



Updated July 2003

*Technical Intervention Area Summary Notes, TIA-1*

## **Legal labour migration and labour markets: alternatives to substitute for trafficking in children and women**

In addition to developing alternatives for families whose children are at risk of trafficking, a range of sub-regional experts have advised ILOs TICW-project to also explore legal labour migration alternatives to substitute for trafficking in children and women - under the assumption that out-migration from rural areas will continue within the sub-region on a large scale.

### **I. Exploratory Policy Paper and Sub-regional Experts Meeting:**

Following the advice, ILOs TICW-project – in collaboration with the UN Interagency project to combat trafficking in children and women (UN-IAP) - launched a joint initiative. It includes the development of an exploratory policy paper (by Dr Ronald Skeldon) and a sub-regional meeting of experts (17-18 September 2001) where the exploratory paper was discussed, along with country specific and sub-regional considerations for follow up.

The exploratory policy paper suggests ways and explores opportunities to regularize migration flows within the Greater Mekong Sub-region, and attract return migrants to stimulate local development. The suggestions in the paper may appear politically controversial but are presented in the spirit of debate to stimulate new points of view about an important issue in the sub-region. The assumption throughout the paper is that improved, enlarged, and new legal labour migration channels can substitute for the trafficking of children and women into exploitative situations.

In the policy paper Dr. Skeldon argues that despite a dearth of information, available data suggests that:

- The vast majority of migrants in the sub-region moved internally, that is, within their country, with only a minority crossing international borders;
- The majority of trans-national movements remain undocumented. People do not come through legal channels primarily because few exist;
- Men and women are trafficked and, within the sub-region, more men than women appeared to be moved through undocumented channels;

A series of points worth considering were brought to the forefront during the expert meeting:

- Successful policies dealing with trafficking must fall within the wider migration and immigration policies of countries;
- Migration is not a temporary phenomenon and it is an integral part of development. Countries need, therefore to take a long-term policy view of population movement;
- Trafficking and undocumented migration need to be considered within the context of fertility and economic transitions that have characterized the sub-region;

- Improved, expanded and new legal labour migration channels may contribute to reduced trafficking in children and women;
- Caution should be exercised when adopting the current and popular theme of 'City bad - Village good' approach to understanding the differences between people's experiences. Abuse is common within village environments;
- Open boundaries or open boundary policies is not recommended. The opening of legal channels of movement is seen as the most viable way forward. This raises questions of how to best manage an open channel;
- Migration has become a profound security issue, although its management is less about border control and more about a centered managed approach;
- Integrated labour market strategies through regional associations such as ASEAN are required;
- Given economic disparities, legal labour migration may benefit both sending and receiving countries;
- It should be promoted that, in general, migrants contribute more economic wealth to a nation than they consume;
- Return migrants may stimulate local development in 'sending areas' which, in turn, may help to reduce trafficking. At the same time return migrants may trigger others to migrate, preferably through regular channels;

It is expected that the exploratory policy paper, the discussions during the expert meeting, and the sub-regional network of experts that begun to crystallize, will contribute to improving, enlarging and creating additional legal labour migration channels that may substitute for the trafficking in children and women into exploitative situations.

In-country follow up to the expert meeting is underway. Participants to the expert meeting have briefed national steering committees on child labour and trafficking, and the aforementioned publication is being translated in local languages. More specifically:

- In Cambodia discussions are ongoing to explore the participation in legal labour migration schemes (to Hong Kong, Malaysia, and South Korea) of people from target villages under ILOs TICW-project;
- In collaboration with the Labour Bureau of Yunnan Province (China) a campaign is under development to promote the services of the Labour Bureau in target villages under ILOs TICW-project;
- Governments have made significant strides in legalizing migration; the Ministry of Labor and Social Welfare of Lao PRD and the Ministry of Labor of Thailand signed a Memorandum of Understanding in October 2002, allowing more than 50,000 Lao workers to seek legal employment in particular sectors of the Thai economy. Two private employment agencies were established under the MoLSW's recommendation to implement the decree.<sup>1</sup>
- The paper on legal labour migration alternatives to trafficking has been translated into Vietnamese and will be used in policy discussions in Viet Nam.

Following through on these initiatives, the ILO has continued research and development of legal labor migration and labor markets. Conclusions reveal greater knowledge of the magnitude of migration and its link to labor markets and development. Similarly, these initiatives examine migration in a framework of globalization and the tripartite levels of cooperation.

## II. Study tour on Migration in Manila and Hong Kong, January 2003

The study tour examined relatively effective migration management systems currently in practice, since trafficking in humans occurs largely within the framework of both internal and international migration. As this study finds, the next step calls for the creation of **cheap, fast, and transparent migration channels**. The suggestions generated seek to provide a legal approach for both youth and adult migrants and can result in a win-win situation for both origin and destination countries.

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### **The Study tour participants acknowledged the importance of the following:**

- Legal protection of migrant workers in accordance with ILO Conventions 97, 143 (both on migrant workers) and 181 (on private employment agencies) as well as the UN Convention on Migrant Workers.
- Government action in receiving countries (with the aid of employers' organizations) toward a coherent immigration policy and monitoring of working conditions with a dense population of migrant workers.
- A concern for speed: acceptance of a limited number of registered private employment agencies in addition to government services
- Regulation of private sector participation in recruitment process through strict licensing requirements; securing the best terms and conditions of employment and only charge fees from employers - **not** migrant workers.
- Establishing a board that includes migrant workers to monitor recruitment practices of private registered employment agencies.
- Launching a campaign for pre-departure education to include relevant skills training and orientation on rights and cultural understanding.
- Establishing a mechanism to ensure the proper reintegration of former migrant workers.
- Developing a "One-country team" approach for embassies in destination countries whereby the Ambassador, labour attachee, welfare attachee, and other embassy staff collaborate in the protection of migrant workers - including the identification of "niche" labor markets, monitoring of working conditions, offering legal assistance, provision of shelter, and return assistance.

### **III. The Bangladesh Conference on Migration, Development and Pro-Poor Policy Choices in Asia in June 2003**

The ILO recognizes the critical link between migration and development as well as the correlation between migration and poverty.

The Dhaka Conference identified ways to enhance the positive development impact of migration and sought mechanisms to enable those in poverty. Conference participants analyzed five case studies of internal and international migration in Bangladesh, China, Pakistan, India, and Vietnam.

#### **Key conclusions on migration:**

- Migration must be understood in the context of globalization and merging labor markets. Similarly it is critical to recognize the economic role migration plays in local and national development.
- Judicious policy interventions must be context specific - based on an understanding of social and cultural factors such as identity, history, kinship, and networks.
- Recognize the relationship between poverty and migration; policies must be implemented to effectively benefit the poor. While migration does not affect the poor exclusively, it does affect them both directly and indirectly.

Acknowledging that responsibility rests with governments, civil society, regional organizations, and developmental agencies alike, participants offered the following proposals:

#### **General:**

- As policy action requires a strong empirical foundation, data must be collected more systematically and with reliable methodology.
- Actively engage and understand the influence of diaspora networks in sending and receiving countries; increase awareness and the dissemination of information to migrant families regarding their rights, needs, and opportunities.
- Encourage the private sector to implement inclusive labor laws to extend rights and coverage (ie, insurance) to migrants; urge donor agencies to review their contribution to migration in Asia.
- Replicate the best practice schemes found in Sri Lanka, Pakistan, and the Philippines.

**At an International Level:**

- Develop Bilateral Migration Agreements between origin and destination countries and follow through on implementation; establish a regional and international forum to manage and instigate dialogue between countries.
- Increase awareness in receiving countries of the positive implications of international migration policy when successfully implemented.

**Internal Proposals:**

- Urge action at the state and local levels to register migrants, monitor contracts, and provide essential services.
- Ensure in depth analysis of existing data with a view to identify specific areas for in depth specialized surveys.

**The Next Steps:**

- Government representatives will share these case studies with their administrators and encourage debate about proposals.
- Educate the public through mechanism such as Think Tanks, CSOs, and research institutes.
- Appoint a steering committee to organize publication and distribution of research results.

**Plans for the Next Six Months:**

- Assess the effectiveness of current migration policies in respect to recruitment agencies, pre-migration preparation, and the legal restrictions of migration (both internal and external).
- Develop detailed, country-specific action plans.
- Translate conference literature as required to disseminate information.

**IV. Tripartite Intervention: ILO Regional Meeting**

In an attempt to understand current challenges to policy making, leaders convened at the **ILO Regional Tripartite Meeting on Challenges to Labor Migration Policy and Management in Asia.**<sup>2</sup> The conference generated a series of new challenges and conclusions in addition to the findings of previous studies.

**Key Conclusions:**

- Migration concerns continue to escalate as globalization - the integration of regional economies and resulting conflict have added impetus to the increasing mobility of workers across borders.
- Market failures associated with the process of migration lead to a number of associated risks in addition to the threat of trafficking: racism, xenophobia, recruitment mal-practices, sexual and physical harassment, employment in hazardous jobs, and unfair payment.
- Establish a firm definition of trafficking as a multi-faceted issue that must be considered within the larger framework of migration.
- Cooperation between origin and destination states helps maximize potential benefits from migration. Formalizing such cooperatives is a desirable step; existing regional mechanisms such as ASEAN and SAARC can play a critical role in this effort.
- Recognize that irregular migration in Asia has grown in recent years, largely due to restrictive labor migration policies out of line with labor market needs. Irregular migration puts workers in even more of a vulnerable position.

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<sup>2</sup> ILO Regional Tripartite Meeting, Bangkok. 30 June - 2 July 2003.

## References

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