

論文の内容の要旨

論文題目 **Empowering low-skilled migrant workers to access grievance mechanisms:**

A comparative study between Thailand and Japan

(苦情処理システムにアクセスするための非熟練移民労働者のエンパワーメントに関する研究

—日本とタイ王国の比較研究—)

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A number of workers, including low-skilled migrant workers, are likely to live and spend their lives in poverty and are exposed to less formal work arrangements, and therefore, lack decent working conditions (IOM, 2013). Since they are widely recognized through their inferior situations, effective grievance mechanisms play a crucial role in labour rights protections, because grievance mechanisms are channels to express workers' concerns or dissatisfaction by an individual or a group in relation to possible misconduct at work. Effective grievance mechanisms not only offer an opportunity for rights-violated migrant workers to be compensated and work as preventive measures of rights violations but also promote a more stable workforce and more preferable work climate.

Obviously, the number of studies on migrant workers and grievance mechanisms is limited. Nevertheless, a number of migrant workers facing labour rights violations do not have access to grievance mechanisms and only some of them file a grievance of any sort. A survey conducted by ILO & ARCM (2013) in Thailand reflected the inadequate protection available to migrant workers. Interestingly, among those who are forced labourers, only 8.9 per cent made grievances and the rest indicate that more people wanted to complain but did not do so.

Predominating challenges arise as to how to empower migrant workers and increase their accessibility to grievance mechanisms. The objectives of this study are to examine migrant working conditions, accessibility to grievance mechanisms and factors affecting migrant workers decisions to take any actions in response to labour rights' violation. The overall objective is to encourage and empower migrant workers through promoting their labour rights in practices.

To address these issues, the author utilizes Thailand and Japan, both net immigrant countries in Asia, as case studies of developing and developed countries. Between October 2012 and March 2015, a total of 150 low-skilled migrant workers were interviewed in Bangkok, Thailand and Tokyo, Japan and surrounding prefectures. These migrant workers work in the service sector and the manufacturing sector, which contribute to the upward economic growth in Asia and account for a significant share of national income. In addition to the interview, a quantitative approach is used to analyse factors affecting migrant workers' decisions to take any action in response to labour rights' violations and problems at work. The quantitative approach, using a Binary Logistic Regression and nested structural analysis, is to support comprehensive analysis, along with the qualitative approach.

The analysis suggests that working conditions and bad practices at work of both migrant and non-migrant workers are generally similar. However, the greater extent of worse working standards, in some issues, is found among

migrant workers than that of non-migrants; for example, migrants on average work longer hours than non-migrants. Generally, the extent of vulnerability in Thailand, which is embedded by weak law enforcement and a large informal economy, are worse than that of vulnerability in Japan.

The study found that up to 24 per cent of migrant respondents in Thailand were forced to work and could not quit their jobs freely. In other words, they would face penalties, if they requested to quit their jobs. In Japan, only a few migrant workers do not hold proper working visas, whereas in Thailand, less than half of them hold proper work permits. This is consistent to the fact that the majority of migrant workers in Thailand do not have a written employment contract with their current employers, unlike in Japan.

Regardless in Thailand and Japan, various types and levels of discrimination and harassment at work prevail. The levels of discrimination and harassment are varied due to working sectors and working environment of receiving countries. The country-specific characteristics are discrimination on ethnic and nationalities in Thailand, and gender and sex-orientation discrimination in Japan.

This study addresses the fact that only a small proportion of migrants who know their rights will take action to labour-related problems. The majority of migrant workers in Thailand at about 54.7 per cent do not know what to do, and the 30.7 per cent know what to do but are afraid of possible trouble at work once they file a complaint. In contrast, 44.0 percent of migrant workers in Japan know what to do, but do not want to take any actions because they do not believe that filing a grievance will change their situation and 17.3 per cent are afraid of possible trouble at work. Even among migrants, who reported that they are facing bad practices and discrimination at work, know what to do and will take any actions in response to such difficulties.

To observe factors influencing migrant workers' decisions to respond to labour-related problems, a quantitative analysis is also employed. Based on a theory of empowerment, key factors facilitating or obstructing people's effort to establish power are composed of four building blocks. These blocks are institutional climate, social and political structures, as well as individual and collective capabilities. In this context, the opportunity structure can be classified into legal and institutional supporting mechanisms, working environment, as well as labour markets flexibilities or employment opportunities. On the other hand, agency factors are composed of migrants' background, legal status in working in the country of destination, as well as migrants' bad experiences at work due to discrimination or harassment.

The estimation results suggest that the institutional factors, especially employment options increase the probability of knowing what to do and taking action. The result of the interviews also supports that if they can easily change to a comparable job with similar earnings, they will be less worried of the threat of dismissal for voicing complaints and possible bad practices at work while entering the complaint procedure. In addition, migrants who have networking abilities are likely to know about the grievance system, but it appears that the network reduces the probability to take any action. This is because, those who consult with their network are likely to seek other jobs, or other possible options and adopt the leave-it-behind strategy.

Obviously, positive significant effects originated by individual characteristics are holding a proper work permit and years of schooling. Holding a proper work permit is supported by the fact that those who do not hold a proper work permit will not be able to obtain a written work contract. On the other hand, additional year of schooling decreases the probability of being among those who do not know and those who know but do not want to take any action.

The conclusion of the study is that well-designed grievance mechanisms are considered to be necessary, but not sufficient for a successful scheme. The accountability and transparency of the service providers and responsible organizations are keys to generate confidence in grievance mechanisms.

The right and clear understanding about the principles of human rights at work should be promoted along with national enforcement. Adequate and effective measures to eliminate employment in an irregular situation are also encouraged, but such measures should ensure that human and labour rights should not be diminished and do not establish a sphere of discrimination in the society.

Moreover, the understanding in accessing grievance mechanisms must be promoted by both employers and workers. On the worker side, they must understand that protecting their rights is not wrong. On the employer side,

based on the study, it must be classified into two types: a small/medium size and a medium/large establishment. For a small establishment, where an employer does not know about labour standards, a well-designed disseminated measure is vital to promoting labour-rights standards, along with regular advice/ close supervision provided by local labour inspectors. On the other hand, for a larger establishment, a representative body is an important tool to voice workers concern. However, in practice one of common requirements for applying as a union member of Thailand is a direct employment of that current company, while in Japan the trainee status impedes their participation in joining a trade union.

In case of a grievance filed by a worker for compensation, the investigation process of labour inspectors in two countries is similar. Both systems are exploited by some employers to intentionally bring the case to the Labour Court/ Court in order to extend the period of investigation and to delay the final decision. Measures must be in place to protect complainants against reprisals for their actions to encourage more migrants to denounce abuses and assert their rights (ensuring confidentiality whenever possible, prohibiting retaliatory dismissal, providing greater flexibility in transfer of work permits, sheltering irregular migrants from deportation, etc.).

In addition, there are many cases where migrant workers return to their country after filing a complaint, and some cases are reported to the government of the country of origin. In response to such conditions, there is a need to establish a mechanism, which allows migrant workers to track the development through an official representative, provided by the country of origin, in the receiving countries. The mechanism should also allow the transferring of compensation at the end of the procedures, to the government/ organization of the country of origin before transference back to the migrant workers.

From the analysis, the key specific areas to empower migrant workers are grouped in five key concerns. The factors affecting opportunity structure are job options, networks, and legal frameworks concerning migrants' employment status. The other two factors are grouped by agent factors, including ability to understand and accessible to useful information as well as collective capabilities.

Job options availability is to ensure that migrant workers can survive during the investigation process and after filing the complaints. The first recommendation is to review laws and regulations on changing employers and work sectors when a migrant files a grievance. Their job opportunities in both countries of origin and country of destination should be widened, during the grievance handling procedures, ensuring a fair opportunity to be able to stay in the country until the end of the procedures. It is clear from the interviews that the matter is not about the migrant having or not having a network, but how the network performs. Thereby, outreach activities to ensure accessibility to the right information is essential. In order to reduce the share of irregular migrant workers, the clear and long-term policy of legalization of migrant workers as well as law enforcement and corruption elimination should be endorsed. This recommendation also links to the elimination of exploited labour brokers and malicious recruitment agencies.

Furthermore, the key to empower the agent is to encourage migrants' ability to understand and enable accessibility to useful information. The recommendations also address the language barrier, accessibility to useful information, and potential use of the Information and Communication Technology (ICT). The ICT is taking a critical role in promoting knowledge on labour rights, visualizing successful case studies, and at the same time, widening job options in countries of destination and their home country through easy and timely accessibility and escalating their skills which ensure better job options and increased individual bargaining power with employers. Note that an effective strategy in empowering migrant workers must be developed through their cultural background, their living community and work characteristics.

The study also suggests that migrant workers believe that they can develop themselves to better working condition through self-development, group formation and better information accessibility. To empower migrant workers to gain access to grievance mechanisms is also to promote education and provide possibilities for higher skills. The skills recognized will positively benefit the country of destination for current employment, and the country of origin in increasing human capital accumulation. Lastly, collective bargaining is recommended to ensure inclusive activities and participation with all stakeholders and public understanding.