



THE SERVANT *at the* ***FRINGES***

CHRISTIANS SERVING FOREIGN WORKERS
IN SINGAPORE

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Published by Singapore Bible College Ltd
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www.sbc.edu.sg

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First published in Singapore 2018

ISBN 978-981-11-7327-1

Project management and copy-editing: Belinda Tan
Graphic design and typesetting: Yew Lian Sie
Printing: C.O.S. Printers Pte Ltd

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CHAPTER FIVE

COMMON PROBLEMS MIGRANT WORKERS IN SINGAPORE FACE

RONALD WONG



In a typical cycle of a male migrant worker coming to Singapore, there is the risk of encountering various problems. A list of the common problems are as follows.

BEFORE ARRIVING IN SINGAPORE

There are cases of misrepresentation by recruiters and employment agents in the workers' home countries. Misrepresentations may be as to terms of employment, including the nature of work, salary terms, agency fees, or even the existence of work at all (Basu, 2014). There are also scams which take place in Singapore where workers are tricked into paying money for non-existent jobs overseas (Toh, 2016). It is possible that some cases may constitute trafficking in persons. In some "contract swap" or "contract substitution" cases, the workers are made to sign contracts only after arriving in Singapore. According to the Open Working Group on Labour Migration and Recruitment (n.d.), such contracts have different terms from what was communicated to the workers back in their home countries. By this time, they have already incurred substantial expenses to come to Singapore, and so are not in

the position to negotiate their terms, even if they are cognizant of these misrepresentations or differences in salary.

Migrant workers pay recruiters or employment agents in their home countries and in Singapore substantial fees to have an opportunity to work in Singapore. Singapore law restricts such fees payable to local employment agents to a maximum of two months of the worker's salary. In reality, this appears not always to be the case. In addition to employment agents in Singapore, migrant workers often pay sums substantially more than two months of their salaries to recruiters, referrers, unknown middlemen, training agencies, and testing centres in their home countries. The breakdown of what part of such payments go to which party is often opaque. Money paid outside of Singapore and which is not paid to the employment agents is said to be beyond the jurisdiction of Singapore's authorities (Ministry of Manpower [MOM], 2012; MOM, 2013).

WHEN IN SINGAPORE

1. Housing

While there are now purpose-built dormitories for migrant workers which come under MOM regulation, many still live in unhygienic and overcrowded accommodation. The law mandates that employers provide accommodation which meets certain requirements and that they inform MOM where their workers are residing. If workers are to stay at construction sites, the living quarters must be approved by MOM. However, in many cases, the employers simply leave it to the workers to find their own cheap accommodation, which are often offered with sub-optimal living conditions. Some employers do not apply for living quarters approval because the conditions are simply not passable. While employers have been prosecuted for housing workers in unacceptable conditions (MOM, 2017c), it remains uncertain how many remain unreported. A walk around places like Geylang would easily reveal unsafe and unsanitary housing for migrant workers.

2. Food

A joint study by the migrant non-governmental organization (NGO) HealthServe and the National University of Singapore has shown that migrant workers are not receiving enough nutrition and that the food provided is often unhygienic (Ng, 2015). Migrant workers typically obtain their meals from caterers or prepare their own takeaway meals before or after work. Under these conditions, food goes cold and runs a greater risk of going bad, thus causing public-health issues among the workers.

3. Medical

Although employers are legally obliged to pay for migrant workers' medical expenses when they fall ill or suffer injury, many do not do so. Employers are also supposed to have purchased medical insurance and work-injury compensation insurance required by the Work Injury Compensation Act (WICA). However, there are many cases of employers who do not claim on the medical insurance. There are employers and insurers who object to either an injury being classified as a "work injury" or to the quantum of the compensation. Some employers fail to obtain WICA insurance or do not have sufficient assets. In such cases, even if the worker's claim is accepted, he is not compensated by the insurer or the employer.

Workers therefore are left without compensation or money for medical treatment. In a recent study, it was found that 71 percent of 525 male migrant workers surveyed did not have or were not aware if they had healthcare insurance (Lee et al., 2014).

In some cases where medical treatment is urgently and critically required, workers will not have sufficient funds to pay deposits or fees for the treatment. They will thus depend on their employer to provide a letter of guarantee to the hospital. There have been many cases of employers refusing to so provide, even though they are legally obliged to cover the workers' medical expenses.

Also, there have been cases of doctors administering insufficient medical leave to workers, possibly at the behest of employers who enter into retainer arrangements with private doctors, clinics, and hospitals. The reason for this is so as to circumvent a regulation which mandates reporting any work injury or illness to the authorities if a medical certificate for more than three days of medical leave is issued. To date, there has only been one reported case of professional discipline by the highest court in relation to such a malpractice (*Singapore Medical Council v. Wong Him Choon*, 2016).

4. Legal

Unpaid and underpaid salaries

In 2015 and 2016, about 6,000 unpaid salary and underpaid salary cases were lodged by employees in the Labour Court for each respective year (MOM, 2017a). When companies have cashflow problems, it is often the case that employers stop paying workers their salaries. In some cases, this could be for several months or even more than a year. Workers may not be aware of their legal rights and avenues to claim their salaries. If the employer terminates their employment and repatriates them before they have a chance to lodge a complaint or claim with the Employment Claims Tribunal, they will be without recourse. Those who do bring such claims to the tribunal face the challenge of having to prove their claims, often without documentary evidence. In a case witnessed by this writer, a worker alleged that the employer falsified documents which purported that he had already been paid. The challenge for workers is exacerbated by the fact that they cannot be represented in these proceedings by lawyers or any representative. They also have difficulty communicating effectively, given that their Bengali or even their Mandarin is not easily translated due to accents, dialects, and regional vocabulary.

Some workers are underpaid what is due in salary. This is usually because employers pay workers the same wage rate for overtime work or work done on rest days. Under the law, however, they are supposed to pay one and a half or two times the regular wage rate. In some instances, employers incorporate unfair salary terms into workers' contracts which allow them to circumvent these laws. In other

instances, the contractual basis for how the workers' salaries should be calculated is deliberately made ambiguous. Some contracts include salary clauses for both hourly wage rates and also piecemeal rates. The latter calculates salary based on work output. It is deliberately left unclear as to which rate applies should a case be brought to court.

Work Injury Compensation Act (WICA)

When migrant workers suffer work injuries, they can claim compensation under WICA. The legal regime is such that employers are supposed to purchase WICA insurance for their workers. There are known cases where employers flout this law, fail to obtain the required insurance, and hence deny workers the means to claim compensation for serious injuries such as ones leading to permanent incapacity. Such workers are left limbless, with the loss of future job opportunities, a huge medical bill, and an unpaid debt from recruitment-agency fees. In other cases, employers abuse their position of dominance and raise disingenuous "factual" assertions to disavow liabilities.

Enforcement of court orders

Even if migrant workers succeed in obtaining a tribunal or court order in their favour, they often face difficulties with the enforcement of the court order. In part, this is because they would have to incur additional costs in enforcement procedures. The bigger problem, however, is that frequently their employers are private limited companies which have a separate legal personality from the shareholders and directors. This thus shields the individual shareholders and directors from liability and potential bankruptcy.

While what we have is a legitimate legal mechanism, what is unfair is that these shareholder-directors can operate recklessly and enjoy the impunity of not having to pay the workers' judgement debts, and then go on to incorporate new companies to repeat the cycle of mistreating workers and enjoying impunity.

The Minister of Manpower revealed in Parliament in January 2017 that out of 1,400 Labour Court orders, 350 such orders (or 25 percent of all such orders) were eventually defaulted on (MOM, 2017a). The Minister stated that "the 350 defaulted orders involved 200 companies

which were mostly in financial difficulties or had ceased operations. MOM took enforcement actions against all of them which included warnings, fines and restriction of work pass privileges." It should be noted that these numbers do not indicate at all whether the people behind these companies went on to incorporate new companies and continue their cycle of dealings with migrant workers.

In other scenarios, liable employers did not have assets or did not procure insurance to compensate workers. In 2014, a workplace accident left People's Republic of China worker Tang Zengshun blind in one eye. He was awarded injury compensation and lost wages by the Labour Court amounting to about \$123,000. However, he did not receive a single cent from his employer—the employer did not have a valid insurance policy to cover its liabilities under WICA (Ho, 2016b). Some volunteers tried to crowdfund money to give Tang so that he would not return home disabled and penniless. But on the crowdfunding site, only \$6,300 was raised (HealthServe Ltd, 2016). He returned home blind and likely poor to a three-year-old granddaughter and an elderly mother.

Kickbacks and unauthorized deductions

There are a significant number of cases of employers who demand kickbacks. That is to say, the migrant workers have to pay their employers significant sums of money to ensure they can keep their jobs. If they do not pay, the employer will terminate the employment, repatriate the worker, and hire another migrant worker at a low cost. There have been cases of prosecution by MOM against such errant employers (MOM, 2017d). In one case, a managing director of a company collected kickbacks totalling \$105,235 from 20 of his foreign workers as a condition for their continued employment with the company (MOM, 2016). This averages at \$5,250 per worker. One could buy a 4,000-square-foot plot of land in Bangladesh with that amount. Since whistleblowing on employers is dangerous for workers, it is likely that many such cases are unreported.

Apart from kickbacks for continued employment, some employers also make illegal deductions from their workers' salaries for foreign-worker

levies, work-permit renewals, recruitment-agent fees, insurance premiums, safety equipment, and alleged breaches of contract.

5. Lack of work safety

The statistics of workplace injuries and fatalities in Singapore are worrying. The government is also concerned about this (Ho, 2016a). In 2016, there was a total of 13,014 workplace injuries, of which 66 were fatal and 594 were major. In 2015, there was a total of 12,351 injuries, of which 66 were fatal and 597 were major. In 2016, the workplace minor injury rate per 100,000 employed persons was 382 and the workplace fatal injury rate per 100,000 employed persons was 1.9 (MOM, 2017b; MOM, 2018).

However, when comparing these figures with those from a country with a comparable population size, like Finland, it appears there may be issues with the accuracy of Singapore's reported statistics. While Finland has a substantially higher workplace injury rate, it has a significantly lower fatal injury rate (Statistics Finland 2016a; Statistics Finland 2016b). Could it be that Singapore's actual (rather than reported) work-injury rate is significantly higher? There are many possible factors which contribute to Singapore's high fatality and work-injury rates, so we cannot draw definitive conclusions from the comparison of the statistics. It is hoped that further research would be done in this area.

Most migrant workers labour in the construction, maritime, and oil and gas sectors, which are high-risk areas for work injuries and fatalities. Thus, it is very likely that many of the people who contribute to these statistics are migrant workers. Although there are laws, programmes, and aids for employers to address workplace safety issues, the statistics remain worrying. Could it be that we have such high work-injury and fatality statistics because we do not value the lives and safety of these workers as much as we would with local workers? If so, perhaps what is needed is not more laws and programmes, but cultural and attitudinal shifts among employers such that more of them value the lives and safety of migrant workers and therefore conduct business operations accordingly.

6. Social, emotional, and psychological problems

Apart from the legal and practical problems highlighted above, many migrant workers also experience, or are at risk of experiencing, associated social, emotional, and mental problems. Much of this is related to the uncertainties of their employment status and related threats by their employers. A Singapore Management University study of 801 non-domestic migrant workers found that more than 60 percent of respondents who had outstanding injury or salary claims were predicted to have serious mental illness—more than four times the number for workers with no claims. Threats of repatriation by employers, debts owed to recruitment and employment agents, and a lack of housing after making claims against their employers all contribute to psychological stress on the workers (SMU, 2015).

Apart from psychological distress, migrant workers also face all the associated problems of adapting to work in a foreign country. This would include having to adapt to cultural and language differences, loneliness, integrating in community, finding one's tribe, homesickness, and so on.

AFTER LEAVING SINGAPORE

Assuming a migrant worker leaves Singapore alive and well, he could possibly face issues of an unpaid debt from recruitment fees, kickbacks, and so on. Furthermore, there may be social and cultural problems when a worker returns home with a debt he owes to his family and community. Some workers return home with pending legal claims. Their returning home makes it much more difficult for them to continue pursuing their claims. The practical difficulties, in addition to financial ones, make it unlikely for them to get redress and justice.

CONCLUSION

It should be noted that the above problems are common ones which NGOs and volunteers who work with migrant workers have seen.

This writer does not know how prevalent each problem is. It would be difficult for any person or entity to be able to definitively present accurate statistics on the prevalence of the problems. This is because studies, surveys, and polls of migrant workers on such problems will often be subject to biases and inaccuracies. NGOs who conduct studies based on data from their case files will necessarily see a bulge in certain types of cases. Government-commissioned studies or so-called independent studies may also be subject to the problem that migrant workers may not report their problems honestly because of a real or imaginary fear of backlash or losing their jobs.

Nevertheless, looking at the absolute number of complaints to MOM and cases which NGOs have seen, we can be certain that the number of problematic cases is not a mere handful. For some egregious cases, it is one case too many.

It appears then that a typical low-waged migrant worker who comes to Singapore is at risk of the following:

1. Being defrauded in his home country as to his employment in Singapore
2. Incurring huge debts and having to sell family property to obtain work in Singapore
3. Living in unhealthy and unsafe conditions in Singapore
4. Malnourishment and consuming unhygienic food
5. Falling sick or suffering injury without the means to pay for good medical treatment
6. Not being paid his hard-earned salary
7. Not receiving compensation should he suffer work injuries
8. Not being able to obtain the fruits of justice even if he succeeds in claiming against his employer
9. Having his salary illegally deducted
10. Having to pay kickbacks to his employer just to keep his job
11. Working in unsafe and potentially lethal work environments
12. Suffering various social, emotional, and psychological problems

Suffice to say, a migrant worker in Singapore appears to be in an unenviable position fraught with possible life-threatening and life-draining dangers and burdens. It behoves the church to ask itself, “What does the good news of the kingdom of God look like to a migrant worker in Singapore?” This is a question which leads to no easy answers, but it is a question we must nevertheless ask if we are to be faithful to our God-given mission.

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