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Promoting cooperation for safe migration and decent work

ILO Country Office for Bangladesh

**Promoting
cooperation
for
safe migration
and decent work**

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The technical and financial assistance to the Ministry of Expatriates' Welfare and Overseas Employment for the Intergovernmental Regional Seminar on Promoting Cooperation for Safe Migration and Decent Work is based in the long-term vision of Decent Work for migrant workers. International labour migration is today a defining global issue. There is hardly any country or economy that is not affected by it. The driving forces of labour migration remain disparities in incomes and wealth, and mismatch among jobs, skills, and demographic trends among many other factors. In other words, decent work and the labour market are predominant features of international migration today.

Initiatives like this intergovernmental regional seminar, hosted by the Government of the People's Republic of Bangladesh from 1 to 2 July 2013 in Dhaka, suggest that there is an increasing recognition of the positive impact that labour migration can have on development in both countries of origin and countries of destination. At the same time, it is to be pointed out that migrant workers make a living and contribute to two economies at a very high personal cost. This should not be so. Both countries of origin and destination and regional intergovernmental organizations should develop and implement policies that minimize the negative individual costs of labour migration and maximize its positive effects.

Today, more women and girls, of all skill levels, are migrating for work as individual workers. In some countries of destination, such as the Republic of Korea, Israel, Chile, and Argentina, they are almost half of the total migrant worker population. While migration of women from Bangladesh is still low, women are increasingly looking for overseas employment opportunities, as is evident from the six-fold growth in the proportion of women migrating overseas, from 0.54 per cent of all outbound migrants in 2002 to 6.14 per cent in 2012 (BMET statistics made available to the ILO on 4 Jan. 2013). A similar trend is visible across South Asia. Given the gender relations and social attitudes towards women in South Asia and in many countries of destination, women face a higher

level of vulnerability. Therefore, attention must be given to the gender dimensions of labour migration, including issues related to measures for equal access to employment under decent working conditions and equal social security for women.

It is also not deniable that women migrant workers from across South Asia have been segregated into domestic work and care giving, "invisible" sectors. Such work is often not protected by the destination country's labour legislation. The lack of social protection for women workers adds to their already high levels of exploitation and abuse. It is also a fact that in these occupation areas the principle of "equal pay for equal work" is not applied.

Migrant workers, in general, continue to face challenges arising from visa trading, high migration and recruitment costs and the consequent indebtedness that arises as a result, and jobs and skills mismatches. Both women and men face other forms of profound challenges, including poor conditions of work and harsh working environments, and labour market discrimination.

Most workers from South Asia are low- to semi-skilled, which keeps them in the lowest paying jobs. Despite this, they are sending a high level of remittances. They are able to do so because they are sacrificing decent living conditions, health care, nutrition, education, and training. They send remittances by suffering quietly when they become victims of exploitation, hazardous work conditions, and psychological, physical, and sexual abuse.

The databases of workers coming back to their countries of origin with disabilities, occupational diseases, illnesses arising from lack of health care, as well as physical and sexual abuse and exploitation, and poor living conditions are areas of desired improvement. Workers are often afraid to raise or report these issues out of fear while they are in the country of destination. These challenges call for redress actions by the countries of destination.

Ratification of the ILO Migration for Employment Convention (Revised), 1949 (No. 97) and Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and adoption of the ILO Multilateral Framework on Labour Migration are needed to bring about harmony in the labour migration legal and policy regimes across countries of destination and origin. Where these are not ratified, it is recommended that the provisions are applied in principle in the national laws and policies to govern labour migration. The ILO Declaration on Fundamental Principles and Rights at Work (1998) places an obligation on all ILO member States, irrespective of ratification of the relevant Conventions, to respect, promote, and realize, in good faith and in accordance with the ILO Constitution, the principles concerning fundamental labour rights.

Switzerland has come to the issue of migration and development in Bangladesh from a perspective of improving employment and income. The intervention is in line with the objective of the Swiss Cooperation Strategy (2008–12 and 2013–17) “to enhance employment and income and improve access to

services and opportunities”. As the local labour market cannot provide sufficient employment and income, it is highly relevant, with the arguments outlined above, to look into providing better access to opportunities abroad, and to strengthen the necessary services for migrant workers. In the last decade, there has been a growing recognition that both the government and development partners may not have sufficiently addressed overseas labour migration. The initiative by Switzerland and the ILO and its partners is therefore recognized as pioneering.

In view of the all the above, it is but natural that the Intergovernmental Regional Seminar on Promoting Cooperation for Safe Migration and Decent Work ended with recommendations to address these issues. In particular, the recommendations that the delegates gave to look for the possibilities of new regional legal tools to better address the protection of migrant workers and the regulation of recruitment agencies as well as inter-regional cooperation are worth immediate consideration.



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Colleagues from the Ministry of Home Affairs, Ministry of Labour and Employment, Ministry of Planning, and Ministry of Foreign Affairs played crucial roles as members of the Interministerial Planning Committee constituted to support the preparation of the seminar. Our special appreciation is being expressed to thank the Ministry of Home Affairs, who together with the Welfare Desk of the Bureau of Manpower Employment and Training (BMET), ensured that the delegates received a warm reception upon arrival and went home with fond memories of their stay in Dhaka.

We would like to extend our appreciation for the excellent technical assistance and coordination support from the ILO within the framework of the project "Promoting Decent Work through Improved Migration Policy and Its Application in Bangladesh". The ILO's technical assistance enabled us to make the seminar rich by bringing in researchers and practitioners who contributed research papers on key themes, leading to discussions on their findings among the delegates from the participating countries and the SAARC Secretariat. Our sincere thanks to the ILO Country Office for Bangladesh, in particular the Labour Migration Project Team. Their technical

cooperation helped hold a dialogue not only among the countries of origin but also supported us in bringing together representatives of some of the countries of destination. Thanks are also due to the officials from the ILO Decent Work Technical Support Team (DWT) for South Asia, the ILO Regional Office for the Arab States, and the ILO Regional Office for Asia and the Pacific for their collaboration.

We acknowledge the assistance of the SDC, who supported us throughout this period. We take this opportunity to acknowledge the SDC's assistance to the ILO-executed technical cooperation project, "Promoting Decent Work through Improved Migration Policy and Its Application in Bangladesh", which is assisting the Ministry in the strengthening labour migration governance.

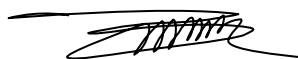
Most importantly, we acknowledge the presence and active support of the concerned ministries from Afghanistan, Bahrain, Egypt, Malaysia, Maldives, Mauritius, Nepal, Pakistan, Philippines, Qatar, and Sri Lanka, and the SAARC Secretariat. It was not possible to have a successful seminar without their participation. In their roles as chairpersons, moderators, and discussants, the delegates showed their leadership. We value their contributions and hope that this initiative of the Government of the People's Republic of Bangladesh would galvanize into regional and inter-regional actions in the near future.

Lastly, it is our pleasure to acknowledge the role the officials of the Ministry of Expatriates' Welfare and Overseas Employment and the BMET played in planning and hosting this seminar.



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Acronyms and abbreviations

AFML	ASEAN Forum on Migrant Labour
ALFEA	Association of Licensed Foreign Employment Agents
ASEAN	Association of South-East Asian Nations
BAIRA	Bangladesh Association of International Recruitment Agencies
BDT	Bangladeshi taka [currency]
BMET	Bureau of Manpower, Employment, and Training [Bangladesh]
BOESL	Bangladesh Overseas Employment and Services Limited
BRI	Bank Rakyat Indonesia
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women, 1979
COMMIT	Coordinated Mekong Ministerial Initiative against Trafficking
EPS	Employment Permit Scheme [Republic of Korea]
FEAN	Foreign Employment Agencies Nepal
GCC	Gulf Cooperation Council
GEFONT	General Federation of Nepalese Trade Unions
GFMD	Global Forum on Migration and Development
GMG	Global Migration Group
ILO	International Labour Organization
ILS	International Labour Standards
IOM	International Organization for Migration
KCTU	Korean Confederation of Trade Unions
KOSHA	Korea Occupational Safety and Health Agency
LKR	Sri Lankan rupee [currency]
MEWOE	Ministry of Expatriate Welfares' and Overseas Employment [Bangladesh]
MFLM	Multilateral Framework on Labour Migration
MOIA	Ministry of Overseas Indian Affairs [India]
MOU	Memorandum of Understanding
MWFs	Migrant welfare funds

NAFEA	Nepal Association of Foreign Employment Agencies
NIDS	National Institute of Development Studies [Nepal]
NPR	Nepalese rupee [currency]
NTUC	National Trade Union Congress [Nepal]
OECD	Organization for Economic Cooperation and Development
OPF	Overseas Pakistani Foundation
OT	Overtime payment
OWWA	Overseas Workers Welfare Administration [Philippines]
OWWF	Overseas Workers Welfare Fund [Sri Lanka]
PCI	Per capita income
QIZ	Qualified Industrial Zone
RCP	Regional Consultative Processes
RMG	Readymade garment
SAARC	South Asian Association for Regional Cooperation
SDC	Swiss Agency for Development and Cooperation
SLBFE	Sri Lanka Bureau for Foreign Employment
SLFEA	Sri Lanka Foreign Employment Agencies
SME	Small and Medium Enterprises
UN	United Nations
UNIFEM	United Nations Development Fund for Women (now UN WOMEN)
WARBE	Welfare Association for the Rights of Bangladeshi Emigrants

Statement: Minister



Labour migration is not a clear-cut story of despair or hope. Labour migration is an issue connected to economic conditions that push people out of their homes into foreign lands. It also an enduring trust in the power of migration to alleviate poverty and improve social well-being. Most workers do not migrate with an intention to settle in a country of destination. They want to overcome the need for capital and other resources by working overseas short-term. They believe that savings from a few years of hardship will enable them to achieve entrepreneurship and better prospects when they come back home. They hope to be able to start a business upon their return.

The power of hope to overcome poverty by finding overseas employment often makes them take irregular routes to migrate. Most potential migrant workers hear that the situation of migrant workers is usually worse than their lives at home. This is why we need to discuss labour migration from the perspective of:

- migration for employment as a free choice;
- increasing avenues for regular migration in the country of origin and needs-based transparent

systems of immigration in countries of destination; and

- joint planning for return as well as social and professional reintegration in the country of origin.

In today's globalized economies, any discussion of national development must take labour migration into account. Migrant workers' income from foreign employment is a way to fulfil their responsibility to their families and home countries. It is also a way by which countries of destination address their labour or skills shortage. Labour migration, therefore, is an important economic development strategy for both countries of origin and countries of destination.

It is for this reason that the issues of irregular migration also require humane consideration. Seminars such as the Intergovernmental Regional Seminar on Promoting Cooperation for Safe Migration and Decent Work organized by the Ministry of Expatriates' Welfare and Overseas Employment, Government of the People's Republic of Bangladesh, from 1 to 2 July 2013 was an effort to collectively learn what we need to do as countries of origin and destination to strengthen the institutional

capacity to govern labour migration. Based on the seminar, I would like to mention some areas where more mutual learning, technical dialogue, and collective action are of special significance. These areas include:

- Identification of the government-led services that we need to set up as countries of origin and destination for strengthening labour migration governance and giving dignity and decent work to migrant workers.
- Regional engagement of the ministries responsible for labour migration and migrant workers in order to set up regional labour market mechanisms so the demand and supply in the labour market is open, accessible, and regulatable.
- Articulating a role that SAARC can play in bringing together member States, workers, and employers for knowledge-sharing, problem solving, adoption of regional standards, and to give a voice to migrant workers.

The seminar outcomes reflect that any cooperation on the issue of labour migration, return, and re-integration imply a multi-sector approach. It requires inter-ministerial coordination within the country, and bilateral and regional coordination outside the country. This intergovernmental seminar was the first step in the direction of inter-state dialogue. We know that we will need many more steps, including diplomatic and political steps. As we move forward, it will be critical to include workers' and employers' associations to ensure that the debates are based on the experiences of the two key actors in the labour market. As a member State of the ILO, we would like to reiterate our commitment to tripartism and dialogue for decent work for migrant workers.



Engineer **Khandker Mosharraf Hossain**, M.P.
Minister for Expatriates' Welfare and Overseas Employment
Government of the People's Republic of Bangladesh

Statement: Secretary

The Intergovernmental Regional Seminar on Promoting Cooperation for Safe Migration and Decent Work took place on 1 to 2 July 2013 after a year-long process of consultations. Based on a broad range of feedback the ministry prioritized that this seminar should focus on:

- a dialogue for adoption of a more coherent, comprehensive, and better coordinated approach to labour migration governance;
- protection, particularly of women migrant workers; and
- regulation of recruitment agencies.

It is recognized that coordination among countries of origin and countries of destination, particularly at the regional level, requires avenues for mutual learning and information sharing among government counterparts. Additionally, the need of SAARC's engagement and their strengthened capacity to address issues concerning labour migration in the South Asia region is deemed to be important.

Besides, Bangladesh has keenly pursued the regional consultation processes and information about ASEAN and the ASEAN Declaration on Labour Migration as well as the ASEAN Forum on Labour Migration. The Seminar also tried to derive learning from ongoing processes such as the Colombo Process, the Abu Dhabi Dialogue, and the Global Forum on Migration and Development.

Bangladesh is a major country of origin of migrant workers in the Middle East, and increasingly, in East and South-East Asia. Looking around in South Asia, it is seen that Bangladesh is not alone in confronting



issues of labour migration. Some countries in South Asia are also fast becoming both countries of transit and destination. In view of this, it is urgent that we learn from the countries of destination and take proactive steps towards regional and inter-regional cooperation.

However, Bangladesh is trying to apply the principles and standards set up by the ILO for migrant workers. It makes me happy that the ILO and the Swiss Agency for Development and Cooperation see value in our efforts and thereby collaborate with us. And finally, thanks to all concerned for their painstaking endeavor to make the seminar a success.

Dr Zafar Ahmed Khan

Secretary
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Government of the People's Republic of Bangladesh
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Plenary session 1

Protection and support services for women and men migrant workers during employment and sojourn in destination countries and responsibilities of countries of origin and destination: Challenges, international standards and selected practices in Asia

By Nilim Baruah¹

1.1. Background

The human desire to seek decent employment and livelihoods is at the core of labour migration. The migration-development nexus is most commonly reflected in the considerable academic and policy interest generated in the scale of remittances to developing countries, but it can be too easily forgotten that these monies are sent to families and communities of origin by millions of migrants who work very hard every day (ILO, 2013a). The United Nations Population Division has estimated that the world's stock of migrants, defined as persons residing outside their country of birth, was 214 million in 2010. Estimates of migrant workers by the International Labour Organization (ILO) for 2010 are 105.5 million, out of which a little over 30 million (or almost 30 per cent) were in Asia (ILO, 2010, p. 17).

The development contribution that migrant workers make to their host and origin countries – in the form of services and competitiveness in countries of destination and financial flows in countries of origin has been well documented. Migration helps to improve the quality of life of many migrants and their families. Many migrants are filling a niche in the destination labour markets by doing jobs that nationals do not want or cannot fill. Nevertheless, many migrant workers and their families are

subject to labour exploitation and abuse. Host societies are often resistant towards the immigration of lower-skilled workers. Unauthorized migration is fairly widespread. The protection of jobs for nationals is an understandable policy concern. Developing the right policy and legislative response that balances the different interests and effectively governs migration is a relatively complex and difficult process, particularly where admission policies are concerned. Politicians and policy-makers face a sensitive and challenging task in convincing and educating national populations on the need for foreign labour.

The United Nations (UN) and ILO aggregate statistics on the numbers of migrant workers, it must be said, do not fully reflect the significance of the migrant workforce in many countries and economic sectors. Gulf Cooperation Council (GCC) countries, a destination for many migrant workers from South and South-East Asia, rely on foreign labour to fill over 90 per cent of private sector jobs (Abella & Martin, 2012). In 2010 in Malaysia the Government estimated there were 1.4 million migrant workers in three sectors: manufacturing, construction, and agriculture. In terms of the share of migrant workers in the labour forces of these three sectors, 37 per cent of manufacturing workers are migrants and 28 per cent of workers in both construction and agriculture are migrants. In all, migrant workers account for 32 per cent, or almost one-third, of all workers in these three sectors. These three sectors accounted for 45 per cent of the total workforce in Malaysia in 2010 (ILO, 2011b).

There are three main directions of organized labour migration flows in Asia: (1) from South Asia and South-East Asia to GCC countries; (2) to and within the region of the Association of South-East Asian Nations (ASEAN); and (3) to East Asia, mainly from countries in South-East Asia. In other words, most of the labour migration flows in this large and diverse region with strong economic growth are intra-regional. Economic growth, demographic changes, labour shortages, and wage differentials among countries of origin and

¹ The author of the paper is Nilim Baruah, Regional Migration Specialist at the ILO Regional Office for the Asia Pacific, and former Head of the Labour Migration Division, IOM, Geneva. This paper draws on: Baruah, N. Forthcoming. *Managing low skilled migration and decent work in Asia (ILO) in Labor migration, skills & student mobility in Asia* (ADB).

destination continue to drive labour migration in Asia.

Labour migration largely occurs under temporary migration regimes and is for less-skilled work. Women comprise almost 50 per cent of the flows and are concentrated in domestic work. The region is marked by substantial remittance inflows. There were six Asian countries among the top 20 remittance receiving countries in 2012 (World Bank, 2012). Some Asian countries (like Thailand and Malaysia) host a large number of undocumented migrant workers alongside legal channels. India and Pakistan, while having little or no legal avenues for low-skilled labour migration, also host a large number of undocumented migrants.

While females constitute 49 per cent of the migration stock globally, in the region, because most migration in Asia and the Pacific is for temporary labour migration, the proportion of women in migrant streams varies considerably (TWG-Migration, 2012). Women comprised 64 per cent of the migrant workers deployed by Indonesia in 2011 and approximately half of those deployed by the Philippines and Sri Lanka in 2010. In contrast, only 18 per cent of the workers deployed by Thailand are women (TWG-Migration, 2012).

In addition to intra-regional flows, there are skilled labour flows to Organisation for Economic Cooperation and Development (OECD) countries. Higher wages in OECD countries combined with selective employment policies of the OECD that favour skilled migration of foreign workers attract a large and growing skilled workforce, especially from India, China, and the Philippines. Further, more and more Asian students are going abroad for higher education. OECD countries remain as the main destinations for these students, and many students choose to stay on and seek employment after they have completed their studies.

1.2 Challenges

While labour migration in Asia generates substantial benefits for countries of origin in terms of jobs and remittances (and for countries of destination, in human resources), abuses during recruitment and employment are quite common and have been well documented (Wikramasekara, 2011). Private recruitment agencies play a primary role in matching job seekers and employers. However, malpractices

and abuses are fairly common, and include: high costs and fees, misrepresentation, failure to meet placement obligations, and contract substitution. The high recruitment costs combined with low wages have led to heavy debt burdens for workers. Women face barriers in finding overseas employment, and female domestic migrant workers are among the most vulnerable.

During employment overseas, migrants are often concentrated in sectors with inadequate labour legislation and enforcement. Abusive practices include the withholding of wages, retaining passports or identity documents, and threats of denunciation to the authorities. Female domestic workers in private households and male migrants working on fishing boats or in agriculture are the least protected from abusive practices. Women, more often than men, hold jobs that leave them unprotected by laws that cover other workers. Sexual exploitation sometimes goes hand in hand with labour exploitation (TWG-Migration, 2012).

The increasing importance of labour migration in the region has raised the issue of social protection, including access to essential health care and income security. Social protection schemes are often limited to the formal sector and non-migrant population. In Asia, the majority of the working population, including migrant workers, is employed in informal sectors not fully covered by labour laws or social protection measures. A particular challenge for women migrants is that most countries in the Middle East and Asia have yet to extend to domestic workers the same minimum protections that apply to workers generally (ILO, 2013b). The recent extension of weekly rest to migrant domestic workers in Singapore and Thailand might be an indication of future efforts, stimulated by the new Domestic Workers Convention, 2011 (No. 189), towards better legal protection. The ILO has adopted a number of instruments and minimum standards that guide countries in their efforts to ensure that migrant workers and their family can exercise their right to social security and social services.²

² Relevant guidelines are found in the Social Security (minimum standards) Convention, 1952 (No.102); Recommendation on National Floors of Social Protection, 2012 (No.202); Equality of Treatment (Accident Compensation) Convention, 1925 (No.19); Equality of Treatment (Social Security) Convention, 1962 (No.118); Maintenance of Social Security Rights Convention, 1982 (No.157); and the Maintenance of Social Security Rights Recommendation, 1983 (No.167). The adoption of a new Recommendation on the Social Protection Floor (No.202) in June 2012 at the ILO reaffirmed that all residents of a country should be guaranteed access to essential social services and basic income security, at least at a nationally defined minimum level.

Memorandums of Understanding (MOUs) have not always adequately served their purpose. In some countries, more migrant workers enter undocumented than through an MOU process. This is partly explained by slow emigration procedures in the countries of origin. Nevertheless, MOUs and bilateral agreements are an important tool in Malaysia, the Republic of Korea, Thailand, and elsewhere, both to put order in the migration process and to agree on standards for the employment of migrant workers. Countries of origin are keen to pursue and review agreements that protect their migrant workers and provide admission.

The irregular movement of migrants, refugees or non-refugee stateless persons creates particular difficulties for States. It can challenge the principles of national sovereignty and good neighbourly relations. It can also raise humanitarian concerns for the individuals concerned, whose lives or physical integrity might be at risk. It can further fuel public disquiet and controversy due to lack of awareness of the reasons why certain categories of persons might be compelled to move in search of safety and security (TWG-Migration, 2012).

Policy-makers (as well as host populations) require more comprehensive information about international migration and more analysis of its impacts. There is considerable potential for international organizations, subregional organizations, and South-South cooperation, for example, to carry out initiatives to improve the evidence base for effective policy-making. At the national level there is more need for data and analysis to underpin the development of coherent policy on migration governance. The results of such studies can be used for policy development as well as information dissemination on the positive contributions made by migrants.

Although national legislation in East Asia and South-East Asia generally provides for equal treatment between nationals and migrants, and countries have ratified several (but not all) international standards, including international human and labour rights standards, and ASEAN has recognized the importance of protection of migrant rights, some of the problems that remain for migrant workers in Asia are:

- Tying of migrant workers' contracts to employers makes the worker vulnerable to abuse and the risk of becoming undocumented.
- Migrant workers in such occupations as fishing and domestic work are either not covered by labour legislation or enforcement is weak.
- Trade union rights are restricted in some countries (and do not exist in some GCC countries), so migrants in low-wage sectors are often not organized.
- Social security is generally not available and not portable.
- There is a high proportion of undocumented migrant workers in some countries;
- Levels of support services in the country of origin vary.
- Public attitudes towards low-skilled migrant workers are generally not supportive (ILO, 2011a).
- Migrant workers may lack protection and fair treatment during crises and emergencies.
- Children of migrants born abroad may fail to obtain nationality because of incompatible nationality laws or because their births are not registered, or they may lose their nationality by operation of law as a result of long residence abroad (TWG-Migration, 2012).

1.3 Norms and international agreements

The protection of the rights of workers employed outside their countries of origin has been the subject of increasing concern throughout the UN system. An array of international instruments exists to provide standards for human and labour rights (see Chapter annex 1.1). The rights and freedoms stipulated in the Universal Declaration of Human Rights (1948) apply equally to migrants as to any other individual, as do the provisions of the human rights instruments which have subsequently been developed by the UN. The protection of the human rights of men and women migrant workers and the promotion of their equal opportunity and treatment is also embedded in the

Preamble to the Constitution of the ILO of 1919, and in the Declaration of Philadelphia of 1944. Special attention is devoted to migrant workers in the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998). International instruments protecting migrant workers however do not generally disturb the sovereign right of States to regulate the admission of migrant workers into their territory (OSCE, IOM & ILO, 2006).

The ILO fundamental principles and rights at work apply to all workers and cover four areas: elimination of all forms of forced and compulsory labour; effective abolition of child labour; elimination of discrimination in employment and occupation; and freedom of association and right to bargain collectively. The Migration for Employment Convention, 1949 (No. 97) and Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) were the first international instruments providing more comprehensive solutions to the problems facing migrant workers. They put forward equal treatment between regular status migrants and nationals in employment and working conditions; and measures to address irregular migration (Convention No. 143). The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990, is the most comprehensive instrument on rights of migrant workers and family members, and extends the rights of irregular migrant workers. Along with ILO Convention No. 143, it contains provisions intended to ensure that all migrant workers enjoy a basic level of protection, whatever their status.

The ILO Convention on Private Employment Agencies, 1997 (No. 181), the applicable international labour standard for recruitment, has been ratified by 26 countries globally, including two in the Asia-Pacific region. The Convention prohibits the charging of recruitment fees to job-seekers. Governments in Asia have, however, generally opted to allow the charging of fees within a ceiling.

The most recent ILO Convention is the Domestic Worker Convention, 2011 (No. 189), which recognizes domestic work as work and provides a historic opportunity to make decent work a reality for domestic workers. The Philippines has been among the first

in the world to ratify the Convention. Thailand and Singapore have recently enacted new regulations on domestic work that extend some of the provisions of the Convention to domestic workers, covering paid leave and working hours, among other rights.

At different international forums on international labour migration in Asia – namely the tripartite-plus ASEAN Forum on Migrant Labour (AFML), and the inter-State Colombo Process and the Abu Dhabi Dialogue covering the GCC countries and countries in South and South-East Asia – improving the recruitment process and recommendations toward effective recruitment practices and regulations have been a top item on the agenda. The Abu Dhabi Dialogue has put forward agreed guidelines on realistic and easy-to-understand maximum recruitment fees, incentives for good performance by private employment agencies, and improved labour market information. The AFML has put forward a wider range of recommendations, including an accreditation system for foreign employers for direct recruitment, heavy penalties for infringements, positive ratings for ethical recruitment, monitoring of recruitment agencies by stakeholders (in addition to regulators), transparency and affordability in costs, streamlining of emigration procedures, information dissemination, and establishing effective complaints mechanisms and support services.

1.4 The ILO Multilateral Framework on Labour Migration (MFLM), and on-site protection

The ILO MFLM is a global framework of non-binding principles, guidelines, and good practices on a rights-based approach to labour migration. It is:

- anchored on ILO Conventions and standards and promotes best practices;
- based on tripartite negotiations and consensus of countries of origin and destination; and
- adopted in November 2005 at a tripartite meeting of experts.

There are nine thematic areas consisting of 15 broad principles and corresponding guidelines and a compilation of 132 best practices.

The nine areas or themes are:

1. decent work – access to freely chosen employment; recognition of fundamental rights at work; income to meet basic needs and responsibilities; adequate level of social protection;
2. means for international cooperation in labour migration;
3. global knowledge base;
4. effective management of labour migration;
5. protection of migrant workers;
6. prevention of and protection from abusive practices;
7. promotion of orderly and equitable processes of labour migration;
8. promotion of social integration and inclusion; and
9. contribution of labour migration to development.

In this paper, we will highlight some of the principles and guidelines particularly relevant to the role of countries of origin and destination in the protection of women and men migrant workers during their employment and stay.

1.4.1 Protection of migrant workers

The **principles** in this area concern the application of international human rights law and international labour standards (ILS) to migrant workers, and are reflected below:

“The **human rights** of all migrant workers, regardless of their status, should be promoted and protected. In particular, all migrant workers should benefit from the principles and rights in the 1998 ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, which are reflected in the eight fundamental ILO Conventions, and the relevant United Nations human rights Conventions” (ILO, 2006, p. 15).

“All **international labour standards** apply to migrant workers unless otherwise stated” (ILO, 2006, p. 16).

“The protection of migrant workers requires a sound legal foundation based on international law. In

formulating national law and policies concerning the protection of migrant workers, governments should be guided by the underlying principles of the Migration for Employment Convention (Revised), 1949 (No.97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) [...] particularly those concerning **equality of treatment** between nationals and migrant workers in a regular situation and **minimum standards** of protection of **all migrants**” (ILO, 2006, p. 16).

Guidelines that were developed (as “may prove valuable in giving practical effect to the above principle”), include:

Information, legal assistance, and training to migrant workers on their rights and obligations and assisting them with defending their rights. Training on human rights to all government officials involved in migration. Providing information to employers’ and workers’ organizations on the rights of migrant workers. Providing interpretation and translation services for migrant workers, if necessary.

Policy and legislative development: Legislation and policies should be adopted, implemented, and enforced to implement the ILO fundamental Conventions. This includes protecting migrant workers from conditions of forced labour, including debt bondage and trafficking, particularly migrant workers in an irregular situation or other groups of migrant workers who are particularly vulnerable to such conditions. Adopting and implementing a national policy that promotes and aims to ensure equality of treatment for regular migrant workers and nationals in respect of national labour laws and practices and access to social protection in accordance with Convention No. 97.

Bilateral, regional, or multilateral social security agreements: Entering into such agreements to provide social security coverage and benefits, as well as portability of entitlements, to regular workers and, as appropriate, to migrant workers in an irregular situation.

Wage protection: Adopting measures to ensure all migrant workers’ wages are paid directly to them on a regular basis, and that they have the freedom to dispose of their wages as they wish.

Labour inspection: Extending labour inspection to all workplaces where migrant workers are employed in order to monitor their working conditions and supervise compliance with employment contracts.

Written employment contracts: Promoting the establishment of written employment contracts to serve as the basis for determining obligations and responsibilities and a mechanism for the registration of such contracts where it is necessary for the protection of migrant workers.

Effective remedies and complaints mechanism: Providing for effective remedies to all migrant workers for any violation of their rights, and creating effective and accessible channels for all migrant workers to lodge complaints and seek remedy.

Effective sanctions and penalties: Implementation of, against all those responsible for violating migrant workers' rights.

In addition, a separate section addresses Prevention of and Protection against Abusive Migration Practices. An important guideline in this section is prohibition of the retention of migrant workers' identity documents.

1.4.2 Effective management of labour migration

The principles in this area are in conformity with one of the primary governing rules of international migration – that the State has broad (but not absolute) competence to control and regulate the movement of persons across borders. The principles also underline the importance of international standards; expanding legal labour migration avenues, while taking into account labour market and demographic factors; and social dialogue. The principles are as follows:

- All States have the sovereign right to develop their own policies. ILS and other international instruments, as well as guidelines, as appropriate, should play an important role in making these policies effective and fair.
- Expanding avenues for regular labour migration should be considered, taking into account labour market needs and demographic trends.

- Social dialogue is essential in labour migration policy development and should be promoted and implemented.
- Governments and social partners should consult with civil society and migrant associations on labour migration policy.

Social dialogue, that is, consultation by governments with representative employers and workers organizations, is indeed essential to the development of sound labour migration policy, given that employers and workers are direct stakeholders in the labour migration process and its outcomes. In addition, cooperation at all levels (bilateral, regional, and multilateral) between governments, trade unions and civil society, employers organizations/private sector, and other stakeholders is necessary for ensuring the protection of migrant workers and securing the development benefits of labour migration. Cooperation is also key for countering all forms of intolerance and promoting social cohesion and inclusion through the economic and social participation of migrants (TWG-Migration, 2012).

1.5 Selected practices on protection during employment at the national, bilateral, regional, and global levels

1.5.1 National level – Countries of origin and destination

Countries of Origin

A priority concern for all labour-sending governments is to ensure the well-being of migrant workers and to secure the payment of decent wages and basic provisions. There are no perfect systems of regulation for labour migration. However, countries of origin do have a range of policy strategies that can extend the scope and improve the efficiency of their regulatory mechanisms and support services (OSCE, IOM & ILO, 2006).

The provision of support services to labour migrants can extend from information provision, a contributory welfare fund to meet protection and emergency needs in the country of destination, provision of insurance coverage, posting of labour attachés to protect and assist workers abroad, and (subject to the laws of the destination countries) the operation of shelters and migrant service centres.

Migrant welfare funds (MWFs)³: MWFs can be an innovative and financially sustainable means of providing support services to vulnerable migrants and those migrants who are in distress. MWFs are implemented in a range of South-East Asian and South Asian countries and have the potential to be of value to all labour-sending countries. The principal objectives of the funds are to provide protection to overseas workers on the job site and promote their welfare; provide health insurance, including benefits and services in case of disability or death; financial support for repatriation of remains; and fares for involuntary return. The funds provide other services for workers and their families, including pre-departure orientation, support for education and training, and credit for various purposes (e.g., financing migration, housing, and small businesses).

Migrant welfare funds are administered by public or semi-public agencies: for example the Overseas Pakistani Foundation (OPF), the Philippine Overseas Workers Welfare Administration (OWWA), and the Sri Lanka Overseas Workers Welfare Fund (OWWF). They are financed by contributions from employers and/or workers fixed at about US\$25 per person. Their principle objectives are similar, but the funds differ in their methods in delivering services, with some being more effective than others.

Financial reports published by the welfare funds reveal the protection they have provided (Tan, 2005). Pakistan allocated 13 per cent of its welfare services budget at job sites, covering consultations, legal services, repatriation of remains, and return of migrants. Sri Lanka allocated a higher proportion, 35 per cent of its budget for the same purposes (Tan, 2005). The Philippine MWF runs 32 labour migrants' centres (as of 2012) in countries with large concentrations of migrant workers.

Membership with the welfare fund automatically includes insurance against accident, disability, and death. The fee is uniform for all labour migrants irrespective of variations in risk of death, disability, or expected income loss likely to incur in specific professions or destinations. The risk is greatest for

the less-educated female housemaids located in the Middle East, while professional workers in all countries face relatively low risk. In Sri Lanka and Pakistan, migrant insurance is channelled through State insurance companies, while the Philippines welfare fund handles insurance claims itself.

It has been argued that the insurance schemes in all three countries, although a start, are insufficient and need to be reformed in order to make them commensurate with the risks labour migrants face, for example, by setting premiums and benefits which reflect the level of risk of death or disability and of expected loss of income. One solution could include retention of the present scheme as a common base for all labour migrants, but allowing them to take additional insurance voluntarily (Tan, 2005).

Depending on the circumstances, a welfare fund could generally be established as a component of a broader programme for promoting the welfare of migrant workers (and indeed has been in a number of Asian countries). However, objectives should be limited or at least focused on its core role: protection and services at the job site, and adequate insurance against death and disability.

Posting of labour attachés: The labour attaché is a member of the diplomatic mission appointed from the Ministry or Department of Labour and charged with functions relating to labour relations between their country and the host country. A labour attaché's primary task is to protect migrant workers in their diplomatic mission's jurisdiction. This function includes actions during the worker's recruitment, arrival, and employment and stay. In this regard, labour attachés undertake verification of employment documents prior to the actual recruitment and hiring of workers in their home countries, provide welfare assistance, provide legal counselling, and offer assistance in workers' repatriations in cases of serious illness or death. In some countries, labour attachés also perform employment development functions and assist in the formulation of effective policies on protecting migrants. Labour attachés are usually posted in areas with a high concentration of migrant workers who may need government assistance on problems arising out of employee-employer relationships. Given the numbers involved, it is often an often real challenge for labour

³ The best account of MWFs to date is provided by Tan, E. 2005. "Welfare funds for migrant workers: A comparative study of Pakistan, the Philippines and Sri Lanka", in International Organization for Migration (IOM): *Labour migration in Asia: Protection of migrant workers, support services and enhancing development benefits* (Geneva, IOM), p. 153 – 218.

Table 1.1: Labour attachés from Bangladesh, Indonesia, Myanmar, the Philippines, Thailand, Sri Lanka, and Viet Nam

Country	Number of Labour Attachés	Countries / Territories of assignment
Bangladesh	17	Asia (5): Singapore; Japan; Republic of Korea; Malaysia; Mauritius Middle East and Africa (11): Saudi Arabia (Riyadh; Jeddah); United Arab Emirates (Abu Dhabi; Dubai); Bahrain; Qatar; Oman; Kuwait; Iraq; Libya; Jordan; Europe, Americas, & Trust Territories (1): Italy
Indonesia	11	Japan; Jordan; Kingdom of Saudi Arabia; Kuwait; Malaysia; Qatar; Singapore; Republic of Korea; Syria; Taiwan (China); and United Arab Emirates
Myanmar	2	Republic of Korea and Thailand
Philippines	43	Asia (13): Hong Kong (China) (2); Singapore (2); Japan; Republic of Korea; Malaysia; Brunei; Taiwan (China) (Taipei; Kaohsiung; Taichung); Macau (China); Australia Middle East and Africa (18): Saudi Arabia (Riyadh; Al-Khobar; Unaizah/CRO; Jeddah [2]); United Arab Emirates (Abu Dhabi; Dubai); Bahrain; Qatar (2); Oman; Kuwait (2); Israel; Lebanon; Syria; Libya; Jordan Europe, Americas, & Trust Territories (12): Switzerland; Italy (Rome; Milan); Spain; Cyprus; UK and Ireland; USA; Canada (Vancouver; Toronto; Ottawa); Saipan, CMNI
Thailand	13	Brunei Darussalam; Germany; Hong Kong (China); Israel; Japan; Republic of Korea; Malaysia; Saudi Arabia (2); Singapore; Taiwan (China) (2); and Switzerland.
Sri Lanka	17	East Asia (4): Japan; Malaysia; Republic of Korea; Singapore South Asia (1): Maldives Middle East (11): United Arab Emirates (Abu Dhabi, Dubai); Bahrain; Israel; Jordan; Kuwait; Lebanon; Oman; Qatar; Saudi Arabia (Riyadh, Jeddah) Europe (1): Cyprus
Viet Nam	9	Malaysia; Japan; Republic of Korea; Taiwan (China); Czech Republic; United Arab Emirates; Libya; Qatar; and Saudi Arabia.

attachés or embassy officers to look after the welfare of their nationals in destination countries.

Labour attachés are usually appointed from the Ministry or Department of Labour but are posted in diplomatic missions under the immediate administrative supervision of the Head of Post/Mission. In some countries, like the Philippines, labour attachés in diplomatic posts subscribe to the “one-country team approach”, where they operate under the leadership of the Ambassador or Head of Mission.

Grievance and complaints mechanisms: Countries of origin in Asia with more mature labour migration regimes have established a complaints mechanism relating to perceived abuses during recruitment and employment. Recently the ILO and Sri Lanka’s Ministry of Foreign Employment Promotion and Welfare, supported by the Swiss Agency for Development and Cooperation, undertook a review and analysis of complaints mechanisms in Sri Lanka.

With reference to Table 1.2, below, the highest number of complaints (22 per cent) related to “non-payment

of wages”. Contract substitution is included in this category. Physical and sexual harassment comprised 11 per cent of complaints and another 10 per cent pertained to “not sent back after employment” and “stranded without employment”. All these complaints have occurred in the destination country, and an important role of origin countries is to have a mechanism in place to register complaints and then follow them up. In the case of Sri Lanka, in addition to complaints registered at the Sri Lanka Bureau for Foreign Employment (SLBFE), complaints are apparently recorded independently at their embassies in destination countries. For example, the 2008 progress report of the Labour Section of the Sri Lankan Embassy in Kuwait indicated that 4,800 complaints had been received locally by that mission, which stands in contrast to the 2,054 cases referred to SLBFE during the same year (ILO, 2013b). (This points to the need for developing a more unified complaints mechanism, including computerized data-sharing between SLBFE and the Ministry of External Affairs, as indeed has been recommended by the ILO study.)

Table 1.2: Nature and number of complaints related to migrant workers received by SLBFE 2006–12

Nature of the complaint	2006			2007			2008			2009			2010		
	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total
Non-payment of agreed wages	454	1 535	1 989	169	1 326	1 495	346	1 352	1 698	399	1 654	2 053	689	2 184	2 873
Lack of communication	109	2 402	2 511	108	1 578	1 686	56	1 210	1 266	90	1 526	1 616	80	1 472	1 552
Illness	78	584	662	50	629	679	87	763	850	114	941	1 055	150	1 606	1 756
Harassment (physical and sexual)	104	1 662	1 766	19	958	977	33	1 155	1 188	59	1 480	1 539	54	1 449	1 503
Not sent back after completion of contract	36	689	725	36	886	922	34	593	627	36	440	476	75	642	717
Stranded without employment	562	498	1 060	172	312	484	56	75	131	77	79	156	37	640	677
Problem at home (SL)	25	497	522	0	36	36	22	392	414	4	1 817	1 821	998	1 351	2 349
Breach of contract	939	314	1 253	333	695	1 028	666	735	1 01	1 109	47	1 156	119	17	136
Others	34	145	179	186	664	850	128	1 331	1 459	785	1 504	2 289	376	1 191	1 567
Total	2 341	8 326	10 667	1 073	7 084	8 157	1 428	7 606	9 034	2 673	9 488	12 161	2 578	10 552	13 130

Source: ILO, 2013b.

At the operational level in the host country, the Sri Lankan embassies and consulates, in coordination with the host government, play a key role in responding to requests for assistance. Such assistance has included counseling, shelter and repatriation (following rules of the host country), contacting employers or authorities about due wages, and legal assistance (in criminal cases).

Constraints identified in the study with regards to effective on-site assistance and resolution included: a very low ratio of labour welfare officers to migrant workers; a need for expertise and training among the officers; and better team work – gaps were found in coordination with host authorities and there was an absence of comprehensive written procedures. (The latter has now been developed in the form of the *Operational manual for labour sections in Sri Lanka Diplomatic missions in labour receiving countries*).

Table 1.3: Sri Lankan female domestic workers sheltered in safe houses maintained by Sri Lankan Diplomatic Missions in December 2010

Country	Number of residents
Abu Dhabi	11
Kuwait	399
Lebanon	20
United Arab Emirates	42
Jordan	95
Oman	31
Qatar	2
Jeddah	47
Riyadh	291
Malaysia	20
Singapore	2
Total	960

Source: SLBFE.

Countries of origin need to allocate adequate budgetary resources to the protection of their migrant workers, for it is these very same workers who are generating the remittances. Further, in order to set an example and as countries of origin are often to

some extent also countries of destination, the adoption and implementation of international human rights and labour standards relevant to migrant workers is equally important. In this respect, the Philippines, with its proactive and comprehensive policies to protect women and men migrant workers and its broad ratification of international human rights and labour standards, clearly stands out.

Countries of Destination

Post-admission policies in destination countries are concerned with a number of interrelated elements for regulating the labour market, ensuring protection of workers, and supporting community welfare. Important measures are generally required in five areas:

1. labour market regulation, including access, mobility, and recognition of qualifications;
2. protection of migrant (and national) workers in the employment context, including monitoring of terms and conditions of employment, access to vocational training, language and integration courses, allowing for freedom of association, and protection against discrimination;
3. facilitation of social cohesion, particularly through measures to prevent discrimination, promote family reunification, and assist integration;
4. improvements in social welfare, including areas of access to health care, education, housing, and community organizing; and
5. provisions on social security (OSCE, IOM & ILO, 2006).

Most of these measures are related to ensuring adequate protection for migrant workers while in the destination country, and are also found, in the form of minimum standards, in the international rule of law framework of human rights and international labour norms. However, these international standards can only have an impact on the daily lives of migrant workers if they are implemented effectively at the national level. The protection of migrant workers while working in the destination country is best secured by the legislation of that country, whether this is by

the labour code, employment legislation, or other rules concerned with the regulation and protection of foreign workers (and which apply and build on the minimum norms accepted at the international and regional level). Moreover, even if the countries concerned are not yet prepared to adopt in full these international or regional standards, they can still serve as a foundation and model for the development of national legislation.

Employment Permit Scheme (EPS) of the Republic of Korea

Among Asian countries facing a need for foreign migrant workers in their small and medium-sized enterprises, the Republic of Korea is an important example of a destination government making good progress towards a fair employment system for migrant workers. With its own history as a source country of migrant workers for many years, the design and implementation of the Korean Employment Permit System (EPS) addresses some of the basic problems inherent in Asian labour migration systems. First, the Republic of Korea transformed its Industrial Trainee Program into an Employment Permit System, shifting from the recruitment of trainees and apprentices to a system employing workers and employees. This change was significant. By recognizing that the foreign migrants are indeed workers, these same migrants hired under the EPS are assured protection under Korean labour law.

The Republic of Korea entered into MOUs with eventually 15 countries in East, South-East, South, and Central Asia. It required that all recruitment and placement of workers for the EPS be covered under government-to-government arrangements. This is part of an overall effort to reduce the high costs of emigrating for work to the Republic of Korea.

The Republic of Korea also introduced standardized employment contracts for employers and workers, and is progressively providing support services for its migrant workers in job centres and through other channels in cooperative arrangements with NGOs. The Republic of Korea has also negotiated a partnership agreement with the ILO, and as part of this agreement, is holding dialogues with which it has formulated MOUs on the implementation of the EPS. Through this

arrangement, the ILO has facilitated national dialogues in Indonesia, the Philippines, Thailand, Viet Nam, Sri Lanka, Bangladesh, Mongolia, Nepal, Cambodia, Kyrgyzstan, and Myanmar, with a workshop to follow in Pakistan in August 2013. Similarly the ILO has also facilitated regional consultations between the Republic of Korea and countries of origin, the most recent being held in Bangkok in December 2012.

The main features of the EPS are:

1. First, the priority remains to employ local workers. Firms are eligible for the EPS only if they fail to hire local workers.
2. The workers are hired in specific sectors, largely small businesses and farms.
3. Recruitment is done by employers and the public placement agency in the country of origin to prevent irregularities and the intervention of private brokers.
4. There is a Korean-language requirement.
5. Foreign workers do not have access to permanent residency.
6. Foreign workers enjoy the same labour rights as local workers.

The EPS is open to small and medium-sized enterprises (SMEs) in the following industries: manufacturing, construction, agriculture and livestock, and fishing. Since 2013, the EPS has been available to the service sector (including refrigeration and cold storage). As of May 2012, 84,000 workplaces have employed foreign workers, of which 68 per cent are workplaces with 10 or fewer employees and 88.7 per cent have 30 or fewer employees (Lee, 2012).

The employment period allowed under EPS has been extended from three years to four years and 10 months.⁴ Workers can be employed for an additional four years and 10 months through the re-entry system, if certain conditions are met. These conditions include the industry and firm size restrictions mentioned above, and also the requirement that the worker has not changed employers during their initial work term. Workers who seek re-entry must also return home for three months between employment periods in the

⁴ As a stay of at least five years provides potential access to permanent residency.

Republic of Korea. These measures were introduced to utilize the skills acquired by workers while employed in the Republic of Korea and to reduce the number of illegal stays and workplace changes.

The annual foreign worker quota under the EPS for MOU countries has increased steadily since 2004. In that year, the Republic of Korea allowed entry to a total of 25,000 migrant workers from MOU countries, by 2012 the annual quota under the EPS was raised to 57,000 persons. There was, however, a sharp drop in migrant worker employment in 2009 due to economic contraction in the Republic of Korea as a result of the global financial crisis. As of May 2012, the stock of EPS workers is 193,788 (Lee, 2012, p. 9).

The Ministry of Employment and Labour in the Republic of Korea has highlighted certain key achievements of the EPS:

- The average sending cost per worker has been decreased from US\$3,509 (under the old Industrial Trainee System in 2001) to US\$1,290 (in 2012).
- The rate of unpaid wages has reduced from 36.8 per cent (2001) to 9.0 per cent (2007) (Choi, 2013).

However, the EPS continues to face certain key challenges. Voluntary return of workers has become a major issue, as the number of workers due to return has been increasing (67,000 finished their contracts in 2012 and 36,000 will finish in 2013). New systems are being introduced to encourage workers to return home. A survey of 776 foreign workers conducted in July 2012 showed that 49.2 per cent of workers intend to return voluntarily, 17.8 per cent do not, and 33 per cent had no comment (Lee, 2012). Second, some economists question whether the operation of the EPS is desirable from an economic perspective, including the costs and benefits of engaging foreign workers, in particular the maintenance of sectors dependent on the supply of low-wage labour (Lee, 2012).

Under the EPS, foreign workers are provided with equal rights as national workers. The Labour Standards Act (1997), the Minimum Wage Act (1986), and the Industrial Safety and Health Act (1990) apply equally

to foreign and Korean workers. Occupational Health and Safety Insurance and Health Insurance are mandatory. Unemployment insurance is optional and pensions reciprocal.

In order to support the sojourn of foreign workers, the Republic of Korea has implemented the following measures (Choi, 2013):

1. Job training: covering Korean language, work life in Korea, labour laws and immigration control, grievance and sexual harassment prevention, industrial safety and health.
2. Foreign workers' insurance: Insurance policies are taken out by the employer and by the foreign worker.
3. Monitoring early adaptation: Workers who have been in the Republic of Korea for less than three months are monitored and given support according to their needs. Sixty-eight interpreters⁵ have made 66,590 (2012) on-site visits to effectively handle workers' complaints and conflicts with employers.
4. Support Centre for Foreign Workers: Thirty-three centres nationwide provide counselling via hotline system or in person as well as training in Korean language, culture, and laws. Skills and language training is provided for workers who are looking for a new job. Skills training for workers is available in computing, forklift truck driving, excavation work, auto repair, and electronic welding. Centres also assist in resolving disputes with employers, organize cultural events, and provide free medical services.
5. The Council for the Protection of the Rights and Interests of Foreign Workers operates 19 job centres in areas where there is a high concentration of foreign workers, in order to tackle conflicts between foreign workers and their employers and any difficulties related to workplace changes. The council is made up of representatives from employees' and employers' organizations and organizations supporting foreign workers.

⁵ Also an additional 671 volunteer interpreters.

6. On-site monitoring and supervision is conducted twice a year by labour supervisors and job centre staff. In 2012, 4,402 companies were monitored for issues including delays in wage payments and forced labour. Inspections confirm that the employer is eligible to hire foreign workers and that the appropriate regulations are being followed. Criminal penalties and fines are in place for misconduct.

The Occupational Health and Safety (OHS) system in the Republic of Korea is based upon two pillars: prevention and compensation. Despite best efforts, in 2012 approximately 100,000 workers sustained injuries at the workplace, of whom 5 per cent were migrant workers, and 2,000 people lost their lives in workplace accidents. Therefore, migrant workers' safety at work is a priority. The Republic of Korea OSH system applies equally to foreign and national workers, as per the protection afforded to migrant workers under Republic of Korea law (Lee, 2013).

In 2010, there were 610,590 migrant workers in the Republic of Korea, and in 2012 there were 6,165 accident cases involving migrant workers, the majority of which (66.2 per cent) occurred in the manufacturing industry, followed by construction (17.2 per cent). Crushing is the most frequent workplace accident type (39 per cent). Of the victims, 66.7 per cent had been employed for less than six months (and were therefore characterized as unskilled and inexperienced). This shows the importance of providing OSH training prior to the workers' departures from their countries of origin. The majority of accidents occur in small enterprises of one to 49 employees, and which may have little human resources assigned to oversee accident prevention in the workplace.

Accidents are caused by: (1) misunderstanding of safety rules (44.8 per cent); (2) excessive workload (27.6 per cent); and (3) poor work conditions (27.6 per cent). According to the Korea Occupational Safety and Health Agency (KOSHA), the majority (88 per cent) of accidents occur due to unsafe behaviour, and only 10 per cent are related to an unsafe work environment (Lee, 2013).

KOSHA has introduced prevention measures, including:

- learning Korean to prevent miscommunication and misunderstanding of safety rules;
- wearing personal protective equipment (as regulated by Republic of Korea law);
- worksite clean-up; and
- safety awareness.

In order to address the specific vulnerabilities of migrant workers, KOSHA has implemented the following:

- on-site training and visits by KOSHA, including mobile training facilities;
- off-line materials – pocketbooks, textbooks, videos, stickers, posters, safety warnings (materials will be provided in migrant's language); and
- website training materials and videos.

“International standards can only have an impact on the daily lives of migrant workers if they are implemented effectively at the national level.” – Nilim Baruah, Regional Labour Migration Specialist, Regional Office for Asia and the Pacific, ILO

The Republic of Korea's EPS, while not perfect, provides a good illustration of policies and measures taken by a destination country to protect and support the rights of migrant workers in conformity with international standards in a number of areas. An important point to note is that the Government of the Republic of Korea has invested significantly in the preparation and execution of the EPS, in terms of research, time, and funds. Even so, it continues to face some key challenges, including the voluntary return of workers (which is one of the EPS features) and the question of industrial restructuring and maintenance of sectors dependent on the supply of low-wage labour.

1.6 Promoting international cooperation and partnerships in addressing international labour migration

Despite the strenuous efforts made by some sending countries to protect migrant workers, migrant workers continue to experience numerous problems in destination countries, particularly vulnerable groups such as female domestic workers and lower-skilled workers. There are clear limits to what a State can do to protect its migrant workers without the active cooperation of the countries of employment (Baruah, 2003). In addition to the protection and welfare of migrant workers, inter-State and international cooperation is essential in expanding organized labour migration and curbing irregular movement.

Moreover successful management of international migration is an inherently multilateral concern requiring cooperation between various stakeholders. Cooperation on migration issues takes place at the global, regional, subregional, bilateral, and national levels.

1.6.1 Forums for international dialogue

The General Assembly of the United Nations convened a High-level Dialogue on International Migration and Development in 2006, attended by representatives from more than 160 countries. The 2006 high-level dialogue provided a useful opportunity to constructively address the issue of international migration and development. Most member States that participated in that high-level dialogue expressed an interest in continuing such a dialogue through the establishment of the non-binding, government-led Global Forum on Migration and Development (GFMD).

In preparation for the second High-level Dialogue on International Migration and Development to be held in October 2013, the Asia-Pacific Regional Preparatory Meeting for the General Assembly High-level Dialogue on International Migration and Development 2013 was held in Bangkok from 29 to 31 May 2013 with 22 representatives of Economic and Social Commission for Asia and Pacific (ESCAP) members present. The objective of the meeting was to provide a regional forum to identify key migration and development issues, challenges, and priorities

in the Asian and Pacific region. The outcome of the meeting will serve as an Asia-Pacific regional input to the preparatory process for the above-mentioned High-level Dialogue. Four roundtable discussions considered the following:

1. ensuring respect for and protection of the rights of all migrants, and promoting legal and orderly labour migration;
2. addressing the gender dimensions of international migration and their impact on women, children, and families;
3. assessing the effects of international migration on sustainable development and identifying relevant priorities; and
4. promoting regional cooperation and institutional coherence and partnerships in addressing international migration.

An ILO tripartite technical meeting on labour migration will be held in Geneva on 4-8 November 2013. Other important stakeholders such as Global Migration Group (GMG) agencies and civil society organizations will be invited as observers. Four themes are being proposed for discussion at this meeting:

- (1) labour and work-related issues in the international debates on migration and development and the post-2015 development agenda;
- (2) protection of migrant workers, with reference to the particular vulnerabilities of low- and middle-skilled workers;
- (3) labour market and migration issues, including recognition and certification of skills, and methodologies/strategies for assessing labour market needs; and
- (4) international cooperation and social dialogue for well-governed international and regional labour migration and mobility.

The International Organization for Migration (IOM) Council also provides a global platform for dialogue on international migration.

1.6.2 Forums for regional cooperation

Regional Consultative Processes (RCPs) on Migration are repeated consultations among governments and international organizations that take place outside of formal institutional structures (TWG-Migration, 2012). There are three active RCPs that involve primarily governments from Asia:

- the Colombo Process: a forum of labour sending countries in South and South-East Asia focusing on the recruitment and employment of their overseas workers in GCC countries;
- the Abu Dhabi Dialogue: which covers both countries of origin in the Colombo Process and destination countries in the GCC; and
- the Bali Process: which focuses on smuggling, trafficking in persons, and related transnational crimes.

The Colombo Process, which began in 2003 at the initiative of Sri Lanka and Indonesia, with secretariat support of the IOM and in collaboration with ILO, represents an effort at policy coordination by labour sending countries. This was taken a step forward by engaging corresponding countries of destination at the initiative of the United Arab Emirates, through the establishment of the Abu Dhabi Dialogue. The Framework on Regional Collaboration, adopted at a Ministerial Meeting of the Abu Dhabi Dialogue in Manila in April 2012, provides a basic framework for cooperation among countries of origin and the GCC throughout the cycle of overseas employment. However, evidence of implementation of this framework is not clear at this point. While both these forums do provide a much needed regional/inter-regional platform for dialogue among governments in a very important labour migration corridor, the real impact on the policies of countries and the lives of migrant workers appears to be limited and has the potential to be enhanced.

1.6.3 Cooperation at the subregional level

The adoption of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers in January 2007 was a milestone. While implementation of the Declaration is a work in progress,

the obligations of labour-sending and labour-receiving States provide a good framework for action. ASEAN has also institutionalized a tripartite (plus civil society organizations) forum – the ASEAN Forum on Migrant Labour (AFML) – that provides a platform to gauge the implementation of the Declaration and share good practices. ASEAN Member States adopted the ASEAN socio-cultural community blueprint in November 2007, which proposes several detailed actions toward “Protection and promotion of the rights of migrant workers” (ASEAN, 2009, p. 12). The AFML has been supported by the ILO and IOM since its inception.

ASEAN has also adopted a blueprint for an ASEAN economic community, to be achieved by the end of 2015. The blueprint refers to a “free flow of skilled labour” and aims to allow “for managed mobility or facilitated entry for the movement of natural persons engaged in trade in goods, services, and investments, according to the prevailing regulations of the receiving country” (ASEAN, 2008, p. 15). To date, ASEAN Member States have negotiated broad mutual recognition agreements in eight priority professions⁶.

Collaboration at the ASEAN level is also being undertaken by employers and workers organizations, although this is at an early stage.

The South Asian Association for Regional Cooperation (SAARC) focuses on economic, technological, social, and cultural cooperation. Although SAARC does not have an explicit migration mechanism in its framework, its member States adopted the Convention on Preventing and Combatting Trafficking of Women and Children for Prostitution in January 2002 (TWG-Migration, 2012).

At both the regional and subregional levels, NGO networks and forums on protection of migrant workers are generally well established.

1.6.4 Bilateral cooperation

Bilateral cooperation on international labour migration can take place to benefit both sending and receiving countries by providing a framework for orderly and equitable migration management, and it serves as an important mechanism for ensuring migrants’ rights and

⁶ Those professions are the following: Accountants, engineers, surveyors, architects, nurses, physicians, dentists, and tourism professionals.

protection. The cooperation may be formalized through MOUs. For example, when horticultural enterprises in New Zealand face domestic labour shortages, seasonal workers are recruited from Kiribati, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu under the New Zealand Recognized Seasonal Employer Scheme (ILO, 2012). The Republic of Korea, Malaysia, and Thailand, with varying degrees of success, also address their low-skilled labour needs through MOUs with neighboring countries.

Inter-country trade union collaboration is another form of bilateral cooperation that is promoted by the ILO. Trade unions in countries of origin and destination have entered into agreements/MOUs on the protection of migrant workers, and in some cases, are actively implementing the agreements. For example, the General Federation of Nepalese Trade Unions (GEFONT) and the Korean Confederation of Trade Unions (KCTU) have entered into an Inter-country Trade Union Collaboration in the Protection of Migrant Workers: Memorandum of Understanding to promote and protect labour rights of Nepali workers in the Republic of Korea. The MOU was established as GEFONT faced constraints in reaching out to Nepali workers in the Republic of Korea and other destination countries, and felt that collaboration with the trade unions of destination countries was required to provide necessary support services and assistance to Nepali migrant workers. The objectives of the collaboration are to ensure effective implementation of labour contracts; to enforce Republic of Korea labour law in relation to Nepali migrant workers; and to protect migrant workers from all kinds of difficulties in the workplace.

The ILO Multilateral Framework on Labour Migration provides guidance on “Means for International Cooperation on Labour Migration”, and this is very helpful to re-visit:

Governments, in consultation with employers’ and workers’ organizations, should engage in international cooperation to promote managed migration for employment purposes. Governments and employers’ and workers’ organizations should work with the ILO to promote coherence of labour migration policies at the international and

regional levels based on the guidelines set out below. The ILO should promote dialogue with other relevant international organizations with a view to developing a coordinated approach on labour migration based on the non-binding ILO Multilateral Framework on Labour Migration (ILO, 2006, p. 7).

Guidelines that “may prove valuable in giving practical effect to the above principle “include:

- developing the exchange of information between and among governments on labour migration issues;
- developing intergovernmental dialogue and cooperation on labour migration policy, in consultation with social partners and civil society and migrant worker organizations;
- promoting, where appropriate, bilateral and multilateral agreements between destination and origin countries addressing different aspects of labour migration, such as admission procedures, flows, family reunification possibilities, integration policy, and return – including, in particular, gender-specific trends;
- establishing mechanisms for tripartite consultations at regional, international, and multilateral levels;
- promoting bilateral and multilateral agreements between workers organizations in origin and destination countries providing for the exchange of information and transfer of membership; and
- promoting the role of the ILO as the lead agency on labour migration, including in its interaction with other regional and international bodies involved directly or indirectly on migration issues.

At the operational and bilateral level, the approach of the Republic of Korea with regard to the EPS is instructive. Following assessments, the Republic of Korea has signed MOUs with 15 countries of origin; investments have been made at both the country of origin and destination on training of and support services for migrant workers, as well as promoting orderly

migration; recruitment costs to migrant workers have been reduced by eliminating private intermediation; and employment and working conditions for migrant workers in most areas are in conformity with international labour standards. Periodic consultations with countries of origin on implementation of the MOUs are undertaken. This includes research and national and regional workshops to review the EPS, undertaken in partnership with ILO. Trade unions are also engaged in inter-country collaboration on protection of migrant workers.

The Republic of Korea as a receiving country is mirrored to some extent by the Philippines as a country of origin. The Philippines too has invested in promoting safe and orderly labour migration; has (more) widely ratified international labour standards; and has actively pursued bilateral agreements and discussions. Recruitment agencies, trade unions, and civil society organizations are consulted in labour migration policy formulation and implementation. In addition, the Philippines is active in regional and international forums on labour migration.

Chapter annex 1.1: Ratification of key ILS and Human Rights instruments relevant to the protection of the rights of migrant workers by GCC countries, ASEAN and three countries in South and South-West Asia

Table 1 – Ratification of key international instruments by Gulf Cooperation Council countries

	Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	United Arab Emirates
ILO Convention No. 29	1981	1968	1998	1998	1978	1982
ILO Convention No. 81	1981	1964		1976	1978	1982
ILO Convention No. 87		1961				
ILO Convention No. 97						
ILO Convention No. 98		2007				
ILO Convention No. 100					1978	1997
ILO Convention No. 105	1998	1961	2005	2007	1978	1997
ILO Convention No. 111	2000	1966		1976	1978	2001
ILO Convention No. 138	2012	1999	2005	2006		1998
ILO Convention No. 143						
ILO Convention No. 181						
ILO Convention No. 182	2001	2000	2001	2000	2001	2001
ILO Convention No. 189						
Palermo Protocol	2004 (a)	2006 (a)		2009 (a)	2008 (a)	2009 (a)
CEDAW	2002 (a)	1994 (a)	2006 (a)	2009 (a)	2000 (a)	2000 (a)
CRC	1992 (a)	1991 (a)	1996 (a)	1995 (a)	1996 (a)	1997 (a)
UN MWC						

Table 2 – Ratification of selected international instruments in the ASEAN + three region

	Brunei	Cambodia	Indonesia	Lao PDR	Malaysia	Myanmar	Philippines	Singapore	Thailand	Viet Nam	Republic of Korea	China	Japan
ILO Convention No. 29		1969	1950	1964	1957	1955	2005	1965	1969	2007			1932
ILO Convention No. 87		1999	1998			1955	1953						1965
ILO Convention No. 97					1964*		2009						
ILO Convention No. 98		1999	1957		1961		1953	1965					1953
ILO Convention No. 100		1999	1958	2008	1997		1953	2002	1999	1997	1997	1990	1967
ILO Convention No. 105		1999	1999		1958(d)		1960	1965(d)	1969				
ILO Convention No. 111		1999	1999	2008			1960			1997	1998	2006	
ILO Convention No. 138	2011	1999	1999	2005	1997		1998	2005	2004	2003	1999	1999	2000
ILO Convention No. 143							2006						
ILO Convention No. 181													1999
ILO Convention No. 182	2008	2006	2000	2005	2000		2000	2001	2001	2000	2001	2002	2001
ILO Convention No. 189							2012						
PALERMO		2007	2009	2003 (a)	2009(a)	2004(a)	2002		2001(s)	2012(a)	2000	2010(a)	2002
CEDAW	2006 (a)	1992 (a)	1984	1981	1995 (a)	1997 (a)	1981	1995 (a)	1985 (a)	1982	1987	1980	1985
CRC	1995 (a)	1992 (a)	1990	1991 (a)	1995 (a)	1991 (a)	1990	1995 (a)	1992 (a)	1990	1991	1992	1994
UNMWWC		2004(s)	2012				1995						

Table 3 – Ratification of relevant international instruments in South and South-West Asia

	Afghanistan	Bangladesh	India	Iran	Maldives	Nepal	Pakistan	Sri Lanka
ILO Convention No. 97								
ILO Convention No. 143								
ILO Convention No. 181								
ILO Convention No. 29		1972	1954	1957		2002	1951	1950
ILO Convention No. 87		1972					1952	1995
ILO Convention No. 98		1972				1996	2001	1972
ILO Convention No. 100	1969	1998	1958	1972		1976	1960	1993
ILO Convention No. 105	1963	1972	2000	1959		2007	1960	2003
ILO Convention No. 111	1969	1972	1960	1964		1974	1961	1998
ILO Convention No. 138	2010					1997	2006	2000
ILO Convention No. 182	2010	2001		2002		2002	2001	2001
Palermo			2002(s)				1957	2000(s)
CEDAW	2003	1984	1993		1993	1992	1996	1981
CRC	1994	1990	1992(a)	1994	1991	1990	1990	1991
UNMWC		2011(a)						1996(a)

ILO Forced Labour Convention, 1930 (No. 29)

ILO Labour Inspection Convention, 1947 (No. 81)

ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)

ILO Migration for Employment Convention (Revised), 1949 (No. 97)

ILO Right to Organize and Collective Bargaining Convention, 1949 (No. 98)

ILO Equal Remuneration Convention, 1951 (No. 100)

ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

ILO Abolition of Forced Labour Convention, 1957 (No. 105) (d=denounced)

ILO Minimum Age Convention, 1973 (No. 138)

ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)

ILO Private Employment Agencies Convention, 1997 (No. 181)

ILO Worst Forms of Child Labour Convention, 1999 (No. 182)

ILO Domestic Workers Convention, 2011 (No. 189)

Palermo Protocol on Trafficking 2000 (s=signed; a=ratified)

CEDAW: Convention on the Elimination of all forms of Discrimination against Women (a = ratified/accession)

CRC: Convention on the Rights of the Child (a = ratified/accession)

UNMWC: UN Convention on the Rights of All Migrants and Members of Their Families, 1990 (s=signed; a=ratified)

Plenary session 2

Ensuring the well-being of women migrant workers from Bangladesh

By Sajeda Amin⁷

2.1 Introduction

According to the UN, Bangladesh ranks among the top five countries of origin in terms of international migration (UN Population Division, 2011). While migration to more developed destination countries in North America and Europe often drive the terms of the conversation on international migration, the movement of people between less developed countries in the south is an increasing trend. South-to-south migration constitutes as much a third of the total flow of migrants. While female migration has long been restricted by social and cultural strictures that limit women's movement and labour market participation, there is good reason to expect that women's participation in international labour migration will increase. This paper anticipates that rising trend and discusses protective factors that are needed to ensure women's safe and productive migration. The nature and future trajectory of international female migration from Bangladesh is discussed in this paper as part of that broader global trend.

It is anticipated that demand for female migrant workers from Bangladesh will rise in unprecedented ways in the years to come. In the past, migration of women was held at low levels partly because of stringent restrictions on the legal migration of women, a practice that is common for most of South Asia. These restrictions have recently and gradually been relaxed, as have the enforcement of the remaining restrictions, such as on the migration of young women

under the age of 25 for work purposes.⁸ Thus, while some restrictions remain, an increase in the demand and supply of women may be anticipated as a result of broad shifts in the global demand for contract workers in specific sectors that differentially rely on women. This paper presents social protection measures that are needed to ensure the welfare of workers and reviews existing international and national conventions related to gender rights, labour, and migration that may be relevant for ensuring the well-being of female migrant workers.

2.2 Migration from Bangladesh

Although Bangladesh has pursued a labour-dependent path to development ever since independence in 1971, female labour migration has only recently emerged as an important area of concern for policy makers. Official policy, including specific bans on migration of women for contract work overseas, combined with strongly negative social attitudes towards women's labour migration, prevented women from being an important or consequential part of the international migration stream. Until the mid 2000s women's migration on time-bound work permits was disallowed by Bangladesh and this policy is largely held responsible for the fact that Bangladeshi women constituted less than one per cent of all such labour migration (Kibria, 2011).

Following the relaxation of restrictions, the Government of Bangladesh has issued increasing numbers of permits for female workers and the number of migrants has increased substantially. Estimates vary but suggest a rising trend – women migrants accounted for between three per cent (in 2010 per Belanger & Rahman, 2013) to five per cent (in 2008 reported by Kibria, 2011) of all Bangladeshi migrants but increased to 12 per cent in

⁷Sajeda Amin is a Senior Associate of the Population Council.

⁸There is relatively little evidence that these age restrictions, widely in place in all South Asian countries specifically to discourage migration by young women, serve a useful purpose. Most countries have done away with such restrictions.

2012⁹. While the rates and levels of female migration are inconsistent, it is clear that the restrictions that were in place were restrictive and effectively prevented women from migrating, or at least doing so legally.

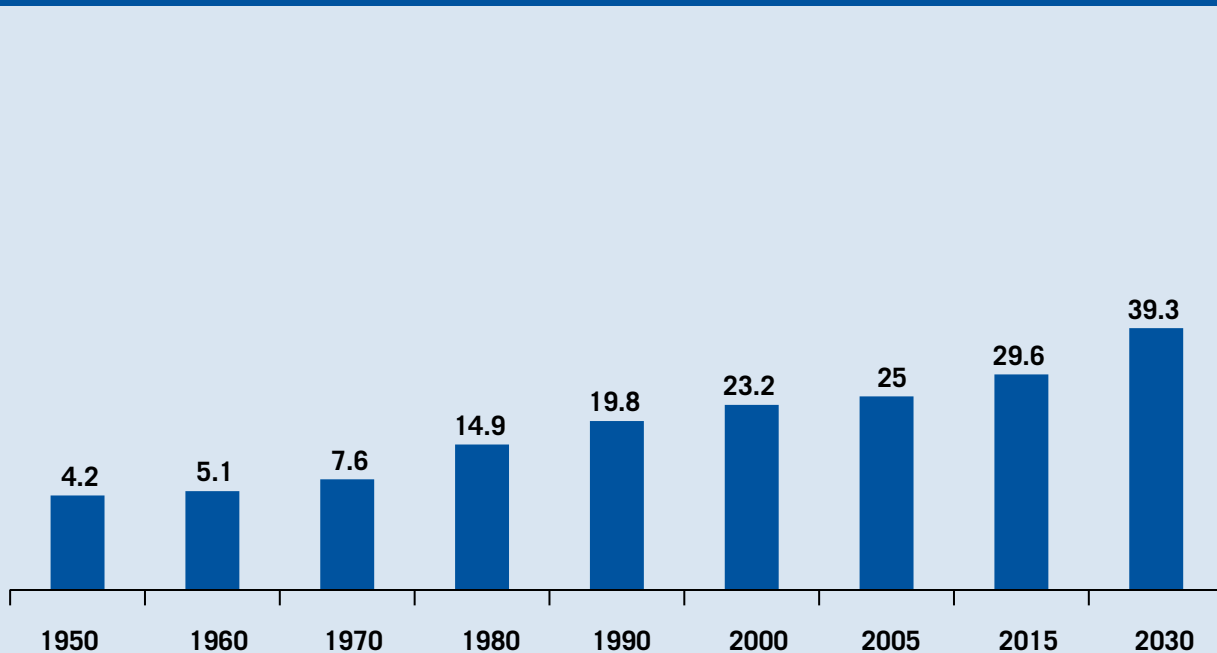
2.2.1 Anticipated growth

Expectations of dramatic growth in the supply of female labour migration to meet increased demand for women workers from Bangladesh in the near future is speculative and derives from several key trends in the demand and supply of migration:

1. International migration is often part of a continuum of migration known as step migration. Women and men who migrate from villages to small towns, capital cities, or other metropolitan areas are the ones who are most likely to migrate overseas as well. Temin, et al. (2013) describes such a process of step migration for women migrating

internally. In Bangladesh there has been a steady flow of internal labour migration to urban areas in search of work, creating a large pool of potential international migrants poised for travel overseas for work. In Bangladesh, the rapid rate of internal migration is reflected in the rate of urbanization, which has exceeded five per cent in recent decades. It is estimated that Bangladesh will continue to urbanize at a rapid pace and will be almost 40 per cent urban by 2050 (see Figure 2.1). It is anticipated that this rapid pace of urban migration will fuel more international migration. This may be particularly true for female migration. Within Bangladesh, internal female labour migration is in the same sectors that dominate in international migration, namely domestic work and work in readymade garment (RMG) manufacturing. Sector-specific recruitment and other practices may influence the nature of international female migration as well.

Figure 2.1: Proportion of urban population in Bangladesh



Source: UN Common Database (UN Population Division estimates) http://globalis.gvu.unu.edu/indicator_detail.cfm?country=BD&indicatorid=30 [accessed 8 June 2014].

⁹ Author's calculation based on data accessed from the Bureau of Manpower, Employment and Training (BMET).

Box 2.1: Case study: Shilpi is saving to become an international migrant worker

Shilpi is 20 years old and married but separated from her husband. Her parents migrated from Barisal to Dhaka before her birth. She studied until class eight. At the age of 16, she started her work as a “helper” in the garment industry. At 18, she married a man who also worked in her factory. However, she left her husband within a year of marriage because he was abusive. Now she is working as an “operator” in the Sasco Garment factory. Her monthly wage is around US\$40. Every month, she earns US\$48, including overtime. She is trying to migrate to Mauritius to work in a garment factory. Every month she spends about US\$12–20 to pay for paperwork, such as passport and immigration. She has been told it will cost her about US\$900 to migrate.

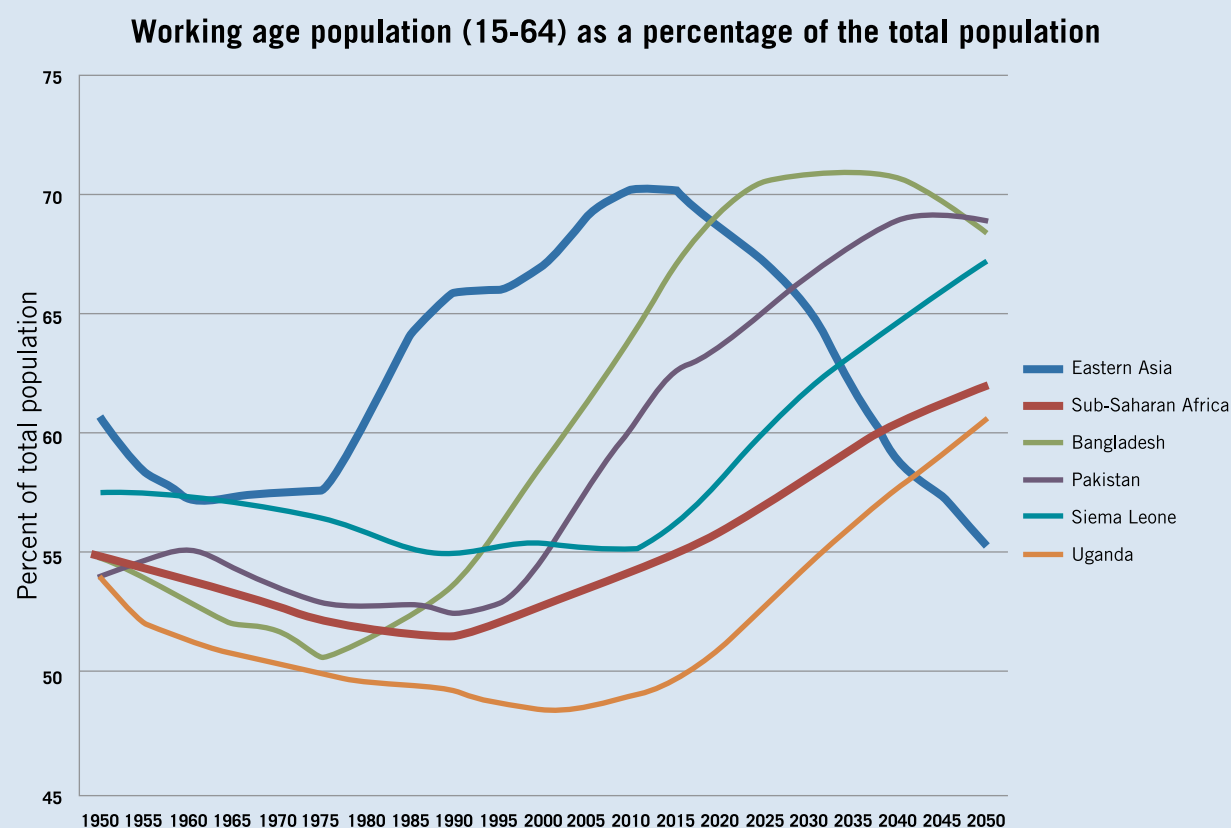
Source: Ainul, et al., 2013.

2. Part of the growth in demand for female labour from Bangladesh is expected to derive from the need to replace migrant workers from other sending countries. It is estimated that more than 70 per cent of migrant workers from countries such as the Philippines, Thailand, and Indonesia are women. These countries have been a major source of workers for GCC countries as well as destination locales for migrants within Asia, such as Hong Kong (China) and Malaysia. However, there has been a decline in the supply of workers from these countries as local labour market conditions have improved and governments have legislated to discourage particularly harsh forms of overseas employment. Destination countries are looking to replace these returned migrants with labour migrants from Bangladesh.
3. Remittances sent by migrants are an important source of supplemental income for rural households. Rising levels of remittance are attributable both to the large number of workers

migrating as well as changes in international financial regulations that have made the transfer of remittances easier. Surveys in Bangladesh estimate that approximately 20 per cent of sample households receive some level of remittance from an internal or international migrant family member living away, an important component of household support (Amin, Mahmud, & Khan, 2013). Remittances are an increasingly important driver in global economic transactions. Global remittances to developing countries were estimated to be US\$400 billion in 2012 (World Bank, 2012). To the extent that women migrants can become an important part of this remittance stream, it is anticipated that their work can become an important part of changing gender dynamics associated with women’s work.

Developing countries such as Bangladesh have increasingly recognized that migration of labour helps to relieve pressures on local labour markets. Governments are particularly concerned about the demographic phenomenon known as a “youth bulge”. Recent trends in fertility and mortality have contributed to the largest ever cohorts of young people coming of age and entering the workforce. A favourable ratio of working age population creates a demographic window of opportunity. Figure 2.2 shows the ratio of the working age population to the total population for Bangladesh and several countries/regions in various stages of demographic transition. While East Asia has passed the peak of this ratio, Bangladesh still has a young age structure. But because of fertility decline, Bangladesh has a favourable ratio. In 2010, 64 per cent of the country’s population was of working age – i.e., from 15 to 64 years old. This number is expected to grow, with UN projections of the working age population reaching a high of 71 per cent in 2035 before declining to 68 per cent in 2050 (Amin, 2012). Although a large working age population will pose increased demands on a country’s infrastructure, education, and health systems, it also provides an unprecedented opportunity for growth if this segment can be absorbed into the productive labour force.

Figure 2.2: Working age population as a percentage of the total population



Source: United Nations, Department of Economic and Social Affairs, Population Division, 2011.

2.3 Sectors of female labour demand overseas

Bangladeshi women workers are in demand for domestic work in destination countries of Asia and the Gulf countries of the Middle East because of their relatively low wages (Belanger & Rahman, 2013). In Hong Kong (China) and Malaysia Bangladeshi women workers are likely to be in demand to replace Indonesian and Filipino workers who have recently faced more stringent restrictions by their home countries. Indonesia and the Philippines have also experienced economic growth and promoted policies that have raised domestic wages, so migrants from these countries also cost more¹⁰. According to Bangladesh's Bureau of Manpower, Employment, and Training (BMET), in 2012 more female workers from Bangladesh – 12,496 – migrated to Lebanon than any other country. Over the years, a total of

71,809 Bangladeshi women have migrated there. The second most prominent destination country is Jordan, with 11,582 women migrating in 2012 and 31,880 cumulatively over the years. The United Arab Emirates received 6,212 Bangladeshi women in 2012 and 59,191 cumulatively. Oman received 4,102 women in 2012 and 9,659 cumulatively. Mauritius received 1,979 in 2012 and 11,000 cumulatively. Female employment overseas by Bangladeshi women remained well below 5,000 per year until 2004, when it surged to over 10,000. Since then the numbers of women migrating have increased steadily every year (BMET, 2013).

While sector-wise disaggregated data are not published for women workers, most Bangladeshi women migrants in Lebanon are less-skilled and semi-skilled and are thought to be engaged in domestic work because there are few opportunities for female workers elsewhere. Lebanon has a very small manufacturing base and no significant RMG sector. The surge in female migration

¹⁰ A recent effort to increase Bangladesh migrants to Hong Kong is testimony to these trends; see: <http://www.thedailystar.net/beta2/news/hong-kong-to-recruit-bangladeshi-workers/> [accessed 1 Apr. 2013].

may be driven by changes in recruitment practices rather than an increased demand per se.

2.3.1 Garment sector

For a number of reasons we expect that the garment industry is likely to be a destination of international migrant workers from Bangladesh if and when the flow of female migration from Bangladesh increases rapidly. Some early signs of this trend are seen in the engagement of Bangladeshi women in destination countries such as Jordan and Mauritius. Just as the Bangladesh RMG industry saw an opening through preferential trade agreements, several countries have been encouraged to develop this sector because of similar trade agreements. The nature of the work and the terms and conditions of employment in the garment sector is likely to be characterized by low wages and long working hours.

There are some specific challenges associated with “producer-driven” and “buyer-driven” growth as well as with the status of different categories of migrant garment workers. As a tripartite agency, the ILO is uniquely positioned to mediate conversations between producers, workers, and governmental entities to improve the status of workers. There is a considerable role for intermediary agencies in presenting objective and neutral evidence on the nature of work, compensation, and safety conditions to provide credible and useful information. To date, standard practices in the industry, such as the practice of home-based and sub-contract work, and various occupational health and safety considerations have been fraught with reports of abuse and violations of basic worker rights.

2.3.2 Domestic workers

Migrant workers, both regular and irregular, are the backbone of the care economy in most contemporary destination countries. The vast majority of female migrant workers from Bangladesh have low or partial skills and are engaged in the domestic service sector. In Middle Eastern countries, a system of individual sponsorship, with considerable expenditures on intermediaries, is widely practiced and regarded to be a factor in exploitative conditions.

The Domestic Workers Convention, 2011 (No. 189) has made an important contribution by highlighting the rights violations inherent in standard practices with regard to domestic workers. Analysis of the demand for migrant domestic workers in the emerging economies of East and South-East Asia and in the Middle East have highlighted the gaps in immigration laws and policies, providing important background for brokered conversations and policy reforms to take place. Documentation of the terms and conditions placed upon domestic workers and their subjective voices highlights a range of violations related to employment rights protections, sexual exploitation and abuse, and the legal and policy responses for protecting the rights of migrant domestic workers. Measures such as a Multilateral Social Safety Framework addressing the migration of women workers under protected conditions could be advocated through a South Asian Association for Regional Cooperation (SAARC) platform for adoption by countries of origin and destination.

Work in the RMG sector may explain some of the female migration to Jordan and to the United Arab Emirates. Several recent preferential trade agreements between Jordan and the United States and Israel have led to robust growth of this sector in Jordan, particularly in the growth of manufacturing in special Qualified Industrial Zones (QIZs). Similar factors have led to growth in the RMG sector elsewhere as well. Mauritius has recently been the beneficiary of such growth driven by preferential terms of trade on offer from Europe. Due to the limited size of the labour market in the small island country, Mauritius has sought to bring in labour from Bangladesh, where the garment industry is over 30 years old. According to a report published by Better Work Jordan (Huq, 2013), Bangladeshi workers are the second largest group of migrant workers in the Jordanian garment industry, with only Sri Lanka supplying more migrant labour.

Over the years there has been intensified scrutiny and a public debate about the rapid rate of growth that has been experienced in the apparel sector. With rapid growth has come intense scrutiny of employment and production conditions. As a sector that is globally important, the focus on garment production has led to a multinational conversation on improving conditions. In addition to calls for greater enforcement

of production safety codes, there is a call for revision of minimum wages and an international standard for setting minimum wages.

2.4 Terms and conditions of temporary labour migration for contract work overseas

Among all forms of migration, contract labour migration has received the most policy and program attention. Over the past three or four decades time-bound or contract-limited labour migration, particularly between southern countries and to the Gulf States, has risen considerably. In Bangladesh, as the volume of temporary labour migration increased, so did general awareness about its importance to the national economy. Labour migration has been facilitated by the advent and increasing use of sponsorship visas, whereby receiving countries issue visas against paperwork associated with contracts of employment. Such visas that allow foreigners to work are tied to employment with sponsoring institutions or individuals.

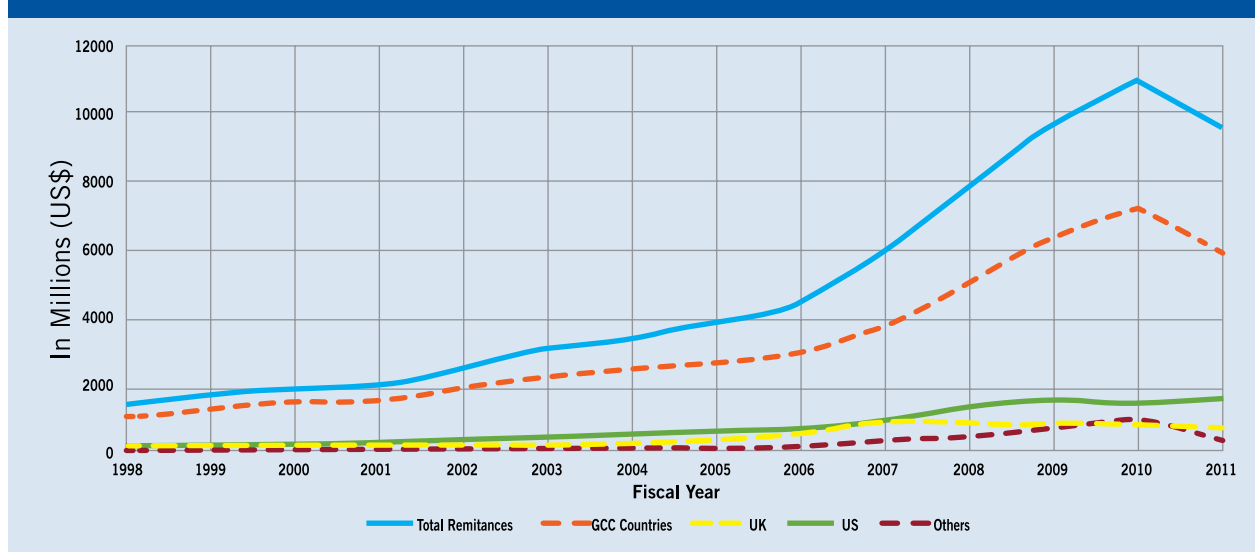
A large number of intermediaries are involved in the recruitment and passage of international and migrant workers. Although some part of the role of intermediaries is legitimate and valuable, the overall costs reported by migrants are high. Exorbitant costs and reports of other abuses suggest the need for regulation of intermediary activities to ensure the rights and protection of workers during passage and beyond.

In Bangladesh, though starting at relatively small levels and remaining so even as recently as 1990, remittances sent by migrants now account for 5 per cent of the GDP and each dollar remitted generates about three times its value in economic activities (Murshid, Iqbal & Ahmed, 2002). Of more immediate relevance to the Government of Bangladesh and to the bankers of the country is the fact that migrant remittances are the single most importance source of foreign exchange earnings.

2.4.1 Remittances

Figure 2.3 shows data published by the Bangladesh Bank on the flow of international remittances, which grew particularly rapidly from 2006 to 2012, rising from around US\$4 billion in 2006 to over US\$10 billion in 2012. There has been a rapid pace of growth in the volume of money remitted by Bangladeshis working abroad. In terms of volume, remittances grew particularly rapidly between 2009 and 2012 (Bangladesh Bank, 2013). Low- and semi-skilled workers dominate the migrant workforce. Most of those migrants who are registered travel on limited-term labour contracts. While there are no hard estimates, many observers speculate that the “kafala”, or sponsorship system, accounts for a significant portion of migrants. Kerbage and Esim (2011) blame the sponsorship systems for issuing visas that are prevalent in many GCC countries as being the source of several major rights violations of contract workers in those countries.

Figure 2.3: Remittance sent by Bangladeshi workers by sending region



2.5 International and national protective structures

A range of international agreements and Conventions articulate international labour standards that, if adopted and enforced, can protect migrant workers as well. The ILO is the only Tripartite¹¹ Organization of the UN, and it is mandated to work towards the protection of workers through global/national/regional social dialogue and labour standard setting. It does so through promotion of social dialogue to advance opportunities for women and men to obtain decent and productive work in conditions of freedom, equality, security, and human dignity.

Over the years, various Conventions have articulated for all workers the Right to Decent Work. This includes Conventions against forced labour (No. 29 and No. 105); the right to organize and engage in collective bargaining (No. 87); the right to equal remuneration (No. 100); and the right to freedom from discrimination in employment and occupation (No. 111). In addition there are specific Conventions guiding migration for employment (No. 97 and No. 143) and guiding the work of private employment agencies (No. 181). In addition, specific concerns for workers in domestic service and home workers are addressed through the following:

- Home Work Convention, 1996 (No. 177);
- Domestic Workers Convention, 2011 (No. 189);
- Recommendation, 2011 (No. 201) on Practical Guidance for the Strengthening of National Law and Policies on Domestic Work; and
- ILO Multilateral Framework on Labour Migration.

In addition, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979; the International Convention on the Protection of the Rights of All Migrant Workers' and Members of

Their Families, 1990; the International Convention on the Elimination of All Forms of Racial Discrimination, 1966; the United Nations Convention against Transnational Organized Crime, 2000; and the Palermo Protocol, 2000, are relevant in general ways to the protection of the rights of women migrant workers.

The notion of decent work for international migrants includes the following essential elements:

- work in line with international labour standards;
- employment and income opportunities;
- social protection and social security; and
- social dialogue and tripartism.

In addition to conventions and labour standards, other processes have helped draw attention to the question of international labour migration. Several international and regional conferences and dialogues have helped draw attention to the issue. A non-binding High Level Dialogue on International Migration at the United Nations was held in 2006 and another is scheduled for 2013. The Abu Dhabi Dialogue focused on specific tasks of knowledge sharing and capacity development for managing supply and demand, preventing illegal recruitment, and promoting worker welfare, as well as the development of a common framework. The Colombo Process, a Ministerial Consultation on Overseas Employment and Contractual Labour, has a similar mandate and focused specifically on countries of origin in Asia.¹²

There is considerable evidence that national laws play an important role in protecting the well-being of migrant workers. In particular, minimum wage legislations have been shown to be important for raising wages (ILO, 2013).

2.5.1 Malaysia

Malaysia is the largest foreign labour-dependent economy in Asia. It is estimated that as much as 27 per cent of workers are foreigners, but these estimates are difficult to corroborate because official statistics do not include undocumented migrants and a considerable

¹¹ The unique tripartite structure of the ILO, comprised of governments, employers' organizations, and workers' organizations, is to ensure that the three essential pillars of the world of work – workers, employers, and governments – have equal voice and to ensure that the views of workers' and employers' organizations are closely reflected in labour standards and in shaping policies and programmes.

¹² For more information see the International Organization for Migration website <http://www.iom.int/cms/en/sites/iom/home/what-we-do/regional-processes-1/rcps-by-region/abu-dhabi-dialogue.html> [accessed 1 Nov. 2013].

portion of workers are assumed to be illegal migrants. According to Pillai (1999), Bangladesh is a significant source country and second only to neighbouring Indonesia. However, the number of official migrants is relatively low. Migrant labour dominates the domestic work, manufacturing, construction, and plantation sectors in Malaysia.

Even as migrants are an important driver of Malaysia's economic growth, there is considerable prejudice against migrants, who are blamed for everything from rising crime and social unrest to inappropriate interpersonal relationships between migrant men and local women. Bangladeshi migration to Malaysia is relatively recent but labour migration to Malaysia from the subcontinent has a long history constituted mostly of South Indian plantation workers. Malaysia is a Muslim-majority, multi-ethnic country and a shared faith is an important and salient aspect of relations between Bangladeshi migrants and Malay residents.

Malaysia has recently entered into regional agreements with other ASEAN countries as a migrant-receiving country, along with Singapore, Thailand, and Indonesia (Hall, et al., 2011). The agreements allow for extensive social protection measures with specific provisions to ensure migrants access to long-term pension funds and health insurance. Regional agreements among countries that include sending and receiving countries are an important step in promoting worker well-being.

2.5.2 Lebanon

Approximately 30 per cent of Lebanon's 1.45 million strong workforce is domestic care workers, the majority of whom are international migrants. According to published data on official migration of women from Bangladesh, large numbers of women have migrated to Lebanon in recent years. It is assumed that most women who migrant for employment are engaged as domestic help.

As of 2011, the Lebanese government has not ratified multiple Conventions, including the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)) (Kerbage & Esim, 2011). However, by April 2012, the ratification of the Convention of 2012 marked an important departure from past labour practices. A number of draft

amendments to labour laws were proposed with a specific view to ensuring the well-being of domestic workers. These included protections with regard to hours of work, weekly leave, and workers' rights, as well as changes to the system of sponsorship. While not all proposed amendments are in full effect, a number of civil society actors are working together to provide better access to information and services to improve the terms and conditions of work. These efforts include general programs to raise awareness about standards of care and codes of conduct, and they have inspired a collective union of employment agencies to establish codes of conduct.

Lebanon has a wide array of civil society initiatives that have worked extensively to raise local awareness about the rights of domestic workers. These organizations are also equipped to serve as intermediary agencies to provide information and services to workers in exploitative situations who are seeking recourse (Tayah, 2012).

2.5.3 Jordan

Jordan has been an important destination for Bangladeshi female migrants in recent years. Although, as with other destination countries, domestic work is an important sector of work for women, in Jordan the RMG sector or Apparel Industry has emerged as an important sector demanding women workers from Bangladesh. According to a report commissioned by Better Work Jordan (Huq, 2013), Bangladeshi migrants constitute 22 per cent of workers employed in the garment sector in Jordan. In the 35 factories registered with Better Work that export to the United States and Israel, manufacturers are committed to paying a minimum wage of US\$155 per month to workers. The total value of garment exports from Jordan is over US\$1 billion annually (compared to US\$19 billion from the 4,000 garment factories in Bangladesh). A total of 85 factories in Jordan employ 35,000 workers.

Women employed in the sector work eight hours a day and six days a week. They are allowed to work overtime, and there is no limit to the number of overtime hours they work. A little over one-fifth of the workforce is Jordanian, and the rest are migrant workers on short-term labour contracts. The largest percentage, 36 per cent, come from Sri Lanka.

Data on female migration from Bangladesh to Jordan and the countries of origin reported by labour survey data in the RMG sector suggest that the majority of migrants to Jordan from Bangladesh are likely working in the RMG sector. Since 2001, Jordan has witnessed rapid growth in trade, with the garment sector being a leading sector, following the implementation of policies of greater openness and economic reforms, and after becoming a member country of the World Trade Organization. The RMG sector has grown over the past few years at a rapid pace of over seven per cent a year and now accounts for exports exceeding US\$1 billion in 2011 (Better Work Jordan, 2012). Factories are mostly located in 14 Qualified Industrial Zones (QIZs). The industry currently employs approximately 40,000 workers, well over three-quarters of whom are migrant workers mostly from South and South-East Asia. The majority of migrant workers originate from India, Sri Lanka, and Bangladesh. Better Work reports that in 2001 the garment sector workforce was 64 per cent Jordanian, but there has been a gradual shift in the labour force over the years towards migrants.

There are allegations of abuse of migrant workers in the QIZs that echo the experience of migrant workers working on limited-term labour contracts. A May 2006 report by the National Labour Committee, a United States-based NGO, alleged that migrant workers face abusive working conditions in Jordanian QIZs and that employers are not complying with labour standards (Institute for Global Labour and Human Rights, 2012). Some of the abuses mentioned include: non-payment (or delay) in wages; confiscation of passports; long working hours; non-payment for overtime; and violence and abuse in the workplace.

Although Jordan and Lebanon have ratified many international labour protection Conventions neither country has ratified Convention No. 87, nor the two Conventions that offer specific protections to migrant workers – the Migration for Employment Convention (Revised), 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1984 (No. 143). Neither country has ratified the Private Employment Agencies Convention, 1997 (No. 181). Jordan allows sponsorship systems (*kafala*) in the process of recruiting workers.

2.6 Social protection

Social protection generally refers to access to institutions such as pension schemes and health insurance that offer protection from sudden loss of wealth due to anticipated and unanticipated adverse events. However, the notion can apply to any measure to protect the interests of workers beyond the workplace. Such protection may be formal or informal. Formal social protection includes access to social services as well as pension and health-care access. Migrants are vulnerable to a lack of social protection because such benefits are often tied to citizenship. New migrants are particularly vulnerable. Measures to provide social protection to the most vulnerable workers and to provide for decent work opportunities have important rights implications, but it is also instrumental in that it helps to prevent labour market distortions associated with exploitative employment practices and discrimination to take advantage of vulnerable populations (Avato, et al., 2009). “[S]ocial protection covers formal (for example, social security and social assistance) and informal (for example, community transfers) mechanisms of social risk management, including migration as social protection, provided on the private, community, market, or public level, but also comprises political processes that empower and include marginalized groups with regard to access to social protection mechanisms” (ILO, 2006, p. 5, emphasis in original).

Social isolation is also shown to be a source of vulnerability for migrant workers, especially women. In circumstances such as Bangladeshi migrant workers’ experiences, where their access to formal social protection is unlikely to reduce the most extreme vulnerabilities they face, it may be important to offer services to reduce their social isolation, be it by accessing networks through labour associations or other social networks.

On the other hand, labour migration is also a household coping strategy to build up savings and resources to cope with adverse events. Although international labour migration offers scant social protection in terms of access to social services, international migration remittances is increasingly seen as a strategy for savings accumulation to access social protection by households in the sending communities.

A central problem for migrants is that the rights of migrants to social services and access to those services are “not portable”, i.e., they do not stay the same (or hold at all) through the process of migration. International migrants have relatively little by way of formal social protection, such as in terms of access to pensions and health care – data suggest only 23 per cent of all global migrants benefit from formal social protection, mainly those migrating from and to the most developed countries. Even the most sophisticated and generous social security systems do not offer portability and exportability of health and pension benefits to migrants, except for those who have the longest tenure. In general, GCC countries do not offer social security benefits to immigrants.

“The typical female worker is very young. She does not have a lot of information or sources to access information. When governments or civil society talk about a safe environment, they need to think about the difference between the policy makers and the people they are trying to influence.” – Sajeda Amin, Senior Associate, Population Council, USA

“Although social security agreements are currently the best practice, there are alternatives to deal with portability issues. In some countries, like, for example, Hong Kong (China), short-term migrant workers may opt out of the pension system altogether. In GCC countries, migrants are excluded from the pension system. In both of these situations, the migrant worker should continue to contribute into the pension system of the home country, or make provisions for a private pension plan. The Philippines, for example, address this by offering emigrants insurance in their home country” (ILO, 2006, p. 15)

2.7 Conclusions

A recent statement on the measures needed for female migrant workers concluded, “The adoption of a new ILO instrument to defend the rights of domestic workers is an important milestone in protecting

female migrant workers. However, millions of migrants continue to face discrimination, xenophobia and abuse. The 2013 High-level Dialogue presents an opportunity to accelerate the ratification and promote the implementation of international instruments related to international migration.”¹³ That is, while legal protections and articulations of worker rights are necessary, it is not sufficient for guaranteeing the well-being of workers.

In-depth studies of the situation of migrant workers, both internal and international, suggest ways of framing the problem of providing guarantees to address issues that put female workers at risk. This framework calls for an approach that recognizes the importance of varying entry points and policies that:

- “Prepare and equip before they migrate”
- “Ensure a smooth landing”
- “Build a safety net”
- “Make health and education migrant friendly”
- “Increase visibility through policy and advocacy” (Temin, et al., 2013.)

Another review by the Development Research Centre on Migration, Globalization, and Poverty (2009) suggests it may be more important to focus efforts strategically and “invest in improving the places where migrants live while away, and devising schemes to support families left behind. Both would make a considerable difference to the health and well-being of migrant families” (p. 3).

An important perspective offered by studies that focus on the lived experiences of workers and emphasize bringing their perspectives to policy formulation is that it is important to take steps to prevent abuse before it occurs and to work pre-emptively before the process of migration begins. It may be a good start to prepare migrants before they depart in order to enable them to envision processes during transit; to make them aware of specific terms and conditions of work; and

¹³ Statement by Mr John Wilmoth, Director, Population Division of the UN Department of Social and Economic Affairs. Full statement available at http://www.un.org/en/development/desa/population/pdf/commission/2013/documents/CPD46_John_Wilmoth_opening_remarks.pdf [accessed 1 Nov. 2013].

to acquaint them with unfamiliar cultural and social practices in the host country. International standards and conventions provide important guidelines on ways of accessing rights that can be an important part of the process of individual preparation for migration. The BMET's online effort to offer women workers specific and relevant information through the *Aparajita* portal of their website is one such laudable effort. Other initiatives to prepare migrant women better can include training packages that offer financial education, relevant life skills, and specific information on civic rights and access to justice, along with relevant vocational and other skills. Indonesia has recently undertaken such initiatives to prepare workers. While intended as protective, systems put in place to assist workers pre-departure or upon their return hold important lessons on implementation gone awry and have been fraught with allegations of corruption (Hall, et al., 2011).

When the migrant arrives, landing spots can include specific facilities offered by sending countries to provide migrants with resources to ensure a "smooth landing" in host country. In several circumstances such actions have included welcoming booths for migrants, offers of services in the languages that migrants are familiar with, as well as other transport and legal information that may be relevant.

Specific measures to support migrants while they work may include supportive social networks that can be both global and local. Kibria (2011) describes the ways in which migrants from Bangladesh usually form associations among themselves according to their district of origin. While the stated purpose of these associations are purely recreational, with much of their energy and resources spent on annual picnic gatherings, or observance of religious festivals, there is no reason why the activities of these networks could not be more functional. For domestic workers in particular, whose vulnerabilities are specifically

associated with their social isolation, the presence of a functioning and viable community can serve important social protection functions. They can also create time and space to meet with peers, mentors and support networks. An important related service that can be cultivated for migrants is to create virtual networks with the aid of mobile phones.

It is important to focus some effort to identify and work with groups who are most vulnerable, such as women who are low-skilled, have little education, and work in isolation, and to ensure that resources, such as the community associations mentioned above, are specifically included in these supportive networks.

It is also important to recognize that sexual exploitation is an important threat, not just to workers themselves but to those who are part of their sexual networks. To the extent that such exploitation is a result of social isolation, informal social networks can both prevent abuse and also help those who are exploited to access protective and health services.

Finally, financial security, and access to safe channels of remittance, can make important contributions. Recent developments in the financial sector, and specifically in mobile banking, have made an important difference to the flow of remittances and may have contributed to the considerable rise in global remittances reported earlier in the paper. For the individual migrant access to mobile phones is now ubiquitous. Migrants are strongly motivated to own mobile phones because it is often the most reliable or the only way of keeping in regular contact with their families at home. Ownership and access to mobile phones, through registered SIM cards, can potentially evolve into an important personal safety net for migrant workers. Mobile phones can address problems associated with the social isolation of categories of migrants, such as domestic workers, and can serve as tracking device.

Plenary session 3

Regulation of the recruitment process and reduction of migration costs: Comparative analysis of South Asia

By Piyasiri Wickramasekara¹⁴

3.1 Introduction

Migration for overseas employment has become a major livelihood strategy for millions of Asian migrant workers, including those from South Asia, since the onset of the Gulf oil boom in the early 1970s. Migration from the South Asian subregion has some distinctive characteristics, with considerable informal intra-migration flows in addition to a major outflow to GCC countries and other Middle Eastern destinations such as Jordan and Lebanon since the mid 1970s. While this migration has contributed to poverty reduction and large inflows of remittances, the outcomes for individual migrants and their families have been a matter of controversy. It has been widely documented that unfair recruitment practices and high migration costs have eroded a large part of the gains from migration (Wickramasekara, 2002; 2011; Arif, 2008; NIDS, 2008; Afsar, 2009; Sharma & Zaman, 2009; IOM, 2010; Khanal & Shrestha, 2010; Transparency International Sri Lanka, 2010; Endo & Afram, 2011; Migrant Forum in Asia, 2011; Mughal & Padilla, 2005; Rajput, 2011; Siddiqui, 2011; Martin, 2012; ILO, 2013a). There have been a series of interregional and regional meetings also to discuss the issues of recruitment and costs in Asia (UNIFEM, 2005; Colombo Process, 2011; ILO, 2008; IOM, 2008; GFMD, 2011a; GFMD, 2011b; IOM, 2011; Kuptsch, 2006; Abu Dhabi Dialogue, 2012). Governments in the subregion have also enacted or revised legislation and regulations on the regulation of recruitment processes.

¹⁴ Former Senior Migration Specialist, ILO and currently part of Global Migration Policy Associates (GMPA), Geneva.

Yet there have been few concrete achievements on the ground, with continuing abuse and exploitation of migrant workers, often highlighted in the media. While international instruments are very clear on the role and responsibilities of recruitment agencies and the provisions for protection of migrant workers (ILO, 2006; 2007), there is often a vast disparity between normative principles and actual practice.

The main purpose of this paper is to summarize the current situation of migration costs and recruitment practices in a comparative setting within South Asia. The countries especially covered are Bangladesh, Nepal, and Sri Lanka. While the paper will address migration costs and recruitment processes in separate sections, the close interrelation between the two issues should be recognized. The main argument in the paper is that issues across South Asian are common, which could support collective initiatives, and the concept of shared responsibility between countries of origin and destination advanced at the 2008 Manila Global Forum on Migration and Development is highly relevant for making progress. It also argues that focusing on migration costs in countries of origin ignores half of the picture, since overseas intermediaries, poor wages, and low returns to labour in destination countries interact to generate a vicious cycle eroding benefits of the migration process for low-skilled workers.

“Gains from migration are seriously eroded by the vicious cycle of recruitment malpractices, high migration costs, onerous debt burdens, and low wages at destination.” – Piyasiri Wickramasekara, Researcher, Sri Lanka

This paper is structured as follows. It starts with a brief overview of the migration profile in South Asia as a backdrop to the discussion. The international normative framework governing labour migration, particularly recruitment services, is addressed next

to highlight gaps in national policies and practices. The role and regulation of recruitment agencies forms the next section. Then it deals with identification of migration cost profiles and their implications. The final sections identify some good practices and go on to a review of conclusions and suggestions for improvement of the situation.

3.2 Overview of South Asian migration: Basic trends

This section provides a brief overview of South Asian migration to place the specific issues in perspective.

3.2.1 Overall position

Table 3.1 summarizes the migration situation based on some indicators relating to migration trends. The migrant stocks inside South Asian countries are based on the latest information provided by the UN Population Division. India has 5.4 million immigrants while Pakistan hosts 4.3 million. These numbers may represent the outcome of historical processes over time. For example, the free movement of persons and labour between India and Nepal based on the 1950 Friendship Treaty may explain part of the immigrant numbers in India. The Afghan conflict has induced millions of Afghans to flee into Pakistan as refugees. Despite the return of a large number to Afghanistan, around three million still remain in Pakistan.

3.2.2 Trends in outflow of workers

Table 3.2 shows the trends in outflow of migrant workers from South Asian countries. These numbers relate only to officially recorded numbers of migrant workers going through regular channels. They underestimate actual flows, as they do not take into account irregular and undocumented migration. In the case of Nepal, the figures do not include migration to India, which is mostly undocumented although legal. In the case of India, the outflow figures are definitely an underestimate because they cover only those who require emigration clearance – normally low-skilled workers and those migrating to certain destinations. The bulk of the skilled workers going abroad are not captured in these figures.

Nevertheless, the figures show large increase in outflow in recent years, particularly for Bangladesh and India. It is difficult to find an explanation for the sudden jump from 381,515 to 832,609 from 2006 to 2007 in Bangladesh. Despite a setback in 2009 and 2010, the numbers have increased in Bangladesh. In India, the increase is more gradually spread over several years. It is interesting to note that the annual outflows from Nepal have increased in recent years, while Sri Lanka outflows have stabilized around 250,000. There is no information on net outflows for any of the countries in the absence of any monitoring of annual return migration.

Table 3.1: Indicators of migration – South Asia

Country	Outflow (annual)*	Immigrant stock (000s)	Emigrant stock (000s)	Remittances US\$ million	Remittance as percentage of GDP (7)	Migration status
	2010-12 average	2013	2010	2012	2012*	
Bangladesh	519 670	1 085	5 380	14 085	12.2	Primarily origin
India	671 774	5 436	11 358	67 258	3.7	Origin, destination, and transit
Nepal	346 158	946	982	4 793	24.7	Primarily origin
Pakistan	486 128	4 234	4 677	14 007	6.1	Origin, destination, and transit
Sri Lanka	268 681	334	1 847	6 001	10.1	Primarily origin

Source: Updated from Wickramasekara, 2011 using UN Population Division migrant stock 2013 data and World Bank remittance data.

*World Bank data does not indicate applicable year, but it probably refers to 2012.

Table 3.2: Annual outflow of migrant workers from South Asian countries 1990–2012 (officially reported figures)

Years	Bangladesh	India	Nepal	Pakistan	Sri Lanka
(1)	(2)	(3)	(4)	(5)	(6)
1990	103 814	139 861	83 020	115 520	42 625
1991	147 131	191 502	97 851	147 356	64 983
1992	188 124	416 784	124 500	196 093	124 494
1993	244 508	438 338	134 923	157 733	129 076
1994	186 326	425 385	136 052	114 040	130 027*
1995	187 543	415 334	121 595	122 620	172 489
1996	211 714	414 214	64 134	127 784	162 576
1997	381 077	416 424	32 591	153 929	150 283
1998	267 667	355 164	30 745	104 044	159 816
1999	268 182	199 552	27 796	80 496	179 735
2000	222 686	243 182	35 543	110 136	182 188
2001	188 965	278 664	55 025	130 041	184 007
2002	225 256	323 973	104 739	149 127	203 773
2003	254 190	455 456	105 055	215 443	209 846
2004	272 958	474 960	106 660	174 864	214 709
2005	252 702	548 853	183 682	143 329	231 290
2006	381 515	676 912	165 252	184 274	201 948
2007	832 609	809 453	204 533	287 707	217 306
2008	875 055	848 601	249 051	430,314	236 574
2009	475 278	610 272	219 965	403,528	247 119
2010	390 702	641 356	299 094	362,904	266 445
2011	568 062	626 565	354 716	456,893	262 960
2012	607 798	747 401	384 665	638,587	276 639

Source: Updated from corresponding table in Wickramasekara, 2011, using national sources.

3.2.3 Inflow of migrant remittances

Migrant remittances are the most tangible indicator of benefits from labour migration. Table 3.3 shows the inflow of remittances to South Asian countries from 2000 to 2012. India receives the largest volume of remittances, but as a share of GDP it is only 3.7 per cent. Remittances to Nepal account for almost one quarter of the GDP, while it is 11 per cent for Bangladesh. These remittances are much higher than official development aid or foreign direct investment, and represent a major benefit to families and home communities as well as the overall economy.

Table 3.3: Inflow of remittances to selected South Asian countries: 2000–2012 (in US\$ millions)

	Bangladesh	India	Nepal	Pakistan	Sri Lanka
2000	1 968	12 883	111	1 075	1 166
2001	2 105	14 273	147	1 461	1 185
2002	2 858	15 736	678	3 554	1 309
2003	3 192	20 999	771	3 964	1 438
2004	3 584	18 750	823	3 945	1 590
2005	4 315	22 125	1 212	4 280	1 976
2006	5 428	28 334	1 453	5 121	2 167
2007	6 562	37 217	1 734	5 998	2 507
2008	8 941	49 977	2 727	7 039	2 925
2009	10 521	49 204	2 985	8 717	3 337
2010	10 850	53 480	3 469	9 690	4 123
2011	12 071	63 011	4 217	12 263	5 153
2012	14 085	67 258	4 793	14 007	6 001
2013e	15 187	71 000	5 363	14 858	6 876
Remittances as a share of GDP (%)	12.2	3.7	24.7	6.1	10.1

Estimated.

Source: Based on World Bank remittance inflow data, see <http://go.worldbank.org/092X1CHHD0> [accessed 5 Oct. 2013].

3.2.4 Main features of South Asian labour migration

I have discussed this issue in greater detail elsewhere (Wickramasekara, 2011) and shall only summarize the main points below.

■ High concentration of flows to the Gulf and Middle East countries

Unlike South-East Asia, South Asia has continued to rely on the Middle East labour market (Wickramasekara,

2002). The oil price boom in 1973 initially caused an explosive growth in migration to the Middle East region. The subsequent decline in oil prices, the Gulf War, and the completion of many construction projects led to a sharp fall in the demand for migrant labour since the mid-1980s. The only difference in recent years is that Malaysia has emerged as a substantive market for some South Asian countries, particularly Bangladesh and Nepal. There are also small numbers now migrating from these countries to the Republic

of Korea under the Employment Permit System (EPS) introduced by the Republic of Korea in 2006.

■ Temporary migration of labour

Most South Asian migration is on fixed-term contracts representing temporary migration and temporary migrant workers. Gulf migration represents a type of circular migration system which has stood the test of time over more than three decades, but it continues to be characterized by serious deficits in migrant rights. Permanent or settler migration from South Asia still takes place on a limited scale to Australia, New Zealand, the United Kingdom, and the United States, among others.

■ Predominance of semi-skilled and low-skilled migrant workers

Most migrant workers from South Asia to Middle East and other Asian destinations are low-skilled or semi-skilled, such as construction workers and female domestic workers. These workers face numerous problems in protection in both origin and destination countries, being more vulnerable than skilled workers and professionals.

■ Large numbers of migrants in informal and irregular status

The most important trend in total migration from the viewpoint of protection of migrant rights in Asia is the high incidence of “irregular migration” – commonly referred to as “illegal”, “undocumented”, or “clandestine” migration. There are no proper estimates of incidence, which can range from simple border crossings to organized trafficking and smuggling. The incidence of irregular migration is believed to be high in India and Pakistan, largely due to cross-border movements from Bangladesh into India and from Afghanistan into Pakistan. In addition, there is continuing trafficking of women and children across the border from Bangladesh and Nepal into India.

■ Growing importance of female migration

Another observed tendency has been the increasing share of female workers migrating on their own for overseas employment. The bulk of them migrate for low-wage occupations, such as domestic work. In South Asia, the share of female migration is high

only in Sri Lanka, where currently about 50 per cent of migrants are female. Since women migrants are one of the most vulnerable groups, policy ambiguities concerning their migration have limited such movements from Bangladesh, India, Nepal, and Pakistan. Bangladesh has banned the migration of women as domestic workers at certain times, while India now permits only women of 25 years and older to migrate for low-skilled occupations. Sri Lanka also raised the minimum age of women migrant workers from 21 to 23 years this year. In most South Asian countries, there are now increasing calls for promoting greater opportunities for female migration. This is also reflected in Pakistan’s new emigration policy, which has assigned female migration as priority area no. 11 for the policy (Government of Pakistan, 2009). An objective of the Nepal Foreign Employment Act of 2007 is also to promote “safe migration” for women.

■ Commercialization of the recruitment industry

The share of public employment services in overseas placements has fallen drastically in all countries, paving the way for a thriving industry of intermediaries in both origin and destination countries. Some are large firms with a good reputation, while many are unregistered small enterprises or individual subagents. While the role of this industry in expanding opportunities for employment abroad has to be recognized, it is well documented that the recruitment industry has been responsible for high migration costs and various malpractices at the same time. These issues will be discussed in greater detail in the rest of the paper.

3.3 Normative framework: Relevant instruments

Three types of international instruments apply to migrant workers:

- i. Fundamental human rights instruments (UN Universal Human Rights instruments and ILO Core Conventions);
- ii. migrant-specific Conventions: The two ILO Conventions on migrant workers – Migration for Employment Convention (Revised), 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143) – and the International (UN) Convention on the Protection of the Rights

- of All Migrant Workers and Members of their Families, 1990; and
- iii. all other labour standards apply to all migrant workers in the workplace (including those relating to employment, private employment agencies, social security, labour inspection, maternity protection, protection of wages, occupational safety and health, as well as standards applicable to sectors like agriculture, construction, domestic work, and hotels and restaurants).

3.3.1 Universal human rights and ILO core Conventions

There exists a solid normative foundation on migrant rights based on a wide array of international instruments covering human, including labour, rights applicable to migrant workers. All international labour standards apply to migrant workers, unless otherwise stated. Universal human rights and core labour rights are applicable to all human beings irrespective of nationality and migration status. The 1998 ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, has provided a firm basis for identifying core labour rights, which apply to all workers including migrant workers in irregular status: freedom of association, effective recognition of the right to collective bargaining, elimination of all forms of forced and compulsory labour, effective abolition of child labour, and elimination of discrimination in respect of employment and occupation. It is encouraging to note that the above are among the most widely ratified ILO Conventions. This is highly relevant in the cases of the destination countries of Asian migrant workers where serious rights violations take place, most of which are unlikely to ratify migrant-specific worker Conventions in the foreseeable future. Trafficking of women and children and related human rights abuses are covered by fundamental Conventions – the Forced Labour Convention, 1930 (No. 29); the Abolition of Forced Labour Convention, 1957 (No. 105); and the Worst Forms of Child Labour Convention, 1999 (No. 182) – which commit countries to abolish all forms of forced or compulsory labour, and the worst forms of child labour.

UN universal human rights instruments and ILO core Conventions have been widely ratified by both origin and

destination countries. The Gulf countries have ratified them in varying degrees, and Kuwait stands out as having ratified seven of the eight ILO core Conventions. This is important because migrant rights violations taking place in these countries often pertain to forced labour, freedom of association, and discrimination. In some cases, these Conventions may offer a more promising or the only avenue to combat some of the major violations of rights such as forced labour situations experienced by migrant domestic workers (Wickramasekara, 2010; Esim & Kerbage, 2011).

3.3.2 Migrant worker-specific instruments

Together, the migrant worker-specific instruments define a comprehensive charter of migrant rights and provide a legal basis for national policy and practice on migrant workers. The key areas of these Conventions relate to equality of treatment and opportunity and the principle of non-discrimination. Most countries have ratified universal human rights and ILO core Conventions, and 90 countries have ratified at least one of the three international migrant worker Conventions.

None of the South Asian or Middle Eastern countries have ratified any of the two ILO migrant worker Conventions. The Sabah State of Malaysia ratified the Migration for Employment (Revised) Convention, 1949 (No. 97) while under British rule, and Convention 97 applies to Hong Kong, (China), since the United Kingdom ratified it in 1951.

Bangladesh (in 2011) and Sri Lanka (in 1996) have ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990. This is a comprehensive instrument covering all stages of the migration process. Regarding recruitment, Article 66 of the Convention, however, restricts recruitment operations of workers between States to public services, State bodies, and authorized private agencies.

3.3.3 Other instruments

I shall discuss only the following instruments, which are particularly relevant to the theme under discussion:

- i. Private Employment Agencies Convention, 1997 (No. 181) and the related Recommendation No. 188.

- ii. Domestic Workers Convention, 2011 (No. 189) and the related Recommendation No. 201.
- iii. ILO Multilateral Framework on Labour Migration.

Convention No. 181 and Convention No. 189 are broader in scope, in that they cover both national workers and migrant workers. Convention No. 181 covers national employment services and those dealing with overseas recruitment, while Convention No. 189 applies to both domestic workers inside the country and migrant domestic workers. This is one issue to be considered in understanding ratification status by countries in South Asia. In Asia, however, private employment agencies recruiting workers for overseas employment dominate the employment services field.

At the outset it should be noted that neither Convention No. 181 nor Convention No. 189 has been ratified by any of the South Asian countries or their major destinations. Even if Conventions are not ratified, countries concerned can draw upon the important principles and guidelines in the relevant Conventions for framing their national legislations and regulations. While non-binding, the Multilateral Framework on Labour Migration and the two Recommendations (No. 188 and No. 201) provide extensive guidance to all stakeholders on implementation of provisions in relevant international Conventions whether ratified or not.

3.3.3.1 ILO Private Employment Agencies Convention, 1997 (No. 181)

Until the mid 1990s, the ILO supported public and free employment services and discouraged fee-charging private agencies. In June 1997, the International Labour Conference adopted the Private Employment Agencies Convention, 1997 (No. 181), supplemented by the Private Employment Agencies Recommendation, 1997 (No. 188), which recognized the legitimacy of private employment agencies carrying out their tasks, together with and in cooperation with public employment services. While the Convention recognizes private agencies' important role, major provisions relate to the adoption of measures by ratifying States to regulate these agencies to protect migrant workers and prevent abuses. Special protection for migrant workers is outlined in Article 8.

None of the South Asian or Middle Eastern countries or Malaysia has ratified Convention No. 181, and Japan and Fiji are the only Asian countries to have ratified it up to now. However, the Philippines and Sri Lanka provide examples of extensive protection provisions for migrant workers recruited via overseas employment agencies.

Convention No. 181 has revised the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96). Bangladesh has only ratified Part II of Convention No. 96 (Progressive abolition of fee-charging employment agencies conducted with a view to profit and regulation of other agencies), and Sri Lanka has ratified only Part III (Regulation of fee-charging employment agencies). The ILO has pointed out to Sri Lanka that Convention No. 181 has better provisions for the licensing and supervision of placement services for migrant workers than Convention No. 96 (ILO, 2010). Bangladesh and Nepal have responded to the ILO, as seen in the 2010 ILO General Survey of Instruments, that there are prospects for ratification of Convention 181 in their countries, but Sri Lanka has not made any such response.

The above ILO General Survey (ILO, 2010) highlighted the following obstacles to the ratification of Convention No. 181:

- Divergence of national legislation from Convention provisions: for example Article 7 which prohibits the charging of fees or costs to workers.
- Some countries do not plan to ratify because their labour markets are undergoing a transition.
- The country does not have the necessary legal and administrative infrastructure to give effect to the provisions of the Convention.
- There is lack sufficient information at this time to ratify the instrument.
- "Insufficient visibility as there has never been a promotional campaign for this Convention" (Hess, 2006). This has now been rectified with the ILO actively promoting the Convention by convening an international workshop in 2009 (ILO, 2009) and launching a promotional campaign.

3.3.3.2 ILO Domestic Workers Convention, 2011 (No. 189)

Of particular relevance is the landmark ILO Domestic Workers Convention, 2011 (No. 189), a Convention concerning decent work for domestic workers, and the related Recommendation No. 201. The Convention addresses in particular the problems faced by one of the most vulnerable categories – migrant domestic workers. Convention No. 189 will enter into force on 5 September 2013.

The main provisions relate to promotion and protection of human rights; protection from abuse, harassment, and violence; fair terms of employment and working and living conditions; information on terms and conditions of employment; hours of work and remuneration; and measures for protection from abusive practices of private employment agencies. Article 15 spells out provisions in relation to private employment agencies.

The Convention has been ratified in Asia only by the Philippines. Sri Lanka offers the most promising prospects for ratification of the Convention among the South Asian countries, given its high share of female migration consisting largely of female domestic workers.

3.3.3.3 ILO Multilateral Framework on Labour Migration (MFLM)

The UN and ILO standards on migrant workers have been complemented by the 2006 ILO Multilateral Framework on Labour Migration, comprising non-binding principles and guidelines for a rights-based approach to labour migration. The Framework supplements existing ILO and UN migrant worker instruments, and takes into account new global challenges and developments such as the growth of temporary labour migration programmes; the feminization of migration; the greater role of the private sector in arranging migration across borders; the high incidence of irregular migration, including trafficking and smuggling of human beings; and the growing interest of the international community in migration and development linkages. It also comprises detailed guidelines on the licensing and supervision of recruitment and contracting agencies for migrant workers under its Principle 13: “Governments in both origin and destination countries should give due

consideration to licensing and supervising recruitment and placement services for migrant workers in accordance with the Private Employment Agencies Convention, 1997 (No. 181), and its Recommendation (No. 188)” (ILO, 2006). The main guidelines of the MFLM in relation to recruitment agencies relate to: prevention of unethical practices; the prohibition of the retention of identity documents; respect for migrant rights, provision of understandable and enforceable employment contracts; and specific regulations for recruitment and placement services.

Chapter Annex 3.1 provides a comparison of the three instruments in relation to recruitment practices. It shows that many provisions are common across the three instruments. Both the MFLM and Convention No. 189 have drawn upon Convention No. 181 (which was adopted much earlier) in their provisions dealing with recruitment services.

3.4 Role of recruitment agencies and related issues

In South Asia and destination countries for South Asian migrants, private employment agencies are primarily recruitment companies serving overseas destinations, and not temporary employment agencies as in Europe. The industry is characterized by a wide range of enterprises or agents varying in size, scale, and status:

- i. Public recruitment services: e.g., the Bangladesh Overseas Employment and Services Limited (BOESL) established in 1984 and the Sri Lanka Foreign Employment Agency (SLFEA) established in 1996.
- ii. Reputable large companies with proven track records of ethical recruitment practices.
- iii. Small and medium recruitment agencies that are registered and licensed.
- iv. Unregistered/unlicensed small and medium operators.
- v. Unregistered/unlicensed subagents or brokers (e.g. “Dalals” or intermediaries in Bangladesh), who mostly operate outside capital cities.
- vi. Friends and relations.

- vii. Family members who arrange the migration process.
- viii. Overseas recruitment companies with links to local agencies or hiring directly. Direct hiring is not allowed in most countries.
- ix. Sponsors (“Kafala” in GCC) and labour brokers in destination countries: while most brokers may be natives, some foreign nationals from countries of origin also operate as brokers in destination countries, charging high fees to origin country agencies for job orders (Endo & Afram, 2011; Migrant Forum in Asia, 2011).¹⁵

The bulk of recruitment for overseas employment is managed by the private sector. Public sector employment agencies account for a very small share of the market, and often operate labour services under government-to-government arrangements such as the EPS of the Republic of Korea.

This multiplicity of agents and intermediaries is often a cause of corrupt practices and high migration costs, since migrant workers with low skills and low education are not able to distinguish between genuine agents and others. Going through private contacts or relations and friends can also be equally exploitative, as a number of studies have shown.

3.4.1 Contribution of the recruitment industry

Private recruitment agencies perform a useful role in expansion of overseas markets, and they are able to assess emerging labour market demands and trends. In this sense, they perform a useful labour market matching function. They are also more easily accessible to potential migrants than government agencies (CIETT, 2006; ILO, 2009b). The points of consensus of the 2009 ILO meeting on private employment agencies recognized their contributions, including in “contributing to decent conditions for cross-border labour migration” (ILO, 2009c). Box 3.1 lists their contributions as highlighted by the International Confederation of Private Employment Agencies (CIETT).

¹⁵ The United Arab Emirates passed an ordinance in 2011 limiting the right to set up a private employment agency to United Arab Emirates citizens and also stipulated that every partner and signatory in an employment agency should be citizens to be eligible for applying for a licence. There is no information on the extent of enforcement of this provision.

Box 3.1: Contribution of private employment agencies (CIETT)

“[T]he positive contribution that private employment agencies make to the worldwide employment and economic objectives should be fully recognized by national governments, international institutions and relevant stakeholders. Indeed, services provided by private employment agencies can be part of the solution to improve the efficiency of the labour markets by:

- ✓ Providing work to job-seekers.
- ✓ Acting as a stepping-stone to permanent employment.
- ✓ Enhancing job-opportunities and integration in the labour market, in particular for the most disadvantaged group of workers.
- ✓ Improving labour market’s fluidity.
- ✓ Helping the creation of jobs that would not exist otherwise and therefore contributing to reduce unemployment.
- ✓ Cooperating with the Public Employment Services.
- ✓ Facilitating access to vocational training.” (CIETT, 2006, p. 3)

The role of private recruitment agencies is acknowledged in South Asian government policies. For instance, Priority Area 8 of the Pakistan National Emigration Policy is titled “According due recognition to OEPs [Overseas Employment Promoters]”. It adds, “The role of OEPs is crucial in greater penetration of Pakistani workers overseas. In an increasingly competitive environment, procurement of demand for the workforce has in fact emerged as a challenge. Thus, efforts of OEPs demand appreciation and recognition” (Government of Pakistan, 2009, p. 50).

Similarly the Sri Lanka National Labour Migration Policy states, “The State recognizes the contribution of Recruitment Agencies (State and Private) as a key stakeholder in the process” (MFEPW, 2008, p. 10).

3.4.2 Operation and regulation of the recruitment industry

The number of private recruitment agencies in Sri Lanka has been about 700 in recent years. Their share in total recruitment has declined from about 75 per cent to 60 per cent between 2002 and 2011. This has meant a parallel rise in placements through private networks to about 40 per cent in 2011. Data for 2010 show that almost 50 per cent of the agencies were only able to send fewer than 100 workers for the entire year (ILO, 2013a). According to the Bureau of Manpower, Employment and Training (BMET), Bangladesh, there are more than 1,200 recruiting agencies dealing with overseas employment in Bangladesh, but only about 800 are active. The Bangladesh Association of International Recruiting Agencies (BAIRA) has about 800 members. Nepal has about 976 licensed recruitment agencies, with the Nepal Association of Foreign Employment Agencies (NAFEA) being the largest group with about 750 members. The Foreign Employment Association Nepal (FEAN – established in 2008) has 198 members (Amnesty International, 2011).

A major issue of governance is the unfair recruitment practices prevalent in the industry which expose workers to high degrees of abuse and exploitation and vulnerability. This has created a bad image for the private recruiters in general. While it is not strictly correct to ascribe all the ills of foreign employment to private recruitment agencies, they nonetheless account for some of the serious malpractices committed against migrant workers. Therefore, a major challenge for migration legislation has been their licensing and regulation. The ILO Dhaka Regional Symposium on migration had this to say on their role.

Well-established regulatory mechanisms and recruitment procedures have not proven effective in curbing abuses committed especially by sub-agents. With a view to minimizing the cost of migration to the migrants, current approaches to licensing should be reviewed and assessment made of the financial and market capability of recruitment agents (ILO, 2008, p. 8)

At the Asia-Pacific Regional Preparatory Meeting for the General Assembly High-level Dialogue on International Migration and Development 2013, civil

society organizations in Asia in a joint statement called for the “Identification or creation, and implementation, of effective standards and mechanisms to regulate the migrant labour recruitment industry to prioritize the human rights of migrants” (CSO Asia, 2013).

In all three of the above-mentioned countries, governments have enacted laws and regulations which control the activities of private recruitment agencies with a view to protection of migrant workers from excessive fees and exploitation. The laws specify criteria for registration and licensing; amounts of start-up capital and reserves; security deposits; professional qualifications of owners; management and marketing capacities; financial capacities; terms of operation, such as allowable fees and charges; responsibilities and liabilities; good practice in dealing with clients; and penalties for non-compliance, among others. Chapter annex 3.2 shows the main features of the profiles of recruitment agencies and the regulatory frameworks in the three countries.

At the same time, there are some deviations from good practice. Recruitment services are not free in any of the countries, except for a few selected categories. Laws do not often apply to the large layer of intermediaries normally known as subagents. Although laws provide for desk audits and field audits of recruitment companies, the absence of an effective monitoring or oversight system, in practice, permits recruitment agencies to violate many provisions, such as limits on fees, providing correct information on jobs, issuing written contracts, among others. Another disturbing feature is the role of agents/labour brokers or intermediaries in destination countries who establish links with local recruitment agencies and often charge commissions. In Sri Lanka, members of ALFEA sit on the board of the regulatory body, the Sri Lanka Bureau of Foreign Employment (SLBFE), which could obviously lead to conflict of interest (ILO, 2013a).

Incentives and rewards for good performance, and joint liability of the recruitment agency together with the foreign employer are good practices that the Philippines has implemented for a long time. The joint liability principle is now being included in the draft Migration Act of Bangladesh. Table 3.4 shows the institutional, legislative, and regulatory framework relating to labour migration in South Asia.

Table 3.4: Legislative and regulatory frameworks to govern labour migration and recruitment in South Asia

Country	Responsible agency	Relevant legislation/regulations
Afghanistan	Ministry of Labour, Social Affairs, Martyrs and Disabled (MoLSAMD)	Labour Code of Afghanistan; Regulation for sending Afghan workers to abroad
Bangladesh	Ministry of Expatriate Welfare & Overseas Employment (MEWOE)	Emigration Ordinance, 1982 (No. 29 of 1982); Recruitment Rules 2002; (draft) Overseas Employment and Migration Act, 2013; Overseas Employment Policy, 2006
India	Protectorate of Emigrants; Ministry of Indians Overseas	The Emigration Act, 1983; Emigration Rules, 30 December 1983; Emigration (Amendment) Rules, 2009
Nepal	Ministry of Labour and Transport Management (MoLTP); Department of Foreign Employment; Foreign Employment Promotion Board	Foreign Employment Act, 2007 (Act No. 26 of the year 2042), repealing Foreign Employment Act of 1985; The Foreign Employment Rules, 2064 (2008); Foreign Employment Tribunal, 2010; Foreign Employment (First Amendment) Rules, 2011; Foreign Employment Policy, 2012
Pakistan	Ministry of Overseas Pakistanis and Human Resources (created July 2013); Bureau of Emigration & Overseas Employment	Emigration Ordinance, No. 18 of 1979 (updated 2012); Emigration Rules, 1979 (updated 2012)
Sri Lanka	Ministry of Foreign Employment Promotion & Welfare (MFEPW); Sri Lanka Bureau of Foreign Employment (SLBFE)	Sri Lanka Bureau of Foreign Employment Act, No. 21 of 1985 (amended 1994, 1995, and 2009); National Labour Migration Policy, 2008

Source: Updated from related table in Wickramasekara, 2011.

There is no proper monitoring or follow up action on compliance with approved fees in the three countries. For instance, it has been noted: “The SLBFE’s policy in this regard seems to be lenient and awaiting the migrant worker himself/herself to come and lodge a complaint rather than having follow up action or fact finding investigations on the issue” (ILO, 2013a, p. 24). The laxity of the regulatory machinery in Nepal has been commented upon in several studies (Amnesty International, 2011; Verité, 2013), and is well reflected in rampant abuses committed by recruitment agencies. Renewal of licenses is also done routinely without serious review of performance. Transparency International reports that in Sri Lanka:

The process of license-renewal also appears to be flawed, with an estimated 25 per cent of registered agencies not being operative and SLBFE renewing licenses of agencies that were not members of the Association of Licensed Foreign Employment Agencies (ALFEA) as required by the Act before its October 2009 amendment (Transparency International Sri Lanka, 2010, p. 4).

There is hardly any consultation with social partners or civil society in the formulation or administration of migration laws and rules although Convention No. 181 has clear provisions in this regard. Recruitment industry associations are members of employers’

organizations only in the case of Nepal. Grading and incentive systems have been introduced only recently in South Asia – almost as an afterthought – although the Philippines has a long-standing record in this respect.

There are regulations on the nature of advertisements, with the 2009 amendment of the SLBFE Act specifying that fees and wages should be included in all advertisements for vacancy announcements by recruitment agencies. There is, however, no monitoring of actual practice.

While enhanced cooperation between private recruitment agencies and public employment agencies is a good practice according to Convention No. 181, recent trends in Bangladesh and Sri Lanka do not show evidence of a high degree of cooperation.

The SLBFE is not strictly a public employment agency but a one-stop centre for all functions. The two public employment agencies in Bangladesh and Sri Lanka (BOESL and SLFEA, respectively) handle only limited placements normally reserved for the government, such as under the EPS of the Republic of Korea. Private employment agencies would like to get into the EPS because the Republic of Korea is a premium destination and agencies could charge high fees much beyond the agreed ones.

The case of recruitment of Bangladesh workers to Malaysia has brought into sharp focus the different perceptions and motivations of the government and BAIRA on migrant recruitment fees. It was reported that the government-to-government arrangement on the migration of workers between Malaysia and Bangladesh reduced the cost of migration to 40,000 Bangladesh Taka (BDT) per worker, far below the cost of BDT 200,000 or BDT 300,000 normally charged by BAIRA members. While the Government of Bangladesh has invited BAIRA to bring down fees to comparable levels, there has been a stand-off and BAIRA members threatened to go on strike. However, the strike has now been called off. The Minister had clarified that the government was only sending workers to Malaysia under government-to-government arrangement and BAIRA was free to send workers to 156 countries (The Daily Star, 2013a). But this conflict is not a healthy one and not consistent with the spirit

of Convention No. 181, which advocates promotion of cooperation between public and private employment agencies. As a Daily Star editorial points out: [B]oth have a role to play in sending manpower to various destinations. They can only benefit from a good and mutually complementary relationship rather than being caught up in any adversarial relationship (The Daily Star, 2013a)

The Government has also issued an order stating that private recruitment agencies can send workers abroad without having BAIRA membership, since the Immigration Ordinance, 1982, stipulates that such membership is not mandatory for engaging in sending jobs-seekers overseas (Islam, 2013). This is similar to Sri Lanka's decision under the 2009 amendment to the SLBFE Act not to make ALFEA membership mandatory. The Philippines has had more than one association of recruitment agencies for a long time. Nepal has two major associations (NAFEA and FEAN). There is no information to assess whether a single association or multiple associations would be better from the viewpoint of governance of labour migration and protection of workers. From the viewpoint of the authorities, it could be argued that dealing with one association would be more convenient than dealing with several. Moreover, the decision to terminate the monopoly of a single association could carry the wrong signal to some recruitment agencies that they are no longer bound by any established code of conduct. The IOM-convened Regional Conference-Workshop on Organizing the Association of Employment Agencies in Asia in April 2008 in Manila did not touch on this issue, but participants repeated the problems arising from cut-throat competition among individual private recruitment agencies (IOM, 2008). Similarly, the GFMD Workshop on Recruitment of Workers for Overseas Employment in January 2011 in Dubai did not discuss this issue. This is obviously an area for further research.

3.4.3 Issues and malpractices in the recruitment process

The 1997 ILO Tripartite Meeting of Experts on Migration made a listing of major malpractices which are quite applicable to the situation in South Asia as well (Box 3.2).

Box 3.2: Abuses or malpractices identified by the ILO Tripartite Meeting of Experts on Future ILO Activities in the Field of Migration, 21–25 April 1997

- (a) advertising and soliciting applications for positions that, in reality, do not exist;
- (b) providing false information to the worker on the nature and terms and conditions of employment, and to the employer on the qualifications of the jobseekers;
- (c) using forged travel documents or misrepresenting the workers' personal details;
- (d) charging workers fees for recruitment services;
- (e) making a profit out of selling offers of employment or work visas to other recruitment agencies or to the jobseekers without actually performing any recruitment service;
- (f) forcing the migrant worker, upon arrival in the receiving country, to accept a contract of employment with conditions inferior to those contained in the contract which he or she signed prior to departure ("contract substitution");
- (g) withholding or confiscating passports or travel documents; and
- (h) stipulating in the employment contract provisions that deny fundamental rights, in particular freedom of association.

Source: ILO, 1997, p. 16.

The Sri Lanka National Labour Migration Policy pointed out:

The recruitment process involves a number of dangers and risks for migrants. These include overcharging of fees, debt bondage, falsification of documents, the deception of under age (under 18 years of age) persons and sending them abroad for employment, dishonesty with regard to the nature and conditions of employment, contract substitution, etc. (MFEPW, 2008, p. 20).

There has been wide research, especially on recruitment agencies and their operations and malpractices in South Asia. There is a lot of consensus on the issue although there may be country-specific variations in the relative importance of factors at country levels (Arif, 2008; Afsar, 2009; Mughal & Padilla, 2005; NIDS, 2008; Transparency International Sri Lanka, 2010; Amnesty International, 2011b; Migrant Forum in Asia, 2011; Siddiqui, 2011; Wickramasekara, 2011; ILO, 2013a; Verité, 2013). Most of the issues raised are well known, and therefore this paper will only summarize the main findings of these studies. The issues are quite similar across the countries.

The above studies highlight the following features: the presence of layers of intermediaries both in origin and destination; collusion between local and foreign agents that act to the detriment of migrant workers; excessive fees that land migrants in onerous debt and forced labour situations; the high level of rentier income in the industry; the high frequency of contract substitution, passport confiscation, ineffective complaints and grievances procedures, poor working conditions, low wages, and non-payment or withholding of wages, visa trading and free visas; and rampant abuse and exploitation of migrant workers, especially female domestic workers.

A number of migrant workers go to GCC countries under free visas, which mean that the migrant does not have a matching job with the sponsor (Kafala) and becomes irregular when they work for others, thereby running the risk of deportation. Kafalas and other brokers in the Gulf countries bring workers under free visas for high fees, and also charge commissions monthly from their earnings. This practice may also involve social networks of friends and relations who act as brokers within the GCC countries, as well as subagents and recruitment agencies in the origin country, as Afsar (2009) and Raman (2011) have pointed out. The Saudi Minister of Labour remarked in 2004 that 70 per cent of the visas issued by the government were sold on the black market (cited in Rahman, 2011). The latest Nitaqat programme designed by the Ministry of Labour of Saudi Arabia for employing more nationals in private sector workplaces has caused wide disruption to those expatriate workers who were working for employers other than their

original Kafalas.¹⁶ The new law made it mandatory for local companies to hire one Saudi national for every 10 migrant workers, and for the Government to deport workers not employed directly by the Saudi citizens who sponsored their visas. This has affected large numbers of migrant workers from South Asia, who are leaving before formal deportations, although some concessions have been offered under an amnesty.

The Verité (2013) report on Nepal states:

The major causes of corruption in the foreign employment industry in Nepal are: (a) lack of awareness among migrant workers of their legal rights; (b) excessive document requirements; (c) unscrupulous recruitment agencies and agents; (d) weak monitoring mechanism; (e) non-enforcement of laws and regulations; and (f) political protection of wrongdoers (p. 26).

Box 3.3 summarizes their findings on the broker networks.

Box 3.3: Nepal: Broker networks

Verité research uncovered both formal and informal labour broker networks that exploit Nepali workers. Formal networks centre on registered, licensed agencies mostly based in Kathmandu and on individuals in Nepal acting as official agents for employers in sending countries. These agents work with registered and unregistered agents in receiving countries that employ, sponsor, or manage the worker throughout their stay in the receiving country. Informally, individuals act as subagents for labour-brokerage agencies, going village to village to recruit candidates. Most of the documented abuses of Nepali workers are related to recruitment agents in the villages or recruitment agencies in Kathmandu. Nepali workers are commonly deceived by brokers about working conditions in receiving countries. Workers interviewed for this report said that they accepted the situation due to fear of reprisal or of losing their jobs, which would render them unable to repay debt incurred to migrate.

Source: Verité, 2013, p. 8.

¹⁶ See the FAQ on the Nitaqat system on a Philippines website: <http://www.bla-soplecenter.com/faq/faq-on-the-nitaqat-system-of-the-ksa/> [accessed 8 June 2014].

A study on recruitment in Sri Lanka by Transparency International (2010) highlights the following findings (Box 3.4).

Box 3.4: Sri Lanka migration process and malpractices

The study found that all intermediaries in the migration process – the state, licensed agencies, informal networks and illegal/unlicensed agencies – presented corruption risks to job seekers. Political patronage and lack of transparency in state recruitment led to public perceptions of corruption. The range of malpractices by licensed agencies included advertising before obtaining job approval; concealment from the SLBFE and the worker of the wages negotiated with the foreign principal; falsification of documents; charging of unauthorized fees; allowing the worker to leave without signing the contract; contract and job substitution; letting the worker be stranded at the destination; change of destination; recruitment to banned destinations; withholding of wages of domestic workers in the first three months; closure of agency after collection of recruitment fees; and shifting of premises after defrauding workers. Some malpractices were perpetrated by local recruiters in collusion with the employer or foreign agent. Some medical examinations of domestic workers were allegedly conducted in an unethical manner.

Source: Transparency International Sri Lanka, 2010, p. 5.

A study by Transparency International Bangladesh also confirms high levels of corruption in the labour migration sector; it described “labour migration” as the worst affected among sectors surveyed, with 77 per cent of respondents being victims of corruption (Transparency International Bangladesh, 2012).

What these studies also clearly bring out is the need for shared responsibility for addressing these abuses and malpractices through cooperation by both origin and destination countries, since malpractices occur at both ends. While countries of origin have, in theory, at least

control over emigration and recruitment practices from their countries, they have no control or jurisdiction over what happens in countries of destination. The 2008 Global Forum on Migration and Development hosted by the Government of the Philippines promoted the concept of shared responsibility of countries of origin and destination for protection of migrant workers (GFMD, 2008). The 2008 Dhaka Regional Symposium also focused on the theme of shared responsibility (ILO, 2008). An ILO brief has clarified this concept (ILO, 2009b).

A few major issues will be highlighted here. An issue demanding joint action is the problem of contract substitution – the signing of two contracts, one locally and one abroad with inferior conditions of work. The ILO study for Sri Lanka (ILO, 2013a) highlights that the practice continues despite many efforts by the SLBFE to curb it.

The following is the case of a 29-year-old from Nepal who worked for two years as a construction worker in Qatar succinctly sums up the issues:

“Two hours before my flight, I received my contract, which was written in Arabic. My agent verbally translated it for me. The salary listed was QAR900 [US\$250] per month. He then gave me another contract and told me to sign it. In this version, my salary was only QAR500 [US\$140] and the company name was different. The agent instructed me to show the first contract to the Nepalese immigration officer and the other version was for Qatar” (Amnesty International, 2011, p. 44).

Similarly, the sponsorship system (Kafala) prevalent in GCC destination countries has been highlighted as a factor causing immense hardship for migrant workers (Khan & Harroff-Tavel, 2011). The system, which ties workers to particular employers who confiscate their travel documents, often results in forced labour situations (Harroff-Tavel & Nasri, 2013). While Bahrain has made some modifications of the system, it is well entrenched in other countries. Visa trading is another undesirable practice that lands migrant workers in irregular situations without matching jobs in GCC countries. These matters can be effectively addressed only through cooperation. Khan and Harroff-Tavel (2011) point out: “There is also an important role for

inter-state cooperation in preventing and punishing unscrupulous recruiters and agents in both countries of origin and destination” (p. 306). Similarly enforcement of labour laws in workplaces through adequate labour inspection procedures is an obligation of host country governments.

Another recurring issue is collusion between origin country recruiters and intermediaries. While most Middle Eastern countries have banned the charging of fees on migrant workers, the local agents, who represent a combination of native and non-national persons, charge commissions from origin country recruiters. These commission costs are then passed on to migrant workers, even when employers bear the visa and travel costs. A World Bank study for Nepal estimated that US\$17–34 million is annually being transferred from Nepal through informal channels (5 per cent of recorded remittances from Qatar to Nepal) by Nepalese recruitment agencies as illegal commissions to middlemen and recruitment agencies in Qatar (Endo & Afram, 2011).

The GCC States require medical screening of migrants before their departure, especially for HIV/AIDS and tuberculosis. They have unilaterally accredited a panel of medical centres in some origin countries for this purpose, effectively granting a monopoly to conduct such tests. This has resulted in high charges for intending migrant workers, as well as inconvenience, since they may have to come several times to get appointments. In the case of Sri Lanka, no worker can be recruited to Saudi Arabia, Kuwait, Oman, or the United Arab Emirates without going through one of 15 GCC-approved medical clinics (ILO, 2013a, p. 30).

The Philippines has introduced a good practice in this respect. The Republic Act No. 10022: An Act Amending Republic Act No. 804 decreed, “No group or groups of medical clinics shall have a monopoly of exclusively conducting health examinations on migrant workers for certain receiving countries,” thereby allowing migrant workers free choice. The Government is also obliged to regularly monitor to see that fees are reasonable. Thereby it contributes to reduction of costs of migration (Government of the Philippines, 2009).

In Nepal, recruitment agencies send workers on fake health certificates, resulting in workers then being returned by destination countries without being allowed to work. Although the law states that they should be compensated fully by the institution providing the false certificate through the recruiter, in practice, they rarely get any compensation or are given amounts far below the cost incurred in migration (Amnesty International, 2011).

3.4.4 Analysis of complaints data

All South Asian countries have clear complaints procedures for migrant workers laid down in their respective laws and regulations. Sri Lanka's SLBFE has set up a Conciliation Division to receive and review complaints and a special Investigation Division to conduct raids and prosecute offenders. Nepal has set up a special tribunal to handle complaints referred to it by the Department of Foreign Employment when conciliation is not possible. For workers coming under labour laws of destination countries, there are complaints procedures, but low-skilled workers find it very difficult to access them because of language problems, obstruction, and threats of retaliation by employers and unsympathetic local bureaucracy. The MOUs signed by South Asian countries commonly carry the following text:

In case of dispute between the employer and the employee, complaint shall be presented to the competent department in the Ministry of Labour to endeavour for an amicable settlement. If no amicable settlement is reached, the complaint shall be referred to the competent judicial authorities for settlement (Wickramasekara, 2012).

A review of complaints made by migrant workers can shed further light on some of the major problems experienced. Detailed information is, however, available only for Sri Lanka, while the author was able to obtain information only on the number of complaints and compensation paid in the cases of Bangladesh and Nepal. Even these data understate the problems experienced for several reasons.

- i. Some workers may not be aware of the existence of the complaints and grievance procedures. For instance, the vast majority of workers in Nepal surveyed by Amnesty International were not aware that they had paid into the Government Welfare Fund or that the Fund was designed to help them when they faced problems abroad (Amnesty International, 2011).
- ii. Not all workers want to lodge complaints: many may be relieved to have returned from abusive employment and may not care to lodge complaints. They may also be dissuaded or frustrated by the bureaucracy or threatened by recruitment agents and employers not to do so.
- iii. Workers have hardly any access to complaints and grievance procedures while abroad, with many being confined to their workplaces, as in the case of domestic workers.
- iv. Most complaints may be reported on return. Complaint data also may not include pre-departure complaints and those lodged at embassies abroad (ILO, 2013a).

Sri Lanka

In Sri Lanka, analysis of complaints by migrants shows that about 80 per cent of the complaints were made by women migrants (see Table 3.5a). Since most of them are domestic workers who work in private households (as revealed by skill profiles), it highlights the specific problems faced by this group. While non-payment of wages made up a similar proportion of complaints by both male and female migrants, women workers had a higher share of problems with lack of communication, sickness, sexual and physical harassment, and not being allowed to return after completion of contract. The major problem reported by male workers was breach of contract, reflecting contract substitution. Overall the bulk of the complaints were recruitment-related (Transparency International Bangladesh, 2012; ILO, 2013a).

Table 3.5a: Complaints of migrant workers by issue and sex– Sri Lanka (by percentage of total complaints)

Nature of complaints	2008			2009			2010		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Non-payment of agreed wages	17.8	17.5	17.6	14.9	17.7	17.0	20.1	19.4	19.6
Lack of communication	2.9	15.7	13.1	3.4	16.3	13.4	3.2	13.4	11.5
Sickness	4.5	9.9	8.8	4.2	10.0	8.7	5.8	14.1	12.5
Harassment (Physical & sexual)	1.7	15.0	12.3	2.2	15.8	12.8	2.7	16.8	14.1
Not sent back after completion of contract	1.8	7.7	6.5	1.3	4.7	3.9	3.0	6.0	5.4
Problem at home (Sri Lanka)	0.1	0.5	0.4	0.1	0.8	0.7	0.2	1.1	0.9
Breach of Employment Contract	50.7	14.1	21.4	41.5	18.6	23.7	39.0	17.4	21.5
Stranded without employment	2.9	1.0	1.4	2.9	0.4	0.9	3.2	0.5	1.1
Premature termination	2.2	0.1	0.5	5.6	0.3	1.5	2.8	0.1	0.7
Others	15.5	18.7	18.0	23.8	15.6	17.4	20.0	11.2	12.8
Total percentage	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total number of complaints	1,940	7,719	9,659	2,673	9,387	12,060	2,801	11,903	14,704

Source: Compiled based on data from the SLBFE, Sri Lanka.

Destination country-wise (Table 3.5b), Saudi Arabia, Kuwait, Jordan, and the United Arab Emirates reported the highest number of complaints, in descending order, during 2008-2011, with Saudi Arabia accounting for close to 50 per cent. This pattern may also reflect the relative share of domestic workers in different countries.

Table 3.5b: Complaints received by country of destination – Sri Lanka

Country	2008			2009			2010		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Saudi Arabia	34.1	45.8	43.4	46.1	48.6	48.1	42.5	48.4	47.3
U.A.E.	14.0	7.1	8.5	14.0	6.4	8.1	9.8	5.9	6.7
Kuwait	12.1	23.6	21.3	9.7	22.3	19.5	10.6	23.0	20.6
Qatar	21.5	1.8	5.7	16.5	2.2	5.4	24.5	3.1	7.2
Jordan	2.8	12.3	10.4	1.4	12.7	10.2	1.5	10.1	8.5
Other countries	15.5	9.4	10.7	12.3	7.8	8.8	11.1	9.4	9.7
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total complaints	1 940	7 719	9 659	2 673	9 387	12 060	2 801	11 903	14 704

Table 3.6 indicates that a high proportion of cases have been settled. During 1994–2011, about 81 per cent of the received complaints had been settled, with a total compensation of 126 million Sri Lankan rupees (LKR).

Table 3.6: Sri Lanka – No. of complaints received & compensation paid in settlement, 1994–2011*

Year	No. of complaints received	No. of complaints settled	Compensation paid (in LKR)
1994	4 151	1 327	1 369 955
1995	5 228	3 439	586 305
1996	8 094	1 250	2 318 606
1997	7 431	2 812	2 451 912
1998	8 821	11 435	6 777 716
1999	9 838	3 456	6 079 706
2000	7 284	6 620	4 703 029
2001	7 710	4 987	3 833 291
2002	7 664	5 771	4 303 600
2003	7 972	7 726	9 718 152
2004	8 353	7 192	8 968 871
2005	9 930	7 335	5 027 285
2006	10 829	10 180	15 996 464
2007	8 447	10 179	9 186 045
2008	9 659	9 723	12 818 165
2009	12 060	11 487	17 234 412
2010	14 704	13 927	23 872 073
2011*	9 694	9 153	16 923 419
Total	157 239	127 999	152 169 006

*Provisional; Source: Conciliation Division, SLBFE.

NGOs have, however, complained that the actual conciliation process is confined to two district centres and delays of the process cause hardships for migrant workers. They also add, “Most often, the procedure of conciliation as well as the awarding of monetary redress is biased towards the recruitment agency” (Migrant Forum in Sri Lanka, 2013, p. 6).

A recent detailed review of grievance and complaint handling mechanisms to address migrant worker grievances in Sri Lanka has identified a number of gaps in related procedures (ILO, 2013b).

A major gap identified relates to inadequate numbers of staff (conciliation officers, labour welfare officers) in the

SLBFE and in Sri Lankan diplomatic missions to handle the large number of complaints, as well as their lack of professionalism and requisite training. Similarly there are coordination problems between the Ministry of External Affairs, Ministry of Foreign Employment Promotion and Welfare, and the SLBFE, which result in duplication of complaints handling, non-sharing of relevant databases, rivalries and divisions among staff members, and poor coordination with home country authorities as well as host country authorities, among others.

The report also highlighted gaps and deficiencies at the policy level: lack of proper implementation of MOUs signed with destination countries; inadequate regulation of recruitment agencies and subagents; poor implementation of redress mechanisms, especially for domestic workers; and the absence of a separate legal body to resolve grievances and complaints, among others.

The report also made a number of recommendations to improve the situation, covering capacity building of relevant officials, more effective coordination among relevant ministries and agencies, the creation of a conciliation board, better regulation and grading of recruitment agencies, a one-country team approach at foreign missions, ratification of the Domestic Workers

Convention, 2011 (No. 189), improved gender-sensitive facilitation of grievance handling, and more effective follow up of MOUs (ILO, 2013b).

The problem with the study is that too many recommendations have been made without identifying priority areas. The report also argues for better recognition of NGOs as legitimate partners of the SLBFE in grievance handling but no mention is made of the role of social partners.

Bangladesh

Table 3.7 shows the total number of complaints received and settled and the total compensation paid in Bangladesh from 2009 to May 2013. Only 55 per cent of cases had been settled during the period, and 45 per cent of the cases lodged during 2009–10 are still pending. There is no access to complaints data by type, country, and worker skill levels (as in the case of Sri Lanka) for both Bangladesh and Nepal. However, the number of complaints received to departures overseas seems much lower compared to Sri Lanka. Lack of awareness of procedures and lack of documentation, such as receipts for payments made, will make the lodging of complaints difficult for many workers.

Table 3.7: Bangladesh – Information regarding complaints of migrant workers

Period	No. of complaint/s received	No. of settled complaints	No. of complaints under process of inquiry	Amount collected from R/Agencies (in million BDT)	Settled complaints as percentage of total
January 2009 to December 2010	1 805	999	806	96.64	55.3
January –December 2011	500	383	117	37.19	76.6
January –December 2012	460	262	198	19.62	57.0
January – May 2013	351	61	290	4.32	17.4
Total (January 2009 to May 2013)	3 116	1 705	1 411	157.77	54.7

Source: BMET.

Table 3.8: Nepal – Complaints made by migrant workers and compensation

	Against individual agents (April 2012 – May 2013)	Against recruitment agencies (April 2012 – May 2013)	Total
Number of Complaints	1 032	832	1 864
Compensation claimed	684 590 807	300 786 960	985 377 767
Compensation received	62 699 740	38 406 279	101 106 019
Cases forwarded to the Foreign Employment Court	134	14	148
Compensation claimed in cases before the Court	319 476 430	40 214 250	359 690 680
Decisions from the Court in favour of complainant	29	6	35
The Court-declared compensation amount	-	3 900 000	3 900 000

Source: Department of Foreign Employment, Kathmandu (information communicated by Bina Thapa, ILO Country Office for Nepal).

Nepal

Complaints data for Nepal shown in Table 3.8 distinguishes between complaints made against individual agents and those made against recruitment agencies. During the past year, 1,032 complaints were made against the former while only 832 complaints were made against recruitment agencies. It has been stated that the majority of the complaints registered with the Department of Foreign Employment deal with the difference between the amounts of salary mentioned in the contract signed in Nepal and what is actually paid in the destination country (Sijapati & Limbu, 2012). What is striking is the large discrepancy between compensation claimed and actually made. Overall, only 10 per cent of the claimed amount has been paid as compensation. Similarly, only small shares of cases have been referred to the court – 13 per cent for individual cases and only one per cent of those against recruitment agencies. More striking is the fact that the court had decided in favour of only one per cent of the total claimed amount. Without further data, it is difficult to interpret these figures.

But compared to Bangladesh and Sri Lanka, it is clear that migrant worker complaints made in Nepal have very limited success. The process becomes lengthy because, although the Foreign Employment Tribunal was set up in 2010, no related regulations to guide the Foreign Employment Tribunal have been introduced yet (Sijapati & Limbu, 2012).

The Amnesty International study (2011) found that Nepalese migrant workers faced various obstacles to accessing compensation, including “a lack of knowledge of the Department’s complaints mechanism, difficulty in navigating government bureaucracy, discouragement from government officials and the financial disincentive of travelling to the capital” (p. 84). Thus the potential complaints may be far higher than those recorded.

3.4.5 Summary of recruitment issues

Migrant Forum in Asia (2009) has documented some good practices taken by Asian States to effectively supervise recruitment agencies. Yet it is

clear that a number of current practices deviate from international norms as highlighted in Convention No. 181, Convention No. 189, and the ILO Multilateral Framework on Labour Migration. I shall look at the MFLM because it also covers most of the principles in Convention No. 181.

Current practices are not consistent with several guidelines provided in the MFLM.

- Guideline 13.2 (G13.2) requires that recruitment and placement services respect migrant workers' fundamental principles and rights; this is often violated because recruitment agencies place workers, especially domestic workers, in situations of forced labour.
- G13.3 relates to ensuring that migrant workers receive understandable and enforceable employment contracts. But many migrant workers do not receive contracts at all or in a language they can understand. There is also contract substitution with inferior conditions than initially agreed, which is well documented (Verité, 2013; Amnesty International, 2011; Afsar, 2009).
- G13.4 also is not respected because workers are placed in jobs which involve unacceptable hazards or risks or abusive or discriminatory treatment; for example, while migration to Afghanistan and Iraq are banned in Sri Lanka, recruiters send workers to these destinations through other routes.
- All three instruments specify that fees should not be levied on workers (MFLM G13.7; Article 7 of Convention No. 181; and Article 15e of Convention No. 189). In South Asia, charging placement and recruitment fees to workers is standard practice.
- Adequate machinery and procedures do not exist for domestic workers (as provided for in Article 15(b) of Convention No. 189). The high incidence of maids fleeing from abusive situations in the Middle East and Malaysia reflects the absence of such machinery.
- Both Convention No. 189 (Article 15(d)) and

Convention No. 181 (Article 8(2)) provide for negotiation of bilateral agreements to prevent abuses and fraudulent practices in recruitment, placement, and employment. A review of MOUs for India, Nepal, Sri Lanka, the Philippines, and India by the author¹⁷ found that these issues are systematically left out of the content of MOUs. The MOUs have been superimposed on a long-standing system of migration, with large stocks of migrant workers already in the destination countries. Domestic workers are not covered in any of these MOUs, although Malaysia and Jordan have concluded separate MOUs with some countries dealing with domestic workers (Wickramasekara, 2012). The MOUs leave out any reference to the following critical issues: recruitment malpractices; the sponsorship system (Kafala) and the related visa trading and high migration costs; the spelling out of the procedures by which workers can find an amicable settlement or recourse to justice through judicial procedures; minimum employment standards or enforcement machinery to ensure compliance with labour law provisions; retention of passports by employers, which is prevalent in all countries concerned; measures to protect migrant wages; principles of equal treatment and non-discrimination; and the fundamental rights of migrant workers according to international instruments. The recent resort to strike as a desperate measure by some workers of Arabtec Construction Company in Dubai¹⁸ is one indication of the lack of effectiveness of these MOUs.

Self-regulation by private employment agencies

Self-regulation by private employment agencies through ethical codes of conduct has been advocated by some. The ILO 1997 Tripartite Meeting of Experts spelled out criteria for self-regulation (ILO, 1997). This is reproduced in Box 3.5.

¹⁷ It was not possible to access the MoUs of Bangladesh for review at the time of writing of this paper.

¹⁸ Financial Times, "Construction workers strike in Dubai as labour tensions rise", available at: <http://www.ft.com/cms/s/0/af0ed09e-c15f-11e2-b93b-00144feab7de.html#axzz2jxXPfjQ> [accessed 18 June 2013].

Box 3.5: Self-regulation by private recruitment agencies: Guidelines

4.1. Migrant-sending as well as migrant-receiving countries should encourage the self-regulation by private agents of their profession. Self-regulation should include the adoption by private agents of a code of practice to cover, inter alia, the following:

- (a) minimum standards for the professionalization of the services of private agencies, including specifications regarding minimum qualifications of their personnel and managers;
- (b) the full and unambiguous disclosure of all charges and terms of business to clients;
- (c) the principle that private agents must obtain from the employer before advertising positions and in as much detail as possible, all information pertaining to the job, including specific functions and responsibilities, wages, salaries and other benefits, working conditions, travel and accommodation arrangements;
- (d) the principle that private agents should not knowingly recruit workers for jobs involving undue hazards or risks or where they may be subjected to abuse or discriminatory treatment of any kind;
- (e) the principle that migrant workers are informed, as far as possible in their mother tongue or in a language with which they are familiar, of the terms and conditions of employment;
- (f) refraining from bidding down wages of migrant workers; and
- (g) maintaining a register of all migrants recruited or placed through them, to be available for inspection by the competent authority, provided that information so obtained is limited to matters directly concerned with recruitment and that in all instances the privacy of the workers and their families is respected.

Source: ILO, 1997.

Based on the above criteria and the guidelines laid down in the ILO MFLM, it is clear that a large gap exists between current recruitment practices in South Asian countries and the standards for self-regulation. In the absence of regulatory frameworks, self-regulation is likely to result in even lower levels of service provision and protection.

A general survey of migrant worker instruments by the ILO in 1999 found that not a single government, employer organization, or workers' organization had provided information that would enable the ILO Committee of Experts to determine whether self-regulation was indeed a widespread means of regulating the industry (ILO, 1999).

There are a number of codes of practice on the recruitment practices of private employment agencies. The CIETT Code of Conduct of 2006 is a good example

that adheres to the principles of Convention No. 181 (CIETT, 2006). Business for Social Responsibility has also developed a Good Practice Guide covering all key international labour migration procedures for international companies, employers, and contractors (BSR, 2010). The Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) has disseminated *Recommended Guidelines for Migrant Recruitment Policy and Practice in the Greater Mekong Subregion* (COMMIT, 2008) to prevent trafficking and forced labour in the region. The 2008 ILO Regional Symposium in Dhaka proposed the development of a code of conduct for recruitment agencies in South Asian Association for Regional Cooperation (SAARC) countries, taking into account existing practices (ILO, 2008).

The documented evidence on malpractices casts serious doubt as to whether there is any credible self-

regulation by the recruitment industry in South Asia. ALFEA in Sri Lanka developed a code of conduct in 1993, which has not been updated since. Moreover, its provisions are weak, and mostly cover the obligations of member agencies. NAFEA in Nepal has a code of conduct, but there is not any evidence of adherence to it by members. It is doubtful whether compliance with these codes is monitored at all.

At a UN Development Fund for Women (UNIFEM)¹⁹ regional consultation, Asian overseas recruitment agency associations (including those of Bangladesh, Nepal, and Sri Lanka) committed themselves to the Covenant of Ethical Conduct and Good Practices of Overseas Employment Service Providers (UNIFEM, 2005). There is no information on any follow up relating to this initiative. The 2008 IOM Conference on Organizing the Association of Employment Agencies in Asia in Manila did not come up with a code of conduct but identified a list of “Support and Restraining Factors in Ethical Recruitment” (IOM, 2008). What emerges is that isolated and uncoordinated initiatives by individual international organizations are likely to have limited impact.

Trade unions and NGOs have been active in highlighting recruitment abuses and the protection and promotion of the rights of migrant workers, especially in origin countries. They have limited scope in Middle East destinations due to national laws restricting or banning union activities, except in Bahrain, Kuwait, Jordan, and Oman. Employer organizations have rarely gotten involved in labour migration matters, except at broad national policy levels. For instance, the Employers’ Federation of Ceylon played an active role in the formulation of Sri Lanka’s National Labour Migration Policy. Migrant worker organizations are not common, although the Welfare Association for the Rights of Bangladeshi Emigrants (WARBE) Foundation and the Association for Female Migrant Workers (BOMSA) in Bangladesh, and Pourakhi, an NGO for female migrant workers in Nepal, have emerged as important advocates of migrant rights. Trade unions in Nepal and Sri Lanka have played an active role in migration issues,

¹⁹ In January 2011, the General Assembly of the United Nations established the UN Entity for Gender Equality and the Empowerment of Women, to be known as UN Women by merging UNIFEM, Division for the Advancement of Women, International Research and Training Institute for the Advancement of Women, and Office of the Special Adviser on Gender Issues and Advancement of Women.

and established links with their overseas counterparts in some destination countries (Wickramasekara, 2011). The Trade Union Declaration on the Rights of Migrant Workers from South Asia, adopted at the ILO-NTUC Subregional Workshop for the Protection of Migrant Workers through Networking Trade Unions, Kathmandu, in September 2007, recognized that “their prominent, concrete action was needed to monitor unscrupulous recruiting agency practices and increase interactions with recruitment agencies to improve their services”, but the action plan adopted did not include a provision for such monitoring (NTUC Nepal & ILO, 2007). Among destination countries, the Malaysian Trade Union Congress has been active in advocacy of migrant worker rights in Malaysia.

This paper next takes up the related issue of high migration costs, their causes, and ways of addressing them.

3.5 Migration costs: Concepts, evidence, and prospects for reduction of costs

High costs of migration basically reflect poor governance of migration and market failures in origin and destination countries. It points to layers of intermediaries in the recruitment process who extract excessive rentier incomes in relation to actual services rendered. International instruments and codes of practice specify that no fees should be levied on migrant workers except under special circumstances (ILO, 1997; CIETT, 2006; ILO, 2006; ILO, 2007; COMMIT, 2008).

3.5.1 Benefits of reducing migration costs

The benefits of reducing migration costs are obvious. It enables more poor people to access foreign employment opportunities. It also prevents asset depletion on the part of migrant households through sale of property and assets to finance migration. Low costs also prevent migrants from falling into heavy debt traps that may absorb all their savings and remittances for repayment. Excessive debts also force migrants into forced labour situations. Low costs also mean higher remittance flows in migrant households and their communities, which can then be put to human capital formation and other uses. Sometimes destination countries impose bans on the recruitment of workers

from particular countries or stop the deployment of particular types of workers when recruitment abuses are discovered, which can impose a heavy cost on all parties involved.

Higher migration costs tend to deter movement and have undesirable side effects ranging from workers overstaying their visas in order to achieve savings targets to lower levels of remittances and savings that could speed development and improve lives in migrant areas of origin. Governments recognize that high

recruitment costs create problems for themselves as well as migrants and employers (Martin, 2012, p. 2).

Siddiqui also adds, “The cost of recruitment of migrant workers of Asia to the Gulf Cooperation Council (GCC) countries has been identified as one of the key issues that challenge the protection of migrant workers and reduce development impacts of international migration” (Siddiqui, 2011, p. 2).

The government of Bangladesh has also given high priority to reduction of migration costs (Islam, 2011).

Box 3.6: Observation on Nepal

At the country level, foreign labour migration is believed to be one major contributor in reducing the number of people living under poverty from 41 per cent in 1996 to 31 per cent in 2003/04. However, the associated problems are huge. The high cost of migration is a result of all these problems. The challenge is thus to reduce the cost of migration including the cost of remitting the money. Reduction in cost will also enhance the accessibility of the poorest of the poor to foreign labour migration. Studies have shown that this group has not been able to benefit from the foreign labour opportunities. Therefore, a study investigating in detail the process of migration, the cost and risks involved and the measures to reduce these costs will be invaluable to the country.

(NIDS, 2008, p. 10).

3.5.2 Conceptualizing migration costs

Migration costs can be looked at from the viewpoint of the individual migrant, the migrant family, or society as a whole. Given that households are normally involved in migration decisions, the cost is often shared by the household, but individual migrants bear the responsibility of migration costs in the final analysis.

The cost is not confined to emigration only. For a comprehensive analysis, one has to look at the complete cycle of migration – emigration, transit, stay, and return.

It is easier to calculate monetary costs provided data is available, but non-monetary costs are equally, if not more, important. One major non-monetary cost is the social cost of family separation and the impact on children left behind, but it is very difficult to measure such social costs. Box 3.7 highlights the main dimensions of migration costs based on my 2002 paper on Asian labour migration.

Box 3.7: Costs of migration: Illustrative exercise

Types of costs

Direct and indirect costs

Monetary (financial) and non-monetary costs (social and human costs)

Costs at various stages of the migration cycle

Major financial costs incurred by migrant workers

- Fees charged by recruitment agents, middlemen, and sponsors (Kafala) in both origin and destination countries. Some charges may be open while others may be hidden in the form of short-payment of agreed wages or systematic deductions.
- Other fees: registration fees, passport fees, visa fees, exit permit fees, etc.
- Skill certification fees.
- Travel and transport expenses before departure, air tickets, expenses in transit.
- Opportunity cost of time spent in visits to recruitment agencies, government agencies and other places to process work permits and visas.
- Interest on loans and mortgages to finance overseas travel.
- Various government levies and legal costs.
- Remittance transfer fees.
- Repatriation costs.

Financial costs in relation to earnings/wages overseas

This is very important: In a number of cases, first year earnings could be absorbed by these costs, ranging from 25 per cent to 100 per cent. For some trafficked persons, it could mean lifetime debt bondage.

Human costs (not exhaustive)

- Mental and physical stress of being alone without family.
- Various types of discrimination in the workplace and in host society.
- Human cost of remittances: Remittances are not just dollars and cents, but also reflect the “blood, sweat, and tears” – sufferings of migrant workers.
- Sexual harassment, violence, and abuses faced by women workers.
- Poor occupational safety and health conditions and living conditions.
- Sickness and inadequate medical benefits.
- Work injuries and physical violence leading to disability and even death.
- Separation from family; impact on families left behind and children.

Who pays these costs?

In the final analysis, it is the migrant workers and their families who bear most of the above costs. Costs may often exceed benefits, especially for workers with low skills and migrant workers in irregular status.

Source: updated from Wickramasekara, 2002.

Time costs are equally important as (Sharma & Zaman, 2009) have highlighted in their Bangladesh study.

Table 3.9 indicates a breakdown of migration costs (monetary) according to a temporary migration cycle, which is the predominant migration regime for low-skilled South Asian workers.

Table 3.9: Illustrative breakdown of migration costs according to temporary migration cycle		
Costs in origin country	Costs in destination country	Costs upon return
Document processing – visa, work permit fees, medical certificates; skill certificates/trade testing	Work permit fees	Customs fees
Pre-departure orientation fees	Fees to Kafala agents or sponsors or brokers	Air fares
Travel costs: tickets, transport	Fees to local recruitment agents or brokers	Insurance payments
Costs for processing work permit; visits to capital, stay costs, etc.	Medical and other costs not met by employer	Transport costs
Fees to local agents and recruitment agencies	Living costs not met by employer	
Bribes to officials, agents, intermediaries	Phone call charges, Internet charges to keep in touch with families	
Insurance payments: payment to welfare funds	Remittance transfer costs	
Interest cost on debts and loans	Visa renewal cost	
Security clearance and exit permits	Fines and penalties on visa violations	

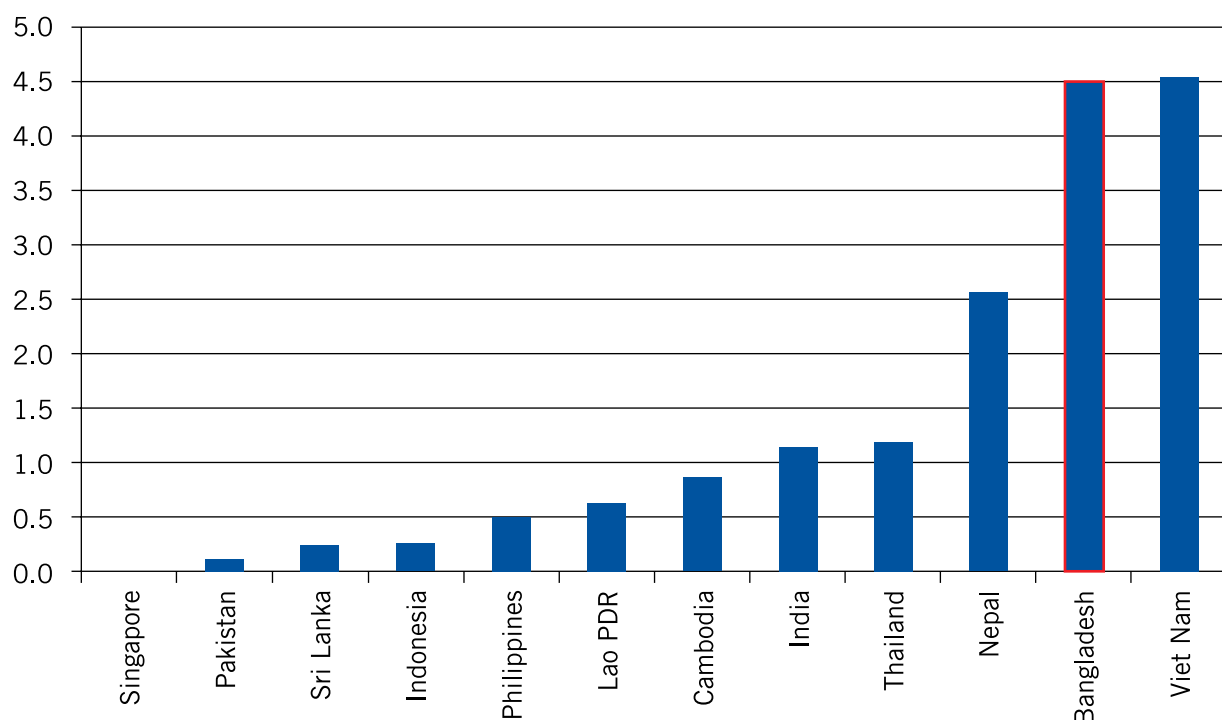
It is important to relate migration costs in monetary terms to other important variables to assess and compare their significance.

- i. **Link with migration and debt:** Poor migrants rely on expensive loan arrangements to finance the costs, which may range from a small share to 100 per cent of upfront costs. The benefits of migration are seriously affected depending on the size of the loan and debt-servicing plans.
- ii. **In relation to legally stipulated costs:** In most cases, actual migration costs exceed the legally allowed limits, especially to premium destinations. In relation to norms set by international instruments: The common

position in these instruments is that no fees be collected from workers except under exceptional circumstance and through tripartite consultation. Yet the collection of fees from workers seems to be the rule rather than the exception.

- iii. **According to published codes of conduct:** Again the costs far exceed what is permitted under codes of conduct.
- iv. **In relation to capacity to pay:** The usual practice is to relate costs to migrant actual wages or the per capita income of the country, which highlights the excessive nature of costs. This can also be used for cross country comparisons.

Figure 3.1: Cost of migration: Ratio of cost per person and GDP per capita



Source: Reproduced from Khatiwada, 2013.

Figure 3.1 below from Khatiwada (2013) is illustrative of the cost as a ratio of per capita income of countries.²⁰ It confirms that Bangladesh has the highest cost of migration in relation to the average per capita income (PCI) of the country – a position it shares with Viet Nam. This shows migration cost to be five times the PCI of Bangladesh, as revealed in studies by the IOM (2010) and Sharma and Zaman (2009). Nepal also shows about 2.6 times the PCI. The wide variation in the cost to migrate to similar destinations raises important questions about migration governance and the unfair recruitment practices of agents. In the case of Singapore the cost ratio is low because of the very high per capita income of the country.

3.5.3 Migration costs – Comparative analysis

Migration costs vary by country of origin as well as by destination. Table 3.10 summarizes some data for South Asian countries gathered by the University of Dhaka's Refugee and Migratory Movements Research Unit (RMMRU) for 2008.²¹ While the actual costs may

²⁰ It is not possible to assess the reliability of these estimates without additional information on sources used.

²¹ No further details are available since the writer had no access to the cited original source.

have risen considerably in the intervening years, the table brings out the following:

- Actual costs are much higher than those stipulated by the Government.
- Sri Lanka shows the lowest costs, probably reflecting an effective migration administration system, while Bangladesh records the highest costs.
- Premium destinations generally carry higher costs.

3.5.3.1 Nepal

Table 3.11 for Nepal shows the wide discrepancy between allowable charges and actual amounts charged. The difference is larger for premium destinations. The most notable difference is for migration to Israel, which is about 10 times the allowed limit. Even some of those who paid these hefty fees to be domestic workers finally ended up not finding employment, with the Nepalese and Israeli agents distributing the profits among themselves (Amnesty International, 2011).

Table 3.10: Costs of migration in South Asia – 2008

Country	Destination	Cost in US\$, government side	Cost in US\$, actual
India	Middle East	646	1 181–1 737
Pakistan	Middle East	524	931
	Malaysia	524	2,328
Bangladesh	Middle East	1 142	2 991–3 263
	Malaysia	1 142	2 447–2 991
	Singapore	1 142	3 535
Nepal	Middle East	974	1 399
	Malaysia	1 119	1 147–1 260
Sri Lanka	Middle East	775	729–775

Source: RMMRU, *Recruitment practices in South Asia*, p. 21, cited in Siddiqui, 2012.

The paper reviews other information for individual countries below.

Table 3.11: Nepal – Disparity between allowable fees and actual fees paid by migrant workers (in Nepal rupees (NPR) and US\$)

Destination Countries	Maximum allowable service charge	Unofficial market rate
Malaysia	NPR80 000 (US\$900)	NPR160 000 (US\$1 784)
Gulf countries (Kuwait; Qatar; UAE; Saudi Arabia)	NPR70 000 (US\$790)	NPR75 000–80 000 (US\$850–900)
Libya	NPR90 000 (US\$1 015)	N/A
Mauritius	NPR19 900 (US\$225)	NPR90 000 (US\$1 015)
Russia	NPR80 000 (US\$900)	NPR82 000 (US\$925)
Rep. of Korea; Israel (non-agricultural); US; UK; Hong Kong, China; Afghanistan	Maximum of six months' salary	NPR200 000–500 000 (US\$2 250–5 650)
Israel (agricultural sector)	(NPR80 900 (US\$915) airfare	NPR750 000
Japan (JITCO)	NPR50 000 (US\$565)	NPR500 000 (US\$5 650)
Rep. of Korea (EPS)*	NPR86 950 (US\$970)	N/A

Source: Verité, 2013, p.34.

Several recent studies have looked at migration costs and recruitment practices in Nepal (NIDS, 2008; Khanal & Shrestha, 2010; Amnesty International, 2011; Endo & Afram, 2011; Verité, 2013). The World Bank study by Endo and Afram (2011) has estimated migration costs from Nepal to Qatar in 2009 as shown in Table 3.12.

Table 3.12: Overall migration costs Nepal to Qatar: breakdown (2009)

	Cost in NPR	Per cent
Commission to recruitment service company or middlemen in Qatar	30 000	42.9
Airfare	25 000	35.7
Recruitment agency profit	8 640	12.3
Insurance	3 000	4.3
Airport tax	1 160	1.7
Welfare Fund	1 000	1.4
Orientation	700	1.0
Gov't Fee	500	0.7
Total	70 000	100.0

Source: Based on Endo & Afram, 2011.

The situation is compounded by a range of official fees levied at both ends, as shown in Table 3.13. The visa fee is quite high relative to others.

Table 3.13: Official migration fees levied in Nepal and Qatar as of June 2009

Nepal		Qatar	
Item	Fees in NPR	Item	Fees in Qatar riyal
Gov't fee for work permit	500	Visa submission fee	220
Life insurance	3 000	Medical fee	100
Contribution to Welfare Fund	1 000	Visa fee	1 150
Orientation classes	700	ID Card Fee	50
Airport tax	1 160		
Total	6 360	Total	1 375
Total (in US\$)	464.83	Total (in US\$)	377.75

Source: Adapted from Endo & Afram, 2011.

Endo and Afram (2011) conclude:

[C]ontrary to the rules and regulations governing the migration process from Nepal to Qatar, Nepali workers end-up paying high migration fees to recruitment agencies. The problem is caused by discrepancies between regulations, lack of enforcement of these regulations, as well as an unclear mix of legitimate and illegitimate fees” (p. xii).

Qatar Labour Law and the Qatar-Nepal Bilateral Agreement on migration prohibit payments by migrants or Nepali middlemen for travel expenses or commissions to Qatari recruitment service companies, as these have to be paid by the Qatari employers. But because Nepali regulations allow Nepali recruitment agencies to collect these fees up to a ceiling of NPR70,000, the worker still ends up paying around

US\$1,216 – “average 4–6 months’ salary for a Nepali working in the service industry in Qatar to recover this cost” (Endo & Afram, 2011, p. 33). They are, therefore, forced to borrow at high interest from local money lenders in order to pay for migration (Endo & Afram, 2011). Similarly, Verité (2013) reported that although most employers in Qatar, Saudi Arabia, Kuwait, and other countries provide free visas to agencies for recruiting domestic workers, Nepali agents had charged the workers fraudulently for these visas.

The Amnesty International study (2011) found that migrant workers paid an average of NPR100,000 (US\$1,400) in fees to recruitment agents before their departure, almost three times the average annual income for a Nepalese in 2010 (US\$490). Three quarters of those interviewed had paid more than the maximum legally allowed amounts.

A survey carried out by the National Institute for Development Studies, Kathmandu (NIDS) for the ILO in 2008 showed that 83 per cent of those sampled (n=60) had paid between NPR50,000–100,000 (US\$670–1,340)²² to secure foreign employment (NIDS, 2008). The small sample may not be representative, however. The study also showed that workers who migrated in irregular status paid more.

The other side of the picture is that migrant workers pay high fees but end up getting lower than promised wages at destinations, as Table 3.14 shows. Contract substitution means that, in all cases, the wage offered is substantially lower than provided for prior to departure.

Table 3.14: Promised and actual wages

Position	Wage promised	Actual wage provided
Security guard	US\$1 250 plus Overtime payment (OT)	US\$546 plus OT
Factory operator	US\$900	US\$546 plus OT
Janitor	US\$1 000	US\$546 including OT pay
Restaurant worker	US\$850 plus OT	US\$546 plus OT = \$850

Source: Verité, 2013, p. 59.

²² At the average exchange rate for the year NPR74.71 to US\$1 (based on Nepal Rastra Bank data).

Given the high upfront costs of migration, workers have to resort to loans to finance migration, which creates a vicious cycle of high debts, lower savings and remittances, asset depletion, and limited benefits from migration. Table 3.15 shows sources of financing. Forty-three per cent resorted to local money lenders charging high interest ranging from 24 to 36 per cent per annum, which meant that remittances in the first year were largely absorbed in repaying loans.

Table 3.15: Sources of financing for migration from Nepal to Qatar

Source of financing	Per cent of total workers
Money lender	43
Self	26
Family loan	18
Bank loan	5
Others	2
Not applicable	6

Source: Endo & Afram, 2011.

The Amnesty International (2011) study also showed that 70 per cent of the workers interviewed had borrowed for the payment of recruitment fees, at 36 per cent interest in some regions (both the Tarai and Hills regions). A requirement for loan processing is an agreement to hand over the equivalent value of property owned by the workers in cases of non-repayment. Some workers had indeed lost their property. It also forces workers to endure forced labour situations abroad.

3.5.3.2 Bangladesh

As noted above, Bangladesh has recorded very high migration costs compared to other countries (Siddiqui, 2011; Khatiwada, 2013). There have been reports of some Middle Eastern countries reducing migration or imposing bans on recruitment from Bangladesh due to recruitment malpractices (The Daily Star, 2013b). Malaysia had imposed a similar ban on Bangladeshi workers in 2009 on the grounds of irregularities in recruitment; the ban has been lifted recently.

The IOM *Bangladesh household remittance survey 2009* is a major source of information on the structure of migration costs (IOM, 2010).

Table 3.16: Bangladesh – Structure of costs of migration, 2009

Cost item	Mean expenses (in BDT)	Per cent
Gov't fee	1 763	0.8
Agency fee	22 570	10.3
Visa	20 460	9.3
Ticket fare	5 417	2.5
Intermediary	130 519	59.5
Other helpers	38 666	17.6
Average expenses	219 395	100.0
Total number of workers	12 319	

Source: IOM, 2010.

The share of costs paid to recruitment agencies, intermediaries, and other helpers amounted to 87 per

cent of total costs. Intermediary charges, which refer to subagents or Dalals, amounted to 59.5 per cent of total costs on their own.

It costs on average nearly BDT220,000 (over 5 times the GDP per capita of Bangladesh) to migrate. About 54 (or 52) per cent had paid more than BDT200,000 (nearly US\$2,900). Only the non-poor can afford such high costs. Nearly 60 per cent of this cost is comprised of payment to the intermediary (commonly known as Dalal). Migration cost is financed mostly by borrowing, support from family, and selling assets, particularly land.

The pattern of financing shows that migrants resorted to a combination of strategies. Two thirds of the sample reported taking loans to pay for costs of migration (Table 3.18). Forty-one per cent also tapped family sources. More disturbing is the sale or mortgage of assets such as land, cattle, and homes to finance migration. This pattern is similar to that reported for Nepal.

Table 3.17: Migration costs for Bangladeshi migrants (in BDT) (cols 2–4: % of workers surveyed)

Range (in BDT)	Male (Per cent)	Female (Per cent)	Total (Per cent)
(1)	(2)	(3)	(4)
< 50 000	2.9	13.2	3.1
50 001–100 000	9.2	44.1	9.8
100 001–200 000	33.4	23.5	33.3
200 001–300 000	42.3	9.3	41.8
300 001–400 000	6.7	2.5	6.6
400 001+	3.8	3.9	3.8
Cost borne by others	1.6	3.4	1.6
Total	100.0	100.0	100.0
Number in sample	12 114	205	12 319
Average cost of migration (BDT)	220 844	133 565	219 395

Source: IOM, 2010.

Table 3.18: Sources of securing funds to pay for migration costs – Bangladesh

Source	Number of workers	Per cent*
Taking Loan	8 692	67.4
Family	5 271	40.9
Selling land	3 147	24.4
Mortgaging Land	2 975	23.1
Selling assets such as jewelry, cattle, trees, homes	2 597	20.1
Personal savings	1 144	8.9
In-laws	536	4.2
Provided by NGO	382	3.0
Dowry	68	0.5
Average expenses (in BDT)	219 395	
Number	12 893	

*Multiple responses possible, and therefore, totals may exceed 100%.

Source: IOM, 2011.

A World Bank study by Sharma and Zaman (2009) found the total upfront cost to be an average of BDT161,345 (about US\$2,300) – almost five times Bangladesh's per capita income of US\$480 (World Bank, 2008b). This meant that most of the poor would have difficulty in accessing overseas employment. The study noted that the median cost was significantly smaller at BDT120,000, which indicated wide variation, with some migrants being charged at much higher rates than others.

The World Bank study also reported the following pattern of financing shown in Table 3.19. While the two data sets (Table 3.18 and Table 3.19) are not comparable, the share of loans is lower in the World Bank study. Asset depletion is clear in this case also.

Table 3.19: Bangladesh –Principal methods of financing international migration

Source	Per cent of total number of migration episodes	
	Most important source (Per cent)	Second most important source (Per cent)
Used own cash resources	28.3	14.6
Received money from friends and relatives	21	30
Raised cash by mortgaging the land	15	10.8
Sold land/or other assets	11.9	8.8
Borrowed money from friends and relatives	10	15.4
Borrowed money from commercial lender	5.1	11.2
Made financial arrangement with recruiting agency/ employer	4.5	6.9
Other sources	4.3	1.5
Sampled number	353	260

Source: Sharma & Zaman, 2009.

Sharman and Zaman (2009) also drew attention to the time cost involved in processing migration-related documents when potential migrants have to travel to district headquarters or to Dhaka. The average number of days spent for this purpose was 18, while completion of paperwork and travel arrangements required a median of three months. The mean time taken to complete the necessary paperwork for migrants living outside the main cities of Dhaka and Chittagong was about one year.

“While the benefits of migration are quite clear, there are costs, risks and challenges particularly for the poor... There are large upfront costs involved in gaining access to foreign labour markets – both monetary and time costs – which the results show lead to a higher level of indebtedness for migrant families and pose significant risks in the event that the migrant loses, or is cheated out of, a job” (Sharma & Zaman, 2009, p. 22).

3.5.3.3 Sri Lanka

It is, however, difficult to find corresponding data for Sri Lanka. The recent ILO study on recruitment practices (ILO, 2013a) did not collect any data on costs of migration or wages. A survey of 2,000 returnees carried out for the ILO from January to September 2012 (SPARC, 2013) collected very limited data, but the results may not be representative because of the purpose nature of the sample.

Table 3.20: Sri Lanka – Scale of fees charged by agencies and subagents

Fees range (in LKR)	Per cent
<15 000	35
15 001–25 000	21
25 001–50 000	18
50 001–100 000	17
>100 000	9
Sample of returnees	2 000

Source: SPARC, 2013.

The study has not indicated when these fees were paid by the respondents because it is a sample of returnees. They may have paid these fees two or three years previously. If we use a rough average exchange rate for the survey period of LKR125 to US\$1, it is seen that the fees paid are not high compared to those reported for Bangladesh and Nepal. Only nine per cent have paid fees above US\$800. Seventy-five per cent have paid US\$400 or below for migration. This is also due to the fact that the sample consisted of 76 per cent females, mostly domestic workers, who may get visas free of charge. The study noted that 44 per cent of the respondents obtained some sort of financial assistance (23 per cent from local lenders, 13 per cent through pawning of jewellery, lands, or other valuables) to spend on preparatory work.

The Transparency International study for Sri Lanka (2010) however, reports much higher fees and illegal payments to recruiters.

The survey found that prospective migrants and returnees had been required to pay amounts not authorized by the SLBFE, irrespective of the migration channel they used. All but five prospective job seekers and four returnee respondents had been charged by the agency through whom they migrated. Sixty-five per cent of the migrants

had paid the agents sums between LKR15,000 and LKR900,000. Of this number, 13 had agreed to pay two to three months of the wages earned overseas. Subagents had charged amounts between LKR15,000 and LKR400,000 while informal networks had charged 48 migrants over LKR15,000. The highest amount of LKR1.3 [million] had been paid by a prospective migrant to an informal source (Transparency International Sri Lanka, 2010, p. 38).

While fees may be lower, the earnings at destinations are also low according to the findings of the Sri Lanka reintegration survey (SPARC, 2013). It reported that around 20 per cent of migrant workers were employed for less than LKR10,000 per month (less than approximately US\$100 per month),²³ which is quite low. A majority of migrant workers (60 per cent to 72 per cent) got a wage between LKR10,000–25,000 (US\$100–250), while only 4 per cent of migrant workers earned over LKR50,000 per month (US\$500). The survey found that about 90 per cent of females earned no more than LKR25,000, which is close to the minimum wage specified by the Government for domestic workers. In contrast, 50 per cent of males earned over LKR25,000.

The data from Sri Lanka also highlight that even these low salaries were often not paid fully or paid on time, and that overtime payments were not made.

Table 3.21: Extent and types of deprivation of salary – Sri Lanka (Number of workers reporting*)

Problems	Male	Female	Total
Didn't receive promised salary	28	103	131
Didn't receive a salary	8	42	50
Didn't receive salary properly	11	60	71
Insufficient salary for heavy workload	1	6	7
Didn't receive overtime allowance	5	5	10
Didn't receive total salary	26	72	98
Didn't receive all or part of salary as employee was sent to prison	15	2	17
Other	10	19	29

* multiple responses possible.

Source: SPARC, 2013.

²³ The report does not indicate the relevant Sri Lankan rupee-US dollar exchange rate applied, which would depend on the timing of the respondent's stay abroad.

Not providing the salary that was originally promised is one of the major issues. Not getting the salary regularly is another major concern. As demonstrated in Table 3.21, women tend to experience more problems with receiving their wages, which could explain why female migrants are less likely to regularly remit money home than male migrants. This again explains the bitter realities of a sizable proportion of individual migrant workers from Sri Lanka.

3.5.4 Summary and strategies for cost reduction

3.5.4.1 Summary

The issues seem to be common across countries, as shown in Figure 3.2. The result is a vicious cycle of high

costs coupled with expensive loans and low wages, which traps migrant workers in destination countries into forced labour situations through collusion between local and foreign recruiters.

Figure 3.2 attempts to capture different stages of this vicious cycle before and after the departure of a migrant worker. While this situation mostly applies to low-skilled workers, even some skilled workers may also experience such problems due to misleading information provided to them by recruiters.

Figure 3.2: Breakdown of the vicious cycle of high costs of migration, low earnings, and debt traps

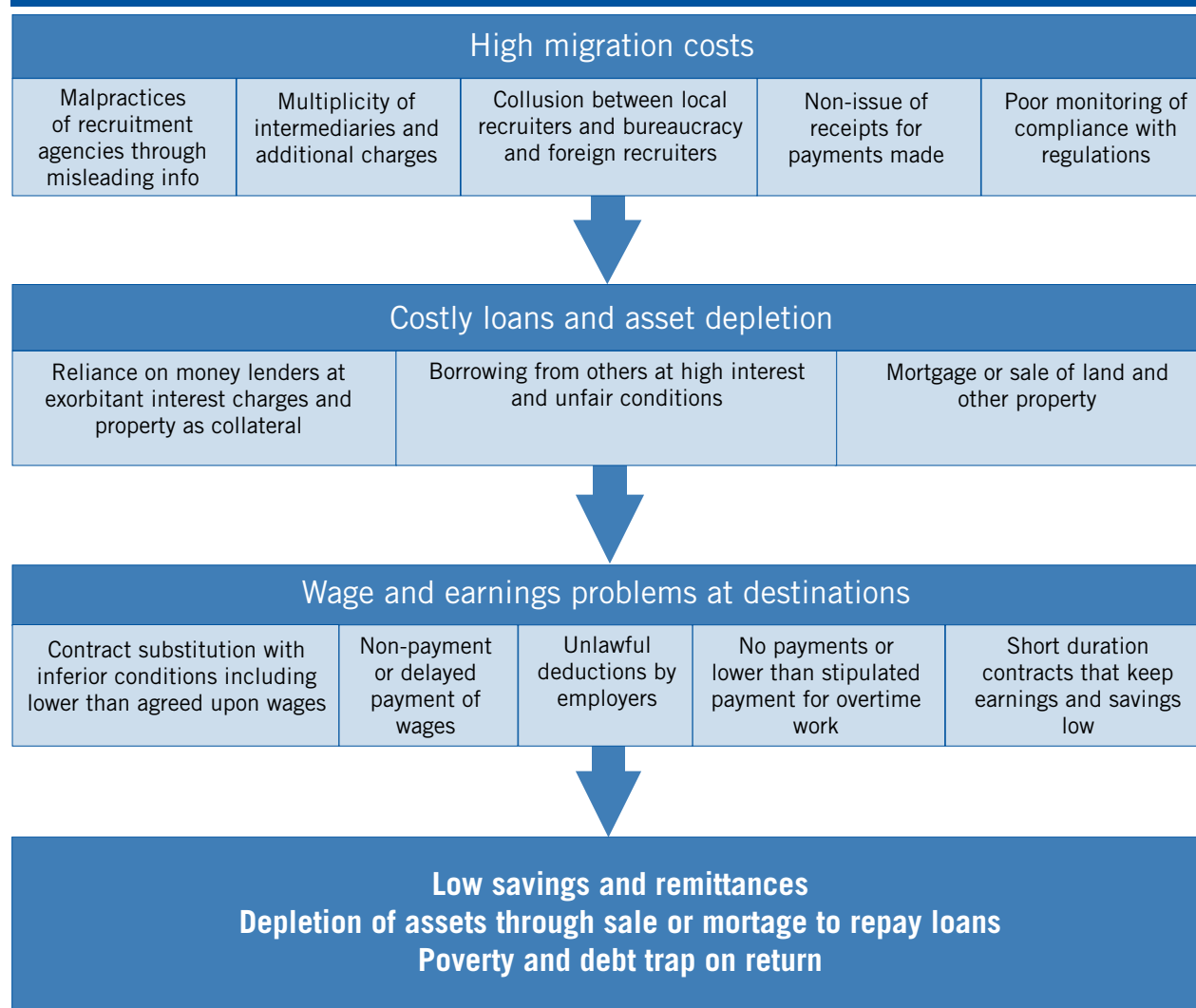


Table 3.22 provides a comparison of the problems encountered in the three study countries. Sri Lanka shows a better situation according to most indicators, given the extensive regulatory practices it has evolved since the mid 1980s.

Table 3.22: Illustrative comparison across study countries			
Item	Bangladesh	Nepal	Sri Lanka
Level of costs	Highest (Siddiqui, 2011; Khatiwada, 2013); Lower for women.	High and above legal limits.	High for men; low for housemaids (Transparency International Sri Lanka, 2010; ILO 2013a)
Range of costs	4 times per capita GDP	4–6 months' of overseas wages or more (Endo & Afram, 2011)	Several months' wages due to commissions charged by overseas recruiters
Subagent cost	High	High	High
Allowable fee limits	Fees for women to be half of those for men.	According to destination country and job	According to sex; range depending on job, wages, and whether commission paid to the local agent
Administrative fees	High	High	Low
Main sources of financing	Loans at high cost	Loans at high cost	Less reliance on high cost loans
Interest on loans	High from money lenders	High from money lenders	High from money lenders
Deviation from legal limits	High	High	Medium
Costs for low-skilled persons	Regressive	Regressive	Regressive
Transparency	Low	Low	Medium with new controls on advertising; but low with subagents
Receipts for payments	Often not issued, especially by small time operators and subagents; itemized receipts not common	Often not issued; itemized receipts not common	Often not issued, especially by small time operators and subagents; itemized receipts not common
Wages at destination	Low wages below promised; Some cases deferred or not paid; unlawful deductions; no overtime pay	Low wages below promised; Some cases deferred or not paid; unlawful deductions; no overtime pay	Less than promised; Some cases deferred or not paid; unlawful deductions; no overtime pay
Problems caused	Low savings and remittances; lifetime debts, asset depletion, and forced labour situations	Low savings and remittances; lifetime debts, asset depletion, and forced labour situations	Low benefits from migration; low remittances; and low capacity for reintegration.

Source: Compiled by the author.

What is needed is a two-pronged strategy aimed at reduction of migration costs and improving wages for and returns of labour in destination countries.

3.5.4.2 Strategy for reduction of migration costs

Given the high costs of migration, it is important to see where appropriate interventions can be made to reduce costs. The above analysis highlights the major areas for intervention, as shown in Table 3.23.

The following considerations apply:

- i. Identify the major components of cost to target: these are obviously recruitment fees charged by regular recruitment agencies, subagents, and intermediaries at origin and intermediaries at destination. Effective regulation and monitoring of activities of agents are needed.

Both origin and destination governments can contribute by lowering their fees on administrative costs, visas, and work permits.
- ii. High cost loans from money lenders and sometimes from friends and relations.

An option of low cost loans through formal channels and NGO collaboration needs to be piloted. The example of low cost pre-departure loans by the government has not succeeded in Nepal, the Philippines, and Sri Lanka due to high rates of default, and had to be terminated. The Probashi Kallyan Bank (Expatriate Welfare Bank) in Bangladesh is a pioneering effort in this respect. Martin (2012) has proposed Bank-NGO collaboration in piloting initiatives. Migrant worker cooperatives with shared group responsibility are also a possible option.
- iii. Address wage issues in destination countries.

Reducing migration costs

Table 3.23 provides an illustrative checklist for targeting cost reductions. The main cost is recruitment charges by agents and subagents. Only effective regulation combined with strict monitoring and enforcement can achieve reductions in this area. The 2011 GFMD Dhaka meeting focused specifically on reducing migration

costs. But the meeting did not come up with any credible options. The recommendations placed heavy emphasis on the bilateral approach, although there was no strong evidence to show that this approach had contributed in any measure to reduce migration costs in Asia (GFMD, 2011b).

Another initiative is providing access to low cost airfares. Since a large number of intending low-skilled migrant workers have limited knowledge and experience in arranging international travel, the SLBFE in April 2013 opened “SLBFE Travel”, which would provide airline tickets at concessionary rates to foreign job aspirants in cooperation with major airlines (Somaratna, 2011). This is a good measure for reducing the international travel costs of migration, and also protects migrants from exploitation by unscrupulous recruiting agents and travel agents.

For medical costs, a good practice from the Philippines is the amendment of the migration law to ensure the freedom of migrant workers to choose any Department of Health-accredited clinic for their medical examinations. The relevant provision in Republic Act No. 10022: An Act Amending Republic Act No. 804 was cited in section 3.4.3 above.

A recent good practice is the MOU reached with Malaysia by the Government of Bangladesh, which stipulated a dramatic reduction of migration costs compared to private sector performance – from BDT200,000 or more to BDT40,000 per worker. It is a pioneering initiative that would pave the way for access by a wider segment of persons to the Malaysian labour market in the agricultural sector. However, with no support from BAIRA, it would require significant strengthening of the capacity of BMET and the BOESL to meet the agreed targets with Malaysia. The best option is for the Government and BAIRA to come to some compromise without undermining the successful cost reduction initiative.

Financing of migration

Since costly loans from money lenders or recruiters constitute a major drain on migrant earnings and savings, sometimes leading to loss of property as well, the development of appropriate and fair loans for financing migration costs are matters of priority.

Table 3.23: Checklist for targeting migration cost reductions

Item of cost	Rationale for targeting	Strategies/options
Recruitment agency fees; Subagent fees	Main component of cost; Involves layers of intermediaries	One month's wage recommended; Dramatic case of cost reduction by Government of Bangladesh through gov't-to-gov't negotiation; Code of conduct and monitoring & registration of subagents
Administrative costs	Normally small, but could add up.	Simplify rules; Gov't could review and reduce fees
Medical test fees	GCC- or country of destination-approved medical centres have monopolies and charge high fees	Should standardize costs; Destination cooperation needed; Accreditation should not be a license for high fees; Good practice from Philippines.
Interest costs on loans	Money lenders charge exorbitant interest rates; Even friends and relations may charge high rates.	Increase competition through banks; Bangladesh Probashi Kallyan Bank initiative; WARBE Bank; Pilot NGO and bank collaboration to operate revolving fund schemes
Visa fees	High in relation to low-skilled worker financial capacity	Negotiate with destination countries.
Air fares	Now workers mostly bear cost of air fares, but recruitment agencies and travel agents may charge above normal rates	SLBFE initiative to operate airfare division and negotiate with airlines; Try to get employers to pay for travel in line with MOUs.
Costs at destination	Kafala fees; Work permit renewal fees	Regional dialogues should negotiate for concessions on visa fees and work permit renewal as well as abolitions of unlawful deductions; Monitoring of compliance

While a number of countries (Indonesia, Nepal, the Philippines, and Sri Lanka) have tried out cheap pre-departure loans to departing migrants, these schemes have resulted in failure due to high rates of default, and were therefore terminated. The challenge lies in the development of commercially viable and sustainable non-collateral-based migration financing schemes

An innovation in this respect is the Probashi Kallyan Bank (Expatriate Welfare Bank – <http://pkb.gov.bd/>) established by the Government of Bangladesh in April 2011 to reduce migration cost for Bangladeshi migrants. It offers loans at a 9 per cent interest rate without collateral, compared to the 14–15 per cent rates of commercial banks, which also demand collateral. And much higher rates are charged by money lenders. By

December 2012, the Bank had disbursed loans to more than 1,200 people (Khan, 2012). Loans are usually disbursed within three days. The bank also provides rehabilitation loans to returnees and remittance transfer services to those with accounts.

Endo and Afram (2011) have cited the example of a savings bank in Indonesia – Bank Rakyat Indonesia (BRI) – which has developed a loan product for financing the migration of Indonesian workers to Malaysia. BRI lends to migrants based on a collective repayment guarantee by their recruitment agency, which is repaid directly by foreign employers through monthly deductions from the migrants' salaries. The repayment rate was almost 100 per cent (Endo & Afram, 2011).

Martin (2012) has proposed collaboration between international donors, banks, microfinance institutions, and NGOs to develop schemes for soft loans to migrant workers. There are, however, few concrete examples of such practices, and reliance on donors and NGOs would hardly be sustainable.

Improving returns to labour: focus on wages

The second part of the strategy is to improving returns to labour. As shown above, high migration costs lead to high cost loans and the sale or mortgage of assets. Still, given the low wages, often the result of contract substitution at destination and short duration contracts, migrant workers may not be able to save enough after meeting these costs. They may therefore resort to extending their stays or leaving their original employment for other higher paying work, or moonlight for additional earnings – all risky options that increase the vulnerability to undocumented status and the resulting penalties of deportation or imprisonment. This may result in workers returning without recouping any costs of migration, thus facing heavy debt and poverty burdens at home.

Improving returns to labour requires a focus on migrant wages. It is one of the least studied areas in migration studies. There is hardly any time series data on actual wage trends for migrant workers by sex or occupation or skills for any of the destination countries. This needs to be addressed on a priority basis. The anecdotal evidence suggests that wages in major Gulf destinations or Malaysia have hardly improved over the last two decades, while the costs of migrating keep on increasing.

One indication of stagnant wages and earnings is migrants resorting to open protests and strike action, even though they are strictly illegal in some Gulf countries. Migrant workers have occasionally resorted to strike action as a desperate measure in the absence of any mechanisms for redress. The 2008 strikes by Indian workers in Dubai against the construction company Arabtec, the 2005 strikes by Bangladeshi workers at the Al Noor Garment company in Sharjah, and the recent strike by Arabtec construction workers in Dubai clearly highlight the desperate position wherein living costs had sharply increased, the dollar has fallen,

and the real value of wages – still in the range of \$160–200 per month for construction workers – have eroded due to continuing inflation. The normal response of authorities is to treat these as law and order problems and to jail or deport some strikers without looking into the genuineness of their grievances. The ILO MFLM Guideline 10.5 states the obligation of governments to “provid[e] for effective remedies to all migrant workers for violation of their rights, and creat[e] effective and accessible channels for all migrant workers to lodge complaints and seek remedy without discrimination, intimidation or retaliation” (ILO, 2006, p. 20). The wage issue is one which demands the serious attention of authorities in both origin and destination countries, and it is best addressed through regional and bilateral measures such as MOUs.

Siddiqui (2011) has rightly pointed out: “The wages of lowly skilled and semi-skilled workers remained static for quite a long time. Bangladesh along with other origin countries can collectively urge the GCC countries to look into scope for increasing the wage” (p. 17). Khanal and Shrestha (2011) also make a similar observation on low wages for Nepal migrant workers to Malaysia. The best option is to work out minimum wages for major sectors through multilateral negotiations.

Given the difficulties of bilateral or multilateral initiatives in this area, another measure adopted by origin countries in Asia is the fixation of minimum wages for specified categories of workers to prevent the erosion of wages in destination countries through unhealthy competition and unfair recruitment practices. The Philippines fixed the minimum monthly wage for Filipino domestic workers at US\$400 in 2007, although that measure met with a lot of opposition from employers, particularly in Saudi Arabia. Sri Lanka also fixed wages of domestic workers at a minimum of US\$250, although there is no information as to how this was enforced. Nepal has established minimum wage guidelines for workers migrating to the United Arab Emirates.²⁴ The Ministry of Overseas Indian Affairs (MOIA) also

²⁴ http://www.dofe.gov.np/uploads/news/file/Salary%20Scale_UAE_20121120_085056_20130216032950.pdf [accessed 8 June 2014].

supports establishing reference minimum wages. The MOIA has recently instructed missions in all 17 Emigration Check Required countries to fix reference minimum wages for broad categories such as domestic/unskilled, semi-skilled with training, and semi-skilled without any training, among others (MOIA, 2011). While the measure may not succeed as a unilateral one, it conveys the message that origin countries are not prepared to turn a blind eye to the continuous erosion of wages and incomes of their workers. It is important to incorporate minimum wage specifications in the MOUs or in extensions to such MOUs by Joint Committees (Wickramasekara, 2012).

Non-payment or withholding of wages is a major problem experienced by migrant workers, especially domestic workers, which keeps workers in bondage in the expectation of receiving their dues (Harroff-Tavel & Nasri, 2013). They add, “Employers and agents are aware that domestic workers travel abroad to earn money for their families, and so the withholding of wages obliges them to stay on, in the hope that in due course they will be paid. If they leave their employers, they take the risk of never receiving their wages” (p. 63).

The United Arab Emirates Government has pioneered a wage protection scheme by launching the Wage Protection System, an electronic system under which United Arab Emirates-based companies transfer wages to their workers through banks or money transfer companies, rather than by making cash payments. It is estimated that 3.18 million workers currently receive wages through this system (Harroff-Tavel & Nasri, 2013). There is proactive monitoring under which the Ministry of Labour will send inspectors to defaulting companies. It is important to evaluate this scheme, especially to assess whether vulnerable low-skilled workers who work for small enterprises and as domestic workers are adequately covered (Harroff-Tavel & Nasri, 2013). It is often these small and medium enterprises and private households employing domestic workers who default on wage payments.

Another area to be targeted here is unlawful deductions from the wages of migrant workers, which should be prohibited. Workers should receive in writing the details of wage deductions so they can assess whether they represent contract violations.

Non-payment of overtime also eats into the wages and possible savings of workers, and is contrary to what is specified in contracts. Domestic workers, who experience excessive hours of work, are one of the most exploited in this respect. Access to effective complaints and labour inspection procedures can address these violations.

An important area in relation to migrant wages is the discriminatory structure of wages based on nationality rather than on the nature of the job.²⁵ While Filipino workers command higher wages, workers of other nationalities, such as Nepali workers, may get much less for the same job. This pattern is clearly observed in the case of female domestic workers. Governments of destination countries have a responsibility to ensure equal wages for equal work according to their labour laws.

Apart from improving returns to labour, reduction of expenses in destination countries also needed to be targeted. An obvious area is that of remittance transfer costs through greater competition and facilitation. But the fact remains that the major impact will be from reducing recruitment fees (Martin, 2012).

3.6 Areas for improvement and the way forward

There have been many recommendations for improving recruitment services and reducing migration costs in recent studies and consultations. Some have already been referred to above. I have compiled a rough list of such recommendations in Table 3.24 below. Many of the listed interventions proposed are common across South Asia or other Asian countries, but the relative importance and priority to be assigned would depend on the specific situation of each country.

²⁵ For more details, see the ILO fact sheet *Discrimination at Work in the Middle East and North Africa*, available online at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_decl_fs_92_en.pdf [accessed 29 July 2013].

Table 3.24: Areas of intervention to address recruitment issues and high migration costs in various studies and consultations

Countries of origin	Countries of destination	Shared/joint action
Simplifying recruitment processes	Prohibition of visa trading	Reducing the layers of intermediaries
Registration and supervision of subagents, and migrants to receive receipts for all payments	Adoption of minimum wages for different categories of workers, and abolition of wage discrimination and unlawful deductions from wages	More effective regulation and monitoring of recruitment agencies in both origin and destination countries
Educating and informing migrants on the risks and benefits of migration, and also about their rights and the conditions in destination countries	Direct payment of wages to workers	Promotion of standard model written contracts and joint verification of contracts including through use of new technology
Improved pre-departure training	Reforms to or abolition of the Kafala system	Effective complaints and grievance procedures in both origin and destination countries
Rewarding good performers in the recruitment field while punishing and blacklisting regular offenders	Extension of labour law to cover categories currently excluded, especially domestic workers	Bilateral and regional cooperation through consultative forums
Oversight and monitoring of recruitment processes by social partners and civil society		More effective MOUs and bilateral agreements
Regulating and monitoring recruitment fees		
Facilitation of low cost loans through the banking system for intending migrant workers		
Insurance schemes and welfare funds to assist exploited and abused migrant workers		

This paper does not intend to discuss these interventions individually because they are well known and documented. It is also clear from the above interventions that the achievement of fair recruitment practices and reducing migration costs is a shared responsibility between origin and destination countries.

The overall cross cutting principles of all interventions should be the following:

- respect for migrant rights;
- gender sensitivity;
- social dialogue; and
- cooperation and partnerships at all levels.

The discussion in this section will be highly selective in highlighting a few suggestions arising from the preceding discussion.

Reducing migration costs and protecting wages

As argued above, the interventions needed in the pre-emigration phase fall into the following:

- i. Detailed enumeration of the composition of migration costs to identify which can and need to be targeted.
- ii. Regulation of recruitment fees by agencies and their subagents through strict monitoring by the authorities and a social partner and civil society mechanism (elaborated below). There is consensus on the need for registration of

subagents and monitoring of their activities. It would be difficult, however, to curb their misleading information and unethical practices without an effective reach in the rural and remote areas of the countries. Sri Lanka has taken a number of steps in decentralizing and opening offices in the provinces, and also appointing migration promotion officers at the divisional level to assist returnee migrants and potential migrants. The collaboration of destination countries would be needed to curb fees and commissions accruing to labourers at destinations.

- iii. Informing migrants on risks and costs of different recruitment channels and making them aware of the need to insist and obtain receipts all for payments to be made.
- iv. Examination of administrative costs as well as visa and work permit fees by both origin and destination governments to see scope for lowering fees.
- v. Review the SLBFE option of providing concessionary airfares through a travel division, and consider possible replication.
- vi. Viable options to selling or mortgaging of family assets and resorting to high cost loans from money lenders and social networks need to be explored.

Given past failures of government-sponsored subsidized loans, pilot programmes may be initially needed. The pioneering work of the Probashi Kallyan Bank in Bangladesh needs to be evaluated for possible replication in other countries. The proposal of low cost loans through collaboration among the formal banking system, NGOs, and donor agencies seems too complex and unsustainable. The experience of Bank Rakyat Indonesia in granting loans to workers going to Malaysia also needs careful study.

Protecting wages and earnings

As highlighted above, the strategy should also focus on wages in destination countries, because it is low wages, often through contract substitution at

destination, coupled with short duration contracts that make it difficult for migrant workers to recover from debt burdens and high costs. Improving returns to labour requires a focus on migrant wages. It is one of the least studied areas in migration studies.

- i. Undertake a study on wage trends in monetary and real terms for different occupations and for different nationalities in different countries to be used as a benchmark.
- ii. Discuss among SAARC countries for determination of reference minimum wages for different occupations based on the study findings.
- iii. Negotiate with destination countries for reference minimum wages to be applied, taking into account rising costs of living to prevent the driving down of wages by destination country employers or recruitment agents of different countries.
- iv. Explore the possibility of incorporating minimum wage specifications in the MOUs or in extensions to such MOUs.
- v. Protect migrant wages by attention to the following. These are mostly the responsibility of destination countries;
 - Non-payment or withholding of wages: Negotiate for a proper complaint and grievance procedures to settle these, and also allow migrant workers to stay until they are fully paid.
 - Arranging for payment of wages directly into bank accounts of workers: Study whether the United Arab Emirates' Wage Protection System benefits low-skilled workers.
 - Prohibit unlawful deductions from wages of migrant workers.
 - Ensure payment of overtime according to labour law provisions to all migrant workers, including migrant domestic workers, who normally experience excessive hours of work. Access to effective complaints and labour inspection procedures can address these violations.

- Prohibition of wage discrimination by nationality of workers for the same work. Governments of destination countries have a responsibility to ensure equal wages for equal work according to their labour laws.

Reduction of other costs

- Reduce remittance transfer costs through greater competition and facilitation. Both origin and destination countries can play a role here.
- Reduce communication costs with home country and families: For example, migrant workers can communicate with home through low cost electronic means such as Skype and VoIP. In this context, the recent decision by Saudi Arabia to ban the use of these means is unfortunate.

Effective information campaigns targeted at migrants

It is only through educating migrants on the costs and benefits of migration that they can make informed choices. This is important because a fair number of subagents or recruiters are friends and relatives whom intending migrants generally trust. Information can be disseminated through the mass media, social partners, migrant worker associations, and NGOs. While trade unions have generally been active in this area, it is important that employers' organizations also play a role here based on their corporate social responsibility. These employers' organizations can be incorporated into existing pre-departure orientation programmes. The information centres of the WARBE Development Foundation are a good practice in this respect.

Feasibility of a joint monitoring system of recruitment practices by social partners and civil society

In view of the complex natures of governance of recruitment processes and protection of workers from abusive practices, government machinery alone can hardly address or monitor these issues fully. It is therefore extremely important that social partners, NGOs, migrant associations, and other concerned groups join together and supplement government efforts. Apart from supporting potential migrants

with information and advisory services, monitoring of recruitment practices and migration costs through such a partnership would be very important. This has to be undertaken in close collaboration with the relevant authorities and through consultation with recruitment agency associations. There are no examples known to the author of such monitoring mechanisms. Trade unions and NGOs have been involved in raising awareness and alerting government authorities of malpractices. It is important that employers' organizations also join these initiatives. Social partner involvement is important for sustainability because NGO action may sometimes depend on external funding. A first step would be to have consultations among these stakeholders on the desirability and feasibility of the planned monitoring mechanism. The next step would be to develop criteria for monitoring and to decide on how it feeds into policy.

Promoting the development of a code of conduct by associations of recruitment agencies in South Asian countries

Given the common issues faced in recruitment practices, it would be useful for associations of recruitment agencies to have joint consultations and assess their roles and responsibilities in the light of new developments and the normative framework provided by international instruments. It would also be an opportunity to consolidate views and formulate a Code of Conduct based on international good practice. Tripartite partners, NGOs, and migrant associations also could be invited for exchange of views.

Reforming the legislative and regulatory framework in line with international instruments, and possible ratification of relevant Conventions

It is important to undertake a detailed review of existing migration legislation and regulations in South Asian countries to assess their effectiveness and conformity with the relevant international instruments, and to identify areas for revision. ILO's expertise can be drawn upon in these exercises.

Bangladesh and Sri Lanka have already ratified the 1990 International Convention on migrant workers. They should seriously consider ratification of the new Convention on Domestic Workers, 2011 (No. 189). Sri

Lanka, with its high share of migrant domestic workers, could follow the Philippines in ratifying Convention No. 189. Domestic workers are one of the most vulnerable groups of workers, and none of the destination countries have included them in national labour laws. Convention No.189 provides valuable guidance in this respect, and could be considered for ratification as a matter of priority by the countries concerned.

Both Bangladesh and Sri Lanka also could consider ratification of the Convention on Private Employment Agencies, 1997 (No. 181) to replace the already ratified Fee Charging Employment Agencies Convention, 1949 (No. 96), which has been superseded by Convention No. 181. Both Bangladesh and Nepal have indicated to the ILO that prospects exist for the ratification of Convention No. 181. Social partner and civil society support could be mobilized in this respect. The ILO can assist the countries concerned in identifying obstacles to ratification and suggest measures for addressing these obstacles as part of its global campaign to promote the ratification of these two Conventions.

India, Nepal, and Pakistan also need to consider ratification of at least one of the migrant worker instruments to raise their moral standing in negotiations with destination countries and to provide a solid normative foundation for national policy and practice.

Even if South Asian countries do not consider the ratification of the above Conventions immediately, they can draw upon the principles and guidelines contained in these instruments in formulating their migration policy and practice.

“We need to formalize the recruitment process or abuse will continue. This is a shared responsibility between countries of origin and destination. It is intrinsically linked.” – Mr Azfar Khan, ROAS, ILO

Making MOUs more effective in addressing recruitment abuses and reducing migration costs

An analysis of the migrant labour MOUs of India, Nepal, the Philippines, and Sri Lanka show that the problem with most MOUs signed between origin and destination countries in Asia is not what they contain,

but what they leave out, as highlighted previously. These omissions are critical ones relating to recruitment practices, migration costs, and the fundamental rights of workers.

MOUs are, however, a good practice recommended in international instruments, and a number of measures can be proposed to improve their functioning (Wickramasekara, 2012). They are a broad framework which needs to be backed up by concrete initiatives in the areas of model contracts, workplace monitoring, dispute resolution mechanisms, monitoring practices for recruitment agencies, and adequate labour inspection systems. While these may be harder to negotiate on a bilateral basis, they should nevertheless receive high priority if MOUs are to be of operational value. The following recommendations can be made with regard to labour migration MOUs:

- Include all stakeholders in consultative processes in the development, and monitoring of MOUs.
- Ensure conformity with international norms relating to the human and labour rights of migrant workers by making specific reference to fundamental rights, including those of equality of treatment and non-discrimination as a minimum.
- Wide publicity to MOUs and their contents is most important to adequately brief the major stakeholders in migration – workers, employers, recruitment agencies, and NGOs concerned with migrant worker welfare – on the provisions of the MOUs, what is expected of them, and on the follow up to be undertaken.
- Revitalize Joint Committees and arrange meetings as stipulated in the MOUs, and where possible, include representatives from workers, employers, and civil society in these deliberations.
- Negotiate for concrete implementing measures to supplementing the MOUs. While treating MOUs as a broad framework, it is critical to supplement them by negotiating for the introduction of concrete or practical mechanisms in several areas. This may

be done by the Joint Committee or working groups appointed by the Joint Committees as separate agreements or annexes. These concrete measures should include:

- A procedure for monitoring of work contracts and any changes, at least on a sample basis, needs to be introduced.
- Explicit provisions that migrant workers should not surrender their passports to employers or intermediaries at any stage.
- Introduction of a complaints procedure and redress mechanism accessible by low-skilled workers spread in different parts of the host country, through which workers can lodge their complaints without fear of retaliation or intimidation.
- Drawing up of standard model employment contracts and stipulation of minimum reference wages.
- Incorporation of gender concerns in MOUs.
- Adopt a system for periodic evaluation of the MOUs.

It is important to take up the issue of MOUs at regional forums including the Colombo Process, the Abu Dhabi Dialogue, and also SAARC and to evolve a consensus on a model MOU framework based on regional minimum labour standards to be adopted by countries in the region.

Cooperation and partnerships by social partners and civil society organizations between origin and destination countries

Given the significant gaps in governance of labour migration and the protection of migrant workers, it is important to establish partnerships among workers' organizations, employers' organizations, civil society, and other non-state actors in origin countries with their counterparts in destination countries.

NGOs are already active in the area, with the Migrant Forum in Asia having several initiatives in destination countries. It is also important for South Asian women's organizations to link up with their counterparts in destination countries to address the serious problems

experienced by women migrant workers. There are several NGOs working on domestic worker issues in Jordan and Lebanon.

Trade unions are also playing a role in the area, based on a model bilateral agreement for trade unions developed by the International Trade Union Confederation and the ILO. In May 2009, a concrete achievement was the signing of model bilateral agreements between three Sri Lankan trade unions and their counterpart unions from Bahrain, Jordan, and Kuwait. The agreements follow a rights-based approach, and undertake to protect Sri Lankan migrant workers in the three countries through union action aimed at granting Sri Lanka migrant workers "the full panoply of labour rights included in internationally-recognized standards".²⁶ It is important to document the developments in this arrangement and to what extent it has helped Sri Lankan workers in the countries concerned. Another encouraging development is the signing of an MOU by the Human Rights Commission, Sri Lanka, and the Qatar National Human Rights Committee in December 2012 to provide greater protection to Sri Lankan migrants in Qatar (Business Times, 2012).

Given that migrant workers are mostly employed by private sector employers in GCC countries and Malaysia, it is important to look at the potential for collaboration between employers' organizations in origin and destination countries. Up to now, they have not been active in this area. On the one hand employers can contain emigration pressures by supporting the decent work agenda in home countries. They also can tap the skills of returnees. On the other hand, corporate social responsibility demands that they address problems faced by an important segment of the workforce – those migrating for work abroad.²⁷ Such cooperation may have high potential given that employers' organizations in destination countries may be able to address issues of contract substitution, wage protection, and other related issues in a direct manner. In Nepal, the NAFEA is a member of the Federation of

²⁶ See the entry in the ILO online Good Practice Database, *Bilateral trade union agreements on migrant workers' rights between Sri Lanka and Bahrain, Kuwait and Jordan*. Available at: http://www.ilo.org/dyn/migpractice/migmain.showPractice?p_lang=en&p_practice_id=32 [accessed 16 June 2014].

²⁷ I am grateful to Gotabaya Dasanayaka, Senior Specialist on Employers' Activities, ILO Decent Work Technical Team for South Asia, New Delhi, and Kanishka Weerasinghe, Deputy Director-general, Employers' Federation of Ceylon, for sharing their views on this important issue.

Nepalese Chambers of Commerce and Industry. It will be useful if ALFEA and BAIRA also join their respective national employers' federations as members. The employers' organizations may also explore links to SAARC through affiliated Chambers of Commerce. It is important for a national federation to assume the lead role and mobilize other partners in the process.

Regional collaborative mechanisms and the role of SAARC

The Colombo Process and the Abu Dhabi Dialogue are continuing consultative mechanisms among origin and destination countries. The issues of recruitment and migration costs have come up on the agenda, although concrete measures for improvements have been quite limited up to now. The Manila Communique of the Abu Dhabi Dialogue mentions the need to improve the recruitment process and respond effectively to contractual employment problems. There is a need to continue to explore the scope for more concrete measures to be negotiated at these forums to address critical issues faced by migrant workers.

In view of the shared concerns and common issues facing SAARC member countries in the field of labour migration governance, protection of workers, and development benefits of migration, it is important for SAARC to play a more active role. It can draw upon the valuable experience of the Association of South-East Asian Nations (ASEAN) – the parallel regional grouping in South-East Asia – in this respect. In January 2007, ASEAN adopted the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers in ASEAN (ASEAN, 2007). What is important is the ASEAN commitment to “Promote decent, humane, productive, dignified and remunerative employment for migrant workers” (ASEAN, 2007, no. 15). The ASEAN Declaration calls on origin and destination countries to promote the full potential and dignity of migrant workers; cooperate to resolve cases of migrant workers who become undocumented due to no fault of their own; and take into account the fundamental rights of migrant workers and their families already residing in the destination country. It also outlines a number of obligations of destination and origin countries (ASEAN, 2007). It also proposed developing an ASEAN instrument on the protection and promotion of the rights of migrant workers, which

has not made much progress up to now. This is a good practice which can serve as a model for SAARC to create a similar Declaration on migrant workers within the subregion (Wickramasekara, 2011). ASEAN also has an active ASEAN Task Force on Migrant Workers, as well as an ASEAN Labour Migration Forum.

SAARC has made very little progress up to now in including migration and labour mobility issues in its agenda. The SAARC Social Charter, adopted in 2004 with the objective of establishing a people-centred framework for social development, does not recognize labour or migrant labour as a distinctive group (Khatri, 2010).

In this respect, SAARC is way behind ASEAN. There are, however, several differences between SAARC and ASEAN which need to be recognized (Wickramasekara, 2011). First, SAARC and ASEAN migration patterns are different. ASEAN has, over the years, developed an informal subregional labour market (with Malaysia, Singapore, and Thailand as major destination countries) whereas within SAARC this has never been recognized. The only exception is the free movement of persons and labour between India and Nepal. Second, there are considerably greater security concerns about cross border movements in South Asia than in South-East Asia. Third, no SAARC country has openly recognized itself as an immigration country, whereas in ASEAN, Malaysia and Singapore have long admitted themselves to be destination countries. SAARC adopted the Convention on Preventing and Combating Trafficking in Women and Children for Prostitution in January 2002, but the definition provided in the Convention is very narrow and focuses only on prostitution without addressing trafficking from the broader perspective of forced labour.

Important shared concerns among South Asian countries are poor governance of migration and vulnerability and exploitation of workers within the subregion as well as in destinations in the Gulf and Asia, and unrealized potential of tapping development benefits of migration. Migration is obviously related to economic development, demography, trade, human rights, labour supply and demand, and national and regional security concerns within the subregion. SAARC could take a longer term perspective in the light of the above factors in incorporating an agenda

on labour migration. Of more immediate concern are common issues of governance and protection affecting migrant workers in all member countries in the labour migration field. While it could link up with existing regional consultative processes such as the Colombo Process and the Abu Dhabi Dialogue, a South Asian perspective would require a more focused initiative, mainstreaming migration in national development agendas and advocating policies aimed at easing the hardship of migrants from member countries at an international level, particularly in major destinations. An ASEAN-type Declaration on labour migration governance and the protection of workers would be an important initiative to start with. At the same time, SAARC could invite other stakeholders, such as trade union organizations, employer organizations, and civil society organizations, for consultative processes. What is important for such an initiative is not to take migration issues separately, but also to link them to the process of regional economic and social integration. In this sense, the scope for promoting freer circulation and labour mobility, at least for skilled workers within the

SAARC region, with appropriate protection safeguards, needs to be examined, as already planned in ASEAN. The long-term vision should be to look at the prospects for a subregional labour market.

Another option to be considered is an independent SAARC Migration Commission on the pattern of the independent SAARC Poverty Alleviation Commission established at the SAARC Sixth Summit (Colombo, 1991). The Commission, which reported to the Seventh Summit (Dhaka, 1993), provided a conceptual framework for poverty alleviation through social mobilization and empowerment in South Asia that has guided SAARC action in this area.

In any case, it needs to be recognized that putting labour migration firmly on the SAARC agenda cannot be done overnight. Therefore, South Asian countries need to continue their efforts for collaborative action to address the urgent issues faced by them with regard to labour migration, especially protection from recruitment abuses and high migration costs.

Chapter annex 3.1: Regulation of recruitment agencies and instruments: Provisions in the ILO Multilateral Framework on Labour Migration, Private Employment Agencies Convention, 1997 (No.181), Convention on Domestic Workers, 2011 (No. 189) and Related Recommendations No. 188 and No. 201.

Item	Multilateral Framework on Labour Migration (MFLM)	Convention on Private Employment Agencies, 1997 (No. 181) & Recommendation No. 188	Convention on Domestic Workers, 2011 (No.189) & Recommendation No. 201
Year of adoption	2006	1997	2011
In force since	Not applicable	10 May 2000	05 September 2013
Nature of instrument	Non-binding	Convention No 181 – Binding when ratified; Recommendation No. 188 – Non-binding	Convention No. 189 – Binding when ratified; Recommendation No. 201 – Non-binding
Cross-reference	Principle 13: “Governments in both origin and destination countries should give due consideration to licensing and supervising recruitment and placement services for migrant workers in accordance with the Private Employment Agencies Convention, 1997 (No. 181), and its Recommendation (No. 188).”	Not applicable because of earlier adoption.	Preamble refers to both MFLM and Convention No. 181. Recommendation No. 201, Paragraph 23 reads: “Members should promote good practices by private employment agencies in relation to domestic workers, including migrant domestic workers, taking into account the principles and approaches in the Private Employment Agencies Convention, 1997 (No. 181), and the Private Employment Agencies Recommendation, 1997 (No. 188).”
Coverage	Migration policies, decent work, governance, protection, development, and cooperation.	Private employment agencies, including those recruiting for foreign employment, and their regulation.	Domestic workers, including migrant domestic workers.

Ratification of Convention		Only ratified in Asia by Japan (1999) and Fiji (2013)	Only ratified in Asia by the Philippines (2012)
Specific provisions			
Registration and licensing of private employment agencies	Guideline 13.1: “providing that recruitment and placement services operate in accordance with a standardized system of licensing or certification established in consultation with employers’ and workers’ organizations.”	Article 3(2): “determine the conditions governing the operation of private employment agencies in accordance with a system of licensing or certification”	Article 15(1)(a): “determine the conditions governing the operation of private employment agencies recruiting or placing domestic workers, in accordance with national laws, regulations and practice”
Respect for migrant rights	All labour standards apply to migrant workers; Principles 8, 9(a, b, & c), and 10; Guideline 13(2): “recruitment and placement services respect migrant workers’ fundamental principles and rights”.	Article 4: Ensure the right to freedom of association and the right to bargain collectively.	Article 3(1): “effective promotion and protection of the human rights of all domestic workers”; Article 3(2): “respect, promote and realize the fundamental principles and rights at work”.
Employment contract	Guideline 13.3: “migrant workers receive understandable and enforceable employment contracts”.	Recommendation No. 188, Paragraph 5: “a written contract of employment specifying their terms and conditions of employment. As a minimum requirement, these workers should be informed of their conditions of employment before the effective beginning of their assignment.”	Article 7: “measures to ensure that domestic workers are informed of their terms and conditions of employment in an appropriate, verifiable and easily understandable manner and preferably, where possible, through written contracts in accordance with national laws, regulations or collective agreements”; Article 8: migrant workers to receive a written job offer or contract of employment enforceable in destination country prior to departure.

Unacceptable & hazardous employment	Guideline 13.4: “do not recruit, place or employ workers in jobs which involve unacceptable hazards or risks or abusive or discriminatory treatment of any kind”.	Recommendation No. 188, Paragraph 8(a): “not knowingly recruit, place or employ workers for jobs involving unacceptable hazards or risks or where they may be subjected to abuse or discriminatory treatment of any kind”.	
Recruitment/ Placement fees	Guideline 13.7: “providing that fees or other charges for recruitment and placement are not borne directly or indirectly by migrant workers”.	Article 7(1): “Private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers.”; Article 7(2): “In the interest of the workers concerned, [...] the competent authority may authorize exceptions to the provisions of [Article 7(1)]”; Article 7(3): inform ILO of such exceptions and reasons.	Article 15(1)(e): “take measures to ensure that fees charged by private employment agencies are not deducted from the remuneration of domestic workers”.
Repatriation	Guideline 12.10: “considering the establishment of a welfare fund to assist migrant workers and their families, for example, in the case of illness, injury, repatriation, abuse or death”.		Article 8(4): Clear conditions under which domestic workers are entitled to repatriation at the end of their employment contract.

Bilateral agreements	Several references, but not under Principle 13. Guideline 2.3: “promoting, where appropriate, bilateral and multilateral agreements between destination and origin countries addressing different aspects of labour migration.”	Article 8(2): “Where workers are recruited in one country for work in another, the Members concerned shall consider concluding bilateral agreements to prevent abuses and fraudulent practices in recruitment, placement and employment.”	Article 15(1)(d): “consider, where domestic workers are recruited in one country for work in another, concluding bilateral, regional or multilateral agreements to prevent abuses and fraudulent practices in recruitment, placement and employment”.
Incentives for recruitment	Guideline 13.8: “providing incentives for recruitment and placement services that meet recognized criteria for good performance”		
Equal treatment/ non-discrimination	Guideline 8.4.4: “eliminate all forms of discrimination against migrant workers in employment and occupation.”	Article 5(1): “treat workers without discrimination on the basis of race, colour, sex, religion, political opinion, national extraction, social origin, or any other form of discrimination covered by national law and practice, such as age or disability.”	Article 3(2)(d): “the elimination of discrimination in respect of employment and occupation”; Article 10(1): “measures towards ensuring equal treatment between domestic workers and workers generally in relation to normal hours of work, overtime compensation, periods of daily and weekly rest and paid annual leave in accordance with national laws, regulations or collective agreements, taking into account the special characteristics of domestic work.”

Unethical practices	Guideline 11.2: “intensifying measures aimed at detecting and identifying abusive practices against migrant workers”; Guideline 13.5. “working to implement legislation and policies containing effective enforcement mechanisms and sanctions to deter unethical practices, including provisions for the prohibition of private employment agencies engaging in unethical practices and the suspension or withdrawal of their licences in case of violation”.	Article 8(1): “adopt all necessary and appropriate measures, both within its jurisdiction and, where appropriate, in collaboration with other Members, to provide adequate protection for and prevent abuses of migrant workers recruited or placed in its territory by private employment agencies.”	Article 15(1)(c): “adopt all necessary and appropriate measures, within its jurisdiction and, where appropriate, in collaboration with other Members, to provide adequate protection for and prevent abuses of domestic workers recruited or placed in its territory by private employment agencies.”
Identity documents	Guideline 11.6: “prohibiting the retention of the identity documents of migrant workers”.		Article 9(c): Domestic workers “are entitled to keep in their possession their travel and identity documents.”

Complaints investigation	Guideline 10.5: “providing for effective remedies to all migrant workers for violation of their rights, and creating effective and accessible channels for all migrant workers to lodge complaints and seek remedy without discrimination, intimidation or retaliation” (General provision, not under Principle 13)	Article 10: “ensure that adequate machinery and procedures [...] exist for the investigation of complaints, alleged abuses and fraudulent practices concerning the activities of private employment agencies.”	Article 15(1)(b): “ensure that adequate machinery and procedures exist for the investigation of complaints, alleged abuses and fraudulent practices concerning the activities of private employment agencies in relation to domestic workers”; Article 17(1): “Each Member shall establish effective and accessible complaint mechanisms and means of ensuring compliance with national laws and regulations for the protection of domestic workers.”; Article 17(2): “Each Member shall develop and implement measures for labour inspection, enforcement and penalties with due regard for the special characteristics of domestic work, in accordance with national laws and regulations.”
Public and private employment services		Article 13(1): “A Member shall, in accordance [...] formulate, establish and periodically review conditions to promote cooperation between the public employment service and private employment agencies.”	

Chapter annex 3.2: Comparison of recruitment agency status and rules and regulations in Bangladesh, Nepal, Sri Lanka, and the Philippines

Requirements	Bangladesh	Nepal	Sri Lanka	Philippines
Number of recruitment agencies - registered	1,200, with about 800 active	976 (about 2011)	700 in 2011	853 for land-based workers (Nov. 2012)
Estimated number of subagents	10,000	20,000	20,000	
Regulatory body	Ministry of Expatriate Welfare and Overseas Employment; Bureau of Manpower, Employment and Training (BMET)	Ministry of Labour and Transport Management; Department of Foreign Employment	Ministry of Foreign Employment Promotion and Welfare; Sri Lanka Bureau of Foreign Employment (SLBFE)	Department of Labour and employment; Philippine Overseas Employment Administration
Legislation	Recruitment Rules 2002; draft Overseas Employment and Migrant Workers Act 2013	Foreign Employment Act 2007; Foreign Employment Rules 2007, amended 2011	Sri Lanka Bureau of Foreign Employment Act 1985; amendments in 1994 and 2009	Migrant Workers and Overseas Filipinos Act of 1995; Amendment RA10022 (2010)
Ownership criteria		No specific provision	Sri Lankan national or company with majority of shares held by Sri Lankans	Must be a Filipino citizen or a partnership or corporation in which 75 per cent of the capital is Filipino owned or controlled
Financial capacity	Cash bond required.	Mandatory one-off deposit of NPR3 million (US\$41,500) and a renewal fee of NPR10,000 (US\$140) each year	A bank guarantee of LKR750,000	Provide proof of capital of not less than PHP2 million (US\$44,000) and two types of guarantees: bank deposit under an escrow account of PHP1 million (US\$22,200) and surety bond of PHP100,000 (US\$2,200)

Character certificate	Police clearance; No criminal record			No criminal record
Validity of licence	One year	Initially one year; on renewal for three years		Four years
Grading system	Yes, under draft Overseas Employment and Migrant Workers Act 2013		Only a proposal	Philippine Association of Service Exporters Inc.; Association for Professionals in Overseas Employment
Association of Recruitment agencies	Bangladesh Association of International Recruiting Agencies (BAIRA)	Nepal Association of Foreign Employment Agencies (NAFEA); Foreign Employment Agencies Nepal (FEAN)	Association of Licensed Foreign Employment Agencies (ALFEA)	Several associations
Code of practice	BAIRA – Being developed?	NAFEA Code of Practice	ALFEA Code of Practice 1993	
Consultation/ association with social partners	BAIRA not a member of Employers' Federation	NAFEA is a member of Federation of Nepalese Chambers of Commerce and Industry	ALFEA not a member of Employers' Federation of Ceylon	
State operation of recruitment agency	Bangladesh Overseas Employment and Services Limited (BOESL) – 1984		Sri Lanka Foreign Employment Agency (SLFEA) – 1996	Philippine Overseas Employment Administration
Limit on recruitment fee charged to worker	Yes. Varies according to destination.	Yes. Varies according to destination.	Yes. Varies depending on destination and whether recruitment agency has paid commission to foreign agent	Yes. One month's wages

Regulation of job advertising	Yes	Yes	Yes	Yes
Renewal of contract clearance	Possible, subject to conditions	Possible, subject to conditions	Possible, subject to conditions	Possible, subject to conditions
Joint liability with foreign employer/ agent	To be provided under draft Overseas Employment and Migrant Workers Act 2013			Provided under Migrant Workers and Overseas Filipinos Act of 1995

Source: Tentative compilation by the author from relevant sources.

Seminar report



Introduction

The Intergovernmental Regional Seminar on Promoting Cooperation for Safe Migration and Decent Work was held from 1 to 2 July 2013 at the Hotel Ruposhi Bangla, Dhaka, Bangladesh.

The seminar was organized by Ministry of Expatriates' Welfare and Overseas Employment (MEWOE), the Government of Bangladesh, with technical assistance from the International Labour Organization (ILO). The ILO assisted the Ministry as part of its strategy to continue and enhance efforts to promote the sharing of expertise and good practices on policy, normative frameworks, and support mechanisms for ensuring adequate protection standards for women and men migrant workers. The seminar was funded by the SDC.

Participants included representatives of Afghanistan, Bahrain, Bangladesh, Egypt, Malaysia, the Maldives, Mauritius, Nepal, Pakistan, the Philippines (also in its capacity as the Chair of the Abu Dhabi Dialogue), Qatar, Sri Lanka, and the SAARC Secretariat.

The aim of the seminar was to serve as a platform for:

- i) Exchanging good practices between countries of origin and countries of

destination on labour migration issues within the framework of International Conventions and Recommendations;

- ii) Discussing how monitoring efforts by national and regional bodies, and labour migration reform processes could benefit from such exchanges of good practices; and
- iii) Identifying possible regional and inter-regional solutions and mechanisms to support migrant workers.

To achieve these aims, the seminar was divided into three sessions that each addressed a pressing issue in promoting safe migration and decent work: i) labour migration governance; ii) protection of migrant workers, especially women migrant workers; and iii) comparative experiences in regulation of recruitment. For each of the three thematic sessions, a paper was presented on the subject, followed by a question-and-answer period. The participants then divided into two parallel working groups to further discuss and address specific concerns within the overarching theme. The results of those discussions were then presented to the plenary by a rapporteur selected from each working group (an annotated agenda can be found in Appendix I).

The participants of the seminar recognized that labour migration generates substantial benefits to both labour-sending and labour-receiving countries in different forms, but unfortunately, migrant workers still become victims of abuses and malpractices during recruitment and employment. As such abuses and malpractices are common among the participating countries, the participants were adamant that they should work collectively, rather than individually, to address these issues more effectively. Over the two days, representatives from the above named countries prepared “The Dhaka statement” (see Chapter 5), which spells out some recommendations for concrete ways forward that the relevant stakeholders will follow-up in order to improve migration practices.

Preparatory workshop

The day prior to the official commencement of the Seminar, the MEWOE hosted a preparatory workshop for the nominated participants from various ministries of the Government of Bangladesh, including the ministries of Home Affairs, Labour and Employment, and Planning. This workshop included active involvement by all participants and a commitment by all participants to make use of what they gained from one another in the seminar.

The preparatory workshop had various components, which began with the Opening of the preparatory workshop by Dr Zafar Ahmed Khan, Secretary, MEWOE. He discussed the reasons why various topics had been specifically selected for discussion and further analysis in the seminar. Ms Begum Shamsun Nahar, Director-General, Bureau of Manpower, Employment and Training (BMET), then spoke about the process leading to the seminar. She further indicated that the Seminar topics emerged from the professional activities of the MEWOE and the experiences of the Bangladeshi migrant workers.

The second component, led by Ms Nisha, Chief Technical Advisor, ILO, had the goal of preparing the nominated officials for the intensive discussions in the upcoming seminar, and to establish an individual “buy-in” at the seminar. Mr Nilam Baruah, Regional Labour Migration Specialist from the ILO Regional Office for Asia and the Pacific, and Ms Nisha then facilitated

a discussion linking the experiential accounts of Bangladeshi migrant workers with both the seminar and the activities of each ministry represented in the preparatory workshop.

Mr Hazarat Ali, Additional Secretary, MEWOE, then concluded the preparatory workshop. In his vote of thanks, he expressed his hope that the nominated officials would make use of the information they acquired in the workshop in the upcoming seminar.



Opening session

The Inaugural and opening plenary session was chaired by Dr Zafar Ahmed Khan, Secretary, MEWOE, Government of Bangladesh. He opened the session by thanking all the participants on behalf of the MEWOE and warmly welcoming them to the seminar. He then requested that the participants focus on sharing their experiences.

Dr Khan also informed the plenary of the positive changes that Bangladesh has accomplished over the past four-and-a-half years to protect Bangladeshi workers who are currently abroad. He highlighted the example of the 4th Ministerial Colombo Process Meeting held in 2011, which raised the issue of the safety and repatriation of Bangladeshis abroad in conflict situations, such as the Libya crisis in 2011. He further highlighted that the MEWOE has also become more accessible to workers in recent times by moving to the Probashi Kallyan Bhaban (Expatriates' Welfare Building), which now serves as a one-stop centre for all support related to migration. He shared the

new establishment of 35 additional technical training centres throughout the country. In addition, with the assistance of the Honourable Prime Minister, a special bank named Probashi Kallyan Bank has been established to provide soft loans for repatriation. The initiative has been a success, and loan recovery by the bank stands at 95 per cent.

The next speaker was Amuerfina Reyes, Deputy Administrator, Philippine Overseas Employment Agency, a representative from Excellency Rosalinda Dimapilis-Baldoz, Secretary, Government of the Philippines, and chairperson of the Abu Dhabi Dialogue Process. She began by expressing her excitement to be part of a process that provided an opportunity for the sharing of experiences between countries of origin and destination. She then conveyed to the plenary the positive experience the Philippines has had with the Abu Dhabi Dialogue Process, which is a non-binding regional cooperation process that provides a forum for informal exchange of views to break down the barriers between States. The Philippines has reaped advantages, including enhancing the employability of workers and facilitating adaptation of workers to foreign environments. She also shared how initiatives outside the Abu Dhabi Dialogue Process are helping to improve conditions for migrant workers from the Philippines. For example, adopting national legislation that protects domestic workers has given the Government more leverage when negotiating with countries of destination. The Government of the Philippines also has plans for further prophylactic actions, including a web-based platform for recruitment, a comprehensive workers program, and research studies on recruitment practices.

H.E. Eng. Khandaker Mosharraf Hossain, Minister, MEWOE, Government of Bangladesh, then addressed the plenary. In his speech, he discussed regional/intergovernmental collaborations and national legislative measures to address undocumented migration and the need for human rights-based return and reintegration of migrant workers. He began by expressing his honour and pleasure of speaking to the plenary, and then reminded the distinguished guests that labour migration is not a clear-cut story of despair or hope. It is typically a story of a person trying to overcome poverty by finding overseas employment,

often taking irregular routes to migrate. He also reiterated the commitment that Bangladesh has made towards assisting with the safe and dignified migration of workers, as well as providing assistance with return reintegration. He also told the session of the drafting of a new act on migration that will hopefully pass the Parliament shortly.

“There needs to be information exchange between countries of origin and destination.” Khair Mohammad Niru, Director General Manpower, Ministry of Labour, Social Affairs, Martyrs and Disabled, Government of Afghanistan

Mr Srinivas B Reddy, Country Director, ILO Country Office for Bangladesh, then provided opening remarks on migrant workers' needs regarding social protection and labour rights in countries of origin and destination. He took the opportunity to extend the ILO's greetings to everyone and express his hopes that the seminar will help position international labour migration for women and men as a defining global issue. He emphasized the positive impact that workers can have on host countries, such as enriching cultures and languages, but cautioned against many of the dangers faced by workers, particularly women. He urged ILO member States to comply with the international instruments which protect migrant workers and to look for the possibilities of new regional legal tools to better address the protection of women migrant workers and better regulate recruitment agencies.

Dr Derek Mueller, Counsellor, Head of Cooperation, SDC, Bangladesh, then concluded the session with his speech. He noted the positive partnership that has developed among the ILO, Bangladesh, and the SDC in order to improve the situation of migrant workers from Bangladesh. He pointed out that, in Bangladesh, the SDC engages with the issue of labour migration from the angle of skills development. He also mentioned that he was encouraged to see governments coming together for a free and open discussion on labour migration.

Plenary 1: Labour migration governance

The first plenary session on Labour migration governance was opened by the Chairperson Mr Nissanka Naomal Wijeratne, Secretary, Ministry of Foreign Employment Promotion and Welfare, Government of Sri Lanka. He reminded the plenary about the economic benefits migrant work has on both countries of origin and destination, which underscores the necessity of protecting the safety of migrant workers.

Nilim Baruah, Regional Labour Migration Specialist, Regional Office for Asia and the Pacific, ILO, then presented a paper titled “Protection of and support mechanisms for women and men migrant workers while abroad: responsibilities of the countries of origin and destination, and areas of cooperation”. The three main topics of his presentation were: i) the challenges faced by countries of origin and destination; ii) the international legal framework that requires fair treatment of migrant workers; and iii) best practices for improving the conditions for migrant workers.

Problems faced by countries of origin and destination

There are many common challenges to labour migration. The common challenges in countries of origin include information dissemination (including labour market information), skills development, regulation of recruitment, and employment. In countries of destination there are two main types of problems: admission policies and post-admission policies. The challenges with admission policies include balancing the different interests of various stakeholders (such as employers, the host population, and migrant workers); changing public attitudes to be supportive of the migrant workers; regulation of recruitment; providing legal channels; and reducing irregular inflows. For post-admission policies, the challenges include decent work for all; equal treatment between nationals and foreign workers; extension of labour law and fundamental Conventions of the ILO; and return. Common problems between origin and destination countries are internal coordination and international cooperation.

International legal framework requiring fair treatment of migrant workers

There are two broad areas within the international legal framework that require fair treatment of migrant workers: International Human Rights Law and International Labour Standards. Mr Baruah reminded the plenary:

- There are a wide array of human rights instruments that apply to all human beings regardless of their nationality and legal status, such as the Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social, and Cultural Rights; the Convention on the Rights of the Child; and the Convention to Eliminate All Forms of Discrimination Against Women, but cautioned that these international instruments generally do not affect the State's sovereign right to control and regulate its borders.
- The ILO has also issued a series of Conventions that apply to all workers. They address four broad areas: i) elimination of all forms of forced and compulsory labour; ii) effective elimination of discrimination in employment and occupation; iii) freedom of association; and iv) collective bargaining.
- The ILO also has migration-specific Conventions, such as the Migration for Employment Convention (Revised), 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), which were the first international instruments on migrant workers. The Conventions put forward equal treatment between regular status migrant workers and nationals in employment and working conditions. They also include measures to address irregular migration.
- The UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) contains provisions to ensure that migrant workers enjoy a basic level of protection whatever their status.

Mr Baruah emphasized that ratification of these instruments is important, even by countries of origin, as such ratifications can strengthen negotiations with destination countries. Further, he encouraged destination countries to use international agreements to inform their national legislations, even if the instruments themselves are yet to be ratified.

“Countries should ensure that workers have legal representation; under normal circumstances a worker cannot afford a lawyer.” – Zubair Muhammad, Chief Superintendent of Immigration, Department of Immigration and Emigration, Government of Maldives

Best practices for improving conditions for migrant workers

In addition to the international legal framework, there also is the ILO’s Multilateral Framework on Labour Migration and on-site protection. It is a global framework of non-binding principles, guidelines, and good practices for a rights-based approach to labour migration that is i) anchored on ILO Conventions and standards and promotes best practices, and ii) based on tripartite negotiations and the consensus of countries of origin and destination. Examples of select guidelines can be found in Table 4.1.

Table 4.1: Select guidelines from the ILO Multilateral Framework on Labour Migration for protecting migrant workers

Information, legal assistance, and training
Policy and legislative development
Bilateral, regional, or multilateral social security agreements
Wage protection
Labour inspection
Written employment contracts
Effective remedies and complaint mechanisms
Effective sanctions and penalties
Non retention of identity documents of migrant workers

Mr Baruah noted that effective management of labour migration required commitment from both countries of origin and destination. Social dialogue is essential to developing good policies, and governments and social partners should consult with civil society and migrant associations.

Working sessions:

The plenary then split into two parallel working sessions. Working session 1 explored the possibility of establishing a tripartite labour migration platform at the level of SAARC, and working session 2 focused on protecting and promoting the rights of workers through a cooperative framework.



Working session 1: Establishing a tripartite labour migration platform at the level of SAARC

The group identified the following issues that would be appropriate for regional cooperation:

- i. a standard for minimum wages;
- ii. a legal framework to protect domestic workers, regulation of recruiting agencies;
- iii. a complaints mechanism;
- iv. a competency framework for best practices; and
- v. contract provisions that include days off, social security coverage, and delineate work conditions.

Of these, it was decided that priority should be placed on minimum standards in contracts, regulation of recruiting agencies, and a competency framework for best practices. It was also determined that increased dialogue and consensus between the member states was necessary before formally turning to SAARC to establish a regional mechanism.

Working session 2: Protecting and promoting the rights of workers through a cooperative framework

The group decided that protection issues – such as welfare, occupational safety, contract validation, job matching, and crisis management – could best be addressed through a regional mechanism.

“Better skills would enable migrant workers to find better jobs in the host countries, earning more for themselves and for Bangladesh” – Dr Derek Mueller, Head of Cooperation, SDC, Bangladesh

It was also thought that protection issues can be addressed at the national level through awareness building, skill upgrading, welfare measures, pre-departure orientation, language training, skills training, and recognition of certification.

At the bilateral level, protection issues can be addressed by MOUs/MOAs, market surveys, regulations, monitoring, societies and clubs, translation of law, information exchange, regular wage and minimum wage, cultural exchange, sensitization of employers, bank accounts for remittance channelling, and medical insurance.

At the regional level protection issues can be addressed through combatting wage discrimination, advocating ratification of agreements, and exchanging information.

Another issue that the group thought would best be addressed through a regional mechanism was checking for irregular migration.

At the national level this can be addressed by monitoring, regulation of deployment, validation of

contracts, use of technology, and the controlling of private agencies.

At the bilateral level it can be addressed through documenting the undocumented, increased dialogue, policy coherence, regulations, standard contracts, contract validation, technical cooperation, enforcement of conditions, and an arbitration council.

At the regional level, positive changes could include increased consultation, policy coherence, a standard contract, and technical cooperation.



Plenary 2: Protection of migrant workers, especially women migrant workers

The second plenary, chaired by Ms Panudda Boonpala, Deputy Director, ILO Decent Work Team for South Asia and Country Office for India, provided an opportunity to discuss protection of migrant workers, especially women migrant workers. She reminded the plenary that half of migrant workers internationally are women, the majority of whom are low-skilled workers who are vulnerable to trafficking, exploitation, and abuse. She encouraged the participants to think about protecting migrant workers at every phase, including recruitment, treatment in country, and return and reintegration, especially for those women who have been abused.

The podium was then turned to Sajeda Amin, Senior Associate, Population Council, United States, who discussed a paper titled “Ensuring the well-being of woman migrant workers from Bangladesh”. Her talk had two main sections: i) the need for protection of migrant workers in Bangladesh, and ii) an overview of means of social protection for migrant workers.

The need for protection of Bangladeshi migrant workers

It is anticipated that Bangladesh will see rapid growth in pace of migration, especially for low- and semi-skilled workers in the areas of ready-made garments and domestic work. Similarly, the levels of remittance are likely to continue to increase due to better wages and greater ease of sending money back. This is especially true for women, who tend to invest a greater percentage of their income on their families than their male counterparts.

Bangladesh is also at a unique point in time that could allow its economy to benefit from workers migrating abroad, particularly women. The recent fertility trend of Bangladesh has created a population phenomenon where the majority of citizens are of working age, which typically results in a large boom to the economy. Bangladesh, however, needs to ensure that the working population is actually employed to truly reap the benefits of this period, which will likely require that workers find jobs abroad. Bangladesh should implement measures to reduce the current barriers to migration of women, such as cultural pressure to marry early and government regulations preventing women from migrating before the age of twenty-five.

Means of social protection for migrant workers

According to the ILO Multilateral Framework on Labour Migration, there are four general categories to protect worker well-being: i) work in line with international labour standards; ii) employment and income opportunities; iii) social protection and social security; and iv) social dialogue and tripartism.

Ms Amin then elaborated on means of formal protection (see Table 4.2), and emphasized that informal methods, especially social networks, are essential to reach female migrant workers, who are likely isolated in the homes where they work.

Table 4.2: Means of social protection

Formal	Informal
Pensions/provident funds	Campaigns
Health insurance	Forming social networks
Banking	Mobile phone access
	Access to justice

To conclude, Ms Amin cited research by Temin, Montgomery, Engebretsen, and Barker (2013), which found that in order to promote the well-being and protection of workers overseas, countries must:

- prepare and equip migrants before they migrate;
- ensure a smooth landing;
- build a safety net;
- make health and education migrant friendly; and
- increase visibility through policy and advocacy.

Box 4.1: Case Study – Saving to become an international migrant worker

The following case study was used to demonstrate the limited access to resources and information that workers, especially women, intending to migrate have:

Shilpi is 20 years old and married but separated from her husband. Her parents migrated from Barisal to Dhaka before her birth. She studied until class eight. At the age of 16, she started her work as “helper” in the garment industry. Now she is working as an “operator” in a garment factory. Her monthly wage is around US\$40. Every month she earns US\$48, including over time. She is trying to migrate to Mauritius to work in a garment factory. Every month she spends about US\$12–20 to pay for paperwork such as passport and immigration. She has been told it will cost her about US\$900 to migrate.

Source: Ainul, Hussain, Amin, & Rob, 2013.



Working sessions

The group then again split into two parallel working sessions. Working session 3 focused on the experience of women in the ready-made garment industry and working session 4 addressed the rights of domestic workers in destination countries.

Working session 3: Migrant workers in ready-made garments

Working session 3 was concerned with the following issues stemming from international “producer-driven” and “buyer-driven” chains that have an adverse effect on female ready-made garments workers:

- i. the large amount of money being paid to recruitment agencies;
- ii. the little protection for workers once they arrive in the destination country; and
- iii. the amount of time workers have to commit to a country before their employer will pay for them to visit home (typically two years).

There was also considerable concern over the “tricks” that recruitment agencies might put in the contracts for a largely illiterate workforce, as well as how to provide remittance to a next of kin.

The countries of destination did not believe there are currently problems with workplace safety or inspection of the factories, and they believed there are ample complaint mechanisms already in place if a violation was to occur.

Recommendations for improving the conditions experienced by ready-made garment workers focused on improving employment contracts. More specifically, the contract should be vetted for abusive provisions, include a next of kin, and be understandable to the workers. The group did not think the situation for female garment workers would be aided by an employer’s code of conduct because self-regulation has not proven to be effective.

“There is a communication gap between host countries and workers because of the language gap – the migrant worker is not aware of the law and cannot understand local laws.” – Ahmed Ebrahim, Coordination Manager, Labour Market Regulatory Authority, Kingdom of Bahrain

Working session 4: Migrant domestic workers

Working session 4 began by examining national planning and social safety for women migrant workers. The group expressed concern about domestic workers not being covered under labour laws and MOUs being largely ignored. The group strongly felt that a framework needed to be in place to protect domestic workers. The group also addressed the idea of rights-based service delivery, and thought it might be a good idea to implement an incentive package for employers who make efforts to ensure the safety of domestic



workers. The group also felt that there was a need for more monitoring mechanisms.

The group next discussed the possibility of an agreement among the countries from the SAARC region to form a network of labour attachés and consular/welfare officers who could take the discussion forward with their counterpart ministries in countries of destination. The SAARC Secretariat representative stated that there needed to be a mandatory forum to address these issues. He also clarified that there is no need for a new office because many embassies and missions in destination countries already have labour attachés and are performing protective functions. All they need is more cooperation among each other. The group expressed concern, however, about the uniformity of the existing measures.

Plenary 3: Comparative experiences in regulation of recruitment agents

The third and final plenary, addressing the comparative experience in regulations of recruitment agents, was then opened by the moderator, Mr Dhan Bahadur Oli, Director, SAARC Secretariat. He reminded the group that most SAARC member States are sending low-skilled and less-educated people abroad to work in vulnerable forms of work. He also noted that efforts need to be taken to assure their protection abroad, both in countries of origin and when they arrive at their destinations.

“Domestic workers should be respected not just as workers but as human beings.” – Ms Amuerfina Reyes, Deputy Administrator, Philippine Overseas Employment Administration, Government of Philippines

Piyasiri Wickramasekara, Researcher, Sri Lanka, was then invited to continue the conversation by presenting a paper titled “Regulation of recruitment process and reduction of migration costs: A comparative analysis of three countries of origin”.

His key messages were:

- i. The costs of migration go far beyond financial costs; they also include social costs, such as separation from the family.
- ii. Gains from migration are seriously eroded by the vicious cycle of recruitment malpractices, high migration costs, onerous debt burdens, and low wages at destination.
- iii. Interventions should be targeted at reducing high fees, replacing costly loans, and improving wages and earnings at destination.
- iv. There is a shared responsibility between countries of origin and destination for better governance and protection of migrant workers.

- v. All interventions should be based on respect for migrant rights, gender concerns, social dialogue, and cooperation and partnerships.

There were three main sections of his talk: i) a review of the normative framework of recruitment; ii) identification of the common problems and solutions to overseas employment promoters; and iii) the cost of migration.

Normative framework on recruitment

The normative framework on recruitment includes the Private Employment Agencies Convention, 1997 (No. 181), the Domestic Workers Convention, 2011 (No. 189), and the ILO Multilateral Framework on Migration (2006). Several countries in South Asia also have their own legal and regulatory frameworks. A table of the responsible agencies and relevant legislation/regulations for select countries can be found at Table 4.3.

Table 4.3: Legal and regulatory framework on labour migration – South Asia

Country	Responsible agencies	Relevant legislation/regulations
Bangladesh	Ministry of Expatriate Welfare & Overseas Employment (MEWOE); Bureau of Manpower, Employment and Training (BMET)	Emigration Ordinance, 1982 (No. 29 of 1982); Recruitment Rules 2002; Overseas Employment Policy 2006 [under review and likely to be replaced by a new policy in 2013]; Overseas Employment and Migration Act, 2013 [draft approved in principle by the Cabinet; if passed by the Parliament, shall supersede the Emigration Ordinance, 1982].
India	Protectorate of Emigrant Workers; Ministry of Indians Overseas	The Emigration Act, 1983; Emigration Rules, 30 December 1983; Emigration (Amendment) Rules, 2009.
Nepal	Ministry of Labour and Transport Management; Department of Foreign Employment; Foreign Employment Promotion Board	Foreign Employment Act, 2007 (Act No. 26 of the year 2042); The Foreign Employment Rules, 2064 (2008); Foreign Employment Tribunal 2010; Foreign Employment (First Amendment) Rules, 2011; Foreign Employment Policy 2012.
Pakistan	Ministry of Human Resource Development; Bureau of Emigration & Overseas Employment; Ministry of Overseas Pakistanis	Emigration Ordinance, No. 18 of 1979 (updated 2012); Emigration Rules, 1979 (updated 2012).
Sri Lanka	Ministry of Foreign Employment Promotion & Welfare; Sri Lanka Bureau of Foreign Employment	Sri Lanka Bureau of Foreign Employment Act, No. 21 of 1985 (amended 1994, 1995, and 2009); National Labour Migration Policy, 2008.

Common problems and solutions to overseas employment promoters

There are several common problems with overseas employment promoters that lead to a vicious cycle of poverty and debt from which there is no escape (Table 4.4). The following is a simple example which illustrates this point: the agencies and intermediaries charge high fees, which cause the worker to take on onerous debt burdens. When the worker begins to work, they receive low wages and short-duration contracts, even with the rising costs of living. This compels workers to accept any conditions for work, including forced labour, which leave them even more vulnerable than before.

Table 4.4: Common problems with overseas employment promoters

Deception and provision of misleading information
Fees: excessive fees, non-transparency of fees, and non-issue of receipts for payments; collecting fees from both foreign employers and emigrant workers
Collusion between intermediaries at origin and destination
Employment contracts either not issued or, when issued, not understood by migrant workers nor enforceable at destination
Contract substitution at destination
Forging and falsification of documents
Withholding or confiscating passports or travel documents
Visa trading
Sending workers under irregular situations and into forced labour situations and/or into hazardous employment
Violation of migrant workers' fundamental rights as workers, in particular freedom of association

Thankfully, there are also strategies for reducing the vicious cycle of poverty and migration, which can be seen in Table 4.5.

Table 4.5: Possible strategies for reducing the vicious cycle of poverty and migration

Regulate the recruitment process: Have registration and licensing requirements; operate public recruitment agencies; limit recruitment fees; regulate job advertising; hold foreign employers to joint liability; grade the performance of agencies (offer both rewards and penalties); issue a code of practice for self-regulation; and blacklist or cancel the licenses of non-compliant agencies.
Reduce the cost of migration by including better data on costs for targeting; regulation of agencies and intermediaries; and government-to-government agreements.
Decrease the debt burden.
Improve returns on labour: Focus on wages by conducting better research on trends; eliminate contract substitution; negotiate minimum wages; prohibit illegal wage deductions; ensure payment for overtime; abolish wage discrimination; and ensure wage protection.
Develop more effective MoUs by ensuring that they reference critical issues such as recruitment practices, concrete procedures for complaint and access to justice, minimum employment standards or enforcement machinery to ensure compliance with labour law provisions, retention of passport, measures to protect migrant workers, and principles of equal treatment and non-discrimination.
Have concrete initiatives for protection measures, such as standard model contracts, workplace monitoring, dispute resolution mechanisms, regulation of recruitment agencies, prohibition of visa trading, and adequate labour inspections systems (including regular joint committee seminars).
Reform the legislative and regulatory framework in line with international instruments, and possibly ratify relevant Conventions.
Launch effective information campaigns targeted at migrant workers.
Explore the feasibility of a joint monitoring system of recruitment practices by social partners and civil society.
Introduce a South Asian or SAARC code of conduct for self-regulation.
SAARC should become involved in addressing the common problems through a concrete effort.

Box 4.2: Case study – The problem with contract substitution

Two hours before my flight, I received my contract, which was written in Arabic. My agent verbally translated it for me. The salary listed was QAR 900 [US\$250] per month. He then gave me another contract and told me to sign it. In this version, my salary was only QAR 500 [US\$140] and the company name was different. The agent instructed me to show the first contract to the Nepalese immigration officer and the other version was for Qatar.

Source: Amnesty International, 2011, p. 44.

Costs of migration

The costs of migration go beyond just the direct costs; they also include indirect costs (namely the hardship, blood, sweat, and tears). There are also substantial time costs, such as the time spent in visits to process work permits and visas, and the waiting time after payment to go abroad.

Data were used to help tell the story of the tangible costs that migrant workers face. Figure 4.1 demonstrates the direct costs of migration through a breakdown of the expenses of migration for Bangladeshis in 2009, and Figure 4.2 conveys how these funds were realized. The data are from a 2009 IOM Remittance Survey.

Figure 4.1: Bangladesh migration costs, 2009 (mean expenses: BDT219,359)

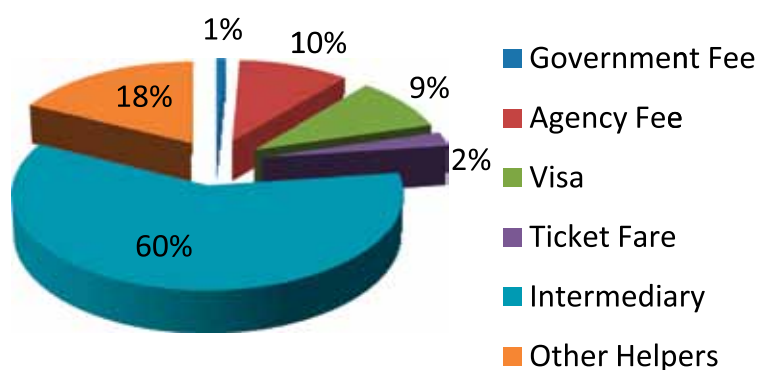
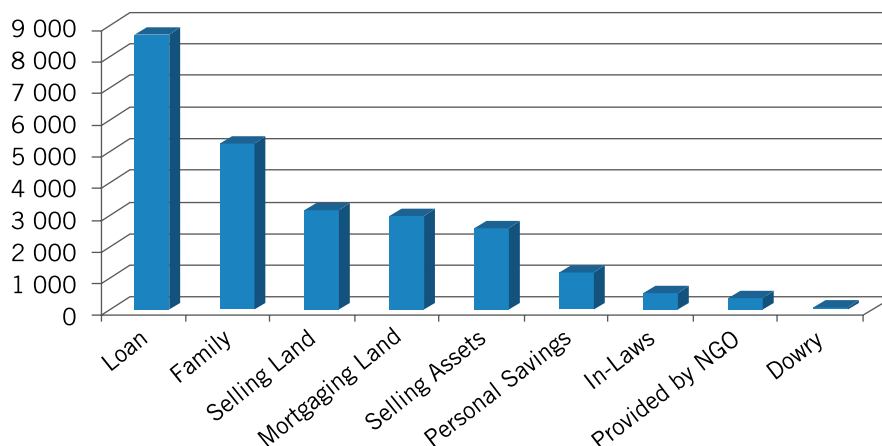


Figure 4.2: Sources of financing for migrant workers from Bangladesh (multiple responses, n = 12,893)



An example of disparity between allowable fees and the actual fees paid by migrant workers is shown in Table 4.6, which reveals the maximum allowable service charges to a Nepalese citizen wanting to migrate abroad and the unofficial rate actually required to migrate to various destination countries.

Table 4.6: Disparity between allowable fees and actual fees paid by migrant workers in Nepal

Destination country	Maximum allowable service charge	Unofficial market rate
Malaysia	NPR80 000 (US\$900)	NPR160 000 (US\$11 784)
Gulf Countries (Kuwait, Qatar, UAE, Saudi Arabia)	NPR70 000 (US\$790)	NPR75 000 – 80 000 (US\$850 – 900)
Libya	NPR90 000 (US\$1 015)	N/A
Mauritius	NPR19 900 (US\$225)	NPR90 000 (US\$1 015)
Russian Federation	NPR80 000 (US\$900)	NPR82 000 (US\$925)
Rep. of Korea; Israel (non-ag.); US; UK; Hong Kong, China; Afghanistan; JITCO (Japan)	Maximum of six months' salary NPR50 000 (US\$565)	NP 200 000 – 500 000 (US\$2 250 – 5 650)

Box 4.3: How do recruitment agencies work in practice?

Mr Azfar Khan, ROAS, ILO, gave a brief presentation on the contradictions of “ethical recruitment” in countries of destination. He stated that, in theory, the prospective employer pays the cost of recruitment and goes through licensed and certified recruitment agencies in both the countries of origin and destination. In practice, however, when a prospective employer receives a set number of employment visas, freelance and unlicensed recruitment agencies will bid for the opportunity to find the workers. These agencies need to recover their costs, which then get passed to the workers. This demonstrates that countries of origin cannot regulate the process alone, since employers in countries of destination are encouraging illegal practices by accepting high payments from unlicensed recruiting agencies. Countries of destination can greatly improve the process if they will only accept workers who come from a licensed recruiting agency.

Working sessions

Two working sessions were then held in parallel. Working session 5 identified common criteria for registration and licensing of the recruitment agents and working session 6 analysed the contracting process and the role of licensed recruitment agents/agencies.



Working session 5: Common criteria for registration and licensing of the recruitment process

The group began by identifying important and common criteria for the licensing process, including the payment of a security deposit, office space, absence of a criminal record, and recommendation from a reliable authority. During the question-and-answer session it was suggested that validation of the job market be added to the list.

The group members also discussed their experience with developing and applying a grading/rating system for recruitment agents based on compliance. The vast majority of the group members reported they did not have much success with it, with the exception of Sri Lanka, who the group felt should be emulated. Similarly, the countries represented did not have much success with self-regulation.

The group also discussed how a tripartite oversight mechanism to supervise the application of a grading/rating system to rank the recruitment agents could aid them in their efforts to protect migrant workers. The groups felt that the more social dialogue there was, the better; especially if migrant workers who had returned to their country of origin were included. The group also expressed interest in having an association of migrant workers in countries of origin.

The group felt that other forms of recruitment mechanisms that countries of origin and destination can adopt include tripartite conversations between workers, governments, and recruitment agencies and increased use of IT, such as job matching websites and databases that store all of the information of migrant workers.

Working session 6: Analysis of the contracting process and the role of licensed recruitment agents/agencies

Working session 6 focused on finding common stances on key safety and protection issues, and moved on to discuss potential roles of regional bodies like SAARC in formulating and implementing common regional standards. The basic principles that came out as common goals among countries of origin and destination were: ensuring the rights of all workers; treatment of workers as human beings; and including domestic workers in the labour laws of both countries of destination and origin. The group thought that the standards already existing in international human rights conventions and specific ILO Conventions on migrant and domestic workers should be better implemented. Similarly, existing regional forums like the Colombo Process and the Abu Dhabi Process were recognized as existing platforms that can be used to find common standards and corresponding implementation strategies to resolve issues that workers in both labour-sending and labour-receiving countries regularly face.



Closing session:

The closing session was chaired by Dr Zafar Ahmed Khan, Secretary, MEWOE, Bangladesh. He began by asking Special Guest, Mr Nissanka Naomal Wijeratne, Secretary, Ministry of Foreign Employment Promotion and Welfare, Sri Lanka, to address the plenary. Mr Wijerante thanked the seminar organizers and participants for the successful seminar. He also noted Sri Lanka's commitment to regional cooperation on the issue of labour migration, especially because he believed that the number of countries whose economies are dependent on labour from Asia will increase in the years to come.

Ms Nisha, Chief Technical Advisor, ILO, then presented for adoption "The Dhaka statement", which had been prepared during the course of the seminar by a drafting committee comprised of different government representatives and SAARC representatives. The plenary was again given the opportunity to provide further comments, but it was met with unanimous support and agreement. The representatives then officially adopted the Dhaka Statement (Chapter 5).

Dr Khan noted that the Dhaka statement contained the key phrase "fair and just." He remarked, "If we can include these two concepts in practices in our work, then all problems will automatically be solved."

He encouraged all participants to implement the Dhaka statement and then officially closed the seminar.

Best practices:

- In Bangladesh, the Probashi Kallyan Bank provides soft loans to migrant workers. The loan recovery is more than 95 per cent.
- The Philippines have ratified ILO Convention No. 189 on Decent Work for Domestic Workers. Having model laws domestically has given the Philippines considerable leverage in negotiations with countries of destination about the working conditions of Filipino domestic workers abroad.
- The Philippines operates 32 overseas centres, supported by the Migrant Welfare Fund, which ensure that welfare officers are on-site at migrant service points and shelters, and provide insurance against death and disability.
- The Philippines uses labour attachés to undertake verification of employment documents prior to hire, to resolve disputes, to provide counselling, and to assist with repatriation. It currently employs 38 labour attachés, 17 of whom are in the Middle East.
- In Pakistan, each overseas recruitment agency has to deposit 100,000 rupees in cash and 200,000 rupees in security to cover any "mishaps".
- Sri Lanka has developed a uniform and transparent system for grading recruitment

agencies both domestically and in countries of destination. These grades are published on a publically accessible website.

- Sri Lanka has established a complaint mechanism for abuses in recruitment and employment, including non-payment of wages, physical/sexual harassment, and stranding workers abroad.
- The Republic of Korea has implemented an Employment Permit System that includes periodic consultation with countries of origin in the framework of the ILO-Korea Partnership Programme. According to the Ministry of Employment and Labour in the Republic of Korea, the program has reduced the average sending cost per worker by 50 per cent in 10 years. Further, the rate of unpaid wages has reduced from 36.8 per cent in 2001 to 9.0 per cent in 2007.
- The Republic of Korea, like all countries of destination, has faced problems with workplace injuries and fatalities for migrant workers. Rather than keep the statistics secret, however, it releases them publically to allow for international cooperation in improving workplace safety. For example, it found that miscommunication and misunderstanding of safety rules was a major cause of injury, pointing to a need for more extensive pre-departure skills and language training.
- Mauritius has established labour offices in almost every village and town to receive complaints from migrant workers. All allegations are immediately investigated by a special migrant unit, and corrective action is taken when appropriate.
- In January 2007, the heads of states of the 10 ASEAN member countries adopted the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers. The Declaration defines the obligations of the sending and receiving states and the commitments of the entire ASEAN community in protecting and promoting the rights of migrant workers.
- Although Thailand and Singapore have not ratified ILO Convention No. 189 regarding Decent Work for Domestic Workers, they have adjusted their national laws to be in line with the Convention.

The Dhaka statement

Introduction

The Intergovernmental Regional Seminar on Promoting Cooperation for Safe Migration and Decent Work was held in Dhaka from 1–2 July 2013. Representatives of Afghanistan, Bahrain, Bangladesh, Egypt, Malaysia, Maldives, Mauritius, Nepal, Pakistan, the Philippines (who were also present as the Chair of the Abu Dhabi Dialogue), Qatar, Sri Lanka, and the SAARC Secretariat participated in the seminar. The seminar provided a platform for:

- Exchanging good practices between the countries of origin and the countries of destination on the above-mentioned issues within the framework of the International Conventions, and Recommendations.
- Discuss how monitoring efforts by national and regional bodies, and labour migration reform processes could benefit from such exchanges of good practices.
- Identify possible regional and inter-regional solutions and mechanisms to support migrant workers²⁸.

The participants noted that labour migration in Asia generates substantial benefits for countries of origin in terms of jobs and remittances and for countries of destination in human resources. Yet abuses are common, and have been well documented. Private recruitment agencies play a primary role in matching job seekers and employers. But malpractices and abuses are fairly common and include: high costs and fees, misrepresentation, failure to meet placement obligations, and contract substitution. The high recruitment costs combined with low wages have led to heavy debt burdens for migrant workers. Women face barriers in finding overseas employment, and as migrant workers, confront job segregation and isolation. Migrant women domestic workers are often made more vulnerable due to socio-cultural issues.

During employment overseas, migrant workers are often concentrated in sectors with inadequate labour legislation and enforcement. Women, more often than men, hold jobs that leave them unprotected by labour laws that cover other workers. Additionally, sexual exploitation (sometimes) goes hand-in-hand with labour exploitation.

The protection of jobs for national workers is an understandable policy concern in countries of destination. Developing the right policy and legislative response that balances the different interests and effectively governs migration is a relatively complex and difficult process, particularly with regard to admission policies. Politicians and policy-makers in the countries of destination face a sensitive and challenging task in convincing and educating national populations on the need for foreign workers. Challenges, such as increasing unemployment among the national population but shortages in labour in certain trades and occupations where the national workers are not interested to take up jobs, are not easily understood.

The participants recognized the growing importance of international labour migration. They also recognized the economic imperatives with changes in working age populations, skills, employment, labour market demands, and their impacts on migrant workers.

The Intergovernmental Seminar participants were cognizant of the previous and ongoing regional integration mechanisms as well as regional and inter-regional consultative processes such as the Association of South East Asian Nations (ASEAN), the Southern African Development Community (SADC), the Economic Commission of West African States (ECOWAS), the Colombo Process, and the Abu Dhabi Dialogue, for improving labour migration management and regional governance.

²⁸ In GCC countries and Egypt, the term migrant worker does not exist. In these countries, the term for foreign worker is “expatriate worker”, “overseas worker” or others as defined in countries’ respective national legislation.

Recommendations

The participants agreed to recommend concerted actions to promote safe migration and decent work in countries of origin and destination, which shall be gender sensitive and implemented in close cooperation with governments in countries of origin and destination, tripartite partners, civil society organizations, and migrant workers' associations as follows:

I. Effective Governance of Labour Migration:

1. Promote the adoption of international labour standards for all migrant workers, and the ILO Multilateral Framework on Labour Migration, for protection of migrant workers and effective management of labour migration.
2. Unilateral measures by countries of origin, in coordination with host governments, for the provision of welfare and protection of migrant workers, such as operation of a welfare fund, posting of labour attachés and complaints mechanisms, can be reinforced. Evidence-based exchange of experience and good practices should be undertaken.
3. More effective exchange of information between countries of origin and destination is required, particularly in areas of labour market information, including information to facilitate the matching of skills and competencies with job requirements.
4. The role of the regional bodies, like the South Asian Association for Regional Cooperation (SAARC), in establishing cooperation among member states is of special significance, particularly in times of crisis when workers need to be evacuated or repatriated in large numbers from a country of destination where not all member states may have foreign missions.
5. Countries of origin and destination should work together in establishing a decent wage.
6. Consideration should be given to the establishment of an intergovernmental mechanism in South Asia, which is inclusive towards social partners and civil society, for promotion and protection of the rights of migrant workers, taking into account the experience of ASEAN.
7. Towards the above, there is need for consultation and consensus-building among South Asian countries, which should pursue the next steps proactively.
8. Regional cooperation among South Asian countries using any future intergovernmental platform or mechanism should take into account the need to engage with the ongoing regional and inter-regional consultative processes and promote synergies.
9. Regional cooperation among South Asian countries should also recognize the need that any future intergovernmental platform or mechanism should engage with the counterpart regional bodies of the countries of destination for cooperation at the inter-regional level.

II. Protection of Migrant Workers, particularly Women Migrant Workers:

1. Ratification of ILO Convention No. 189 on Decent Work for Domestic Workers should be considered for promotion and national legislation should be reviewed against the provisions of ILO Convention No. 189. Notably, the Philippines and Mauritius have ratified the Convention. It was noted that some destination countries in South-East Asia had recently amended their national legislation to extend certain provisions of Convention No. 189.

2. The increasing importance of labour migration in the region has raised the importance of social protection, including access to essential healthcare and income security. The ILO instruments should be used to guide countries of origin and destination in their efforts to ensure that migrant workers can exercise their rights to social security and social services.
3. Promotion of social networks and associations of migrant workers in countries of origin and destination are important and should be pursued.
4. Concerns of protection, particularly of domestic workers and migrant women workers, can be better integrated into the consultations in the Colombo Process and Abu Dhabi Dialogue.
5. Reduction of migration and recruitment costs for the migrant workers is a priority.
6. Information on next of kin/emergency family contact in the country of origin should be included in the migration and contract documents. The employment contract should be vetted and workers, particularly those who may be without formal education, made aware of the provisions well in advance.
7. Continued emphasis should be placed on social dialogue and furthering cooperation among the three actors in the labour market – workers, employers, and governments – because these serve as effective tools to promote cooperation and understanding, and also serve to mitigate challenges and arrive at commonly agreed upon solutions.
8. There is a need to take the dialogue process forward for consolidation of discussions in this Intergovernmental Seminar and inclusion of workers and employers organizations in future regional level dialogue.
9. There is a need for continued dialogue between countries of origin and destination on the provision of opportunities to migrant workers for work experience enhancement.
10. Concerted efforts are required for diversification of skills of women to promote their employment in a more decent and diverse range of occupations.
11. Efforts should also be made to sensitize employers on the rights of migrant workers.

III. Regulation of Recruitment:

1. There is need for cooperation among countries of origin and destination for ensuring effective regulation of the recruitment process and quality jobs for migrant workers.
2. The regulation of recruitment is a shared responsibility and international cooperation is essential, either at the multilateral and/or bilateral level, in making recruitment of workers more effective, orderly, just, and fair. For example, as far as private recruitment agencies are concerned, this could take the form of ensuring that workers from countries of origin would only be accepted if they have been recruited through accredited and properly licensed and certified agencies and subsequently endorsed by the relevant line department/ministry.
3. Countries of origin and destination should establish and implement rules and regulations governing the operations of private employment agencies to deter untoward practices that are a detriment to migrant workers. This could be further pursued through the establishment and/or strengthening of an overseeing body.
4. Recruitment costs, if any, should be made transparent and be documented for both employers and jobseekers. In this case, proper invoicing of all costs related to recruitment should be made available to the workers and employers.

5. The countries of origin and destination should consider inter-governmental recruitment as an alternative for some major sectors of employment, such as construction, where large-scale recruitment is often pursued.
6. Countries of origin and destination should consider introducing stringent disciplinary measures (e.g., heavy fines, imprisonment, etc.) for unethical recruitment practices and illegal recruitment, particularly where such practices abet human trafficking.
7. Countries of origin and destination should strengthen complaints mechanisms to make them accessible and effective.
8. Recognizing that, in addition to reducing migration costs, the returns from overseas work for the migrant workers can be enhanced, a study should be undertaken to determine wage levels and trends in major destination countries and sectors.
9. Consideration should be given to the establishment in countries of origin and destination, of a supplementary monitoring mechanism for recruitment agencies, involving workers and employer organizations and civil society organizations.

Follow up

All participants will follow up with their respective ministries in order to consider the above-mentioned recommendations and provide feedback to the organizers of the Intergovernmental Seminar.

South Asian countries will consider recommendations made on increasing sub-regional cooperation on overseas employment.

Due to its mandate and expertise, the ILO is well placed to assist the constituents to address labour market and social protection issues in line with international labour standards, and help design policies and measures to strengthen labour migration governance. The ILO is requested to provide technical assistance to facilitate the member States, constituents, and civil society working on overseas employment issues, and support the implementation of the above-mentioned recommendations in cooperation with other relevant international organizations.

Representatives at the Intergovernmental Regional Seminar on Promoting Cooperation for Safe Migration and Decent Work from:

Afghanistan
 Bahrain
 Bangladesh
 Egypt
 Malaysia
 Maldives
 Mauritius
 Nepal
 Pakistan
 Philippines (also present as the Chair of the Abu Dhabi Dialogue)
 Qatar
 Sri Lanka
 SAARC Secretariat

People's Republic of Bangladesh, Dhaka, 02 July 2012.

Appendix I: Annotated seminar agenda

“Sharing expertise and good practices on policy, normative frameworks and support mechanisms in ensuring adequate safety standards for women and men migrant workers: Exploring ways forward for regional and bilateral collaborative frameworks”

Annotated Agenda

Intergovernmental Regional Seminar on Promoting Cooperation for Safe Migration and Decent Work

Dates: 1-2 July 2013

Venue: Hotel Ruposhi Bangla, Dhaka, Bangladesh

<http://www.lmseminarbangladesh.com>

Master of the Ceremony: Disha Sonata Faruque, ILO-Bangladesh

Day 1: 01 July 2013

Time	Activity and description	Purpose
08:00 - 09:00	Registration All participants and guests	
09:00 - 10:30	Inaugural and opening plenary session [Chair: Dr Zafar Ahmed Khan, Secretary, Ministry of Expatriates' Welfare and Overseas Employment, Government of the People's Republic of Bangladesh] ■ Welcome and introduction from the seminar Chair, Dr Zafar Ahmed Khan, Secretary, Ministry of Expatriates' Welfare and Overseas Employment, Government of the People's Republic of Bangladesh. ■ Opening remarks on migrant workers needs of social protection and labour rights in the countries of origin and destination by Mr Srinivas B Reddy, Country Director, ILO Country Office for Bangladesh. ■ Statement on labour mobility and national development by Dr Derek Mueller, Counsellor, Head of Cooperation, Swiss Agency for Development and Cooperation, Bangladesh. ■ Speech on regional/intergovernmental collaborations and national legislative measures to address undocumented migration and need for human rights-based return and reintegration of the migrant workers and official opening of the seminar by H.E. Mr Khandker Mosharraf Hossain, Minister, Ministry of Expatriates' Welfare and Overseas Employment, Government of the People's Republic of Bangladesh.	■ To welcome participants and outline the purpose and format of the seminar. ■ To update on the recent trends in the labour migration from the perspectives of the countries of origin and destination and the rights of the migrant workers and state responsibilities. ■ To provide an overview of the actions taken, regionally and in Bangladesh, in the current labour migration context, including challenges and opportunities.
10:30 - 11:00 Tea/coffee break		

Day 1: 01 July 2013

Time	Activity and description	Purpose
11:00-12:45	Plenary 1 on Labour migration governance (30 minutes) [Moderator: Mr Nissanka Naomal Wijeratne, Secretary, Ministry of Foreign Employment Promotion and Welfare, Government of Sri Lanka] ■ Discussion paper on “Protection of and support mechanisms for women and men migrant workers while abroad: responsibilities of the countries of origin and destination, and areas of cooperation” with specific attention to: ■ Migration for Employment (Revised) Convention, 1949 (No. 97); ■ Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); and ■ ILO Multilateral Framework on Labour Migration. (15 minutes) [Paper Presenter: Nilim Baruah, Regional Labour Migration Specialist, Regional Office for Asia and the Pacific, ILO] ■ Questions and answers (15 minutes) All participants Parallel working sessions 1 and 2 (1 hour 15 minutes) Working session 1: [Moderator of working session 1: Ms Nisha, Chief Technical Advisor, Labour Migration, ILO] Suggesting establishment of a tripartite labour migration platform at the level of SAARC – comprising of the representatives of workers, employers and governments (similar to the Labour Migration Forum at ASEAN) and an appropriate institutional framework for increased cooperation between national foreign and migrant labour related ministries, law enforcement, prosecution agencies, and social services of the countries of origin to ensure legal assistance and judicial cooperation between in investigation and judicial processes, and for the protection of support to the migrant workers, particularly women migrant workers. Working session 2: [Moderator of working session 2: Begum Shamsun Nahar, Director General, Bureau of Manpower, Employment and Training, Bangladesh] Exploring possibilities of establishment of a Multi-country Referral Mechanism, a co-operative framework within which Colombo Process and Abu Dhabi Dialogue members could fulfill their obligations to protect and promote migrant workers’ rights and division of responsibilities to take the agenda forward. *Rapporteurs: to be selected by each group*	■ To elicit the views of the governments on the issue and to understand collectively the scale of the challenge. ■ To explain the linkages between ongoing international and regional processes with regard to the labour migration. ■ To stress the importance of cooperation and coordination for upholding the rights of migrant workers. ■ To arrive at an agreement about the way forward about the demand for establishment of a tripartite labour migration forum in SAARC. ■ To identify elements on which increased cooperation between the ministries in the countries of origin and destination is possible to ensure legal assistance and judicial cooperation for the protection of the migrant workers. ■ To discuss the way forward on developing a Multi-country Referral Mechanism.
12:45 - 13:45 Lunch		

Day 1: 01 July 2013

Time	Activity and description	Purpose
13:45 -14:45	Plenary 1 contd. (1 hour) [Moderator: Mr Nissanka Naomal Wijeratne, Secretary, Ministry of Foreign Employment Promotion and Welfare, Government of Sri Lanka] ■ Presentations by the rapporteurs of the working session (15x2 minutes) ■ Open discussion (30 minutes)	
14:45 16:15	Plenary 2 on Protection of migrant workers, especially women migrant workers (30 Minutes) [Moderator: Ms Panudda Boonpala, Deputy Director, ILO DWT for South Asia and Country Office for India] ■ Discussion paper on “The demand for women migrant workers in the Ready-Made Garment manufacturing and Domestic Work areas and their employment from a perspective of social justice and women’s human rights with special reference to: ■ Home Work Convention, 1996 (No. 177); ■ Domestic Workers Convention, 2011 (No. 189); ■ Domestic Workers Recommendation, 2011 (No. 201); ■ ILO Multilateral Framework on Labour Migration; and ■ Convention on the Elimination of all forms of Discrimination against Women (CEDAW), 1979. (15 minutes) [Paper presenter: Ms Sajeda Amin, Senior Associate, Population Council, USA] ■ Questions and answers (15 minutes) All participants Parallel working sessions 3 and 4 (1 hour) Working session 3: [Moderator of working session 3: Mr Nilim Baruah, Labour Migration Specialist, Regional Office for Asia Pacific, ILO] Analysis of the impact of the international “producer-driven “ and “buyer-driven” chains on the status of different categories of migrant garment workers and challenges of flexible production, occupational health and safety, low wages, sexual exploitation and abuse, invisibility and lack of the right to association and collective bargaining; and how these could be addressed through (1) a multi-country cooperation for a Employers’ Codes of Conduct in the recruitment and hiring of the women migrant workers under protected conditions, and (2) national mechanism such as labour inspections. Working session 4: [Moderator of working session 4: Mr Azfar Khan, Senior International Labour Migration Specialist, Regional Office for Arab States, ILO] Analysis of the demand for the migrant domestic workers in the emerging economies of the East and South-East Asia and in the Middle-East and tensions between immigration laws and policies, limited access to employment rights protections, sexual exploitation and abuse, legal and policy responses to protect the rights of the migrant domestic workers; and proposing a Multilateral Social Safety Framework that could be advocated from a SAARC platform for adoption by the countries of origin and destination for migration of women workers under protected conditions (that may be agreed to be created along the ASEAN Labour Migration Forum; refer to the working session 1). *Rapporteurs: to be selected by each group*	■ To elicit the views of the Participants on issues and effective national and regional solutions. ■ To discuss the importance of national planning for migrant workers and the mechanisms required for social safety in the countries of destination. ■ To discuss importance of social safety and rights based service delivery (prevention of abuse and exploitation at the workplace, early action on violations, fair legal treatment, occupational health and maternity support, psycho-social support, etc.) in the countries of destination. ■ To identify inter-regional cooperation needs for promoting formulation and adoption of an Employers’ Codes of Conduct in the recruitment and hiring of migrant workers. ■ Exploring development of a Multilateral Social Safety Framework that the countries of origin and destination could adopt for migration of women workers under protected conditions. (or agree to form a possible network of labour attaches, consular and welfare officers from SAARC region who could take the issue forward with the counterpart ministries in the countries of destination).

Day 1: 01 July 2013

Time	Activity and description	Purpose
16:15 - 16:30 Tea/coffee break		
16:30-17:30	Plenary 2 contd. (1 hour) [Moderator: Ms Panudda Boonpala, Deputy Director, ILO DWT for South Asia and Country Office for India] ■ Presentations by the rapporteurs of the working session (15 minutes x2) ■ Open discussion (30 minutes)	
17:30-19:00	Open ended working group to draft the 'Way forward'	An open ended working group will be set up to allow for participants to draft the "Way forward" that will be shared and adopted at the Closing session
19:00 onward	Dinner in honour of the participants	

Day 2: 02 July 2013

Time	Activity and description	Purpose
08:00-09:00	Breakfast and registration All participants and guests	Informal opportunity for guests and the participants to review the Day 2 schedule and exchange notes.
09:00-09:15	Opening of the Day 2 ■ Summative notes on the previous day's sessions [Ms Rahnuma Khan, Assistant Chief, Ministry of Expatriates' Welfare and Overseas Employment, Bangladesh]	To summarise the views and suggestions
09:15-10:00	Plenary 3 on Comparative experiences in regulation of recruitment agents (45 minutes) [Moderator: Mr Dhan Bahadur Oli, Director, SAARC Secretariat] ■ Discussion paper on "Regulation of recruitment process and reduction of migration costs: A comparative analysis of three countries of origin" with special focus on: ■ Private Employment Agencies Convention, 1997 (No. 181); ■ Domestic Workers Convention, 2011 (No. 189); ■ Domestic Workers Recommendation, 2011 (No. 201); and ■ ILO Multilateral Framework on Labour Migration. (15 minutes) [Paper Presenter: Piyasiri Wickramasekara, Researcher, Sri Lanka] ■ Brief Presentation on Contradictions of 'ethical recruitment' in the countries of destination (10 minutes) [Presenter: Mr Azfar Khan, ROAS, ILO] ■ Questions and answers (20 minutes) All participants	• To elicit the views of the Participants on effective regulation and the ways to enhance cooperation between the private recruitments agents/agencies and the governments • To recommend specific actions to strengthen commitment to promote adoption and implementation of codes of conduct and other tools for regulation by the government and oversight by the migrant workers' associations, trade unions, civil society, and the government bodies. • To canvass possible regional mechanisms involving the regional bodies like the SAARC to set standards for regulating the recruitment agencies in the region and monitoring of progress in application of the standards.
10:00-11:00	Parallel working sessions 5 and 6 (1 hour) Working session 5: [Moderator of working session 5: Mr Abid Mahmood, Joint Secretary, Ministry of Human Resource Development, Government of Pakistan] Identifying (1) common criteria for registration and licensing of the recruitment agents, which can be adopted by the countries of origin; (2) prevailing rating/grading of the recruitment agents and what is working and what may not be working; and (3) what are the other forms of recruitment mechanisms that the countries of origin and destination can adopt? Working session 6: [Moderator of working session 6: Mr Hazarat Ali, Additional Secretary, Ministry of Expatriates' Welfare and Overseas Employment, Bangladesh] Analysis of the contracting process and the role of licensed recruitment agents/agencies that the recruitment agencies and intermediary's costs Play. The analysis should lead to exploration of: (1) a common position on the safety and protection of the migrant workers from SAARC member countries of origin who migrate to the Middle East and East and South-East Asia, and (2) adoption of common regulatory standards to regulate the recruitment agencies, monitor recruitment fees and the cost of migration, minimum standards for different trade related employment contracts for women and men migrant workers, and strengthening support services in embassies abroad for abused migrant workers. *Rapporteurs: to be selected by each group*	

Day 2: 02 July 2013		
Time	Activity and description	Purpose
11:00 - 11:30 Tea/coffee break		
11:30-12:30	Plenary 3 contd. (1 hour) [Moderator: Mr Dhan Bahadur Oli, Director, SAARC Secretariat] ■ Presentations by the rapporteurs of the working session (15x2 minutes) ■ Open discussion (30 minutes)	
12:30 - 14:00 Lunch		
	Open ended working group to complete drafting of the 'Way forward' during this time	The voluntary members of the open ended working group will meet to finalize draft "Way forward" that will be shared and adopted at the Closing session.
14:00-15:00	Official closing [Chair: Dr Zafar Ahmed Khan, Secretary, Ministry of Expatriates' Welfare and Overseas Employment, Bangladesh] ■ Summative notes of all the sessions by Ms Rahnuma Khan, Assistant Chief, Ministry of Expatriates' Welfare and Overseas Employment, Bangladesh. ■ Presentation of the 'Way forward' to the participants for adoption, by Nisha, Chief Technical Advisor, ILO. ■ Statement by the Special Guest, Mr Nissanka Naomal Wijeratne, Secretary, Ministry of Foreign Employment Promotion and Welfare, Sri Lanka. ■ Vote of thanks by Chair, Dr Zafar Ahmed Khan, Secretary, Ministry of Expatriates' Welfare and Overseas Employment, Government of the People's Republic of Bangladesh *Official closure of the seminar*	■ To summarize the views from the seminar discussions and identify key messages to be conveyed to stakeholders.
15:00-16:00	Media briefing [Led by: H.E. Mr Khandker Mosharraf Hossain, Minister, Ministry of Expatriates' Welfare and Overseas Employment, Government of the People's Republic of Bangladesh] ■ Sharing of key points from the 'Way forward' adopted by the participants ■ Question and answer with the media panel. The other panel members would include: • Dr Zafar Ahmed Khan, Secretary, Ministry of Expatriates' Welfare and Overseas Employment, Government of the People's Republic of Bangladesh. • Ms Panudda Boonpala, Deputy Director, ILO DWT for South Asia and Country Office for India. • Mr Srinivas B Reddy, Country Director, ILO Country Office for Bangladesh.	■ To inform the press on how the outcomes of the seminar will be feed into different country level process and what follow up will be taken up. ■ To take and respond to the questions of the press about the issue of labour migration.
16:00 to 17:00 Tea/coffee and media interactions		

Appendix II: Seminar concept paper

“Sharing expertise and good practices on policy, normative frameworks, and support mechanisms in ensuring adequate safety standards for women and men migrant workers: Exploring ways forward for regional and bilateral collaborative frameworks”

CONCEPT PAPER

Intergovernmental Regional Seminar on Promoting Cooperation for Safe Migration and Decent Work

Web: <http://www.lmseminarbangladesh.com>

Dates: 1-2 July 2013

Venue: Hotel Ruposhi Bangla, Dhaka, Bangladesh

I. Introduction

The Government of Bangladesh sees cooperation between Bangladesh and similar countries of origin and between Bangladesh and the countries destination as a strategy to ensure and enhance the rights and protection of migrant workers. Towards the application of this strategy, specifically to support the strengthening of policy and institutional frameworks to improve migration management and the protection of migrant workers, the mandated ministry, i.e., the Ministry of Expatriates' Welfare and Overseas Employment (MEWOE), seeks to host a seminar to enable exchanges on good practices and policy as well as institutional reform-oriented solutions to challenges in the areas of migration governance and management: promotion of the rights of the women migrant workers, return and reintegration, regulation of recruitment agencies, and reduction of migration costs.

MEWOE was set up as the mandated ministry for labour migration governance on 20 December 2001. MEWOE, with its execution body, the Bureau of Manpower, Employment and Training (BMET), is the key policy advisory and executing ministry. It is responsible for the welfare of the Bangladeshi migrant workers and promotion of overseas employment. MEWOE also regulates the recruiting agencies and coordinates with a range of ministries and departments for a range of services. More information about MEWOE is available at: <http://www.probashi.gov.bd/>.

For the purpose of the seminar, the ministry requested to make technical assistance through the project, “Promoting Decent Work through Improved Migration Policy and its Application in Bangladesh”. This project was initiated on a request from the Government of Bangladesh to the International Labour Organization (ILO). The project aims to assist the Ministry of Expatriates' Welfare and Overseas Employment (MEWOE) and the Bureau of Manpower, Employment and Training (BMET) to improve the overall management of labour migration from pre-departure to the return and re-integration stage, and to ensure protection and decent employment conditions for Bangladeshi migrant workers in countries of destination. Other important stakeholders include other UN agencies, employers' and workers' organizations, recruitment agents, civil society organizations, and research and advocacy institutions. More information about the project is available at:

http://www.ilo.org/dhaka/Whatwedo/Projects/WCMS_205555/lang--en/index.htm.

ILO is giving support to the MEWOE through funds received from the SDC. More information about SDC in Bangladesh is available at: <http://www.swiss-cooperation.admin.ch/bangladesh/>.

II Aims/purpose

The Ministry of Expatriates' Welfare and Overseas Employment, the Government of Bangladesh, decided, with the assistance of the ILO in accordance with their mandates and within existing resources, to continue and to enhance their efforts to promote sharing of expertise and good practices on policy, normative frameworks, and support mechanisms in ensuring adequate protection standards for women and men migrant workers.

In line with the above goal, the “Intergovernmental Regional Seminar on Promoting Cooperation for Safe Migration and Decent Work”, aims to serve as a platform for:

- a. Exchanging good practices between countries of origin and countries of destination on the above-mentioned issues within the framework of International Conventions and Recommendations.
- b. Discussing how monitoring efforts by national and regional bodies, and labour migration reform processes could benefit from such exchanges of good practices.
- c. Identifying possible regional and inter-regional solutions and mechanisms to support migrant workers.

III Output of the seminar

- Mutual learning and information sharing.
- Improvement of coordination among countries of origin and countries of destination, specifically among the relevant government bodies, and at the regional level.
- Bringing a focus on the need to build bilateral and national mechanisms for the protection of migrant workers' rights and on the need to strengthen the capacity of institutional structures, e.g., SAARC, to address issues concerning labour migration.
- Agreement on the next step in the direction of regional cooperation at the level of SAARC for the protection of South Asian migrant workers.

IV Participation

- Total number of estimated participants: Fifty-four (54).
- Fifteen (15) senior government officials from the ministries responsible for the migrant workers from the key countries of destination for Bangladeshi migrant workers – one (01) each from Bahrain, Jordan, the Kingdom of Saudi Arabia, Kuwait, Lebanon, Malaysia, Oman, Qatar, Singapore, the Republic of Korea, Italy, Egypt, Brunei, Mauritius, and the United Arab Emirates;
- Seven (7) senior government official – one (1) official each from the ministries responsible for the migrant workers from the SAARC counties, namely Afghanistan, Bhutan, India, the Maldives, Nepal, Pakistan, and Sri Lanka;
- Two (2) senior officials from the South Asian Association for Regional Cooperation (SAARC) Secretariat;
- One (1) chair of the Abu Dhabi Dialogue from Philippines;
- One (1) senior official of the Association of South-East Asian Nations (ASEAN) Committee on Migrants Workers.

- Ten (10) senior government officials from Ministry of Expatriates' Welfare and Overseas Employment and BMET, Bangladesh.
- Two (2) senior government officials from the Ministry of Foreign Affairs, Bangladesh
- Two (2) senior government officials from the Ministry of Home Affairs, Bangladesh
- Two (2) senior government officials from the Ministry of Labour, Bangladesh
- Two (2) senior government officials from the Ministry of Planning, Bangladesh
- Two (2) representatives – One (01) each from the International Organization for Migration and UN Women
- Five (5) ILO Officials
- One (1) SDC Official
- Two (2) independent experts on migration and migrant workers' rights and their access to decent work and social services/the discussion paper presenters.

Inaugural ceremony guests: Approximately one hundred fifty (150)

During the opening session on Day 1: Approximately one hundred fifty (150) representatives, including UNCT members, media, the heads of the implementing partners, and some of the Steering Committee members of the project “Promoting Decent Work through Improved Migration Policy and its Application in Bangladesh”:

- a. Fifty-three (53) representatives of the ministries and divisions
- b. Twenty-three (23) UN Country Team (UNCT) members
- c. Fifteen (15) ILO officials
- d. Fifty (50) representatives of non-government/social organizations and media

Other details relevant to participation are:

- All nominated functionaries and senior government officials of countries of origin and countries of destination are encouraged to submit in advance, though this is not a requirement for participation, written notes outlining proposals regarding the subject of the regional seminar, which will be distributed to the delegates.
- The discussion paper presenters will be from the ILO or selected based on their expertise in the topics relevant to the session.

V Physical organization of the seminar

Venue:

The seminar venue and foreign delegates' accommodation is arranged at:

Hotel: Ruposhi Bangla

Address: 1 Minto Road, Dhaka – 1000, Bangladesh.

Phone: +880 2 8330001

Fax: +880 2 8312975

Email: sales@ruposhibanglahotel.com

The seminar registration desk will open on 01-02 July 2013 at 8:00 AM. The administration desk will open from 8:00 AM 7:00 PM on both days.

Registration will be possible during the seminar days from 8:00 to 9:00 AM.

Facilities may be made available for participants to display publications and other material at the seminar venue by prior arrangement with the ILO Project Management Team.

An administrative note for the participants with a brief profile of Dhaka, information about accommodation and travel, food, and rates of payment and all other details will be prepared and shared timely.

Contact persons:

For information about the Ministry of Expatriates' Welfare and Overseas Employment (MEWOE), Government of Bangladesh:

Dr Zafar Ahmed Khan

Secretary

Kind attention to: Hazarat Ali

Additional Secretary

National Project Coordinator, Promoting Decent Work through Improved Migration Policy and Its Application in Bangladesh

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VI Thematic organization of the seminar

All plenary sessions and working group sessions will be open to all participants. The plenary and working group sessions will take place according to the Work Programme below.

Four working group sessions will be held consecutively. They will focus on the following topics:

- protection of and support to migrant workers in countries of origin and destination;
- the demand for women migrant workers in the ready-made garment manufacturing and domestic work areas from a perspective of social justice and women's human rights, with special reference to the ILO Conventions No. 177 and No. 189 and Recommendation No. 201; and
- regulation of recruitment process and reduction of migration costs: A comparative analysis of three countries of origin based on the ILO Multilateral Framework on Labour Migration and the ILO Guide to Private Employment Agencies Regulation, Monitoring and Enforcement.

The discussion paper presentations will be only to present the highlights of the papers. Full papers will be circulated among the participants in advance.

The closing plenary session, scheduled for the afternoon of 2 July 2013, will focus on practical suggestions and recommendations for addressing the issues discussed during the working group sessions.

The seminar will end with a media briefing led by the Minister, Ministry of Expatriates' Welfare and Overseas Employment on 2 July 2013 from 15:00 PM.

The papers presented and the report of the seminar will be published in print and online for future reference.

The working language of the seminar will be English.

VII Relevance to International Labour Standards

The following conventions are specifically relevant:

- Convention No. 97 Migration for Employment (Revised), 1949;
- Convention No. 143 Migrant Workers (Supplementary Provisions), 1975;
- Convention No. 177 Home Work, 1996;
- Convention No. 181 Private Employment Agencies Convention, 1997;
- Convention No. 189 Decent Work for Domestic Workers, 2011;
- Recommendation No. 201 on practical guidance for the strengthening of national law and policies on Domestic Work; and
- ILO Multilateral Framework on Labour Migration.

VIII Gender dimensions

While both low-skilled and undocumented women and men migrant workers are vulnerable to labour exploitation, Bangladeshi women migrant workers, who form about six per cent of about six million Bangladeshi workers, face additional concerns as women. Skilled women health workers tend to migrate to Kuwait, the United Kingdom, Italy, and Japan but their proportion is much smaller. Bangladesh women workers are thinly spread over 51 countries. Most documented Bangladeshi women workers are low-skilled and mostly migrate to the Kingdom of Saudi Arabia, the United Arab Emirates, Bahrain, Oman, Jordan, Qatar, and Malaysia to either work in the garment industry or as domestic workers.

Women migrant workers face several constraints, making documented migration harder for them. Still, poverty is pushing them beyond their villages. Women migrant workers are a major source of a large amount of foreign exchange earnings, as it is suggested that women tend to send back much higher remittances compared to men migrant workers. But their remittances are treated by their families more as money to spend rather than money to save and invest.

Many women migrant workers are being deprived of their due rights as women and as workers, and they face much more hostile situations while working abroad, sometimes resulting in physical abuse and sexual harassment.

The Seminar will address the gender dimensions of important issues like terms and conditions of employment, migration cost, regulation of the recruiting agencies, restrictions imposed on migrant workers, and working environments, exploring solutions to many of these challenges.

Bibliography

Chapter 1

Abella, M.; Martin, P. 2012. "Labour migration", in RCM Thematic Working Group on International Migration including Human Trafficking: *Situation report on international migration in South and South-West Asia* (ESCAP), p. 123-145.

Asia-Pacific Regional Coordination Mechanisms Thematic Working Group on International Migration, including Human Trafficking (TWG-Migration). 2012. *Round Table discussions: Item 5 of the provisional agenda*, Background paper presented at the Asia-Pacific Regional Preparatory Meeting for the General Assembly High-level Dialogue on International Migration and Development 2013, 29–31 May, Bangkok.

Association of South-East Asian Nations (ASEAN). 2008, *ASEAN economic community blueprint* (Jakarta, ASEAN Secretariat).

—. 2009. *ASEAN socio-cultural community blueprint* (Jakarta, ASEAN Secretariat).

Baruah, N. 2003. "Capacity building and interstate cooperation to protect migrant workers and facilitate orderly labour migration", in *Labour migration in Asia: Trends, challenges and policy responses in countries of origin* (Geneva, International Organization for Migration).

—. Forthcoming. *Trends and outlook for labour migration in Asia* (Bangkok, ILO).

Choi, S, 2013. *Introduction and Current Policy Directions of Employment Permit System*, presented by Choi Seung Chan, Deputy Director, Ministry of Employment and Labor, Republic of Korea at Ministry of Employment and Labour, Republic of Korea, National Workshop on the Review and Implementation of the Inter-Ministerial MOU between Myanmar and the Republic of Korea, Naypyidaw, 3 June.

International Labour Organization (ILO). 2006. *ILO Multilateral Framework on Labour Migration* (Geneva).

—. 2010. *International labour migration: A rights-based approach* (Geneva).

—. 2011a. *Four-country study on public attitudes to migrant workers* (Bangkok). Available at: http://www.ilo.org/asia/info/lang--en/docName--WCMS_159851/index.htm [1 Apr. 2014]

—. 2011b. *ILO TRIANGLE project baseline survey 2011*, Unpublished (Bangkok).

—. 2012. *Pacific labour governance and migration Pacific seasonal migration to New Zealand and Australia: Literature review* (Geneva).

—. 2013a. *Background paper to the 2013 High-Level Dialogue on International Migration and Development*, presented at 2012 High-Level Dialogue on International Migration and Development 2013, 29–31 May, Bangkok.

—. 2013b. *Domestic workers across the world: Global and regional statistics and the extent of legal protection* (Geneva).

—. 2013b. *Strengthening grievance and complaint handling mechanisms to address migrant workers grievances in Sri Lanka* (Colombo, ILO Country Office for Sri Lanka and the Maldives).

Lee, J, 2013. *Occupational safety and health in Korea*, presented by Lee Jae Wang, Deputy Director of International Cooperation Team of KOSHA, Republic of Korea, at the National Workshop on the Review and Implementation of the Inter-Ministerial MOU between Myanmar and the Republic of Korea, Naypyidaw, 3 June.

Lee, K. 2012. *Eight years of Employment Permit System: Evaluation and tasks* (Seoul, Korean Labour Institute)

Organization for Security and Cooperation in Europe (OSCE); International Organization for Migration (IOM); International Labour Organization (ILO). 2006. *Handbook on establishing effective labour migration policies in countries of origin and of destination* (Geneva, OSCE, IOM, ILO).

Tan, E. 2005. "Welfare funds for migrant workers: A comparative study of Pakistan, the Philippines and Sri Lanka", in International Organization for Migration (IOM): *Labour migration in Asia: Protection of migrant workers, support services and enhancing development benefits* (Geneva, IOM), p. 153 – 218.

Wikramasekara, P. 2011. *Labour migration in South Asia: A review of issues, policies and practices* (Geneva, ILO).

World Bank. 2012. *Remittances to developing countries will surpass \$400 billion in 2012*, Migration and Development Brief 19. Available at: <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1288990760745/MigrationDevelopmentBrief19.pdf> [26 June 2013].

Chapter 2

Ainul, S. Hussain, I.; Amin, S.; Rob, U. 2013. *Financial inclusion of garment workers* (New York, Population Council).

Amin, S. 2012. *Situation of adolescents and youth in Bangladesh: A report based on the Bangladesh Demographic and Health Survey 2007*. Unpublished manuscript.

Amin, S.; Mahmud, S.; Khan, T.F. 2013. *Women's participation in micro-finance programs: Gender attitudes and access to health and education in Bangladesh*, Paper submitted to the Annual Meeting of the Population Association of America, Boston, May 2014.

Avato, J.; Koettl, J.; Sabates-Wheeler, R. 2009. *Definitions, good practices, and global estimates on the status of social protection for international migrants*, World Bank Social Protection Discussion Paper No. 0909. Available at: <http://siteresources.worldbank.org/SOCIALPROTECTION/Resources/SP-Discussion-papers/Labor-Market-DP/0909.pdf> [14 May 2013].

Bangladesh Bank. 2013. *Monthly data of wage earner's remittance*. Available at: <http://www.bb.org.bd/econdata/wageremittance.php> [1 Nov. 2013].

Belanger, D.; Rahman, M. 2013. "Migrating against all the odds: International labor migration of Bangladeshi women", in *Current Sociology*, Vol. 6, No. 3, pp. 356–373.

Bureau of Manpower Employment and Training (BMET). 2013. *Overseas employment of female workers from 1991 to 2012*. Available at: <http://www.bmet.org.bd/BMET/viewStatReport.action?reportnumber=32> [1 Nov. 2013]

Development Research Centre on Migration, Globalization, and Poverty. 2009. *Social protection and internal migration in Bangladesh: Supporting the poorest*, Briefing No. 9. Available at: http://www.migrationdrc.org/publications/briefing_papers/BP9.pdf [1 Nov. 2013]

Hall, A.; Manajit, S.; Mai, T. 2011. *Migrant workers' rights to social protection in ASEAN: Case studies of Indonesia, Philippines, Singapore and Thailand* (Singapore, Friedrich-Ebert-Stiftung).

International Labour Organization (ILO). 2013. *Domestic workers across the world: Global and regional statistics and the extent of legal protection* (Geneva).

Huq, A. 2013. *Jordan baseline report: Worker perspectives from the factory and beyond* (Geneva, ILO). Available at: <http://betterwork.org/jordan/wp-content/uploads/Jordan-Baseline-Report.pdf> [30 Oct. 2013].

Institute for Global Labour and Human Rights. 2012. *Ten Years into the U.S.-Jordan Free Trade Agreement Brutal Sweatshop Conditions Endure*. Available at: <http://www.globallabourrights.org/admin/reports/files/1203-Rich-Pine.pdf> [5 Nov. 2013].

Kerbage, C.; Esim, S. 2011. *The situation of migrant domestic workers in Arab States*, paper presented at the Interregional Workshop on Strengthening Dialogue to Make Migration Work for Development in the ESCAP and ESCWA Regions, Beirut, 28–30 June.

Kibria, N. 2011. “Working hard for the money: Bangladesh faces challenges of large-scale labor migration”, in *Migration Information Source*, August. Available at: <http://www.migrationinformation.org/Profiles/display.cfm?ID=848> [30 May 2013].

Murshid, K.A.S.; Iqbal, K.; Ahmed, M. 2002. *A study on remittance inflows and utilization* (Dhaka, IOM). Available at: http://www.iom.org.bd/images/publication/1356246672_A%20Study%20on%20Remittance%20Inflows%20and%20Utilization.pdf [1 Nov. 2013].

Pillai, P. 1999. “The Malaysian State’s response to migration”, in *Sojourn*, Vol. 14, No. 1, pp. 178–197.

Tayah, M. 2012. *Working with migrant domestic workers in Lebanon (1980–2012): A mapping of NGO services* (Beirut, ILO).

Temin, M.; Montgomery, M.; Engebretsen, S.; Barker, K. 2013. *Girls on the move: Adolescent girls & migration in the developing world* (New York, Population Council).

United Nations (UN) Population Division. 2011. *World population prospects: The 2010 revision Volume I: Comprehensive tables* (New York, UN). Available at: http://esa.un.org/wpp/Documentation/pdf/WPP2010_Volume-I_Comprehensive-Tables.pdf [17 June 2013].

Chapter 3

Abu Dhabi Dialogue. 2012. *Manila Communique Adopting the Framework of Regional Collaboration and Interim Operating Modalities of the Abu Dhabi Dialogue*, 19 April, Manila. Available at: http://www.gfmd.org/documents/rcp/abu_dhabi_dialogue2012_joint_communique.pdf [1 Nov. 2013].

Afsar, R. 2009. *Unravelling the vicious cycle of recruitment: Labour migration from Bangladesh to the Gulf States*, Working Paper (Geneva, ILO).

Amnesty International. 2011. *False promises: Exploitation and forced labour of Nepalese migrant workers* (London, Amnesty International). Available at: <http://www.amnesty.org/en/library/info/ASA31/007/2011/en> [1 Nov. 2013].

Arif, G. M. 2008. *Recruitment of Pakistani workers for overseas employment: Mechanisms, exploitation and vulnerabilities* (Geneva, ILO).

Association of South-East Asian Nations (ASEAN). 2007. *ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers*, adopted at the 12th ASEAN Summit on 13 January 2007 in Cebu, Philippines, by the Association of Southeast Asian Nations. Available at: <http://www.asean.org/communities/asean-political-security-community/item/asean-declaration-on-the-protection-and-promotion-of-the-rights-of-migrant-workers-3> [1 Nov. 2013].

Business for Social Responsibility (BSR). 2010. *Good practice guide: Global migration* (New York, BSR). Available at: http://www.bsr.org/reports/BSR_Good_Practice_Guide_Global_Migration.pdf [5 Nov. 2013].

Business Times. 2012. “Qatar HRC, Lankan human rights body sign MoU”, in *The Sunday Times*, 16 December. Available at: <http://www.sundaytimes.lk/121216/business-times/qatar-hrc-lankan-human-rights-body-sign-mou-24309.html> [1 Nov. 2013].

Civil Society Organizations (CSO) Asia (2013). *Civil society organizations joint statement*, Asia-Pacific Regional Preparatory Meeting for the General Assembly High-level Dialogue on International Migration and Development 2013, Bangkok, 29-31 May.

Colombo Process. 2011. *The Dhaka Declaration*, Adopted at the fourth Ministerial level consultation arranged by the Government of Bangladesh, Dhaka, 20 April. Available at: http://www.colomboprocess.org/images/docs/dc2011/dhaka_declaration.pdf [1 Nov. 2013].

Coordinated Mekong Ministerial Initiative Against Trafficking (COMMIT). 2008. *Recommended Guidelines for Migrant Recruitment Policy and Practice in the Greater Mekong Sub-Region*. Available at: <http://apmagnet.ilo.org/resources/resource-content/recommended-guidelines-for-migrant-recruitment-policy-and-practice-in-the-greater-mekong-sub-region> [10 July 2013].

“Baira has its job cut out”, in *The Daily Star*, 13 April. Available at: <http://www.thedailystar.net/beta2/news/baira-has-its-job-cut-out/> [5 Apr. 2013].

“Record remittance despite ME crisis”, in *The Daily Star*, 12 Jan. Available at: <http://archive.thedailystar.net/newDesign/news-details.php?nid=264869> [5 Apr. 2013].

Endo, I.; Afram, G.G. 2011. *The Qatar-Nepal remittance corridor: Enhancing the impact and integrity of remittance flows by reducing inefficiencies in the migration process* (Washington DC, World Bank).

Esim, S.; Kerbage, C. 2011. *The situation of migrant domestic workers in Arab States: A legislative overview*, Presentation at Interregional Workshop on Strengthening Dialogue to Make Migration Work for Development in the ESCAP and ESCWA Regions, Beirut, 28–30 June.

Global Forum on Migration and Development (GFMD). 2008. *Report of the proceedings*, Protecting and empowering migrants for development, Second Meeting of the Global Forum on Migration and Development (GFMD), Manila, 27–30 October. Available at: http://www.gfmd.org/documents/manila/gfmd_manila08_report_of_the_proceedings_en.pdf.

—. 2011a. *A report on the Workshop on Recruitment of Workers for Overseas Employment*, GFMD 2011 Thematic Workshop organized by the Ministry of Labour, United Arab Emirates, in Collaboration with: ILO, IOM and OHCHR, supported by Swiss Agency for Cooperation and Development, Dubai, 18–19 Jan. Available at: http://www.gfmd.org/documents/switzerland/dubai/gfmd_swiss11_dubai_full_report.pdf [01 June 2013].

—. 2011b. *Summary report*, GFMD 2011 Thematic Meeting: Lowering Migration Costs in Collaboration with, and Developing a Model Bilateral Framework with Receiving Countries, organized by the Swiss Chair of the Global Forum on Migration and Development, Dhaka, 3–4 October. Available at: http://www.gfmd.org/documents/switzerland/dhaka/gfmd_swiss11_dhaka_summary_report.pdf.

Government of Pakistan, Ministry of Labour and Manpower, Labour and Manpower Division, Policy Planning Cell. 2009. *National Emigration Policy: Promoting Regular Emigration and Protecting Emigrants* (Islamabad).

Government of the Philippines. 2009. *Republic Act No. 10022: An Act Amending Republic Act No. 8042, Otherwise Known as the Migrant Workers and Overseas Filipinos Act of 1995, As Amended, Further Improving the Standard of Protection and Promotion of the Welfare of Migrant Workers, Their Families and Overseas Filipinos in Distress, and for Other Purposes* (Manila).

Harroff-Tavel, H.; Nasri, A. 2013. *Tricked and trapped: human trafficking in the Middle East* (Beirut, ILO). Available at: http://www.ilo.org/beirut/publications/WCMS_211214/lang-en/index.htm [1 Nov. 2013].

Hess, C. 2006. “ILO Convention 181: The employers’ perspective”, in C. Kuptsch (ed.): *Merchants of Labour* (Geneva, International Institute of Labour Studies), p.155–157.

Hugo, G. 2008. *Best practice in temporary labour migration for development: A perspective from Asia and the Pacific*, paper for Global Forum on Migration and Development, Manila, 27–30 October.

International Confederation of Private Employment Agencies (CIETT). 2006. *CIETT members' commitment towards a well functioning international labour market: CIETT Code of Conduct* (Brussels, CIETT). Available at: http://www.ciett.org/fileadmin/templates/ciett/docs/CIETT_Code_Conduct.pdf [5 Nov. 2013].

International Labour Organization (ILO) 1997. *Report of the Tripartite Meeting of Experts on Future ILO Activities in the Field of Migration*, Geneva, 21–25 April.

—. 1999. *Migrant workers, Report III(1B). International Labour Conference, 87th session* (Geneva, ILO). Available at: <http://www.ilo.org/public/english/standards/relm/ilc/ilc87/r3-1b.htm> [17 Sep. 2013].

—. 2006. *The ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration* (Geneva, ILO). Available at: http://www.ilo.org/public/english/protection/migrant/download/multilat_fw_en.pdf [26 Sep. 2013].

—. 2007. *Guide to private employment agencies: Regulation, monitoring and enforcement* (Geneva, ILO). Available at: <http://www.ilo.org/public/english/employment/skills/download/peaguide.pdf> [17 Apr. 2013].

—. 2008. *Summary and directions for action*, Regional symposium on deployment of workers overseas: A shared responsibility, Dhaka, 15–16 July. Available at: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/meetingdocument/wcms_098992.pdf [1 Nov. 2013].

—. 2009a. *Private employment agencies, temporary agency workers and their contribution to the labour market*, Issues paper for discussion at the Workshop to Promote Ratification of the Private Employment Agencies Convention, 1997 (No. 181), Geneva, 20–21 October (Geneva, ILO).

—. 2009b. *Protecting the rights of migrant workers: A shared responsibility* (Geneva, ILO). Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_180060.pdf [17 Sep. 2013].

—. 2009c. *Report of the discussion, Workshop to Promote Ratification of the Private Employment Agencies Convention, 1997 (No. 181)*, 20–21 October (Geneva, ILO).

—. 2010. *General survey concerning employment instruments* (Geneva, ILO). Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_123390.pdf [17 Sep. 2013].

—. 2012. *Effective protection for domestic workers: a guide to designing labour laws* (Geneva, ILO).

—. 2013a. *Recruitment practices of employment agencies recruiting migrant workers: A review aimed at improving recruitment regulations and drafting recruitment guidelines* (Columbo, ILO).

—. 2013b. *Strengthening grievance and complaint handling mechanisms to address migrant worker grievances in Sri Lanka: A review and analysis of mechanisms* (Colombo, ILO).

—; Ministry of Foreign Employment Promotion and Welfare (MFEPW). 2013. *Operational manual for Labour Sections of Sri Lankan diplomatic missions in labour receiving countries* (Colombo, ILO).

International Organization for Migration (IOM). 2008. *Proceedings Regional Conference-Workshop Organizing the Association of Employment Agencies in Asia: Moving Forward to Action on Ethical Recruitment*, Manila, 3–4 April.

—. 2010. *The Bangladesh household remittance survey 2009* (Dhaka, IOM). Available at: http://www.iom.org.bd/images/publication/1356245755_The%20Bangladesh%20Household%20Remittance%20Survey%202009.pdf. [1 Nov. 2013]

—. 2011. *Session I: Understanding the monetary cost of migration: Background note by the International Organization for Migration*, GFMD 2011 Thematic Meeting: Lowering Migration Costs in Collaboration with, and Developing a Model Bilateral Framework with Receiving Countries, organized by the Swiss Chair of the Global Forum on Migration and Development, Dhaka, 3–4 October.

Institute of Policy Studies of Sri Lanka (IPS). 2013. *Migration profile – Sri Lanka* (Colombo, IPS).

Islam, N.M. 2011. *Migration from Bangladesh and overseas employment policy* (Dhaka, Ministry of Expatriates' Welfare and Overseas Employment). Available at: <http://www.bmet.gov.bd/BMET/resources/Static%20PDF%20and%20DOC/publication/Migration-BOEP.pdf> [17 Sep. 2013].

Islam, R. 2013. "Baira certificate not required for recruiting licence", in *Dhaka Tribune*, 30 April. Available at: <http://www.dhakatribune.com/labour/2013/apr/30/baira-certificate-not-required-recruiting-licence> [26 Sep. 2013].

Khan, A.; Harroff-Tavel, H. 2011. "Reforming the kafala: Challenges and opportunities in moving forward", *Asian and Pacific Migration Journal*, Vol. 20, Nos. 3–4, p. 293–313.

Khan, A.P. 2012. "Affordable banking for migrant workers: Probashi Kallyan Bank's MD shares views with Daily Sun", in *The Daily Sun*, 30 December. Available at: http://www.daily-sun.com/details_yes_30-10-2012_Affordable-banking-for-migrant-workers_304_1_3_1_21.html [4 Apr. 2013].

Khanal, D.R.; Shrestha, P.K. 2010. *Final report – Recruiting procedures, type of emigrant workers and impact on household welfare: A case study of migrants workers from Nepal to Malaysia and Gulf Countries* (Kathmandu, Institute for Policy Research and Development).

Khatriwada, S. 2013. *The balancing act of migration: the case of Bangladesh* (Geneva, International Institute for Labour Studies). Available at: <http://iloblog.org/2013/02/15/the-balancing-act-of-migration-the-case-of-bangladesh/> [4 Apr. 2013].

Khatri, S.K. 2010. "Labor migration, employment, and poverty alleviation in South Asia", in S. Ahmed, S. Kelegama, & E. Ghani (eds.): *Promoting economic cooperation in South Asia: Beyond SAFTA* (New Delhi, Sage Publications), p.231–258.

Kuption, C. (ed.) 2006. *Merchants of labour* (Geneva, International Institute for Labour Studies).

Martin, P. 2012. "Reducing migration costs and maximizing human development", in I. Omelaniuk (ed.): *Global perspectives on migration and development: GFMD Puerto Vallarta and beyond* (New York, Springer), p. 27–52.

Ministry of Foreign Employment Promotion and Welfare (MFEPW). 2008. *National Labour Migration Policy for Sri Lanka* (Colombo, Ministry of Foreign Employment Promotion and Welfare). Available at: http://www.ilo.org/public/english/protection/migrant/download/mpolicy_srilanka_en.pdf [17 Sep. 2013].

Migrant Forum in Asia. 2009. *Good practices taken by Asian States to effectively supervise recruitment agencies*, Submitted to the Committee on Migrant Workers, Day of General Discussion, Geneva, 14 October. Available at: <http://www2.ohchr.org/english/bodies/cmwr/docs/DGD/MigranForumAsia.pdf> [17 Sep. 2013].

—. 2011. *Labour recruitment to the UAE: Gaps between policy and practice in Sri Lanka, Nepal, Bangladesh, and the Philippines* (Manila, Migrant Forum in Asia).

Migrant Forum in Sri Lanka. 2013. *Submission to the UN Committee On Migrant Workers (CMW) by Migrant Forum Lanka on the situation of international outbound labour migration in Sri Lanka*, Submitted on 30 March for consideration at the 18th Session of the Committee on Migrant Workers, Geneva, 15–26 April. Available at: http://www2.ohchr.org/english/bodies/cmwr/docs/ngos/CHRD_LST_SUM_WH_SriLanka18.pdf [1 Nov. 2013].

Ministry of Overseas Indian Affairs (MOIA). 2009. *The Emigration (Amendment) Rules, 2009*, Gazette Notification GSR 511, 9 July (New Delhi, MOIA). Available at: http://moia.gov.in/writereaddata/pdf/gazettenotification_eng.pdf [17 Sep. 2013].

—. 2011. *Office memorandum on the implementation of model employment contract and fixation of reference minimum wages* (New Delhi, MOIA). Available at: http://moia.gov.in/writereaddata/pdf/Implementation_Mode_Employment_Contract.pdf [17 Sep. 2013].

Mughal, R.; Padilla, L. 2005. "Regulatory frameworks for recruitment of migrant workers and minimum standards in employment contracts: A comparative study of Pakistan, the Philippines and Sri Lanka", in *IOM: Labor migration in Asia: Protection of migrant workers, support services and enhancing development benefits* (Geneva, IOM), p. 13–84.

National Institute of Development Studies (NIDS). 2008. *A study on migrant recruitment practice in Nepal*, Report prepared for the Asian Programme on the Governance of Labour Migration ILO/UNIFEM/EU, Bangkok, unpublished draft (Kathmandu, NIDS).

Nepal Trade Union Congress (NTUC); ILO. 2007. *Trade union declaration on the rights of migrant workers from South Asia*, The ILO-NTUC Subregional Workshop for the Protection of Migrant Workers through Networking Trade Unions, Kathmandu, 26–28 September.

Qatar Foundation. 2012. *QF mandatory standards of migrant workers' welfare for contractors & sub-contractors, migrant workers' welfare charter* (Doha, Qatar Foundation). Available at: <http://www.qf.org.qa/app/media/2379> [26 Sep. 2013].

Rajput, A.K. 2011. *Monitoring foreign recruitment: Best practices from the for South Asian foreign recruitment monitoring*, Prepared for the International Organization for Migration (IOM), August 2011, Unpublished.

Rahman, M. 2011. *Recruitment of labour migrants for the Gulf States: The Bangladeshi case*, ISAS Working Paper No. 132–6 (Singapore, Institute of South Asian Studies).

Sharma, M.; Zaman, H. 2009. *Who migrates overseas and is it worth their while? An assessment of household survey data from Bangladesh*, Policy Research Working Paper 5018 (The World Bank).

Siddiqui, T. 2011. *Recruitment cost in Bangladesh: Challenges of governing migration in countries of origin* (Dhaka, University of Dhaka, RMMRU). Available at: <http://www.unescap.org/sdd/meetings/beirut-June2011/Siddiqui-RMMRU-migration-costs.pdf> [5 Apr. 2013].

—. 2012. *South Asian regional cooperation on protection of migrant rights* (Dhaka, University of Dhaka, RMMRU).

Sijapati, B.; Limbu, R. 2012. *Governing labour migration in Nepal: An analysis of existing policies and institutional mechanisms* (Kathmandu, Himal Books).

Somarathna, R. 2011. "SLBFE opens ticketing office", in *The Daily News*, 26 April. Available at: <http://www.dailynews.lk/2011/04/26/news33.asp> [5 Apr. 2013].

Social Policy Analysis and Research Centre (SPARC). 2013. *Reintegration with home community: perspectives of returnee migrant workers in Sri Lanka*, unpublished study prepared for the ILO Office Colombo (Colombo, SPARC).

Transparency International Bangladesh. 2012. *Corruption in service sectors: National household survey 2012 – Executive Summary* (Dhaka, Transparency International Bangladesh). Available at: <http://www.ti-bangladesh.org/files/HHSurvey-ExecSum-Eng-fin.pdf> [1 Nov. 2013].

Transparency International Sri Lanka. 2010. *Integrity in foreign employment: An analysis of corruption risks in recruitment* (Colombo, Transparency International Sri Lanka). Available at: http://www.tisrilanka.org/pub/reports/FES_REPORT_English.pdf [1 Nov. 2013].

United Nations Development Fund for Women (UNIFEM). 2005. *Covenant of Ethical Conduct and Good Practices of Overseas Employment Service Providers*, adopted on 15 November, UNIFEM Regional Consultation of Overseas Employment Service Providers on Good Practices to Protect Women Migrant Workers, Bangkok. Available at: <http://www.unwomen-eseasia.org/projects/migrant/Docs/Covenant%20of%20Ethical%20Conduct.pdf> [1 Nov. 2013].

Verité. 2013. *Labor brokerage and trafficking of Nepali migrant workers* (Amherst, Verité).

Wickramasekara, P. 2002. *Asian labour migration: Issues and challenges in an era of globalization*, International Migration Papers No. 57 (Geneva, ILO). Available at: http://www.ilo.org/asia/whatwedo/publications/WCMS_160632/lang--en/index.htm [17 Sep. 2013].

—. 2010. "Protection of migrant workers in an era of globalization: The role of international instruments", in R. Blanpain (ed.): *Comparative labour law and industrial relations in industrialized market economies*, 10th edn. (Austin, Wolters Kluwer).

—. 2011. *Labour migration in South Asia: A review of issues, policies and practices*, International Migration Papers No. 108 (Geneva, ILO). Available at: http://www.ilo.org/migrant/publications/working-papers/WCMS_179642/lang--en/index.htm [1 Nov. 2013].

—. 2012. *Something is better than nothing: Enhancing the protection of Indian migrant workers through bilateral agreements and memoranda of understanding* (Manila, Migrant Forum in Asia). Available at: <http://ssrn.com/abstract=2032136> [26 Sep. 2013].

World Bank. 2012. *Remittances to developing countries will surpass \$400 billion in 2012*, Migration and Development Brief 19. Available at: <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1288990760745/MigrationDevelopmentBrief19.pdf> [1 Nov. 2013]

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This publication is based on the “Intergovernmental Regional Seminar on Promoting Cooperation for Safe Migration and Decent Work”, which took place in Dhaka, Bangladesh, on 1 and 2 July 2013 and presents papers on themes such as protection and support services for women and men migrant workers, well-being of the women migrant workers from Bangladesh and regulation of international recruitment. This report also contains collective views of the participants in a report of the proceedings and the Dhaka statement, which was jointly issued by the participants.

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