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Spotlight interview with G. Rajasekaran (Malaysia - MTUC)

"By helping migrant workers, we are also helping Malaysian workers"

Brussels, 11 June 2009 (ITUC OnLine): How is the economic crisis affecting the large migrant population in Malaysia? G. Rajasekaran, general secretary of the MTUC (1), talks about trade union initiatives designed to help them. He also denounces the exploitation suffered by domestic workers, a particularly vulnerable category of migrants.

How widespread is the phenomenon of migration in Malaysia, and what is the MTUC's policy on this issue?

We now have two million migrant workers in Malaysia, from 20 different countries. Around a million of them come from Indonesia. The second largest group comes from Bangladesh, totalling around 300,000 migrants, followed by Nepal. Of these two million migrants, 300,000 are domestic workers, most of whom are women.

We believe that the recruitment of migrant labour should be based on labour requirements. The country should not be flooded with migrant workers, as we have noted that this tends to undermine pay and working conditions, as well as exacerbating the exploitation of migrants. The agencies that send migrants are very active; they send as many as they can because they obtain large sums of money from these workers.

Has the global economic crisis had any impact on the employment of migrants in Malaysia?

Government statistics show that since the beginning of the crisis in October 2008 until just a few days ago, some 30,000 workers have lost their jobs in Malaysia, out of an active population of 11.2 million people. Around two thirds of these 30,000 job losses have affected Malaysians, and the other third migrants.

Since the onset of the economic slowdown, we have been telling the government that it should freeze all new work permits, and that's what it has done. Some of our colleagues from the sending countries see this measure as a breach of their rights, but I see it as precisely the opposite, because if migrants are brought to Malaysia only to be told three months down the road that the companies do not need so many workers and that they should go back home, it's worse. Having said that, migrants are still coming, legally and illegally. Some are still arriving legally as they had been granted permits beforehand but had not come straight away. It's going to create problems, as companies are not recruiting.

At the end of 2008/ beginning of 2009, hundreds of Bangladeshi boat people

were set adrift on the high seas by the Thai navy whilst trying to reach Malaysia clandestinely. Many died. Is there not a risk that by failing to issue new work permits Malaysia will encourage more of these desperate attempts to enter the country illegally?

According to government statistics, aside from the two million migrant workers with their papers in order, there are around a million without papers, most of whom are Indonesian. It would be better if these clandestine immigration candidates stayed in their home country, where they have a place to live at least. When you go to a foreign country and you don't have a job or a place to live, you end up sleeping under a bridge, which is much worse. Many of them think that they will be able to find a job one way or another once they get to Malaysia, but in times like these there are very few opportunities.

What kind of services does the MTUC offer migrants?

We have two full-time officers helping domestic workers in the main, as part of a project supported by the Dutch union FNV. For two years now we have also been involved in another project for all migrant workers with funding from the LO-TCO union. Migrant workers can come to us to talk about their problems. The most common complaint is about non-respect for the salary they were promised before leaving their country. Some of them come to see us with the contract signed in their country of origin, which stipulates a higher salary. We go to the Labour Ministry to support the demands of workers whose contracts are violated in this way, but the ministry's response is that agreements signed abroad cannot be enforced in Malaysia. We are pressing the government to ensure recognition of these contracts, but it has not done so yet.

We also receive complaints from workers telling us that they have not received their wages for several months. Their employers give them 20-30 ringgits (4-6 euros) from time to time, just enough to survive on, and ask them to sign a document acknowledging receipt of these small sums, but the amount is not written on it at the time. We also turn to the Labour Ministry in such instances, but the documents signed by these workers makes it difficult for us to advance our case as the employers argue that they had already paid the full amount when the document was signed.

These projects have given us a clearer picture of what is happening on the ground and have allowed us to gather statistics on the number of people mistreated by their employers. We submit this data to the government, thanks to which we have been able to obtain some improvements.

Do collective bargaining agreements apply to migrant workers?

Our policies is that even if a migrant workers has signed an individual contract, wherever there is a union and a collective agreement, the latter applies to everyone, including migrants. We are managing to implement this MTUC policy but it has become increasingly difficult since the government introduced a system of supplying labour, two years ago, and issued around 270 licences for what it calls outsourcing companies. We call them labour traffickers, who extract money from migrants and employers. These outsourcers do not operate in any particular sector, but they are the migrant workers' official employer; they are not employed by the company

where they work. The problem here is knowing what union to join, as Malaysian unions are organised along sectoral lines. Outsourcing also means that the collective agreement signed with the company does not apply to these migrants, even though they work there.

What specific actions are you taking to assist domestic workers?

One of our key demands is that domestic workers should have at least one day off a week. There are many other grievances regarding these workers, but we want to make this step forward first, because most domestic workers live almost like prisoners. They get to Malaysia, are taken straight to their employer's home and are then cut off from any contact with the outside world. They cannot go out and complain if they have a problem, even if their wages are not paid. The fight for one day off a week is not only linked to the fact that they should be recognised as human beings who need a break; it is also about allowing them to meet other people, to learn more about their rights and to find help if they have a problem.

Many migrant domestic workers also come to see us to complain about the food they receive. There are many complaints about employers who have businesses, often a restaurant, where they take their domestics after they have finished in the house and make them work until late at night.

None of the labour laws apply to domestic workers, as they are not recognised as workers by law, be they migrants or Malaysian. We are pressing the government to change this.

And then there are all the cases where employers hold on to their passports...

Yes, even though it is illegal to hold another person's travel documents in Malaysia. When we raise this issue with the government, its response is that if the employer takes them away for safe keeping with the employee's consent, the authorities cannot interfere. So employers make their workers sign a document asking them to keep their passports in a safe place and to return it to them when they leave the country. Many domestic workers are not able to read and, in any case, rarely have a chance to refuse.

Does the situation of migrant domestic workers vary according to their nationality?

Filipino domestic workers have a clear contract stipulating their working hours, living conditions, days leave and the minimum wage, etc. In their case, the minimum wage is currently 1,200 ringgits (250 euros) whilst Indonesians only receive 450 to 500 ringgits (94 to 105 euros). It would seem that the Philippine government has a serious interest in protecting its migrants, unlike the Indonesian government.

Only 15,000 out of the 300,000 domestic workers in Malaysia are Filipino. The rest are chiefly Indonesians who come here through recruiters. The employers contact an agent who asks for 8,000 ringgits (1,670 euros), a large sum of money that they can then deduct from the domestic worker's wage for around six months. So, if she gets 500 ringgits a month, she will have only reimbursed 3,000 ringgits to her employer by the end of six months. It's extremely unfair, as it means they have to work 16 hours a day, every

day, without any pay.

The crisis will probably make things even worse for domestic workers, who are particularly vulnerable...

No, because their situation cannot get any worse, they are always treated in the worst possible way. There are, of course, some employers who treat their domestic as if she were part of the family, but they are rare.

It is astonishing to see how badly domestic workers are treated by employers who are often ordinary workers themselves...

It is inconsiderate; they never put themselves in their shoes. When we say that a domestic worker does a 15-hour day, the employer sees it differently: for him, sweeping up and cleaning the house are not very arduous tasks. They don't understand that people need time for themselves, on Sundays, for example. According to the employer's way of seeing things, if they leave the house and meet other people their minds will be corrupted by other ideas and they will no longer work in the same way.

If the ILO adopts a new international convention on domestic work, would it help the MTUC in the fight to protect domestic workers?

Yes, because Malaysia usually respects international conventions; it does not like having international bodies calling its attention to situations where it allows exploitation. So we hope that this new convention will be adopted but, unfortunately, we would only start to see the benefits in another two years: the debate will be launched in 2010 and if an agreement is reached, the convention will not come into being until 2011. In the meantime, we are doing everything we can to take this campaign into as many homes as possible, so that they do something on their own initiative, such as giving one day off a week. I have suggested to the NGOs linked to religious movements that they should ask the priests, the imams, and so on, to talk about these social issues. If more and more households move in this direction, the government will find it easier to back laws in this area.

How are your partnerships on migrants going with non-Malaysia unions (2)?

We have established a partnership with the Confederation of Indonesian Trade Unions (CITU). The CITU has to try to meet as many people as possible before their departure to tell them about their rights and where they can go if they have a problem (to the MTUC, for example), etc. However, Indonesia is a very large country and many migration candidates do not have time to talk to their union before leaving. The union itself does not have the infrastructures or the human resources needed to reach all these candidates, who are in their millions.

We also communicate with the CITU regarding problems encountered by Indonesian workers in Malaysia, so that they can follow up on them with their own government. Until now, we have noticed that the Indonesian embassy shows little interest when we contact it over problems encountered by migrant workers, unlike the Philippine embassy.

We are also cooperating with the Nepalese union GEFONT, although we have not actually signed a formal agreement with it. It informs us when Nepalese

migrants come up against problems in Malaysia, and we do the same so that GEFONT can bring it to its government's attention.

What kind of regional policy could be drawn up by trade unions to effectively meet the challenges raised, like in Malaysia, by this essentially regional migration?

The ITUC regional organisation for Asia-Pacific (ITUC-AP) could play a larger role in coordinating the work on migration in the region, and it has committed to doing so. The MTUC can help migrant workers who come to Malaysia, but we cannot solve the problem of the large sums of money they have to pay before leaving their countries. We need the help of the unions from their countries of origin to do this. The ITUC-AP could push them in this direction, as they are all affiliated to the ITUC, with the exception of Vietnam, which also sends migrants to Malaysia (but the MTUC has very good relations with the Vietnamese General Confederation of Labour).

What impact does working on migration issues have on the image of the MTUC?

Fifteen years ago, many people wondered why we should worry about all these people who contribute to keeping wages low, etc. Over the last seven or eight years, we have worked hard towards changing this attitude among unions and our members. We explain that if migrants obtain a permit to come to Malaysia, we have to do everything we can to ensure that they enjoy the same rights as the nationals. The cost per worker should be the same for all. People are starting to fully understand the importance of this approach. When we asked the government to put a freeze on all new permits following the economic crisis, our members realised that whilst the MTUC helps migrants, it also does everything it can to ensure that Malaysian workers are protected.

Are some companies calling collective agreements into question because of the crisis?

Under our system, when a collective agreement is concluded, it remains valid for three years. Many employers are, however, trying to attack variable elements, such as cutting annual bonuses from two months' to one month's pay, for example. They cannot impose it unilaterally - there has to be an agreement with the social partners; otherwise, we could go before a labour court to have the clause of the agreement applied. So some companies come to us for help. When they are companies that have always been open to dialogue, that have always been generous with the workers during the good times, the unions are happy to help them during the bad times. However, if companies were making huge profits in the past but used the agreement providing for a bonus equal to two months' pay as a pretext for not giving any more, we also demand that the agreement be respected when the tables are turned.

Interview by Samuel Grumiau

(1) Malaysian Trades Union Congress <<http://www.mtuc.org.my/>>

(2) Since 2006, the ITUC has been implementing a concrete "action plan" aimed at organising migrants more effectively, defending and promoting their rights and improving their working conditions, particularly through collective bargaining, and strengthening their involvement in the trade

union movement. The ITUC is also promoting partnerships with NGOs and other civil society organisations working with migrants. Within the framework of boosting South/South solidarity, the ITUC has launched three partnership agreements between affiliates in the different regions with the support of LO-TCO Sweden. These three pilot projects involve Indonesia (SPSI) and Malaysia (MTUC), Senegal (CNTS) and Mauritania (CGTM), Nicaragua (CST,CUS, CUSa) and Costa Rica (CTRN). Information and support centres for migrant workers have been set up by a number of unions, including the MTUC in Malaysia. More information about the ITUC policy on migration and about the trade union experience in this area in Costa Rica can be found in the ITUC report, "Costa Rica: Helping Migrants Organise" (16 pages):

http://www.ituc-csi.org/IMG/pdf/VS_Costa_Rica_EN.pdf

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