

## Global Trends in Responses to Migration – Security

Phil Robertson, Deputy Director, Asia Division, Human Rights Watch

- First of all, privilege to be here; want to thank the Mekong Migration Network for inviting me to speak today. My name is Phil Robertson, and I am the DD for Asia for HRW. For those who do not know, HRW is an international HR NGO working in over 80 countries in the world on all aspects of human rights.
- I've been asked to talk about migration in relation to "security" – which is a rather broad topic. There are different types of security – national security, economic security, security of society, and now, with climate change, even environmental security. However, the security that often is overlooked when discussing about migration is the concept of "human security" – and really the human security concept that is the sole sustainable "security" concept that should be applied to migration in a very rapidly globalizing world. And now we have "flexi-security" from the EU!
- ***Former UN General-Secretary Kofi Annan --*** Human security "...must encompass economic development, social justice, environmental protection, democratization, disarmament, and respect for human rights and the rule of law..." and "It encompasses human rights, good governance, access to education and health care and ensuring that each individual has opportunities and choices to fulfill his or her potential."
- ***United Nations Deputy Secretary-General Louise Frechette*** "What do we mean by human security? We mean, in its most simple expression, all those things that men and women anywhere in the world cherish most: enough food for the family; adequate shelter; good health; schooling for the children; protection from violence whether inflicted by man or by nature; and a State which does not oppress its citizens but rules with their consent."
- **Human security – this is what unifies us – but the "security" that governments talk about is comprised of policies that are intended to divide us.**
- I would argue to you today that migration is perhaps the biggest challenge to respect for human rights in the 21<sup>st</sup> century – and that how the world handles migration will determine how globalization does – or does not – promote a more humane and just world.

- This will especially be the case as global warming takes hold – because I predict that we are going to be seeing global warming migrants and refugees in the next two decades.
- Everything from air and sea travel, to new communications technologies, are bringing us closer together – my nine-year old daughter can tell you that, when she does a video Skype with her grandparents in Boston, in the USA. But now so can the daughter of a Udorn Thani farmer who has gone to the US on an agricultural visa, who talks to her father courtesy of mobile phones and low cost phone cards.
- But the perception of many government policy makers in North America, in Europe, and the more prosperous states of Asia which receive migrant labor is that with globalization and that growing closeness, or coming together of different peoples, there comes a threat.
- With globalization, the changes are outstripping the ability of governments to cope.
- This is giving rise to fears that too often lead to a focus on other types of “security” –
  - that erode respect for human rights,
  - that discriminate and provide a fertile ground for impunity to abuse migrants and their families, and
  - that, through stricter border controls, ensure that the power and the wealth of people smugglers and, in some cases, human traffickers, grow at the expense of migrants.
- Jackie and others – we need a new discourse on migration! But the governments don’t appear to believe that – they are going backwards.
- Implications of “foreign networks” and terrorism – in post 9-11 situation – drives perceived need in states like US and EU to know what is happening in migration. **Migration is shifting in priority from “low” priority to “high” priority for governments** – hence we get the UN meetings, we get the UN Commission on International Migration.

- But what we do NOT get is migrants with more rights. You all know there is a **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families** – which sets out very completely the rights of migrant workers – but only 43 have ratified the convention (31 have signed by not ratified) BUT NONE are LABOR RECEIVING STATES.
- “National security” – underpins almost every aspect of government decision-making of labor receiving countries in Mekong, and SE Asia. Ethnic identity is seen as the key to national cohesion in a number of states. There is a fear of Others – and myths and lack of understanding between states – Thailand/Burma and “yodoya” is the clearest example, but there are others.
  - Thailand – police chief in Ranong, asking WVFT “are you Thai” and comparing situation with Pattani. The fear of the Other; persons with different language, religion, beliefs, culture invading – and the result is to classify and treat as less than human. Racism, discrimination on the basis of national origin – a directly challenge to the fundamental core of the international HR system – UDHR, ICPPR, IESCR, and others.
  - Regional paranoia about the “Rohingya” – you will remember the public classification of the as sub-human by the Burma CG in Hong Kong. Boat people from afar, and paranoia about these people coming.
  - In the US – the Arizona law and who looks like a migrant – shoes of the migrant, looking at what justifies a police stop.
  - The debate about the mosque near the site of the former Twin Towers – that’s not only about religion, but it’s about the Other.
  - US Patriot Act – passed in 2001 - many may know about this, because it caused a problems with Karen refugees with those with past experience in armed groups – but what people don’t recognize is that the Patriot Act provides for indefinite detention for undocumented persons – if “would flee”, “dangerous” or “raise national security fears”
  - Systems of regulation increase as well – the migrant as a threat -- for instance, USG requires many visitors to US to do what? Put the fingerprints in a database.

- How much harder is it to get a visa now? USG interviews everyone'
  - Increased fines and sanctions against airlines for bringing unqualified passengers – it's like talking to immigration when you are checking in!
  - SEVIS database for foreign students in the US – tracking now what was ignored previously.
  - Focus on document fraud – Burmese passports and the “five Embassies” in Bangkok – well, that joke is no longer funny since the USG gave Thai immigration the kinds of data reading machines that can spot fake passports. And a fake Thai visa chop in a fake Burmese passport – that's a criminal offense that will get the perpetrator two years in jail.
  - Greater coordination, more databases, more technology, more money and personnel.
  - Labor receiving governments – pushing/outsourcing enforcement off to 'private actors' with increased sanctions on airlines and transport companies bringing; for employers who are hiring undocumented migrants; and even against civil society groups who provide shelter or “harboring” undocumented migrants. Sweden, UK, Germany, Denmark, Canada, etc.
- “National security” and the numbers of migrants. When we talk about “national security”, states traditionally define this by **state sovereignty** – i.e. the area that you control – and **national identity** – people who the state considers citizens, or “our people.” In the comments of the Ranong police, you see both of these factors in play.
  - Calling them “waves” of migrants, and the presumption that once they start coming, you cannot stop them – just like waves on the ocean. In Thailand, this is often described by the National Security Council as the “magnet effect” – meaning that the riches and good life in Thailand draws migrants inexorably towards the country.

- Undocumented migrants not welcome – it’s all about trying to control the numbers.
- Families of migrants not welcome.
- Trying to prevent birth, registration, status of ‘migrant children’ – keep them from going to school, or if they do, make sure they learn like a Thai. Again, Ranong – must learn Thai, stand in front of the Thai flag, etc. – but are not expected to be a Thai, or stay in Thailand indefinitely. Mon youth in Samut Sakorn.
- Malaysia and the effort to stop the ASEAN Framework Instrument – the fight over coverage.
- **Restricted citizenship** – basically making it almost impossible for a migrant to become a national of a labor receiving country.
  - Singapore and Malaysia – pregnant migrant women are immediately deported; in Thailand, coup leader Gen. Sondhi’s remarks about sending Burmese women back to Burma to give birth – and impact of that statement on case of a gang-raped Burmese seafood worker.
  - Residency in HK – not for regular MW
  - Generations of Vietnamese along Thai-Lao border; generations of Vietnamese living in Cambodia; generations of Khmer Krom living in Vietnam.
  - In the US and the EU, there has been a rise of the extreme right – for example, the Tea Party – which is clearly anti-immigrant.
  - Nothing like the US – where citizenship is extended by birth – so a migrant child born of two undocumented migrant workers in the US is automatically a US citizen.
- **Temporary migration – work only, nothing more** – and for strict, limited periods of time, and then the person must depart.
  - Trying to prevent migrants “growing roots” – so the case of the Shan boy who is the champion paper airplane thrower, and the issue of a passport

going all the way up to the Thai PM – while his parents continue to be undocumented Shan migrant workers, over 10 years in Thailand.

- Thai agricultural workers to Israel– can go for 5 years and three months, and that is it.
  - Don't want to have migrants know too much – language, culture, etc – because they become a threat to integrate and stay.
  - “*Roo mak gurn bai*” – meaning that they know too much, know how to assert rights
  - Refugee choices – always either repatriate back to their home country, or go to a third-country, to resettle far, far away – but local integration? Never. Rohingya in Malaysia, Hmong in Thailand. Those who do marry, live locally – always with one eye over their shoulder.
- **Employer control of migrant workers** – restrictions on changing jobs, changing employers – Singapore, Malaysia, South Korea, and Thailand. *This is the melding of “national security” to “economic security” – basically, if the migrants are going to be present, might as well make exploit them.*
  - This is a two-fer – getting two for the price of one. Basically national security approaches make the employer the *de facto* responsible party for ensuring the migrant worker does not cause problems – plus they are a deep pocket to extort money from when police catch documented migrants. And employers get cheap, controlled labor – who they force to work when they want, under what conditions they want – and sometimes do not even pay them.
  - Common practice of seizing passports – of course, happens in Malaysia – but also happens to construction workers from the ‘Stans going to Russia – it’s certainly not just happening in Asia!
  - Restrictions on migrants’ freedom of movement and association – justified by employer control.
- **Resistance of governments to migrant empowerment strategies**, since providing rights means (1) possible loss of control by governments, since organized workers & communities can fight for rights and (2) loss of profits by employers, who do not want to pay higher pay and benefits to migrant workers,

and who want to control schedule – like ability to force migrants to work overnight to fulfill orders.

- Refusal to allow migrant workers to establish labor unions, prevent them from bargain collectively and achieve their rights!
  - Legal restrictions – must be registered MW -- classic case is restrictions in the Labor Relations Act of Thailand that migrant workers cannot register a union, or serve as an elected leader; in Malaysia – Trade Unions Act says yes, but MOHA conditions in recruitment say no! Singapore Trade Unions Act that non-national cannot be trade union officer, or an employee, without permission from the Minister.
  - Retaliation – From the Tiger to the Crocodile; go after leaders, or organizations – like targeting the leaders of the Migrant Trade Union (MTU) for arrest and deportation from South Korea.
- Refusal to provide space for organizing – the whole resistance to the one day off in seven campaign for migrant domestic workers;
- **Security and control aided and abetted by corrupt recruitment processes** – profitable for middlemen and employers, and government officials – and good to use to keep migrant workers controlled, afraid of losing job (and therefore not willing to stand up for rights). Again, migration management being used to limit migration and control those who go.
  - Explain how recruitment process works; and what it means for failure to the family.
  - Restrictions on numbers – migrants taking “national jobs” that should be reserved for the locals of the labor receiving country.
- **“Security” of society – the old argument the Other, the migrant is somehow a source of crime and disease – yet security approaches often trump public health approaches – trying to restrict exit or entry of persons with HIV, ILO finding that 50% of Thais agree that is OK to lock up migrants overnight.**
- 
- What are the results?

- **Approach to “migration management” that lacks any component of human rights** – like the Bali Process, started by Australia and grouping most of the countries in South, North, and SE Asia – all about “people smuggling” and border controls.
  - New Malaysia anti-trafficking bill – Australian approach in purest form.
- **Hollowing out of refugee protections - countries abandoning their commitments under the 1951 Refugee Convention and its 1967 Protocol**
  - Australia end to receiving Sri Lanka and Afghanistan asylum seekers
  - Thai refusal to screen Lao Hmong asylum seekers, sending back the Nongkhai Hmong
- HUMAN SECURITY APPROACH begins and ends with ensuring the principle of “national treatment” is applied to ALL MIGRANTS.

Immigration authorities should:

- Lift restrictions on freedom of migrants’ movement within countries and ensure that policies are designed to facilitate documented, legal migration but are not disproportionately punitive against those without proper documents.
- Punish individuals in authority who abuse their power over migrants and adopt separate policies for treatment of unaccompanied migrant children in accordance with their best interests.

Labor authorities should:

- Extend equal protections to domestic workers equivalent to that of other workers, strengthen inspections of workplaces with migrants, create accessible complaints mechanisms, and speed up redress mechanisms.
- Allow migrants to form trade unions and bargain collectively
- Allow migrants to change employers without hindrance

Governments should ensure national law conforms to international standards and:

- Sign and ratify the UN International Convention on the Protection of All Migrant Workers and Members of Their Families, and the core ILO conventions
- Insist that ASEAN adopt a ‘framework agreement’ or agreement that incorporates the views of civil society – which have been put together in a consultation process of NGOs and trade unions in ASEAN managed by the Task



Force on ASEAN Migrant Workers - and really protects the rights of migrant workers.

- Support the proposal for a binding ILO convention and recommendation on domestic work.