



Migrant Unionism in Hong Kong:

*A Case Study of Experiences
of Foreign Domestic Workers
in Union Organizing
(revised edition)*



Asia Pacific Mission for Migrants
APMM September 2013

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Ramon Bultron
Managing Director

PREFACE

Migrant associations have existed even before the Asia Pacific Mission for Migrants (APMM) – until 1996 known as the Asia Pacific Mission for Migrant Filipinos (APMMF) – began its pioneering work of grassroots organizing in many parts of the region.

There are migrant organizations, which sprouted quite spontaneously wherever overseas workers were deployed, and were formed for reasons as diverse as common language, place of origin, religion and previous occupation. The principal unifying factor in these organizations was one's community-level identity at home, which tended to give early migrant associations an exclusivist character.

The progress of development-oriented migrant organizing transformed many of these spontaneous and sectarian grouplets into a coherent and inclusive migrant movement, one with broader and more strategic goals that readily merge with those of other marginalized social sectors in both sending and receiving countries. The anchor of its unity also became developmental – the analysis that contemporary labor migration is a forced one resulting from the underdevelopment of sending countries, and that the long-term perspective should be the structural transformation of sending countries into societies that are self-determining, just and democratic .

This bridging of narrow, sectarian interests among migrant organizations facilitated a parallel stream of grassroots organizing among overseas workers – migrant unionism. Class now comes to the fore as the principal binding element among migrant workers, leading them to link up with local trade unions in recognition of the need for international solidarity among all types of workers. Migrant organizing along trade union lines quickly took root in South Korea, Hong Kong, Australia, New Zealand and Malaysia.

In Hong Kong, most migrant union members cannot be anything but foreign domestic workers (FDWs), as they make up the overwhelming majority of migrant labor in the territory. This highlights the uniqueness of migrant unionism in Hong Kong – in that it has been able to assert through sheer advocacy the non-discriminatory concept of “domestic

work is work”, in an era preceding the formal recognition of this principle through the ILO Domestic Workers’ Convention (C189). On this bedrock advocacy was established the Filipino Migrant Workers’ Union (FMWU), Indonesian Migrant Workers’ Union (IMWU) and the Overseas Nepali Workers’ Union (ONWU), the subjects of this case study.

The “Hong Kong model” (if such it may be called) in migrant unionism, in this sense, is not a typical one considering the multilayered nature of the sector and the rich diversity of the migrant experience in region as a whole. Many of the lessons that may be gleaned from the case studies presented in this research are very specific to FDW subsectoral realities. But the wealth of their dynamic practice has been such that it merits studying and sharing, as their experiences contain enough universal principles that may be used as guides in establishing or further developing migrant unions in other receiving countries across the region.

Lastly, we would like to issue an erratum regarding a passage in the previous version of this report, which was released in electronic form and posted on our website. In page 22 of that release, the last sentence in the second to the last paragraph read: “The union started with the help of the Mission for Migrant Workers (MFMW) after some initial obstacles.”

In the final draft of the text that was approved by the migrant unions themselves, the line read differently thus: “They were able to jumpstart the union with the help of the Mission for Migrant Workers (MFMW) after some initial obstacles.”

The discrepancy was pointed out to us by FMWU officers after they read the laid out version, and so we have made the necessary corrections in this current release. We sincerely apologize to the officers and members of the FMWU for this unfortunate error.

In the final analysis, APMM cannot claim ownership of this work, for it properly belongs to the migrant unions themselves who made all the necessary sacrifices in the course of their union-building. APMM merely serves as the chronicler of their evolving practice, and for this opportunity, we are deeply indebted to them and are proud to have been a part of their continuing history.

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“Globalization’s erosion of the formal and production based sectors of national economies has had dramatic consequences for the unionized labour movement. Ironically, however, in globalization’s shadow lies a workforce that offers the possibility for a contemporary revitalization of the labour movement.” (Ally, 2005)

INTRODUCTION

Union participation faces many challenges in an era where labor has become increasingly transnational. For centuries, workers have united under a common banner to protect their rights and provide a platform for negotiation with employers and governments. Raising class consciousness through labor union participation has been the goal of unions from their inception.

Although labor and trade unionism previously enjoyed robust participation, there has been significant retrogression in the last twenty years due to neoliberal globalization and its restructuring of the labor force. Specifically, labor migration has become a distinct feature of neoliberalism, and these changes have become synonymous with decreased labor standards, protections and overall exploitative practices.

While many attempts have been made at protecting the rights of the working class, this new and increasingly-expanding migratory workforce is in a particularly vulnerable situation. Labor unions have pushed in recent times to include this once-excluded group in order to safeguard the latter’s labor rights. This approach has had many successes worldwide, particularly in Hong Kong, where there is a large migrant workforce.

Migrant workers themselves established these unions by employing a grassroots bottom-up approach to organizing. Migrant unionism is necessary to thwart the goals of neoliberal labor flexibilization programs, which avert successful union tactics and promulgate cheap labor. In order to fight these goals, migrant labor must unionize and fight for itself.

As the literature on migrant labor unionism suggests, migrant labor is first and foremost a labor issue. The increased mobility of labor demands

a rights-based approach to consciously advocate for workers' rights to safeguard migrants against abuse and exploitation. Since labor unions have historically represented the working class and dealt with labor issues, there has been a pull to include migrant laborers in union activities in order to achieve these same goals.

Hong Kong provides an interesting case study for migrant labor unions because of its labor provisions to the migrant community and the response of the workers to these stipulations. Hong Kong has a stringent visa system in which migrant laborers, a large majority of whom are domestic workers, must be sponsored by an employer to remain in the country. This visa comes with limited provisions and rights. If for any reason the migrant should lose this visa worker status, the worker must return to their home country. In order to understand the provisions given to the migrant worker through unions, it is necessary to look at the Hong Kong Basic Law and the role of the Labour Department in enforcing these provisions.

Hong Kong Law provides some basic rights to the migrant workforce. Article 24 of the Hong Kong Basic Law states that, "residents of the Hong Kong Special Administrative Region ("Hong Kong residents") shall include permanent residents and non-permanent residents" (www.basiclaw.gov.hk). Permanent residents are those who are eligible for right of abode and permanent identity cards, while non-permanent residents are those who "are qualified to obtain Hong Kong identity cards in accordance with the laws of the Region but have no right of abode"¹ (www.basiclaw.gov.hk).

Migrant laborers, and specifically domestic workers, fall under the non-permanent resident status and as such have the right to join trade unions. Article 27 states that "Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike" (www.basiclaw.gov.hk).

The key to these concessions is that migrant workers must be registered under the Labor Department, under the provisions of domestic workers, and thus are legally allowed to stay in the country for as long as the contract with the employer is valid. If for any reason the worker becomes

1 The right of abode in Hong Kong is the right to legally reside in Hong Kong without any limit or condition of stay being imposed by the Hong Kong Immigration Department.

an undocumented worker, then they are no longer protected under these stipulations, and the rules that apply to trade unions are no longer offered to the worker.

The Hong Kong Labour Department and its relationship to trade unions shows the different avenues that workers can take to solve labor disputes. In Hong Kong, by the end of 2012, there were 849 registered trade unions, which consisted of 800 employees' unions, 18 employers' associations and 31 mixed organizations of employees and employers. In 2012, the Labour Department handled 18,999 labor claims and disputes of which most were related to termination and wages (HK Government, 2013). According to the Labour Department website, the channels available to settle disputes between a migrant worker and an employer are the following:

1. Minor Employment Claims Adjudication Board (MECAB), which was set up to speed up the settlement of minor employment claims for the adjudication of rights claimed under the Employment Ordinance and in accordance with individual employment contracts. The board hears claims by not more than 10 claimants for a sum not exceeding HK\$8,000 per claimant. Hearings are conducted in public, and procedures are simple and informal.
2. The Labour Tribunal deals with claims by more than 10 claimants or more than HK\$8,000 for at least one of the claimants. The tribunal provides a quick, inexpensive and informal forum for settling labor disputes. It hears employment claims for a sum of money arising from a breach of the terms of the contract of employment or the failure to comply with the Employment Ordinance or the Apprenticeship Ordinance.

Within these stipulations the migrant labor unions have successfully established effective legal avenues to defend workers against abuse and exploitation. To understand the strengths and limitations of such unionization we now turn to a quick synopsis of the literature that speaks about migrant labor unionism.

Review of Literature

Labor export as a major economic policy for Third World countries and a labor flexibilization strategy for first world countries creates an arena of widespread violations of core labor standards. The International Labour Organization (2007) defines core labor standards as fundamental principles and rights at work for all workers embodied in eight of its conventions.

These international standards have four major categories: (1) freedom of association and the right to collective bargaining; (2) the abolition of forced labor; (3) equality and non-discrimination in employment and occupation; and (4) the elimination of child labor. As workers, the ILO deems labor migrants to be covered by these standards, and since 1949 has crafted additional, sector-specific conventions and recommendations to serve as a framework for promoting migrant workers' rights. It also adopted the Multilateral Framework on Labour Migration in 2005 embodying non-binding principles and guidelines for a "rights-based approach" to labor migration.

Despite efforts to secure the rights of migrant workers, migrant workers remain a largely abused and exploited workforce. The implementation of these core labor standards has not been able to progress with the ever-increasing migrant labor phenomenon. Without mechanisms to enforce these standards, they cannot promote decent work for migrant worker conditions. The ILO cites trade unions as a collective bargaining tool that, "provide an organized, collective voice for the assertion of worker's rights in the workplace. A collective voice for workers also makes it possible for their views to be included in national and international economic policies (ILO, 2007)."

This tool can be used to secure the rights of workers. Yet, trade unionism and migrant trade unionism in particular is discouraged in many countries. Host countries perceive the concept and nature of labor mobility as contradictory to trade union membership of migrant laborers. Discouraging migrant workers from joining trade unions divests them of an essential tool with which to claim a meaningful share of the fruits of their own labor. Labor union participation will have a positive effect on the local and international labor sector by thwarting cheap labor promulgation

and decreasing competition between those employers who follow labor standards and those who do not. It also decreases the possibility of competition between the local and migratory workforce in terms of wage differentials and discriminatory labor policies. It also is a way by which workers challenge wage differentials and discriminatory labor policies imposed by host governments and businesses that aim to drive a wedge between migrants and local workers.

Self-organization through trade unions or through multi-functional worker's associations is the most effective solution to the problems within the labor sector. Strengthening organized labor tactics can lead to effective advocacy and an amplification of worker's empowerment. Amongst the many forms of organizing, trade unionism is seen as an effective approach to migrant organizing because of its platform for asserting economic demands through collective bargaining, whether this be at the firm, industry or sectoral level.

Migrant trade unionism can have several beneficial effects to migrant organizing and advocacy. Firstly, it enhances the identity as workers regardless of their position in the formal or informal sector of the economy. A sense of identity can in turn decrease the conflicts between the local and migrant workforce and increase cooperation for core labor advocacy campaigns. Secondly, by becoming a cohesive economic unit, migrant workers can bargain more effectively for better wages, job security and democratic rights. Lastly, it can narrow social and economic gaps between the local and migrant workforce thus thwarting the tendencies towards cheap labor.

According to the Asia Pacific Mission for Migrants' orientation paper for its Migrant Trade Unionism program (APMM, 2011), there are two types of migrant labor unions prominent in the Asia Pacific region: 1) direct membership in existing local unions at the workplace level; and 2) membership in an all migrant, multi-industry union. Direct membership in local unions affords workers formal rights and protections regardless of their impermanence in the country. Committees in these unions are tasked in organizing migrant labor and take up sector-specific concerns pertaining to the migrant workers. Despite a proactive approach, the success of these unions is contingent upon effective union leadership within the local union.

The all-migrant, multi-industry union creates advocacy campaigns around

sectoral concerns and becomes a socialization hub. Migrant workers tend to gravitate towards these associations because of easy membership requirements and links to the migrant community. One of the drawbacks for such organizing is that political campaigns tend to give way to the economic tasks at hand.

We now turn to a literature speaking of the concept of union and non-union models of organizing.

Shireen Ally (2005) in “Caring about Care Workers: Organizing in the Female Shadow of Globalization” speaks of the unionization of domestic workers specifically in the context of migrant labor. She analyzes two modes of organization, non-union and union. Two models are prominent in this approach. The first is the “association model” which is, “a non-union-based model of representation in which migrant, ethnic, women’s, human rights, legal advocacy, and non-governmental organizations mobilize, and on a wider range of issues than just employment” (Ally, 2005). The second is the “union model,” which fights for economic rights and focuses on defending workers against class exploitation. Ally argues that these two models compliment each other and in turn create a stronger movement through partnership.

Domestic workers are an interesting group of migrant labor in terms of their ability to organize. As Ally discusses, there have been many successes in organizing and unionizing this once hidden workforce. When simply examining the structural features of domestic work, the women are painted as passive and powerless victims. This point of view regarding domestic workers is one that is largely untrue, especially in light of globalization and its, “disruption of standard definitions of employment, work, and organization” (Ally, 2005). Many organizations have been established worldwide to help this workforce find its voice.

These “non-traditional organizations” mobilize around the “injustices of migrancy” (Ally, 2005). As a result, domestic worker labor organizing today is primarily through an association model. Throughout the Middle East and Asia, non-governmental organizations have become the binding force between domestic workers and migrant laborers through the association of like-minded organizations. The question then lies in the role that organizing plays in relation to unionizing. Do these two forms of mobilization compliment or substitute each other?

Ally shows that simply employing an association model causes an incoherent approach to migrant labor issues. One approach can enhance the other and vice versa. Thus, the association model creates a space to further champion worker's rights on top of the economic rights that unions strive to safeguard. The use of the association model leads to the use of the union model. These models also speak to the unionization and association of non-traditional forms of work and their place in the globalized world. There has been a move to fuse these two models together to further pursue organizational tactics with broader goals. This fusion helped domestic workers, once thought of as invisible and unorganizable, find their voice. The following passage explains the nature of the association model and how it can compliment the union model.

The complementary nature of associations and unions is to be potentially defended by the argument that each offer different services to workers. Associations address citizenship rights more explicitly, making them more receptive to the needs of migrant domestic workers. They are also more capable of providing workers alternative spaces of political engagement given their compromised positioning vis-à-vis the politics of their host countries. The association model has become the dominant model of organizing foreign domestic workers, supplanting the role of unions in this sector. This is perhaps indicative of the extent to which their foci on service provision, immigration-related advocacy, and socio-cultural support address the particular needs of this group of workers, and in ways that unions' focus on workplace-related issues do not (Ally, 2005).

The following passage asserts the strength of a union model of organizing:

...The union-based labour movement has succeeded in demystifying the presumed status of this group of workers as unorganizable, they have opened up the possibilities for effective worker-controlled representation of one of the most important, yet neglected, labour forces of globalization. In doing so, they have not only enhanced the capacity for worker-directed organizing in the highly exploitative care work sector, but they have enhanced the labour movement at a time when globalization has compromised its vitality (Ally, 2005).

In the end, Ally argues that these two forms of organizing compliment each other and create a concrete platform to protect workers and provide services necessary for their well-being. Through unionization and association, there is an increased focus on a rights-based approach to organizing. In the case

of Hong Kong, association with local labor unions has proved to be an effective link to broadening the political, social and economic agenda while providing the migrant labor union with access to paralegal training and legitimate Labour Department recognition.

One of the biggest unions in Hong Kong, the Hong Kong Confederation of Trade Unions (HKCTU), allowed the Indonesian Migrant Workers' Union (IMWU) to join its membership. Membership to HKCTU provides IMWU with many advantages, such as stronger bargaining power and access to important capacity building training.

HKCTU also has strong connections to the political sector of Hong Kong. They have a representative in the Hong Kong Legislative Council, Hon. Lee Cheuk-yan. The Legislative Council (LegCo) is the governing body of Hong Kong whose, "...main functions are to enact laws, control public expenditure, and monitor the work of the Government. LegCo is also given the power to endorse the appointment and removal of the judges of the Court of Final Appeal and the Chief Judge of the High Court, as well as the power to impeach the Chief Executive" (HK Legislative Council website). LegCo possesses the power to debate issues that concern public interest and to handle complaints from Hong Kong residents. In this case the complaints could be those that come from the labor unions of Hong Kong.

Ally points out some risks to the association model that migrant worker organizations face. She states that the relationship with partner organizations can create a co-dependence that tends to paint the workers receiving outside services as "client recipients," which concurrently implies their inability to carry out their own organizing. However, this is not the case in Hong Kong where the groups are executed and sustained by the migrant workers themselves. Through the use of the union model, the workers are mobilized "on the basis of their status as workers" (Ally, 2005).

The association model created a strong network of migrant organizations that aim to protect their political and social rights. To bolster that strength, their membership in the local trade unions also created a strong link to domestic issues of workers and allowed for their inclusion in these issues. Through the examination of IMWU in Hong Kong, we will see what issues the workers champion and the effectiveness of unions and associations in mobilizing the workforce.

The ILO recently released several publications regarding the plight of migrant labor, particularly domestic workers. These publications focus on their unionization efforts their unique status as a foreign labor source. They specifically concentrate on the strength and effectiveness of collective bargaining and how these principles can be applied through the unionization of this workforce.

Although globalization poses its challenges to the current labor market, transformation of the current labor union structure is essential for its survival. Some countries have begun to acknowledge this trend and have been successful in establishing migrant worker networks that in turn revitalize union membership. Yet, this strategy does not come without some obstacles to the effectiveness of collective bargaining. In particular, the live-in policy in Hong Kong creates an environment where it is difficult to distinguish the private from the public sphere or in this case where work begins and where work ends. As the ILO (2004) states:

The living-in pattern of domestic work creates a dependence on the employer that is both factual and psychological in nature. Cohabitation nurtures the perception that the domestic worker is “part of the family”, in an ambiguous situation with no clear boundaries between labour and personal relationships; as a result, it is difficult for employers to recognize domestic workers’ rights and for workers to claim them. Labour law’s silence on domestic work is often excused by invoking the principle of non-intervention by the State in the private sphere. Domestic work has ended up ‘occupying some twilight zone between market and non-market relations.’”

The difficulty in identifying collective bargaining in the domestic sector lies in the nature of the work and the difficulty in identifying the collective counterpart. This is why we can see domestic worker unions focusing on the promotion of legislative and policy changes (ILO, 2004). The bargaining strategy can be approached and decided upon at different levels and the strategy pertains to the desired outcome.

The important aspect of such mobilization is the access to collective bargaining strategies that a union organization provides workers, specifically migrant workers. Migrant workers employ the “broader issues” strategy to move forward desired structural reforms pertaining to migrant workers in Hong Kong, specifically the domestic workers’ program.

The ILO cites freedom of association and collective bargaining as key factors in sound and effective labor union performance benefiting the employee, employer and the government. Freedom of association and collective bargaining must be understood in terms of what these rights mean, how they are exercised and the possibilities they offer.

To do so, it is necessary to track the effectiveness and progress of agreements, particularly policies set by the Labour Department of Hong Kong. The difficulties faced by the domestic workers also need to reach a wide audience in order to systemically entrench the values of a rights-based approach to migrant work. Getting the media involved is one strategy in achieving such infiltration and allows unions to gain access to areas that have been difficult to saturate, in this case, the informal sector of domestic workers.

As the literature suggests, there has been a push to create labor unions that work hand in hand with NGOs to curtail abuse and exploitation and to protect worker's rights. The particularities of the migrant labor force in Hong Kong allows for an interesting study on unionism and organizing. The APMM has conducted a case study to show the effectiveness of migrant labor unionism in particular in Hong Kong. The unions in the case study are the IMWU, the Filipino Migrant Workers' Union (FMWU) and the Overseas Nepalese Workers Union (ONWU).

Methodology

The APMM conducted several Focus Group Discussions (FGD) with the leaders of each union as well as follow-up interviews with some of the organizers. The FGD shows the background, the emergence of the union, the internal development and the future of each organization.

The purpose is to showcase these successes in order to inspire migrant labor unionism in other parts of the world. The APMM chooses IMWU, FMWU and ONWU as subjects of this country-level case study because these organizations have created, expanded and sustained by a migrant labor force, something that is quite unique to Hong Kong. These organizations focus on domestic worker issues, but they also tackle issues affecting migrant labor in general.

Case Study 1: Indonesian Migrant Workers' Union (IMWU)²



Introduction

Systematic labor exportation from Indonesia to Hong Kong began in the 1970's and exploded in the last 10 years. In a news report citing Hong Kong Labour Department statistics, in 1993 there were 6,100 women, in 2007 there were 68,880, and in 2012 there were 151,382,110 registered Indonesian domestic workers (IDWs) in Hong Kong (HK News, 2012). The explosion relates to several factors in the Indonesian socio-political and economic state.

Employers also increasingly prefer Indonesian domestic workers whom they perceive as more docile, less educated and more easily compelled to accept lower wages than their Filipina counterparts. In reality, the Indonesian community has become increasingly vocal, organized and educated about

2 The information presented here came from the focus group discussions the APMM conducted with IMWU leaders as well as interviews with Sringatin, one of IMWU's officers.

their rights as workers and has established a strong support network with the help of other organizations.

The Indonesian community grew substantially stronger with the emergence of hundreds of organizations targeting different aspects of the migrant labor phenomenon. Among these organizations exist very active organizations like PILAR (United Indonesians Against Overcharging), ATKI (Association of Indonesian Migrant Workers), LIPMI (League of Indonesian Workers) and GAMMI (Indonesian Migrant Muslim Alliance) that fight to protect the rights of the Indonesian community and domestic workers in general. One very notable organization amongst the ranks is the Indonesian Migrant Workers' Union (IMWU), a formally recognized union established and led by the domestic workers themselves.

In Hong Kong, the difference between a union and an association deals primarily with the provisions given to each by the Labour Department. An association is merely registered under the Hong Kong Societies Ordinance and only accountable to the police, which distributes licenses. The union on the other hand can represent labor cases after proper registration with the Labour Department. Associations cannot do any kind of legal backing or welfare supply. Accordingly, each union in this case study provides an excellent example because each is a respected and highly effective union, which has proven its capacity through successful dealings with the Labour Department and with other migrant organizations.

Background of Establishment

Prior to its establishment and registration as a union, IMWU was a traditional migrant association called the "Indonesian Group" beginning in 1994. The shift to being a migrant union in 1999 was done to address the problems facing domestic workers, in particular those rampant within their own community.

Domestic workers in Hong Kong face a variety of problems like underpayment of salary, premature termination of contracts, refusal of mandatory days off, long working hours and occasionally, physical, psychological or sexual abuse. Campaigns also address the right of abode, the abolishment of the two-week rule and an increase to the minimum allowable wage (MAW).

A problem rampant within the domestic worker community as a whole, but even more prominent in the Indonesian community involves recruitment agencies who work alongside partner agencies to exploit the welfare of the workers. These agencies remain largely unregulated by either the Hong Kong government or the Indonesian government and abuse runs rampant.

The exploitation begins in Indonesia where the workers receive pre-departure “training” that teaches them subservience while omitting any reference to their rights as workers in Hong Kong. That is why many of the workers “don’t know anything about Hong Kong” upon arrival. Then the workers must pay exorbitant fees, amounting to HK\$21,000 or seven (7) months salary.

If for any reason the worker is sent back to Indonesia, they are still indebted to the agencies and have to find ways to pay the fees. Also, every time a worker changes employers they must go through the same agency for a contract and are forced to pay the fees once again. Moreover, the agencies in Hong Kong illegally confiscate identification documents (passports and Hong Kong ID cards) from the worker to insure payment as well as thwart any efforts to leave their employer, regardless of any kind of abuse. This confiscation makes it very difficult for the worker to seek help from the police or return to Indonesia when they do not have identification documents.

With the abuse and exploitation coming from several different fronts, the Indonesians have established a strong network of informal and formal organizations to provide respite, as well as actively fight for increased rights.

IMWU began as a migrants’ association, but with the help of the Filipino community, the organization changed leadership and was able to kickstart a very successful union that had 2,000 members in 1999. This change came from the recognition of its limitations as an association, and the association decided to establish itself as a union in order to enter the formal labor sector.

Capacity Building

Membership is an essential part of capacity building for any organization. Higher numbers give the unions greater collective bargaining power.

IMWU began with membership of 2,000 in 1999, then 600 in 2008 and is currently at 165 members.

Several restrictions placed on their organizational capacity in Victoria Park, the areas where the Indonesian community congregates on Sundays, and increasing membership fees causes the fluctuation in membership numbers. The fee went from HK\$10 to 10% of the monthly salary.

Members questioned the increase therefore the fee was set at HK\$25 a month. Many domestic workers say that they cannot afford the fee and choose not to join. The officers explain that although higher numbers are always the goal, the higher fee has created an organization where the members are all active contributing entities rather than simply “paper members”, a situation that has undoubtedly assisted in their organizational capacity.

IMWU provides for a unique and effective approach to recruitment and mobilization. IMWU has nine (9) executive committees each tasked with a different occupation ranging from advocacy and education, to dance and “beauty training”. These committees are separated by region, and the programs are specific to the needs of the workers. The committees aim to create programs that the members and potential recruits will partake in willingly.

Since the programs are focused on recreational activities, there is a bigger draw to participate. In the beginning stages, IMWU carefully incorporates any political discussion because politics tends to discourage members from joining. As these workers become involved in the activities organized by IMWU, they slowly become exposed to the activist lifestyle. The recruits attend rallies coordinated by these committees. At the end of the day the recruits are encouraged to attend a program speaking about human rights in Indonesia and Hong Kong. A very important component of the recruitment process is the “Know Your Rights” campaign, which teaches the migrant worker about her rights as a worker and about broader human rights issues.

IMWU assigns each recruit into one of eight (8) groups once she becomes interested. These groups diffuse organizational responsibilities and facilitate Sunday activities, all coordinated through WhatsApp, a very important tool to the migrant labor community. Initially, the member receives orientation

training about the basic rights of domestic workers, the mission of IMWU, what it means to be a labor union in Hong Kong, and the history of Indonesian migrant workers and the government.

Once they have completed three months and have proven to be contributing members interested in furthering the goals of a union, they receive leadership training. This "trial period" is important because sometimes members join for the social aspect of the group and thus the energy cannot be expended on training beyond orientation. They are expected to advance to a certain level of political awareness, in order to benefit the advancement of IMWU's campaigns and growth capacity, before they receive any advanced training.

IMWU teaches members skills such as public speaking, English lessons, how to handle members, how to build alliances and receive a deeper analysis of human rights issues at the advanced level of training. They learn how to actively promote the goals of IMWU in recruitment and advocacy upon completion of the trainings.

The next level of training deals with paralegal skills, which facilitate the work that IMWU does in the Labour Department. HKCTU and the experienced officers of IMWU facilitate this facet of the program. This is a very important aspect of unionizing because the officers are trained to take on different roles. They become advisors, paralegals and translators. When officers go to the Labor Department and show their HKCTU union membership card, they are recognized as a legitimate bargaining entity which allows them to enjoy a greater rate of success in claims.

The IMWU also partakes in advocacy issues dealing with the social and political aspects of the domestic workers' life in Hong Kong. For example, they assisted with the petition for the abolition of the insurance card policy (E-Card). They also pressure the Indonesian and Hong Kong governments to sign the ILO Domestic Workers' Convention (C189) that promotes decent work for domestic workers. Much of their strength as an organization comes from their work in building alliances. IMWU cites this part of organizing as a collective action tool that effectively pressures both the Indonesian and Hong Kong governments.

Through alliance building, they also expand their campaigns to address issues pertaining to migrant workers as a whole in Hong Kong rather than focusing solely on Indonesian issues. Alliance building creates supportive

networks that can provide valuable information regarding changes in Labour Department proceedings or policies and keep abreast of Hong Kong policies regarding migrant workers. Also, by establishing strong networks, they are able to ask for assistance should they require it. For example, if an officer is unable to attend a labor hearing with a client, they can ask FMWU or the Mission for Migrant Workers (MFMW) to send a representative in their place. The stronger the network, the more effective the avenues for advocacy and assistance.

Problems/Obstacles

Funding remains a major problem for the organization. Training materials, execution of planned activities and office space rent take most of their membership dues. They also have to pay for membership to the various unions that they are a part of such as HKCTU. HKCTU allows them to print materials in their office but that is the extent of their aid. Since the budget is tight, they cannot offer welfare programs for their members. Any member who needs financial assistance will receive it from the members themselves, but IMWU does not have a formal system of welfare.

Other obstacles are the time/space barriers inherent to organizing domestic workers in Hong Kong. Domestic workers receive one day off per week as specified in the labor contract, but about 60% do not receive their weekly rest day according to IMWU members. This is a detriment to organizing because, if a member cannot follow IMWU activities every week, they cannot maximize coordination for groups or committees.

Even with the facilitation of communication online, sometimes employers do not allow the domestic workers to use their cell phones. Since the domestic workers live with their employers, it is sometimes difficult for the IMWU officers to meet with other members. It is necessary to note that these women only have Sundays off, and they conduct the organization of the capacity building activities and trainings during the week when they have any spare time. If they need to meet, they do so late at night after their employers go to bed. Their weekly meeting begins at 11pm and goes until 2am. There are some women working for employers who acknowledge and support their work in union activities and allow them to take an active role during the week, which facilitates planning for Sunday activities, but this is a very small percentage of the union members.

The Hong Kong government used to allow IMWU to apply for work visas for full time employees sponsored through a parent organization but now they are no longer able to do so. Not having a full time staff makes it difficult for them to fulfill the tasks required of trade unions registered with the government.

Leaders must allot time to meticulous record keeping, since they are required to pay a government auditor every year to review their records. They also have to report membership statistics every year to the Hong Kong government, which keeps a comprehensive account of all of the unions and their affiliate members. This type of administration work is difficult without a full-time staff and takes away from the planning of other union activities.

In terms of their power as a collective bargaining unit, their reach is limited due to their position as domestic workers. IMWU has connections with the Indonesian government through tripartite negotiations, but lacks these government connections in Hong Kong. HKCTU is much more effective in collective bargaining, but they handle other issues faced by workers without specifically addressing domestic worker issues. Since the nature of domestic work makes it difficult to target the “employer”, IMWU focuses a great deal of their collective effort to change policies, which in turn affect the working conditions of the domestic worker.

These are all difficult obstacles to overcome. Some of them are faced by many migrant organizations as a whole, some are specifically geared to domestic workers, while others are unique to the Indonesian community. Even though IMWU has strong connections to HKCTU which is willing to take on some of the advocacy work pertaining to the domestic workers, the local workers sometimes meet these issues with hostility.

One prominent example is the right of abode. Locals tend to think that if migrant workers gain the right of abode then they would take over the jobs of the local people as well as the services provided to citizens. It took great effort and time to convince the local workers that their fears are baseless.

The goal for right of abode is to stop the discriminatory policies imposed by the Hong Kong government on domestic workers, in particular the “two-week rule,” which does not allow workers to remain in Hong Kong if they are unemployed for any reason unless they are fighting a case in court for longer than two weeks. Although some of the local unions understand their

position, the separation of local and migrant worker does provide many challenges difficult to overcome.

IMWU has some limitations to their power as a union, but they have been able to effectively organize and fight for the domestic workers for almost 13 years. The following section will speak of the successes.

Work as a Trade Union/Successes

In terms of advocacy work, the organization has been successful in mobilizing the workers to challenge government policies. In 2010, the Indonesian consulate would not allow domestic workers to change agencies before their contract ended and would force them to get new contracts through the same agencies. After the workers protested, the consulate revised the policy. Also, the government decreased the price of the mandatory insurance because of their collective efforts. In their home country, they actively work to create links with organizations in order to improve the conditions at home. One of the programs raises money for the children in order to allow them to go to school. They also do alliance work with domestic workers in South Korea to create international links for an important migrant labor source.

In terms of Labour Department cases, Sringatin, an officer of the IMWU, states that 9 out of 10 cases brought to IMWU are won in the Labour Tribunal or MECAB. Some of the cases may take up to a year to settle, but most are settled within a couple of months depending on the severity.

Cases dealing with underpayment or contract terminations are settled quickly. Cases dealing with physical or sexual abuse or with the agency fees take longer to facilitate and can take an average of three months to even begin the process in court. Currently, they are dealing with a sexual assault case that began one year ago and is finally going on trial.

The following are some examples of other cases that are brought to IMWU:

1. A case of underpayment was settled out of court. The employer brought a lawyer and the domestic worker had an IMWU officer present. The employer paid all the back-wages of the FDW and recognized her rights as stated on the contract.

2. A migrant worker signed a document in Indonesia before arriving in Hong Kong that stipulated agency fee payments amounting to HK\$25,000. The worker's employer was unaware that she had signed a document promising that money since the worker did not read the document before hand and brought the case to IMWU. They contacted HKCTU who then passed on the case to IMWU, and they brought down the amount to be paid to the agency, from HK\$25,000 to HK\$3,000.

3. An employer contacted HKCTU on behalf of their employee who was also made to sign a contract in the beginning of her employment stipulating HK\$21,000 in agency fees. HKCTU passed on the case to IMWU who then took the agency to court. They were able to significantly decrease the amount owed.

4. Domestic workers terminated by employer before the end of the 2-year contract usually try to get a new employer through a cheap agency, but the online system did not allow them to change agencies. IMWU got involved and began negotiating with the new agencies that the fee should be reduced to 10% of the average, and then wrote letters to the Indonesian consulate to endorse these new contracts under the new agencies.

According to Sringatin, these cases indicate the workload brought to IMWU. Since they have established links with the Indonesian consulate, HKCTU and the Hong Kong Labour Department, they are much more effective at winning cases than an association. Although it has taken a great deal of effort, their effectiveness as a labor union shows the strength that migrant labor unionism can provide workers.

Forward Thinking

In terms of forward thinking, the IMWU expressed their desire to become a fully-functioning migrant union and be recognized as a trade union by the government and labor federations in Indonesia and at the international level. They hope to achieve this through a substantial increase in membership, something that they cite as a short and long term goal of the organization. Also, they would like to push for an opportunity to keep full time staff that can facilitate the organization of people and potential recruits so that the members can focus on other aspects of a strong organization.

Case Study 2: Filipino Migrant Workers' Union (FMWU)³



Introduction

The Philippines is the largest exporter of labor to Hong Kong. An estimated 160,000 Filipino migrant workers live in Hong Kong, the majority of whom are domestic workers. This trend has been fueled by push and pull factors of the economies of the sending and receiving countries. Hong Kong needed foreign labor to fill the positions vacated by women entering the formal workforce because they needed a laborer to fulfill domestic duties.

The Philippines also went through several changes in the 1970's that helped to facilitate this phenomenon. Then Philippine President Ferdinand Marcos created incentives for foreign investment into the country but the outflow of money was high, which proved detrimental to the economy. The cost of living went up, real wages decreased, unemployment rose as sectors of the industry closed down, and by the 1980's an estimated two-thirds of the population lived below the poverty line (Constable, 2007).

In order to ease the unemployment, the Marcos government promoted a “labor export policy,” which became a prime push factor for labor

³ The information presented here came from the focus group discussions the APMM conducted with FMWU leaders as well as interviews with Eman Villanueva, vice-chairperson of FMWU.

migration. Several global economic factors affected this migration policy that perpetuated the need for migrant work. Remittances flowed into the country, propping up the economy, filling government coffers, and provided much-needed foreign currency used to service debt payments. Remittances reached an estimated US\$21.3 billion in 2010, making the Philippines the fourth largest recipient of remittances worldwide.

With such an influx of foreign labor into Hong Kong, the Filipino community began witnessing abusive and exploitative conditions among their compatriots, which led to the creation of networks of support. The mobilization of the Filipino community has given it a unique ability to tackle issues related to migrant laborers in Hong Kong. A high level of mobilization led to the establishment of the Filipino Migrant Workers' Union (FMWU).

Background

The Filipino community has been extremely successful in building a strong support network for migrant workers in Hong Kong. They have services that cater to the various needs of a domestic worker. These social service and advocacy networks protect the community from abuse and exploitation. The Filipino Migrant Workers Union (FMWU) is a strong example of an organization that not only deals with labor issues, but also in empowerment and advocacy through its vast network.

FMWU was self-organized and established in October 1998. In the beginning, it was difficult to effectively organize and grow in membership. Some of the problems were attributed to the diverse backgrounds of the migrant community as well as a hesitance to join a union. Some migrants were familiar with the concept of organizing and unions because they participated or were exposed to them in their home country, while many others had no background knowledge regarding unions and needed persuading. They were able to jumpstart the union with the help of the Mission for Migrant Workers (MFMW) after some initial obstacles.

The MFMW taught them several valuable tactics in organizing, such as how to conduct alliance work and network with other organizations. FMWU was established during a time when the migrant community was experiencing many problems. Many workers experienced abuse by their

employers, working conditions were poor, and they had to work long hours. Emotional and psychological problems became prominent, and they were unable to protect themselves without collective action. Organizing taught the foreign domestic workers how to defend themselves, how to be self-reliant, how to fight for their rights and most importantly, how to organize.

Although some organizations wanted to achieve these same values, they ultimately did not reflect the needs of the migrants. In its inception, FWMU frequently received phone calls and inquiries from migrants who worked in Hong Kong for several years but were unfamiliar with their rights as workers. One of the biggest problems at that time was the lack of knowledge on how to approach and succeed in the Labour Department when making claims. This then became a prominent feature of the union. The goal became to create members who possess the knowledge and skills to help other migrant laborers in order to curtail abuses.

Issues, Campaigns and Work as a Trade Union

Existing programs attending to the rights and welfare of its members include several advocacy campaigns dealing with wages and working conditions. For example, there is the “Ratify C189!” campaign that is important for the international welfare of domestic workers. The right of abode campaign addresses the inability of migrant workers to become citizens leaving them in a permanent state of second-class citizens. The abolition of the two-week rule for domestic workers is also a major campaign for the migrant community.

Another core campaign is fighting against illegal agency fees, which are money-making scheme in the Philippines and Hong Kong. This topic in particular deals with the current ban on direct hiring in Hong Kong, which forces workers to go to placement agencies with high fees to find them jobs. The fees range from about HK\$11,000-13000. FMWU calls for the abolition of this type of injustice in Hong Kong and the Philippines.

Although most of the work done by FMWU deal with Hong Kong-related issues, some of the campaigns deal with issues in the Philippines. Migrant labor issues are international in their very nature, and FMWU specifically launches campaigns dealing with human rights violations in the Philippines. Since there are few good employment opportunities in

the Philippines, workers are forced to work abroad and become migrant laborers. Thus, they are also the victims of poverty and exploitation in the Philippines, and their salary in Hong Kong is not enough to provide the support necessary for life here and their families in the Philippines. Although the goal of migrant workers is to provide economic welfare to their families at home, they also tackle issues dealing with the political and social aspect of life in the Philippines in order to improve the situation in their home country.

In terms of their work as a labor union, FMWU handles labor cases in the beginning stages. Throughout their years as a union, and through the support of the Mission for Migrant Workers (MFMW), they established a strong support network for Labour Tribunal proceedings. Once the case has been brought to their attention, representatives from the MFMW are the caseworkers who accompany the client to the Labour Tribunal and act as paralegals.

Although FMWU is a member of HKCTU, it relies mostly on the migrant community to further its socio-political and economic agenda. Being part of a local union does have its advantages in terms of capacity building, but fortunately the Filipino network is vast enough to provide an effective and concise approach to migrant labor organization. Although there are some limitations in terms of skill and time, since many of the members are working during the week as domestic workers, they are still able to focus a great deal of effort on capacity-building within the network of migrant workers.

FMWU highlights the fact that unions are for collective interest and not for the sole interest of any individual. FMWU cites open-mindedness as the key to a successful organization and effective campaigning. There are some problems in terms of the work required to further the goals of the organization, such as the “socialization aspect” of a union occasionally conflicting with a successful campaign or strategy.

Capacity Building

The organizational capacity of FMWU has created a union that has roughly 400 members, 98 of whom are active members. They have also established several chapters under the FMWU umbrella with an organizing strategy that involves several aspects of recruitment, mobilization and organization.

The following is the step-by-step strategy:

1. Contact-building: The process begins here. Workers share their experiences with the union members, and the members share their knowledge with the worker and give them advice whenever possible.
2. Education: The second step is educating the migrant worker about the issues that affect them in Hong Kong and the Philippines. Through learning they become aware of their situation and are more likely to understand that they have options.
3. Recruitment: FMWU recruits through conversations with domestic workers. When the domestic workers become aware of the issues and develop an interest in the organization, they can be considered as prospective recruits. The ratio of recruitment to membership for FMWU is about 2 out of every 10 domestic workers.
4. Organizing: Once they are recruited, they can be recruited as members of a particular chapter of 15 members and upwards, or simply as members of FMWU.

Officer training is another facet of the organizational capacity of FMWU. Through the trainings, officers are given leadership skills through intensive discussion of manuals, one of which is called “Know Your Rights”. They receive paralegal and welfare trainings to better equip them to counsel migrant workers. Furthermore, they train in issues relating to money, such as how to improve the migrant’s economic capacity and how to minimize debt. Lastly, they train in advocacy, alliance-building, networking and organizing.

Cases brought to FMWU

FMWU, with the help of the MFMW, is quite successful in Labour Department proceedings. The cases range from salary payments and contract issues to physical and sexual abuse. The following is an example or FMWU’s caseload.

1. A domestic worker was made to sleep in an elevated space inside of the bathroom of her employer’s home. She endured this circumstance for

a long period of time, and then the employer wrongfully terminated her. FMWU helped her win part of the case.

2. A domestic worker was not fed by her employer, which violates a stipulation in the standard contract. The worker had to spend her own salary for meals. She was also made to sleep on the floor, and when she complained to the employer she was terminated. She brought the case to FMWU and won.

There are also many cases that are brought to them that are never filed at the behest of the worker. This is due to the inability of the worker to sign another work contract until the case is settled, meaning that she has no income. Examples of such cases include sexual assault cases, employers not liking the involvement of the worker in migrant worker advocacy campaigns and creating a volatile space for the domestic worker.

Goals and Challenges

The short and long term goals of FMWU all involve strengthening the movement through advocacy and recruitment in order to build more chapters. In order to expand, FMWU acknowledges that they need to increase capacity training to address the different issues pertaining to migrant laborers.

The most significant challenge lies in the ability of FMWU to become a collective bargaining center for migrant workers' economic demands in Hong Kong, much like the local trade unions have been for the formal sector workers. FMWU admits that despite the efforts, it is unlikely due to the nature of their work. The workers all have different employers and do not work under one company or employer. Their work is individual work instead of collective work, which means that collective agreements can only take a sectoral form.

Case 3. Overseas Nepalese Worker's Union (ONWU)⁴



Introduction

Foreign labor migration has also become an essential contributor to the Nepalese economy. Poverty in Nepal remains at a 30-35% level, and the government is unable to provide its people with social, political and economic security. According to a UNIFEM publication (2009), “over two million Nepalese have migrated in search of alternative livelihoods and escape endemic poverty and unemployment”. About 5% of this total migrant population is women.

These conditions set in motion the push factors for migrant laborers, which was facilitated by the labor export policy established in 1985. Yet, the Labor Act fails to provide a comprehensive policy toward migrant labor and has led to differing avenues for job placements abroad. One of the most notable has been the personal connection that Gurkhas⁵ provided in Hong Kong for the Nepalese workers. Due to these connections and to the need for domestic workers, Hong Kong experienced an influx of Nepalese laborers prior to the 1997 handover. Currently the Nepalese number at 20,000, about 700 of those are women in domestic work.

4 The information presented here came from the focus group discussions the APMM conducted with ONWU leaders as well as interviews with Kumar Gurung.

5 The Gurkhas, according to wikipedia, are “indigenous people mainly from Eastern India, Mid-western and Eastern Nepal... who enlisted military units in the British army in Nepal.

The Nepalese have a peculiar standing in Hong Kong because many are permanent residents. After the handover in 1997, the Gurkhas and their families were allowed to stay in Hong Kong. On June 6, 2005 the Hong Kong government stopped accepting work or study visas from Nepalese, and the ban remains in effect (UNIFEM, 2009). This factor, along with many other issues, creates the need for NGO's to provide services to the Nepalese workers. Of these groups, the Overseas Nepalese Workers Union (ONWU) aids in alleviating the labor issues of the Nepalese.

Background and Organization

Seven people⁶ founded ONWU on December 6, 2003. This came after years of dissimilarity of treatment between women and men contract workers. Labor laws protected men who were also paid higher wages while the women faced many problems. Membership then grew to 20 members through community outreach. Membership to ONWU is restricted to contract workers such as doctors, domestic workers and so forth.

The union caters to low-income contract workers and consequently most of the members are female domestic workers, although there are some male members. FEONA, or Far East Overseas Nepalese Association, was the first Nepalese organization in Hong Kong, and they helped the migrant workers in the beginning stages. Yet, the Labour Department would not allow them to represent workers.

Other nationalities also gave their support and stood as examples for ONWU. In the beginning, they were part of a Nepalese group, but it was mostly meant for socialization. They were in need of an organization that would address the needs of workers specifically. At the creation of ONWU, there were 48 Nepalese organizations, and ONWU was the only and remains to this day the only union that represents the Nepalese workers.

ONWU did not receive much direction in the initial stages of the establishment of the union. Kumar Gurung, one of ONWU's leaders, went to the Labour Department and inquired about the differences between an association and a union. Most of the Nepalese groups did not advocate for their rights through mobilization tactics, and thus there needed to be an organization that looked out for their rights as workers. He was told that

⁶ Seven is the minimum number of people to form a union, according to the Employment Ordinance in Hong Kong.

the unions could work with both the employee and employer, and they would need to be registered with the Labour Department, rather than just the police.

Also, unions focus on the economic aspects of the migrant issues as well as addressing social and political issues, since they are so tied together. Thus, most of the work of ONWU pertains to the economic rights of the workers. They will only get involved in political aspects if those issues affect the economic rights of the workers.

There are 165 official members and about 100 active members. Some participate voluntarily and others come when they are in need of assistance. There are six (6) officers, namely: chairman, vice-chairman, secretary, vice-secretary, treasurer and vice-treasurer and one auditor. There are seven (7) committees working under the same platform that allows for a cohesive understanding of the objectives of the organization. Members are recruited through friend's relatives and personal networks rather than through an outright recruitment processes. Once they are members, the union has trainings once a month regarding Labour Department issues. There are no part-time or full-time organizers since most members cannot attend the union meeting.

Problems and Cases

A very big issue in mobilization is that the Nepalese have been banned from coming to Hong Kong since 2005 and if they leave, they cannot come back. Even in transit, they need to have a special transit visa. There are currently 80,000 Nepalese in Hong Kong, which includes permanent residents. The ban plays a big role in union membership, and it is contributing to the decline of membership numbers.

Participation is also an obstacle. Of those that are involved, most do not want to participate in trainings. They tried to have an educational program, but not many members participated and few members go to rallies. Nepalese migrants are difficult to organize because domestic workers are afraid of being terminated, especially because they will not be able to come back if terminated due to the ban.

Capacity training is also an obstacle. ONWU officers used to attend trainings at the MFMW, but that proved to be difficult because not all members have Sundays off. Membership services are difficult to maintain because of lack of funds. The HK\$50 one-time membership fee is not enough to generate services to provide for the members. When they collect the money initially, they ask the new members if they are willing to donate more money to the organization.

They also do not have an office because it is too expensive to maintain, but they do have a space in the APMM office. Another issue is that they do not have the support of local Nepalese who are unaware of migrant labor rights and issues and also look down upon the migrant workers. Thus, alliance work with the other Nepalese migrants is difficult.

Regardless of the obstacles, ONWU has been quite effective in the Labour Department, utilizing their resources to attend to the rights of migrant workers. The cases brought to ONWU reflect the following examples:

1. An employer told the domestic worker that she could take the clothes that the employer threw into the recycling bin. The domestic worker took some of the clothing. When the employer saw the clothes, she called the police and told them her domestic worker had stolen from her. The domestic worker came to ONWU, and they helped her contact a relative who lived in Hong Kong to accompany her to the Labour Department. They were able to win the case.
2. Late payments and underpayments are also an issue. One of the cases involved a domestic worker who was paid about HK\$2,000 a month, significantly under the Minimum Allowable Wage (MAW). The employer ended up terminating her, bought her a plane ticket and then took her to the airport. The employee was still at the ISS (International Social Service), an organization that guides migrants after their arrival in Hong Kong by informing them of their rights upon arrival. ONWU was able to contact her while she was at the airport, talked to the police and able to get the flight cancelled. They took the case to court and won back a month salary for the domestic worker.
3. The employer put the domestic worker's salary into her bank account but later forced the domestic worker to withdraw part of that salary and return it to the employer. In this case the employer has "proof" that they paid the

domestic worker through the deposit receipt, but the domestic worker does not have proof that the employer forced her to give back money. If the domestic worker shows the withdrawal receipt, the employer will simply say that the domestic worker withdrew the money for herself. This case was settled out of court with the help of ONWU.

Advocacy and Networking

ONWU focuses on many issues but their number one goal is to repeal the visa ban. They also take on issues like underpayment, right of abode (many members have been here for more than 7 years), and wage increases. The advocacy is mostly related to Hong Kong issues and rarely connects to issues in Nepal.

They do not think that issues in Nepal relate to issues of migration to Hong Kong. They do not have any alliances with any other Nepalese organizations because ONWU considers their work different from other organizations. They are not yet a member of HKCTU (unlike FMWU and IMWU), but they plan to be in the future and have already begun the long process of doing so.

Organizational Expansion

ONWU has to figure out how to reach out to migrant workers and show them how effective they can be at protecting migrants' rights. The obstacle lies in the fact that many of the Nepalese in Hong Kong are already members of ONWU and no new migrants are coming due to the ban. They hope to strengthen the expansion of the organization by establishing themselves as a collective bargaining center in the future.

Analysis

The approach of Hong Kong unions towards organizing and assisting members clearly demonstrates both models as discussed by Shireen Ally (2005). All the unions focus on providing legal assistance to their knowledge of Labor Department proceeds, but they also concentrate a large amount of time on educating and empowering workers to “know their rights.”

Furthermore, these unions encourage members to develop into activists who can assist their fellow workers breeding a rights-based approach to labor. The trade unions in Hong Kong seem to be most effective at being both a union and an advocacy group. Through alliance building, they are able to expand their advocacy base and allow for the labor movement to expand substantially in Hong Kong. This expanded advocacy base proves to be an effective collective bargaining tool in terms of pressuring the Hong Kong and their own home country governments to improve working conditions.

Although foreign domestic workers have traditionally been considered “unorganizable” into unions, domestic workers in Hong Kong show that even with the restrictions and biases imposed on them they are able to create viable and effective migrant unions.

As their experiences show, they speak and champion their own rights while also using the tools that the government supplies to protect its workers. By fully maximizing these different avenues, the unions show the power of a comprehensive approach to migrant labor organizing.

Conclusion

The most evident benefit of establishing a migrant labor trade union in Hong Kong, especially one consisting of domestic workers, is the Labour Department recognizing and conceding to the notion that domestic work is formal labor. Thus, it should be afforded the labor protections that other professions receive. With the recognition of different types of work from the informal sector as work, the ILO's principles of "decent work" can guide Hong Kong's core labor standards. Through activities as an association and a union, alliance activities become part of a greater effort to enter formal sector negotiations. This is important for building a bridge between the formal and informal sectors of the Hong Kong economy and political structure.

Migrant labor unions in Hong Kong have achieved this transition from the informal to the formal sector through union dynamics, with members being considered as part of the labor sector at large. As has been shown by the experiences of FMWU and IMWU, migrant unions possess a built-in mechanism for linking up to formal sector unions, thereby narrowing gaps and strengthening solidarity among workers of all types in host countries. In this sense, migrant unionism has served as a bridge between traditional migrant associations and local workers' organizations.

Another aspect of significance in these practices is the affirmation of the validity and viability of migrant unionism as an organizing approach, one moreover that can play an indispensable role in elevating migrant sectoral struggles to the point where it can influence macro-economic policies affecting the whole labor sector. Being tightly bonded with formal sector unions is certainly one way of facilitating this process, as the multi-layered fight for higher wages in Hong Kong has shown. Greater integration and coordination among various subsectors within the labor sector can thus result in better working conditions, not only in Hong Kong but in other receiving countries as well.

Works Cited

Ally, Shireen. 2005.

“Caring about Care Workers: Organizing in the Female Shadow of Globalization.” *Labour, Capital and Society*. Retrieved on 15 July 2013 from http://www.lcs-tcs.com/PDFs/38_12/Ally.pdf.

Asia Pacific Mission for Migrants. 2011.

“APMM Program Concept on Migrant Trade Unionism.” Released January 2011.

Benitez, Mary Ann. 2012.

“Number of Indonesian domestic helpers tops 100,000”. *South China Morning Post: Topics*. 10 August 2012. Retrieved on 1 August 2013 from <http://www.scmp.com/article/557535/number-indonesian-domestic-helpers-tops-100000>.

Constable, Nicole. 2007.

“Maid to Order in Hong Kong: Stories of Migrant Workers.” Cornell University Press. Ithaca: New York (2007). Print.

Hong Kong Government. (No Date).

“Employment. Hong Kong: The Facts.” *About Hong Kong*. Retrieved on 19 July 2013 from <http://www.gov.hk/en/about/abouthk/factsheets/docs/employment.pdf>.

Hong Kong Government (a). (No Date).

“The Basic Law.” Retrieved on 19 July 2013 from <http://www.basiclaw.gov.hk/en/basiclawtext/index.html>.

Hong Kong Government (b). (No Date).

“Functions and Powers of LegCo.” Retrieved on 19 July 2013 on http://www.legco.gov.hk/general/english/intro/know_lc/know_work.pdf.

Hong Kong News. “Filipino workers surpass Indonesians.” 2012.

Retrieved on 20 July 2013 from <http://hongkongnews.com.hk/filipino-workers-surpass-indonesians/>

International Labour Organization. 2007.

“Equality at Work: Tackling the Challenges. Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work. International Labour Conference: 96th Session.” 2007. Retrieved on 18 July 2013 from http://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/@webdev/documents/publication/wcms_082607.pdf.

International Labour Organization. 2004.

“Organizing for Social Justice: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work.” Global Publications. Retrieved on 16 July 2013 from <http://www.ilo.org/public/portugue/region/eurpro/lisbon/pdf/rep-i-b.pdf>.

Labour Department. (No Date).

“Importation of Labour: Foreign Domestic Helpers.” Public Services. Retrieved on 10 July 2013 from <http://www.labour.gov.hk/eng/plan/iwFDH.htm>.

United Nations Development Fund for Women. 2009.

“An In Depth Study on the Realities and Concerns of Nepalese Domestic Workers in Hong Kong.” Publications: East and Southeast Asia Regional Office. 2009. Retrieved on 24 July 2013 from http://www.migration-unifem-apas.org/docs/Realities_and_Concerns_of_Nepalese_Domestic_workers_in_HK_SAR.pdf.

Appendix

Guide to FGD with Migrant Unions in Hong Kong Migrant Trade Unionism Program (MTUP), APMM

A. Objectives

As part of MTUP's research on migrant union organizing in the Asia Pacific, this series of Focus Group Discussions (FGDs) among migrant unions under the Asian Migrants Coordinating Body (AMCB) aims to achieve the following:

- 1) To come up with case studies on organizing and advocacy practices among migrant unions in Hong Kong, which will later be integrated in the research report.
- 2) To identify particularities in organizing methods among FDW migrant unions, and how challenges are addressed.
- 3) To determine relational dynamics between industrial trade unions and migrant unions and within the context of common goals.

B. Questions

I. Background of establishment

- 1) What were the common problems of your compatriot FDWs in Hong Kong prior to the setting up of your migrant union?
- 2) Were there other organizations that were helping your compatriot FDWs at that time?
- 3) What were the most common forms of employer abuse against your compatriot FDWs?

II. History and Current Organizational Situation

- 1) When was your migrant union founded, and who were the main initiators?
- 2) Why establish a migrant union? What are its objectives that are different than those of other migrant organizations (such as associations)?
- 3) What were the organizations that helped your migrant union in its establishment?
- 4) How many members does your migrant union have now? Please tell us more about trends in your migrant union's membership since its founding.
- 5) What programs does your migrant union have in place in order to attend to the rights and welfare of its members?
- 6) How does your migrant union raise funds for its programs and activities?

III. Organizing Methods

- 1) What basic steps in migrant organizing does your migrant union normally employ?
- 2) How many full-time and part-time organizers does your migrant union have, and how are they supported financially by the organization?
- 3) What are the trainings that your migrant union's organizers have to undergo prior to being sent out in the field?
- 4) What are the problems that are commonly encountered by your migrant union in its organizing work?

IV. Advocacy and Networking with Other Organizations

- 1) What are the types of issues does your migrant union conduct advocacy on (economic, political, sectoral, multisectoral, etc.)?

- 2) How has your advocacy work impacted on people's issues in your home country?
- 3) Which organizations does your migrant union work with? What are its criteria for entering into partnerships with such organizations?
- 4) How does your migrant union's advocacy and networking programs complement that of organizing?
- 5) How are relations between your migrant union and the local trade unions? What are the challenges?
- 6) Does your migrant union have any existing relations with trade unions in your home country? If none, why? If yes, what are these organizations and the levels of coordination or partnership that you are engaged in?

V. Ways Forward

- 1) What are short-term targets of your migrant union in terms of organizational expansion? What are the long-term ones?
- 2) How does your migrant union plan on developing its internal organizational capacity?
- 3) Will your migrant union seek to become a collective bargaining center for your compatriot migrant workers' economic demands in Hong Kong (similar to trade unions)?

About the Research

This case study is a milestone of sorts in migrant organizing as it synthesizes the decades-long experiences of migrant unionism in Hong Kong and delves deeply into the core dynamics of the most vibrant migrant movement in the Asia Pacific. In terms of practical know-how, it provides migrant and local workers' organizations in the Asia Pacific with certain good practices in migrant unionism that are centered around the "bottom-up approach" (i.e., migrants unionizing themselves, then affiliating with trade unions).

In the next few years, APMM will be adding on this effort by documenting experiences related to the "top-down approach" (i.e., trade unions absorbing migrants, then autonomizing them). These are prevalent among host territories that have formal sector migrant workers in abundance, such as South Korea, New Zealand and Australia. This will enhance our common understanding of the two principal trends in migrant unionism, and will lay the groundwork for more action-oriented solidarity links between migrant and local in the region.

About the APMM

The Asia Pacific Mission for Migrants (APMM) is a cause-oriented regional center committed to support the migrants' movement through advocacy, organizing, building linkages for the advancement of migrants' rights.

Established in 1984, APMM continues to work towards helping build a strong movement of migrants of different nationalities in Asia Pacific and Middle East (APME). We envision this as organized into a strong migrant movement, actively defending their rights, advancing solidarity with people's movements in the countries where they are working and linking up with their peoples movements in their home countries.



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