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Contested Borders, Contested Boundaries: The Politics of Labour Migration in Southeast Asia

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Temporary labour migration is a contemporary global phenomenon driven by unequal economic relations within and between states, but also by conflict, repression and even natural disasters. Its strong historical precedents notwithstanding, international labour migration has been transformed in recent decades by the ease of transportation, which has enabled workers to travel between home and host country (and to second and third host countries) on short-term contracts. While clearly of benefit to capital both as a cheap form of waged labour and through the role that foreign domestic workers play in the reproduction of the local labour force, the presence of large numbers of temporary migrants presents a dilemma to host-country governments, which struggle to balance the demands of economic growth and the social implications of the decision to import 'second class' workers. In an attempt to manage these risks, they seek to control flows of migrant workers – in many cases, strongly supported by local trade unions concerned with the welfare of their (local) members.

Southeast Asia, which encompasses key source and destination countries, offers a useful case study of the politics of temporary labour migration. The importance of foreign contract workers to the economic well-being of both groups of countries has led to contests within and between governments over questions of jurisdiction. While facilitating short-term migration, governments continue to frame foreign labour primarily as a migration or security issue. However, it has become increasingly obvious that large-scale temporary labour migration is of great consequence not only in terms of border controls, but also in terms of labour relations. Indeed, many of the social and political difficulties that have arisen around the rapid growth in this kind of migration have their roots in the ambiguous position of low-skilled foreign contract workers within the labour markets and industrial relations systems of the countries where they are employed.

This chapter examines the political economy of labour migration in the region, with a focus on its implications for collective action. It argues that the pivotal role of temporary labour migrants in Southeast Asia poses intellectual and practical challenges to the way we think about work, mobility and the nature and exercise of labour rights both by individuals and collectively. While temporary labour migration is a serious short-term threat to already weak trade unions in the region, internationally-driven responses to the challenge it presents also offer hope of reinvention and renewal. If even only partially successful, attempts to broaden

union constituencies and develop alliances across sectors and national boundaries stand to better equip trade unions to deal not only with temporary labour migration but with the other challenges to organized labour posed by neoliberalism.¹

Contested borders

In recent decades, large-scale international temporary labour migration has been a key part of the economic and social experience of almost all Southeast Asian states. Within the political economy of the region, the position of temporary foreign workers is defined both by the landscape of capitalism and by the labour regimes embedded in them. Southeast Asia is dominated by developmentalist states that do not provide a comprehensive social safety net for their citizens – either because they are either too poor to do so, or because they are ideologically opposed to state welfarism. When combined with strong disparities in the level of wealth between states and highly stratified labour markets within them, the lack of social security becomes an important push-factor, as poor Southeast Asian countries increasingly look to temporary labour migration as a means of alleviating pressure on their weak internal labour markets. High rates of unemployment and policy frameworks that favour mass temporary labour migration drive the citizens of countries of origin like Indonesia and the Philippines abroad to destinations in the Middle East and North Asia, and to wealthier countries within Southeast Asia itself. Once overseas, these workers provide an important source of foreign income. In the case of the Philippines, the national economy has come to be heavily reliant on remittances, which in the first quarter of 2010 alone contributed US\$4.3 billion to national earnings (Bangko Sentral ng Pilipinas 2010). Although remittances represent a much smaller proportion of the overall economies of other major sending countries in the region, they make a significant contribution to foreign exchange earnings and a vital part of the economic infrastructure of the particular districts from which large numbers of workers migrate.

Wealthier economies in Southeast Asia rely heavily on these flows of foreign workers to support economic growth, providing cheap labour for manufacturing, construction and services without the burden of funding the reproduction of labour. Singapore and Malaysia – the main regional destinations for Indonesians, Filipinos and Thais, along with many South Asians – have extremely tight labour markets. Although Singapore also attracts significant numbers of highly paid foreign professionals, in both countries wage differentials between skilled and semi-skilled occupations generate strong demand in ‘dangerous and dirty’ industries like construction and dock work, but also for domestic workers and carers, whose presence permits middle-class women to outsource the work of the household in the absence of state-funded facilities for the care of children and the aged (see Ford 2010b). The other major destination country in Southeast Asia is Thailand, itself a labour exporter, which attracts migrant workers from poorer countries in the Mekong Subregion, including Laos and Cambodia, for much the same reasons but also millions of Burmese.

The financial crisis of 1997 demonstrated the extent to which temporary labour migration has become a structural feature in the region. During the crisis, the governments of Malaysia and Thailand stepped up efforts to control numbers of temporary labour migrants by closer regulation of entry and the imposition of increasingly punitive sanctions against those found

working without appropriate documents. In Malaysia, a total ban was imposed on new recruitment of foreign labour in August 1997, only to be lifted following protests by businesses and employers of domestic workers. Although re-imposed in January 1998 for workers in the manufacturing, construction and service sectors, the ban did nothing to slow flows of irregular migrant workers, and when it was again lifted in mid-1998, numbers of regular workers quickly recovered (Kanapathy 2004). The Thai government responded to the crisis by launching a campaign to deport migrant workers to create jobs for nationals – an initiative that also ultimately failed. In the Tak province near the Thai-Burmese border, for example, around 20,000 migrants were deported in the year 2000, but only 6,000 Thais had applied for the positions they vacated (Martin *et al.* 2006: 137-8). All the while, undocumented migrant workers continued to enter Thailand from other mainland Southeast Asian states.

This mismatch between pressures for intra-regional labour migration and governments' attempts to regulate flows of foreign workers for social and political reasons serves to exacerbate already high levels of undocumented labour. Irregular labour migrants find employment in many sectors of the economy in both east and west Malaysia, including the plantation sector, construction and services, but also in small to medium manufacturing in the industrial states of the west. In Thailand, unregistered migrant workers from Burma, Cambodia, Lao PDR and, to a lesser extent, China are found in a broad cross-section of occupations in the formal and informal economy. Singapore prides itself on its ability to keep irregular labour migrants out but, although more successful than its neighbours, there are nevertheless many who enter the city-state illegally for work. It is by definition impossible to accurately quantify numbers of irregular labour migrants in the region, but according to estimates they constitute up to 40 per cent of the total number of labour migrants in the region's eastern migration systems (Battistella 2002: 8).

The question of labour migration to Thailand, and to a lesser extent in Malaysia, is further complicated by refugee flows. As neither country is signatory to the 1951 United Nations Convention relating to the Status of Refugees, the governments of Malaysia and Thailand do not differentiate between refugees and irregular labour migrants. Yet, in addition to the refugee camps along the Thai-Burma border, large numbers of Burmese refugees live and work in locations throughout Thailand. There is also an increasing presence of Burmese in Peninsular Malaysia – which for many years was a primary destination for Acehnese refugees – as well as a significant concentration of refugees from the Southern Philippines in the eastern Malaysian state of Sabah. In many cases, the distinction between asylum seekers and economic migrants is blurred, as the lack of jobs at home is a primary motivation for some migrants from areas experiencing conflict. Thus, for example, while many activists argue that the flood of refugees to Thailand would slow if the political situation in Burma changed, others, like Denis Arnold, argue that even if the military regime were to fall, migration to Thailand would continue because employment prospects are so poor (Arnold 2006: 5-6). Many asylum seekers who have left their homes in fear of persecution also work in irregular situations, particularly in contexts where their refugee status is not recognized.

Contested boundaries

In the destination countries of Southeast Asia, the capacity of unskilled and semi-skilled labour migrants to access their labour rights depends in part on their location on a continuum of legality. Migrant workers' position on that continuum is determined by a complex range of systemic, yet contingent, definitions influenced by a multitude of factors beyond mode of entry and status on arrival, including geographical location, country of origin and sector of employment, along with the shifting terrain of ever-evolving government policies. Thus, even where foreign workers are 'legal', in many contexts the conditions of the short-term permits with which host country governments issue them limit their activities, for example by determining the kind of work they may undertake or proscribing their right to join associations. However, temporary migrant workers are excluded from the formal industrial relations system not just because they are migrants. They are also excluded because of the sectors in which they work. Although immigrant and foreign workers constitute a significant proportion of the blue-collar formal sector workforce in some destination countries, most are employed on the fringes of the formal sector or in informal sector occupations, that are poorly integrated into state industrial relations mechanisms.

Unlike areas of law that draw on deeply-held socio-cultural values or long-standing practice, the regulations governing labour migration are arbitrary, constantly defined and redefined as they are by competing legal systems and claims for departmental jurisdiction. As many scholars writing about labour migration have emphasized, the categories 'documented' and 'undocumented' are almost always fluid. Regular migrants may voluntarily enter into irregular status by breaching their visa conditions. However, they may also do so involuntarily because of changes within the regulatory framework or because regulations are framed in such a way as to give employers the power to jeopardise migrant workers' status, for example by failing to pay a levy, by confiscating travel documents or by forcing workers to do work not permitted under their visa conditions. Conversely, irregular migrants may be able to regularize their status through regularization programs or by returning briefly to their home country, for example during an amnesty, before re-entering the host country with the appropriate documents, or by moving to a third country.

Governments in Southeast Asian source countries create the 'regular' channels through which low- and semi-skilled labour migrants must pass if they wish to be recognized, and play a role in determining the extent to which those regular channels are used. Although labour migration flows in the region are shaped to some extent by ethnicity and nationality, it is clear that class and skill have been the essential criteria underpinning host country decisions to seek to integrate some groups of foreign workers but not others. Unlike highly-skilled professionals, unskilled and semi-skilled foreign workers do not have the bargaining power required to move freely in the international labour market. Instead, they are constrained by home and destination country policies and often punitive bilateral labour agreements reached with an eye to facilitating and controlling migrant labour flows rather than ensuring the safety and well-being of workers.

A striking characteristic of temporary labour migration in Southeast Asia is the detailed and precise way in which these host states categorize and deal with different groups of people seeking to work within their borders. Singapore, Malaysia and Thailand all have complicated

formulas that differentiate between foreign workers on the basis of their mode of entry, but also their nationality and in some cases their gender. In Malaysia, regular labour migration is not only managed by sector and nationality, but also according to geographic location. As of March 2007, the national policy on foreign workers, which regulates labour migration in Peninsular Malaysia, permitted employment in export-oriented manufacturing and a number of non-export-oriented manufacturing industries. Under this policy, nationals of ASEAN countries were permitted to work on plantations and in manufacturing, services and construction, central Asians in manufacturing, services and construction, and Indians as restaurant cooks, high-voltage cable workers and on the plantations. In addition, Nepalese and Sri Lankan workers already employed in Malaysia could be replaced by workers of the same nationality where employment fell within specific parameters. In the eastern state of Sabah, only Filipinos and Indonesians could be employed, while in Labuan, employers could recruit Indonesians, Filipinos, Thais, Bangladeshis and Pakistanis.² At that time, there was no specified list of nationalities for recruitment in Sarawak, where a licence and employment quota must be obtained (Immigration Department of Malaysia 2007).

The supremacy of host countries' migration regimes does not go entirely unchallenged. Sending countries like the Philippines and Indonesia attempt – with varying levels of success – to influence the conditions under which their nationals work overseas through bilateral agreements and other mechanisms. Interests within the host country itself may also diverge. In Malaysia, for example, there are ongoing and quite public tensions between government departments concerned with labour and security (Pillai 1999; Turner 2005). Ultimately, though, the migration status of semi- and low-skilled labour sets the outer limits of the extent to which they are recognized by the host country as workers.

Yet while migration status determines who is recognized as a worker, it is not the only factor shaping access to host-country industrial relations processes and institutions. While generally (but not always) better off than their undocumented compatriots, even those who have entered a foreign country through official channels and continue to meet migration-related regulations seldom receive the same wages and enjoy the same conditions as locals doing the same job. Temporary migrant workers employed in the blue-collar formal sector workforce of wealthier countries in the region have at best conditional access to basic labour rights, including access to decent work, legal redress and the right to freedom of association. In addition, many migrant workers are employed in marginal formal sector occupations, or in the informal sector, which lies outside the scope of the formal industrial relations system altogether. Employed in private homes as domestic or care workers, the bulk of women moving for work within Southeast Asia are particularly far removed from industrial relations mechanisms. However, the informal sector also includes large sections of the construction industry, much of the service sector, and even parts of the manufacturing sector that rely on homeworkers or on outsourced labour – occupations that are effectively excluded from nationally and locally determined frameworks that set out and attempt to protect labour rights.

The limits of contestation

Despite its important international dimension, the international labour movement is essentially defined at the national and sub-national scales. As a result, like other industrial relations institutions, trade unions are ill-equipped to deal with the inherently transnational problem of temporary labour migration. Around the globe, trade unions have long been hostile towards migrant labour because of the threat foreign workers were seen to pose to the interests of 'locals' (Haus 1995; Nissen and Grenier 2001; Teicher *et al.* 2002), particularly when migrant labour flows increase or in times of economic hardship. In some contexts, trade unionists have recognized that this kind of protectionism is a problematic strategy. As Haus (1995) suggests, one of the reasons that US unions did not campaign for restricted immigration in the 1980s and early 1990s was that they realized that since they could no longer have control over who was employed in a particular industry they needed to be able to organize workers regardless of where they were born. Avci and McDonald (2000) make a similar argument with regard to British unions, observing that trade unions have become more concerned about their ability to organise workers rather than worrying about where those workers come from, as the bargaining position of organized labour weakens in the increasingly transnational context of the European Union.³

In Southeast Asia, however, systematic discrimination against temporary migrant labour on the part of the labour movement indicates that migration status continues to be more important to unions than foreign and local labour's shared experiences as workers. As a result, it has been migrant labour NGOs rather than trade unions that have most often responded to foreign workers' inability to access their labour rights. NGOs' efforts initially focused on service provision, driven by concern about the problems foreign workers experience as migrants. However, many NGOs in the Asian region have gradually moved from an exclusive focus on service provision and advocacy towards migrant worker organizing in the hope of tapping the transformative power of collective action to break down structures preventing foreign workers from accessing their labour rights.

During the course of this organizing work, migrant labour NGOs in northeast Asia became increasingly aware of the benefits to foreign workers of gaining access to local industrial relations mechanisms, and of their own institutional limitations in that domain – in short, recognizing that unions can play a role in the protection of foreign workers' labour rights, both through the national industrial relations system and in the international arena through the ILO, that NGOs simply cannot play. This awareness prompted key migrant labour NGO networks such as the Migrant Forum in Asia to attempt to recruit local trade unions throughout the Asian region to the migrant labour cause. Meanwhile, having acknowledged that trade unions' nationally based constituencies leave them ill-equipped to deal with emerging regional and global labour markets, in the early 2000s the international trade union movement began to encourage trade unions in other regions to become more proactive on migrant labour rights.

The convergence of interests between the international labour movement and regional migrant labour NGO networks created significant momentum for change, pushing Southeast Asian trade unions to develop proactive policies on temporary migrant labour. Responses to this pressure in the region have necessarily varied in line with local labour movements'

different levels of conviction, degrees of commitment and capacity to promote change. In Thailand and Malaysia, there is a clear geographical dimension to trade unions' ability to represent migrants, since significant concentrations of foreigners live and work in isolated regions and migrant workers are not permitted to form their own unions (a restriction that also applies in Singapore). In Thailand, many Burmese workers are employed in purpose-built factories in the Thai-Burma borderlands, in regions which are of no interest to local trade unions. Large numbers of Indonesian migrant workers are employed on plantations in the eastern Malaysian state of Sabah, where local trade unions are particularly weak. Equally, reliance on local trade unions limits organizing along labour market lines, as most foreign workers are employed in poorly-unionized sectors, or in peripheral parts of organized sectors. For example, in Singapore, although foreign maritime engineering workers employed by large companies like Keppel Shipyard can join a union, most foreign workers are employed by non-unionized sub-contractors. Third, internal politics and external constraints meant that local trade unions do not always offer benefits that are attractive to foreign workers, or have the capacity to protect recruits from being dismissed for having engaged in trade union activities.

Poorly-resourced and extremely divided, Thailand's is the weakest of the destination country labour movements in Southeast Asia. It is no surprise, then, that migrant labour issues are a low priority even for unionists sympathetic to migrant workers. The Thai Labour Solidarity Committee (TLSC), which brings together peak bodies representing over 350 trade unions with 26 labour NGOs and other labour organizations has demonstrated a strong focus on migrant labour issues in its advocacy campaigns, arguing that migrant workers would be much less vulnerable to police persecution if they were part of a mainstream Thai union, and that Thai unionists have a duty to build solidarity amongst workers regardless of their background. In 2010, the State Enterprise Workers Relations Confederation joined with the TLSC and the Human Rights and Development Foundation to petition the United Nations Special Rapporteur on the Human Rights of Migrants for an urgent inquiry into a proposed nationality verification process for Burmese migrants in Thailand, with support from Global Union Federations, including Building and Wood Workers International and International Federation of Chemical, Energy, Mine and General Workers' Unions. However, like much of Thai society, the majority of trade unionists continue to see foreign workers as outsiders who compete for Thai jobs, and Thai unions have been very slow to integrate migrant labour issues into their core union work. As a result, grassroots initiatives involving migrant workers remain very much the domain of NGOs like the Thai Labour Campaign and the MAP Foundation and grassroots migrant worker groups like the Mae Sot-based Yaung Chi Oo Workers Association and its rival, the Burma Labour Solidarity Organization.

Malaysia, the destination country with the largest, most established official labour migration programme in the region, has been a particular target for both NGO networks and the Global Union Federations. Partly as a result of this international pressure, the Malaysian Trades Union Congress (MTUC), which was previously hostile to migrant workers, revised its policy position. The MTUC has made efforts to reach out to migrant workers, appointing a full-time programme officer to deal with the foreign domestic worker question, seconding another staff member half time to deal with migrant workers in other sectors and providing legal support in

selected cases concerning migrant workers through its industrial relations department.⁴ Although support for these initiatives among member unions is patchy, as the public face of the Malaysian labour movement, the MTUC's pro-migrant worker rhetoric has had a significant impact in the public sphere.

There is some cooperation on migrant labour issues between the MTUC and the long-established migrant labour NGO, Tenaganita, which has been the principle force in both advocacy and service provision for migrant workers in Malaysia.⁵ Grassroots organizing programmes have also been initiated by some national sectoral unions, particularly in the port, timber and plantation sectors. In the case of the Timber Employees Union Peninsular Malaysia, these initiatives have had significant support from Building and Wood Workers International, which encouraged the union to develop stronger links with its counterparts in sending countries and has funded a full-time organizing position for a Nepalese trade unionist to help recruit Nepalese workers in Malaysia. In a different kind of initiative, the Malaysian Liaison Council of Union Network International (UNI), another of the Global Union Federations, established a migrant labour help desk run by members of its 40 Malaysian affiliates to assist foreign workers who experience difficulties. The hotline, which initially targeted foreign domestic workers but then was expanded to cover other sectors, fields several hundred calls a month from documented and undocumented migrant workers. In an attempt to circumvent the government's policy on migrant labour unions, UNI has also sponsored the formation of an Indonesian-registered trade union called Unimig that organizes Indonesian workers in Malaysia.

Singapore's wealthy, service-oriented trade unions possibly recruit proportionally more temporary migrant workers than their counterparts in Malaysia. As all formal-sector workers are covered by Singaporean labour law, there is no basis on which companies may discriminate against temporary migrant workers; however, as in Malaysia, only unions in sectors with a concentrated migrant presence have migrant labour programs.⁶ In Singapore, semi- and unskilled foreign workers are concentrated in the shipping, building and construction, manufacturing and services sectors, including domestic work, hospitality and retail. The sectoral unions most active in organizing migrants are the Shipbuilding and Marine Engineering Employees' Union (SMEEU), the Singapore Organisation of Seamen (SOS) and the Building Construction and Timber Industries Employees' Union (BATU) – in the case of BATU and SOS, with strong encouragement from Building and Wood Workers International and the International Transport Federation respectively.

The National Trades Union Congress of Singapore (NTUC), which is closely aligned with the ruling People's Action Party, adopts a very positive public stance on documented migrant workers. In the face of rising concerns among Singaporeans about foreign workers, the NTUC has also moved to provide concrete services to foreign workers. The most significant of these measures has been the establishment in 2008 of a Migrant Workers Centre, which provides services to foreign workers in crisis and conducts outreach programs to assist foreign workers to integrate better into Singaporean society, such as English-language courses and cultural awareness seminars.⁷ The NTUC also runs programmes to encourage employers to take a more responsible attitude towards their foreign employees. However,

unlike the MTUC, whose migrant labour policy includes advocacy for the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the NTUC follows the Singaporean government line, namely that ratification of the convention is not necessary as Singapore already has the capacity to ensure that foreign workers are protected.

Conclusion

When Southeast Asian migrant labour NGOs reached the limits of service provision, they followed the example of their Northeast Asian counterparts and began devoting more of their resources to organizing. It quickly became clear, however, that while informal groups and registered associations could provide support to migrant workers, their capacity to promote structural change was limited because they had at best peripheral status within national and international industrial relations forums and processes. In a region where no destination country permits migrant workers to form their own unions, this left them with little choice but to try to bring established trade unions to the table.

Local trade unions were in most cases at first reluctant to engage with an issue they saw to be at best peripheral and more often detrimental to the interests of local workers. This reluctance in part stemmed from prejudice, but also from the knowledge that it is logistically difficult to organize temporary migrant workers in any national context – let alone in ones characterized by punitive legal and industrial relations regimes and weak trade unions. Nevertheless, with encouragement and material support from the international labour movement, local trade unions in the region began to reposition themselves with regard to foreign workers, with peak union bodies in Thailand and Malaysia in particular having shifted a long way from the overt and hostile rhetoric they had favoured the 1990s. Although accommodation of short-term foreign contract labour is necessarily far more difficult at the grassroots level, a number of significant examples of concrete programs and strategies exist. In short, there has been a dramatic shift in the activist landscape, as trade unions begin to deal more seriously with the question of how to organize temporary foreign workers.

Even when combined with the ongoing campaigns of middle-class migrant labour NGO activists, it is important not to overstate trade unions' power to act as a foil to the industrial relations and immigration regimes that control and regulate foreign labour in any region, let alone in the developmentalist states of Southeast Asia. The national scale and sectoral biases of industrial relations mechanisms means that foreign workers' ability to join, and be represented by, a trade union is contingent on the intersection between their migration status and the location of their occupation in the labour market. The temporal limits of their contracts make them a poor investment for poorly resourced union organizers who are already overstretched. Nevertheless, the momentum generated by the confluence of NGO and international trade union interests, with its regional and global dimensions, has generated new ways to deal with the inherently transnational problem of temporary labour migration. Importantly for trade unions, it has also demonstrated their potential for better dealing with the other 'non-standard' workers who increasingly dominate all levels of the global production system. In doing so, it offers hope – albeit fragile – for the future of organized labour in Southeast Asia's developmentalist states.

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Notes

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² For a detailed discussion of these kinds of processes and their implications, see Ford (2010a).

³ See, for example, Fitzgerald and Hardy (2010) and Mearidi (2008).

⁴ Another influential factor was a change in the MTUC's central leadership. The MTUC took a much more sympathetic line on foreign workers after President Syed Shahir bin Syed Mohamad and General Secretary Rajasekaran were elected in 2005.

⁵ In recent years, several more NGOs have engaged with migrant labour issues in Malaysia. Most service-oriented and advocacy NGOs with an interest in migrant labour are affiliated with a national network of NGOs with an interest in migrant labour and refugee issues called the Migrant Working Group, formed in 2006. Besides Tenaganita, the network's members include the Women's Aid Organization, the National Human Rights Society, the Labour Resource Centre, Suara Rakyat Malaysia SUARAM, Amnesty International Malaysia, the Penang Office for Human Development, A Call to Serve, All Women's Action Society, Shelter, the Legal Aid Centre (Kuala Lumpur) and the Malaysian Bar Council. Other NGOs that have had contact with the network include Migrant Care and the National Office for Human Development.

⁶ Note, however, that not all companies allow the union to represent migrant workers in collective bargaining. Of the 45 companies in which the SMEEU has branches, only two have collective labour agreements that cover migrant workers. Both of these are foreign-owned companies, and both are in marine engineering, with relatively small workforces of around 500.

⁷ The centre was established in collaboration with the Singapore National Employers' Federation and with seed funding from the Singapore government.