the ability to file a complaint and stay in South Korea long enough to recover lost wages.

The majority of the foreign population in Seoul's metropolitan area are Chinese and, according to news reports, these Chinese migrants are among the biggest targets for arrest and deportation. Areas specific to one nationality or ethnic group are also targeted, such as those from the Yeongdungpo, Guro and Guemcheon areas. Mongolians from Junggu, the Mongolian town in Gwanghuidong; the Vietnamese in Seongdonggu, Geumcheongu and Seongbukgu; Russians and Uzbeks in Junggu are also under frequent attacks.

The EPS system has been condemned by the international labor rights community and the United Nations Special Rapporteur on the Human Rights of Migrants (UN-SRHRM) has called the attention of the South Korean government regarding this.

Migrante International threw its support to the Filipino community and migrant communities of other nationalities in South Korea in their fight against the intensified crackdowns.

"The Philippine and Korean governments signed an agreement on the EPS in 2006. Since then, some 500,000 workers from the Philippines, Vietnam, Thailand, Mongolia and Indonesia have been brought to South Korea under its mandate. The EPS basically allows Korean employers who have failed to hire local workers to legally employ migrant workers," it said. (Silverio, 2012)

Migrante International said that the EPS fails to ensure benefits and protect the rights of migrant workers. "Instead, since its implementation seven years ago, cases of labor and human rights violations against OFWs and other migrant workers continue to run rampant," it said. "In the EPS there's no monitoring system. Companies and employers violate migrant workers' rights without being held accountable. More Korean employers have been hiring undocumented migrants to be able to evade compliance on minimum wages, benefits and leaves. As a result, undocumented workers are being targeted by the Korean government's violent and intensified crackdowns." (Silverio, 2012)

The chairman of Migrante International, Garry Martinez was himself an undocumented migrant worker in South Korea for 12 years before he was deported back to the Philippines. He said in his presentation during the Interfaith Solidarity Conference on the Conditions of Migrants in Jail that happened in Hong Kong this July 2012, the present global economic crisis has unleashed the so-called "protectionist measures" "characterized by crackdown operations and harsher immigration policies that bear down on irregular or undocumented workers, at the expense of their human rights."

“Undocumented migrants, who inevitably provide the solution to labor shortages or the clamor for cheap labor in host countries, are marginalized and exploited. They are less able to assert their claims and are more vulnerable to abuses because of their ‘illegitimacy’. Being undocumented is never reason to be stripped of one’s fundamental human rights,” he said in his speech.

According to the records of Migrante International, the number of undocumented Filipino workers deployed in different countries has reached approximately 900,000 in 2007. “This number has continued to increase over the years, especially in the light of continued unemployment and landlessness here in the Philippines. The growing number of undocumented OFWs worldwide is indicative of the ongoing crisis of forced migration and systemic economic crisis in the country,” said Martinez.

Martinez called on the Korean and Philippine governments to ensure the protection of undocumented OFWs in South Korea and to work for their legalization. “Our call is for regularization, not criminalization. Human rights, regardless of status, should not be violated. Undocumented migrants worldwide contribute greatly to the economies of their host nations and to the domestic economy as well in terms of their remittances.”

MALAYSIA

Malaysia is said to be the largest labor importer in Asia, having a total of 1.9 million migrant workers as of 2011. (Tenaganita, 2012)

Based on data from the migrant service institution Tenaganita (2012), as of December 2011, 2.6 million migrants out of a total of 3.5 million came forward to register under the 6P program or the Biometric Registration and Legalization Process. Half of those who registered were undocumented migrants. According to Tenaganita, one out of every three workers in Malaysia is a migrant.

In Malaysia, migrants and refugees who violate the law are detained at 13 immigrations camps or depots throughout the country – Lenggeng, KL Depot & Semenyih Camp. Migrants also serve their sentences at Sg Buloh and Kajang Prison; on the whole, there are 28 detention centers in Malaysia.

Based on findings of Tenaganita, the detention camps in Malaysia are dangerously overcrowded. Around 200 to 300 prisoners are kept in one small block. Prisoners are often told to strip naked by the guards as a means of punishment and control. They are also frequently subjected to verbal attacks and various forms of physical abuse. There are no beds or blankets for the prisoners; often they sleep on the naked floor if they are not provided with pieces of cardboard.

The sanitation facilities are sorely lacking. Toilets are very dirty, and water is available for only two hours daily, forcing prisoners to forego regular bathing. Many are able to bathe only once every three days.

The prisoners are also kept close to starvation as they are given insufficient meals, which consist of only a handful of rice with salted fish. They have no access to medical care.

As for the judicial system, migrant workers in detention cannot expect to receive fair trial.

Non-government organizations (NGOs) have very little access to detainees who are not given any legal representation. Neither are detained migrant workers allowed to secure the services of translators or interpreters. The so-called “speedy courts” try and sentence 100 to 150 detained migrant workers per day, and the accused are not given explanations as to the charges they face. Authorities reportedly force migrant workers in detention to plead guilty.

In one case Tenaganita handled, a detained woman migrant worker said that she was given no special treatment during her pregnancy. The woman, “Su Su,” had to sleep on the wooden floor in Lenggeng camp, where bugs crawled between the cracks. There were bedbugs everywhere and the detainees could not stop scratching from the many bites they suffered. When they slept they were so close they were practically resting against each other.

When Susu’s pregnancy reached its final days, she begged to see a doctor but the jail authorities turned her down. Finally, doubled up in pain, she went into labor and only when the other detainees screamed continuously for help that she was taken to a local hospital where she gave birth.

Punishment for migrant workers caught illegally staying in the country is caning.

According to Amnesty International United Kingdom (2011), the pain inflicted by caning is so severe that victims often lose consciousness as a result.

“Afterwards the suffering can last for weeks or even years, both in terms of physical disabilities and psychological trauma. As a punishment that intentionally inflicts severe pain and trauma, caning violates the absolute prohibition against torture and ill-treatment under international law,” AI said.

Evalyn Devadason, a visiting fellow at the Australian National University and associate professor at the University of Malaya, wrote an article in 2012, “Policy chaos over migrant workers in Malaysia” stating that despite the large presence of migrant workers contributing to the Malaysian economy, the policies and laws regulating in-migration are chaotic.

“Policies built on the concept of a short-term remedy for labor shortage problems have exposed the failure on the part of policymakers to recognize the critical contribution of migrant workers over the longer term. The problem is compounded by the absence of a comprehensive policy on in-migration as an integral part of national strategies for economic growth,” Devadason wrote in her article.

Devadason explained that the inflows of migrants in the various economic sectors have generally been governed informally even as the government has established memorandums of understanding with several countries including Indonesia, the Philippines, Bangladesh, China, Vietnam, Pakistan and Thailand.

“The private sector was permitted to set up employment agencies to officially recruit migrant workers from these countries. However, after failing to combat the increasing inflows of illegal migrants, the government, in 1995, put a stop to private sector recruitment agencies and replaced them with a Task Force on Foreign Labour. The frequent pre-1995 sanctions on the importation of migrant workers persisted into the post-1995 period, suggesting that the special Task Force had also failed to stem the employment of illegal workers. The Task Force was then disbanded in 1997, and in 2002, recruitment procedures were subject through government to government agreements,” she wrote.

Devadason believes that in practice, the rights of migrant workers are not protected, although the laws of Malaysia do not formally discriminate against migrant workers: workers suffer from non-payment of wages, wrongful deduction of wages to cover work permits, long working hours, sub-standard living conditions, no insurance coverage, travel documents withheld by employers and unfair dismissal.

She also wrote that there also provisions in existing labor laws with inherent biases against migrant workers. For instance, The Workmen's Compensation Act which covers migrant workers provides benefits that are by far inferior to those provided by the Social Security Organisation scheme to local workers. Also, there is no assurance that the injured migrant worker is compensated for under the Act, as this requires the worker to be adequately insured by the employer.

The Malaysian government is also studying a proposal to increase the levy for migrant workers with differing rates across skills and sectors. Also, a final policy issue also under consideration is a minimum wage requirement. The Malaysian Trade Union Congress has been pressuring the government to introduce a minimum wage of RM900, plus cost of living allowance of RM300, to attract local workers and reduce the dependence on migrant workers.

“The core problem is a lack of a comprehensive migrant worker policy and weak governance structures. The Malaysian case is a classic case of the failure of decentralization in the recruitment and placement of migrant workers, in addition to lack of enforcement of existing regulations by various stakeholders,” Devadason concluded.

TAIWAN

The situation of blue-collar migrant workers in Taiwan was appalling and that there was a constant need to actively advocate for migrants rights so that they can successfully resist threats against their rights and welfare.

The majority of migrants in Taiwan are factory workers and domestic workers. The rest of the migrant workers are in construction and shipping, both commercial and fishing. Those who work in manufacturing, construction and in shipping industry are covered by the Labor Standards Law but those working at households are not. In the meantime, there are also a large number of runaway or undocumented workers.

Like other migrant workers, those who work in Taiwan are required to shell out huge sums of money to pay for placement fees and other documentary costs before they are allowed to leave for deployment.

Their employment contracts also have to be authenticated by each country's designated government agencies, and most migrant workers are made to sign side agreements before departure. These agreements include payment “...of brokers' and placement fees in excess of the prescribed amount, advance collection of brokers fees which under the law are supposed to be paid by the workers on a monthly basis or every three months at the most and no day-offs for a certain period, usually 12 months...”

While it has already been established that the collection of such side fees are illegal, agencies and governments have a tendency to blame the migrant workers instead of taking action against the illegal collections and side agreements.

In the meantime, migrant workers also have to contend with other fees when they arrive in Taiwan. They have to undergo mandatory medical check-up three days after arrival, regardless of whether or not they have secured a medical clearance prior to leaving their own countries. Failure to pass means having to return home. They also have to get these check-up four times in three years.

Migrant workers have to shoulder payment for their Alien Residency Certificates (ARCs) which are paid annually. Also, there is a provision in the Declaration of Fees for Taiwan-bound workers for a loan (supposedly) incurred by the migrants in their home countries that makes it legal for placement agencies to overcharge the migrants in the guise of loans. Blue-collar migrant workers also need to pay a “service/handling” fee for brokers every month after such a law was implemented in January 23, 2002.

It has been stated in previous researches that many migrant workers run away because of the heavy workload they are subjected to. They are also forced to suffer inadequate meals, physical and sexual abuse, as well as excessive, illegal collections of fees by manpower agencies.

The Labor Standards Law (LSL) does not cover caretakers and domestic workers who have only model contracts. In the meantime, employers, placement agencies and/or brokers, can revise such contracts through the impositions of side agreements.

Generally, migrant workers in Taiwan are not allowed a once-weekly day off. A day-off is allowed in the LSL, but in most cases, employees can agree to have no days-off as long as the employer pays them accordingly. In the meantime, those working at homes are not covered by the LSL and do not have any statutory holidays.

Abuses of a sexual and physical nature are also hard to prove in court as the burden of proof lies solely with the victim. Thus, there is no physical abuse unless one has broken bones or bruises and other physical evidence of such. There is no sexual harassment unless one has been sexually assaulted or raped.

It is also difficult for migrant workers to transfer to other employers. They are allowed to change employers only under the following circumstances: (1) the employer or cared-for person dies or emigrates to other countries; (2) The ship is detained sunk or under repair and the situation does not allow the worker to continue employment; and (3) the employer winds up or stops the business, or the work contract is terminated on account of employer’s failing to pay the claimed wage prescribed in the contract.

There are many other problems confronting migrant workers. Some employers confiscate their foreign employees’ ARCs and passports. Some employers also force migrant workers to “save money” through automatic deductions as a means of discouraging them from running away. Some employers also engage in illegal termination and forced repatriation of their foreign workers, imposing penalties when workers fail to complete the time frame stated in the employment contract, and regardless of instances when the fault lies with the employer.

III. MIGRANTS IN DETENTION

THERE IS A CONSENSUS WITHIN Migrante International⁴ and its chapters in various regions that migrant workers in jail have to contend with the slow legal processes in the host countries. In many countries, such as those in the Kingdom of Saudi Arabia (KSA), the court-mandated investigations and hearings are scheduled far and in between.

Migrante International said that migrants end up in jail for committing violations against local laws, but another primary reason is that they stand up against their abusive employers. Some end up killing their employers either out of self-defense or in a moment of extreme rage.

There have been a few relatively minor cases where Filipino workers in Dawadmi, Riyadh were jailed for being concubines to locals and for making liquor in their homes. Some Filipino workers were also sent to jail for rowdy behavior or for small-time gambling. For the most part, however, Migrante Middle East said that many migrant workers end up breaking the law and consequently are thrown in jail because of the extreme circumstances they face.

The culture in the KSA is very strict when it comes to recreational activities, and it is far from being lenient when it comes to petty crimes such as gambling and drinking alcohol. There have also been cases when migrant workers have been penalized for speaking to others in public or offering help to compatriots. The situation is not helped by the lack of assistance from work sponsors, including the diplomatic authorities of the migrant workers' mother countries.

AN OVERVIEW OF DETENTION IN THE MIDDLE EAST

The prison system and detention centers in the Middle East are hierarchical and rigidly run. The prisons are under the jurisdiction and the responsibility of the Ministry of Interior and the General Security. Detainees and prisoners, in the meantime, are looked upon as political and security problems.

Seta Hadeshian of the MECC said in her paper, *Migrant Workers in the Middle East and Lebanon* (2012), that the assessment of the conditions of detention centers is greatly hindered by governments. Governments reportedly refuse to permit independent monitoring or even release of basic information on detention centers. Proof of this is how Arab countries have not

⁴ Migrante International is a global alliance of 90 Filipino migrant worker organizations in over 22 countries. It campaigns for the promotion and protection of Filipino migrant workers and the resolution of the labor export policy in the Philippines. It is a member of the International Migrants Alliance, a global alliance of grassroots migrants, refugees, displaced peoples and their supporters. Their website is <http://migranteinternational.org/>.

acceded to the 1951 UN Refugee Convention, except for Egypt and Yemen. Undocumented foreigners, migrants, asylum seekers and refugees have no right whatsoever to work, nor reside in the country. They are therefore subjected to harassment, detention or imprisonment, especially if they have entered illegally, overstayed their visas or are asylum seekers whose cases have been rejected for any reason by the UNHCR.

Migrant women detainees are even more invisible and subject to discrimination than their free counterparts. They are stripped off of many rights that are guaranteed to male detainees. One serious difficulty they face is the unfamiliarity with the language of the country and the legal system. This makes them more vulnerable. They do not understand the charges brought against them and this severely restricts their capacity to defend themselves.

Hadeshian said that many migrant women detainees often do not have family in the country, and they are kept in isolation without access to the outside world.

“Often they do not have access to their consulates or to lawyers. They are kept in separate cells and do not have the benefit of having other detainees who might help them understand the legal process. While in interrogation, they are often subjected to ill treatment, abuse, humiliation and torture. Their isolation from the outside world, particularly from their family and legal counseling, increases the risk of being subjected to such forms of torture and suffering,” she said. (Hadeshian, 2012)

Another serious problem suffered by migrant women detainees is rape, primarily by state officials acting individually or collectively. The fact that many police stations are manned by male officers and interrogation is carried out without the presence of female officers increases the chances of migrant women prisoners in the Middle East suffering ill treatment. Most male prison staff lack proper training and gender sensitivity .

DETENTION IN LEBANON

The situation in Lebanon is almost the same as the rest of the Arab countries. The Lebanese government has not ratified the UN Convention on Refugees of 1951 (Hadeshian, 2012). The 1962 Law of Entry and Exit, in the meantime, does not permit foreigners entry or to work. Undocumented foreigners and migrant workers, asylum seekers and refugees do not have the right to work or reside in the country. If they entered Lebanon illegally, overstayed their visa or their case was rejected for any reason by the UNHCR, they end up being arrested, detained and imprisoned.

Detention and imprisonment are said to be common practices in Lebanon. Around 40 percent of the prison population in Lebanon is migrants or refugees, while 95 percent of them are confined on the grounds of illegal entry, expiration of work permit or passport, longer stays, falsified papers, killing thefts and drug dealing. Upon arrest or detention, they often find themselves subjected to double discrimination, first as “criminals” or offenders and secondly as migrants or foreigners.

Authorities transfer foreign detainees upon completion of their sentences to the underground General Security detention center pending release or deportation. Official statistics of prisons reveal that as of mid-April 2005, the total number of foreigners in detention was 2,434, around 45 percent of the total 6,084 prison population, including some 202 Iraqis and almost the same number of Sudanese. Most are migrant workers, Indians (54), Egyptians (378), Palestinians (394) Syrians (889), Pakistanis, Afghans, Somalis, Tunisians and Sri Lankans (424).

Detention centers are located underground or on ground floor flats in residential buildings or in governmental buildings of the police stations. These centers are small apartments and are not equipped with adequate facilities, lighting, ventilation, windows, and sleeping or bathroom facilities. Each corridor of cells holding 90 detainees is equipped with one toilet.

All detainees convicted or not, are confined together in one place. Children and women, however, are housed in separate buildings.

There is practically no difference between detention and imprisonment so they are in many ways treated in the same ways as prisoners. (Hadesian, 2012)

Hadesian also cited an Amnesty International report (2001) stating that female migrant domestic workers are the most vulnerable and the most abused when they get arrested. They are detained separately from Lebanese women, are often charged with prostitution, drug dealing and illegal residence. Those detained on the former charges have a higher risk of torture than the latter.

Detained migrant domestic workers also do not have the financial means to hire lawyers, and their lack of knowledge and understanding of the law makes them unaware of the provision in Lebanese law that allows them access to a lawyer appointed by the Bar Association. Often they languish in jail for months before they are taken for a court hearing. In some cases, some are not immediately released even after they finish serving their sentences.

As for those who are detained due to illegal residency, they are imprisoned for a longer period until contact is made with the responsible government agencies of their own countries, and the migrant workers secure proper documents for their return home. Sometimes these same detainees are forced to stay in prison because they cannot afford plane tickets.

Immigration Detention Center

The General Security Retention Centre is the only immigration detention center and it's in the center of Beirut, Lebanon. It was established primarily to hold "criminal aliens" after they have completed prison sentences and are awaiting expulsion from Lebanon.

In 2006, the detention center was said to have housed up to 800 people at one time. They were crammed into 13 cells, each 40 square meters. Each detainee was allotted roughly one square meter of space. There is no yard for outside recreation, water is available only for two hours per day, detainees are handcuffed when they leave their cells, and there is little or no contact with the outside world. Three of the cells were once used to hold women, while one is used to detain families including children.

The judicial system

Lebanon's judiciary is largely inaccessible and unresponsive when it comes to cases involving migrant domestic workers. For the most part, migrant workers facing charges have to contend with a legal system without adequate legal representation.

The Human Rights Watch in a report (2010), said Hadesian, also documented 84 criminal cases against (migrant domestic workers) MDWs and 37 did not have lawyers. Of the court system's 114 judicial decisions involving MDWs, not a single employer was filed with charges for locking workers inside homes, confiscating their passports or denying them food.

HRW also made a review of 13 criminal cases, and it discovered that it takes the courts an average of 24 months to resolve cases, and that they usually resulted in light sentences against employers who were charged. The HRW related in its report that the most severe sentence for beating a domestic worker is one month imprisonment. This was the case handled by the criminal court on June 26, 2010, against an employer who repeatedly beat a Sri Lankan domestic worker.

The length of time a person remains in detention and/or incarceration can vary depending on whether a non-citizen is criminally charged. According to the Criminal Procedure Code, detention should not exceed 48 hours, which is renewable once prior to a hearing before a magistrate. However, rights groups claim that police do not always respect these limits and that migrants are detained for unauthorized entry or presence in the country for an average initial period of 16 days.

Criminal sentences for unauthorized entry and stay in the country (including for people seeking asylum) is between one and three months, and includes a fine and deportation (Law of Entry and Exit, Article 32).

Fines appear to be arbitrarily set by judges, but can be as high as 300.000LL (or roughly US\$200). Some detainees opt to serve extra prison time instead of paying the fines.

There is no limit to the amount of time a person can spend in administrative detention. In some cases, migrants have been detained for years. They remain in detention until deported, either at the prison where they served their criminal sentence or at the General Security Retention Centre.

A 2004 government circular stated that a foreigner incarcerated in Lebanon must be transferred to an administrative detention center run by the General Security at the end of his/her sentence in order to regularize his/her situation or carry out removal orders. However, the lengthy judicial process migrants are subject to before deportation has led to acute overcrowding at the detention centers and prevents many non-citizens from being transferred there. Because of this, large numbers of non-citizens who have completed their prison sentences remain in prisons.

Access to Detainees

In 2002, a Memorandum of Understanding (MOU) was signed between Lebanese authorities and the International Committee of the Red Cross (ICRC) allowing the ICRC to visit all Lebanese prisons except the Ministry of Defence Detention Center. In February 2007, a new protocol was signed allowing ICRC to work in all Lebanese prisons. An MOU was signed between Caritas Lebanon (CL) and the Lebanese General Security (GS) allowing CL to provide social, medical, and legal assistance to all non-citizen detainees in the local vernacular.

Lebanon allegedly has used 22 penal institutions for the detention of irregular migrants, refugees, and asylum seekers, who are held alongside regular criminals. Prisons generally do not segregate administrative and criminal detainees: Lebanon, however, abides by international standards with respect to separating men and women and minors and adults.

According to a 2007 report by the United Nations High Commission on Refugees

(UNHCR), Lebanon has the highest number of detained refugees and asylum seekers among countries in the Gulf region (Global Detention Project, 2010).

DETENTION POLICIES IN BAHRAIN

Bahrain, mentioned Hadesian also in her report, issues work permits through the Kafala sponsorship system under the same conditions mentioned in the previous section. where MDWs are subject to administrative detention prior to deportation according to Bahraini Labor Law, 23/ 1976 known as AMIRI Decree.

Bahrain as well is accused of arrests, prolonged administrative detention and deportations by United Nations Office of the High Commissioner on Human Rights. Based on an article released by the Global Detention Project (2009), the International Labour Organisation (ILO) reports that the Bahraini Constitution's Art. 18 "does not prohibit discrimination on the basis of race or color and does not appear to protect non-nationals from discrimination, leaving foreigners without legal protection from discriminatory treatment."

Migrants are detained on the grounds that they are not able to pay their debts owed to sponsors. Anyone sentenced to pay a fine may be imprisoned for up to one year, sometimes indefinitely jailed until final payment of the debts, or deported back home.

Bahrain has one dedicated immigration detention facility called the Hidd Detention Center, but the Asry Detention Centre also frequently detains foreigners and the Isa Town Prison for Women holds irregular migrant women. The Ministry of Interior is responsible for immigration detention.

DETENTION POLICY IN ISRAEL

Hadesian also discussed in her paper the detention policy of Israel.

In her report, Hadesian mentions that the law entitled "Prevention of Infiltration Law of 1954 and Law of Entry into Israel 1952" authorizes the Ministry of Defence to detain and deport anyone who enters Israel without permission or is in Israel unlawfully. Any person deemed to be an infiltrator faces criminal charges of five years and seven years if they re-enter after being deported. A person who assists an infiltrator may be imprisoned from 5-15 years.

This law does not limit the length of detention time for non-citizens. A detainee may be released after 60 days if he/she is cooperative. The average imprisonment of foreign citizens is 521 days.

According to 2009 media reports, there were at times 280,000 foreigners living illegally in Israel, 228,000 of whom entered the country legally but lost their status or overstayed after their five year work permits lapsed.

It has also been documented that women migrant workers can lose their status because of pregnancy. Both men and women are not allowed to have romantic relations with non-Israelis which can be grounds for revoking work permits.

The UN Committee on Elimination of All Forms of Discrimination against Women, states Hadesian, has declared its disapproval for the policy that migrant workers who give birth must leave the country with their babies within three months of giving birth or send the

baby out of Israel to safeguard their work permit. In the meantime, marriage and intimate relationships between migrant workers under existing laws can lead to the cancellation of both partners' work permits. Violations inevitably can land migrant workers in jail.

All detention facilities are operated by the Israel Prison Service. According to the Hotline for Migrant Workers Berman, by February 2011 Israel had a total detention capacity of 2,500. Six facilities were in use: three prisons, two migrant facilities and one airport transit facility (Global Detention Project, 2011).

According to Israeli immigration authorities, 11,000 illegal migrants entered Israel between January to December 2010. Two years later, an estimated 300,000 migrant laborers now reside in Israel coming largely from the Philippines, Thailand, China, India Nepal and Sri Lanka.

DETENTION IN TAIWAN

According to Liang Tsuying of the TransAsia Sisters Association (TASAT) Taiwan, there are six detention centers in the country under the Detention Affairs Corps of National Immigration Agency (NIA). Most of the detainees face charges of overstaying and using a tourist/resident visas, using forged passports, and declaring false marriages. There are also detainees who classified as illegal immigrants, as well as those found engaged in illegal employment.

Liang cites in her presentation at the Interfaith Solidarity Conference on the Conditions of Migrants in Jail held in Hong Kong last July 2012, the 2011 statistics provided by the National Immigration Agency (NIA) that the estimated number of overstayers was pegged at 22,683, and the number of those arrested was 2,519. The number of "undocumented" was estimated to be 30,535; and the number of undocumented arrested was 5,315.

The capacity of detention centers in Taiwan is around 1,410, but as of the end of 2011, the total number of detainees was 1,194. Most of the detainees were from China, Indonesia, Vietnam, Thailand, and the Philippines.

TASAT has three documented cases involving migrant workers who were forced to suffer imprisonment for years for violations that should not have merited such long detention.

The first case involved two undocumented Vietnamese workers who were imprisoned for over two years (December 7, 2007 - December 18, 2009), even when the court's ruling was not to prosecute their case.

The second case involved two Thai migrant workers who were detained for 11 months (September 2010 – August 2011). The third involved confessed misdemeanor offenders who were detained for more than a year.

In an interview with TASAT (2011), Professor Manfred Nowak, Special Commissioner of the former United Nations shared his views on the situation of migrant workers in prison in Taiwan.

Citing statistics of the Taipei Bar Association, Nowak said that foreigners or migrant workers who violate immigration or labor laws are detained an average of 63.89 days in prison. This, Nowak said, exceeds the statutory standard limit.

“In the detention centers, foreigners wait for the whole process of investigation, prosecution, and trial. Many of the detained foreigners and migrant workers are meted light sentences also because their violations are not very serious; but because of the inefficiency of the judicial system and the problems with the immigration authorities, many are forced to spend longer period in jail,” he said.

In a separate TASAT interview (2011), Legal Aid Foundation attorney Zhou Xin Hong pointed out that many of the detainees are actually just witnesses to crimes and violations, or are themselves victims or even asylum seekers. Regardless of their true status, they are forced to remain in detention up to a year because the judicial authorities often do not allocate time to hear their testimonies or declarations.

Nowak said that Article 12 of the International Convention of Civil and Political Rights declares that in a state, everyone should have freedom of movement in the territory.

“Taiwan detention centers deprive expatriates the freedom of movement. This is a serious breach of human rights,” he said.

Earlier in September 2012, various migrant organizations demanded the release of a jailed Filipino overseas worker in Taiwan. Groups led by the International Migrants Alliance (IMA) chapters in Hong Kong and Macau led a protest in front of the Taiwan Economic and Cultural Office (TECO) in Hong Kong to call for the immediate release of Helen Gayta Carumba.

Carumba is a 49-year old foreign domestic worker (FDW) with three children. According to reports, she was arrested earlier in March on charges of falsification of documents. She presented documents introducing herself as Helen Servito Gayta. After she was caught, she was taken to the Hsinchu Detention Center and was jailed there for four months. After hearing her case, the court imposed a 12-month imprisonment that was subsequently reduced to 10 months.

IMA spokesman Emmanuel Villanueva said in a press statement that Carumba languished in jail due to “flaws in the law” and because Philippine government’s agencies have failed to come to her aid swiftly (Silverio, 2012).

“While Carumba might have been judged guilty, she should not be made to suffer further imprisonment. She should not have been detained that long and should just have been immediately processed for repatriation. Also, the amended Taiwan Immigration Act states that the period of detention should be subtracted from the sentence but, because of the neglect of the NIA to inform the court of her four-month detention, as well as the lack of provision in the law ordering the responsible government agency to do this, Carumba has suffered unjustly,” Villanueva said.

In the course of her detention, Carumba’s case was heard and finally the court imposed a 10-month sentence against her. The OFW was transferred to the Taoyuan Prison for Women after failing to pay the penalty equivalent of 10 months. Earlier, she had prepared for the penalty equivalent of six months, because she was informed by the detention officer that her first four months of detention would be counted and considered as included in her prison sentence.

The groups submitted a letter signed by concerned organizations and individuals in different

countries and addressed to Taiwan Pres. Ma Ying-jeou calling for Carumba's release and repatriation. They also called for the same in the cases of other migrants in similar situations, as well as for an investigation on the neglect of responsible government agencies. The groups also said there is a need to repeal the law that puts migrants in an unjust situation. (Silverio, 2012)

In their letter to the Taiwanese government, the IMA said there is a serious flaw in the Taiwan Immigration Act of 1999 (TIA), which it considers to be a "gray area" in the law.

IMA called attention to the TIA's Article 38 which reads: "If an alien, who meets any of the circumstances listed in Paragraph 1 of this article (Article 38), is suspected of involvement in criminal act and is detained at the designated location pursuant to Article 39 by the relevant judicial authorities, once convicted, one (1) day of detainment imposed on the alien at the detention location, pursuant to Article 39, may be accounted towards one (1) day of the sentenced imprisonment (or criminal detention) or the accumulated days of detainment may offset the amount of the fine determined in accordance with Paragraph 6 of Article 42 of the Criminal Code."

The IMA said the management of the HDC and/or NIA officials did not inform the prosecutor of the fact that Carumba had already been detained for four months prior to the court sentence. The court would most likely have shortened the sentence it laid down.

In the meantime, the IMA said because the TIA does not require or make it mandatory for any agency to inform courts of such a technical detail such as the previous detention served by jailed migrant workers, the discrepancy in the law, regardless of its amendments, could cause harm to migrant workers in Taiwan.

"The NIA has been remiss in its responsibility to accord Carumba her right to be repatriated. As the prosecutor did not officially request for detention, the NIA could have only detained migrants like her for the mere purpose of deportation: they could have facilitated Carumba's repatriation should she have prepared money and proper documents," the group pointed out. (Silveriom 2012)

Migrante-Taiwan also decried how some "highly unusual police procedures" were used on Carumba. The group said Carumba reported how her ankles were manacled by the police during hearings and medical checkups.

Due to the concerted efforts of various groups and the protest actions held in Taiwan, Hong Kong and the Philippines, the Taiwan government heeded the campaign and released Carumba on September 18, 2012.

IV. CASE STUDIES IN MIGRANT DETENTION

CECILIA ALCARAZ: AN INNOCENT OFW SENTENCED TO LIFE IMPRISONMENT⁵

CECILIA ARMIA ALCARAZ is an overseas Filipino worker (OFW) who barely escaped with her life after she was sentenced to death by shooting in Taiwan in 2009. She was accused of killing a Taiwanese national, a Mrs. Chiu Mei-yun, because of a disagreement over money on September 12, 2007. The OFW was also accused of using the victim's automated teller machine (ATM) card and withdrawing sums of money after she disposed of the victim's body.

Through the consistent efforts of migrant groups and the legal expertise of her lawyer, she was able to avoid the death penalty. Initially, the Taiwanese lower court sentenced her to die by firing squad, but because of strong international pressure, the Taiwan Appellate Court was compelled to commute the sentence to life imprisonment. The then-47-year old mother of four was sentenced to life imprisonment after the Kaoshiung District Court which also housed Manila's de-facto embassy in Taiwan, heeded her appeal.

Her two sons Shalom and Jerom (who in 2009 were aged 20 and 18 respectively) broke down in tears after hearing the verdict. In various interviews, Alcaraz' sons said that she was able to provide well for them even before she went abroad. She tended a small store and sold rice cakes. Inevitably, however, her income was not enough to provide for all four children and their school needs. She then applied for work as a domestic helper in Taiwan. Prior to their mother's imprisonment in 2004, the last time they saw her was in 2001 before she left for Taiwan. She left her previous job as a merchandiser for Robinson's Department Store as the pay was not enough to provide for her family's needs.

According to reports, Alcaraz was treated well in the detention cell and was even able to make some friends. Because she was fluent in Chinese, she was even asked from time to time to interpret for non-Chinese inmates.

Alcaraz' lawyer Jiao-Wen Chen asked the High Court to overturn the previous district court decision made on September 30, 2004 by arguing there was reasonable doubt that she killed the Taiwanese. The lawyer established that Alcaraz was not in any financial straits or in a state of desperation that compelled her to kill the victim. The lawyer convinced the court of the irrationality and lack of logic in the argument that the victim invited Alcaraz to her own house where Alcaraz eventually ended up killing her.

⁵ Information on Cecilia Alcaraz came from various news articles culled from websites and interviews with organizations like Migrante International. References are enumerated at the end of this case study.

During the court proceedings, it was revealed that Alcaraz was only forced to admit to the crime because her life was being threatened. She testified that that two Taiwanese were the real killers.

The defense previously argued that she killed the victim as a result of unpaid debts. It was said that the victim failed to settle her debts and an argument ensued until Alcaraz allegedly stabbed the death with a vegetable knife.

Among the findings presented during the trial was footage showing a person disposing of the victim's body that was stuffed in a garbage bag and bound with rope. It also came out that the motorcycle used to transport the body belonged to Alcaraz' Japanese friend. It was traced to her residence. Other circumstantial evidence was discovered. The police found out that across the street where Alcaraz lived, there was a store that sold garbage bags and rope. All this led the police to question Alcaraz and her boyfriend David.

When she was first arrested, Alcaraz admitted guilt to the crime. Then, she realized the gravity of the charges of the crime and the risk that she would be executed for something that she did not commit, she said that it was two Taiwanese who stabbed the victim, got rid of the body and forced her to withdraw money at the ATM using the victim's account.

In the hearings, she failed to provide names and physical evidence that the two Taiwanese were present at the scene of the crime causing the court to disregard her statement during the first hearings. The lack of proof to strengthen her claims of innocence led to the judge to conclude that she killed the victim.

Thankfully, however, a video retrieved from the closed circuit camera showed two men entering the victim's apartment at the approximate time that she was murdered. The part that should have automatically cleared Alcaraz, however, was "accidentally" deleted by the police officers handling the case.

It was also argued in court that Alcaraz did not sustain any cuts and bruises that would have been indicative of a struggle with the victim. Also, the prosecution itself initially expressed doubt that Alcaraz did kill the victim by herself.

Despite the decision, Migrante International said in an interview with APMI that Alcaraz had to go through her ordeal given that she was innocent. Migrante International said that the imprisoned teacher deserved better, that the Philippine government essentially sat on Alcaraz's case, and that if it had taken action immediately after she was arrested and charged, the OFW would not have been sent to jail in the first place. It also berated the Department of Foreign Affairs (DFA) for failing to be upfront on the developments in the case. Alcaraz' family previously lamented how the agency was not efficient in relaying information to them.

The Migrante group led many protest actions in front of the DFA and Malacanang to press the Philippine government to push the Taiwanese government to work out Alcaraz's freedom. It said that it was not enough that Alcaraz' sentence was commuted and she should be released and allowed to return to the Philippines.

The National Council of Churches in the Philippines lamented the verdict on Alcaraz.

"Her case is yet another tragic reminder of how our sisters and brothers sacrifice their lives and limbs overseas to provide for their families back home. Their remittances have also kept

our economy afloat. We rue the labor export policy of the government and its failure to provide adequate protection for these sisters and brothers,” said the group in a statement. (Virtusio, 2009)

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DONDON LANUZA: LANGUISHING FOR DEATH ROW FOR KILLING IN OBVIOUS SELF DEFENSE⁶

AN OVERSEAS FILIPINO WORKER (OFW) on death row Rogelio “Dondon” Lanuza continues to make a personal appeal to the Saudi clemency Committee on the matter of “blood money.”

In 2000, the then 27-year old Lanuza was convicted of killing a Saudi national.

According to reports, Lanuza, a converted Muslim with Islamic name Eesa, confessed in court that he stabbed Mohammad ibnu Saad ibnu Abdullah Al-Qahtani in self defense after the latter attacked him and attempted to sexually abuse him.

Lanuza was reportedly introduced to the victim a few hours prior to the stabbing. In the meantime, it was revealed in consequent investigations that the weapon used to kill the victim belonged to the victim himself.

Lanuza has been incarcerated in Dammam Central jail, Dammam, in the eastern part of Saudi Arabia. Lanuza was an architectural draftsman at Ali Hussain Alyami and Sub-Contractor for Aramco Saudi Arabia, a job he held since he was only 22 years old. He had also been promoted to site inspector and then again to quantity surveyor for construction projects.

In 2003, the family of the aggrieved party issued an “affidavit of desistance,” meaning that they would grant Lanuza forgiveness in exchange for an undisclosed amount of *diyya* or “blood money.” The arrangement fell through for some undisclosed reason. Bloody money is compensation or money paid by an offender (usually the murderer) to the family or kin of the victim. This is observed in mostly Islamic countries.

According to Lanuza, he has accepted that the Philippine government will not raise the required “blood money”. He was sentenced to death by execution, and is now making a second appeal to a Saudi quasi-government body providing assistance to expatriate inmates.

In a multi-media message (MMS) sent on August 8, 2011 to Migrante Middle East, Lanuza said he had already sent his second letter to the Saudi Reconciliation Committee (SRC) appealing for assistance specifically in raising the amount for the blood money. In the letter, Lanuza appealed to the Ministry of Interior care of the SRC official Shiek Ali Bin Ali Al-Dossary, “to make peace with the father of the aggrieved family and find ways to raise the three million Saudi riyals that the family asked” in exchange for Lanuza’s pardon.

Lanuza confirmed that on that same day, the SRC official visited him in jail to inform him that members of the SRC are set to have a conference. “His case is one of the issues to be discussed. Lanuza is most worried because his family obviously cannot raise the amount on their own,” said Migrante Middle East.

⁶ Information on Dondon Lanuza came from an interview conducted by the APMM with Dondon Lanuza and other migrant organizations. One helpful website is the www.helpdondon.com, a website that was created to help raise awareness and financial support for Lanuza’s payment of the blood money.

The Migrante Middle East said it had no knowledge if the Philippine embassy was exerting efforts to help Lanuza, but said the institution should be “proactive in working with the SRC.”

“The embassy could represent Lanuza to the SRC and convey his appeal to the aggrieved family. The SRC is providing a venue wherein Philippine authorities could negotiate for a reduction on the amount of blood money being asked by the aggrieved party,” Migrante Middle East said.

The group has also made the suggestion that Malacañang’s newly-formed Technical Working Group (TWG) should instruct the embassy to negotiate the amount and ask the assistance of the SRC. Among the group’s declared tasks is to find ways to raise blood money for OFWs on death row.

On Facebook, Lanuza’s family launched the “Barya mo, Buhay ko,” (Your Small Change, My Life) campaign to gather funds for Lanuza’s blood money.

In an interview with APMM, Lanuza said that there were 70 other Filipinos in the same jail as him, but half were women. Lanuza is detained with seven Filipinos in one cell, and the migrants are aged 28 to 50 years old. Lanuza, so far, is the longest-staying inmate.

Migrants with immigration cases are detained somewhere else, a facility called “jawazat.” The offenders are usually detained in the Passport Department. Most of the offenders are the so-called runaways, overstayers, and undocumented.

In the meantime, the Filipinos in the regular jails ended up there for being involved in relatively petty crimes; some for drug pushing, stealing or robbery; others for making or selling alcohol; while some others for crimes of “immorality” such as adultery. There is no life sentence in Saudi Arabia, but there is a death penalty. The shortest sentence is for two years, while the maximum is six.

According to Lanuza, the conditions inside the jail are relatively acceptable. “They are at least much better than the conditions in the Muntinlupa Prison in the Philippines,” he said. He added that there is sufficient supply of food, and that there are no incidents of sexual harassment. The inmates, however, are not allowed to use telephones or mobile phones inside their cells or within the jail.

Lanuza is well aware of the limitations of the Philippine government’s assistance to migrant workers in jail like him. He explained that based on Saudi Arabian law, an official of the government representing the migrant (or foreigner) should be present when a migrant worker is tried in court. The main legal assistance he received from the Saudi government was to be provided with an interpreter. He had no lawyer to assist him, and he was given a lawyer only when he was meted the death sentence. In the beginning, the lawyer was given the task of helping him write an appeal within a 30-day period. After 30 days, he no longer received any legal assistance and the lawyer did not return.

“Once in a blue moon” was how Lanuza described the frequency of visits from the Philippine Embassy. He said that he was fortunate if he would get a visit every three or four months. He shared that during visits, the representative would make a roll call of all the Filipino inmates and asks them one by one about their situation and any developments in their respective cases.

According to Lanuza, it was a little amusing even if it was also frustrating because the

Filipinos believe that it is the Philippine Embassy that should be “in the know” regarding their respective cases. They insist that the Philippine authorities should be on top of developments and given the inmates updates on their cases. In any case, the Filipino inmates are dissatisfied with the help that the Philippine government provides because there have been cases when only those who have influential contacts in the Philippine Embassy receive consistent assistance.

In the meantime, Migrante stressed that there are many other OFWs on death row besides Lanuza.

As of April 2012, and based on the monitoring of Migrante-Middle East, there are eight OFWs languishing in various jails in the Middle East. Six of them have been sentenced to death, while four are facing possible death sentences for various criminal offenses.

Migrante said that much still needs to be done to save the lives of OFWs in death row. It said that no one wants a repeat of the case involving three OFWs (the Gonzalez brothers, Rolando and Edison, and Eduardo Arcilla) who were sentenced to death by beheading in Saudi Arabia in 2006 for the murder of fellow Filipinos Romeo Lumbang, Jeremias Bucud and Dante Rivero.

According to reports, the Gonzalez brothers and Arcilla said they were “tortured” to admit to the crime. The relatives of the victims received blood money from the Philippine Charity Sweepstakes Office (PCSO) in 2010. However, according to Saudi laws, payment of blood money does not ensure release or commutation of the sentence of the three OFWs.

Migrante International said that everything relies on the lobbying efforts of the Philippines government, especially in cases where the victims’ families are based in the Philippines. It said that the government should present a letter of forgiveness from the families to the SRC to facilitate the processing of OFWs in jail cases such as Lanuza’s case.

Based on the reckoning of Migrante International, there are currently 122 Filipinos on death row abroad. The group handles cases of eight of them, including Lanuza. Migrante Middle-East, in the meantime, is closely monitoring other 16 OFWs on death row in the Middle East and eight of them are in Saudi Arabia.

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MARILOU RANARIO: PHILIPPINE GOVERNMENT TAKES ACTION AT THE LAST MINUTE⁷

THE CASE OF OFW Marilou Ranario is one of a few that concluded happily but would not have been so without the strong campaign efforts of migrant organizations. Without strong pressure from Migrante International and its allied groups, the OFW would have been executed.

Ranario was 35 when she was arrested, put behind bars and sentenced to death by hanging on September 28, 2005 by the Criminal Court of First Instance of Kuwait. On December 9, 2007, her sentence was commuted to life imprisonment after a personal appeal made on her behalf by the President of the Philippines.

A college graduate with a degree in education from the Northeastern Mindanao Colleges (NEMCO) in Surigao del Norte, Ranario dreamed of becoming an elementary school teacher. She was known as a kind person by her family, and someone who was always willing to make sacrifices to help her family economically. She put the needs of her family above her own ambitions, so that after graduating in 2002 she applied for work in Kuwait as a domestic helper. As she waited for her documents to be processed and approved, she worked as a trimmer in a garment factory in Quezon City.

Despite the fact that she already had her own family, Ranario did not hesitate to continue helping her parents and her siblings. Even as she made efforts to set aside money for the future needs of her own two children, she never neglected to provide for her siblings who were then still in school. One time when her younger brother Allan lost his job, she stepped in and gave him money to enable him to look for employment. She also gave money for Alan's son who soon after then fell sick and needed medicine.

In the meantime, her friends could always rely on Ranario to give a helping hand. She was a shoulder to cry on and someone who could be depended on to be sympathetic and caring. She accompanied a friend on visits to prison when the friend's husband was arrested on a murder charge and helped bolster the family's financial means after the husband was released and until he was able to find work.

She knew all about the dreams of fellow Filipinos about finding greener pastures abroad and she was also a willing volunteer to neighbors and friends in Surigao who also wanted to work as OFWs. Whenever she had time she volunteered to help people produce various travel and employment requirements. For all these reasons and more, Ranario's friends, family and everyone else who knew her were shocked when they heard that she was charged with murder after killing her employer in Kuwait.

Ranario arrived in Kuwait in 2002 and since then began writing her friends and family letters detailing her sufferings. The employer, she said, beat her up, starved her, and did not allow her to get enough rest and sleep.

⁷ Information on Marilou Ranario came from various news articles culled from websites and a fact sheet provided by Migrante International.

Migrante International established the Save Marilou Ranario campaign with the help of the Kenneth Causon (KC) Movement, a local group in the town where Ranario used to live. They launched a signature campaign and lobbied with local officials to support the petition to save Ranario. All over Quezon City and Manila, the groups put up posters demanding the safe release of the OFW whom they said was pushed to the wall and subjected to various forms of abuse.

Migrante International took a stand saying that the struggle to save Ranario and the lives of other OFWs on death row their lives will involve a broad range of actions at the local, national and international levels. It also said that they must expose the accountability of the government for neglecting OFWs and failing to defend their safety and welfare with the counterpart governments in countries where OFWs are deployed. The group launched an online petition addressed to Kuwait's Amir "to spare the life" of Ranario. It also gave its full assistance to the OFW's family, accompanying them to the DFA and other agencies that were responsible for the safety and welfare of OFWs.

Ranario was put on death row after a Kuwaiti Court sentenced her to death by hanging in September 2005 for killing her employer. An appeals court upheld the decision in February 2007, and it was placed under final appeal with the Court of Cassation, Kuwait's highest court. Oral arguments were set from October to December 2007.

Finally, the Kuwaiti Court of Cassation upheld the decision to impose the death penalty on Ranario, and migrant groups were forced to accept that the OFW's fate lay in the hands of the Kuwaiti Emir Sheikh Sabah Al-Ahmad Al-Jaber Al-Sabah and his mercy. Migrante International in the Philippines and allied organizations under the Bagong Alyansang Makabayan (BAYAN) held a series of protests condemning the government's failure to save Ranario.

When representatives from the Office of the Undersecretary for Migrants Workers' Affairs of the DFA escorted the Ranario family for a briefing at the Overseas Workers Welfare Administration, they were booed by protestors. They were vilified for their failure to be transparent on the developments on the case.

A lawyer representing the Save Marilou Ranario Movement (SMRM), Atty. Claire Padilla, said that defense lawyers handled Ranario's case well at the Court of Cassation (Makilan, 2007a). The government said two highly respected Kuwaiti defense lawyers –Ahmad Qurban and Abdel Majid Khuraibet — argued Ranario's case at the instance of the Philippine government.

She observed, however, that the efforts came almost too late. She said that lawyers should have been put on the case from the very beginning, and that during the hearings at the lower courts, the defense should have presented a psychiatrist to prove that Ranario's extreme psychological, emotional and even physical suffering at the hands of her employer drove her to commit the crime.

Padilla also said that Ranario family was kept in the dark about Ranario's case, arguing that right from the start there was a failure in the government's part. Those helping in her defense should have knowledge of the ins and outs of the case. She even said that it was doubtful that the OFW herself was even well-informed of the gravity of her case. Ranario was spared the penalty of death by the Kuwaiti Emir after Macapagal-Arroyo made a last-minute appeal for the OFW's life.

Ranario, as of this writing, remains in prison in Kuwait.

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RIZANA NAFEEK: MISCARRIAGE OF JUSTICE⁸

SRI LANKAN RIZANA NAFEEK was 17 years old when she first began working as a domestic worker in Riyadh, KSA on May 4, 2005. The job recruiter falsified her documents and Nafeek's passport stated that she was 23 years old because minors are not allowed to work in Saudi Arabia.

Only weeks later May 22, 2005, the baby of her employers, Mr. & Mrs. Naif Jizin Khalaf Al-Otaibi of Dawdami, Saudi Arabia, died while under Nafeek's care. She said that the baby choked on a bottle by accident, but the parents insisted that she killed the baby and was guilty of murder.

The media reported that Nafeek was bottle-feeding the infant around 12.30 p.m. on May 25, 2005 when the baby began choking. She panicked and shouted for help, but at the same time, attempted to soothe the child by stroking him on the throat, neck and face. The article stated that it the mother arrived at this point, but by then the baby was either unconscious or dead.

She was sentenced in a Saudi Arabian court for unintentional homicide. Since her conviction to lifetime imprisonment, Sri Lanka has unsuccessfully sought amnesty for Nafeek's, and migrant rights advocacy groups continued to press for her release from Dawdami High Security Prisons since she was taken there on May 25, 2005.

K.T. Rajasingham in his 2012 article in the Asian Tribune wrote the account of a Dr. Kifaya Ifthikar, a female Sri Lankan dental surgeon working in Riyadh who visited Nafeek regularly at the Dawdami Prison. She said that the last time she visited Nafeek was in the first week of April 2012.

The doctor said that Nafeek was relatively doing well in prison, but for the most part she was unaware of the developments in her case. She did not know, as of April 2012, that her appeal in the Supreme Court was rejected. Neither was she aware that the Supreme Court had confirmed her death penalty. She was also unaware that she stood to be beheaded any time soon if efforts to secure her release fail.

Nafeek, now fluent in Arabic, told the surgeon that she wants to regain her freedom soon.

On June 16, 2007, a three-member panel of judges from the Dawadami High Court declared Nafeek guilty of murdering the four-month-old baby. Nafeek filed an appeal against her death sentence, but on September 25, 2010, the Supreme Court of Saudi Arabia confirmed the death sentence.

In October 2010, the president of Sri Lanka, Mahinda Rajapaksa, made a special appeal to the King of Saudi Arabia Abdullah bin Abdul Aziz Al Saud to grant her pardon. The following year, on November 18, an 18-member delegation appointed by Sri Lankan Minister Dilan Perera went to Riyadh to seek her release.

Four years after her arrest, Nafeek released a statement that was posted on Asiantribune.

⁸ Information about the case of Rizana Nafeek was culled from various websites, including www.rizananafeek.com, a website that was created to campaign to save the life of Nafeek. References are enumerated at the end of this case study.

com in June 2011. In Rajasingham article (2012), it was said that the news agency obtained the signed statement from Nafeek stating her version of what happened and how her case was mishandled by the Sri Lankan Embassy Officials in Saudi Arabia and by the lawyer who handled the case.

Nafeek retracted her confession during a court hearing on February 3, 2007 and told the court that her original confession admitting to killing the baby was obtained by Saudi Arabian police under duress.

“When I was feeding the infant, I noticed that the milk was oozing through the mouth and nose of the infant. I stroked the throat of the infant gently. As the infant was seen having its eyelids closed, I thought that it was snoozing,” she said in her statement.

The Asiantribune.com sought clarification on the last statement, questioning what it meant for an infant to expel milk through the mouth and nose. It was not, the Asiantribune said, a matter of the baby simply choking.

A leading doctor from Sweden was interviewed by Asiantribune.com regarding this and said that there could have been a “stop” anywhere between the oral cavity and esophagus. Asiantribune.com was told by the doctor that when there is a “stop”, the milk will not go into the stomach, but will ooze out. It might, the doctor said, be a symptom of something congenital, or of the existence of a tumor.

“It can be also assumed that when the milk the house maid bottle-fed oozed out, the child might have already passed away,” the doctor said.

When the milk oozed out of the nose and mouth of the baby, Nafeek in her statement said that she stroked the infant’s throat gently.

The stroking may, Asiantribune.com said, have left an impression, leading others to the wrong conclusion that Nafeek squeezed the infant child’s throat to death.

In the meantime, Nafeek in her statement also said that when the mother saw the baby, she began hitting Nafeek with slippers and slapped her, causing her nose to bleed. Then the police arrived and arrested her. At the police station, she said that the police assaulted her with a belt and forced her to make a statement that she had strangled the baby.

She was under duress when she put her signature on a piece of paper the police forced her to sign. The police then continued to question her, all the while disregarding her explanations that she did not strangle the baby.

In the meantime, it was revealed that the Dawdami police failed to take the dead infant for a postmortem to determine for certain the cause of its death.

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**MALAYSIA: “MICHAEL” FROM BURMA IS ARRESTED, WHIPPED AND
IMPRISONED FOR BEING AN ILLEGAL WORKER**
(Originally published in The Revolving Door (p.29, Tenaganita, 2008)

MICHAEL IS A YOUNG Burmese refugee working in Malaysia in a snooker parlor. He and other refugees were accosted for no reason and then arrested by men who introduced themselves as Malaysian police officers.

The police took half of his month’s salary amounting to RM300, then took him to Sungai Buloh prison where he was whipped. Weeping, he begged to know the reason why he was arrested and then punished viciously. He was told that he had no documents and that he entered Malaysia illegally.

In June 2006, Michael was arrested while he was at work at a snooker parlor. Around 3am, six men in civilian clothes arrived and proceeded to arrest Michael and his co-workers who were also Burmese.

In an interview with Tenaganita, a migrants rights advocacy group in Malaysia, Michael said that the men handcuffed him and the others, pushed them outside the snooker parlor and then forced them into a white van. The arresting police demanded Michael and the other Burmese to show their passports and work permits. Michael, however, like the others, did not have anything to show. The police also insisted in asking them questions in Bahasa Melayu, a language that Michael and the others couldn’t understand. The entire time, he wondered who the men were because none of them introduced themselves as police. He was well-aware that the police had a penchant for preying on refugees and migrants. Some locals also pretended to be police so they could pretend to arrest them and exhort money from them.

As the police forced them into the van, they kicked Michael and the others on the backside. The migrants were driven to the Klang police station where they were told that they would be staying in lock up. The policemen also took Michael’s cellphone and money worth RM300.

The days passed, and Michael did not know what would happen. The policemen didn’t lay down any charges, but three times a week, each refugee was taken to the investigation room. When it was Michael’s turn, he was told to strip down to his underwear.

Michael said that the police hit him on his ankles and soles of his feet using a rubber sole. The blows did not leave big bruises, but the pain was considerable for Michael.

Eventually, the police authorities issued a report accusing Michael and the others that they were unruly at night at the snooker hall. To Tenaganita, Michael said that the police lied: “We work all day and all night, and then we go home. We are too tired to do anything. We don’t want to call attention to ourselves.” (Tenaganita, 2008)

In the lock-up, the jail authorities gave the refugees with a packet of rice with a piece of egg in it. After two weeks in lock-up, Michael and the others were brought to court. They thought that their personal belongings would be returned to them, but they weren’t. They were taken to a truck with other migrants from Thailand, Indonesians and Vietnamese. During the court

proceedings, they were not informed of the charges, and neither were they provided with a translator.

Michael said that he did not understand what was going on in court, except that he was charged with entering Malaysia illegally. He said too that if he could only speak Bahasa Melayu or had a lawyer, he would have been able to explain his situation.

After the hearing, Michael and his fellow migrants were again forced into a police truck and driven to the Sungai Buloh prison. He was scanned for metal objects, told to strip, and then given a prison uniform to wear. He was also given a blanket and a plastic cup.

Inside his new cell, there was an Indian national, a Filipino and another Burmese. The cell was very small, so the four of them were a tight fit. The guards of the jail issued them a warning: "Break the rules and you get beaten up."

The detainees were given three meals a day: breakfast at 10 am, lunch around 12 pm, and dinner at 5 pm. Lunch consisted of a little rice, a small piece of fried fish and some soup. Sometimes the fish was rotten while the rice had little worms in it.

Every morning, just after dawn at 7 am, the detainees would be ordered to assemble at the jail compound grounds for a roll call, but that was the only thing that could be considered an activity inside the jail. There were no organized activities for the inmates of Sungai Buloh prison.

Michael had been in the Sungai Buloh prison for three months when a police officer came up to him and told him that because the prison was already crowded, so that he and a few others would be sent to Taiping jail in Perak. Then, without warning, another officer arrived, read out a few inmate numbers including Michael's, and said that the inmates whose names he just called would be whipped the following morning.

Michael immediately got up from his cot and asked the officer why he was going to be whipped.

"I was shocked and very scared. He said that because I had no documents and because I entered Malaysia illegally, I was going to be punished through whipping," Michael told Tenaganita (2008).

Michael could only stand there in shocked silence. The following day, police officers arrived and escorted him to the whipping gallery in the compound.

The guards stripped him naked and tied his hands around a wooden post. They also tied a wooden belt across his waist that held his lower body immobile against the post, making sure that the man who would administer the whipping would not miss.

Soon the whipping began. Michael does not recall how many times he was hit with the rod of solid wood, but he will never forget how it felt when it struck his buttocks. He said that the pain was very sharp and this pain "shot up and down" his body.

After the whipping, the guards untied him from the post. One of them put on gloves and applied some kind of cream on his wound. He saw that the man's hand came away bloodstained. That night, he slept on his stomach. It was impossible for him to sleep on his

buttocks.

After a month, Michael was finally transferred to Taiping prison. The conditions in that prison was worse than in Sungai Buloh. The prisoners had their own cells, but the cells themselves were very small and there was no window. They had to use pails in lieu of toilets. The collective detention area was very stuffy. Every morning at 9:00 am each day, the guards would let them out and to allow them to wash their toilet pails in the compound. The meal hours and the meals themselves were similar to those in Sungai Buloh prison.

“We had to assemble three times a day in the prison compound. One of the police officers would usually deliver a lecture of some sort. We were instructed on how to speak with deference and humility to the guards. We were also taught the prison rules, as well as the penalties if we went against. Breaking a rule meant getting beaten,” he said. (Tenaganita, 2008)

One day, one of the detainees was late for the ‘assembly’ in the compound. He arrived a minute or two later, but forgot to wear his slippers. One of the guards accosted him and hit him on the head with his baton, all the while yelling at the other detainees, saying “Don’t break any rules. I’m sure your friend that I’m hitting here won’t be breaking any more rules.”

Michael stayed in Taiping prison for a few months, and then he was moved to the Langat detention camp, also in Perak. It took four hours to get to the new camp, and the entire time he and the other prisoners with him were kept in handcuffs. The guards did not ask them if they needed water or food, or if they needed to go to the toilet.

When they got to the camp, they were met by immigration officers who told that they would be staying for one to two months in Langat detention camp before being deported. Besides Michael, there was one other Burmese prisoner, two Indonesians and two Vietnamese. They were all subjected to a body search, their handcuffs were removed, and then they were taken to a small cell.

A few hours later, an officer arrived and asked the prisoners to follow him. Michael and the others were taken to small office where their detention records were checked, and they were finger-printed. Then they had to be stripped naked and subjected to another body search. They were not given a blanket or towel. Michael told Tenaganita that the administration matters in the camp were handled by the immigration authorities while the issues related to security were handled by the police.

Food in the camp was scarce. Every morning at 8am, the detainees were given a small cup of coffee and two slices of white bread each. Lunch was a small mound of white rice, a small piece of fried egg and a bowl of watery soup. Sometimes there would be some dried fish.

One afternoon after a month, an immigration officer told Michael and the others that they would be deported. He did not say where they were going to be deported, but instead ordered everyone to get on a school bus.

There were 60 other Burmese prisoners, and the guards had them separate into two groups, all of whom were handcuffed in pairs.

“We arrived at some town or village at around 11:30 pm. It was pitch black. The bus turned into an alley. The immigration officers told us to get off the bus. They unlocked our handcuffs.

It was very dark and very quiet. We were very scared,” Michael said. (Tenaganita, 2008)

The immigration officer turned to the refugees and told them: “Well, go back to Kuala Lumpur or to Thailand or to Myanmar on your own luck. I’ve done my duty.”

Then the man spoke into his walkie-talkie, and soon after three men arrived. They all talked for a few minutes, then the immigration officer and the bus that took Michael and the migrants there drove off.

The three newly-arrived men spoke to Michael and the others in Burmese: “Come with us for a boat ride.” Seeing that they had no choice, the migrants went with the men.

“We got on a boat and journeyed across the river for 15 minutes. Then we got out and walked for another 30 minutes through a jungle. I couldn’t see anything because it was so dark. Some of us fell a few times, we walked into trees,” Michael recalled. (Tenaganita, 2008)

Then they reached a rubber plantation. Michael saw a big house, and someone was shining a flashlight in their direction. The men told them to walk quickly to the house. A very dark looking man came up to Michael and the others, and told them to sit. The man introduced himself as “agent-boss.”

Then Michael noticed that there were 20 other “agents” in the room. One of them suddenly slapped one of the prisoners and then a few others. The agent-boss then said “Don’t think you can run away. You’ll only get yourself killed. And don’t ask me or my men for food or water.”

The agent-boss told them that the prisoners had two options: if they wanted to return to Malaysia, they would have to pay RM1800; if they wanted to go to Burma, the price was RM2000. Then he handed a cellular phone to the refugees, telling them to call a relative or friend in Malaysia and ask them for the money.

“As we were on the phone, the ‘agent-boss’ kept saying that if any one of us did not have money, he would be sold to the fishing boats. He told us that we had three weeks to get the money,” Michael said. (Tenaganita, 2008)

Michael opted to return to Malaysia. He called up a cousin, and begged him to help arrange for the RM1800. The cousin told him that it would take time, and when Michael relayed this to the agents, they started slapping him. He was told that if he did not have money, they would beat him up every day.

The agents gave the former prisoners a packet of nasi lemak a day and nothing else. A week later, Michael’s cousin called and told him that the money had already been wired to the agent-boss’ account. Immediately, Michael and the 10 other Burmese who chose to return to Malaysia were taken to a four-wheel drive vehicle. They were told to lie flat on their backs at the back of the vehicle. It was already 10:30pm and the journey back took at least two hours. When they arrived at clearing in the jungle, they were told to get down and transfer to another waiting vehicle. There they also had to lie flat, and the journey took them four hours. The vehicle didn’t stop for water, food or the passengers’ toilet needs.

“We reached a bus station before dawn. I didn’t know where we were, but our group was again divided; four of us were told to get on the bus that left soon after, and the rest of us, six in all including myself continued the journey inside the four wheel-drive. We continued on for two

hours before we again switched vehicles. Then it was another four-hour drive. We reached Pudu jail. The driver then told us that we were free to go anywhere, and we got out,” Michael said. (Tenaganita, 2008)

Michael hid himself in his flat every day after work. He broke out in a cold sweat every time he saw a policeman. After his return to Malaysia he worked in a factory where he had to check in at 8am but leave at 9pm. The owner told him and others like him that they were desperate workers who had no choice. Michael received only RM20 a day, but he could not complain or look for better work. Almost all his money he had to save to pay his cousin whom he owed RM1800.

“MYA”, A REFUGEE FROM BURMA FINDS NO SAFE HAVEN IN MALAYSIA
(Originally published in The Revolving Door (p.29, Tenaganita, 2008)

MYA AND HER FAMILY are originally from Burma. With the help of other Burmese, she and her family entered Malaysia illegally and established camp with other illegal migrants in Putrahayaarea. She was at the time five months pregnant and had two other children aged three and six years old.

After a few months in the camp in Malaysia, their leader told them that they would all transfer to an apartment. She welcomed the prospect because she found life in the camp uncomfortable.

In the flat, she, her husband and their children settled in with another family which had two daughters and a son. Altogether, there were four women including Mya, two little girls below the age of ten, three boys and two men, the husbands. The flat was in another underdeveloped area near Putrajaya. It was small and consisted only of a small living room and two bedrooms. It was a tight fit for so many people, but they all became friends and treated each other like family so the smallness of the space did not matter.

Around midnight a week after they moved into the flat, on May 10, 2007, they heard a loud banging against their door, and soon it sounded like someone was kicking it repeatedly.

The camp leader immediately switched off all the lights and herded everyone into the bedrooms. He told everyone to be silent. Mya saw the fear in his eyes, and this made her even more terrified. He and Mya's husband locked the door then together went back to the living room.

On the other side of the door, the loud banging continued, and it became evident that whoever was outside was determined to break down the door. Then someone shouted and told the migrants to open the door if they didn't want it broken down. The men spoke in Bahasa Melayu of which Mya understood very little.

Mya and the other wife held each other in fear, also hugging all their children close. The children were scared but didn't cry. Suddenly, the banging stopped. They heard gruff voices coming from the living room. Scared almost out of their wits, Mya realized that the midnight intruders knew that they were there. Then Mya heard the camp leader told them to open the door. Mya's husband rushed into the room and embraced Mya as if to shield her. Mya herself felt like fainting.

The Rela officers began to drive them out of the room. "Get out, get out!" they yelled. There were 10 of them. They told Mya and the others to wait in the corridors while they went through the rooms and toilet.

"Do you all have your UNHCR cards?" the camp leader whispered to the refugees. He was tense and it came out in his voice.

The Rela police called the refugees back into the room and demanded to be shown their identification cards. Mya and the other wife got them from their bags and showed the cards to

the Rela officers who confiscated them.

“Pack only what you immediately need and go outside,” the Rela ordered the refugees. Mya obeyed and so did everyone soon. Soon they were all downstairs and in the parking lot. Many Indonesians were already inside the waiting truck, and soon left. The Rela officers told Mya and the others to wait for the truck to return.

“I was scared and started to cry. I couldn’t remember the small details. Everything was a blur. All I could think of was where they were going to take me and my children and if they would separate us. I was holding on to my husband, and he was telling our children that everything was going to be alright,” Mya said. (Tenaganita, 2008)

After an hour, the truck returned, and the second batches of refugees were told to get into it. The officers shouted the entire time, but Mya was grateful all the same that it was all they did and that they did not use violence.

The Rela did not tell the arrested refugees where they were going to be taken. Mya’s eldest son had one of his arms in a sling because he had broken it three days previously. The arm was still quite painful and the boy had difficulty moving. Mya was constantly worried that because of the jostling movement of the truck, the boy might bump his arm and hurt it further.

Mya felt helpless. The journey took less than 30 minutes. Finally, they arrived at a Rela office somewhere in the Putrajaya area. Mya had been on her feet the entire time, and she was already struggling hard against the need to urinate. She whispered to her husband of her need, and he in turn asked an officer if the truck could stop for a short time so Mya could pee. The officer refused.

When they reached the Rela, the refugees were herded into a big hall. The officers sat in front of the room and called out the names of the refugees using the UNHCR cards they had taken from the refugees. The camp leader whispered that they were checking if the pictures on the cards matched the faces of the refugees. The officers asked each refugee a number of questions, but when it Mya’s turn, she could not understand what the officers were saying. The refugees’ camp leader then said that the officers were asking how long they had been in Malaysia and what their ethnicity was.

The Rela officers went through the refugees’ personal belongings before returning them. They then said that everyone was going to be taken to a detention camp. As they were being taken to the truck, Mya’s husband again asked the officers in English if Mya could first go to the bathroom. Again his request was ignored.

Mya wondered if the men simply couldn’t understand her husband because he didn’t speak Bahasa Melayu. She felt like her bladder was going to burst as the baby in her womb was pressing against it.

“I felt like dying as I tried to hold in my urine. I held it in and it hurt so much,” she said. (Tenaganita, 2008)

Throughout the journey, the refugees did not know to which detention camp they were being taken. Mya sat squirming and whimpering – she even snapped at her son when he accidentally pressed against her lower belly. Finally, the same officer who told her husband “if she wants to urinate, she will have to do it here, in the truck,” he said pointing on the floor. He laughed.

Mya could not take it anymore. She took the plastic bag which contained her son's medication, shook out the contents. She pulled "longhji" (a Burmese tunic) around her, squatted and then urinated into the bag in front of everyone else.

She felt so humiliated she wept while she urinated. "I felt humiliated that all those men were watching me urinate. I peed all over my hand while I was holding the plastic bag. I hoped they wouldn't see anything. I hoped that my longhji covered me well," she said. (Tenaganita, 2008)

At about 3am, the truck arrived at the Semenyih detention camp. The Rela escorted the refugees into the cemented compound and did another head count. They were then taken inside an office where their names were written down. Each of the refugees was given a number.

Mya said that the guards taunted them the entire time.

"You don't need anything now, prisoners don't have the need for personal things here," they told them while laughing the whole time. They took the money and other belongings of the refugees.

"I felt like a prisoner; then I realized that I really was a prisoner!" Mya said. (Tenaganita, 2008)

The men and women were separated into different blocks and Mya's two sons followed her. They did not know what exactly what was happening, but they understood enough. They called out for their father, but the officers began to pull them away. I begged the children to go before the guards beat them.

As the guards pulled him away, Mya's husband told her, "Keep strong, I love you." Right that moment Mya grew cold and numb with disbelief and fear.

The guards took Mya and the other women to the detention blocks.

"They didn't give us anything like towels, toothbrushes or even soap. An immigration officer told us that we would have to make a request so we could buy our basic necessities from a 'mini-market' in the detention camp. They said they were safe-keeping our money, but we could make a request if we needed some. If we ask for RM50, we must use all of it at one time and buy what we need," she said. (Tenaganita, 2008)

The guards gave Mya and the others a piece of paper, and told them to write the amount they needed to buy food and other basic necessities from the detention market.

"They said that they would deduct the amount from our own money. When we arrived there, my husband and I had only RM180, but some of our fellow detainees came without a single sen so they could not buy anything. Sometimes we shared what we bought inside the camp with the others, especially with those who had no money," she said.

Mya said that the detention block was only one big cemented area with a roof. There were neither beds nor other furniture, and everyone had to sleep on the floor. Everyone was issued a blanket, but none of them were clean and appeared to have been used by previous detainees and then simply passed on to the next batch of prisoners.

"My two sons, being young, had to share one blanket. I was given my own. Everyone slept

head to head, arm to arm as there was not enough space. Water was available only in the mornings. Water was rationed, and everyday one had to choose between bathing and or washing clothes. It was most unfortunate if the guards closed off the water while someone was using the toilets. Often one bathed only every three days,” she said. (Tenaganita, 2008)

For breakfast, the Rela gave the refugees a cup of coffee, a slice of bread or a bun each; sometimes seven pieces of small-sized crackers. The meager meal came with one cup of drinking water before lunch. For the 18 days that Mya stayed in the detention camp, they were given only one meal that had chicken, and three meals with eggs.

“The rest of the days they gave us a piece of salted fish the size of my thumb, and an amount of white rice that I could fit in my palm. Relatives who come to visit us would bring Coffee Mate which we would mix with water and drink it as though it was milk. If they brought instant noodles, we would soak them in cold water, wait for the noodles to fatten up and then eat them. The guard wouldn’t give us hot water. During dinner time, everyone got one more cup of drinking water. On the whole, we were given only two cups of drinking water per day,” she said. (Tenaganita, 2008)

For the first three days, Mya cried every night and day almost non-stop.

“I was not sent here because I stole or because I committed some other crime. I was an innocent person running for my life. It was the same with all of us in the detention camp -- we were all running for our lives when we were in Burma. It was so hard to accept that my children were not getting enough food, and the food they were getting could hardly be called nutritious. We used up all money to buy food, but it was mostly bread or plain biscuits,” she said. (Tenaganita, 2008)

Mya also grieved continuously for her eldest son whose arm was broken.

“He was so vulnerable, and it hurt to even just look at him,” she said.

The situation was also very demeaning for the women for other reasons. Some had their period while in detention, but they had no money for sanitary pads. Those who had visitors could ask to be brought sanitary pads from the outside, but those who had no relatives had no one to turn to or ask help from. Many were too shy to ask, and they were forced to have their period without pads. It was so demeaning; other women shared their sanitary pads with those who could not afford them,” she said.

The toilets were clean but Mya was too embarrassed to take a bath in them with the other women.

“The doors only reached up to our waists. I was pregnant and didn’t want to bare my stomach to everyone else. There were no separate cubicles so everyone had to bathe together. I took my baths at 1am or 2am when there was no one around,” she said. (Tenaganita, 2008)

Mya and her husband barely saw each other much less talk the entire time they were in detention. The guards only allowed the prisoners to mingle for an hour every Saturday evening. The entire time, she worried that her husband blamed her for getting everyone arrested. She was pregnant and this was what prompted the camp leader to decide that the women would move to the apartments instead of staying at the original campsite.

One day two weeks after, Mya and her husband were taken to the Malaysian immigration court and interviewed by officers. They could not understand the questions because there was no interpreter to translate the questions from Bahasa Melayu or English to Mya's own language. They didn't know whether to nod or shake their heads at the questions.

On the 18th day at the Semenyih detention camp, an officer from the UNHCR came to see Mya.

"It no longer mattered to me that the UNCHR was late to visit us, all that mattered was that there was someone from the commission. I could only cry and cry as the woman officer told me she was trying her best to get us released. She gave me bars of chocolates for my children. She repeated that she was doing everything to get us released but it would take at least two to three days. I already felt better knowing that there was a chance that we would be able to leave the detention camp," she said. (Tenaganita, 2008)

That night as everyone was getting ready to ready to settle for the night, the woman from the UNCHR came back.

"I stood there in shock and the woman had to repeat herself when she said that she had managed to get me and my family out. The other mother who was staying with us in the flat had also been released," she said.

Mya and the others wept as they packed their few belongings. She then saw that their camp leader was not with them. In the car as they all left the detention camp, the UNHCR officer told them that he had chosen to be deported as his case was not considered vulnerable and that he would have had to wait in detention for a long time before the UNHCR could intervene in his case.

They were driven straight to the UNHCR office and each of the refugees was given a card to replace the UNHCR cards that the Rela officers took weeks before. The adults were given RM50 each, and then they were taken to the Zomi office in Kuala Lumpur where they stayed for a few days to get their strength back.

After a few days, Mya and her husband decided to go back to the Putrajaya campsite to stay. They agreed never to return to the apartments where they were first arrested.

The Zomi leaders told them that their case was quite common: families that went through arrest and detention would need lots of prayer and counseling. Mya and her husband attended a few of the sessions. Once when she was attending a session, a woman told Mya that pregnant women and mothers undergo severe depression during detention because they worried not only for themselves but also for the well being of their children. In time, Mya's relationship with her husband grew stronger.

A month a half after she had given birth to a baby girl, the Putrajaya camp was again raided. Mya's children were already attending a makeshift school within the camp. On her way back from the school, a group from the camp told her that officers from the Rela were going through the Putrajaya area to arrest refugees and that their campsite was next.

"I ran to our tent with my baby in my sarong-sling. I thought about the money that we had saved and kept hidden inside my pillow. When I got there, the Rela was already ransacking the camp, tearing through everything. I realized that our money was as good as gone and that

there was nothing else I could do. Our lives were more important, so with my neighbors I ran to the hillside. A woman and I helped each other walked across and up the steep and slippery terrain,” she said. (Tenaganita, 2008)

Mya’s heart skipped a beat when she thought how the Rela would probably target the makeshift school next. It was some distance away, but the fastest way was through the jungle. Mya and the women alternately walked and ran, oblivious to the branches that cut her face. She shielded her baby in her breast.

“We stopped when we got to the side of the hill that looked down at the school. My baby was asleep on my chest, looking peaceful and angelic. I couldn’t resist weeping because I was afraid that what we suffered before was happening again. Would it never, ever stop? The woman and I started crying as we thought about our children being arrested as they attended school. After all that we had already gone through, I was determined that I would rather get arrested myself than have my children taken away from me,” she said. (Tenaganita, 2008)

When they got to the school, some of the adults in charge there told Mya that they had hidden the children and that they were safe. After a while the children came out of the jungle. Mya ran to them and fell on her knees hugging and kissing them, crying the whole time.

“All of our savings were stolen, but that was nothing compared to being arrested and going through hell in the detention camp all over again,” she said.

Hours later, Mya’s husband came and they all moved deeper into the jungle. Some of the leaders in the refugee camp contacted the UNCHR, but received no response. They also appealed to other non-government organizations for help. By midnight, just when they thought that they would have to spend the rest of the night -- as well as the next few days and weeks -- in the jungle, words came that members of an NGO would be arriving soon and take them to a temporary shelter.

“We stayed in the temporary shelter provided by the NGO for a month. I felt that we would always be running if we stayed in Malaysia. It was not a safe place for refugees. I would never be able to forget the 18 days I spent in the detention camp, and because of this I have never had second thoughts about moving around if it meant escaping the Rela and evading arrest. Now we’re in the process of resettlement, but until we are safe in a third country, I will not feel safe. I will not feel safe until we all leave Malaysia,” she said.

V. RESPONSES OF STAKEHOLDERS

SENDING-COUNTRY GOVERNMENTS

In the cases that Filipino migrant groups such as Migrante International bring to the attention of the Philippine Embassy, the groups say that the response is for the most part quick. Much, however, still needs to be done to ensure the embassy and the Philippine government follow up the cases with the counterpart foreign authorities.

Another observation is how the Philippine government is slow to take action on the issues and problems affecting migrant workers in jail. The Philippine government needs to be pushed and even subjected to strong criticism before it responds to the appeals of Filipinos in jail. The government's neglect is also seen in how it fails to attend to the legal needs of OFWs in the Middle East who are embroiled in legal difficulties.

For instance, an estimated \$20,000 is needed to hire a Sharia lawyer for OFWs in jail or in death row. According to data from the Department of Foreign Affairs (DFA), there are at least 27 OFWs on death row in the Middle East, six in Malaysia, one in Indonesia and 78 in China, all mostly on murder and drug charges.

As for the diplomatic posts, it has been noted that the employees of the Philippine government offices are not proactive and are mostly apathetic when it comes to the issues affecting Filipino migrant workers. Case workers point out how most of them are indifferent and lacking in sympathy. They cannot, the migrant groups say, be relied on to bend over backwards on the behalf of their compatriots in distress.

In early 2012, Migrante International criticized the Aquino government for having been caught off-guard and unprepared when conflicts erupted in the Middle East-North Africa (MENA) region, particularly in Egypt, Libya, Yemen, Bahrain and Syria.

Of the estimated 32,000 OFWs in Libya, only 14,000 were evacuated and repatriated back to the Philippines. These OFWs returned to the Philippines, not through the help of the Philippine government but with the help of their respective agencies and employers. (Migrante International, 2012)

The DFA and Philippine government, in some forums and statements in the media, attributed the low number to 'helplessness, lack of funds and a deadlock on negotiations with Syrian employers.' The Philippine government, according to Migrante International, did not issue a position on the plans of the United States government and the North Atlantic Treaty Organization's (NATO) plans to conduct air strikes on Syria which will greatly endanger OFWs.

On February 24, 2012, an OFW was killed in Homs in Syria during an ambush attack. Twenty-three-year-old Meran Prieira Montezor, a native of Camarines Sur, died along with her employer's child when unidentified gunmen opened fire on the car they were riding. (Migrante International, 2012a)

Despite the growing number of OFWs in distress and corresponding lack of action by Philippine officials, the Philippine government continues with its plan to permanently shut the doors of at least 12 Philippine posts all over the world as part of its "austerity measures." (Migrante International, 2012)

DFA will close the Philippine embassies in Koror, Palau; Caracas, Venezuela; Dublin, Ireland; Stockholm, Sweden; Havana, Cuba; Bucharest, Romania and Helsinki, Finland, as well as the Consulates General in Barcelona, Spain, Frankfurt, Germany, and Saipan. In a recent hearing at the Senate on the controversial closure proposal, it was noted that there are some 40,000 Filipinos in Frankfurt; 30,000 in Barcelona, more than 8,000 OFWs in Palau and Saipan. In the meantime, an estimated one thousand Filipinos live and work in Dublin, Stockholm, Bucharest, Helsinki, Caracas and Havana. (Aning, 2012; Carandang and Mabasa, 2012)

According to the DFA, the Philippine embassy offices in Barcelona and Palau will be closed in July 2012. Reports revealed, however, that OFWs in Barcelona have been caught by surprise by the news.

Daniel Infante Tuaño, an OFW in Barcelona, said consulate officials did not consult the Filipino community regarding the pending closure. (OFW Guide, 2012)

Finally, given the attitude of the diplomatic posts, the Philippine government will be left in the dark regarding the plight of detained Filipinos in various countries if it were not for migrant organizations like Migrante and its international chapters. If it weren't for the efforts of Migrante, all of the jailed migrant workers will most likely be abandoned in prison and left to the mercy of the Saudi government.

Migrante International admits in an interview that the Philippine government provides legal assistance to jailed OFWs, but before it does, it ensures that there is media coverage. Also, the Philippine embassy sends representatives to investigate cases of migrant workers in distress; but again, the attention of the media is called and even then, the action is very slow.

More often than not and in most cases, the only service and assistance the Philippine government and its office abroad give migrant workers in prison are jail visitations. Unfortunately, even on this the government still has to be prompted by either migrant groups or the jailed migrants themselves.

According to Migrante International, the most necessary assistance the government can give its citizens working abroad is legal service: it should always be prepared to rush to the rescue of OFWs and provide them with legal assistance. It should also establish a strong system that will ensure that the legal and court developments in the cases of migrant workers in jail are consistently monitored and supported.

Migrante International steadily criticizes the Philippine government for not taking action to help the overseas Filipino workers. It also criticized the government's move to reduce the department's budget. The Philippine government has cut the budget of the Department of

Foreign Affairs from P12.69 billion (\$295 million) in 2011 to P10.98 billion (\$255 million) in 2012. (Silverio, 2011)

Migrante International said that there have been too many OFWs who have died, been disabled, abused, jailed, stranded or been placed in distressed situations, who are in dire need of assistance from Philippine embassies or consular offices, and this requires a commensurate budget to aid and support OFWs including those in jail.

HOST-COUNTRY GOVERNMENTS

Generally, migrant groups assess the response of host countries on the issues affecting migrant workers specifically migrants in jail as unsurprising: that host-country governments respond based merely on applicable laws.

In the case of the KSA, for instance, Migrante Middle East (Migrante-ME) said that the KSA authorities claim they consistently address the issues and concerns of migrants in jail. But the truth, Migrante-ME says, is that there is a need for greater transparency on how exactly the KSA government handles erring expatriates. Migrante-ME asserts that open lines of communication should be maintained and strengthened between the KSA government and the Philippine consulate, so that the grievances of jailed migrant workers will be quickly addressed and that the latter can be prodded to take the necessary action.

Based on the opinion of Migrante Riyadh case workers, Saudi nationals like the work ethics of Filipino workers -- recognizing their industriousness and commitment to work. This is why when their Filipino employees get involved in petty crimes such as making wine or being caught gambling or with women, Saudi employers do what they can to help and ensure that the employees can return to work. The greater difficulty lies with the cultural police or the Muttawa. The final decision lies with them.

On the whole, the KSA government's responses to appeals from migrant organizations are negative. Despite this, however, the Migrante and its chapters in the Middle East continue to project the issue of migrants in jail and to condemn the harshness of the punishments being meted out.

Lebanon Government Policy Reforms

In Lebanon, as migrant rights advocacy groups intensified their campaigns and human rights institutions like Human Rights Watch persisted with their "naming and shaming" reports on human rights violations against migrant workers in detention, Lebanese authorities were forced to implement reforms.

In recent years, Lebanese authorities led by the Prime Minister appointed a special commission called the Unified Committee to the Higher Council to design a National Plan of Action. This committee is tasked to address issues of migrant workers. It works with key government agencies such as the Ministry of Labor, Ministry of Interior, Ministry of Justice, Social Affairs, Internal Security Forces, and the Lebanese Bar Association. It also coordinates with the ILO, the OHCHR, various NGOs and the embassies of sending countries.

Currently, the committee is researching and studying the national application of international conventions ratified by Lebanon on the rights of women migrant domestic workers. It also studies the gaps in the laws and regulations, which hamper the implementation of women

migrant domestic rights and proposed legislation guidelines, in line with the International Convention on the Protection of the Rights of Migrant Workers and their families.

With the appointment of National Steering Committee in 2006 in Lebanon, an initial step was taken by the Lebanese authorities. Much still needs to be done given that while the committee continues to study and propose new legislation based on the convention, there are still no guarantees that the government will implement reforms with provisions that may create problems for Lebanon.

All the same, there is a legal limit on the authority and power of employment agencies and employers. In 2007, an employer was sentenced to 15 days imprisonment for beating and burning her maid. Another was ordered to pay US\$ 1,500 for damages and repatriation fees. These, however, are exceptional cases, as ordinarily legal disputes are settled when the employer gives the migrant worker his/her papers and sends him/her home. (Hadesian, 2012, p13)

Finally, Lebanon voted in favor of the ILO convention No. 189 on Decent Work for Domestic Workers, adopted in June 2011. However, it has yet to take steps to ratify the treaty or to comply with it. The ILO Convention requires governments to provide domestic workers with labor protections equivalent to those of other workers, to monitor recruitment agencies rigorously, and to provide protection against violence.

Labor legislation reforms in the GCC countries

Labor legislation reforms in the GCC countries have been very slow, as national security issues have priority as regards human rights issues of migrant workers.

In Bahrain, it has been said that the greatest reform to date in the region was the Bahrain government's decision in 2009 to eliminate the kafeel or Kafala sponsorship system. Migrant workers can now change jobs without their employers' permission and without running the risk of losing their benefits and salaries or being charged with allegations of abuse. The new law, however, does not include domestic workers and thus elicited a mixed response. The reform's full impact is yet to be seen.

Also in Bahrain, a written unified contract for domestic workers was introduced which took effect in April 2007. Its provisions concern duration of contracts, salaries and other benefits including accommodation, healthcare, working hours, paid leaves, repatriation tickets, dispute settlement, recruitment fees and coordination with concerned embassies.

In the UAE, in August 2009, a Wages Protection System was introduced by the Labour Ministry which stipulates that all private sector companies are obliged to open an account with the Central Bank which can be monitored by the Ministry. Each worker is given an ATM card drawn on a local bank chosen by the employer, and a worker's monthly salary is automatically received electronically. Companies that fail to release the monthly wages will incur heavy fines.

Also in the UAE in September 2009, the Inspection Department of the Labour Ministry issued "Guidelines for Temporary Labour in the UAE." It said to have been designed to protect temporary migrant workers from contract fraud and illegal recruitment fees from employment agencies in labor-sending countries.

The following year, the UAE Labour Ministry published “Recent Initiatives Furthering Protection of Workers in the United Arab Emirates” which, besides ensuring monthly remuneration of construction workers, imposes job health and safety regulations as well as new administration procedures designed to ensure the equitable treatment of contract workers.

Other policy reforms instituted in the last few years include the establishment of a 24-hour hotline and website for lodging complaints with the Dubai police force, the imposition of stiff penalties for sponsors who facilitate hiring of domestic workers illegally (this is considered a trafficking crime and translates to a jail sentence of 10 years and a fine of Dh50,000).

Labor inspections are also said to be conducted more rigorously to ensure that workplaces meet national and international standards.

In Oman, a 2010 Royal Decree was laid down increasing penalties against employers who overlook the plight of sponsored workers. There was also the cancellation of sponsors’ visa allotment, the institutionalization of an Omani victim protection program; the establishment of safe houses for migrant workers; and increased assistance to migrant workers to gain access to their respective embassies. (Hadesian, p12)

MIGRANT ORGANIZATIONS

Migrante International, its international chapters and allied institutions

Given the very difficult legal and financial circumstances that migrant workers in jail face, the role of migrant organizations like Migrante International and migrant-serving institutions like the Asia Pacific Migrants Mission (APMM) cannot be emphasized enough.

In Riyadh, migrant support groups often do not have the financial means to assist migrant workers who are in legal straits, but despite these limitations they still do their best to provide assistance.

Migrante’s chapter in the Middle East comes out with factsheets and alerts on controversial cases of jailed migrant workers, posts them on the various social networking sites and sends them out to migrant rights networks. Migrante-ME maximizes all available media and communication venues to ventilate issues. They take full advantage of mobile and internet technology to quickly and efficiently relay updates on issues and developments in OFW cases.

The Migrante regional chapter also it provides psycho-social therapy and counseling to the jailed workers, visiting them regularly, and bringing them food and news from the outside world.

The group also holds fundraising campaigns for the jailed migrant workers whose families are in dire straits, or for the jailed migrant workers themselves if they need it for their release from prison. The case of Filipino overseas Filipino worker Dondon Lanuza, for instance, is an example.

Another very important role of migrant groups when it comes to assisting jailed migrant workers is the dialogues they initiate with the authorities on behalf of jailed migrant workers and their families.

Filipino migrant groups in Riyadh and the rest of the Middle East as well as the other chapters and allied groups in Hong Kong, Japan, South Korea and Europe initiate crucial dialogues with officials of the Philippine delegation, including officials of the Philippine Overseas Labor Office (POLO), the Overseas Workers Welfare Administration (OWWA) and other Philippine government agencies.

This is a very important function because, without the prodding of migrant organizations, diplomatic posts and their labor desks have a tendency towards indifference when it comes to issues affecting migrant workers.

Additionally, migrant organizations provide a steady stream of information to migrant workers, including migrant workers in jail, to empower and encourage them. Groups hold regular fora and symposia wherein issues affecting migrant workers are thoroughly discussed. They give migrant workers a reliable source of support and assistance in the times that they need them. The groups have case workers who are always prepared to offer advice and render help.

When it comes to rendering aid to jailed migrant workers, migrant groups prioritize establishing working relations and steady communications with the officials of consulates and embassies. On their own, migrant organizations do not have the legal rights to enter jails and prisons. They rely on friendly and concerned consulate officials for information on the status and situation of the migrants in prison.

In the case of Filipino migrant organizations, they do all they can to highlight cases of distressed OFWs. They call for media press conferences, hold indoor rallies, circulate petition letters through the web, conduct text and email barrages, hold case-to-case dialogues and release press statements to international and local media. It is a very proactive process that they carry out -- they constantly connect with media institutions and journalists to ensure that they are updated on developments in the cases of affected OFWs. More importantly, they relentlessly hound the consulate and embassy offices of the Philippines as well as offices of the host government and their concerned agencies to address the issue of affected OFWs.

If despite their efforts there is no action on the part of the consulate/embassy and the host country authorities, migrant organizations contact the families of affected OFWs and encourage them to coordinate with Migrante International in the Philippines. Migrante International then launches a campaign to expose the issue, leading to a series of actions that include pickets, rallies and media activities to pressure the Philippine government and the host country government.

Recommended Reforms in Malaysia by Tenaganita

Migrant rights advocacy groups in Malaysia like Tenaganita have a standing list of recommendations for the Malaysian government, independent legal institutions and NGOs to undertake to improve the state of migrant workers in detention in Malaysia.

The group said that all military, police and jail officers who are found guilty of violating the fundamental rights of detainees should be prosecuted. It said that there should be amendments in the law so that immigration violations are treated as administrative offenses rather than crimes punishable by detention and/or corporal punishment. Caning or whipping, Tenaganita asserts, should be abolished as a form of punishment.

In the meantime, the group also said that the Home Ministry should review the standards of living conditions of detainees in all detention centers. NGOs should be allowed access into prisons and detention camps. To help migrant workers in detention, human rights groups and legal organizations are encouraged to provide pro bono legal services, as well as translators and interpreters. These same services should also be provided by the Malaysian government to foreign detainees.

Tenaganita said that the Malaysian government should develop protocols based on the human rights framework to train police and other authorities on how to investigate and collect evidence in cases involving migrant workers. This, the group said, should include training on when and where to provide referrals such as to the embassies of migrant workers. The government should also provide migrant workers adequate healthcare services during the period of imprisonment and detention; as well as ensure that migrant workers are given assistance when it comes to the arrangements for deportation.

Diakonia and Social Justice efforts in the Middle East and GCC countries

Diakonia and Social Justice, a unit of the Middle East Council of Churches, implements ecumenical programs and activities that tackle the challenges of migration, detention and justice. It works with national institutions and authorities such as the Human Rights Bar Association, the Interior Security forces, and international humanitarian organizations. It also challenges states, international organizations, NGOs, individual citizens, civil society and government officials to share responsibilities and get involved in migrant issues and concerns.

Some of the projects the DSJ supports or implements are the Philemon Project which provides pastoral and diakonal assistance to refugees and migrant domestic workers from Sudan and other African and Asian countries. It also supports the Gulf Liaison Office established in 1986 which networks with churches, embassies, governments and international organizations, as well as conducting research and producing information on living and working conditions of migrant workers. The office also initiates justice-based activities like visits to camps and safe houses for runaway maids.

The DSJ also has a continued campaign for the repatriation of stranded migrant workers in Gulf countries and produces publications on refugee and migrant workers, such as stories and books, human rights illustrated booklets, brochures, calendar and posters. It organizes awareness-raising workshops on issues of detention, torture prevention and migrants' rights, as well as promotes through radio broadcasts campaigns against human trafficking, detention, racial discrimination, abuse and exploitation and domestic slavery.

Finally, the DSJ gives advanced training in prisons, or twice a year training workshops for the members of Ministry of Interior, Ministry of Justice, government offices, prison administration and staff, Interior Security forces, police and concerned people and delivers human rights-based staff training programs.

Churches in the GCC countries

Churches from various congregations in the GCC countries are very much involved in supporting and providing care to migrant workers.

They try to reach out directly to the hundreds of migrant workers regardless of religious belief, and provide them with support, counseling and even shelter whenever possible. They also provide spiritual counseling and donate food and clothing. Most of them have a 24-hour

hotline that migrant workers can call anytime. They provide financial assistance to migrant workers for the payment of visa penalties, give assistance to workers whose employers failed to pay salaries for several months, and provide funds for medical expenses. They also provide legal aid in cases of illegal status when absconding, counseling for broken business contracts, and other violations.

VI. SUMMARY OF FINDINGS

MIGRANTS IN GENERAL experience insurmountable suffering.

From the moment they decide to leave for the country of destination to the time that they start working or residing in that country, they are already placed in a vulnerable situation. Policies and practice from both migrant-origin and migrant-destination countries create an environment where migrants have limited rights or freedoms, or where oftentimes they are forced to accept being in abusive or exploitative conditions.

Based on various researches, interviews with migrants, migrant-serving institutions and government officials, focus group discussions of migrants in destination countries, as well as paper presentations made during the Interfaith Solidarity Conference on Conditions of Migrants in Jail, the following major points on the conditions of migrants in jail particularly in the Kingdom of Saudi Arabia (KSA), Qatar, Lebanon, Japan, Malaysia, Taiwan and South Korea have been gathered:

1) Migrants who are in jail or detention come from developing countries, mostly from South and South East Asia. While most of them are migrant workers, some have sought asylum in countries like Malaysia. For the migrant workers, they worked mostly in the construction industry, service and domestic work, entertainment.

The conditions as to why and how they landed in jail or detention are myriad. In the Gulf countries like the KSA, migrant workers in jail were either charged of immorality (i.e. selling alcohol, being seen with another woman) or killing their employer in self-defense. As can be discerned in the stories (like those of Dondon Lanuza and Marilou Ranario), some migrant workers have been treated badly or simply defended themselves from potential abuse or harm from the employer.

Many migrants in jail or detention were also undocumented migrants, or considered illegal migrants or migrants in irregular conditions, or asylum seekers without proper documents.

In most countries studied, the detention centers are no different from prisons or jails. In some countries, migrants jailed for overstaying or having no proper documents, were treated no differently from the prisoners. In most countries, though, migrants who are caught overstaying or without proper documents are placed in detention centers whereas those with criminal offenses are put in regular prisons.

The detention centers are a totally different thing. In countries like Malaysia, the detention centers do not have sufficient facilities like toilet and bath. Food is reportedly scarce while

health conditions of detained migrants are not attended to. Some migrants in jail reported being harassed, shouted at or being discriminated inside the jail or detention center.

Prior to this, reports of migrants not being able to access legal assistance, lawyers or even their families have been made. In some Gulf countries, the court hearing is made in Arabic and sometimes the migrants are not given translators to help them in following through with the case and the development of the hearing.

In many concerns of migrants in jail are the worries they have of their families back home and how they are living right now that they are in jail. Some pointed out also their worry for their children who needed to go to school.

In the Philippine case, some migrant organizations faulted the Philippine government for not doing enough to help the migrants in jail and their families. Some families, for example, were kept in the dark of the situation of their relatives/loved ones who have been jailed abroad. In most cases, the Philippine government only took action after local and international pressures have been made on the former to take on a case of a migrant in jail (Ranario's case, for example).

2) The vulnerable situation of migrants in jail comes from the circumstance of most destination countries studied here having policies or practices that limit or violate the rights and freedoms of migrants.

While some countries like Qatar have policies that limit working hours of migrant workers and ensure their protection, workers' rights violations still happen. What happens to migrant workers in Qatar also happens to migrant workers in other identified destination countries: receiving low or subhuman level wages, being placed in slave-like conditions at the workplace, their passports and other legal documents being withheld or confiscated, their visas not being renewed, their healthcare is not ensured, among others.

Policies directly affecting migrant workers are reinforced by the destination country governments, i.e. the Kafala or sponsorship system in many Gulf countries and the Employment Permit System in South Korea, to name a few.

The Kafala or sponsorship system puts the migrant workers at the mercy of abusive employers. Migrant workers are placed in a conflict situation wherein they are forced to choose to leave their employer and become undocumented or defend themselves and resort to violence.

The Employment Permit System (EPS) in South Korea has caused more problems than solutions to the migrant workers' woes. Because of the EPS, migrant workers are beholden to their employers. Oftentimes, their passports and legal documents are withheld, their working visas are not renewed, they receive low wages and are placed in precarious working conditions. Such a process breeds the ground for their becoming undocumented.

It is also the absence of policies that should protect migrant workers that puts them at risk. In Taiwan, for example, the absence of an implementing guideline for the Immigration Act has placed migrant workers like Helen Carumba in detention far longer than usual.

In many destination countries, migrant workers have very limited freedoms or civil liberties. A gathering of three people is considered illegal assembly and some migrant workers have been arrested and jailed for it. Women and men are not allowed to come together unless

they are married, according to religious laws that are strongly enforced in Moslem countries. Government services allocated for migrant workers are scarce.

3) Adding to their vulnerability is the lack or absence of attention or support from the migrant workers' own governments. Migrants in jail lamented not being provided legal assistance or any services by their respective consulates or embassies during the hearing of their case. Migrants are left to fend for themselves and have to struggle with the limited knowledge, if at all, of the language being used in the court hearings.

In cases cited, migrant-sending governments have yet to receive pressure from migrant organizations and other groups inside and outside their respective countries to act on a case of a migrant in jail. Usually, the assistance would come too late.

From the research, one can see a dearth of policy or mechanism from migrant-sending country governments to ensure protection for their citizens working abroad. This lack, or absence thereof, government assistance to their citizens working abroad is telling of how migrant-sending governments treat or look at the latter. One can attribute this to outright neglect or simply the outlook that migrant workers are commodities for sale and for export.

The lack of protection for migrant workers coming from both the migrant-sending and migrant-receiving countries presents a harrowing reality that migrant workers face – that they are with limited rights and freedoms, that they are way below in the social status and therefore do not belong to the society they work or reside in, that they deserve to be treated like slaves, that they are commodities and not workers or people who deserve to be treated humanely and with rights and dignity.

Non-governmental organizations and institutions try to address this lack. From church institutions that provide social support to lawyers' groups that give pro-bono legal assistance, from local trade unions that reach out to their migrant brothers and sisters to actual organizations of migrants both in migrant-sending and migrant-receiving countries fill the gap of support that governments are supposed to resolve.

The situation of migrants in jail or detention could not be separated from the over-all conditions of migrants in general. Their ending up behind bars or in detention centers can only be brought about by a system that fails to uphold and protect the rights and dignity of migrant workers and to resolve the conditions as to why they are forced to become migrant workers and accept such a reality that push them to become such.

This research is one of the countless initiatives to address the issues of migrants in jail. Nonetheless, there need to be more studies and researches to be conducted to expose further their conditions as well as mechanisms and instruments to be developed to resolve their needs and problems.

VII. RECOMMENDATIONS

MIGRANT RIGHTS ADVOCACY GROUPS need to make recommendations for government and advocates to consider -- as a way to take forward their commitment to support migrant rights and as a way of bolstering the capacity of grassroots migrants to respond collectively to violations of their human rights.

Through research and education initiatives, advocates and institutions should expose labor export as a regressive policy that lays the optimal condition for widespread violations of migrant human rights. Systematic labor export under the “migration for development” prescription of the Global Forum on Migration and Development (GFMD) is totally opposed to the rights-based approach of migrant advocates and merely promotes the commodification of migrant workers in overseas labor markets.

Concerted efforts must be made to develop the capacity of grassroots migrant organizations to monitor and respond to violations of migrant human rights in host countries, while at the same time providing necessary assistance to the victims.

Particularly, in receiving countries where few or no migrant support institutions exist, grassroots organizations themselves must have the capacity to step forward and provide paralegal and other direct services to apprehended migrants.

It is also important that migrant services institutions are assisted in their efforts in enhancing and expanding their paralegal services to accommodate the growing number of apprehended migrant workers, especially in host countries with highly restrictive immigration policies. In particular, migrant organizations should develop the ability to conduct quick-response actions during crackdowns against undocumented migrants in the light of heightened anti-migrant trends among most receiving countries.

Advocates and institutions should promote the type of advocacy education for migrants that include awareness against torture and other forms of inhuman treatment. For this purpose, pertinent provisions in the UN Convention against Torture (UNCAT) and the Migrant Workers’ Convention should be recommended as component parts of information modules for migrant workers.

In the meantime, grassroots campaigns against migrant crackdowns must be raised to the level that opposes the practice as a fundamental violation of human rights principles and not just as lapses in law enforcement resulting in abuses. The point must be made that it is labor export and labor trafficking that should be the target of host country policies and not the irregular migrants.

At the policy level, lobbying with the UN and other intergovernmental bodies should be done by advocates with grassroots to press for the ratification of conventions aimed at protecting migrant human rights in all aspects. The UNCHR, ILO and IOM should also be pressured to enact stronger mechanisms for compliance of countries that have adopted such conventions.

These are just some of the actions amongst so many that can be made, to facilitate initiatives by which migrant and human rights advocates may help grassroots organizations to respond to the challenge of worsening migration conditions. These recommendations, if and when acted upon, can contribute significantly to raising the capacity of the whole sector towards ending impunity among migrant rights violators, improving the treatment of apprehended and detained migrants, and generally providing for a more conducive environment for decent work and social justice for migrant workers.

During the July 2012 Interfaith Solidarity Conference on the Conditions of Migrants in Jail held in Hong Kong, more specific recommendations were forwarded by 50 participants from migrant and faith-based organizations and service institutions which are based in eight countries such as Hong Kong, Taiwan, South Korea, Philippines, Indonesia, Lebanon, United States, Malaysia:

EDUCATION AND INFORMATION

- 1) Start an e-group for coordination and sharing of information.
- 2) Conduct Know Your Rights education campaign. Utilize government resources for education campaign work.
- 3) Develop various and creative ways to disseminate information and stories of migrants in jail including the development of a web-based database to have a common resource site, featuring stories of migrants in jail in websites of organizations, and mounting cultural events depicting these stories.
- 4) Improve media work through outreach to media practitioners, maximizing faith-associated media groups, utilizing new media and conducting media briefings. Create radio program segments on migrants in jail targeting migrant workers and local faith communities.

ADVOCACY

- 1) Conduct advocacy to change policies and laws affecting migrants including judicial processes or to create policies that are beneficial to migrants.
- 2) Advocate against policies that put migrants in a condition vulnerable to suffering from arrest and detention. Conduct advocacy on issues such as, but not limited to:
 - a. Stop the violations on the fundamental rights of migrants in jail or in detention.
 - b. Stop the violence against detained or jailed migrants
 - c. Abolish whipping as a form of punishment. Violations on immigration policies should be

considered as administrative and not criminal offenses.

d. Campaign for rehabilitation programs for migrants who have been in jail or detention.

e. Advocate for amendments to the Employment Service Act in Taiwan.

f. Campaign against proposed restrictions to migrant workers' free choice of employment in South Korea

3) Lobby with intergovernmental institutions highlighting international instruments relevant to migrant workers. Cooperate with international and regional civil society organizations for international and regional advocacy initiatives such as:

a. Campaign for the immediate ratification and implementation of the ILO Convention No. 189 (Convention on Decent Work for Domestic Workers).

b. Work towards inviting relevant United Nations special rapporteurs like SR on migrants and SR on torture from the United Nations to document and report on the situation and concerns of migrants in jail.

c. Submit alternative reports when particular countries are subjected to the Universal Periodic Review.

4) Maximize UN special procedures by making interventions or submissions. Maximize upcoming activities such as the Global Ecumenical Migration network meeting (November 2012), World Social Forum on Migration (November 2012), International Tribunal on Migration and Development (November 2012), World Council of Churches General Assembly in Busan (October 2013) and the UN High Level Forum on Migration and Development (December 2013) to project the issue and broaden support to issues of migrants in jail. Ensure the participation of grassroots migrant workers in these events. Lobby sending country governments to effect changes in policies for better protection of migrant workers including increasing the budget for on-site services.

5) Develop a common campaign for migrants in jail. Launch or join actions on international red-letter days (e.g. International Migrants Day) and faith holidays to highlight the issues of migrants in jails.

NETWORKING AND INTERFAITH COOPERATION

1) Cooperate with universities/academe in terms of developing programs that can be maximized to access resources and develop concern for migrants among the students.

2) Cooperate with lawyer's groups, academe and sympathetic legislators on concerns of migrants in jail.

3) Promote and forge cooperation with various faith communities and encourage them to promote migrants concerns to their respective communities.

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APPENDICES

LIST OF TABLES

Table 1: Awareness of migrant workers on the primary purpose of sending governments' consulates/ embassies to protect and uphold the human rights of migrants

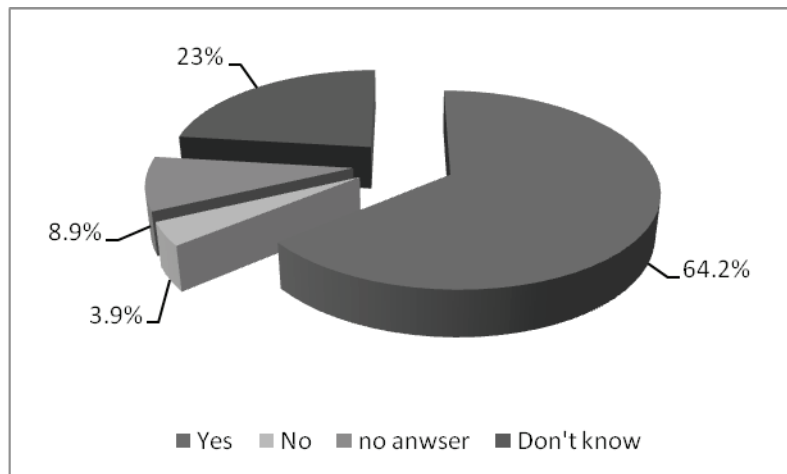


Table 2: Opinion whether sending government consulate/embassies serve to protect and uphold the human rights of migrants

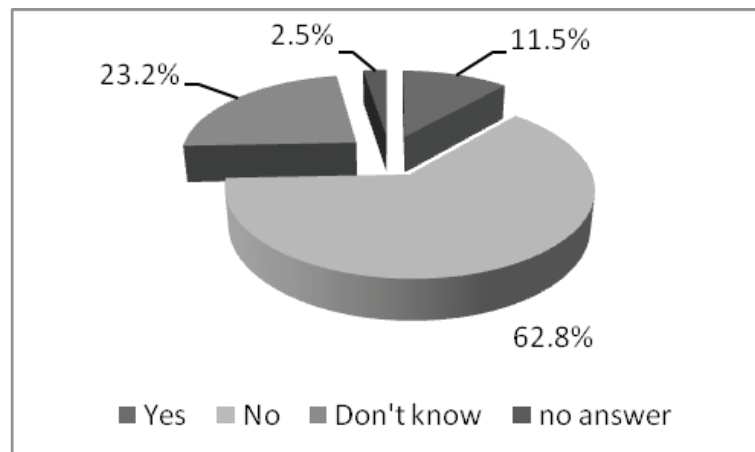


Table 3: Opinion on role of sending governments to migrants in jail

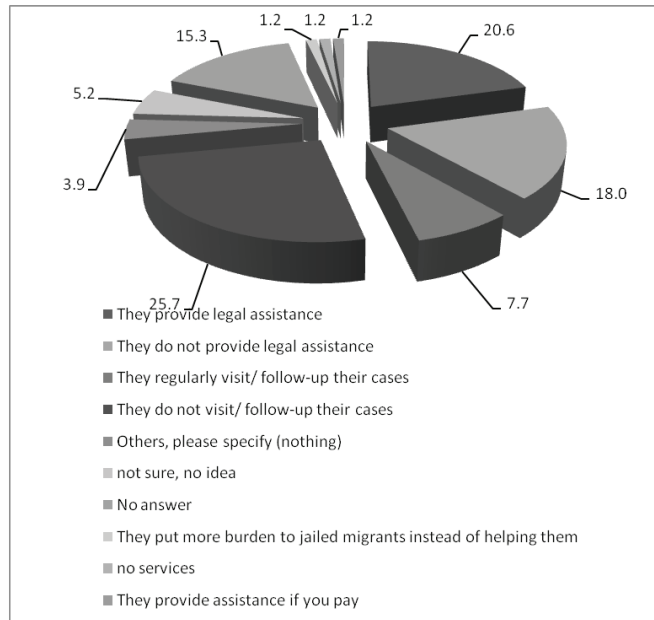


Table 4: Opinion whether sending governments' actions save lives of migrants in jail

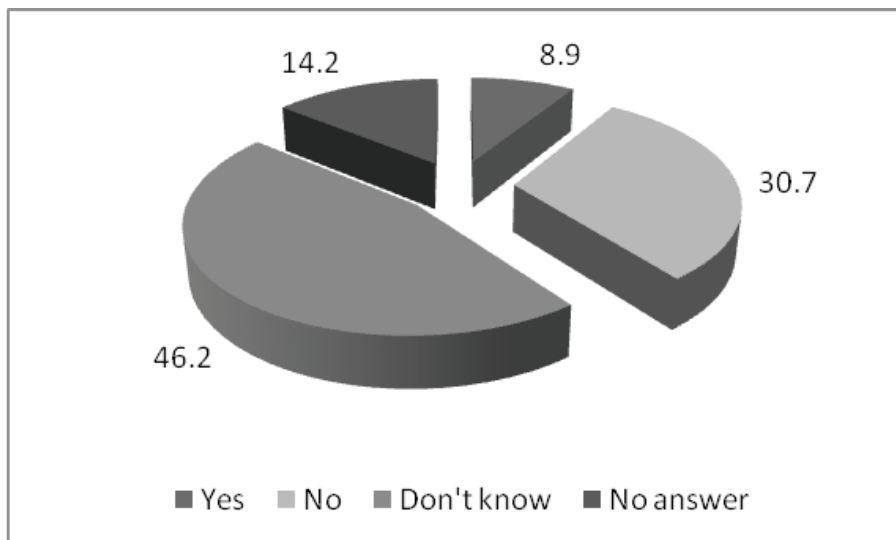


Table 5: Opinion on litigation process intended for charged migrant workers

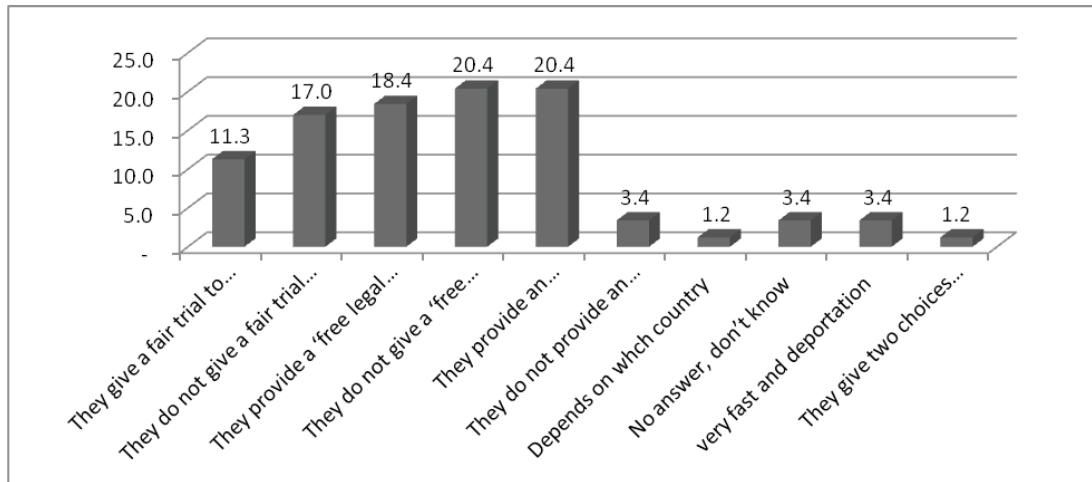
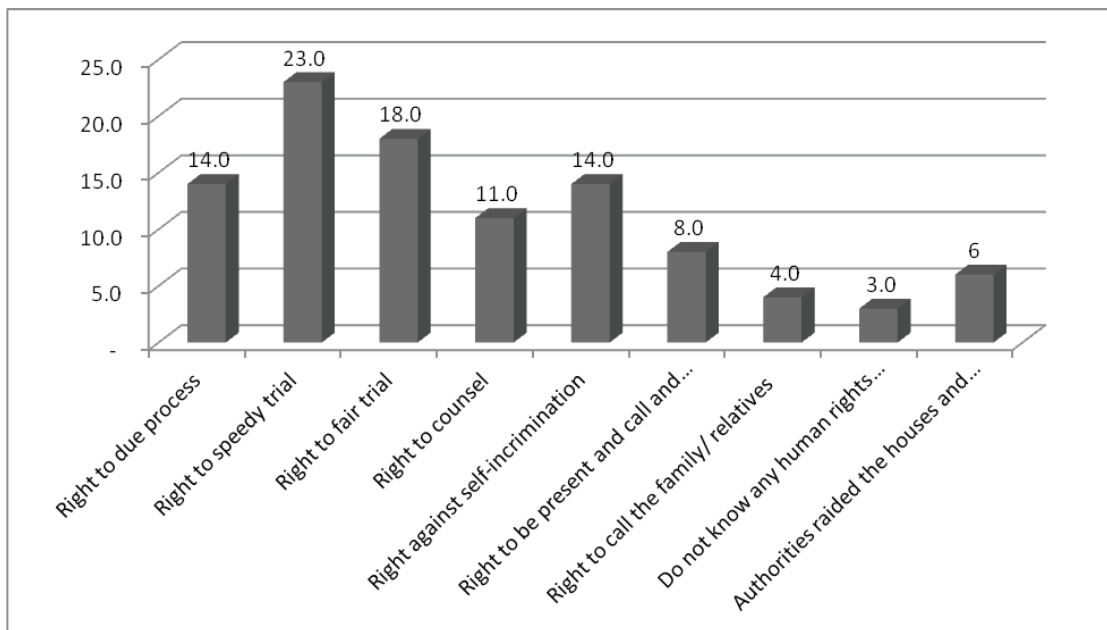


Table 6: Types of human rights violations experienced by migrants in detention/ jail



SURVEY ON THE CONCRETE SITUATION OF MIGRANTS IN JAIL

This survey is being done by the Asia Pacific Mission for Migrants (APMM) and with participation of migrant workers of different nationalities in connection with the project “Research and Documentation on the Concrete Condition of Migrants in Jail in Asia Pacific and Middle East countries. The series of questions below mainly aims to determine the level of awareness of migrant workers about the support and services mechanism provided by sending government to the many migrant workers suffering in jail.

Kindly input your answers on the grey areas indicated per item. For items with choices, please put “x” on the space corresponding your answer.

Thank you very much for your participation!

Respondent’s Background

1. What is your nationality?
2. What is your occupation?
3. In which country are you currently in as a migrant worker?
4. How many years have you been a migrant worker in this country?

Yes	No
-----	----
5. Have you worked as a migrant worker elsewhere?
 5.1. If “Yes”, what was your occupation, in which country/countries and what years in each?

Occupation	Country	Years

Age	18-21	22-35	36-56	57 or older
Gender	Male	Female		

Date

On the Issues of Migrant Workers in Jail

1. Are you aware of the condition of many migrants in jail?

Yes	No
-----	----
2. What can you say about their situation? [Please mark all that apply.]
 - Experience a fair trial
 - Deprived of the right to due process
 - Human rights have been respected
 - Human rights have been violated
 - Supported by the government embassies
 - Deprived of any support from government embassies
 - Other/s, please specify:

3. Do you know of a migrant worker currently in jail?

Yes No

4. What is the charged against him/ her?

Allegedly stole something from his/ her employer

Allegedly hurt his/ her employer

Allegedly killed his/ her employer

Other/s, please specify:

5. Are you allowed to visit him/ her?

Yes No

On the Judicial System of the Host Country

6. What do you think of the litigation process intended for the charged migrant workers?

They give a fair trial to migrant worker

They do not give a fair trial to migrant worker

They provide a 'free legal assistance'

They do not give a 'free legal assistance'

They provide an interpreter during trial

They do not provide an interpreter during trial

Other/s, please specify:

7. What do you think of the arresting officers in charge of the accused migrant worker?

They respect the human rights of the accused migrant worker

They violated the human rights of the accused migrant worker

Other/s, please specify:

8. What are the types of human rights violations experienced by the victims during the arrest and litigation?

Right to due process

Right to fair trial

Right to speedy trial

Right to counsel

Right against self-incrimination

Right to be present and call and examine witnesses

Other/s, please specify:

On the Support and Service Mechanism of the Sending Government

9. Are you aware that the primary purpose of government consulate/ embassies in the host countries is to protect and uphold the human rights of migrant workers?

Yes No Don't Know

10. In your experience and knowledge does government consulate/ embassies ultimately serve its purpose to protect and uphold the human rights migrant workers?

Yes No Don't Know

11. Are you aware of the support and services mechanisms provided by sending government to their migrant workers?

Yes No Don't Know

12. If yes what type of support and services mechanisms they provide for the migrant workers? (Please check)

- Legal assistance
- Counseling services
- Welfare assistance like free medical and hospital assistance
- Post-arrival orientation and social integration
- Other/s, please specify:

13. Have you experienced such support and services mechanisms provided by the sending government?

Yes No

13. What does the sending government doing to migrant workers in jail?

- They provide legal assistance
- They do not provide legal assistance
- They regular visit/ follow-up their cases
- They do not visit/ follow-up cases of migrants in jail
- Other/s, please specify:

14. Does it save the lives of many migrants in jail?

Yes No Don't Know

Recommendations

15. Do you have recommendations for the government of host countries to protect and uphold the human rights and dignity of migrants in jail?

16. Do you have recommendations for the sending government to protect and uphold the human rights and dignity of migrants in jail?

---END---

GUIDE FOR KEY INFORMANT INTERVIEW (FOR HUMAN RIGHTS GROUPS)
RESEARCH AND DOCUMENTATION ON THE CONCRETE CONDITION OF
MIGRANTS IN JAIL IN ASIA PACIFIC AND MIDDLE EAST REGIONS

Questions. Please type your answers in the textbox provided after each item. Thank you very much!

1. What are your experiences in addressing the issues and concerns of migrant workers specifically migrants in jail?
2. How do you describe the concrete condition of migrants in jail in terms of litigation process, condition inside the detention centers, provisions of support and services mechanisms etc.?
3. As human rights group/ service providers, what kind of support and services mechanisms do you provide to migrants in jail?
4. How do you engage the sending and host government to address the issues and concerns of migrants in jail in terms of protection of human rights and dignity of the accused/convicted migrant workers?
5. Do you have recommendations to the sending and host governments as well as migrant workers in advancing the protection of the life, human rights and dignity of detained migrant workers?

GUIDE FOR KEY INFORMANT INTERVIEW (FOR SENDING GOVERNMENTS)
RESEARCH AND DOCUMENTATION ON THE CONCRETE CONDITION OF
MIGRANTS IN JAIL IN ASIA PACIFIC AND MIDDLE EAST REGIONS

Questions. Please type your answers in the textbox provided after each item. Thank you very much!

1. What can you say about the situation of migrant workers in Asia Pacific and Middle East regions?
2. Are there support and services mechanisms that you provide to migrant workers to protect their life, human rights and dignity against abuse, exploitations and violence committed by their employers?
3. There are migrant workers presently detained in many detention centers in the Asia Pacific and Middle East regions. How do the consulates/ embassies address the concrete needs of many migrant workers languishing in jail?
4. What kind of support and services mechanisms do the embassies/ consulates provide to migrants in jail in order to defend their life, human rights and dignity?
5. How do you coordinate with the authorities in the host countries to speed-up the trials, release and deportation of many migrant workers serving their jail terms?
6. What are the current plans of the government for the migrants in jail?

COMMUNIQUE OF THE INTERFAITH SOLIDARITY CONFERENCE ON THE
CONDITIONS OF MIGRANTS IN JAIL

The Hong Kong Polytechnic University, Hong Kong SAR
28 – 29 July 2012

I was a stranger and you welcomed me. I was in prison and you visited me.

Around 50 representatives from faith-based organizations, migrant worker's groups, NGOs and human rights organizations based in eight countries and country regions (Hong Kong, Taiwan, South Korea, Philippines, Indonesia, Lebanon, United States, Malaysia) gathered for the Interfaith Solidarity Conference on the Conditions of Migrants in Jail to explore the condition of arrested and detained migrant workers in Asia-Pacific and the Middle East.

The data are staggering. The stories are disturbing. The commitment to serve migrants in jail, to reduce the vulnerability of migrants to arrest and detention, and to end the indignity and the violation of rights of migrant workers is inspiring.

Three panel discussions were held that explored the condition of migrants in jail and in detention both in the country where they are imprisoned and in relation to the response of the sending governments. Additionally, the challenges on aspects of advocacy, education, community participation and direct services for migrants in jail and in detention were also tackled.

The first panel was composed of Glorene Dass of Tenaganita in Malaysia, Liang Tsu-Ying of the TransAsia Sisters Association in Taiwan (TASAT), Rev. Jang Cheongwon of the Osan Migrants Centre in South Korea and Seta Hadesian of the Middle East Council of Churches.

The presentations depicted a dire and human rights violations-filled condition of migrants in jails – from their arrest to their detention. Many of those in jail are undocumented migrants deemed as illegals and treated like criminals. Particular practices like whipping and the formation of the RELA or the Ikatan Relawan Malaysia (Volunteers of Malaysian People) were underscored as aggravating the indignity that arrested and detained migrants suffer from.

Panel speakers also zeroed in on the weaknesses in laws and legal procedures in their respective countries that make migrants vulnerable to detention or getting jailed for long periods of time without any legal justifications or assistance to understanding their cases. Monitoring is also prohibited especially in the Middle East while, in other countries, monitoring is much limited either by the lack of clear policies or by existing ones that are restrictive. Conditions in detention centres including sleeping arrangements, sanitation and food provision were also described as inhuman.

Stress was also placed on the treatment of women detainees and how their rights are violated. They experience some of the most humiliating and violent treatment such as rape by jail and detention officers.

Meanwhile, similar stories of injustice and neglect were reported by Anis Hidayah of Migrant CARE, Indonesia and Garry Martinez of MIGRANTE International in the Philippines who composed the second panel.

Both Hidayah and Martinez reported the lack of assistance of their respective governments to those who are stranded, languishing in jails or are in death row. Because of their government's inaction or slow response, migrants are denied of proper legal representation or inadvertently incriminate themselves due to the absence of proper information and inefficient translations. The speakers lamented this condition considering that overseas nationals have contributed so much to their respective economies. Martinez even exposed that instead of adding more funds to services to migrants in distress, budget cuts were made to direct assistance to migrants while budget for agencies that facilitate migration increased.

In the last panel, Eni Lestari of the International Migrants Alliance (IMA) presented the view of grassroots migrants on their jailed fellows. She emphasized that actions should cover not only those in detention centre and jails but also the apprehended migrants for, from their experience, the first few hours after apprehension are where many human rights violations occur. She posed concrete challenges to the participants ranging from addressing policies and practices nationally to lobbying with relevant intergovernmental bodies.

Mabel Au of Amnesty International – Hong Kong shared the work of her group on the issue. She remarked on the multilevel discrimination that migrant workers experience that includes race, disability and gender. She said that employers aggravate the criminalization of migrant workers thru arbitrary hiring and firing as well as confiscation of documents. She also shared the reports and researches that AI have done and is doing that are used for policy lobbying in national, regional and international bodies.

In the open forum, participants expressed alarm about the conditions of migrants in jail in host countries and the lack of clear measures of sending government for prevention of detention and provision of services. Clarifications were made on the various recommendations presented to alleviate the conditions of migrants and mitigate the circumstances that put them in such a condition including monitoring and policy advocacy.

Questions were also raised on what faith-based communities can do as well as international NGOs and intergovernmental bodies. In the case of Indonesian migrant workers, Lestari relayed that faith is sometimes used to justify recruitment policies and the denial of government services for those in distress.

On dealing with employers, experiences were shared on how rights education and information dissemination are conducted also among them. There were also experiences shared on successful struggles of migrant workers against a common employer.

Participants were divided into two workshop groups to deepen the discussion on what are being done to address the conditions of migrants in jail and detention and problems encountered while conducting these actions. It was clear that faith-based communities, migrant-serving non-government organizations and migrant organizations in different forms and levels are conducting various kinds of work and services to arrested and detained migrants including legal and psycho-social assistance, lobbying for assistance, and coordination with families in the homefront.

Migrant organizations, meanwhile, also shared campaigns conducted in sending countries that are related to migrants in jail and actions of sending governments. Other advocacies in various levels – up to the United Nations – were also shared including advocacy for alternative to detention.

The second workshop conducted forwarded the following action plans for faith-based communities, NGOs serving migrant workers, advocates and grassroots migrant workers:

EDUCATION AND INFORMATION

- 1) Start an e-group for coordination and sharing of information.
- 2) Conduct Know Your Rights education campaign. Utilize government resources for education campaign work.
- 3) Develop various and creative ways to disseminate information and stories of migrants in jail including the development of a web-based database to have a common resource site, featuring stories of migrants in jail in websites of organizations, and mounting cultural events depicting these stories.
- 4) Improve media work thru outreach to media practitioners, maximizing faith-associated media groups, utilizing new media and conducting media briefings. Create radio program segments on migrants in jail targeting migrant workers and local faith communities.

ADVOCACY

- 1) Conduct advocacy to change policies and laws affecting migrants including judicial processes or to create policies that are beneficial to migrants.
- 2) Advocate against policies that put migrants in a condition vulnerable to suffering from arrest and detention. Conduct advocacy on issues such as, but not limited to:
 - a. Stop the violations on the fundamental rights of migrants in jail or in detention.
 - b. Stop the violence against detained or jailed migrants
 - c. Abolish whipping as a form of punishment. Violations on immigration policies should be considered as administrative and not criminal offenses.
 - d. Campaign for rehabilitation programs for migrants who have been in jail or detention.
 - e. Advocate for amendments to the Employment Service Act in Taiwan.
 - f. Campaign against proposed restrictions to migrant workers' free choice of employment in South Korea
- 3) Lobby with intergovernmental institutions highlighting international instruments relevant to migrant workers. Cooperate with international and regional civil society organizations for international and regional advocacy initiatives such as:
 - a. Campaign for the immediate ratification and implementation of the ILO Convention No. 189 (Convention on Decent Work for Domestic Workers).

b. Work towards inviting relevant United Nations special rapporteurs like SR on migrants and SR on torture from the United Nations to document and report on the situation and concerns of migrants in jail.

c. Submit alternative reports when particular countries are subjected to the Universal Periodic Review.

4) Maximize UN special procedures by making interventions or submissions. Maximize upcoming activities such as the Global Ecumenical Migration network meeting (November 2012), World Social Forum on Migration (November 2012), International Tribunal on Migration and Development (November 2012), World Council of Churches General Assembly in Busan (October 2013) and the UN High Level Forum on Migration and Development (December 2013) to project the issue and broaden support to issues of migrants in jail. Ensure the participation of grassroots migrant workers in these events. Lobby sending country governments to effect changes in policies for better protection of migrant workers including increasing the budget for on-site services.

5) Develop a common campaign for migrants in jail. Launch or join actions on international red-letter days (e.g. International Migrants Day) and faith holidays to highlight the issues of migrants in jails.

NETWORKING AND INTERFAITH COOPERATION

1) Cooperate with universities/academe in terms of developing programs that can be maximized to access resources and develop concern for migrants among the students.

2) Cooperate with lawyer's groups, academe and sympathetic legislators on concerns of migrants in jail.

3) Promote and forge cooperation with various faith communities and encourage them to promote migrants concerns to their respective communities.

Service. Advocacy. Solidarity.

As communities of different faiths and co-sojourners of our migrant sisters and brothers in their quest for a life abundant, let us use our resources to protect human dignity and work to free migrants in jail and in detention from abuses. Let us raise our collective voices for justice and solidarity with migrant workers in our shared vision of salvation, emancipation and liberation from the yoke of modern-day slavery and commodification.

ABOUT THE BOOK

PRISONERS IN A FOREIGN LAND: Migrant Workers in Jail is an exploration of the vulnerability of migrant workers to imprisonment and detention on the context of existing policies and practices both in the host and sending countries; the condition of migrant workers in jail and in detention centers; and the response of grassroots migrant organizations, various civil society organizations (CSOs), and the governments of sending and receiving countries.

Through a study of the human rights concerns of migrants in jail and in detention in major migrant destination countries in Asia-Pacific and the Middle East regions – Kingdom of Saudi Arabia, Qatar, Lebanon, Japan, Malaysia, Taiwan and South Korea – the research shows that human rights of migrants in jail and detention centers are routinely violated. The crisis situation of migrants serves as the context that put them in a condition where their rights are violated even before their deployment overseas and during the period of their employment.

While the research focuses on host countries, it also expounds on the response, or the lack thereof, of sending governments to the plight of their nationals in jails and in detention. It also explores the actual experiences of migrant workers organizations and advocates in addressing the concerns of migrants in jail and in detention. To make more concrete the issue tackled by the research, various case studies of migrants who have been or are currently in detention and jail are presented.

Through this research, the APMM hopes to shed more light on the conditions of migrants in jail and help in addressing and resolving their concerns.

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