

Migrant Workers and Human Rights

Out-Migration from South Asia

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Edited by
Pong-Sul Ahn

International Labour Organization

Subregional Office for South Asia (SRO)
New Delhi

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Geneva

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PREFACE

The tripartite general discussion on the issues concerning migration which is due to take place at the 2004 International Labour Conference in Geneva will have to come up with specific measures designed to step up the protection of migrant workers at a time of great and growing need for such protection. It is with this event in mind and in an attempt to generate a debate within the labour movements of five countries (Bangladesh, India, Nepal, Pakistan and Sri Lanka) that this publication has been brought out. As such, it is a valuable contribution to the discussion that will take place in Geneva. It also provides suggestions for the way forward, and the activities that need to take place as a follow-up of this year's International Labour Conference.

Poverty continues to act as a push factor for migration. As this publication highlights migration, however, has some benefits as well as dangers for both sending and receiving countries. The migrants themselves are often those who are on the losing side in terms of poor working conditions, exploitation and even trafficking. This needs not be so. The ILO approach is to create decent jobs and attack poverty in those countries that have traditionally been the source of migrant labour. The foundations of our approach are respect for equal rights for immigrant and native workers, solidarity and cooperation between nations (including a serious increase in development aid), and the battle to eliminate exploitation and human trafficking and to eradicate child labour.

Migration is considered as part of a strategy for growth and development by many countries, both in the North and the South. What has to be done is to make sure that it takes place in a manner that fully respects the fundamental human rights, failing which it will merely bring about human suffering and undermine society.

The rate of ratification of ILO conventions designed to protect migrant workers is not encouraging. Two ILO Convention, No. 97 and No. 143, are aimed in particular at migrant workers. So far they have only been ratified by 42 and 18 countries respectively. None of the five countries studied in this publication has ratified these instruments. This would represent a first step in protecting their own workers.

Trade unions have a major role to play in defending and promoting the rights of migrant workers. This publication offers suggestions and proposals based on the experience of the trade union movement. Trade union action can and does make a difference. Solidarity works.

Jim Baker
Director
Bureau for Workers' Activities
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FOREWORD

International labour migration is one of the key features of the globalized world. Millions of people around the world have left their home countries in search of employment and unaccountable numbers are aspiring and preparing for migration to foreign countries to achieve their dreams of success. It is, therefore, not surprising that international labour mobility will only become more important as a subject - since it affects the socio-economic life of both labour-sending and labour-receiving countries and as concerns relating to labour and human rights issues are becoming more prominent.

The remittances sent by migrant workers, accounting for a significant share in foreign exchange earnings of nations and GDP growth, contribute significantly to the economic betterment of migrants' families. They also act as the engine of economic growth of many developing countries. Out-migration makes a significant contribution to reducing unemployment and underemployment in labour-sending countries. Unlike the economic benefits of out-migration, the social costs are too often relatively high and migrant workers are reportedly exposed to various exploitative situations at workplaces in labour-receiving countries.

Therefore, the promotion of labour migration and protection of labour and human rights of migrant workers has been a matter of concern for the ILO since its establishment in 1919. The ILO has developed International Labour Conventions and Recommendations, which seek to regulate migration and protect the rights of migrant workers. It has also provided technical assistance to Member-States in formulating policies and legislation to combat discrimination and harassment and has compiled an international labour migration database (ILM). These activities are part of the ILO agenda of promoting Decent Work for All including migrant workers.

This publication, titled *Migrant Workers and Human Rights : Out-migration from South Asia*, is in line with ILO mandate in support of migrant workers. The studies covering five countries in South Asia - Bangladesh, India, Nepal, Pakistan and Sri Lanka were undertaken from August to November 2003.

This publication, presenting an overview of out-migration from South Asia, is also intended to be utilized as background material for the General Discussion on Migrant Workers at June 2004 Session of the International

Labour Conference. It is also hoped that it will play a significant role in future efforts to improve the life of Migrant Workers and their families in South Asia. Finally, I wish to thank my colleague, Mr. Pong-Sul Ahn, Senior Specialist on Workers' Activities, SRO-New Delhi, for undertaking this valuable study and for making sure it is published.

Herman van der Laan

Director

ILO Subregional Office for South Asia

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1 An Overview of Out-Migration from South Asia

Pong-Sul Ahn

According to an estimate by the International Labour Organization (ILO), as of 2000, there were around 120 million migrant workers across the world.² The total number of migrant workers, inclusive of refugees and permanent immigrants, is estimated at 174.9 million. Women constitute around 50 per cent of migrant workers in Asia and Latin America, and their numbers in other parts of the world are growing.

Migration has become a key policy issue for many developing countries, depending on the state of the national economy and the employment situation. Most governments in South Asia view out-migration as helping to curtail unemployment, reduce poverty, and earn foreign exchange through remittances. Remittances sent by migrant workers become a significant source of funds for economic development of the nation. Thus, most governments have promoted out-migration through institutional support of recruitment and policy implementation promoting overseas employment. However, such promotional policy's do not sufficiently protect the rights and interests of migrant workers and their families. Given the various types of migration and the complexity of migration flows, policy intervention could, perhaps, be directed towards not only harnessing the economic benefits of migration but also reducing the exploitation of migrants.³

Out-migration is not a random phenomenon, but shows clear patterns involving certain groups of people and certain regions like the states of Kerala, Tamil Nadu, and Andhra Pradesh, Rajasthan in India, the hilly regions in Nepal and the areas of Chittagong, Dhaka, Comilla, Noakhali and Sylhet in Bangladesh. In the case of India, a certain trend of migration mobility is visible and evident, as observed with the dominant presence of people from Kerala in the Gulf countries, from Tamil Nadu in Singapore and Malaysia and from Punjab in Canada.

There are various factors behind out-migration. The economic, social and political situation often creates a condition where an individual or a group decides to emigrate. Poverty is a major driving force behind migration, as can be seen in Sri Lanka and Nepal. Aspiration for economic empowerment is another causal factor as in the case of Bangladesh.⁴ Finally, political conflict like the Maoist insurgency in Nepal also prompts people to migrate. Eventually, international labour migration is a complex issue, resulting from a combination of push and pull factors, including poverty, unemployment, demand of the labour market, political conflicts, improved communications and transport, etc.⁵

In view of the economic consequences and social aspects of migration, studies on out-migration from South Asia were undertaken in five countries – Bangladesh, India, Nepal, Pakistan and Sri Lanka. The studies, which are contained in Chapters 2 to 6, attempted to analyze the trends, nature and extent of out-migration from South Asia, examine the economic impact of migration in both sending and receiving countries and, finally, understand trade union responses to migration-related issues.

In this study, the term ‘migrants’ is used in a broader sense to mean all categories of people who emigrate in search of either employment or permanent settlement, while ‘migrant workers’ is used in a narrower sense to refer to those who migrate from their country of birth to other places for employment. ‘Out-migration’ is seen as a trend of mobility of labour force involving those who are emigrating from their countries of origin to other countries especially for employment.⁶ The studies mainly rely on data from primary sources such as interviews, newspapers and unpublished material as well as secondary sources such as articles and published data. Empirical studies have also been done, particularly relating to violations of human and labour rights.

1.1 Characteristics of Out-migration from South Asia

International labour migration has major implications for employment as well as the national economy of labour-sending countries. Contemporary trends of migration in South Asia show that in the 1950s and 1960s, mostly professionally qualified persons migrated to the more

developed countries, especially the western countries. In the early 1970s, the spurt in oil prices led to the oil-producing countries of the Middle East investing in infrastructure development in a major way, which created a huge demand for different categories of labour. Migrant workers from South Asia joined the labour market predominantly in Saudi Arabia, the United Arab Emirates (UAE), Kuwait, Qatar, Oman, Iraq and Libya. Since mid-1980s, such migration expanded to the newly industrialized countries in South East Asia and East Asia, such as the Republic of Korea, Malaysia, Singapore, which faced a shortage of labour willing to take up the so-called 3D jobs - dangerous, dirty and degraded. Migration from Nepal follows a slightly different trend from other South Asian countries. The number of migrant workers shows an increase after 1990, following the liberalization of overseas travel by the government.⁷ The majority of migrant workers from South Asia constitute semi-skilled and unskilled manpower.

1.2 Legal Framework

Though the governments in South Asia are directly and indirectly involved in promoting out-migration, since it is a crucial strategy in national economic development, the existing legal and administrative system are not effective in protecting the rights and interests of migrant workers, despite measures for redressing grievances like public hearings in India, as well as enhancing welfare systems like the Wage Earners' Welfare Fund in Bangladesh. Besides, foreign missions have been focal points both for promoting foreign employment as well as providing first aid and compensation for migrant workers in trouble.

In Bangladesh, the British-era Emigration Act of 1922 was replaced with the Emigration Ordinance in 1982. In April 1983, the Bangladesh Government set up four special courts in the four divisions of Dhaka, Chittagong, Khulna, and Rajshahi. In December 2002, the Government framed three rules – Emigration Rules, Rules for Conduct and Licensing Recruiting Agencies and Rules for Wage Earners' Welfare Fund. There are 13 labour attaches in Bangladeshi missions in the major labour-receiving countries. However, the national laws, rules and regulations are not adequate in protecting migrant workers from fraudulent practices of recruiting agencies. Also, the policy of not allowing unskilled and

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semi-skilled women below the age of 35 years to emigrate on their own, is discriminatory against women.

In India, too, the Emigration Act of 1983 replaced the British-era legislation of 1922. The focus of the new legislation has moved to a protective approach, with emphasis on the welfare of the migrant population as well as the promotion of overseas employment. The subject of emigration and the office of the Protector-General of Emigrants were transferred to the Ministry of Labour from the Ministry of External Affairs. Despite limited capacity for redress the grievances of large number of migrant workers, the Government of India has taken certain steps to redress the grievances of migrant workers through public hearings in eight offices of Protectors of Emigrants in the country.⁸ The Emigration (Amendment) Bill, 2002 has proposed the establishment of a National Manpower Export Promotion Council, a tripartite organization comprising representatives of labour, management and the government.

In Nepal, the Foreign Employment Act, 1985 aims to regulate various aspects of labour migration ranging from the provision of recruiting agencies' license to the procedure of selecting workers.⁹ There is no separate foreign employment policy, but the National Labour Policy, 1999, has some sections relating to foreign employment. However, the Nepal Association of Foreign Employment Agents (NFEA) has a long-standing complaint that the 1999 policy is restrictive towards foreign employment and control-oriented. The recent Poverty Reduction Strategy Paper (PRSP) has suggested that the Government improve legal regulations and enhance its institutional capacity for managing migration. The Ministry of Labour and Transport Management is attempting to set up a separate department to look after the issue of foreign employment.

In Pakistan, the Emigration Ordinance and Rules were promulgated in 1979. In order to regulate labour migration, the Ministry of Labour established an institutional framework, comprising organizations such as the Bureau of Emigration and Overseas Employment (BE&OE), Overseas Employment Corporation, Overseas Pakistani Foundation, 12 offices of Country Welfare Attaches in major receiving countries, and five offices of the Protector of Emigrants.

The Sri Lanka Bureau of Foreign Employment Act, 1985, amended in 1994, deals with various issues relating to migrant workers, protects

Sri Lankan migrant workers and promotes further foreign employment. In addition, the National Employment Policy has a special focus on migrant labour issues, adopting a proactive approach to identifying employment opportunities and promoting migrant employment of both male and female workers. The Ministries of Foreign Affairs and Labour and the Sri Lanka Bureau of Foreign Employment are vested with the responsibility of the welfare of migrant workers and their families. Six labour attaches have been appointed and 13 welfare offices have been established in various countries, including the UAE, Saudi Arabia, Kuwait, Oman, Qatar, Lebanon, Jordan and Singapore.

1.3 Employment Perspective

The majority of the migrant workers from South Asia move towards the Middle East and Gulf countries and most of them are unskilled and semi-skilled workers; a minority are skilled construction workers. Those going to the developed countries are mostly skilled and professional workers in sophisticated sectors like information technology, accountancy, engineering, medicine, etc.

In Sri Lanka, around 203,710 persons migrated to other countries for employment in 2002. Accurate statistics of migrant population in Sri Lanka are not available but it is estimated – on the basis of statistical reports of different government institutions – that over 1 million Sri Lankans are working abroad. Over 68 per cent of the migrant workers are women. Over 70 per cent of migrant workers are unskilled workers, including around 53 per cent housemaids. The majority of migrant workers fall within the age group of 25 to 39 years, while 78.9 per cent of the female migrant workers and 68.3 per cent of male migrant workers are married.

In Bangladesh, the annual average outflow of labour force between 1991 and 2003 is around 226,000 persons. During this period, a total of 2,754,000 persons migrated overseas for employment. Women constitute less than 1 per cent of the total migrant workers, accounting for 17,512 persons. The low numbers may be due to the fact that even though many women are migrating for employment, their migration process remains undocumented. In contrast to the labour migration in the pre-1970s period, semi-skilled and unskilled workers now form the

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majority of migrant workers. Saudi Arabia is the largest employer of Bangladeshi workers, followed by the UAE and Kuwait. Around 55 to 60 per cent of Bangladeshi migrants are recruited through individual initiatives and social networks.

In Pakistan, the total legal emigration between 1971 and 2003 is estimated at 3.3 million.¹⁰ Migrant workers have used different channels to go abroad. Around 2,251,000 persons emigrated through the private channel, 23,000 persons through the public or government route and 1,032,000 persons went through their personal sources. For social and religious reasons, Pakistani female workers are generally reluctant to proceed abroad for employment.

In India, the extent of emigration has fluctuated a great deal, dropping from 438,000 persons in 1993 to 199,500 persons in 1999 and rising again to 368,000 persons in 2002.¹¹ There are an estimated 3.6 million Indian migrant workers in the six Gulf countries, including 1.4 million in Saudi Arabia, 1.2 million in the UAE, and the remaining in Bahrain, Kuwait, Oman, and Qatar. The occupational and gender break-up of the migrating community have not been fully documented. However, in the case of migrants from the southern state of Kerala, 41 per cent are unskilled workers, 21 per cent skilled, 4 per cent highly skilled while 34 per cent fall under other categories. Out-migration is basically a male-dominated phenomenon, but the number of women migrating to industrialized countries has increased in recent years.

According to a Census Report of 2001, around 762,000 Nepalis are living in foreign countries. Seventy-seven per cent of them are living in India, where they are not considered foreign workers due to the no visa policy between the two countries. Thus, apart from the estimated 1.5 million Nepali nationals working in India, the official figure of Nepali migrant workers registered with the Ministry of Labour as of May 2002 was 214,839 persons. The number of Nepali people working in foreign countries (including those in India) touched 2.2 million in 2003. According to a report by the ILO and the Department for International Development (DFID) of the United Kingdom, 2000, 75 per cent of migrant workers are unskilled and 25 per cent are semi-skilled.

Out-migration is a male-dominated phenomenon in Bangladesh, Nepal, India and Pakistan, while in the case of Sri Lanka, women migrant workers are in a majority. Women in Bangladesh accounted for

less than 1 per cent of the total migration in the 1991-2003 period. Women migrants from Nepal accounted for 4.95 per cent of total migrants in 2001. In the case of Bangladesh and Nepal, many women are reported to have emigrated for employment, but their migration remains undocumented. This leaves women in vulnerable situations and prone to exploitation, sexual harassment and work-related diseases.

1.4 Economic Impact on the Sending Countries

Labour out-migration from South Asia has been a significant factor in the economic growth of individual countries, reducing unemployment, helping earn foreign exchange and enhancing migrants' skills.¹²

The remittances from Bangladeshi migrant workers have increased from US\$ 23.7 million in 1976 to US\$ 2,617.9 million in 2002. The net earnings from migrant workers' remittances are higher than that of earnings from the garment sector.

In India, remittances have rapidly increased from US\$ 3,587 million (Rs. 94.18 billion) in 1991-92 to nearly US\$ 12,125 million (Rs. 578.21 billion) in 2001-02. In the state of Kerala, remittances amounted to 22 per cent of the State income in the second half of 1990s. In the northern state of Punjab, the districts of Jalandhar, Karpurthala, Hoshiarpur, Ludhiana from where significant out-migration is taking place, have seen a lot of development in rural areas funded by remittances.

In Nepal, remittances, inclusive of remittances from India, were estimated at NRs. 69 billion in 1997, which amounted to nearly 25 per cent of the gross national product (GNP) and 65 per cent of all foreign exchange.¹³

According to the Finance Division of the Government of Pakistan, the country has earned an annual average of US\$ 1,617 million through remittances by migrant workers since the early 1970s and it came to US\$ 4,128.5 million in the 2002-03 period.

In Sri Lanka, migrant workers transmitted Rs.123,183 million in 2002, accounting for 27 per cent of total foreign exchange earnings, against 1.2 per cent in 1972 and 21 per cent in 1991.

Remittance inflows have gone up in all five South Asian countries, as the number of migrants has increased. The rise in remittance inflows is relatively lower than the increase in migrants because the bulk of

migrants comprise unskilled and semi-skilled workers whose wages are low. Official estimates of remittances in South Asia may not reflect the true picture, because of the prevalence of the *hundi* system, which is an informal arrangement for sending money through businessmen based in foreign countries.¹⁴

1.5 Economic Impact on Receiving Countries

There can be no debate about the fact that migrant workers contribute to the overall economic growth of labour-receiving countries. According to Mr. Juan Somavia, Director-General, ILO:

Migrant workers provide valuable services with their labour and furnish an often invisible subsidy to the national economies that receive them. They work in factories, produce food, provide domestic service, staff in hospitals and contribute to a wide range of basic needs, often for low wages and with little recognition of the value of their contribution.¹⁵

However, this view is not uniformly shared in labour-receiving countries. Certain sections believe that migrants take away jobs from native workers and create unemployment in the host society. Others argue that migrant workers depress the labour market, consequently reducing the level of wages of domestic workers. On the whole, though there is an acknowledgement that migration has generally contributed to economic growth in most host countries, since migrant workers undertake the 3D jobs which domestic workers are unwilling to take up.

The experience of many receiving countries indicate that the foreign labour force, which is cheaper than the domestic labour force, generally benefits the economy of host countries by strengthening competitiveness. However, the receiving countries are faced with the problem of integration of migrant workers due to cultural and social differences, language barriers, etc. The integration of migrant workers in the labour market and society of receiving countries is the biggest challenge facing governments in the labour-receiving countries as well as the migrant workers themselves.

1.6 Household Economies of Migrant Workers

The survey of Sri Lanka shows that 80 per cent of the families of migrant workers use the remittances to meet consumption needs, while only 10 per cent saved the entire amount and another 10 percent saved part of it. Only a minority invested the money in housing and land, while investment in entrepreneurial ventures is negligible. Interviews in Pakistan show that 59 per cent of the return migrants made some investments with their money while 41 per cent could not invest their money. The Bangladesh study finds that 56 per cent of the families experienced positive economic results, 26.5 per cent negative economic results, and 15.5 per cent a mix of both.

While the earnings of migrant workers have had a tangible and positive impact on their household economies, the adverse social costs of migration have also been high. The high rate of income, resulting in higher living standards, is the most obvious consequence of migration. However, migrants to the Gulf countries are not able to save much because of a decline of wages and fringe benefits. For instance, security guards working for a company in Dubai initially signed a foreign service agreement with basic salary of Dh.900 (US\$ 225). Their basic salary was reduced from Dh.900 (US\$ 225) to Dh.750 (US\$ 185) in the employment contract signed upon arrival in Dubai and again lowered up to Dh.600 (US\$ 150) as revised the contract this year.¹⁶ Though out-migration has brought prosperity to many of migrant workers' families, it does not appear to be a prominent solution for eliminating the poverty of all migrant workers. Living standards of the family, children's education, and saving and investment mentioned below can be indicators of social costs emerging from out-migration from South Asia.

Living standards of the family

Migration has undoubtedly had a positive impact on certain aspects of family life. A case study of Kheda Dona village in Punjab in India, from where a majority of the migrants have gone to the developed countries like the United States and Canada, shows that families with emigrants are enjoying better social amenities as compared to families of those who have stayed back. However, in Pakistan, the return

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migrants faced the problem of maintaining the higher living standards that their families have become accustomed to. Women migrant workers, in particular, have often faced family-related problems like children's education, wrong doings by husband such as alcohol and drug abuse or extra marital affairs and sickness, a fact that nearly 20 per cent of Nepali migrant women of 180 respondents confirmed.¹⁷ A study of 2000 households of Gulf returnees in 17 districts of Sri Lanka shows that 45 per cent of women had experienced at least one adverse consequence of migration in differing degrees of intensity, while 33 per cent answered that they had faced family related problems.¹⁸

Children's education

Education is another area where migration has had a significant impact. Migrant families are able to send their children to better schools and children have taken advantage of this. Migration has also brought about a progressive change in the attitude of parents towards education, especially female education. However, in Sri Lanka, Bangladesh and Pakistan, it has been observed that with the lack of maternal and paternal guidance, children's education has suffered a setback.

Saving and investment

A major part of the foreign savings and earnings of migrant workers have been used for daily consumption needs, investment in property or house construction, repaying debts and marriages of family members. Investment in land is the safest and most profitable avenue for investment and 62 per cent of remittances from Pakistani migrants was ploughed into real estate.

1.7 Human and Labour Rights

The recruitment of migrant workers from South Asia involves various ministries, government agencies, private recruiting agents and their local and international intermediaries. Over the past few years, the employers have stopped paying commission to recruiting agencies, as a result of which the agents charge migrant workers for all the expenditure. In the case of migration to Dubai, migrant workers from Pakistan and India pay Pakistani Rs.160,000 and Indian Rs.90,000 for

their employment visas respectively.¹⁹ Migrant workers from Bangladesh and Nepal are reported to spend Taka 95,000 and NRs.60,000–NRs.70,000 respectively on the migration process, including the cost of purchasing a visa and the airfare. In India, fly-by-night operators are reported to charge between Rs.100,000 (US\$ 2,000) to Rs.300,000 (US\$ 6,000) from potential migrants, depending upon the country they want to go to and illegal migration is rampant. There is a higher price for illegal migration to the United States (Rs.1.2 million–Rs.1.5 million), followed by Canada (Rs.800,000–Rs.1200,000), the United Kingdom (Rs.500,000–Rs.700,000), and Europe (Rs.400,000–Rs.500,000). A survey by PIDE on the financial source of migration tells that a large number, accounting for 41 per cent of migrants, had borrowed money to finance migration, while 59 per cent financed migration from their own savings.²⁰ Migrant workers face diverse forms of harassment in the workplace and in the host society, ranging from non-payment of wages to insufficient medical facilities and death while on duty.²¹ Other issues are:

- Bad working and living conditions, which result in accidents or deaths, are common. According to information from the Department of Labour in Nepal, 96 Nepalis are reported to have died in destination countries between 1985 and 2001.²²
- Retention of travel documents by the employers, with a view to preventing migrant workers from changing jobs.
- Changes in the fine print of contracts once migrants reach the host countries.
- Reluctance on the part of migrant workers to follow up their complaints against agents or employers for various reasons.
- Problems arising from ethnic or religious differences.

There is a growing concern regarding the violation of the human rights of migrant workers, especially in the Middle East. It is also argued that discrimination against and harassment of migrant workers has been influenced by the worldwide campaign against terrorism. Female migrant workers, especially domestic workers, are particularly vulnerable to violence, sexual harassment and HIV/AIDS. The major cause of the rapid spread of HIV/AIDS in the far west region of Nepal is return

migrants. Exclusion and discrimination in the social, cultural and political domains are common. The fraudulent practices by recruiting agencies are the most serious violation of migrant workers' rights and the excessive costs of recruitment procedures has become a significant cause of undocumented migrants.

1.8 Trade Union Responses

The nature of migrant workers' work, which is individual and contract-based, makes it difficult for them to join trade unions. Trade unions have made little efforts to reach out to migrant workers or initiate activities to address issues relating to their welfare or that of their families. Migrant workers are themselves often ignorant about the functioning of trade unions and are reluctant to get involved in union activities, fearing that they may lose their jobs.

Trade unions in Bangladesh are yet to take any measures in support of migrant workers. None of national union centres list migrant workers' issues in their manifestos and action plans, nor do they provide exclusive services for migrants and their families. However, some unions have indirectly intervened in government policies, demanding stern punishment for unscrupulous recruiting agencies and effective compensation for victimized migrants.

In India, which is both a labour-sending and labour-receiving country, the apex trade unions - the Indian National Trade Union Congress, Bharatiya Mazdoor Sangh, Hind Mazdoor Sabha, All India Trade Union Congress, and Centre for Indian Trade Unions - do not have a common stand on migration nor have they developed strategies to represent the interest of migrant workers. There have been no studies conducted at the national level nor has any publication been brought out. Trade union intervention mostly takes place on an ad-hoc basis. Given the lack of own initiatives, national trade unions often go along with the policy of the international union organizations to which they are affiliated.

The main activities that Sri Lankan national union centres – the National Workers Congress (NWC), the National Congress of Women (NCW), the Jathika Sewaka Sangamaya (JSS), the Lanka Jathika Estate Workers' Union (LJEWU), and All Ceylon Federation of Free Trade

Unions (ACFFTU) – relate to providing services pertaining to welfare and training for returnees and migrant families. The ACFFTU has taken up issues relating to female labour migration and the Migrant Service Centre established in the area of Dehiwela helps disseminate migration-related information. The NWC and the NCW have taken up issues of obtaining compensation and providing relief for female migrants returning from Kuwait. Migrant Workers Associations were formed in the areas of Matugama and Kegalle at the initiative of Migrant Services Centres run by the NWC and the NCW. Non-governmental organizations (NGOs), which worked with women migrants in different areas, came together in 2000 and formed the Migrant Workers Action Network (ACTFORM).

The General Confederation of Nepalese Trade Unions (GEFONT), which has a migration section, has taken initiatives to organize Nepalese migrants in some countries by forming its support groups. Such groups have, for instance, been formed in India (in the states of Delhi, Haryana and West Bengal), Japan and the Republic of Korea where a large number of Nepalese are employed. The Nepalese Trade Union Congress (NTUC) and the Democratic Confederation of Nepalese Trade Unions (DECONT) have not taken specific action but have started taking an interest in the issue.

In Pakistan, there is no trade union policy on migration, no supportive mechanisms, nor any networking or cooperation with trade unions in labour-receiving countries. Trade unions do usually not provide helplines or legal services for migrants and their families. However, in August 1991, the All Pakistan Federation of Trade Unions (APFTU) organized a seminar on the welfare of migrant workers, which recommended that the Government of Pakistan take steps not only to ratify the ILO's Migration for Employment Convention No. 97 (1949) and Migrant Workers (Supplementary Provisions) Convention No. 143 (1975) but also to negotiate with concerned labour-receiving countries for arranging facilities of migrant workers.

Trade unions in South Asia have recognized migrant workers as potential future members as well as contributing to the future labour movement, but generally, they have done little for their protection. One major barrier is the fact that migrant workers are not allowed to join

trade unions and the majority of migrant workers are not aware about the labour laws of the host countries. Union leaders have raised issues relating to migration at international and regional fora, but their activities in international events do not really link with developing their own platform.²³ The key issue here is how the recommendations of such meetings are to be put into practice. Governments of several labour-receiving countries have taken some landmark steps for providing legal protection for migrant workers.²⁴

1.9 International Labour Standards for Migrant Workers

International efforts have focussed on the protection of the rights of migrant workers, which resulted in the formulation of several protective instruments, notably the ILO's Migration for Employment Convention No. 97 (1949), Migrant Workers (Supplementary Provisions) Convention No. 143 (1975), and the United Nations (UN) International Convention for the Protection of the Rights of All Migrant Workers and Members of their Families (1990). None of five South Asian countries have ratified these ILO Conventions.²⁵ Only Sri Lanka has ratified the 1990 UN Convention.²⁶ Bangladesh signed the UN Convention on 7 October 1998 but has not yet ratified it. Along with these instruments, most Conventions and Recommendations adopted by the ILO contain provisions relating to migrant workers. The Committee of Experts on the Application of Conventions and Recommendations has on various occasions referred to the specific situation of migrant workers when supervising the application of these various instruments.²⁷

In addition, the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, which elaborates on the fundamental rights of all workers, is also an instrument relevant to migrant workers' rights. Apart from the implementation of international labour standards, the governments in South Asia could develop bilateral agreements with the governments of labour-receiving countries. India, for example, has a bilateral agreement on migration with Qatar and is likely to have similar agreements with some other countries. The government of Bangladesh has a similar agreement with that of Malaysia. The introduction of a model contract in Sri Lanka between migrant workers and employers is another effort at curbing exploitation.²⁸

1.10 Conclusion

There is no doubt that migrant workers from South Asia make a significant economic contribution to both labour-sending and labour-receiving countries. Yet, they are not adequately protected at the workplace and their interests are not properly addressed either by the legal framework (which focuses more on the promotion of overseas employment) or by trade unions, and their welfare is not sufficiently secured in society. In contrast to the fact that none of governments in the five countries covered in this study has ratified ILO Conventions Nos. 97 and 143, individual States have taken alternative measures, such as bilateral agreements, implementation of model contracts and establishing institutions to defend even partially migrant workers' rights.

Trade unions in South Asia recognize the need for enhancing their institutional capacity and developing strategies to achieve the goal of protecting migrant workers' rights. There are various ways in which this can be done. First, trade unions intervention in some areas like pre-departure training programs and returnees' rehabilitation programs will be useful. Unions can also play a lobbying role in bipartite and tripartite discussions to formulate a protective policy as well as to promote bilateral agreements with labour-receiving countries. A monitoring role for trade unions will be essential in regulating unscrupulous recruiting agencies. Networking between trade unions in labour-sending and labour-receiving countries can be a key to sharing migration information and providing effective services for migrant workers. Trade unions can take up an educative role in matters relating to international labour standards for both migrants and union members. These will be the cornerstones of building a protective regime.

There is a lack of empirical data on the impact of migrant workers on the economy of labour-receiving countries, which is critical in constructing a more migration friendly community. The common efforts of tripartite constituents, and the development of a more effective information system on migration are of critical importance to designing and implementing more efficient policies.²⁹

NOTES

¹ He is a Senior Specialist on Workers' Activities at the Subregional Office for South Asia, International Labour Organization.

² ILO, *Towards a Fair Deal for Migrant Workers in the Global Economy*, Report of International Labour Conference, 92nd Session 2004. <http://www.ilo.org/public/english/standards/relm/ilc/ilc92/pdf/rep-vi.pdf> Of the 120 million migrants, there are 56.1 million in Europe, 16.3 million in Africa, 40.8 million in North America, 49.9 million in Asia, 56.1 million in Europe, 5.9 million in Latin America and the Caribbean, 5.8 million in Oceania.

³ Department for International Development (DFID-UK): "Summaries of Papers" of Migration Development Pro-Poor Policy Choices in Asia, Dhaka Bangladesh, 22-24 June 2003.

⁴ An interview of 150 female Bangladeshi return migrants from the Middle East and South East Asia showed that the reasons for their out-migration were improving living standards, enhancing incomes and one-time accumulation of wealth.

⁵ Piyasiri Wickramasekara, International Migration Papers 57 "Asian Labour Migration: Issues and Challenges in an Era of Globalisation", Geneva, ILO, 2002.

⁶ The terminologies described by "Encyclopedia of Britannica Online" were reinterpreted in accordance with this study. URL: <http://search.eb.com/eb/article?eu=42394&tocid=0&query=migration&ct=eb>

⁷ The modern history of Nepali migration is slightly different from that of the other four countries. Before the 1960s, the peculiar trend of migration from Nepal was that a large number of Nepali workers were employed in the British and Indian armies.

⁸ Ministry of Labour, Government of India: *Annual Report 2001-2002*, New Delhi, pp. 121-22. Public hearings are held at the office of the Ministry of Labour in New Delhi, twice a week on Tuesdays and Fridays. In 2001, about 1,711 petitions were handled and disposed off through public hearings.

⁹ The Act also makes it mandatory for license holders to inform workers being sent abroad for employment about the geographical location, culture, labour laws, economic, political and social conditions of the destination countries.

¹⁰ Pakistani migrants are distributed into over 45 countries in over 40 different categories of occupation. Among them, 45.5 per cent migrated to the Middle East, 29.2 per cent to Europe, 22.7 per cent to the Americas, 1.6 percent to other part of Asia and 0.6 percent to Africa. Among the migrant workers to the Middle East, 79 per cent have gone to Saudi Arabia, 15 percent to the UAE, 3 per cent to Oman and 1 per cent to Qatar.

¹¹ Saudi Arabia receives the largest number of Indian migrant workers — 99,453 in 2002 followed by UAE with 95,034 persons, Oman (41,209), Singapore (24,399) and Malaysia (10,512). The two states of Kerala and Tamil Nadu accounted for over 43 per cent of emigration clearances in 2002, sending 81,950 and 79,000 workers respectively. In addition, 437,000 persons obtained suspension of emigration clearances during 2002 for various reasons.

¹² In the case of Pakistan, 79 per cent of skilled return migrants surveyed are reported to have enhanced their skill level during overseas employment. However, 49 per cent of these had not been able to utilize their enhanced skills on their return. In the case of Nepal, former soldiers of the Gorkha Regiment of the British army in India are active in the transport, oil delivery, food, hotel sectors etc.

¹³ In 1990, official remittances were Nepali Rs. 2.9 billion, which was 7.7 per cent of foreign exchange earnings.

¹⁴ Short-term migrants use different official and unofficial channels for sending remittances home. Official channels include demand draft issued by a bank or an exchange house, travellers' cheques, telegraphic transfer, postal order, account transfer, ATMs, etc. The unofficial routes are the *hundi* system, departing friends and relatives. A study in two districts of Chittagong and Tangail of Bangladesh shows that 46 per cent of the total remittance has come through official channels, while around 40 per cent came through *hundis*, 4.6 per cent was transferred through friends and relatives, and 8 per cent were delivered by migrants themselves.

¹⁵ ILO Press Release, "ILO Joins Celebration of United Nations' International Migrants Day", (18 December 2000). URL: <http://www.ilo.org/public/english/bureau/inf/pr/2000/50.htm>

¹⁶ Khaleej Times, "Workers Decline to Sign revised Labour Contract with Low Salary" (6 March 2004): p.6. According to this daily newspaper being published from Dubai, the UAE, several workers of a Dubai-based security services and cleaning company have declined to sign revised labour contract offering law basic salary. "I don't want to quit my job, since I have no choice, but to work in Dubai and raise money to pay back my loans back home. We want the labour ministry to help either to resolve the issue so that we can continue working, or help receive our end of services due in full, and if possible a release from the employer to allow us take up another job in the UAE", quoted from Khaleej Times.

¹⁷ D. Seddon, J. Adhikari, & G. Gurung, *The New Lahures: Foreign Labour Migration and Remittances Economy of Nepal*, Kathmandu: NIDS, 2001.

¹⁸ Perera, M, "Research in Labour Migration, Findings of a Recent Study in Sri Lanka" in *Proceedings of the Regional Meeting of Officials of Labour Exporting Countries, Sri Lanka Bureau of Foreign Employment and Asian American Free Labour Institute*, 1997.

¹⁹ D. Seddon, J. Adhikari, & G. Gurung, *Op. cit.*

²⁰ G.M. Arif, "Remittances and Investments at the Household Level in Pakistan," *Pakistan Institute of Development Economics (PIDE)*, 1999.

²¹ A study in Bangladesh based on interviews of 100 migrants in 2003 reveals that only 44 migrants received regular medical check-ups in the countries of destination. It is also commonly known that recruiting agencies in Nepal keep the first two to six months' salaries of migrant workers.

²² Of these, 53 persons died in Saudi Arabia, 39 in Qatar, and four in Malaysia. However, the unofficial figure on the death toll of Nepali migrant workers might be much higher.

²³ Asia Pacific Regional Trade Union Symposium on Migrant Workers 6-9 December 1999, Kuala Lumpur, Malaysia.; *Employment Conditions of Migrant Workers Employed in the Middle East from South Asian Countries*, WFTU APRO, 10-11 December 2002 New Delhi, India; "ICFTU-APRO Meeting on Migration February 2003, Jakarta, Indonesia. .; ILO Regional Tripartite Meeting on Challenges to Labour Migration Policy and Management in Asia, 30 June to 2 July 2003, Bangkok, Thailand; Trade Union Technical Consultation Meeting on Studies of Out-migration in Bangladesh, India, Nepal, Pakistan, and Sri Lanka, 1-2 December 2003, New Delhi, India.

²⁴ The Government of Belgium has announced policy measures to eliminate discrimination in employment. The Government of Jordan has endorsed a Special Working Contract for non-Jordanian domestic workers, which guarantees migrant workers life

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insurance, medical care, etc. The Government of Finland established a Government Action Plan to combat ethnic discrimination and racism. The Government of Korea introduced an Employment Permission Act, which guarantees legal migrant workers the benefit of a national minimum wage, national healthcare insurance, Occupational Safety and Health, etc.

²⁵ ILO, "Ratifications, International Instruments on Migration/ Migrants Rights as of 1 July 2003", International Migration Branch, Geneva. Sixty-three Member States of the ILO have ratified either one or more of ILO Convention Nos. 97 and 143. Forty-two States have ratified ILO Convention No. 97, while 18 States have ratified ILO Convention No.143.

²⁶ The convention was ratified on 11 March 1996.

²⁷ Tim De Meyer, *Briefing Note : Migration Law and Practice in Asia and the Pacific in the Context of International and ILO Instruments* (ILO, 2003), pp.2-3. They include the Minimum Wage-Fixing Convention, 1928 (No.26); the Labour Inspection Convention, 1947 (No.81); the Employment Service Convention, 1948 (No.88); the Maternity Protection Convention (Revised), 1952 (No.103); the Indigenous and Tribal Populations Convention, 1957 (No.107); the Workers' Housing Recommendations, 1961 (No.115); the Employment Policy Convention, 1964 (No.122); the Human Resources Development Recommendation, 1975 (No.150); the Occupational Safety and Health Recommendation, 1981 (No.164); the Termination of Employment Convention, 1982 (No.158); the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No.169); the Employment Promotion and Protection against Unemployment Convention, 1988 (No.168), the Indigenous and Tribal Peoples Convention, 1989 (No.169); and the Private Employment Agencies Convention (No.181) and Recommendation, 1977 (No.188).

²⁸ As a result of Memoranda of Understanding (MOUs) signed between the Sri Lanka Bureau of Foreign Employment and recruiting agencies in the Middle East, Singapore and Hong Kong, it has become compulsory for employers hiring Sri Lankan housemaids to sign a contract, which has to be endorsed by the Sri Lankan Embassy in the country concerned.

²⁹ Making use of the existent database systems or information storage such as <http://www.ilo.org/public/english/protection/migrant/ilmdb/ilmdb.htm>; <http://www.migrationinformation.org> may be useful and cost-effective.

2 Bangladesh

The Complexities and Management of Out-Migration

Tasneem Siddiqui

2.1 Introduction

International migration has become an integral part of the global economy. There is hardly any country that does not contribute to international labour migration either as a receiving country, sending country or country of transit. Bangladesh is a labour surplus country, and hence it belongs to the supply side of the global labour market. A large number of Bangladeshis migrate each year to different parts of the world both as long term and short-term migrants. Since the 1980s, remittances sent by migrant workers have played a much greater role in sustaining the economy than the earnings from the garments sector and migrants' remittances have now become the highest foreign exchange earning sector of the country. This paper highlights the role of migrants in the national economy and demonstrates how they are subjected to various forms of exploitation at different stages of their migration. The State, private sector and civil society urgently need to develop a comprehensive national plan of action to promote protected migration from Bangladesh.

Over the last five years, some important empirical researches have been conducted. This paper is based on the findings of some of those works. Most of the research on out-migration from Bangladesh is on short-term migration.¹ In 2004, a study on long-term migration has also been published.² Analysis on long-term migration relied mostly on the findings of that study. While preparing this report, gaps in information on some issues were encountered, both with regard to short-term and long-term migrations. To fill up these gaps, functionaries of the Bureau of Manpower, Employment and Training (BMET) and members of migrant workers' associations were interviewed.

2.2 Out-migration in Historical Settings

Bangladesh has a long history of migration. The ancestors of the

Sinhala population of Sri Lanka are believed to have migrated to the island from the area that now constitutes Bangladesh several centuries ago. In the eighteenth century, when the British developed the tea industry in North-East Bengal in India, parts of which are now in Bangladesh, they brought indentured labourers from different parts of India. When the jute and cotton industry of Bengal and the market for fine muslin was destroyed due to colonial policies, there was a large-scale migration of people from this part of then undivided India to Assam.³ People from then East Bengal also migrated to Myanmar.

Migration to the industrialized countries, particularly to the west, was again connected to the country's colonial past. During the eighteenth and early nineteenth centuries, sailors from the south-east part of East Bengal (Chittagong and Noakhali) found jobs in the British merchant navy that carried goods from Kolkata port to all over the world. A section of landless peasants from the northern Sylhet district, who had no opportunities for work in their own area, were absorbed in the dockyards of Hooghly, near Kolkata, and also joined the British merchant navy. According to experts, unlike the seamen of Chittagong and Noakhali, this group did take to seafaring and abandoned the ships when opportunities arose, and landed in the United States, United Kingdom, Singapore, Malaysia, Brunei and Indonesia.⁴ These stowaways are considered pioneer migrants to the west. Unlike those from other parts of British India, people from the area that now constitutes Bangladesh overwhelmingly migrated to the United Kingdom, settling mainly in the port cities of London, Liverpool and Bristol. Studies indicate that most of the early Bangladeshis got married to locals and established their families in the United Kingdom.⁵ By the late 1950s and early 1960s, when the British Government adopted a policy of recruiting foreign workers through the social network of the early Sylheti settlers, there was large-scale migration of people from Sylhet to the United Kingdom. Gradually, women also started migrating with their men as part of the family.⁶

After the independence of Bangladesh in 1971, new opportunities for international migration emerged. With the rise in oil prices, the Middle Eastern countries went through a phase of major infrastructure development for which a large number of expatriate workers were required. Different categories of workers from Bangladesh joined the Middle Eastern labour

market. Gradually, such migration also expanded to the newly industrialized countries of South-East Asia. The nature of such migration was qualitatively different from that to the West. These migrants went on short-term employment, with specific job contracts, and had to return home on the completion of their contract period. Currently short-term contract migration is the most dominant form of out migration from Bangladesh.

2.3 Legal Framework

2.3.1 National instruments

Till 1982, the Emigration Act of 1922 framed by the British was the only law concerning out-migration. It was replaced with an Emigration Ordinance, 1982, which is now the key regulatory instrument relating to migration. Its main features are:

- Only persons with valid travel documents are allowed to emigrate. According to Section 7/3/a of the Ordinance, a letter of appointment or work permit from a foreign employer or an employment or emigration visa from a foreign government is considered to be a valid document.
- A person who is selected by a foreign employer through an organization or a recruiting agent recognized by the Government under an agreement between two governments will also be allowed to emigrate (Section 7/3/b).
- Section 8/1 empowers the Government not to allow emigration of persons of a particular occupation, profession, vocation or qualification in the public interest.
- Section 10 authorizes the Government to grant licences to individuals and companies who want to be engaged in recruitment for overseas employment.
- Section 14/1 empowers the Government to cancel and suspend licenses and forfeit security deposit of licensees if it is satisfied that his conduct has been improper or is in violation of the law or prescribed Code of Conduct. However, such action can only be taken after the licensee is given an opportunity to explain his position.
- Illegal emigration is punishable, under Section 20, for a term of up to one year's imprisonment with a fine not exceeding Taka 5000. There are also provisions for penalizing unlawful recruitment efforts.

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- Under Section 23, the recruiting agencies are prohibited from charging higher than the prescribed amount of fees for their services.
- Section 24 provides for penalizing individuals who, in breach of contract with foreign employers, abandon their employment.

Statutory and Regulatory Orders

On 11 April 1983, the Government, by a notification of the Labour and Manpower Ministry, set up four Special Courts in each of the divisions of the country (Dhaka, Chittagong, Khulna and Rajshahi).⁷ Subsequently, on 25 March 1985, by another order, the Director-General of BMET, managers of Employment Exchanges and Assistant Directors of District Employment and Manpower Offices were authorized to lodge complaints with the Special Courts.⁸

Other Orders, Directives and Circulars

Various other measures were also taken to regulate emigration.

- On 23 April 1985, a circular was issued outlining the Procedure for Grant of Recruiting Agency Licence.⁹
- A Government of Bangladesh Directive in March 1985 laid down the Minimum Salary for Bangladeshi Migrant Workers for Employment Abroad.¹⁰
- Other decisions¹¹ taken in July 1985 and January 1986 rescheduled salaries for Iraq, Libya and Malaysia.¹²

Rules Framed

In December 2002 the Government framed three rules under the 1982 Ordinance – Emigration Rules, Rules for Conduct and Licensing Recruiting Agencies and Rules for Wage Earners' Welfare Fund.

Policy on Female Migration

In the early 1970s, the Bangladesh Government did not have any clear-cut policy on either encouraging or discouraging female migration. Bangladeshi women began taking up jobs in the Middle East either on their own initiative or that of an agency. However, since early 1980s, successive governments either completely banned migration of all

categories of female workers, except the professionals, or imposed restrictions on migration of unskilled and semi-skilled women workers. Currently unskilled and semi-skilled women are not allowed to migrate on their own but only when a male partner accompanies them.

2.3.2 Welfare programmes and social security

In 1990, on the basis of the 1982 Ordinance, the Government of Bangladesh created a fund for ensuring welfare of the wage earners. The Wage Earners' Welfare Fund is constituted with subscriptions from the migrant workers, interest earned from the deposit of licenses of recruiting agencies, 10 per cent surcharge on the fees collected through Bangladeshi missions abroad, and personal and institutional contributions. The bulk of the fund was raised from the subscriptions from the migrant workers, who are required to pay a fee of Taka. 100 per person under group visa, Taka 300 for individual visa that has been attested by the Bangladeshi missions in the destination country and Taka 800 for individual unattested visa. The Fund is to be utilized for the following purposes:

- establishment of a hostel-cum-briefing center;
- organization of an orientation and briefing programme;
- establishment of a welfare desk at the airport;
- transfer of the bodies of deceased migrant workers;
- providing assistance to sick, disabled and stranded migrant workers,
- providing financial help to the families of deceased migrant workers;
- providing legal assistance to the migrant workers through the embassies, and
- establishment of a recreation club and information center under the auspices of the Bangladesh missions abroad.

The Government, through another Circular, added two more objectives. These are establishment of hospitals and keeping reserve seats in existing hospitals for migrant workers and their families and providing education facilities to the children of the migrant workers. The Circular also stated that, if needed, the Fund could also be disbursed to schools where the children of migrant workers are studying.

The Government is constructing a multi-storeyed building for migrant workers with money from the Wage Earners' Welfare Fund. A

different channel has been opened at the arrival lounge of the airport to provide a one-stop service for wage earners. Two welfare desks have been set up at both the exit and arrival lounges. A bus service from the airport has also been introduced for the migrant workers.

One of the major programmes financed by the Wage Earners' Welfare Fund is the two-hour pre-departure briefings for migrant workers. The BMET claims that the coverage of these sessions is increasing by the day.

Currently, in the case of death of migrant workers, the family of the deceased receives a one-time grant of Taka 20,000. Between October 2001 and June 2003, the Bangladesh Government collected and disbursed an amount of Taka 21,68,60,682 as salary dues and death compensation to the families of 902 migrant workers. Bangladeshi missions in the labour-receiving countries play a major role in this regard.¹³

Bangladeshi missions abroad also play an important role in ensuring the welfare of the migrant workers in the host countries. There are 13 labour attachés in Bangladeshi missions in different labour-receiving countries. They provide counselling, advisory and legal services to distressed Bangladeshi workers. The services of labour attachés have often been criticized. Their recruitment process has to be made transparent and they must be given training to provide specialized services to the migrants.

2.3.3 Government and sending agencies

Ministries

Labour recruitment from Bangladesh involves various ministries and agencies of the Government, private recruiting agents, their local and international intermediaries, potential migrants and their families. The Ministries of Expatriates Welfare and Overseas Employment, Home Affairs, Foreign Affairs, Finance and Civil Aviation and Tourism are the five important ministries concerned with international labour migration. Until 2001, the Ministry of Labour and Employment was in charge of international labour migration but in response to the demand of the expatriate Bangladeshis and the migrant workers, the Ministry of Expatriates Welfare and Overseas Employment was created in December 2001. The new ministry has been vested with the power of implementing

the rules framed in 2002 under the 1982 Ordinance and promoting, monitoring and regulating migration. Its activities are two fold: to create employment overseas and to solve problems of expatriates and ensure their welfare.

The functions that Bangladeshi missions abroad perform in relation to labour export are: exploring the potential of the labour market, attestation of documents pertaining to recruitment, providing consular services to Bangladeshi workers, and ensuring the welfare of migrant workers.

Bureau of Manpower, Employment and Training

The BMET is the executing agency of the Ministry Expatriates' Welfare and Overseas Employment in respect to labour migration. It was established in 1976 to ensure maximum benefit for labour export. Since the promulgation of the 1982 Ordinance, the BMET has been working as the implementing agency of the Ordinance. Currently, the BMET is involved in control and regulation of recruiting agents, collection and analysis of labour market information, registration of job seekers for local and foreign employment, development and implementation of training programmes in the light of specific labour needs in the national and international labour markets, materialization of apprentice and in-plant programmes in the existing industries, organizing pre-departure briefing sessions, and resolving legal disputes.

Private Recruiting Agencies

Recruitment and placement are important stages in labour migration. In the 1970s, recruitments were done by the Government. Since 1981, private recruiting agents have taken over the task. The private agencies work under a license given by the Government. They collect information on demands and orders for foreign employment. After taking permission from the BMET, the agencies recruit workers as per specifications of the foreign employers and then process their cases. Each recruited person has to be issued a clearance certificate from the immigration department of BMET. Over time, the recruiting agencies have organized themselves under the Bangladesh Association of International Recruiting Agencies (BAIRA), which was formed in December 1984 with

representatives of 23 recruiting agencies. In 2002, the association had a membership of around 700 agencies.

Bangladesh Overseas Employment Services Limited

In 1984, the Government also set up the Bangladesh Overseas Employment Services Limited (BOESL) as a limited company with a direct recruitment role. Up to February 1999, BOESL recruited 8,900 workers, which is 0.31 per cent of the total number of those who went overseas through the official channel. In 2002-03, a total of 351 workers had gone overseas through BOESL. A thorough evaluation of this institution is necessary in order to assess its strengths and weaknesses.

Individual Contract

Almost 55 to 60 per cent of recruitment is conducted through individual initiatives and social networks. Usually, persons already working in the host countries arrange visas for their friends and relatives through their own contacts. Sometimes these visas are sold to the interested parties. The cost of migration and illicit practices are less when work visas are procured through individual migrants working abroad.

2.3.4 An assessment of the state of legal protection at the national level

The 1982 Ordinance, the rules framed under it and various circulars have some major flaws. Although the Ordinance was ostensibly enacted to protect the migrant workers from fraudulent and exploitative practices, the law itself made the migrant workers vulnerable. Under Section 24, a migrant worker is liable to long-term imprisonment if he/she returns home without completing the term of employment. This is in violation of all norms and rights of refusal to continue to work.

An important lacuna of the present legal system is that the migrant workers do not have the right to seek legal redress directly. Under the law, only a concerned Government functionary can lodge complaints regarding violation of the provisions of the Ordinance. As a result, very few cases have been filed under the present arrangement and even these are a very small proportion of the number of cases reported in newspapers.

The existing laws are also inadequate in protecting workers from

the fraudulent practices of the intermediaries. Most of the recruiting agencies are based in the capital city of Dhaka but the bulk of their clientele are from the rural areas and hardly any agency has branches in towns other than those where their head-offices are located. They depend on a host of informal agents and sub-agents who secure them business and work. The ordinance does not recognize these intermediaries, who are locally known as *dalals*, and there is no provision requiring these agents to register with any authority. Two most important functions of recruitment – mobilizing potential clients and payment of money – take place through the *dalals*. They do not provide any receipt for the money paid by potential migrants. In most cases, the clients have no idea as to which recruiting agency is engaged in processing their cases. Some *dalals* defraud the potential migrants, who hardly have any means available to redress their grievances against the informal agents.

It has been reported that a group of expatriate Bangladeshis, along with a section of recruiting agencies, has developed sophisticated channels for procuring visas to the Middle East. The group maintains regular contacts with potential employers, and has established a near-monopoly in the procurement of visas. Working through a network of agents and sub-agents, the group manages to obtain visas from the potential employers and then ‘auctions’ them before Bangladeshi recruiting agents. The cost of migration registered a steep increase due to this malpractice. This may have been one of the major reasons for an increase in undocumented migration from Bangladesh. Providing legal protection to undocumented migrants is an extremely difficult task.

While the Government has taken a proactive role in promoting male migration through promulgation of ordinances and statutes, it has restricted out-migration of women as principal migrants. This is a discriminatory policy that violates constitutional provisions guaranteeing equal opportunity to men and women. Restrictions on legal migration of women have not stopped such migration but have only made women migrant workers more vulnerable and, inadvertently, contributed to trafficking in women.¹⁴

Thus national laws, rules and regulations relating to migrant workers do not address the issue of their protection in any significant way. The 1982 Ordinance, framed at a time when Bangladesh was actively promoting export of workers, has focused mainly on the

procedural and regulatory aspects of migration. A comprehensive set of laws highlighting the protection and welfare of migrant workers needs to be framed.

2.3.5 International instruments

The most important of the instruments framed by ILO regarding migrant workers are the Migration for Employment Convention (Revised) 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and the Migrant Workers Recommendations (No. 151). The UN International Convention on the Protection of Rights of All Migrant Workers and Their Families, 1990 is the most comprehensive instrument concerning the migrant workers. It ensures rights to both regular and irregular, male and female migrants and holds that migrants are both social and economic beings. None of the labour-receiving countries has ratified the ILO Conventions or the UN Convention. Bangladesh also has not ratified the ILO Conventions. It has signed the UN Convention but has not ratified it yet. Therefore, the migrant workers of Bangladesh cannot receive protection through these instruments.

2.4 Factors Promoting Out-Migration

There is a general agreement among researchers that migration in today's globalized world is a complex process. A host of macro and micro level economic, social and catalytic factors jointly produce a situation where an individual or a group decides to migrate. Therefore, contributing factors may vary according to the types of migration, point of destination, geo-political surroundings, macro economic structure, level of empowerment or disempowerment etc.

2.4.1 Factors contributing to short-term male migration

A micro study was conducted in 2000 among 200 return migrants in four districts to understand the factors that can be attributed to their migration decision.¹⁵ The responses fall into five categories: distressed economic condition, further improvement of economic status, social factors, political factors and access to information and demand in receiving countries.

Distressed economic condition: The first category of reasons is related to hardship at home and the necessity of earning a living. This includes both an individual situation as well as structural economic causes. Fifty persons stated that for various reasons, they had limited scope of earning within the country. For example, the sudden death or retirement of the principal earner of the family, recurrent floods affecting their sources of income, loss of agricultural land and large size of the family without sufficient income made them look for employment opportunities abroad. Of these 50, 33 had been unemployed for years before they migrated. A number of them made some bad business decisions and suffered big losses and they decided to migrate to recover the loss.

Further improvement in economic status: Eighty respondents migrated to improve their economic status. This meant that though they could maintain a decent livelihood within Bangladesh, they aspired for a higher standard of living. Mobilization of savings for future investment also played a part in the decision made by this group.

Social considerations: Social factors influenced the migration decision of 27 migrants, who did not belong to the economically distressed group. Respondents belonging to this group were young adults at the time of their migration. Their families allowed them to migrate under considerations that they were difficult to control them or they were not doing well in their studies and also to prevent the possibility of their getting involved in undesirable activities. Some said they lived in crime-prone areas and did not want to expose their children to such conditions for long. Two respondents reported that they wanted to visit foreign lands and another said that his ultimate aim was to go to the United States and hence decided to go to the Middle East first to save enough money to secure an American visa.

Political considerations: Five respondents decided to migrate for political reasons. Of them, three were under threat from their political rivals and two claimed that they had been implicated in false cases by the party in power. These examples show that individuals migrate not only for economic reasons but other reasons as well.

Migration network and information: Thirty respondents reported that migration of relatives, neighbors and friends, who were earning extremely well abroad, motivated them to migrate. People from the Chittagong area

mentioned that they were caught up in the ‘migration fever’ that swept through the region. In some cases, relatives living abroad sent work permits and visas for them. Access to migration information, presence of recruiting agencies and the operation of the social network of migrants are meso level factors contributing to migration.

2.4.2 Factors contributing to short-term female migration

A study in 2001 on female labour migration from Bangladesh interviewed 150 female return migrants who had worked in the Middle East and South-East Asia. Almost all respondents indicated more than one reason for their migration (Table 2.1). Poverty appears to be a major driving force behind the migration decisions of women, though not many respondents identified it as the most important reason.

Table 2.1 Reasons for Migration of Female Migrants from Bangladesh

Reasons	Multiple Response	Most Important Factor
ECONOMIC		
Poverty	31	7
Economic upliftment	64	36
Diversify family income	39	18
To cope with sudden economic shock	15	6
Loss of income opportunities due to environmental degradation (river erosion)	7	3
Impact of macro-economic policies	8	2
Low cost of female migration	12	3
To facilitate migration of other family members	15	3
SOCIAL		
Empowerment	21	15
NGO membership	14	2
To ensure children’s education and future	25	0
To arrange dowry for self/sister/daughter	24	15

Reasons	Multiple Response	Most Important Factor
Shouldering responsibility of the parental home	23	7
Escape from unhappy marital and family relationship	11	8
Escape from harassment and violence	8	6
To earn for lazy husband	17	7
CATALYTIC		
Access to migration information	28	3
Operation of fee charging recruiting agencies	27	0
Operation of social network	29	5
Others	21	4
Total	439	150

Source: Tasneem Siddiqui: *Transcending Boundaries: Labour Migration of Women from Bangladesh* (2001).

Clearly, the desire for economic empowerment has led to more women migration. Women identified improvement in living standards, income maximization and one-time accumulation of wealth for future investment as the most important reasons for migration.

Desire for independence and a sense of empowerment, membership of non-government organizations (NGOs) and employment in the garments industry led to some women aspiring to improve their social and economic status. A few successful women members of NGOs providing micro-credit have developed a sense of confidence and wanted to take up newer challenges. As they learnt about migration from different sources, they themselves became interested in migrating. A section of garments workers felt motivated to participate in the international labour market out of a feeling of empowerment. Gender-specific social factors also contributed to female migration. Oppressive social institutions and practices such as dowry, the threat of acid attacks, desire to escape from

unhappy family situations all contributed to female out-migration. In the last category, some women wanted to be relieved of the tension of living with other wives of their husbands while others migrated to come out of a bitter relationship with parents, brothers and sisters-in-law.¹⁶

The combination of an individual's own desire, family needs and broader social reality would not have resulted in large-scale migration without the existence of enabling institutions. The growth and development of the recruitment industry, involving recruiting agents both in Bangladesh and in the country of employment, travel agencies and local intermediaries at home have facilitated an increase in female migration. Thus, female migration from Bangladesh is the result of a host of macro, micro and catalytic factors. In some cases, poverty is one of the many factors, while in many other cases, it did not have any bearing at all.

2.5 Employment Perspective

2.5.1 Scale of migration

BMET data show that the total number of Bangladeshis working abroad as short-term migrants from 1976 to July 2003 is more than 3 million (Annex Table 1). It indicates a yearly average flow (1991–2002) of around 226,000. It also shows that the highest number of people migrating from Bangladesh in 1997 was 381,077. Although there was a steady increase in the flow of migration since 1976, a declining trend has been seen in the last few years, with the number of migrants dropping from 268,182 in 1999 to 222,686 in 2000 and further to 188,965 in 2001. There could be several reasons for this decline. The costs of migration through formal channels have increased substantially. There is also tough competition in the labour market with new labour-sending countries like Nepal, Vietnam and Cambodia supplying labourers at cheaper rates. The rise of unemployment in some Arab countries has resulted in these countries adopting policies that favor the domestic labour force.

The BMET data do not capture the total population of Bangladeshi origin in the west, because they exclude figures of persons born in those countries of parents of Bangladeshi origin. Besides, processing of applications for immigration takes a long time. A large group of Bangladeshis remain outside the official figures as they have applied for change in visa status from student/work visa to immigrant visa. Considering

all these three types of people, there are 300,000 people of Bangladeshi origin each in the United Kingdom and United States. In addition, there are undocumented Bangladeshi migrants in those countries. The total number of Bangladeshis living in those countries, both having regular status and irregular status are estimated to be 1.1 million (Table 2.2).

Table 2.2 Number of Bangladeshi Immigrants in Industrialized Countries

Country	Number of Immigrants
United Kingdom	500 000
United States	500 000
Italy	70 000
Canada	35 000
Japan	22 000
Australia	15 000
Greece	11 000
Spain	7 000
Germany	5 000
South Africa	4 000
France	3 500
Netherlands	2 500
Belgium	2 000
Switzerland	1 400
Total	1 178 400

Source: Siddiqui, 2004.

Note: Educated guess made by Bangladesh Government officials who have first hand experience with the immigrant community.

2.5.2 Main flow of migration

Bangladesh exports contract labour mostly to the Middle Eastern and South-East Asian countries. Saudi Arabia, the United Arab Emirates (UAE), Kuwait, Qatar, Oman, Iraq, Libya, Bahrain, Iran, Malaysia, South Korea, Singapore, Hong Kong and Brunei are some of the major countries of destination for Bangladeshi migrant workers, with Saudi Arabia alone accounting for nearly half of the total number. Malaysia

used to be the second largest employer of Bangladeshi workers till the financial crisis of 1997. Among the western countries, the United Kingdom and United States are the two major countries of destination. Greece, Australia, Canada, Germany, France, Italy, Switzerland, New Zealand, Belgium, the Netherlands, South Africa, Spain and Japan are also preferred countries for migration.

Only 4 per cent of the total Bangladeshi work force is participating in the international labour market. A study of 200 female return migrants shows that 91 (45.5 per cent) were involved in different types of income generating activities before migration while the remaining 109 did not have any employment. However, due to migration, all 200 got employment. ¹⁷

2.5.3 Geographical distribution

Dhaka, Chittagong, Comilla, Noakhali and Sylhet are the major districts from where a majority of the migrant workers hail. Sylhet also accounts for 97 per cent of the long-term migrants to the United Kingdom and 70 per cent of the Bangladeshi migrants to the United States. Most short-term women migrants are drawn from Greater Dhaka and Comilla districts. Therefore, the effect of remittances on employment creation would be more pronounced in these districts.

2.5.4 Type of employment

The BMET has classified migrant workers to Middle East and South East Asia into four categories: professional, skilled, semi-skilled, and unskilled. Doctors, engineers, teachers and nurses fall in the first category. Manufacturing or garments workers, drivers, computer operators and electricians are considered as skilled workers, while tailors and masons as semi-skilled. Housemaids, agricultural labourers, hotel boys and menial labourers (cleaners, cart loaders, carton pickers) are considered unskilled workers. During the early years of labour migration, the proportion of professional and skilled workers was higher than that of semi-skilled and unskilled workers. In recent years, however, semi-skilled and unskilled workers account for the majority of the migrants (Annex Table 2). From 1976 to 1981, the ratio of professional and skilled workers to semi-skilled and unskilled workers has been in the region

of 4:6. However, the least proportion of professional and skilled workers who migrated for work did so between 1996 and 2002, with 1997 seeing professional and skilled workers accounting for only 18 per cent of total migrant workers.

2.5.5 Gender composition of migrants

BMET data also shows that Bangladeshi migrant workers are predominantly men. Of the 2,754,693 persons who migrated overseas for employment between 1991 and 2003, only 17,512 or less than 1 per cent were women. Female migration showed a declining trend up to 1999 and picked up slightly after that. During 1991-95, women constituted 0.98 per cent of the total migrant flow, which came down further to 0.76 per cent in 1997. The 1999 figure more or less suggests the stemming of the flow of female migration from Bangladesh, with female migration constituting as low as 0.14 per cent of the total migration flow. However, the figure rose to 0.67 per cent in 2003. These figures do not represent the actual migration scenario of women since their migration often remains undocumented.¹⁸ Almost all women in the unskilled and semi-skilled categories migrate unofficially primarily because of the ban on migration of unskilled women.

2.5.6 Age and educational level

The BMET database is not desegregated according to age and educational level. Different micro studies conducted in migrant-prone areas have shown that most of the migrant workers were between 15 and 30 years of age when they first migrated¹⁹ and a substantial majority were either illiterate or possessed educational background from class one to Secondary School Certificate (SSC).

2.6 Impact Of Migration On The National Economy

2.6.1 Foreign exchange earnings

The Bangladesh Bank, the country's central bank, documents remittance flows to Bangladesh from all over the world. Its data show that the remittances sent by the overseas wage earners increased from a paltry figure of US\$ 23.71 million in 1976 to US\$ 2617.92 million in 2002 (Table 2.3). Nonetheless, the annual growth rate of remittances

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is much less than the growth rate of migrant workers. As Table 2.3 shows, in 1991, the flow of migrants increased 41.72 per cent over the previous year, whereas remittances grew only 1.56 per cent. In 1998, the number of migrants grew 29 per cent while growth in remittances was only 4.86 per cent.

Table 2.3 Percentage Change in Number of Migrants and Remittances Over The Previous Year

Year	Number of migrants	Increase/Decrease %	Remittance (US \$ million)	Increase/Decrease %
1976	6 087		23.71	
1977	15 725	158.33	82.79	249.18
1978	22 809	45.04	106.90	29.12
1979	24 495	7.39	172.06	60.95
1980	30 073	22.77	301.33	75.13
1981	55 787	85.51	304.88	1.18
1982	62 762	12.5	490.77	60.97
1983	59 220	5.64	627.51	27.86
1984	56 714	4.23	500.00	20.32
1985	77 694	36.99	500.00	0
1986	68 658	11.63	576.20	15.24
1987	74 017	7.8	747.60	29.74
1988	68 121	7.97	763.90	2.18
1989	1 01 724	49.33	757.84	0.79
1990	1 03 814	2.05	781.54	3.12
1991	1 47 131	41.72	769.30	1.56
1992	1 88 124	27.86	901.97	17.24
1993	2 44 508	29.97	1 009.09	11.87
1994	1 86 326	23.79	1 153.54	14.31
1995	1 87 543	0.65	1 201.57	4.16
1996	2 11 714	12.89	1 355.34	12.79
1997	3 81 077	79.99	1 525.03	12.52
1998	2 67 667	29.76	1 599.24	4.86
1999	2 68 182	0.19	1 806.63	12.96
Total	2 909 972		18 058.74	

Source: Prepared from BMET data.

Migrating abroad for work may not yield remittances immediately because of the initial expenditure involved in settling down. However, even a two-year lag does not result in a significant increase in remittances corresponding to the number of migrant workers. Nonetheless, the remittance flows broadly indicate an average yearly increase of around 10 per cent over the last 25 years. The most important reason for this gap between number of migrants and remittance flows is that times, the majority of migrants from Bangladesh are unskilled and semi-skilled migrants whose wages are rather low, compared to the skilled and professional migrants who formed the majority earlier. Wage rates have also fallen drastically over the past decade. Saudi Arabia alone accounted for half of the total remittances. Over the years, the United States has become the second largest source of remittances, with Kuwait and the UAE ranking third and fourth respectively.

Migrant workers use different methods of sending remittances, involving both official and unofficial channels. Officially, transfer of remittances takes place through demand drafts issued by a bank or an exchange house, travelers cheques, telegraphic transfer, postal order, account transfer, automatic teller machine (ATM) facilities; electronic transfer and transfers in kind.

The *hundi* system is the most common among the unofficial channels of transfer. The *hundi* is an informal system of sending money through people based in foreign countries. Other unofficial methods include sending money through friends and relatives; personally carried by the senders themselves, and in the form of visa/ work permit for sale or family use. A study conducted in two sub-districts of Chittagong and Tangail found that 46 per cent of the total volume of remittance to households in these areas has been channeled through official sources. Another 40 per cent came through *hundi*, 4.6 per cent was sent through friends and relatives and 8 per cent were delivered by the migrant workers themselves during their home visits.²⁰

For the individual, the *hundi* system provides the quickest method of sending money without any transaction fees. *Hundi* operations use the social network of the migrants, which makes door-to-door service available. Bank transactions require paperwork, which is daunting for migrants who are not very well educated, and officials are not always customer-friendly.

2.6.2 Contribution to economic growth

International migration plays a vital and indispensable role in the national economy of Bangladesh. The remittances sent by migrants form a sizeable part of the country's foreign exchange earnings. In 1977-78, remittances constituted 14.5 per cent of total foreign exchange earnings. The share of remittances in foreign exchange earnings rose 40.4 per cent in 1982-83 before registering a decline. In 1996-97, its share had dropped to 24.3 per cent. Between 1977-1978 and 1997-1998, the annual average contribution of remittances was 26.5 per cent. The remittances have been used for financing the import of capital goods and raw materials for industrial development. The contribution of remittances to financing imports rose from 8.4 per cent in 1977-78 to 26.7 per cent in 1982-83 but had declined to 22 per cent in 1998-1999.²¹ Remittances are also important for the country's development, accounting for nearly 50 per cent of the development budget in the 1990s. In 2001 and 2002, foreign exchange earnings from remittances surpassed the total amount of foreign aid received by Bangladesh.

The contribution of remittances to gross domestic product (GDP) has grown from a meager 1 per cent in 1977-1978 to 5.2 per cent in 1982-83. During the 1990s, the ratio hovered around the 4 per cent mark. However, the contribution would be much higher if the unofficial flow of remittances is also taken into account. An increase in remittance by Taka 1 is expected to result in an increase in national income by Taka 3.33.²²

The importance of remittances in the economy becomes very clear if it is compared with foreign exchange earnings from the readymade garments sector, which is seen as the country's highest foreign exchange earning sector. However, if the cost of import of raw material is adjusted, then the net earning of the garments sector will be lesser than that from migrant workers' remittances. Thus, remittances sent by the migrant workers played a much greater role in sustaining the economy of Bangladesh than the garments sector.²³

2.7 Household Economy of Migrant Workers

The major beneficiary of migration is the migrants' family, whether nuclear or extended. Migrant workers usually remit a major portion of income to their families. Household incomes of the migrants, usually, increase significantly when they stay overseas.

2.7.1 Economic returns from migration

A typical migrant has to spend Taka 95,000 on the migration process, including the cost of visa and the airfare.²⁴ The economic benefits of migration constituted the direct remittances that their households received. The migrants remitted up to Taka 2,67,000 during their stay abroad. Thus, migration appeared to have yielded a cost-benefit ratio of 2.88. The level of household income increased by 55 per cent during the period of migration. The actual benefit ratio will be higher than the estimated ratio as migrants invariably retain a significant part of their earnings.

The study on 100 male migrants from Chittagong and Tangail districts show that, on an average, migrant workers stayed abroad for more than five years. Their average migration cost was Taka. 1,11,390. In the last three years of their migration, their average monthly income was around Taka 11,000 and the migrants' family income increased 119 per cent over their income before migration. During this period, the families received Taka. 72,800 each year on an average. This means that the migrants' remittance was 55.65 per cent of their income and 51.12 per cent of the total income of their families. A section of remittances was transferred in kind and the value of this is estimated to be an additional 9.21 per cent of total remittances.

The economic impact of migration on women was assessed on the basis of ten indicators:²⁵

- *reasonable length of stay abroad or return home before one year of stay;*
- *reasonable flow of remittance or inability to generate remittance;*
- *repayment of loans taken for migration or inability to repay;*
- *the ability of buying land;*
- *the ability of constructing a house;*
- *the ability to generate savings and the extent of such savings;*
- *ability to invest in business;*
- *increase in income as percentage of family income or lack of it;*
- *the ability to bear the subsistence cost of the family for a prolonged period;*
- *improvement or deterioration in living standards.*

Fifty-six per cent of the families of migrant women experienced positive economic results, 26.5 per cent negative economic results while the impact was mixed for 15.5 per cent families.

2.7.2 Social impact

The social impact of migration of women was also mixed. In some cases, remittances could result in better opportunities for education of the children, while in others, education suffered because of the absence of the mother. Migration of principal women members of the household sometimes resulted in the early marriage of their children. Migration also brought changes in personal relationships. In some cases separation of the married couples took place, but at the same time it also helped the women to come out of the estranged marital relationship and start afresh their married life. Migration strengthened the extended family bonds. Though abuse and exploitation have been part of women's migration experience, yet, it also contributed to their empowerment.

An anthropological study conducted in a Sylheti village showed that international migration had transformed the economic and social fabric of society, often producing contradictory results. It led to a change in marriage patterns and brought society closer to formal Islam. Some women had been able to improve their social status and power and some had successfully entered male domains.²⁶

2.7.3 Savings, investment and expenditure pattern

Remittances by migrants have been used for food, clothing, medical treatment, education, agriculture and purchase of homestead land, home construction/repair, releasing of mortgaged land, taking in mortgage of land, repayment of loan taken for migration and other purposes, investment in business, savings and fixed deposit, insurance, social ceremonies, gift/donation to relatives, financing pilgrimage of relatives, community development activities, financing migration of other family members, buying furnishings and other home appliances.²⁷

The pattern of utilization of remittances shows that it is the major source of income to maintain subsistence for some families (Table 2.4). However, remittances were also invested in other avenues. Since land is the safest and a highly profitable investment in Bangladesh, most migrant households invested in various kinds of land – agricultural, homestead and

commercial. Some of them were successful in releasing the leased-out land and others had leased-in land as an avenue for income. The proportion of savings was relatively low and a substantial portion of remittances was used to finance the migration of other family members, which was seen as an investment for further enhancing the household income.

Table 2.4 Use of Remittances Sent By Bangladeshi Migrants

Avenue	Mirersharai		Kalihati		Total	
	Taka	%	Taka	%	Taka	%
Food & clothing	23 61 600	22.68	21 04 680	18.41	44 66 280	20.45
Medical treatment	5 52 300	5.30	1 51 500	1.32	7 03 800	3.22
Children's education	3 40 200	3.27	2 60 740	2.28	6 00 940	2.75
Agricultural land purchase	12 99 400	12.48	11 56 000	10.1	24 55 400	11.24
Homestead land purchase	40 000	0.38	1 70 000	1.48	2 10 000	0.96
Home constriction/repair	18 91 000	18.16	13 89 000	12.15	32 80 000	15.02
Release of mortgaged land	70 000	0.67	4 20 000	3.67	4 90 000	2.24
Leasing in land	1 90 000	1.82	2 45 000	2.14	4 35 000	1.99
Repayment of loan (for migration)	5 52 000	5.30	17 52 600	15.33	23 04 600	10.55
Repayment of loan (other purpose)	1 24 000	1.19	6 33 500	5.54	7 57 500	3.47
Investment in business	4 48 000	4.30	5 91 200	5.17	10 39 200	4.76
Savings/fixed deposit	3 85 000	3.70	2 85 000	2.49	6 70 000	3.07
Insurance	72 140	0.69		0	72 140	0.33
Social ceremonies	14 97 000	14.38	4 83 000	4.22	19 80 000	9.07
Gift/donation to relatives		0.00	2 05 000	1.79	2 05 000	0.94
Send relative for pilgrimage		0.00	2 00 000	1.75	2 00 000	0.92
Community development activities	10 000	0.10	10 520	0.09	20 520	0.09
Sending family member abroad	4 70 000	4.51	11 01 000	9.63	15 71 000	7.19
Furniture	55 000	0.53	9 6 300	0.84	1 51 300	0.69
Others	53 500	0.51	1 73 500	1.51	2 27 000	1.04
Total	1 04 11 140	100.00	1 14 28 540	100	2 18 39 680	100.00

Source: Siddiqui and Abrar, 2003.

2.8 Human And Labour Rights

2.8.1 Exploitation by employers

Over the years labour market conditions in the destination countries, particularly in the Middle East, have deteriorated. Migration costs have increased, while wage rates have fallen sharply. During the early stages of migration to the Middle East, the employers bore the airfares and paid commissions to the recruiting agencies. Working hours, weekly and annual leave were clearly stipulated in job contracts. They also paid return airfare for holidays. Food and lodging were included in the remuneration package for unskilled workers.

In recent years, however, employers no longer pay commission to the recruiting agents. Instead, the latter buys visa from the employers at a high price. Workers now have to bear the airfares. During the early 1990s, the wage rate in Saudi Arabia was in the range of Rials 600-800 but that has now fallen to Rials 250-400.²⁸ In the case of Kuwait, the average migration cost varies from Kuwait dollar (KD) 500 to KD 700, while the monthly salary is in the range of KD 8-25.²⁹

When the migrants reach the receiving country, their employers take away their passports and other travel documents in order to restrict their movements. Migrants are not allowed to form associations or unions. The legal cell of the BMET receives complaints from migrant workers, as do Bangladeshi missions in the receiving countries. These relate to violation of contracts and payment of wages. Migrants are taken to some Middle Eastern countries on one job contract, but are put on different jobs on reaching the destination country. This automatically annuls their contracts. Non-payment and irregular payment of salary is another common complaint.

2.8.2 Living and working conditions

Living and working conditions of migrant workers vary from country to country and on the nature of the job. Professionals are provided with reasonably good accommodation, health care facilities, and working conditions. But the working and living conditions of the majority of the semi-skilled and unskilled workers are extremely poor. Large companies and the formal sector provide accommodation to their

employees in the labour camps at the outskirts of the city. A section of the workers are also accommodated within the factory premises. However, a majority of the construction workers do not get such facilities. They rent their own accommodation and live with other migrants from Bangladesh. In a typical situation, a large group of people is accommodated in a small room, with little or no privacy.

Those who work in factories usually have access to drinking water. However, some of them complained about the quality of water.³⁰ Agricultural workers and shepherds in the Middle East live a tough life. Some live on their own, isolated from the rest, and are provided with food by the employer once a week. Though factory workers are entitled to weekly holidays, long working hours and work on weekends is common. Officially, there is provision of overtime in most labour-receiving countries, the rate of which is 1.5 times the normal pay during working days and two times during weekends. However, most employers do not respect this provision. Besides, the mobility of workers is restricted as the employers usually take away their passports and travel documents to prevent them from job-hopping. Substitution of contracts and payment of wages lower than contracted have also been reported both in the Middle East and South-East Asia.

The working conditions of women migrants also vary according to their jobs. Some women who worked as domestic helps were satisfied with their living conditions since they were given separate rooms and wardrobes to keep their belongings and special care was taken about their food. However, others reported that they did not enjoy any privacy at all and were made to sleep in kitchens.³¹ Most of them experienced verbal abuse and, occasionally, physical abuse. Women who worked in factories lived in hostels either within the factory premises or outside. The employers mostly provided their accommodation. In the UAE, women garment factory labourers share their rooms with at least 18 co-workers.³² The heat in the Middle Eastern countries and alien food was a major problem for female migrants.

2.8.3 Health

Health facilities provided to the workers vary from country to country. In Saudi Arabia the necessary primary health care services are

available in major cities, under a Government policy called 'Health for All'. Everyone, irrespective of the legal status, can access this service.³³ In the UAE and Bahrain also, migrants can go to general hospitals. However, the cost of medicine and tests has to be borne by the migrants themselves. In some cases, companies/factories have their own authorized doctors. In Malaysia and Singapore as well as in the Middle East, workers who are formally employed have to undergo an annual medical check up. If someone is sick, the employer bears the cost of medical service, when recommended by the supervisor. A micro-study based on interviews of 100 migrants suggests that only 14 per cent of migrant workers received health advice in the destination countries.³⁴ In some countries, women are subjected to mandatory pregnancy and HIV/AIDS tests on an annual basis. If the female worker is detected positive on either of the two counts, the employers do not take any responsibility and they are deported home.

2.8.5 Death and injury

Factory workers often sustain injuries while operating machines, while some are affected by chemical fluids. Often these injuries are caused because workers are not given protective gear, such as goggles, aprons and gloves. In the UAE, municipal sector workers commonly suffered from chronic disease such as skin allergy and heart problems.³⁵ Heat stroke and jaundice are common in cases of construction workers in the Middle East.³⁶ The BMET has identified heart attacks and road accident as the major causes of death of migrant workers, particularly in the Middle East.

2.9 Trade Union Responses

Though trade unions play an important role in protecting and promoting workers' rights, they have not been successful in taking up the cause of migrant workers. This is true for trade unions both in the labour-sending and labour-receiving countries. Without any effective organization of their own, the migrant workers remain a vulnerable group, often subjected to harassment and exploitation at different levels. An effective trade union support to their cause would give them strength and a bargaining position.

The trade union movement in Bangladesh is yet to take any measure in support of migrant workers and is not well informed about the issues relating to this group.³⁷ The agenda and action programme of the trade unions have no reference to migrant workers. None of the unions have any exclusive support service for migrant workers. However, the trade unions felt strongly about the exploitation of migrant workers. A number of trade union federations had made representations to the Government following newspaper reports about the plight of Bangladeshi migrant workers in Malaysia after the financial crisis in South-East Asia.

The Samajtantrik Sramik Front said that it had demanded stiff punishment for recruiting agencies that are responsible for the sad plight of migrants and that the Government work out effective means to provide compensation for those who are victims of fraud. The Bangladesh Shangjukta Sramik Federation argued that the task of organizing the migrant workers is difficult in the absence of a clear employer-employee relationship. The Bangladesh Institute of Labour Studies (BILS) collates information on Bangladeshi migrant workers abroad, maintains paper clippings and also disseminates information on the issue among the member organizations. An important project for the BILS was to establish linkages with labour-receiving and sending countries.

The Bangladesh Trade Union Federation (BTUF) felt that a government that does not look after the interests of the workers within the country cannot be expected to look after migrant workers. It is also critical of the mainstream trade union movement on the same count. The Jatiya Sramik League emphasized the issue of rehabilitation of the return migrants and felt the Government should take adequate measures in this regard, including providing support services for self-employment.

The Bangladesh Independent Garments Union Federation (BIGUF), which only works with garment workers, has a training programme for workers who decide to go overseas and it also provides them support and counseling services. It tries to dissuade workers from going abroad in view of the deteriorating conditions. It feels that trade unions in both labour-sending and labour-receiving countries should exert maximum

pressure on their respective governments to allow migrant workers to participate in the activities of the trade unions in the receiving countries.

A few trade unions organized workshops and seminars on migrant workers. The Bangladesh Shangjukta Sramik Federation and Bangladesh Jatiya Sramik League, in collaboration with the Sramik Karmochari Oikkyia Parishad, have organized two workshops. The purpose of such programmes was to identify the problems of migrant workers and devise a plan of action. These organizations are demanding that the Government ratify the relevant ILO and UN instruments on migrant workers.

The trade unions in Bangladesh have contacts with trade unions of only a few labour-receiving countries. In the absence of trade union movements in the Middle Eastern countries, such contacts are mainly limited to Malaysia and the Republic of Korea. However, some trade unions lobby with their counterparts in the host countries through their international affiliates such as the World Federation of Trade Unions (WFTU), International Confederation of Free Trade Unions (ICFTU) and World Confederation of Labour (WCL).

Through its organized strength, the trade union movement can play an important role in lobbying with the Government to design and implement national policies for the protection and promotion of migrant workers' rights. By mobilizing their organizational structure, they can disseminate information about the improper practices of the recruiting agencies, wages and conditions of employment overseas so that potential migrants can make informed choices. Trade unions can also make these workers aware about their rights and obligations under national and international labour standards of the receiving country. Migrant workers often bring in specialized skills. In the absence of any database on return migrants, trade unions can take the initiative to put the concerned worker in touch with a potential recruiter of his/her expertise. In addition, trade unions can develop skill-centered training for the potential migrant workers. As a part of global solidarity of workers, trade unions of the sending countries can link up with their counterparts in the receiving countries, which may help the latter in getting involved in the protection and welfare of the migrant workers both at the factory level as well as the national level.

2.10 Conclusion And Recommendations

2.10.1 Conclusion

Short-term out migration for employment in Bangladesh is directed towards the Middle East and South-East Asia, with Saudi Arab accounting for half of them. The estimated number for long-term migrants from Bangladesh, who migrate to western countries to settle down, is more than 1 million, while the number of short-term migrants is estimated at 3 million.

The Emigration Ordinance, 1982 is the main regulatory instrument of the Government of Bangladesh. However, it does not reflect the dynamics of the current world labour market nor does it embody a rights-based approach. The Government has established a Wage Earners' Welfare Fund for providing social security to the migrant workers, to which outgoing migrants contribute. Bangladesh has not ratified ILO Conventions No. 97 and No. 43 and though it is a signatory to the 1990 UN Convention, it is yet to ratify the treaty.

There are various and complex economic, social and catalytic factors behind both kinds of migration. The short-term migrants from Bangladesh are predominantly male, with women accounting for less than 1 per cent of migrants. However, the number of female migrants could be substantially higher than official figures because the migration of many women is undocumented. Over the years, the skill profile of Bangladeshi workers in the Middle East has changed from the professionals and skilled workers who dominated in the 1970s to unskilled and semiskilled workers who constitute the bulk of the migrants now.

Since the 1980s, private recruiting agencies have played a major role in the growth of short-term labour migration. However, some of these agencies indulge in unscrupulous and fraudulent practices. Currently, 60 per cent of the recruitment and placement are conducted through individual workers and their social networks. The costs of migration and fraudulent practices are less when work visas are procured through individual migrants working abroad.

Data on remittance flows into Bangladesh show an annual average growth of 10 per cent over the last 25 years. However, the growth rate

of remittances is much lower than the growth in the total flow of migrants. A significant portion of remittances is routed through unofficial channels. The cost-benefit ratio of migration is estimated at 2.88 (migration costs/remittances sent). The flow of remittances has surpassed the annual flow of foreign aid to Bangladesh and helps meet a significant part of its import bill. The remittances have a strong positive impact on GDP and account for nearly half of the annual development budget.

The households and families of the migrants were found to be the major beneficiary of migration, with family income increasing more than 100 per cent. For some families, remittances are the major source of expenditure on daily subsistence. However, remittances are also invested in various avenues, with land being the most preferred option. Many families also spent their savings on child education, though in the case of women migration, education suffered because of the absence of the mother.

The living and working condition of migrants has been a major area of concern and migrants are also exploited by their employers. There are frequent complaints about change in contract conditions and non-payment or irregular payment of salaries. Since most of the unskilled and semi-skilled migrants are not highly educated, they are ignorant of laws and regulations that are designed to protect them. The trade unions both in Bangladesh and labour-receiving countries are yet to involve themselves in the labour migration issue in a major way. Without any effective organization of their own, the migrant workers remain vulnerable to exploitation and harassment.

2.10.2 Recommendations

The Government, migrant workers, civil society organizations and the private sector need to come together to collectively frame a comprehensive migration policy covering both short-term and long-term migration. The policy should adhere to the principle of protection of human rights and dignity of labour, both in Bangladesh as well as in the destination countries. The policy must reflect the rights-based approach of 1990 UN Convention. The long-term goal of the policy should be to create and sustain an environment that is congenial to

regular and orderly migration. It should also strive to ensure an enabling environment for the poor to make informed choices regarding migration. A national plan of action has to be framed identifying roles and functions of government, non-government and private sector institutions in implementing the policy.

Government

- The Bangladesh Government must ratify the 1990 UN Convention, which it has already signed, immediately and frame the necessary enabling national legislation.
- Restrictions on migration of unskilled and semi-skilled women migrants up to a certain age should be withdrawn. Domestic work, cleaning and maintenance work should be transformed into skilled professions through vocational training. Information on safe migration should be made available to women through awareness campaigns at the local level. Women should also be trained to protect themselves from different kinds of harassment and abuse. Shelter homes, hotlines, counseling and support services, especially for women, must be developed in the receiving countries.
- Steps must be taken to remove the structural obstacles in the way of migration of poor people. Poor men and women need access to formal credit to facilitate their migration as well as training to enhance their skills to effectively participate in the labour market. Both public and private banks could undertake programmes on an experimental basis to provide loans to the poor. Micro-finance institutions, with their wide networks, may also be encouraged to provide credit and training to potential migrants.
- To provide access to affordable credit, the Government could set up a bank with deposits accruing from the Wage Earners' Welfare Fund. The bank should advance loans to the poor at reasonable rate of interest against land or other properties as a collateral security.
- Costs of migration have to be reduced. Unscrupulous recruiting agents operating in the receiving countries must be identified and made accountable. Legal action must be taken against them.
- Training for the international labour market should be under the Expatriates' Welfare and Overseas Employment Ministry. BMET

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must identify areas of employment potential in the international labour market and strengthen its existing training institutes. The Government must also encourage NGOs and the private sector to take up training programmes targeted at foreign employment. The BMET needs to disseminate information on the labour market to training organizations and NGOs. Scholarship should be provided to the poor to enable them to access such training.

- The role of Bangladeshi missions in labour-receiving countries has to be redefined, with priority being given to the protection of the rights of migrant workers. Labour attachés and concerned officers at the Bangladeshi missions who deal with Bangladeshi workers should undergo orientation training before they take up their assignments abroad. Management of Bangladeshi migrant workers through the missions should be part of the curriculum of the existing courses for the new recruits at the Foreign Service Academy.
- Each mission should have a Migrant Workers' Resource Center (MWRC) to provide counseling services, welfare assistance, conduct information, advisory and orientation programmes, settlement and community networking services and activities for social interaction. The MWRCs must institute a scheme of registration of undocumented workers and provide shelter and other services to cater to the special needs of women migrant workers. It could also organize orientation programmes for returning workers, regulate working conditions and provide facilities for recreation.
- Since most migrants remit small amounts of money, they must be educated to have savings to enable themselves for re-integration on their return to Bangladesh. Proper incentive programmes must also be designed to encourage savings. Bonds, shares and mutual funds at attractive rates may be offered to them. They also need to be informed about various forms of saving instruments offered by the government, non-government and private agencies. Information on various business opportunities and support schemes must be provided to those receiving remittances.
- The BMET database on return migrants must include information on name, address, age, sex, skill, place of employment, years of experience and passport details. Provisions should be made for the

return migrants to register themselves with the database system without any difficulty. Attractive pro-poor incentive packages could be offered, including linkage with the formal banking sector, credit agencies for soft loans, land allotment on concessional terms, insurance schemes and access to schemes organized under the Wage Earners' Welfare Fund.

- To ensure better working and living conditions, dissemination of information discouraging irregular migration should be a key area of intervention. This should be done through local-level leaders, grassroots NGO workers, bank officials, human rights activists, journalists, local BMET functionaries, and labour attachés in Bangladeshi missions.
- Migrant workers must be aware of general information about the destination country, job conditions, their rights and duties under the legal regime of the destination country and under international law. Week-long briefing programmes must be organized for those who have already been recruited for overseas employment. This pre-departure training must be provided in collaboration with specialized agencies, NGOs, trade unions and migrant support groups in different migrant-prone areas.

Trade Unions

- Trade unions must incorporate the agenda of migrant rights in their overall agenda the rights of the migrant workers as an important issue. Expert bodies and civil society organizations may organize consultation meetings with local trade unions to familiarize them with issues relating to migrant workers, particularly the exploitation of the migrating workers within Bangladesh before departure and violation of human and labour rights of migrant workers in the receiving countries. Linkage between trade unions and migrant workers associations must be established so that they can organize programmes jointly.

ILO

- The ILO may provide technical assistance to the Bangladesh Government to develop a rights-based migration policy and for reviewing and reforming the 1982 Ordinance.

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- It could consider conducting pre-departure orientation training and awareness campaign programmes for local-level leaders, journalists, trade union leaders, Government officials and bank officials.
- Programmes organized for labour attachés should become a regular feature.
- The ILO can provide assistance for regional workshops where representatives of the Government, employers, recruiting agencies, migrant workers' associations, trade unions and other stakeholders can interact and discuss ways to ensure minimum labour standards for migrant workers.

Annex Table 1

Migration from Bangladesh by Country of Employment and Flow of Remittance (1976- September 2003)

Country Year	Saudi Arabia	Kuwait	U.A.E	Qatar	Iraq	Libya	Bahrain	Oman	Malaysia	Korea	Singapore	Others	Total	Remit- tance	Million US \$ (Crore Taka)
1976	217	643	1 989	1 221	587	173	335	113				809	6087	23.71	35.85
1977	1 379	1 315	5 819	2 262	1 238	718	870	1 492				632	15 725	82.79	125.16
1978	3 212	2 243	7 512	1 303	1 454	2 394	762	2 877	23			1 029	22 809	106.9	165.59
1997	6 476	2 298	5 069	1 383	2 363	1 969	827	3 777			110	223	24 495	172.06	266.95
1980	8 695	3 687	4 847	1 455	1 927	2 976	1 351	4 745	3		385	2	30 073	301.33	492.95
1981	13 384	5 464	6 418	2 268	13 153	4 162	1 392	7 352			1 083	1 111	55 787	304.88	620.74
1982	16 294	7 244	6 863	6 252	12 898	2 071	2 037	8 248			331	524	62 762	490.77	1176.84
1983	12 928	10 283	6 615	7 556	4 932	2 209	2 473	11 110	23		178	913	59 220	627.51	1568.76
1984	20 399	5 627	5 185	2 726	4 701	3 386	2 300	10 448			718	1 224	56 714	500	1265.49
1985	37 133	7 384	8 336	4 751	5 051	1 514	2 965	9 218			792	550	77 694	500	1419.61
1986	27 235	10 286	8 790	4 847	4 728	3 111	2 597	6 255	53		25	254	68 658	576.2	1752.85
1987	39 292	9 559	9 953	5 889	3 847	2 271	2 055	440				711	74 017	747.6	2313.94
1988	27622	6524	13437	7390	4191	2759	3268	2219	2			709	68121	763.9	2423.59
1989	39949	12404	15184	8462	2573	1609	4830	15429	401		229	654	101724	757.85	2446
1990	57486	5957	8307	7672	2700	471	4563	13980	1385		776	517	103814	781.54	2691.63

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Country	Saudi Arabia	Kuwait	U.A.E	Qatar	Iraq	Libya	Bahrain	Oman	Malaysia	Korea	Singapore	Others	Total	Remittance	Million US \$
Year															(Crore Taka)
1991	75656	28574	8583	3772	1124	3480	23087	1628	62	585	147131	769.3	2818.65		
1992	93132	34377	12975	3251	1617	5804	25825	10637	313	293	188124	901.97	3513.26		
1993	106387	26407	15810	2441	1800	5396	15866	67938	1739	724	244508	1009.09	3986.97		
1994	91385	14912	15051	624	1864	4233	6470	47826	1558	2012	186326	1153.54	4629.63		
1995	84009	17492	14686	71	1106	3004	20949	35174	3315	3762	187543	1201.52	4838.31		
1996	72734	21042	23812	112	1966	3759	8691	66631	2759	5304	211714	1355.34	5685.3		
1997	106534	21126	54719	1873	1934	5010	5985	152844	889	27401	381077	1525.03	6709.15		
1998	158715	25444	38796	6806	1254	7014	4779	551	578	21728	2602	267667	1599.24	7513.18	
1999	26286	3324	3912	864	239	666	713	136	1000	563	268182	1806.63	8882.74		
2000	144618	594	34034	1433	1010	4637	5258	17237	990	11095	1780	222686	1954.95	10199.12	
2001	137248	5341	16252	223	450	4371	4561	4921	1561	9615	4422	188965	2068.72	11577.63	
2002	163254	15767	25438	552	1575	5370	3927	85	28	6870	2390	225256	2847.79	16484.53	
2003	95319	7908	22336	64	1991	3634	2166	7	149	3313	2542	139429	1858.39	10760.5	
Total	1826431	332302	429160	92270	66343	51228	92976	229312	257746	13328	*103069	39416	3536308	26790.85	116378.13

Source: Prepared from BMET and Bangladesh Bank data 2003

Annex Table 2

Year-wise Number Of People Officially Migrating and Their Skill Composition

Year	Professional	Skilled	Semi-Skilled	Unskilled	Total
1976	568	1 775	543	3 201	6 087
1977	1 766	6 447	490	7 022	15 725
1978	3 455	8 190	1 050	10 114	22 809
1979	3 494	7 005	1 685	12 311	24 495
1980	1 983	12 209	2 343	13 538	30 073
1981	3 892	22 432	2 449	27 014	55 787
1982	3 898	20 611	3 272	34 981	62 762
1983	1 822	18 939	5 098	33 361	59 220
1984	2 642	17 183	5 484	31 405	56 714
1985	2 568	28 225	7 823	39 078	77 694
1986	22 210	26 294	9 265	30 889	68 658
1987	2 223	23 839	9 619	38 336	74 017
1988	2 670	25 286	10 890	29 356	68 121
1989	5 325	38 820	17 659	39 920	1 01 724
1990	6 004	35 613	20 792	41 405	1 03 814
1991	9 024	46 887	32 605	58 615	1 47 131
1992	11 375	50 689	30 977	95 083	1 88 124
1993	11 112	71 662	66 168	95 566	2 44 508
1994	8 390	61 040	46 519	70 377	1 86 326
1995	6 352	59 907	32 055	89 229	1 87 543
1996	3 188	64 301	34 689	1 09 536	2 11 714
1997	3 797	65 211	1 93 558	1 18511	3 81 077
1998	9 574	74 718	51 590	1 31 785	2 67 667
1999	8 045	98 449	44 947	1 16 741	2 68 182
2000	10 669	99 606	26 461	8 5950	2 22 686
2001	5 940	42 742	30 702	1 09 581	1 88 965
2002	14 450	56 265	36 025	1 18 516	2 25 256
2003 (Jan-Sep)	11 290	54 782	22 141	97 310	1 85 523
Total	1 57 726	11 39 127	5 96 818	16 88 73135	82 402

Source: Prepared from BMET data 2003.

Note: 150,000 Bangladeshi workers were legalized in Malaysia during 1997.

NOTES

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⁷ No. SRO. 129-L/83/LMVIII/(11)83.

⁸ No. SRO. 146-1/L/LM/S-VII/M-17/83.

⁹ No. S-XII/M-6-85/436.

¹⁰ No. S-XIII/IE-129/83, 2.3.86.

¹¹ No. 2-XIII/R-5/85/30.

¹² No. S-XIII/V-1/85/370.

¹³ Government of Bangladesh, *Annual Report-2002, Ministry of Expatriate Welfare and Overseas Employment*, 2003.

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¹⁷ Siddiqui, 2001 op.cit.

¹⁸ INSTRAW-IOM, 2000 op.cit; Siddiqui, 2001 op.cit.

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²³ Quoted in Siddiqui (ed.), *Beyond the Maze* 2002, pp. 53. Speech delivered by Professor Wahiduddin Mahmud, former Advisor to the Interim Government in 1996, at a conference on 'Streamlining Labour Recruitment Process in Bangladesh for Employment Abroad', 24 September 2001.

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³⁶ Anisur Rahman, "Migrant Workers' Rights and Duties in Destination Countries" in *Module on Labour Migration Process for Awareness Campaign through Community Leaders and Activists*. Dhaka, RMMRU, 2001.

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3

India

Migrant Workers Awaiting Recognition and Protection

Parmajit Singh Sahai and Krishan Chand

3.1 Introduction

The study on out-migration from India looks at the Indian scene relying upon its findings from case studies from two major emigrant states – the southern state of Kerala and the northern state of Punjab. The study largely relies on data from original sources, such as Governmental and Parliamentary reports from India as well as other countries. The primary data has been supplemented with secondary data from published sources, such as books, newspapers, journals, etc.

The published data on international migration in India is rather limited. This, therefore, has been supplemented with field visits, including interviews/meetings with senior Government officials from the Ministries of External Affairs and Labour, Reserve Bank of India, the Police, employers, recruiting agents, Protectors of Emigrants in Delhi and Chandigarh, Protector General of Emigrants, Chief Passport Officer, Regional Passport Officers in Jalandhar and Chandigarh and the officers in charge of the Punjab Overseas Employment Service.

In the case of Kerala, a number of studies by experts have been drawn upon, while in the case of Punjab, the study relied on personal interactions and data collected through field visits. Even the data on migrant workers available with the Ministry of Labour on Punjab may not give a correct picture on the flow of migrant workers from this State, as a large number of Punjabis head for Australia, Canada, the United Kingdom and the United States of America, for which they do not need emigration clearance.

As the emphasis of this study is on the role of trade unions, special efforts were made to interact individually with a large number of senior trade union leaders at the national level from five major trade unions – Indian National Trade Union Congress (INTUC), All India Trade

Union Congress (AITUC), Centre for Indian Trade Unions (CITU), Hind Mazdoor Sabha (HMS) and Bharatiya Mazdoor Sangh (BMS). To understand the problems at the grassroots level, meetings were also held with trade union leaders at the local and state levels. The field investigation also included discussions with returnee emigrants, new emigrants and their family members.

Discussions were held with journalists to get a perspective on the investigative role of the media. Attempts were also made to understand the role of non-government organizations (NGOs), through meetings with some leading NGOs, such as the Non-Resident Indians (NRIs) Sabha, Punjab.²

3.2 A Tradition of Migration

Asian countries can be grouped under three categories in the context of labour migration:

- Labour Sending Countries: Bangladesh, China, Indonesia, Nepal, Philippines, Sri Lanka, and Vietnam etc.
- Labour-Sending and Receiving Countries: India, Malaysia, Pakistan, and Thailand etc.
- Labour Receiving Countries: Middle East, Brunei Darussalam, Taiwan (China), Japan, Republic of Korea, Hong Kong SAR and Singapore.

Emigration is not a new phenomenon in India. Emigration of Indians is centuries old, as India has a tradition of interacting with the world at large, in keeping with its ethos of “*Vasudeva Kutumbkam*” (the whole world is a family). The tradition goes back to around 268-231 B.C. when Emperor Ashoka sent messengers across the world, spreading the message of peace of Lord Buddha. There had also been a regular flow of people from ancient India to other parts of the world through the Silk Route. However, the last two centuries have witnessed systematic movement of people from India to all parts of the world and the Indian diaspora today constitutes the third largest group, next only to the British and the Chinese.

The origins of modern-day out-migration go back to the colonial period, with the dispatch of indentured labour from India to the

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erstwhile British colonies, in 1824, under a government-controlled system. The British did this with a view to replacing Black slave labour with indentured labour from India, after the abolition of slavery. The main receiving countries of Indian labour then were the West Indian colonies, Fiji, South Africa, Mauritius, Malaysia and Ceylon (Sri Lanka).

Historically, five distinctive patterns of Indian emigration can be identified.³

- Indentured labour emigration
- *Kangani/maistri* labour emigration
- 'Free' or 'passage' emigration
- Voluntary emigration to Europe, North America and Oceania
- Labour emigration to the Middle East.

Besides being sent as indentured labour, Indians also migrated as contract labourers under the *kangani* system to Malaysia and Sri Lanka and to Myanmar under the *maistri* system to work in sugar and rubber plantations. This was followed by migration of white collar workers, technicians and trading classes to East and South Africa, under a system called free or passage migration. Then came large scale Indian migration to the advanced industrial societies of Europe and North America – in the early nineteenth century to Britain and in the twentieth century to North America. A regular flow, however, commenced only in the 1960s. The fifth and final pattern consists of Indian migration to the Middle East during the 1970s. The last two patterns are still continuing.

Only certain regions in India contributed to the outflow of migrants. The indentured labour was largely sent from the Bengal, Madras and Bombay Presidencies. International labour migration was predominantly from the Hindi-speaking zones of Bihar and eastern Uttar Pradesh, which formed part of the then Bengal Presidency. This was followed by recruitment from Tamil speaking areas in the Madras Presidency, which was also the source of recruitment of contract labour under the *kangani* system. Under the free or passage emigration, the majority of the migrants were from Punjab and the western state of Gujarat. The Sikh community from Punjab also dominated the early migration to

Britain and North America, i.e. Canada and the United States. The labour emigration to the Middle East is largely from Kerala. Over the years, the centres of migration from India have multiplied, though people from certain regions still dominate.

Historically, Indian migration also reflected migration of different classes depending upon the requirements of the receiving countries. The labour or working classes, who were the first to leave Indian shores, whether they went as indentured or contract labourers, became the early settlers in receiving countries, as very few of them returned to India. Their contact with India also diminished over the years. On the other hand, white collar workers and trading communities, which formed a part of the educated and trading classes, continued to maintain their links with India. The migration to the West was largely of skilled workers and professionals. Migration to the Middle East, which is largely of skilled and semi-skilled workers, now has a component of highly qualified professionals, as doctors, engineers, teachers etc.

Indian migration under the first four patterns has been in the form of settlers, while in the case of the last pattern it has been largely that of contract workers, as they do not enjoy the right to settle permanently in the receiving countries of the Middle East. However, there are some early Indian settlers in some of those countries such as Iraq, Iran and Yemen.

Indian emigration has been largely in the nature of response to requirements in the receiving countries.

3.3 Legal Framework

The first law relating to emigration was the Indian Emigration Act, 1922. This was replaced by the Emigration Act, 1983 because the parameters of India's migration policy had changed and there was an urgent need to draft an appropriate legislation to meet the growing requirement of migrant workers in the Gulf countries.

The Emigration Act, 1983 reflected the ethos of an independent India, which was concerned with the welfare of its migrant population. The primary focus shifted from control to protection of those who could not protect themselves. It was, therefore, befitting that the topmost official under the 1922 Act – the Controller-General of Emigrants – was

re-designated as the Protector-General of Emigrants in 1983. Since most of the migrants generally fell in the workers' category, it was appropriate that the subject of emigration and the office of the Protector-General were both transferred to the Ministry of Labour from the Ministry of External Affairs.

The Ministry of External Affairs, however, continues to be involved in the matter of emigration at the initial stages, since the issue of travel documents (passports) is still under its jurisdiction. Indian diplomatic missions, which function under the control of this Ministry, are involved in the migration process at different stages, right from the time of approval of the employment contract, resolution of the problems relating to the wages and working conditions and deportation and repatriation in case of serious problems.

The word 'emigrant' under the 1983 Act covers "any citizen of India who intends to emigrate, or emigrates or has emigrated", but does not include family members and those persons who have been resident abroad for more than three years. At the functional level, therefore, the Act gets restricted to clearances largely to the Gulf countries and certain other parts of Asia. The other migrant population – the white collar workers and the software professionals – remain outside its purview. This, however, is not the case with the various International Labour Organization (ILO) Conventions on migrant workers – Migration for Employment Convention No. 97 (revised) (1949) and Migrant Workers (Supplementary Provisions) Convention No. 143 (1975) and the United Nations (UN) International Convention on the Rights of All Migrant Workers and their Families, 1990, all of which use a broader definition of emigrant. These differences in nomenclature create problems in the compilation and interpretation of data.

The Act applies to a restricted category of persons, who go abroad for 'work'⁴ It largely covers 'migrant workers', plus a few other categories, such as nurses, secretarial and hospitality staff etc. Thus, the Act was meant to cover those who were not educated enough to protect themselves, and thereby minimize the exploitation of workers in search of greener pastures.

Under the Act, migrants can take any of three routes in seeking emigration clearance from the Protector of Emigrants, in whose

jurisdiction they fall. They could process the case themselves, through a recruiting agent or through an employer, who in turn, can do so himself or use a recruiting agent. Theoretically, it is not necessary to take the help of a recruiting agent, but this channel is frequently used, both by the individual and the employer, and these middlemen have become an essential part of the migration process.

Anticipating that this would happen, the Government has made detailed provisions regarding recognition and removal of recruiting agents in the 1983 Act and the Emigration Rules, 1983. A recruiting agent works under a permit issued by the Ministry of Labour, initially for a period of three years, which can be subsequently renewed. He is required to provide a security deposit, the amount of which varies on the basis of the number of persons he is authorized to recruit. The present scale is Rs. 300,000 (up to 300 workers), Rs. 500,000 (301-1000 workers) and Rs. 1,000,000 (1,001 workers and above).⁵ The security deposit is extremely low, considering the cost of international airfares. As of 31 December 2002, registration certificates had been issued to 3,677 recruiting agents. Of these, 1250 agents are active and operate primarily from five main centres. To make the migration process transparent, the Government has prescribed a scale of fees which the migrants are required to pay. The current rates are: unskilled workers (Rs. 2,000); semi-skilled persons (Rs. 3,000); skilled workers (Rs. 5,000) and other categories (Rs. 10,000).

At the operational level, the work relating to the emigration clearances is performed at eight offices of the Protector of Emigrants located at Chandigarh, Chennai, Kochi, Delhi, Hyderabad, Kolkata, Mumbai and Thiruvananthapuram to cater to various regions. Kerala is the only state to have two offices (at Kochi and Thiruvananthapuram) as it has the largest emigrant population in the country. Since May 1999, the Protectors of Emigrants have been working on Saturdays to facilitate the issuance of emigration clearances. All Protectors of Emigrants work under the guidance and control of the Protector-General of Emigrants in the Ministry of Labour.

The 1983 Act provided only a regulatory mechanism. The Government has, therefore, decided to amend it to provide a 'promotional role' to cope with the migration phenomenon in this globalized world.

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The Government plans to use the amended Act to “study the needs and demands of the overseas labour market” and to provide “training or career counselling to the workers going overseas”.⁶ This is expected to be achieved through the setting up of a Central Manpower Export Promotion Council. An Indian Overseas Workers’ Welfare Fund is also being created “to provide some financial assistance or relief to emigrant workers who are in distress in foreign countries”.⁷ A participatory role is being provided for trade union leaders, as three members of the proposed Council would represent the central trade unions.

The functions of the Council as defined in the draft Emigration (Amendment) Bill, 2002 would be as follows:

- Promotion of employment opportunities for emigrants.
- Projection of manpower services.
- Collection of statistics and information relating to employment opportunities and matters connected therewith.
- Collection and maintenance of statistics and information in respect of persons seeking employment.
- Liaison with other export promotion agencies.
- Making recommendations to the Central Government about the standards and guidelines for overseas employment.
- Administration of the Indian Overseas Workers’ Welfare Fund.

India has not ratified ILO Conventions 97 and 143 or the 1990 UN Convention. India only ratifies a Convention that is in conformity with its laws and practice, as Conventions create legally binding obligations. India has a bilateral labour agreement with Qatar only but expects to sign a few more agreements with other countries. The 1983 Act, therefore, remains the only legal framework available to migrant workers.

3.4 Employment Perspective

The 1983 Act is of limited relevance in collecting data on migrant workers, as a large category of persons fall outside its ambit. At present, persons falling under 17 categories are exempted from obtaining emigration clearance. There is also no need for clearances for going to the United States and the western countries. Data, therefore, is available

only in respect of persons migrating primarily to the Gulf countries and, within that, only for those who fall in the category of unskilled, semi-skilled or skilled workers. On a yearly basis, emigration clearances for the last 15 years have varied from 4,38,000 in 1993 to 1,99,552 workers in 1999, which was the lowest figure in any particular year. The decline in the number of emigrating persons in 1999 is primarily “due to the determined efforts of the governments of the Gulf countries to provide jobs to local population, maintenance of ethnic balance, completion of various projects and more rigorous sorting before visas are granted”.⁸ An upward trend is visible between the year 2000 and 2003 and 3,68,000 workers were granted clearances in 2002, even though it did not reach the peak figure obtained in 1993.

Data on outflow from India by destination is also available. Saudi Arabia is the largest destination, with 99,453 migrant workers obtaining clearances in 2002, although it had peaked to 2,14,420 workers in 1997. The United Arab Emirates (UAE) and Oman follow close behind, with 95,034 and 41,209 workers respectively in 2002. Besides the Gulf countries, Singapore and Malaysia are now emerging as major labour-receiving countries. In 2002, 24,399 migrant workers obtained clearances for Singapore and 10,512 for Malaysia.⁹

The available data also provide useful information on the state-wise distribution of migrant workers. The states of Kerala and Tamil Nadu alone account for 43 per cent of the emigration clearances issued in 2002, sending 81,950 and 79,165 workers respectively. They were followed by Andhra Pradesh (38,417), Rajasthan (23,254), Punjab (19,638), Uttar Pradesh (19,288), Bihar (19,222) and Karnataka (14,061).

Emigration clearances from Punjab formed only 5.35 per cent of total manpower outflow from India in 2002. Manpower outflow from Punjab has not shown any consistent pattern, even though it peaked to 26,876 workers in 1998. However, as noted earlier, this does not fully capture migration from the state, as a large number of migrants go to the western countries, for which no emigration clearance is required.

The data on migrant workers does not fully reflect the total migration flow also because a number of persons who obtained suspension of emigration clearances for tourism, sports, cultural, family ties, end up working in the countries to which they go. A total of

4,37,000 persons obtained suspension of emigration clearances during 2002, which is 16 per cent higher than those granted emigration clearance during that year. This becomes one source of undocumented workers, who adopt a circuitous route by transiting through countries which provide visa free entry or easy access.

Useful data are available on the flow of migrants into important traditional immigrant countries. India has been one of the top ten labour-sending countries to Australia, the United Kingdom and the United States. It emerged as the second largest sending country (70,290) into the United States after Mexico (2,06,426) in 2001, accounting for 14 per cent of migration inflow. This was an increase over 1986, when India occupied the sixth position with 28,227 persons. In the case of Australia, India was the fourth largest sending country, with 4,631 persons in 1999, accounting for 5 per cent of the total inflow of 92,272 persons in that year. In the case of the United Kingdom, India was the third largest manpower sender, with 7,280 persons in 2001, which also formed 14 per cent of the total inflow (See Chart 1.1).

The workers who emigrated from Kerala included unskilled and construction workers as well as skilled workers, such as carpenters, electricians, fitters, foremen, welders, masons, painters, surveyors and supervisors. The highly skilled workers include engineers, technicians, paramedical staff and office staff. Forty-one per cent of emigrants were construction workers, 21 per cent were in the skilled category and only 4 per cent were in the highly skilled categories.¹⁰

The UAE is the major receiving country of migrant workers from Kerala and its tertiary sector – trade, restaurants, transport, communications, real estate, business, manual and management services – is the largest employer of migrant workers from India. Punjab accounts for nearly one-third of its emigrants to the Gulf countries, especially the UAE (22 per cent). The other important destinations for migrants from Punjab are Canada (20 per cent), United Kingdom (15 per cent), and United States (11 per cent). The chances of permanent settlement in the western countries are much higher. Most of the recent migrants are professionals and skilled workers.¹¹ Emigrants to West Asia and the Gulf countries work as unskilled, and skilled labour, particularly in the construction sector. Recently, according to recruiting

agents, they have also started taking to trade, paramedical and other administrative jobs.

Certain important features of migration flows from India are noteworthy. First, as already mentioned, migration to the Gulf countries is largely of workers, although the number of professionals is rising. This has contributed to a change in the image of India in these countries. Migration to the industrialized countries, however, is largely of persons with “professional expertise, technical qualifications or other skills”. In the United Kingdom, Indian doctors run government hospitals. In the United States, the Association of Physicians of Indian Origin has become an important lobby group. Second, the outflow to industrialized countries is made up almost entirely of permanent migration as the proportion of emigrants who return is almost negligible.¹² Third, migrant workers to the Gulf countries are not accompanied by their families, which is not the case with the professionals. Fourth, out-migration has certainly had an impact on unemployment. Out-migration had resulted in a 3 per cent reduction in the unemployment rate in Kerala during the mid-1990s. Fifth, international migration has given rise to inter-state migration within India, such as the movement of persons from the states of Uttar Pradesh and Bihar to Punjab and the Union Territory of Chandigarh.

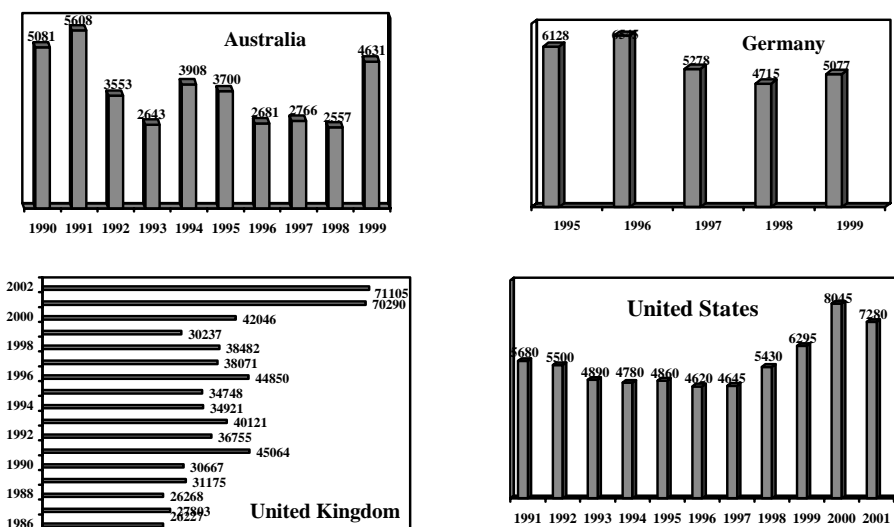
No official data are released on the occupational or gender break-up of the migrating community from India. In the case of India, migration is largely a male-dominated phenomenon, except in the case of a few professions, such as maids, teachers and nurses. There are no gender boundaries in the case of professionals and an increasing number of women professionals are migrating to the industrialized countries.

Indians are to be found in all professions, as doctors, engineers, academicians, scientists, technocrats, hoteliers, although predominantly as software engineers, skilled and semi-skilled workers. Certain state-wise trends are evident, with the dominant presence of people from Kerala in the Gulf, from Tamil Nadu in Singapore and Malaysia and from Punjab in Canada. It is not, therefore, surprising that the Canadian Prime Minister, Jean Chretien, chose to visit Amritsar and Chandigarh on the occasion of the festival of Diwali on 25 October 2003 during his visit to India. He was the first Canadian Prime Minister to visit the

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Golden Temple – the temple of the Sikhs in Amritsar – and was re-christened ‘Jean Singh Chretien’ as a gesture to mark Canada’s connectivity with Punjab. He noted that the setting up of the Canadian Consulate General in Chandigarh would further “help in improving flow of people between two countries” and pointed out that Sikhs formed 2 per cent of Canada’s population, which is close to the percentage of Sikhs in India.¹³

Chart 3.1 Inflow of Migrants from India into Australia, Germany, UK and USA



The role of the Indian Government in migration is mainly facilitative (through its diplomatic missions and the Passport Office) and protective (through the Emigration Act and the Protectors of Emigration). Emigration has been largely an individual enterprise, with the Government not playing a promotional role. It has no say on the quantum of migration flow out of India, which largely responds to the policies adopted by labour-receiving countries. The *International Migration Report, 2002* notes that the Indian Government considers migration flows “satisfactory” and plans to “maintain” its present emigration policy.

Different countries adopt different strategies towards migration, largely in response to requirements of their economy or partially in response to the demand of trade unions. The United States regulates the flow of migrants, largely through immigrant visas (for family member and professionals) and an intermediary mechanism called H1-B visa category, which is of a temporary nature for a three-year stay, which can be extended by another three years, ultimately paving the way for immigration. Canada has its own point system to meet its requirements of manpower, while ensuring that no cultural imbalance is created. Germany has a green card scheme but this has not received encouraging response from Indians. Between March 2000 and August 2003, only 4,072 Indian information technology (IT) specialists had availed of green cards.¹⁴ It still makes India the largest single country to avail of green cards in Germany, although it is rather insignificant in absolute numbers.

India has so far been a silent player in promoting migration at the national level, although at international fora, such as the World Trade Organization (WTO), it has espoused the case of open borders, allowing for free movement of labour. This has not happened so far. On the other hand, Indian migrants are likely to face more controls, as local leaders in labour-receiving countries blame them for increase in unemployment. According to a survey conducted for *The Sun* in the United Kingdom, immigration has become the single most important concern for the voters, more than crime.¹⁵ There is also a growing concern regarding immigration in the United States. The United States Congress has allowed higher ceilings under the H1-B category visa to fall from its present levels of 195,000 to 65,000, from 1 October 2003. The number of visas dropped by 75 per cent between 2001 and 2003.¹⁶ India is likely to feel its impact resulting in lesser flow of migrants. The concern over terrorism following the 9/11 incident is also likely to have an impact on the quantum and direction of migration.

India has to understand all the ramifications of international migration, even though it has moved away from its earlier concerns over 'brain drain' and has adopted a new slogan of 'brain gain', as it has started seeing migration in a positive light. On the other hand,

concerns have been expressed within the United Kingdom over the National Health Services' (NHS) plans to recruit psychiatrists from India and this is being dubbed as the 'Great Brain Robbery'. The proposal to set up a Manpower Export Promotion Council is a long-awaited step in the right direction. What remains to be seen is how soon this is established and when the machinery is set up to implement its objectives. India has "to take note of the changes in employment patterns and plan accordingly."¹⁷

3.5 Impact on the National Economy

My dear boy, whatever you see around is the miracle of the US, England and Canada. Till now we had lived in penury. Since my eldest son went abroad, things have changed dramatically. My wife and I stay alone in this big house, but this loneliness is simply not tolerable. Now, everybody in the village wants to emigrate, seeing our prosperity and achievement, whatever be the route or strategy a person may adopt. What everybody wants is good life for his/her family. Have you not seen those migrant labourers from Uttar Pradesh and Bihar who consider Punjab as their own America? One who once comes here never thinks of returning. Perhaps this is the reason that there is nothing left to be done by us. There is no way other than going abroad. The work, which we want to do, is not available to us here, and what is available to us, we are not willing to do. Son, this is the irony of life, which our children and we are enduring. Son! We have too much money but ..."²⁶

These words of Charan Singh of Khera Dona village in the Kapurthala district of Punjab capture the fact that the primary motivation for migration is financial or economic gain and that the United States is the ultimate destination for material wealth. Youth from Punjab are prepared to reach the United States by whatever means and Punjab itself has become the United States for residents of other less developed Indian states. Migration generally leads to important gains for the sending countries, primarily through remittances. International wage

differentials become large, due to the higher convertible value of currency earned, especially from the developed countries. At the aggregate level, labour migration affects the economy of sending countries through its impact on the labour market, on macro economic variables (savings, balance of payments, etc. and social relations).¹⁸

A Jalandhar-based recruiting agent said that migration impacts upon the economy and society of Punjab in three ways. It helps reduce unemployment, generate foreign exchange and lower the growth rate of population. Migration has also resulted in deficit in certain occupations – masons, carpenters, fitters, and technicians – and this makes these services more expensive for residents. Punjab has also seen a reduction in the growth rate of population, from 2.39 per cent in 1971-81 to 2.08 per cent in 1981-91 and to 1.98 per cent in 1999-2001.¹⁹ The effect of remittances is visible across the Hoshiarpur-Jalandhar belt, where the skyline is dotted with palatial buildings. An earlier survey on households with migrants, showed that 3 per cent had current migrants and over 50 per cent had sent remittances.²⁰

Realizing the importance of remittances in earning foreign exchange and in economic development, the Government of India has been adopting pro-active policies since 1975, such as differential rates of interest for dollar deposits and special schemes providing for higher investment threshold for NRIs. Banks are competing with one another in attracting remittances, with the public sector State Bank of India periodically launching attractive schemes to attract deposits from NRIs. The Government had earlier floated other schemes, such as purchase of cement, tractors etc. from time to time against remittances from abroad, as these commodities were then in short supply with a long waiting period.

Throughout the 1980s, remittances remained steady, with a slight increase every year. In the 1990s, it increased rapidly from US \$ 3.58 billion (Rs. 94.18 billion) in 1991 to nearly US \$ 11.83 billion (Rs. 437.64 billion) in 1997-98. These private transfers did not show any increase in 1998-99. There was an approximately 30 per cent increase between 1998-99 and 2000-01, though there was a marginal decline in 2001-02 (See Table 1.1.)

Table 3.1 Receipts of Private Transfers From Emigrants

Year	<u>Remittances in</u>	
	US \$ billion	Rs. billion
1981-82	2.3	20.8
1982-83	2.5	24.3
1983-84	2.5	26.4
1984-85	2.5	29.8
1985-86	2.2	27.1
1986-87	2.3	29.9
1987-88	2.7	35.3
1988-89	2.6	38.6
1989-90	2.2	38.2
1990-91	2.0	37.1
1991-92	3.5	94.1
1992-93	2.6	81.2
1993-94	5.2	165.1
1994-95	6.2	254.1
1995-96	8.5	286.6
1996-97	12.3	438.6
1997-98	11.8	437.6
1998-99	10.3	434.9
1999-00	12.2	532.8
2000-01	12.8	587.5
2001-02	12.1	578.2

Source: Reserve Bank of India.

Zachariah and Kannan highlight the importance of migration and its impact on Kerala:

Migration has been the single-most dynamic factor in the otherwise dreary employment scenario of the socially well developed state . . . in the last quarter of the twentieth century. In recent times, migration

has contributed more to poverty alleviation in Kerala than any other factor, including agrarian reforms, trade union activities and social welfare legislation.²¹

A case study on the Gulf migrants from Kerala conducted in 1993 notes that the share of remittances in the state's income in the 1990s ranged from 17 per cent in 1991-92 to 24 per cent in 1997-98, with an average of 22 per cent for the second half of the decade. As a result, Kerala's per capita income not only caught up with the average per capita income of India as a whole but also started exceeding it, reaching 49 per cent above the national average by the end of the 1990s.²² This study further notes that these remittances, in the form of bank deposits, could be converted into investments, thereby generating employment. Remittances have certainly raised the standard of living, education and health status of the families of migrant workers.

Detailed studies on remittances are not available in the case of Punjab, but they have certainly played a significant role in the development of the state and growth of various sectors, like agriculture in the initial periods of the Green Revolution. Families used remittances to buy tractors and other agricultural equipment through schemes floated by Government. The districts of Jalandhar, Kapurthala, Hoshiarpur and Ludhiana, which account for a large share of out-migration, have seen a lot of development in rural areas, especially of families with emigrants.²³ Another study shows that 12 per cent of 50 progressive farmers installed tubewells for irrigation with the help of remittances sent by their relatives abroad.²⁴

Some migrants have adopted an entire village for development as a model village, while others have built hospitals, schools and funded social welfare schemes like drinking water and sanitation facilities, sports and other facilities. Some have contributed to religious places while others have organized cultural and sports festivals. Prominent model villages in Punjab developed by Indians abroad are Pallahi near Phagwara, Begowal near Doraha, Sang Dhesian near Goraya, Jalwan in district Sangrur, Budh Singh Dhahan Kaleran near Nawanshahar, Matewal near Amritsar, and Bassi in Hoshiarpur.²⁵

A scientific model village plan was made for Khera Dona village. The survey of this village had shown that families with emigrants were

enjoying all the basic amenities, irrespective of their caste and there had been a lot of improvement in their living status, health, and education. Economic prosperity also led to a lowering of social barriers. This was not the case with families which had no relatives abroad and were relatively less prosperous.²⁶

Thus, India as a sending country has benefited at a macro level through remittances, which now average around US\$ 12 billion per annum, helping it achieve a comfortable foreign exchange position. However, there is always risk of withdrawal of such NRI deposits in the absence of attractive investment schemes or civil disruption. Migrants have also contributed to foreign direct investment though the total figure is rather low at US\$ 1.3 billion. Indirect benefits have been seen in Kerala, Punjab and Gujarat, as some of the remittances have flowed into development projects and social infrastructure, although they have been largely utilised for consumption-oriented activities. However, the prosperity brings with it a social and economic cost.

3.6 Economic Impact On Receiving Countries

The words of Peter Stalker below sum up the overall impact of migrants in receiving countries:²⁷

Immigration arrival means different things to different people: for communities, new neighbours with different culture and different language; for employers, a supply of fresh and often cheaper labourers/workers; for school children, new classmates from different countries. The welcome may be warm or hostile – rarely neutral, and according to their own attitude and interests.

This section focuses only on the effects of migration on employment and income of domestic workers and the contribution of migrants to the economic growth of the receiving country, industry and other sectors.

One of the most sensitive and striking issues is the effect on employment and income of the domestic workers. It is often argued that migrant workers steal jobs from domestic workers and create unemployment in the host society and that only the sending countries benefit from this process. Evidence from the empirical studies has shown that migrant workers make meaningful contributions to the

economy and society of host countries and that without them, some sectors in the receiving countries might not have survived at all. It seems that migrant workers have a relatively neutral impact on the labour market for employment and that they have created at least as many jobs as they have occupied.

The migrant workers are generally employed in the jobs that native workers do not want to take up, such as harvesting crops, washing dishes in restaurants, low wage manufacturing and other manual jobs and jobs on construction sites. It is not uncommon to see a handsome Sikh in a beautiful turban as a doorman at a five-star hotel in Singapore or a sweeper at the Heathrow Airport at London or an Indian waiter at a hotel in Kuwait or at a construction site in the scorching heat in Saudi Arabia.

Similarly in Canada, temporary or illegal migrant workers do socially undesirable jobs that Canadians are not ready to perform, such as fruit harvesting. In Germany and France also, the migrant workers are given the most unpleasant and dangerous tasks. Most people in these countries recognize that immigrants do unpleasant manual jobs and work hard. There is a larger concentration of illegal migrants in lower status jobs.²⁸

This pattern is by no means confined to the rich countries. The more dynamic developing countries also draw workers from their less prosperous neighbors to do jobs the natives do not want to. This trend also exists in Malaysia, with Indians, Sri Lankans, Bangladeshis, Pakistanis, and Indonesians performing low-end jobs. Domestic workers from India, the Philippines, Sri Lanka and Thailand are now a common sight in receiving countries. By doing menial jobs, they release native women for full time employment not only in the developed western countries, like the United States, United Kingdom and Canada but also in developed Asian countries like Japan, and the Republic of Korea.

Employment data also shows that the effect of immigrants on local wages in respect of similar service, where there is a mix, is very small and the effect may even be positive in some groups, like women.²⁹

Indian short-term and long-term migrants have created a niche for themselves in certain areas, and can be termed 'unsung heroes' in the receiving countries. Silicon Valley in the United States is as much a

success story of Indian migrants, as it is of American entrepreneurship. Motels in the United States are called 'Potels', as these are owned by Patels from Gujarat. Emigrants from Gujarat are contributing in a major way in running health services, whether in the United Kingdom, United States, Canada, Kuwait or Oman. The success of Indian migrants can be attributed to their highly professional approach and the receiving countries recognize their contribution to economic development. This is the case of settlers in the United Kingdom.

3.7 Household Economy Of Migrant Workers

Remittances from abroad have a beneficial impact on the household economies of the families of migrants and bring about changes in their social and economic status. However, remittances vary on the basis of the level of earnings of the migrants. As pointed out earlier, migrants from Punjab not only send remittances to their families but also contribute to the overall development of their native villages.³⁰ A resident of Khera Dona village reported that villagers often approach expatriates from Punjab when they want money for some developmental works. The Government of Punjab has taken a policy initiative to develop the state's rural areas with the help of NRIs and is prepared to invest up to 50 per cent of the expenditure on social projects.³¹

Family Life

Remittances from abroad have helped families build better houses, repay debts and purchase all the essential household goods. In Khera Dona village, families with migrant workers enjoy better social amenities, as compared to other families.³² Two respondents in Jalandhar and Chandigarh said that they were using their savings to meet the daily needs of the family, house construction and marriages of their children.

In Kerala, a large part of the remittances are used for household consumption, with 86 per cent of the households mentioning living expenses as the main item of expenditure. The other major use to which remittances were put were education (36 per cent), loan repayment (27 per cent), construction and repair of buildings (11 per cent) and bank deposits (8 per cent).³³

Children's Education

Migration has led to an increasing number of children availing of education. Emigrants have helped in creating and upgrading the educational institutions in their villages, making schools more accessible. Besides, parents can now afford to send their children to better schools beyond their own villages.

The Punjab Government has started the practice of reserving some seats in educational institutions, especially in professional and technical education institutions, for NRIs, which has benefited a number of households in Punjab. Since the NRIs pay higher fees, the educational institutions are able to improve their financial position. Migration has brought about a change in the attitude of parents towards female education as well. They now attach importance to education of their daughters, as it makes easier for them to find a suitable match for their marriage.

Social Costs

On the flip side, migration has its social costs as well. The out-migration of male members in the family gives rise to feelings of loneliness, psychological trauma and other mental health problems not only among spouses but the aged members of the family as well. Newly married couples feel acute pangs of separation, especially in nuclear families. Though this problem is a little less in joint families, social relations suffer in these families as well. In Punjab, the media has extensively reported on the plight of the brides who have been deserted by the NRI grooms and the National Commission of Women plans to take the matter up with the Punjab Government.³⁴ The study on Kerala also brings the problem of the 'Gulf wives' into sharp focus.

Since Indian society is still patriarchal, the absence of a male head leads to social problems and atrocities on wives of emigrants is becoming a serious problem in Punjab. The head of the Lok Bhalai Party in Punjab, Balwant Singh Ramoowalia, claims to have received 15,000 complaints, including many involving NRIs.³⁵ The press has also highlighted a phenomenon called 'proxy marriages' where women are hired by human traffickers to ensnare men into marriages, as a passport for settlement abroad, against payment in the range of Rs. 800,000 to Rs. 1,100,000.

Migration puts economic pressure on the families, as they were required to raise money to pay for travel expenses at exorbitant rates of interest or against mortgage of their immovable property or land.

There is a rise in property disputes, as even close relatives entrusted with the management of properties, tended to take over the properties, resulting in unnecessary litigation.

Though out-migration has been seen as having a positive effect on children's education, the absence of the father results in lack of guidance and children going astray, especially since they have easy access to money. However, the families of migrants seem prepared to face all these problems for the sake of long-term economic gains.

3.8 Human and Labour Rights

According to the *Report of the High Level Committee on Indian Diaspora* submitted in December 2001, the Indian migrants constitute a 10 million strong community spread across the world and its role has been well recognized by the receiving countries. However, there are also reports of the difficulties faced by them. There are a large number of unpaid Indian workers in Oman and IT professionals have been harassed in Malaysia and London. A six-member crew of an Indian oil tanker had to return early to India as it became the unwitting victim of a general strike called by the Venezuelan opposition.³⁶

There is also the problem of illegal migration. Indian migrants are languishing in Ukraine jails and 78 of them have been detained in Libya.³⁷ In March 2003, 33 Indians were found hidden in a truck heading for a European destination near France. Sometimes, this has rather tragic consequences. In December 1996, a boat carrying illegal immigrants to Europe drowned near Malta in 1996, resulting in the death of 170 persons. In June 2001, seven migrants from Punjab drowned in the Moravia river in Austria. Popular Indian singers, Daler Mehndi and Sukhwinder Panchhi, faced charges of involvement in human trafficking in Punjab.³⁸ Renowned Indian classical dancer Mallika Sarabhai, was accused of exploiting members of her dance troupe, a charge which was denied by her and was seen to be politically motivated.³⁹ There have also been reports of members of Indian women's cricket team using a cricket tour of the United Kingdom as

a cover to migrate. The High Court of Punjab and Haryana has asked the Punjab Government to review its administrative machinery and to take steps to educate the masses after consulting the Ministries of External Affairs and Labour. The Court also observed that ways to prevent middlemen from making unwanted profits must be explored.

Apart from the problem of human trafficking, there are also complaints of violation of the human and labour rights of migrant workers. The main problems faced by Indian workers are substitution of contracts or changes in terms of the contract, putting workers on jobs that are different from what they were recruited for, non-payment of salaries, cramped living conditions, withholding of passports, open visa regime, legal assistance to imprisoned workers and repatriation of dead bodies.⁴⁰ The *Annual Report, 2002-03* of the Ministry of Labour describes the complaints as 'sporadic' in nature, implying thereby that these are not very common and are manageable.

It would be useful to look at the issue of the rights of migrants from two different perspectives that of illegal migration and legal migration.

Illegal migration is a multi-million dollar industry, with the craze to go abroad and earn in dollars resulting in gullible people being lured by agents, many of whom are fly-by-night operators. They charge anywhere between Rs. 100,000 to Rs. 300,000, depending upon the country to which they promise to take potential emigrants. Migration to the United States fetches the highest price (Rs. 1,200,000–1,500,000), followed by Canada (Rs.800,000-1,200,000), the United Kingdom (Rs.500,000-700,000), Europe (Rs.400,000-500,000) and Malaysia and Thailand (Rs.100,000).

The annual 'turnover' of the human trafficking industry in Punjab alone is estimated at around Rs.1 billion. Politicians, folk artists, sports organizations and religious heads are involved in this illegal activity. A total of 1,819 cases were registered against erring travel agents between 2001 and 2002 in Punjab alone and the Punjab police received 1,909 enquiries about the identification of the antecedents of undocumented workers from Indian diplomatic missions in January-July 2003.

In Punjab, a typical human trafficking operation is described by using the analogy of a pigeon (*Kabootar*). There are four aspects to the

operation: pigeon mania, pigeon managers (touts or operators), pigeon flight (departure for a foreign land) and pigeon plight (arrest).⁴¹ In some cases, the process may end up in pigeon captivity or hiding, while the lucky ones attain pigeon freedom, whenever the host countries decide to grant amnesty to these illegal or undocumented migrants.

The Government of the United States is granting amnesty to those illegal migrants who are prepared to have electronic devices fitted into their ankles.⁴² The United Kingdom Government is also mulling a proposal to grant amnesty, but it has run into trouble because of its reportedly racial overtones.

The United States is the most preferred destination of illegal migrants from India. According to the United States Immigration and Naturalization Services (INS), 12,000 illegal migrants entered the country during 2001 to 2002.⁴³ In 1998, the American Government busted an Indian immigration racket and 31 persons were indicted. Various routes are used to reach the United States. These include Thailand, East Europe, Russia, Mexico and Canada. Though the largest numbers of illegal migrants come from Punjab and Gujarat, the phenomenon is now spreading to Maharashtra, Kerala and Tamil Nadu.

There is no authentic official data available in India on illegal migration and figures will have to be collected from countries which have offered amnesty, particularly the United States and, to some extent, the UAE and Malaysia. In most cases, undocumented workers find themselves in detention centres or jails, pending their deportation. Indian missions get involved in facilitating repatriation, in case the host country refuses to deport. The main problem encountered in facilitating their return to India is the establishment of their identity as Indians, as many of them destroy their travel documents. Steps have been taken from time to time to educate people through suitable advisories.

In the case of legal migration, necessary steps have been taken to minimize the problems relating to labour and human rights. Indian diplomatic missions and Protector of Emigrants keep in regular touch, with a view to determining the appropriate wages and other working conditions. Prospective employers and recruiting agents are required to submit an authenticated copy of the contract at the time of seeking emigration licenses. Diplomatic missions also provide all possible

assistance in resolving issues relating to labour and human rights. They keep in constant touch with the workers and seek the assistance of local governments, whenever it is required. In Malaysia, there was an association of Indian welders, which was encouraged to keep in touch with the Indian High Commission.

Migrant workers do occasionally experience violation of their human rights on account of ethnic or religious differences, though the number of such complaints is coming down. Migrants face racist attitudes even from police officers in the United Kingdom, as pointed out in a recent British Broadcasting Corporation (BBC) documentary film, "The Secret Policeman". The Indian community has been the target of racist attacks in the United States and groups like the 'Dot Busters' have targeted Indian women (who were red vermilion dots on their foreheads).

The Indian Government has taken certain steps to redress the grievances of migrant workers. The Protector General of Emigrants and other senior officials hold public hearings twice a week on Tuesdays and Fridays at the Ministry of Labour in New Delhi. The eight Protectors of Emigrants also hold public hearings in their respective zones. According to the *Annual Report, 2001-2002*, in 2001, about 1,711 petitions were handled and disposed off through this mechanism.

The Government takes steps to suspend or cancel the licenses of recruiting agents, in case they do not satisfactorily respond or have acted in violation of their Terms of Appointment. In 2001, licences of seven recruiting agents were suspended and in 2002, licences of 29 agents were suspended. A number of employers in Malaysia and the UAE had been blacklisted.

Indian diplomatic missions are taking active interest in checking exploitation of workers. Labour Attaches have been appointed in major receiving countries in the Gulf. In other cases, Consular Officers perform such functions. They frequently visit workplaces and inspect the living conditions of migrants. Special steps have been taken by the missions in the Gulf countries, Malaysia and the United States to provide timely assistance to undocumented workers, whenever their Governments have announced amnesty schemes. The missions in the Gulf countries maintain an advisory for intending migrants. The Consul

General of India at Jeddah has prepared an exhaustive advisory, which can serve as a model for missions in other countries. The NRI community is also playing an important role, with Indian Associations abroad helping migrant workers in distress. NRIs in Qatar and some other Gulf countries have set up an Indian Community Benevolent Fund. In India, too, associations like the NRIs Sabha, Punjab, are helping migrants, especially in facilitating women joining their spouses abroad and settlement of property disputes. The media also plays an active role in highlighting these issues.

The Central and state Governments have announced new initiatives to ameliorate the condition of migrant workers. The *Pravasi Bharatiya Bima Yojana-2003* a compulsory insurance scheme for those going abroad for employment, came into effect on 25 December 2003.⁴⁴ A NRI *lambardar* (village headman) has been appointed in each village in Punjab with more than 20 emigrant families, to look after the interest of NRIs, especially property disputes. The chief minister of Punjab has mooted the idea of separate courts to handle disputes involving NRIs.⁴⁵

Though legal migrants encounter problems relating to work and human rights, these are within manageable limits. The biggest problem is with regard to undocumented workers, who get exploited in India and abroad and end up in jail if caught abroad. This problem is going to stay, as long as there is the lure of money.

3.9 Trade Union Responses

The role of Indian trade unions in the issue of out-migration must be viewed against the backdrop of ILO Conventions 97 and 143 and the 1990 UN Convention. It has also to be seen in the context of the recommendations emerging out of various seminars/conferences held under the aegis of trade unions and the approach adopted by trade unions themselves.

Certain fundamental issues need to be examined at the outset. First, there is a growing trend towards minimizing the role of trade unions, even within their respective countries, and often trade unions adopt conflicting approaches on issues, because of their ideological moorings. Second, a likely conflict of interests exists between trade unions from sending and receiving countries. Third, there is the question of what

role the trade unions can play for non-members, since migrant workers are not members of any trade union either in the receiving or the sending countries. Fourth, it needs to be seen what steps the national trade unions have taken in implementing the recommendations that have emerged from various seminars and trade union initiatives.

Indian trade unions do not have a common approach, given their different political orientations. Their role also becomes complex because India is both a sending and a receiving country. They also have not worked out a modus operandi through which they can represent the interests of migrant workers. Notwithstanding this, union leaders periodically get involved with the issue of migrant workers and have voiced their concerns over migration at various seminars. They do not appear to have taken any initiative at the national level or taken any follow-up action on recommendations made at various seminars in which Indian union leaders participated.

The trade unions' involvement in the issue of migrant workers can be gleaned from interviews with senior representatives from the five major Indian trade unions. The unions express concern over the restrictions being imposed on the flow of migrants, but not on capital and goods, and see this as an imbalance in the globalization process. They feel international migration will be a fact of life so long as there are high levels of unemployment in developing countries. They see out-migration as a regional, not national issue, as this involves only a few states. International migration, therefore, has never been on the national agenda of trade unions. Some trade union leaders prefer greater involvement of the Government in the area of international migration, in order to minimize exploitation. They also feel that NGOs should play a stronger and more pro-active role.

The involvement of trade unions has been on a case-to-case basis and even here they have merely acted as post offices for grievances by forwarding the complaints to the concerned authorities. They do not have any lines of communication with trade unions in receiving countries on a bilateral basis. The trade unions have not conducted any studies at the national level or organized seminars etc. They have not come out with any publication/literature, nor have they set up any helplines. In fact, trade unions have no policy on international migration

and they broadly go along with the views of International Confederation Free Trade Unions (ICFTU)/ILO at international/regional conferences.

One trade union leader has suggested the adoption of “a holistic approach to migration”. According to him, “the issues of internal and international migrants have to be tackled not in an isolated manner with the help of the present workers’ organizations only, but by the society as a whole, as ultimately they affect the whole social structure, creating many interconnected problems.”⁴⁶ Another feels that “we may see a return of the old slavery system in case proper attention is not paid to the living and working conditions of the migrant workers within the shortest possible duration.”

The leaders suggested that the World Federation of Trade Unions (WFTU), ICFTU, World Council of Labour (WCL), International Confederation of Arab Trade Unions (ICATU) and International Organization of Migration (IOM) should be prevailed upon to launch an intense and effective movement.⁴⁷

One Indian trade union leader lamented the fact that “even the trade unions of the host countries do not feel that they have any responsibility towards the migrant labour, whose labour is also necessary for these countries’ industrial development....”⁴⁸ He also pointed out the constraint in ensuring compliance by the member countries which have not ratified the ILO and other UN Conventions and suggested that each national government should ratify the relevant ILO Conventions and ensure their proper implementation. Also national trade unions and the international trade union movement must take concerted action to help the migrants.

Another leader feels that the “ultimate solution lies in adopting an economic system free from exploitation, where sufficient employment can be generated and employment to all can be guaranteed.”⁴⁹ Drawing attention to the plight of housemaids in Kuwait, as a result of which the migration of this category has stopped since June 1999, one trade union leader urged greater protection to migrant workers in the Gulf countries and giving them the right to form trade unions.⁵⁰

Trade union leaders at the grassroots level in Punjab were unanimous in acknowledging that they were unable to play a meaningful role in protecting the rights of migrant workers. The reasons they gave are:

- Migrants are not members of their unions.

- Indian trade unions do not have the capacity and capability to organize workers in other countries.
- Many of the receiving countries do not permit foreigners to join or form trade unions.
- Preference for foreign employment of migrant workers is also dictated by the consideration that they would not be joining any trade unions.
- Trade unions cannot prevent flow of migrants because they cannot assure them of jobs within the country.

The 1983 Act does not envisage any formal role for the trade unions. This, however, does not bar the trade unions from using normal channels for interaction with the appropriate government authorities or launching programmes, which could help increase awareness about the situation of migrant workers and steps required to be taken to alleviate their conditions. The Government has proposed that three members from the national trade unions should be members of the proposed National Manpower Export Promotion Council.

3.10 Conclusion and Recommendations

3.10.1 Conclusions

India has over 10 million migrants, of which 3.6 million are in the Middle East countries. Within the country, the migrant population, however, forms only 1 per cent of the total population. The flow of Indian migrants is largely determined by economic gains.

Out-migration from India is a centuries-old phenomenon. In the olden times, there was a mix of flow of people, trade and ideas. The character of the Indian migration has changed over the years. It is no more indentured labour, as in the colonial era, but a mix of high-tech professionals and skilled and unskilled labour. The destinations for migrants falling in the category of workers are mainly the Gulf countries. The rest usually head for industrialized countries, such as Australia, New Zealand, Canada, United Kingdom and the United States. Indian migrants are found in all the professions and all the sectors of the economy, starting from unskilled to highly professional occupations.

Indian migrants have been a source of strength to India. In recognition of their role, the Indian Government has instituted an annual Pravasi Bharatiya Divas (Indian Diaspora Day), with effect from January 2003. Remittances by Indian migrants have helped India to augment heavily its foreign exchange reserves, which now touch over US \$ 10 billion annually. Case studies from Kerala reveal that remittance from migrants accounted for 22 per cent of the state domestic product during mid 1990s and resulted in the reduction of the unemployment rate by 3 per cent during that period.

The overall picture that emerges of Indian migrants is that of a group which plays a positive role in both India and the receiving countries. However, Indian migrants face problems in the sphere of labour and human rights. They are willingly or unwillingly party to dual contracts – one in the sending and the other in the receiving country and this results in problems with respect to wages and other employment benefits. They also face human rights violations, largely in the form of cramped living conditions and difficulties in practising their religions and experience problems arising out of separation from their families. The problems more or less have remained the same since the days of the enactment of the Emigration Act of 1983.

The role of national trade unions in the receiving countries largely depends upon the rules and regulations in those countries regarding their operation etc. In most of the Gulf countries, Indian migrant workers are barred from participating in trade union activities. They also find it difficult to participate even in those countries where trade union activities are openly allowed. Indian migrant workers generally distance themselves from involvement in trade union activities while abroad. Indian trade unions are also not active, either in India or in the labour-receiving countries, in protecting labour or human rights of migrant workers.

Indian migrants cannot seek redressal from international legislation as India and important immigrant countries have not ratified the relevant ILO and UN Conventions. These Conventions, however, act as a moral force. Indian migrants, who fall in the category of workers, can take recourse to legal remedies under the 1983 Act and provisions of the existing criminal law. The Act, however, is of a limited and regulatory

character. The Government now recognizes the need for playing a proactive role on the international migration scene and has proposed an amendment to this Act, in the form of Emigration Bill (Amendment), 2002, which will set up a Central Manpower Export Promotion Council to undertake promotional activities and an Indian Overseas Workers' Welfare Fund to look after the welfare of migrant workers.

3.10.2 Recommendations

The main recommendations flowing out of the above scenario would broadly focus on awareness, enforcement of law and involvement of trade unions and civil society. It would be important in these cases to take stock of the stage of implementation of various international activities (seminars and conferences) on migration, with a view to determining those proposals which have been implemented or are feasible to be implemented and then prioritizing them for implementation by different bodies – government, employers, trade unions, civil society, ILO etc.

The specific recommendations with respect to the various categories are as follows:

Government

- Facilitate the early passage of the Emigration Bill (Amendment) 2002 to enable the Government to perform a promotional role. Simultaneously, the Government needs to announce its international migration policy, not only for the intending migrants but also for all the other players. The early establishment of the Central Manpower Export Promotion Council and Indian Overseas Workers Welfare Fund would be steps in the right direction.
- Launch awareness campaigns on a regular basis on the pitfalls of migration through touts or promoters and give wide publicity to the plight of migrant workers in specific cases, so as to discourage intending migrants from being duped.
- Strictly enforce the existing legislation and penalize those involved in human trafficking. The Government must consider setting up a separate Tribunal for Migrant Workers, where cases can be speedily tried. The names of recruiting agents whose licenses have been

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suspended or cancelled should be publicized both in the sending and the receiving countries.

- Prepare an Advisory on the Gulf countries and industrialized immigrant countries. Such pamphlets should be prepared in local languages.
- Involve law enforcement agencies, such as the police through the Community Policing Resource Centre, Kapurthala, in building people-friendly programmes that help in creating confidence among the public as well as apprising them of the problems faced by the migrants.
- Enter into bilateral labour agreements, wherever possible. Existing NRIs communities in states should be encouraged to look at the issues concerning migrant workers.
- Set up 'reception centres' or 'facilitation centres' at airports to assist intending/returnee migrant workers in case of any problems with the immigration/custom authorities. These should also become focal points in facilitating smoother resettlement in their respective areas.
- Effectively monitor various agencies involved in the process of migration.
- Compile data on migrants, disaggregated on the basis of occupation, and gender, especially in respect of migrant workers, who obtain emigration clearance.

Employers

- Sign bilingual employment contracts, with a view to obviating problems faced by migrants, as original contracts are changed after arrival in the receiving countries.
- Facilitate the registration of all new migrant workers with the respective diplomatic missions abroad.
- Send annual reports on the status of migrant workers to the respective diplomatic missions.
- Give prominent publicity to deregistered employers, who have violated the terms of employment agreement etc. Their names should be displayed on the notice boards in diplomatic missions abroad.

Trade Unions

- Compile data on the focal points in the trade unions and the role that they are playing or can play. Such information should be made available on the Internet.
- Prepare a brochure on success stories of international/national trade unions in protecting the rights of migrant workers.
- Launch an ‘awareness campaign’ at the grassroots level. Every year, two or three districts should be selected in each state, which are known for human trafficking.
- Prepare data on the trade unions in the receiving countries which are already involved in looking after the rights of migrant workers. Trade unions should be asked to establish contact with those unions from the receiving countries.
- Encourage migrant workers to join national/local trade unions, wherever possible, as setting up separate unions for migrant workers is likely to be counter-productive.

Civil Society

- Prepare data on NGOs involved in migrant workers issues on a countrywide basis.
- Encourage the setting up of NRIs/migrants bodies in the sending countries, which can look after their interest.
- Consider socially ostracizing those indulging in human trafficking and displaying their names at important public places.
- Consider innovative ways in which the media could be involved and radio could be an important channel to promote such awareness.

ILO

- Provide assistance to trade unions and other bodies in the collection of data and preparation of appropriate directories.
- Help in evolving a model employment agreement and advisory for migrant workers.
- Consider launching an awareness campaign on December 18, International Migrants Day, with activities being organized at the grassroots level.

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- Encourage cultural artists/folk singers/dramatists to prepare suitable messages in the form of skits etc. for the benefit of intending migrants.
- Hold seminars on a regular basis for trade union leaders, especially at the grassroots level, with a view to sensitizing them on migrant workers' issues and encouraging them to spread the message. A suitable training module on the lines of modules for the panchayati raj institutions could be developed.
- Consider holding meetings in the sending countries, as their equal involvement would be necessary to achieve the overall objective of protecting the interests of migrants.

Annex Table 1

India

<i>Indicator</i>	<i>1990</i>	<i>2000</i>
Population		
Number (<i>thousands</i>)	844 886	1 008 937
Rate of natural increase per 1,000 population ^a	18.9	17.2
Rate of growth per 1,000 population ^a	18.6	16.9
Migration stock^b		
Number (thousand)	7393	6271
Per cent of population	0.9	0.6
Refugees^c		
Number (thousand)	12.7	170.9
Per cent of migrant stock	0.2	2.7
Net Migration^a		
Number (thousand)	-256	-280
Rate per 1,000 population	-0.3	-0.3
Number per 100 births	-1	-1
Workers' Remittances^d		
Total (millions of US dollars)	2352	9034
Per cent of gross domestic product	0.7	1.9
Per capita (US dollars)	3	9
Government positions concerning migration		
<u>Migration levels</u>		
View	Satisfactory	Satisfactory
Policy	Maintain	Maintain

<i>Indicator</i>	<i>1990</i>	<i>2000</i>
<u>Emigration levels</u>		
View	Satisfactory	Satisfactory
Policy	Maintain	Maintain
Parties of United Nations Instruments (year ratified)		
1951 Conventions relating to the Status of Refugees	Not ratified	
1967 Protocol relating to the Status of Refugees	Not ratified	
1990 international Convention on the Protection of the Rights of All Migrants Workers and Members of their Families	Not ratified	
2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children ^e	Not ratified	
2000 Protocol against the Smuggling of Migrants by land, Sea and Air ^e	Not ratified	
Projected population in 2050 (thousand) ^f	1 572 055	
Projected population in 2050 assuming zero migration after 2000 ^g	1 587 616	

Source: *International Migration Report, 2002*, International Organization of Migration (IOM), Geneva.

^a Estimates represent annual averages for 1990-1995 and 1995 –2000.

^b Estimates mid-year number of persons born outside the country or area with the addition of refugees.

^c Data are compiled by UNHCR and refer to the end of the year.

^d Based on data compiled by IMF.

^e Supplementing the United Nations Convention against Transnational Organised Crime.

^f United Nations medium Variant Projection.

^g United Nations medium variant projection modified with zero migration after 2000.

Annex Table 2

Estimated Size Of Overseas Indian Community: Country-Wise
(December 2001)

Country	PIOs	Indian citizens	Stateless	Total
Afghanistan	500			500
Algeria	5	45		45
Andorra		200		200
Angola	45	250		295
Argentine	1 200	400		1 600
Armenia		200		200
Australia	1 60 000	30 000		1 90 000
Austria	3 005	8 940		11 945
Azerbaijan		250		250
Bahrain	Nil	1 30 000		1 30 000
Barbados	2 100	100		2 200
Belarus		70		70
Belgium	Nil	7 000		7 000
Belize	500			500
Benin	450			450
Bhutan		1 500		1 500
Botswana	3 000	6 000		9 000
Brazil	1 500	400		1 900
Brunei	500	7 000	100	7 600
Bulgaria		20		20
Burundi	300			300
Cambodia	150	150		300
Cameroon	250			250
Canada	7 00 000	150 000	1,000	8 51 000
Cape Verde	4			4
Chad	125			125
Chile	39	611		650
China	5	300		305
Colombia	1	19		20
Comoros	50			50
Costa Rica	1	15		16
Cote d' Ivoire	30	270		300

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Country	PIOs	Indian citizens	Stateless	Total
Croatia	10			10
Cyprus		300		300
Czech Republic	20	400		420
Denmark	900	1 252		2 152
Djibouti	280			280
Dominica		20		20
Ecuador		5		5
Egypt	40	1 350		1 390
Eritrea	30	1 723		1 753
Ethiopia	34	700		734
Fiji	3 36 579	250		3 36 829
Finland	410	750	10	1,170
France	55 000	10 000		65 000
G Bissau	25			25
Gambia	135			135
Germany	10 000	25 000		35 000
Ghana	2 000	1 800		3 800
Greece		7 000		7 000
Guadeloupe	40 000			40 000
Guatemala	22			22
Guyana	3 95 250	100		3 95 350
Hong Kong	28 500	22 000		50 500
Indonesia	50 000	5 000		55 000
Iran		800		800
Iraq	50	60		110
Ireland	600	1 000		1 600
Israel	45 000	300		45 300
Italy	36 000	35 500		71 500
Jamaica	60 000	1 500		61 500
Japan	1 000	9 000		10 000
Jordan	30	900		930
Kazakhstan		1 127		1 127
Kenya	85 000	15 000	2,500	1 02 500
Korea (DPRK)		5		5
Korea (ROK)	200	2 500		2 700

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Country	PIOs	Indian citizens	Stateless	Total
Kuwait	1 000	2 94 000		2 95 000
Kyrgyzstan	100			100
Laos	18	107		125
Lebanon	25	11 000		11 025
Libya	400	12 000		12 400
Lithuania		5		5
Madagascar	25 000	3 000	1000	29 000
Malaysia	1 600 000	15 000	50000	1 665 000
Maldives	1	9 000		9 001
Mali	20			20
Mauritius	7 04 640	11 116		7 15 756
Mexico	400			400
Mongolia		35		35
Morocco	25	350		375
Mozambique	20 00	870		20 870
Myanmar	2 500 000	2 000	400000	2 902 000
Namibia	32	78		110
Netherlands	2 00 000	15 000	2000	2 17 000
New Zealand	50 000	5 000		55 000
Nigeria	8 000	17 000		25 000
Norway		5 630		5 630
Oman	1 000	3 11 000		3 12 000
P N Guinea		1 000		1 000
Panama	211	1 953		2 164
Peru	10	135		145
Philippines	24 000	2 000	12000	38 000
Poland	75	750		825
Portugal	65 000	5 000		70 000
Qatar	1 000	1 30 000		1 31 000
Reunion Islands	2 20 000	55		2 20 055
Romania	2	489		491
Russia	44	16 000		16 044
Saudi Arabia		1 500 000		1 500 000
Senegal	13	8		21
Seychelles	2 000	3 000		5 000

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Country	PIOs	Indian citizens	Stateless	Total
Singapore	2 17 000	90 000		3 07 000
Slovakia		100		100
Solomon Islands		20		20
South Africa				1 000 000
Spain	16 000	13 000		29 000
St. Lucia		200		200
St. Vincent & The Grenadines		160		160
Sudan	300	1 200		1 500
Suriname	1 50 306	150		1 50 456
Sweden	9 000	2 000		11 000
Switzerland	8 400	4 800	300	13 500
Syria	1 800			1 800
Taiwan	1 800			1 800
Tajikistan	Nil	400		400
Tanzania	85 000	5 000		90 000
Thailand	70 000	15 000		85 000
Trinidad & Tobago	5 00 000	600		5 00 600
Tunisia		70		70
Turkey		300		300
UAE	50 000	9 00 000		9 50 000
Uganda	7 000	5 000		12 000
UK				1 200 000
Ukraine		3 400		3 400
USA				1 678 765
Uzbekistan	40	650		690
Vanuatu		50		50
Venezuela	400	280	10	690
Vietnam			320	320
Yemen	1 00 000	900		1 00 900
Zambia	10 000	3 000		13 000
Zimbabwe	15 500	1 200		16 700

Source: *Report of the High Level Committee on the Indian Diaspora, December 2001*, Published by Indian Council of World Affairs.

NOTES

¹ The word 'out-migration' is synonymous with emigration and the word 'migrant' is used in a broader context to cover all categories of emigrants, while 'migrant workers' is used in a narrower context, as defined in the Emigration Act of 1983.

² In this study, NRIs means Indian nationals who are staying abroad either as permanent settlers or for more than six months in a particular financial year, so long they do not acquire foreign citizenship.

³ P.C. Jain, "Indian Diaspora: An Overview", in *Think India*, New Delhi, Jan-Oct., 2003, Vol. 6:1, pp. 8-16.

⁴ Article 2 (1) (o) of the Act defines 'work' as:

- (i) Any unskilled work, including any form of industrial or agricultural labour;
- (ii) Any domestic service;
- (iii) Any service, not being a service in a managerial capacity, in any hotel, restaurant, tea-house or other place of public resort;
- (iv) Work as a driver of a truck or other vehicle, mechanic, technician or skilled labourer or artisan;
- (v) Work as an office assistant or accountant or typists or stenographer or salesman, or nurse or operator of any machine;
- (vi) Work in connection with, or for the purposes of, any cinema, exhibition or entertainment;
- (vii) Any such work of a professional or of any other nature as the Central Government may, having regard to the need for the protection of citizens of India who may be employed in such work outside India and other relevant circumstances, specify by notification"

⁵ Ministry of Labour, *Annual Report 2002-03*, New Delhi, Government of India, p. 112.

⁶ Statement of Objects and Reading of the Emigration (Amendment) Bill, 2002 – Hon'ble Sahib Singh, Minister of Labour, Government of India. September 9, 2002

⁷ Ministry of Labour, op. cit. p. 115.

⁸ Ministry of Labour, op. cit. p. 109.

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¹⁰ K.C. Zachariah, "Working in Gulf: Employment, wages and working conditions", in Zachariah et al. *Kerala's Gulf Connection*. Thiruvananthapuram, Centre for Development Studies, 2002. pp.152-155.

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¹³ *The Tribune*, Chandigarh, October 27, 2003.

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¹⁸ Ravi Srivastava and S.K. Sasikumar, *An Overview of Migration in India: Its impacts and key issues.*, Paper presented at the Conference on Migration Development Pro-poor Policy Programme in Asia. Dhaka, Bangladesh, 22-24 June 2003, pp. 17

¹⁹ Census of India, Provisional Population Totals, Paper-I of 2001, Director of Census Operations, Punjab, India.

²⁰ *National Family Health Survey, 1993*, Punjab, Population Research Centre, CRRID, International Institute of Population Sciences, Mumbai.

²¹ Zachariah and Kannan, “Introduction” in Zachariah et al., (eds.) 2002. op. cit..

²² K.P. Kannan and K.S. Hari, “Remittances and Their Macro Economic Impact”, in Zachariah et al., (eds.) 2002, op. cit. pp.200-211.

²³ Paramjit Singh Judge, *Pravas: Sabhyacharak Sankat* (in Punjabi language) Jalandhar, NRIs Sabha, Punjab, 2000, p. 54-55.

²⁴ Varinder Jain, “Performance of Punjab State Electricity Board”, M. Phil dissertation (unpublished) submitted to Jawaharlal Nehru University through CDS, June 2003, p. 132

²⁵ Krishan Chand, *Towards a Model Village Plan: A Case of Village Khera Dona (District Kapurthala)*. Monograph, CRRID, Chandigarh, 2000, p. 3.

²⁶ Ibid. pp.19-46.

²⁷ Peter Stalker, *The Work of Strangers: A survey of international migration*. Geneva, ILO, 1997, p. 41.

²⁸ Stalker, 1997. op. cit. pp. 41-60.

²⁹ Piyasiri Wickramasekara, “Asian labour migration: Issues and challenges in an era of globalization”, in *Internal Migration Papers*. 2000 pp. 5-6 2000.

³⁰ *Pravashi View* NRI Sabha. Punjab, November, 2001, pp. 22-25.

³¹ Department of Planning, *Annual Plan 2001-2002*, Government of Punjab, p. 60.

³² Krishan Chand, 2000, op. cit.

³³ Zachariah et al, 2002, op. cit. p. 66.

³⁴ “National Commission of Women to discuss problems faced by brides of NRIs.” in *The Tribune*, Chandigarh, 8 November 2003.

³⁵ “Ramoowalia’s party to set up women’s front” in *Indian Express*, Chandigarh, 9 November 2003.

³⁶ ‘Indian Community in threat in Venezuela’ Unstarred Question No. 3173, Lok Sabha (Lower House of Indian Parliament). 12 March 2003.

³⁷ ‘Indians languishing in Ukraine jails’ Unstarred Question No. 3120, Lok Sabha. 12 March 2003 and ‘Illegal Migration to European Union’ Unstarred Question No. 2070, Lok Sabha. 5 March 2003; *Pravasi Khabarnama* NRI Sabha No.2, 1998, p.67.

³⁸ These cases are sub-judice, although Daler Mehndi claims he is being victimized by the police. In April 2004, he was, however, permitted to go to Pakistan for a charity show.

³⁹ “Whispering campaign to malign Mallika Sarabhai and Darpan” in *Human Rights Diary* by Kuldip Nayyar, *The Tribune*, Chandigarh, 10 November 2003 and “Police ask banks to seal Panchhi’s accounts” in *The Tribune*, Chandigarh, 20 October 2003.

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⁴⁶ S. S. Shekrawar, Presentation at the Asia-Pacific Regional Trade Unions Symposium on Migrant Workers, Kuala Lumpur, Malaysia 6-8 December 1999 pp. 135-139.

⁴⁷ Statement by Rajat Sen Gupta, Executive Member, Trade Union Coordination Centre (TUCC): “Number of Migrant Workers Increasing” in *Report on Employment Conditions of Migrant Workers Employed in the Middle East from South Asian Countries*. New Delhi, World Federation of Trade Unions, Asia-Pacific Regional Office, 2003, p. 57.

⁴⁸ Sukomal Sen, (General Secretary), Trade Unions International Public and Allied Employees, “Most unprotected workers”, WFTU, 2003 op. cit. p.67.

⁴⁹ Comrade Satyawan Singh, Vice-President, United Trade Union Centre, “Exploitation of migrant workers” WFTU, 2003 op. cit. p.47.

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4 Nepal

The Prospects and Problems of Foreign Labour Migration

Ganesh Gurung and Jaganath Adhikari

4.1 Introduction

Like in many other developing countries, labour migration to foreign countries has now attracted the attention of policy makers in Nepal, as it has become a significant economic activity. In Nepal, the easy access to travel documents and passports after the democratic movement of 1990 led to a large number of Nepali people migrating to foreign countries to avail of employment opportunities and enhance their incomes. The Government has taken the issue of foreign labour migration seriously, given its inability to provide job opportunities for the ever-increasing number of unemployed youths and the potential of gains to the economy from remittances. The various plans and policies developed in the 1990s, especially after the mid-1990s (including the Ninth and Tenth Five-Year Plans), laid emphasis on encouraging foreign labour migration and in helping to improve the access of the poor to such job opportunities abroad.

The negative fallout of foreign labour migration has not been ignored because of the benefits it brings. The Nepali media has highlighted the fact that workers are exploited in the labour-receiving countries and that the problems they encounter perhaps outweigh their economic benefits. The main problems faced by Nepali migrants are low salary, difficult and inhumane working and living conditions, sexual exploitation of women, inadequate protection and insurance against death and accidents, inhuman behavior of employers, discrimination in terms of pay, benefits, nature of work, support etc.

The migration of Nepali workers to foreign countries has to be seen in the context of the state of marginal hill agriculture because a large number of the migrants are from the hill areas. The push and pull factors differ across economic and social groups. Livelihood security is the main reason for migration for a large number of households. As

livelihood differs from one ecological area to another, and also determines access to and availability of resources, it is important to examine labour migration from a spatial point of view to understand the variation in different areas in terms of access to resources and cultural practices. People from higher economic backgrounds do not migrate for 'survival' but migration can be a kind of 'savings and the investment strategy' for them. However, their migration can also influence the livelihood strategies of other households.

This report examines the magnitude, causes and consequences of labour migration in Nepali society, and the general problems faced by the migrant workers, especially with regard to the violation of their human and labour rights in the receiving countries. Most researches and studies in Nepal have been concerned only with the volume of remittances and the impact of labour migration.

4.2 Trends of Migration: Historical Analysis

Migration in search of employment and livelihood opportunities as well as permanent settlement is not a new phenomenon in Nepal, though it has increased in recent times. There has been constant mobility of people across the national border since the unification of Nepal as a country in 1768. Much of these early migrations were the result of push factors like excessive tax burden, exploitative agrarian relations and political instability.¹ The more formal and temporary migration began after the Nepali people started to work in the British army following the defeat of the Nepal army in 1816.² The First World War created a huge demand for young army personnel, and due to political reasons, Nepal supplied a large number of its people to work in foreign armies. It is estimated that about 243,000 young men of Nepal enlisted in the British army during the First World War. The numbers increased during the Second World War, as an additional 160,000 soldiers were recruited.³

After India's independence in 1947, the *Gorkha* unit of the British army was divided between India and the United Kingdom. Initially, the British retained almost half of the *Gorkha* unit but it started to gradually reduce its size. On the other hand, India has not significantly altered the size of its *Gorkha* unit. As of early 2003, there were about 3,500

Nepalis serving in the British *Gorkha* army and about 30,000 pensioners, while there are 48,000 Nepalis serving in the Indian army and about 150,000 pensioners.⁴ Besides, there are some Nepalis also working in the security forces of Brunei, Singapore and France.

Although military service was one of the earliest and most important forms of circular migration in Nepal, other temporary non-military employment avenues gradually became popular throughout the hills. In recent times, as the scope for out-migration for military services has declined, more and more people have migrated for civilian jobs. As the country is in a stage of pre-industrial development with low urbanization and industrialization, the scope for non-farm work within the country is limited. Therefore, more people migrate for non-farm employment. During the 1960s and 1970s, the increase in population encouraged people to go out for work.

After the democratic movement in 1990 in Nepal, it became easier to obtain travel documents and passports. The increased flow of information and the liberalization in travel led to a surge in the migration of Nepali citizens for employment. Between 1997 and 2003, migration to the Gulf region increased by almost five times. New opportunities were also explored in countries like Israel and Jordan. Malaysia also emerged as another country where a substantial number of Nepalese sought work and it compensated for the decline of illegal migration to the Republic of Korea and Japan. After the war in Iraq and Afghanistan, there has been demand for workers from Nepal, but it is not known whether this demand has been met. Migration to India has also been increasing in these periods.

Political conflict since 1995 has been another reason for out-migration, especially from remote villages. Migration from these areas in search of work was common even earlier, but the conflict has led to an increase in the number of migrants. This conflict has also resulted in the internal displacement of a large number of people who have moved from their place of residence to safer places like the district headquarters, regional urban centres and the capital city of Kathmandu and increased the flow of migrants from the mid west and far west regions to India.

4.2.1 Magnitude of foreign labour migration

Census reports can give some indication of out-migration for non-farm employment. However, it reveals only the tip of the iceberg of the total volume of out-migration for work. For example, the census report of 2001 shows that about 762,000 people are living in foreign countries, including India. Of this 'absentee population', 77 per cent is living in India. This means that the remaining 23 per cent (173,126 persons) are working in other countries (Japan 0.48 per cent, Hong Kong 1.57 per cent, Singapore 0.44 per cent, Malaysia 0.89 per cent, Australia 0.34 per cent, Middle East 14 per cent, Europe 1.4 per cent and the United States 1.25 per cent). As working in India is not considered as foreign employment, the number of foreign workers in 2001 can be assumed at about 173,000. However, data from Government offices has shown that about 250,000 Nepalis are now working in foreign countries, other than India. However, a study conducted by the Nepal Institute of Development Studies (NIDS) shows that around 700,000 Nepalese were working in foreign countries in 2003.

According to the Ministry of Labour, as many as 214,839 people have gone abroad legally and are registered with the Ministry as of May 2002. The break up, according to the country of destination, is as follows: Saudi Arabia (77,686), Malaysia (52,581), Qatar (48,869), the United Arab Emirates or UAE (23,321), Republic of Korea (3,040), Bahrain (2,929), Kuwait (2,821), Hong Kong (1,639) and others (1,956). Time series data obtained from the Ministry of Labour shows an increasing trend in out-migration, with slightly more than 50,000 persons moving to foreign countries (other than India) for work annually in recent years. According to a press release of the Ministry of Labour in January 2003, 35,462 workers went abroad for work in 1999-2000, 55,025 in 2000-01 and 104,739 in 2001-02 went abroad for employment. The increase in the 1999-2000 period was 57 per cent and 58 per cent in 2001-2002.

Table 3.1 shows the regional distribution of Nepali migrants as revealed in the NIDS survey. The country-wise distribution is shown in Annex Table 1. Considering that there are about 1.5 million (based on the average of various estimates) Nepali workers in India, the Nepali population working in foreign countries is estimated to be about 2.2 million.

Table 4.1 Number of Nepali people Working Abroad (excluding India) in 2002

Region	Male	Female	Total
Asia	6 12 888 (93.14)	23 148 (67.09)	6 40 147 (91.84)
Gulf	4 61 854 (69.76)	3650 (10.58)	4 65 504 (66.79)
East, South East	1 50 620 (22.75)	19 498 (56.51)	1 70 503 (24.46)
Other	4 140 (0.63)	-	4 140 (0.59)
Australia	8 000 (1.21)	2 000 (5.80)	10 000 (1.43)
Europe	29 582 (4.47)	6 256 (18.13)	35 838 (5.14)
Africa	580 (0.09)	-	580 (0.08)
North America	7 300 (1.10)	3 100 (8.98)	10 400 (1.49)
TOTAL	6 62 076 (100.00)	34 504 (100.00)	6 96 965 (100.00)

Source: NIDS Unpublished report submitted to UNIFEM, Kathmandu.

Note: The figures in parentheses are percentage of total

4.3 Legal Regime: Protection and Promotion

The Foreign Employment Act, which aims at controlling foreign labour migration, was enacted for the first time in 1985 in Nepal. The Act has provisions for licensing foreign employment or recruitment agencies. Other features are:

- The licensee must deposit a sum of Nepali Rs. 500,000, show an

account of current assets of Rs. 2.5 million and pay Rs. 10,000 as registration fees.

- The Act lays down the procedures for the selection of workers for foreign employment, the basis for their selection, points to be included in the contract papers and procedures to be followed to get final approval to send workers.
- There are restrictions on providing foreign employment to children and women without the consent of their guardians.
- The licensee is obliged to protect the interest of workers sent through his company.
- Licensees have to inform workers being sent for foreign employment about the geographical location, culture, labour laws, as well as economic, political and social conditions of the destination countries.
- The licensees are required to keep up-to-date records of the workers and provide the Government with information about the conditions of workers every six months.
- The Act has provisions for the cancellation of license and punishment for violation of terms of license.
- The Government is vested with the powers of investigation into irregularities by Recruitment Agencies and to issue necessary directions to them.
- The Act stipulates the formation of a foreign employment advisory committee.
- Migrant workers must have an insurance coverage of Rs. 100,000.
- The Government must appoint labour attachés in countries where there are 500 or more workers.

There is no separate foreign employment policy developed to protect workers and promote foreign employment. The National Labour Policy of 1999 refers to the issue, mentioning that the foreign employment business would be developed as a service industry and attempts made for its institutional development. It also said that the Foreign Employment Act will be amended in order to provide incentives to foreign employment companies, and Nepalese diplomatic missions and Government agencies shall be mobilized to protect the rights of the workers in foreign countries. The policy also stressed on the appointment

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of labor attachés and constituting a foreign workers advisory committee with the participation of the Ministries of Labour, Home and Finance, the National Planning Commission and foreign employment entrepreneurs organizations. The policy document noted that arrangement would be made to send skilled workers abroad and include the private sector in training activities.

Despite elaborate provisions in the Foreign Employment Act, 1985, and subsequent rules and directives, migrant workers are exploited even during the recruitment process. The existing legal framework is inadequate to protect workers. On the other hand, the Nepal Association of Foreign Employment Agents (NAFEA) complains that the Act and the rules are restrictive, control-oriented and cumbersome. Government officials lay stress on the restrictive measures because they feel that the situation would be worse if this was not done. The Government is keen to establish some kind of order in the foreign employment scenario. There has been an attempt to amend the Foreign Employment Act to make it more liberal and promotion-oriented, rather than control-oriented.

The Government's efforts to protect migrant workers in the destination countries are less than what is required. An embassy was established in Qatar and Malaysia in order to redress the problems that the migrant workers faced. But these missions are understaffed and lack adequate resources, as a result of which they are not effective. The Nepalese embassy in Saudi Arabia is actively trying to address the issues facing migrant workers but given the huge number of workers spread all over the Middle East, its activities are limited. Starting with Malaysia, the Government has started to take initiatives to enter into bilateral agreements with destination countries.

Nepal has not ratified any of the ILO conventions relevant to the protection of migrant workers. Among these are: Migration for Employment Convention (revised) 1949 (No 97) Equality of Treatment (Social Security) Convention, 1962 (No 118), Migrant Workers (Supplementary Provisions) Convention, 1975 (No 143) and the UN Convention on the Protection of the Rights of All Migrant Workers' and Member of Their Families, 1990.

4.3.1 Process to recruit workers

Foreign labour migration is generally undertaken through recruitment agencies. There are 425 officially registered recruitment agencies in Nepal, and the licenses of 53 of them have been cancelled because of their illegal activities. These agencies are authorized by the Government to recruit personnel for foreign employment on behalf of overseas employers against vacancies. They make direct contact and negotiate with overseas employers for procuring demand of job vacancies (popularly known as demand paper). On the receipt of any authenticated vacancy demand from the overseas employer, the licensed agency has to apply to the Secretary, Ministry of Labour and Transport Management, for recruitment permission, which is given only after the Ministry satisfies itself about the genuineness of the demand and that the terms and conditions offered are in conformity with Government regulation. After getting the permission, recruitment agencies select the candidates who have applied for the job. The employer or his representatives then conduct interviews and the final selection of candidates takes place for which the agent provides all the necessary assistance and logistics. Those selected for the job have to undergo medical examination in an authorized hospital or clinic. Only candidates found physically fit for foreign employments are eligible to sign the employment contract. The recruitment agencies then undertake all the formalities required for departure like preparation of travel documents and obtaining visas, arranging insurance, giving orientation to the candidates etc. Candidates generally pay between Rs. 60,000 and Rs. 70,000 to recruitment agencies for all these procedures.

Recruitment agencies sometimes work through sub-agents (locally called *dalals*) who often charge exorbitant amounts and cheat migrants. Recruitment agencies are also known to cheat people by using fake demand letters from overseas employment agencies and duping the prospective workers or not providing proper insurance. The local recruitment agencies and the overseas agencies also enter into secret deals about salaries and benefits, as a result of which migrants do not get what is promised to them.

Following an amendment in the Foreign Employment Act, an individual can also go for foreign employment through his or her own efforts, but with the permission of the Government for which evidence

of job availability, visa papers and insurance certificate have to be produced. Until now, only a small number of workers have migrated through their own efforts.

4.3.2 Government institutions responsible for foreign employment

Though various government agencies are directly or indirectly involved in the promotion of foreign employment through various means, the main agency responsible for implementing the Foreign Employment Act is the Department of Labour and Employment Promotion (DLEP) under the Ministry of Labour. The major functions of DELP are:

- Regulating the activities of the recruiting agents, issuing, renewing and cancelling licenses.
- Receiving demand from foreign employers or through Nepalese embassies and then referring them to private agencies.
- Participating in the interviews organized by the recruitment agencies for the final selection of the candidates.
- Ensuring that the selected workers abide by the mutually agreed terms of contract between them and the employers.
- Initiating welfare activities for migrant workers.

A complaints section has been set up in the DLEP to register and look into complaints against the exploitation of migrant workers and malpractices on the part of brokers and foreign employment companies.

The DLEP's support for foreign employment also comes from its various services, which are mainly targeted at domestic workers. These include service to the unemployed, appraisal of the effectiveness of basic skill training, assessment of training needs, preparing the curriculum and educational material for the Skill Development Training Centres, analyzing labour market information and disseminating it to relevant agencies. The labour market exchange programme carries out these tasks. There are 14 Skill Development Training Centres and two vocational training centres under the DLEP. Regular training in 27 trades, including electronics, plumbing, welding, carpentry and auto-mechanics are given at these centres. The DLEP is also responsible for the bilateral agreements between sending and receiving countries.

Apart from the DLEP, the Government of Nepal has, from time to time, set up other agencies to look after foreign employment. The most important one is the Foreign Labour Employment Promotion Commission, which has been converted to a Foreign Labour Employment Promotion Committee. The Committee has been playing the role of coordinator as well as facilitator with a view to tapping domestic and foreign employment opportunities and to conduct skill-oriented and other promotional activities in a coordinated manner. Its activities include study on skill development, data collection on the status of employment of those with skill oriented training, promotion of foreign employment, and medical transcription training based on labour market information and information technology.

4.4 Employment Perspective: Variations in Access to Opportunities

Access to out-migration opportunities varies across ecological and geographical regions⁵ and across social classes and gender.

4.4.1 Regional variation

Rural areas account for more migrants than urban areas do, which is natural in a country where 86 per cent of the population live in rural areas. But in recent times, people from urban areas, especially the small towns, are also migrating for work in significant numbers. Residents from major towns like Pokhara and Kathmandu are also going abroad. However, while migrants from urban areas show a tendency to go to western countries like the United States, United Kingdom and the European countries, those from the rural areas generally go to India and to the Gulf.

4.4.2 Age structure and educational background of migrant workers

There is very little information on the age profile and educational qualifications of the labour migrants, except that a majority of them is considered as 'unskilled'. A recent article estimates that 75 per cent of the labour migrants are 'unskilled' and 25 per cent are 'semi-skilled'.⁶

A study conducted in 2002 with 795 randomly selected migrant

workers in the Gulf countries shows that a large majority of the migrant workers is from the 20-30 years age bracket. An overwhelming majority of them were high school failures or dropouts, while 20-30 per cent had cleared high school and an insignificant number had higher education.⁷

4.4.3 Ethnic and class background of the migrant workers

The ethnic background and class of the households are related to migration patterns. Traditionally, people from ethnic groups like Gurungs and Magars from the central region and Rais and Limbus from the eastern region formed the majority of the migrants. The extremely poor find it difficult to migrate to foreign countries. A study conducted in Lahachok village in 1999 revealed that out-migration, for both domestic and foreign employment, is highly skewed in favor of the wealthier classes.⁸ Of the 630 households studied, there was only one household from the bottom 10 per cent, which had access to such employment. Among the bottom 20 per cent households, only 8 per cent had jobs away from home, and that too mostly in the nearby towns. The poor do not have the resources necessary for overseas migration. The wealthiest 10 per cent households do not seek opportunities for work in foreign countries. If at all they do, it would be in the western and other developed countries. Among the large middle class consisting of 80 per cent of the population, the least well-off go to India, where they would be engaged in menial jobs. Those from slightly better-off households have shown a tendency to go to the Gulf while those from the upper middle class go to the South East Asian and East Asian countries.

4.4.4 Women as migrant labour

A vast majority of foreign labour migrants are male. More recently, the number of women migrant workers is also increasing. However, it is difficult to quantify this increase and the task becomes particularly complicated when official and non-official information are compared. For example, the Department of Labour recorded that only 161 women had been abroad for work between 1985 and 2001. However, personal interactions with return migrants from Hong Kong revealed that at least 12,000 Nepali women were working in Hong Kong alone.

The NIDS study conducted in 2001 revealed that only 4.95 per cent

of the 696,965 Nepali citizens working in different countries (excluding India) were women. An analysis of the 'absentee population' recorded in the census of 2001 by gender shows that overall 10.8 per cent of this group were women. Nearly 83 per cent of these women were in India and only 17 per cent (14,000) of them went to other countries. Various estimates claim that at least 8,000-10,000 women are working in the Gulf countries alone. But the census report reveals that only about 2,000 women are working in Gulf (Annex Table 1). Most of the women migrants (other than in India) are shown to be in Hong Kong, the United States, Canada and United Kingdom. Therefore, there seems to be some inconsistency in data from various sources.

4.4.5 Nature of work undertaken by migrants

The nature of work undertaken by Nepalese migrant workers is mostly 'unskilled' jobs. Nepalese have been preferred choices for security jobs in India and elsewhere. Only in a few cases have Nepalese been employed as semi-skilled workers. According to a news report, the majority of Nepalese migrants in the unskilled category are personal service workers and construction labourers.⁹ Although an exact occupational breakup of skilled and semi-skilled migrants is not available, most of them are employed as welders, construction fixtures, carpenters, electric (house) wiring workers, masons, plastering and painting workers, drivers and plumbers. Another report says that around 75 per cent of the migrant workers are engaged in unskilled work, and only 25 per cent are engaged in semi-skilled and skilled category¹⁰.

In a special issue on labour migration in March 2003, *Himal* magazine listed the various types of jobs in which Nepali migrants (other than those in India) are involved in. They are: laundry operator, quality checker, cleaner, transport labourer, loading and unloading, window cleaner, quality surveyor, plumber, glass cutter, construction worker, steel welder, diesel mechanics, truck driver, pest controller, office boy, metal fitter, insulation labour, stone decorator, helper, technical plant operator, public area attendant, gardener, steel fabricator, machine operator, security men, press men, bell boy, carpenter, civil driver, sanitary and pipe technician, tyre repairing men, house men, production men, cable joiner, loader, tyre fitter, electrician and the like.

4.5 Contribution of Labour Migration to the Economy

Remittances from people working outside Nepal contribute significantly to the national economy. Even though the exact amount of total remittances is not known (since they do not come through formal channels), it is generally felt that it is the remittances that have been propping up the national economy, which has been adversely affected by the decline in agricultural production and productivity and political unrest.

There are four mechanisms of remitting money to Nepal, depending largely on the destination country. Around 80 per cent of the money is remitted through the *hundi* system (an informal arrangement for sending money through business persons) in which the recipient gets more than the market rate of exchange. This is the preferred route for migrants from Hong Kong, Japan, United Kingdom and other European countries. The second method is money transfer through banks, which accounts for only a fraction of remittances. The reason is that banks have not reached the workers living in foreign countries, and it is difficult and time consuming to send money through them. Sometimes people also carry their savings in cash when they return home. This system is not preferred as there are various legal problems in carrying cash across national borders. Finally, there are a few licensed private organizations, called money transfer agencies, which help to transfer the money without the necessity of a bank account. These are given legal status by Nepal Rastra Bank, the central bank of the country, to transfer money. A migrant labour deposits money in the branch of the agency for transfer to a certain person in Nepal. The branch in Nepal contacts the individual and delivers the money.

During the second half of the 1970s, the recorded value of remittances more than doubled from Rs. 90.7 million in 1974-75 to Rs. 216.8 million by 1980-81. Over the next decade, the official value of foreign remittances increased three-fold, to reach Rs. 676.8 million by 1989-90. This was just under half of the value of income from tourist receipts and a seventh of total exports. It has been estimated that in the mid 1980s, Nepal was gaining US\$ 47 million annually as foreign exchange from those employed in the British Gurkha army as salary, remittance, pensions and Indian currency worth US\$ 100 million from those in the Indian Army.¹¹

However, the official figures on remittances are just a small percentage of the actual inflows, much of which comes through unofficial channels. Various studies conducted at the village level revealed that non-farm income (mainly remittances) has been increasingly contributing to the livelihood security.¹² Table 3.2 shows the breakup of remittances coming to Nepal from different regions and countries.

Table 4.2 Inflow of Remittances from Overseas Countries to Nepal in 1997

Region	Workers (Estimated)	Remittances (Estimated in NRs billion)	Workers (Possible)	Remittances (Possible in NRs billion)
The West	15 000	4.4	15 000	4.4
The Gulf	40 000	1.5	40 000	1.5
East and South				
East Asia	44 000	23.0	44 000	23.0
India	2 50 000	6.0	10 00 000	40.0
Others	1 000	-	1 000	-
Total	35 000	35.0	11 00 000	69.0

Source: Seddon *et al*, Critical Asian Studies, 2002.

As much as Rs 69 billion could have been remitted to Nepal in 1997, including remittances from India. This amount was about 25 per cent of the gross national product (GNP) of that year and 65 per cent of all foreign exchange inflows. A study conducted by the Nepal Rastra Bank in 2001 has revealed that as much as Rs 74 billion comes into Nepal annually and that despite stagnation in the economy (which registered a 0.8 per cent growth in 2002) expenditure patterns of households have increased – a fact that is attributed to the growing dependence of households on remittances.¹³

4.6 Labour Migration and Its Contribution to Household Economy and Family

There is ample evidence that remittances from migrants have led to the diversification of livelihood strategies and an improvement in livelihoods

in villages. The contribution of labour migration to the household economy is reflected in the following ways.

Survival strategy

Labour migration has always been one of the livelihood strategies of the families, but its impact has increased as the household economy has increasingly become dependent on remittances. Poor agricultural growth has adversely affected food security, with most households in the hills and mountains not being able to produce enough food for more than six to seven months in a year from their own farms. This has increased the importance of labour migration, with migrants drawn from as much as 50 per cent of the households in Kaski district in central Nepal, which is known as a relatively wealthy district in Nepal.¹⁴ A higher proportion of households contribute to labour migration in the far west and mid-west regions. Around 70 per cent of the households in Achham district in mid-west Nepal take part in migration and the remittances are primarily used for food.¹⁵ Survival strategy is the main driving force of migration even among the better off communities. In many areas, remittances are primarily used for daily expenses like food, clothing, electricity, transportation and sometimes wages for farmers, who help in the fields. This is followed by repayment of debts. Only after these two expenses are met the remittances are used for expenditure on education of children and siblings and house construction.¹⁶

Savings and investment strategy

People also migrate to generate savings for investments. In Pokhara, remittances have been found to be helpful in reducing the traditional monopoly of large businesspersons in the commercial and industrial sectors.¹⁷ A large number of hotels and industries in Pokhara have been established with the help of remittances. Because of growing investment in land in urban areas, the value of real estate in cities like Pokhara, Kathmandu and Dharan has been increasing. The money for such investment has come from remittances. Even though it can be argued that this may not be a productive investment, in the absence of productive investment avenues, real estate has been the main area in which remittances have been invested. Financing migration of family

members is also seen as an investment for the future. Money-lending is another form of investment.¹⁸

Contribution to poverty reduction and improvement in living standards

The effect of the remittances economy on poverty reduction at the national level has not been studied, though micro-level studies have shown that remittances have enhanced family incomes. However, the success of the Ninth Five-Year Plan (1997-2002) in reducing poverty from 42 per cent to 38 per cent is largely attributed to increased flow of remittances to the country and this fact has been acknowledged in the Poverty Reduction Strategy Paper (PSRP) prepared for the Tenth Five-Year Plan (2002-07).

Development of social capital

In a study of women's migration by NIDS in 2001, one of the main reasons for migration was the desire to finance children's education. Those with higher incomes have sent their children to good schools. The majority of the children in most of the private schools in towns like Pokhara and Kathmandu belong to families receiving remittances from foreign countries.

The exposure to the outside world has instilled a sense of confidence among the labour migrants. Women migrant workers, especially, said that they have become more independent and empowered, learning new skills and being able to acquire property.

The contribution of the ex-Gurkhas to society is particularly notable. The investments they have made in new businesses like transport companies, oil delivery systems, noodle factories and hotels, have increased economic activity in Nepal.

Family life

There is concern about the fact that labour migration is not beneficial for family life. Long periods of separation, especially between husband and wife, will have an adverse impact on family harmony and children's development. Though remittances help finance children's education, the lack of parental guidance leads of children going astray. There are

unsubstantiated reports that drug addiction is high among the children of families with parents away for work. In Dharan town in East Nepal, which has a large number of migrant households, one child in every three families is reported to be addicted to drugs.

In the NIDS study on women migration, 20 per cent of the 180 respondents reported that they have faced family problems like children becoming detached from their parents, husbands taking on a second wife and increased sickness because of loneliness and separation. Six per cent of the migrant women reported that migration as a cause of separation. Men living in foreign countries tend to marry there. Though there is a broad correlation between migration and family problems, a direct cause and effect relationship will be difficult to impute since family problems are on the rise in general as well.

AIDS is another problem associated with labour migration. The rapid spread of AIDS in the mid-west region is linked with the migration of men to India and the general ignorance, particularly among women, about HIV/AIDS and ways to prevent it. Similarly, the trafficking of women to Indian brothels and their return to Nepal is also seen as a cause for the spread of AIDS.

4.7 Human and Labour Rights

Though there are reports, especially in the print media, of various types of violations of labour rights of migrant workers, getting factual information on this is difficult. Therefore, much of the information about problems faced by migrant workers is mainly anecdotal.

Problems with regard to low wages and unpaid work

The most common complaint is with regard to wages. Not only are migrants' wages low, they are often not paid the wages stipulated in the contract. Another common complaint is that they are not paid for some initial periods, ranging from two months to six months. The illegal workers are the most exploited lot. Migrants returning from Japan reveal that they get barely 25 per cent of the wages given to a Japanese citizen for the same kind of work. Owners often take steps to restrain the police from catching these illegal migrants working with them.

The blame for this lies not only with the employer but also on the recruiting agencies, who often are in league with the employers. The two often share the difference between the stipulated and actual wage. The contracted salary has to be at a certain level (on paper) in order to follow the Government rules. For example, the present rule says that a worker cannot be sent abroad if the salary is less than Rs 9,500 per month and the working period is more than eight hours a day for six days in a week. The same also applies to unpaid work for a certain period.

Nepal Samacharpatra, a national-level daily, reported on 10 October 2003 that 150 Nepali migrants working in Hill Industries in the Shahalam area of Malaysia, who were not getting the contracted salary, took the matter up with the Sunkosi Manpower Company in Kathmandu which arranged the work and then went on a 14-day strike, following which the company assured them the full salary in due course of time. When, even after working for a year, they did not get the full salary, they returned home. In another case, 200 Nepali migrants working for Sony Company in Malaysia found themselves unemployed when the company was closed within a year of their joining. The recruitment agency promised another job, but failed to live up to the promise. The migrants were forced to return home without being able to recover the cost incurred in migration.

Long working hours and no holidays

Even though the rules stipulate that workers cannot be employed for more than eight hours a day, most of the return migrants say that they are often made to work for 10 to 12 hours a day and not paid any overtime allowance. This is especially the case with domestic workers, most of them women, who are forced to work for more than 12 hours a day. Though migrants are supposed to get at least one holiday in a week, they are often asked to work during holidays also. Domestic workers are often the worst victims of such a harsh working conditions.

Protests cannot be organized

The workers complain that they cannot protest against discrimination and exploitation without risking their jobs. As most of them have paid

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a considerable amount of money to get the job, they continue to work. Cases of organized protest are rare. In the early 1990s, Nepali migrants had organized a protest in support of Korean civil society against an employer in the Republic of Korea. The Korean Government later gave a verdict in favour of the workers.

Terminating contracts without compensation

There have been many cases of workers being made to return to Nepal prior to the completion of the pre-agreed period of work without being paid compensation for the balance period.

No protection regarding work-related accidents

There is often no protection for the workers in case of industrial accidents and they are often sent back to Nepal. It is only in rare cases that employers are kind enough to arrange for medical treatment. Several Nepali migrant workers returning from Japan, the Gulf and India have been maimed. Occupational hazards and unhygienic working conditions are common in India where wage rates are also very low.

The migrant workers are often prone to these accidents because of the psychological stress arising from staying away from the family and friends, new working environment with new technology, and fatigue arising from the long working hours and bad working conditions. This is especially the case with illegal workers.

Poor working and living conditions

Migrant workers are often made to work in a poor working environment. Their living conditions are also poor and unhygienic. Since they cannot afford proper accommodation, they often live in places which are not suitable for decent human living.

No insurance and rescue during accidents and deaths

The poor working and living conditions are perhaps the reason for accidents and death of migrant workers. While there are no records of accidents, there is some data on deaths. According to the Ministry of Labour, 96 persons died in destination countries between 1985 and

2001. Of these, 53 died in Saudi Arabia, 39 in Qatar and four in Malaysia. In such cases, there are problems regarding transportation of dead bodies and there are no clear policies about whether the employers will bear the cost of doing so. The workers contend that the deaths are caused by extreme fatigue and working in unhygienic conditions and that even though a worker goes to bed at night without feeling ill, he or she is found dead the next morning. Another common reason for deaths is the lack of proper heating and cooling systems in their living quarters.

Often the migrant workers and their families do not have insurance coverage. Foreign companies, which send demand papers for workers, also send some money to the recruitment agencies for the insurance of the workers during the period of their employment in that company. However, in Nepal insurance agencies do not issue insurance policies for more than a year. So migrants are covered with insurance for only the first year of work abroad.

Victimization of workers without legal recourse

Migrant workers are often victimized if any untoward incident occurs. Recently, there was a brawl between workers from Africa and local people in Malaysia. After the intervention of police, a large number workers, 62 of them Nepalis, who had not taken part in that brawl were forced to return to their respective countries without any inquiry or consultation. These incidents are also not reported by Government offices. Illegal migrant workers are more vulnerable and they are often jailed without being allowed any legal recourse. According to *Spotlight* magazine, about 1,000 Nepalese are serving jail terms in different countries.¹⁹

Employers usually keep the migrant workers' passports and other documents with them to prevent them from changing jobs. As a result, workers cannot return home even if they want to. If they were to leave the company, the police would treat them as persons without valid documents.

Sexual exploitation and harassment

Women migrant workers usually face problems of sexual harassment

in the workplace. Besides, women usually go abroad as domestic helpers, but they are not trained in modern housekeeping methods and are not familiar with household gadgets, which creates problems for them. At work, they often suffer physical beatings, verbal abuse, threats and mental harassment. They are forced to work for long hours and their passports are impounded by their employers. There is a lack of support and supporting agencies in the destination countries.

Moreover, in the Gulf countries, domestic workers are vulnerable to HIV due to rape. Nepali male migrants often visit brothels and are vulnerable to HIV/AIDS. When HIV-positive men return home, their wives and sexual partners also become vulnerable. AIDS has been spreading among women and children in Nepal, especially those from the far-west region, from where a large number of men migrate to India for work. But so far no studies have been undertaken to objectively verify the role of migration on the spread of AIDS in Nepal.

Change in contract

Migrant workers also complain that they are not employed in the job specified in the contract and that they are given hard work to do. If the contract is for in-house work, they end up in becoming shepherds. According to a report in the national daily, *Annapurna Post*, a man from Kaski district paid Rs. 70,000 to work in a cold storage in Saudi Arabia for three years. However, when he reached Saudi Arabia, he was forced to work in an oil refinery. Another man from Lalitpur was contracted to work as a gardener in Malaysia, but was, instead, required to pick seeds from palm trees. In addition, he was not paid the contracted salary. He was supposed to work in a group of five and be paid Ringit 13 per ton of seed collected, but this was not done even if each of them individually picked the required amount. They became sick because of the heavy and difficult work, but were not allowed to go home. It was only when they approached the police that the manager allowed them to go home. *The Kantipur Daily* newspaper reported another case in which 86 Nepalis were hired to work in a five-star hotel in Saudi Arabia but found they had to work in a gas and oil company producing pesticides. Most of them were able to return home, but they were not able to recover their investment.

Lack of respect for migrants' religion and culture

Nepali migrant workers have often faced hostility from their employers towards their religious and cultural practices. They are also abused for this reason and asked to behave according to the religious and cultural practices of the employers. There have been cases where the migrant workers have been forced to change their religion.

4.8 Trade Unions Responses: Organizing Activities

Trade unions can play a vital role in protecting the labour rights of the workers, not only at the work place but throughout the recruitment process and even on their return. Trade Unions have not significantly claimed their roles in protecting migrant workers. The legal provision relating to the Foreign Employment Advisory Committee has not provided for the representation of trade unions nor have the trade unions demanded their representation in this committee. Migrant workers do not have their own organizations and they are not represented in any manner in the process of designing migration policies. The migrants cannot form unions in the Gulf countries while their capability to do so in other countries such as Malaysia, Republic of Korea and Hong Kong is severely limited as the majority of them are low level unskilled workers.

4.8.1 Efforts and activities of Nepalese trade unions

Though the migration of workers from Nepal has a long history, it is only recently that trade unions have started to take interest in foreign labour migration. The General Federation of Nepalese Trade Unions (GEFONT) has initiated attempts to organize migrants working in several countries, setting up a migrant section under its foreign department. This section is responsible for developing a mechanism to reach out to the migrant workers abroad. In 1994, this section tried to open contact points in Hong Kong SAR, the Republic of Korea, Japan and India and later extended its effort to Qatar, Kuwait, UAE and Saudi Arabia. Since migrant workers are not aware of the importance of unionization and of the benefit they can get through unions, they do not choose to come into contact with unions by themselves. As the majority of the migrants are

from the middle or lower middle class, they do not consider themselves as workers and see migration merely as an opportunity of making money. This attitude has made the task of organizing migrant extremely difficult. The migrant section of GEFONT, however, first approached migrants abroad willing to be its contact persons. It then successfully located several contact persons in the destination country and gave them publications and material on unionism, and the benefits of being a member of a union. After some months, these contact persons or contact points were organized into groups, called GEFONT support groups. The support groups were formed in the Republic of Korea, Hong Kong SAR, Japan, and the Indian states of Delhi, Haryana, Tamil Nadu and West Bengal. All these support groups, barring the one in Japan, are still existing. Support groups could not be formed in the Middle East, as there is ban on contact points or unionizing migrant workers. Migrants were unwilling to risk their jobs by coming together under some sort of organized activities.

The support groups are not registered organizations and so they cannot function under the established legal system of the respective countries. They are used to access information about the status of migrant workers and raising awareness about the issues of workers abroad. GEFONT publishes a journal dedicated to migrant workers and tries to highlight issues related to them. It has translated the text of relevant labour laws and social security schemes of Hong Kong SAR in Nepali and supplied these to its support groups.

Establishing networks and developing solidarity is another activity of GEFONT. It has functional relationships with some national-level trade unions in India such as the Centre of Indian Trade Union (CITU), All India Trade Union Congress (AITUC) and the Indian National Trade Union Congress (INTUC). These organizations undertake welfare activities for Nepalese immigrants. GEFONT facilitated the local support groups in organizing a seminar in New Delhi in 1999. This was the first seminar it conducted abroad.

The Democratic Confederation of Nepalese Trade Union (DECONT), a comparatively new organization, took up the issue of migrant workers at its national convention in February 2003. The convention spelled out two areas for intervention - networking with trade unions in countries with a large number of Nepalese migrants and setting up of workers'

units wherever possible. The Nepal Trade Union Congress (NTUC) has not been active in developing unions among migrant workers in foreign countries.

4.8.2 Problems and prospects

Though trade unions have done little for migrant workers, there is a lot they can do at the national and international levels. Since migration from Nepal will continue in the future, trade unions can play a key role in the management of migration activities. However, they face problems in reaching out to the prospective migrant workers even within the country. Foreign employment companies recruit workers from all over the country and collect them in Kathmandu only one day before they leave the country. The workers are unaware of the benefits of being organized and the likely hardships they will face and so do not come into contact with the unions. Unions also lack the resources needed to launch mass awareness campaigns within the country and abroad.

If the management of recruitment is smooth, correct and well designed, it reduces the difficulties workers face abroad. Trade unions can influence this process by demanding their representation in the formulation of policies and legislation. They can sensitize policy makers about the issues involved and assist in checking frauds and abuses in the recruitment process as well as in the conditions of work in the destination countries. They can also help in developing and maintaining the standard of skill development and pre-departure training. Trade unions can launch membership campaigns through mass awareness programmes and persuade the Government to set up a migrant welfare fund. They can access information about fees for work permit and other costs that migrants have to pay in the labour-receiving countries. This would help to limit the exorbitant fees the workers pay to the agents. Trade unions can enter into friendly relations with international and national trade unions abroad and refer cases to them seeking help for redress and also get information needed through them.

4.9 Conclusion and Recommendations

4.9.1 Conclusion

There is considerable attraction for foreign labour migration in

Nepal, with a large majority of households in the rural areas seeing in it a passport to a better life. As domestic employment opportunities are limited for more than 300,000 youth entering the labour market every year, foreign employment opportunities can provide some avenue for jobs. The resources generated from labour migration can be productively utilized and help improve the country's economic condition.

Foreign labour migration is subject to considerable risk and uncertainty and also requires initial investment. Therefore, the poorest sections are not able to access such work, which are often more remunerative than domestic employment. Besides, the poor have several obligations within the village and communities, which are developed to secure their livelihoods, and it becomes virtually impossible for them to leave the village in search of work elsewhere. In general, the wealthier households have shown a tendency to go for better paying jobs in developed countries. Their education, ability to invest and social networks can help them in finding better job opportunities. These people also send back higher amounts of remittances.

While the wealthier classes see labour migration as a wealth accumulation and investment strategy, it is a survival strategy for a majority of village households. With employment opportunities being created in the Gulf countries and in Indian cities, where the initial investment required is much less, even the better off among the lower classes can opt for foreign labour migration. The utilization pattern of remittances in these cases shows that a major part is used to meet expenditure on food and other daily necessities of the household. The other important areas into which remittances have been ploughed are housing and children's education.

It is difficult to estimate the magnitude of labour migration from Nepal and the flow of remittances. A study in 1997 estimated that up to 1.5 million Nepalese could have gone to foreign countries for employment, with about a million in India alone. These migrants could have brought in nearly Rs. 69 billion as remittances in 1997 alone. Though recent Government data shows an increase in migration, official figures of the estimate of migration and remittances are lower than the actual figures and this is because a large number of workers have migrated through informal channels.

The distribution of labour migrants and the volume of their remittances within the country is very skewed. Even though labour migration is widespread in the far and mid west regions, migrants from these areas go only to India for the work, and the volume of their remittances is considerably less than those from the western regions who go to the developed and newly-industrializing countries where the remuneration is high. It is extremely difficult to make generalizations about the ethnic and caste composition of migrants, even though migration is seen to be proportionately higher among the hill ethnic groups. The participation of women in labour migration is extremely low, though this has been increasing rapidly in recent times.

There are many incidents about violation of the human and labour rights of migrants. The migrant workers are paid extremely low salary for dirty, difficult and degrading work and are made to work in an unhealthy and degrading environment. Employers often do not honour contracts and migrant workers are not paid for the first few months. When they are paid, it is often less than the contracted amount. There is no social safety net for the migrant workers and they are not entitled to medical and other benefits in case of work-related accidents and death. Women migrant workers often report harassment and sexual exploitation. Yet trade union activities are practically absent.

4.9.2 Recommendations

The following recommendations have been made based on the findings of this study:

Government

- The Government should develop a database of migrant workers with their contact address and develop a contact point in case of emergencies.
- A labour attaché or some other representative of Government must be appointed in the labour-receiving countries who can at least inform the Government of any emergency cases. Some eminent persons in these countries can also be given this responsibility.
- The Government must improve the social protection of the migrant

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workers at home and in destination countries through insurance schemes and developing relationships with local trade unions and Government institutions.

- A policy must be formulated and legislation enacted to end discriminatory procedures and practices on the basis of gender.
- The Government must ratify all international conventions related to migrant workers and lobby for ratification by the major destination countries as well.
- The Government should take a pro-active role in finding employment opportunities abroad in a manner that labour migration is more diversified and not dependent on a few countries alone.
- Migrant workers should be made aware of their rights and responsibilities.
- A 'code of conduct' should be developed for recruitment agencies and the Government should monitor the observance of this code with the help of the Recruiting Agencies Associations.

Civil society

- Civil society must assist the poor and the marginalized groups to access foreign labour migration so that the process becomes more equitable.
- Voluntary groups must monitor the trends in foreign employment opportunities and the problems faced by Nepali workers.
- They must create awareness about the problems and benefits of foreign labour migration and the best way to cope with these problems.
- Civil society groups must take up action-oriented research and maintain a data bank on migrant workers.
- Non-government organizations (NGOs) must network with their counterparts in the destination countries as this can prove useful for the protection of migrant workers
- NGOs can also help in effective re-integration of return migrants through awareness raising activities.

Trade unions

- Nepalese trade unions must develop links with trade unions in

labour-receiving countries. These trade unions can be requested to work for the labour rights of migrant workers in their country.

- Trade unions must involve themselves in the formulation of foreign employment policies.
- They must exchange information with trade unions of different countries about labour standards, rights and violations.
- They must provide information to foreign migrant workers about the contacts with trade unions in the destination country.

ILO

- The ILO must help develop networking of related agencies across national borders for the social protection of workers.
- It must strengthen its technical capacity and mechanism to increase the ratification of international instruments related to migrant workers.
- It must develop strategies to promote bilateral agreements on labour migration.

Annex Table 1
Number and Proportion of Nepali Nationals Working in Different Countries (except India) in 2002.

Country/Region	Male Number	%age	Female Number	%age	Total Number	%age
Saudi Arabia	29 05 00	43.88	500	1.45	2 91 000	41.75
UAE	59 400	8.97	600	1.74	60 000	8.61
Kuwait	9 500	1.43	500	1.45	10 000	1.43
Qatar	79 500	12.01	500	1.45	80 000	11.48
Oman	3 950	0.60	50	0.14	4 000	0.57
Bahrain	18 500	2.79	1 500	4.35	20 000	2.87
Iraq	4	0.00	-	-	4	0.00
Jordan	500	0.08	-	-	500	0.07
Gulf	4 61 854	69.76	3650	10.58	4 65 504	66.79
Hong Kong	45 000	6.80	15 000	43.47	60 000	8.61
Japan	7 000	1.06	3 000	8.69	10 000	1.43
Singapore	75	0.01	25	0.07	100	0.01
Malaysia	85 000	12.84	NA	-	85 000	12.20
Brunei	4 700	0.71	300	0.87	5 000	0.72
Thailand	195	0.03	23	0.07	218	0.03
Korea	4 300	0.65	700	2.03	5 000	0.72
Macao	-	-	-	-	300	0.04
Taiwan	1 950	0.29	50	0.14	2 000	0.29
Philippines	-	-	-	-	10	0.00
Saipan	2 400	0.36	400	1.16	2 800	0.40
Vietnam	-	-	-	-	25	0.00
Cambodia	-	-	-	-	50	0.01
East/South East Asia	1 50 620	22.75	19 498	56.51	1 70 503	24.46
Diego Garcia	100	0.02	-	-	100	0.01
Maldives	40	0.01	-	-	40	0.01

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Country/Region	Male Number	%age	Female Number	%age	Total Number	%age
Afghanistan	4 000	0.60	-	-	4 000	0.57
Other/Asia	4 140	0.63	0	0.00	4 140	0.59
Australia	8 000	1.21	2000	5.80	10 000	1.43
Britain	21 000	3.17	4 000	11.59	25 000	3.59
Norway	139	0.02	97	0.28	236	0.03
Germany	55	0.01	15	0.04	70	0.01
Switzerland	102	0.02	61	0.18	163	0.02
Netherlands	10	0.00	5	0.01	15	0.00
Sweden	2	0.00	1	0.00	3	0.00
France	22	0.00	7	0.02	29	0.00
Austria	40	0.01	10	0.03	50	0.01
Belgium	200	0.03	60	0.17	260	0.04
Liechtenstein	3	0.00	-	-	3	0.00
Morocco	9	0.00	-	-	9	0.00
Europe	29 582	4.47	6256	18.13	35 838	5.14
Angola	25	0.00	-	-	25	0.00
Lebanon	50	0.01	-	-	50	0.01
Sierra Leone	5	0.00	-	-	5	0.00
Mozambique	200	0.03	-	-	200	0.03
South Africa	300	0.05	-	-	300	0.04
Africa	580	0.09	-	-	580	0.08
Canada	300	0.05	100	0.29	400	0.06
United States	7 000	1.06	3000	8.69	10 000	1.43
North America	7 300	1.10	3100	8.98	10 400	1.49
TOTAL	6 62 076	100.00	34 504	100.00	6 96 965	41.06

Source: NIDS, 2003 (unpublished report submitted to UNIFEM).

NOTES

¹ L. Caplan, *Land and Social Change in East Nepal*. London: Routledge & Kegan Paul, 1970; N.R. Shrestha: "The Political Economy of Economic Underdevelopment and External Migration in Nepal" in *Political Geography Quarterly*, 1985. 4:289-306; N.R. Shrestha: *Landlessness and Migration in Nepal*. Boulder, Westview Press, 1990.

² Vidya Bir Singh Kansakar, "Emigration, Remittances and Rural Development", Kathmandu, CEDA, Tribhuvan University, Nepal (p. 21).

³ D. Bolt: *Gurkhas*. London, Weidenfeld and Nicolson, 1967.

⁴ *Himal*, 15-29 March 2003, p.23.

⁵ Ecologically, Nepal is divided into the Terai (plain area), hills and mountain regions. From the perspective of regional development, the country is divided into five development regions – Eastern, Central, Western, Mid-West and Far-West.

⁶ Keshab Poudel, *Spotlight*. July 11-17 2003. p. 16-18.

⁷ Elvira Graner and Ganesh Gurung, 'Arab Ko Lahure: Looking at Nepali Labour Migrants To Arabian Countries' in *Contribution to Nepalese Studies*, Vol. 30:2, July 2003, pp. 295-325.

⁸ D. Seddon, J. Adhikari, & G. Gurung, *The New Lahures: Foreign Labour Migration and Remittances Economy of Nepal*. Kathmandu, NIDS, 2001

⁹ Poudel, 2003, op. cit.

¹⁰ *ibid*.

¹¹ D. Seddon, J. Adhikari, & G. Gurung, "Foreign labour migration and the remittance economy of Nepal" in *Himalayan Research Bulletin*, 1998, vol. Xviii:2, Special issue on 'Development in Nepal', edited by David Seddon, pp. 3-11.

¹² see Seddon et al, 2001, op. cit. for the summary of these studies.

¹³ *Himal*, op. cit.

¹⁴ J. Adhikari, *The Beginnings of Agrarian Change: A Case Study in Central Nepal*. Kathmandu, TM Publications, 1996.

¹⁵ Seddon, Adhikari & Gurung, 2001, op.cit.

¹⁶ S. Wyss, *Organization and Finance of International Labour Migration: A case study of Sainik Basti, Western Nepal*. Master's Thesis (Diplomarbeit), Department of Geography, University of Zurich, 2003.

¹⁷ Adhikari and Seddon, 2002, op. cit.

¹⁸ D. Seddon, *Migration and Remittances* A review paper submitted to The World Bank, Kathmandu, 2003.

¹⁹ Paudel, op cit.

5 Pakistan

Migrant Workers Coping with Discrimination and Poverty

Qamar Ali Shah

5.1 Introduction

Out-migration of workers from Pakistan to the western countries, especially the United Kingdom, for employment started taking place in the 1950s and 1960s on a modest scale. The process gained momentum in the 1970s and there was large-scale migration of workers, especially towards the Middle East. The rise in oil prices in the 1976-79 period led to considerable rise in the revenues of the oil-producing countries in the Gulf which was used for infrastructure and development projects to accelerate economic growth. This opened new avenues of employment for various categories of foreign workers. Emigration from Pakistan, therefore, touched an average of 113,100 workers a year between 1978 and 1983.

Out-migration patterns have fluctuated over the years. There was a decline in emigration between 1984 and 1989 and only 62,568 workers went abroad for employment in 1986. There was an increasing trend, resulting in a record of 191,506 workers emigrating in 1992. Competition in the international labour market led to a decline of migration for employment and this was followed by the number of emigrating workers rising from 80,496 in 1999 to 130,041 in 2001. This rise has been attributed to effective measures and support from the Government, including visits to labour-receiving countries, meetings with foreign employers as well as improving the skill level of the workers.

The profile of migrant workers has been mixed. In the 1978-83 period, 41.87 per cent of migrant labour comprised unskilled workers. During the last seven years, the migration pattern has slightly tilted towards skilled categories i.e. technicians, agriculturalists, electricians, steel fixers, mechanics, sale workers, etc.

This process of emigration, however, created qualitative and quantitative shortages of various categories of skilled and semi-skilled

labour force within the domestic labour market. In order to meet the requirements of skilled workers at home and abroad, the Government has initiated various programmes of vocational and technical training. The National Training Bureau (NTB), National Talent Pool (NTP) and Skill Development Councils (SDCs) were established for this purpose.

The emigrants have been remitting foreign exchange at an average of US\$ 1,617 million annually since 1972, and this touched the level of US\$ 4,128.5 million in 2002-03. The number of migrants and their remittances have had a significant impact on the country's foreign exchange reserves as well as balance of payment position. In addition, out-migration is believed to have eased the unemployment situation, it improved the living conditions of migrant workers' dependents and has affected the overall income distribution and price levels. The utilization pattern of remittance indicates that a major portion of it was used on consumption and purchase of real estate and consumer durables, with only a small portion being used for investment, financial assets or capital goods.

On the other hand, the migrant workers complain about discrimination concerning socio-economic, religious and cultural rights in the host countries. The situation has become more complicated after the 9/11 incident, and the fundamental human rights of migrant workers are under serious threat across the globe. Pakistani workers in the United States face the problems of compulsory registration, fear of deportation and unnecessary inquiries about their families. The emigration policy of the host countries has created an unfavorable climate for Pakistani migrants, with more restrictions on the flow of labour.

5.2 Incidence Of Out-Migration In Historical Settings

5.2.1 Legal labour migration

Labour out-migration from Pakistan has a long history.¹ The outflow of workers in the early 1950s and 1960s was negligible and only 1,230 Pakistani workers went abroad for employment during this period. The movement was mainly towards western countries, especially the United Kingdom. The hike in oil prices in the early 1970s brought about a rise in the revenues of the oil-producing countries of the Middle East, which spurred infrastructure development projects. This created demand for

foreign labour in various categories of unskilled, semi-skilled and skilled manpower. Pakistan used to send about one-third of its incremental labour force, on an average 131,100 workers a year to the Middle East during the 1977-83 period.² They mostly comprised of drivers, electricians, carpenters, masons, welders, steel fixers, plumbers, painters, etc.

With the sharp decrease in oil revenues and development activities in the oil-producing countries and competition in the international labour market, emigration from Pakistan declined during the 1983-86 period, when only an average of about 88,500 workers a year were able to find overseas jobs. With construction activity in the host countries almost over, the construction workers started returning and Pakistan became a labour-surplus country, faced with the problem of return migrants and increased pressure on the domestic labour market. A sample survey of 480 return migrants in the rural and urban areas of the provinces of Punjab, North West Frontier Province (NWFP), Sindh and Balochistan, showed that most of the return migrants were young and unmarried. Out of 58 per cent unmarried return migrants, 38 percent got married within six months of their return.³

According to airport surveys of return migrants, 103,700 migrant workers returned to Pakistan during 1984-87 after the expiry of their employment contracts.⁴ Since then the trend of return migration seems to be declining and out-migration has slowly picked up, exceeding 113,781 workers in 1990. However, the Iraq-Kuwait war broke out that year and this resulted in the return of nearly 61,000 workers from these two countries between August 1990 and February 1991, while another 10,000 workers who were on leave could not go back to their jobs. Out-migration to Kuwait, Iraq and other Middle Eastern countries did not increase during this period. Out-migration picked up again soon after the end of the war, but there were fluctuations in the number of workers going abroad, depending on the levels of economic prosperity, development needs and labour market dynamics in the host countries as well as Pakistan. The number of migrant workers rose to 191,506 in 1992, fell to 110,936 workers in 1994, and rose again to 149,029 in 1997.

A total of 147,422 workers migrated for employment in 2002, while

149,554 workers went abroad in January-August 2003 alone. Keeping in view the positive trend in migration, the Pakistan Government has fixed the migration target for 2003-04 at 150,000 workers.⁵ Thus, between 1971 and 2003, a total of 3.3 million workers of various categories migrated overseas for employment. The private sector accounted for 2,251,324 workers, the public sector for 23,196 workers and those who went on their own numbered 1,032,402 which show that the private sector played a major role in out-migration.⁶

5.2.2 Factors promoting out-migration

The search for employment with better wages is the main reason for an increase in migration from Pakistan, especially towards the Middle East. The wave of globalization also influenced the pattern of Pakistani migration since large enterprises of developed countries undertook a major expansion of their production and distribution activities especially in the resource-rich countries. The oil producing countries of the Gulf were lucrative markets for those transnational companies and this led to an increase in employment in the construction, mining and services sector.⁷

Another important factor behind out-migration is the conscious efforts made by the Pakistan Government to promote overseas employment. Out-migration is an important way of handling the unemployment pressure, reducing poverty reduction and earning foreign exchange through remittances. The Government sets annual targets of migration both through private and public sectors and has established an institutional mechanism in order to manage the emigration business in a systematic way. This has boosted the out-migration of labour, especially through Overseas Employment Promoters in the private sector. Moreover, Community Welfare Attachés (CWAs) have been posted in countries with substantial concentration of Pakistani workers such as Saudi Arabia, Kuwait, Libya, Qatar, United Arab Emirates (UAE), Oman, the United Kingdom, Bahrain etc., in order to look after the interest and welfare of migrant workers. The CWAs provide varied forms of assistance to Pakistani workers abroad concerning their basic human rights, terms of employment contract, wages etc. They also make efforts to explore more employment opportunities.

5.3 Legal Framework

Any emigration policy can be effective only when it is based on the firm foundation of legal norms. Pakistan has been regulating the emigration of workers since the process started under a comprehensive legal regulatory framework. The Emigration Ordinance promulgated on 23 March 1979, extends to entire Pakistan and applies to all citizens, wherever they live. The Emigration Rules, 1979 were framed under Section 16 of the Ordinance. The Emigration Ordinance and Rules deal with matters pertaining to the appointment, functions and general duties and powers of the Director General Bureau of Emigration & Overseas Employment (BE&OE) and Protector of Emigrants, regulation of emigration, appointment of Overseas Employment Promoters, offences, penalties and the other procedures.

5.3.1 Legal protection for migrant workers

Emigration from Pakistan must be in conformity with the provisions of the Ordinance and Rules. The migrant must have a letter of appointment or a work permit from a foreign employer or an employment visa or an emigration visa from a foreign government. Before emigrating, the potential migrant must appear in person before the Protector of Emigrants, along with the Overseas Employment Promoter through whom he or she has found employment and furnish whatever information is required under the Rules. Recruitment of persons must be done according to the qualification and other terms and conditions laid down in the demand from employers. If any emigrant violates the terms and conditions of the foreign service agreement, he or she is liable to punishment under the Emigration Rules on repatriation to Pakistan.

The emigration law guarantees social security, occupational safety and health, wages and other terms and conditions of service offered to emigrant workers. The employers are liable to be registered with the Protector of Emigrants. The BE&OE has introduced an insurance scheme for prospective migrant workers, who are insured against death or disability. The Emigration Ordinance also stipulates 14 years imprisonment for those who lure emigrants with false promises.

The Pakistan Government has set up various agencies under the Federal Ministry of Labour, Manpower and Overseas Pakistanis. These are: the BE&OE, the Overseas Employment Corporation, Overseas Pakistanis Foundation, offices of CWAs in the major labour receiving countries and offices of the Protector of Emigrants.

The BE&OE, set up in 1971 to regulate legal emigration, has played an important role in providing employment to more than 3 million persons through its regional offices. It has five offices of Protectors of Emigrants and 12 offices of CWAs in different countries. The Bureau, acting through these offices, guarantees the safety and security of emigrant workers and looks after their welfare. CWAs are responsible for safeguarding the interest of emigrants in the host countries, including settling of the disputes and negotiations with their employers. They also attend to all complaints of the emigrants and employers and find adequate remedies.

The Overseas Employment Corporation was established to check the exploitative practices of private overseas employment promoters and has provided valuable services to recruiting agents as well as the workers. The Overseas Pakistanis Foundation looks after the welfare of emigrants and their families.

5.3.2 Lack of protection in receiving countries

Protection of migrant workers is little addressed by the labour policies and laws of receiving countries. Migrant workers can be protected in host countries only through the observance of international instruments. The principles and standards set forth in the relevant instruments are elaborated in the following ILO conventions: Migration for Employment Convention No. 97 (1949), Migrant Workers (Supplementary Provisions) Convention No. 143 (1975), Equality of Treatment (Social Security) Convention No. 118 (1962) and Maintenance of Social Security Rights Convention No. 157 (1982). Pakistan has ratified only Convention No.118 and is still in the process of ratifying the others.

None of the Gulf countries has ratified these four important ILO Conventions or the 1990 UN International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families.

Therefore, a supportive mechanism, cooperation or any sort of networking between trade unions could not be evolved between the labour-sending and labour-receiving countries. The Gulf countries have not yet felt any need to establish an institutional setup for social dialogue and cooperation of trade unions in migration matters.

5.4 Employment Perspective

5.4.1 Employment effects

Being a labour surplus country, Pakistan is faced with the problem of a high unemployment rate, estimated at 7.8 per cent of the total labour force during 2001-02.⁸ Overseas migration is, therefore, an important avenue of employment to the Pakistani labour force. As pointed out earlier, a total of 3.3 million workers migrated for employment between 1971 and 2003.

5.4.2 Geographical distribution of out-migration

Pakistan has sent manpower to more than 45 countries in over 40 categories. In the early 1950s and 1960s, migration from Pakistan was mostly to western countries, especially the United Kingdom. Since the early 1970s, the bulk of migration was to the Gulf countries such as Saudi Arabia, the UAE, Oman, Qatar, Kuwait, Bahrain, Iraq, Iran, Libya, etc. According to the BE&OE, 45.5 per cent migrated to the Middle East, 29.2 per cent to Europe, 22.7 per cent to the Americas, 1.6 per cent to South East Asia, 0.6 per cent to Africa and 0.5 per cent to Australia and New Zealand.

Within the Middle East, most Pakistanis migrated to Saudi Arabia, the UAE, Kuwait and Bahrain. Presently, out of the total overseas workers 79 per cent have gone to Saudi Arabia, followed by the UAE (15 per cent), Oman (3 per cent), Qatar (1 per cent), Bahrain (1 per cent). As regards the destination to Europe, Pakistanis mostly migrated to the United Kingdom, France, the Netherlands and Germany. In the Americas, the maximum migration was towards the United States and Canada. In South East Asia and East Asia, most Pakistanis migrated to Hong Kong, Japan and the Republic of Korea. Within Africa, Libya has a large number of Pakistanis.

5.4.3 Gender perspective of emigration

Social attitudes in Pakistan to female employment are not positive and Pakistani female workers are reluctant to proceed abroad for employment. Therefore, out-migration of female workers is low. Efforts are needed to avail maximum employment opportunities for Pakistani women in the field of teaching and medicine as these are socially acceptable.

5.5 Impact on National Economy

5.5.1 Foreign exchange earnings

The emigration of Pakistani workforce has led to a sharp rise in foreign exchange remittances and this has greatly improved Pakistan's balance of payment position as well as incomes of households. According to the Finance Division of the Government of Pakistan, Pakistan has been earning foreign exchange through remittances to the tune of US\$ 1,617 million annually on an average since the early 1970s. This has led to a huge improvement in the net foreign assets of the entire banking system and foreign exchange reserves position, which, in turn, has facilitated the process of rupee appreciation in 2000-2003 for the first time in the country's economic history.

5.5.2 Impact on economic growth

Increased out-migration has also had an obvious impact on consumption patterns. It has also had some indirect benefits, which have had a salutary impact on the employment position, enabling Pakistani entrepreneurs to exploit investment opportunities in the oil-rich Gulf countries to generate overseas jobs for their workers and to create other beneficial economic linkages. Some Pakistani firms were able to get contracts or subcontracts in construction and other sectors, which absorbed a number of engineers, consultants as well as skilled and unskilled personnel. Similarly, joint ventures or holding companies were set up in collaboration with Saudi Arabia, Kuwait and Libya for promoting investment in Pakistan.

Pakistani migrant workers have introduced Pakistani products, especially food items, in the host countries. These products are now

regularly exported to these countries and have, therefore, become a permanent source of revenue for local exporters. The global exposure of Pakistani workers has resulted in their investing in industry and other economic sectors in Pakistan. The construction sector experienced a boom while the subsidiary and other related sectors also expanded substantially.

A large number of migrant workers belong to the rural areas where 70 per cent of the population lives. The migration of the labour force and the flow of remittances has led to a considerable improvement in their socio-economic conditions as well as the standard of living of the middle and low income groups. Before emigration, many of these areas were characterized by widespread unemployment and underemployment, high dependency ratio and poverty. Land was mostly tilled by bullocks/ animals and use of chemical fertilizers and improved seeds was low, non-farm activities were confined to a few shops and artisans work, transport facilities were inadequate and mud houses were a common sight.

The scenario has radically changed in the post-emigration period. People have set up small businesses and trades such as flour grinding and saw machines; motor repair and spare parts shops, fertilizers and cement agencies. There are a large number of general stores, tailoring shops, bakeries. Imported vans provide transport services and mud houses have been replaced by brick houses. Farmers have started using tractors on their fields, especially the households receiving remittances constituting 95.5 per cent as against the non-receiving households constituting 52.6 per cent. The cropping pattern has changed from subsistence farming to commercial farming and a number of poultry farms and fruit/vegetable gardens have been set up. Since a large chunk of the remittances have been used in real estate development, this has pushed up the price of land and construction material. This had a favorable impact on economic growth, because of its spin-off effect on the construction and building material sectors. All these factors have combined to reduce poverty levels.

The phenomenon of out-migration has also affected the behavior pattern of non-migrant families, generating an eagerness to transform their lives as well.⁹ Many of them acquire different skills, especially

those in demand abroad. A primary survey-based research by the Pakistani Manpower Institute in 1990 showed that 79 per cent of skilled return migrants had enhanced their skill levels during their employment abroad. However, 49 per cent of them reported that they had not been able to utilize their enhanced skills on return due to non-availability of requisite jobs in the country. Overall, however, emigration has had a beneficial socio-economic impact.

5.6 Economic Impact on Labour-Receiving Countries

Labour-receiving countries are a heterogeneous group and it is difficult to generalize the consequences of international migration. The economic implications of migration are still disputed by different experts, especially the impact of demographic development on economic growth. International migration can have ethnic, racial, cultural and, some times political consequences in host societies. While diverse emigrants are often successfully integrated in the societies of labour-receiving countries, they may also lead to social conflict, resulting in extreme cases of violence against groups. The host countries are faced with the problem of integration of the foreign workers in their societies. This has created a lot of socio-economic problems in the society and labour market.¹⁰

In case of short-term migration, while the host country gets the economic gains arising from the employment of foreign workers, it avoids the costs of integration of migrants' families, who do not join them. The costs of integrating whole families include education, social welfare or housing.¹¹ The use of cheaper foreign labour increases efficiency and strengthens the competitiveness of the host country's industries. However, this can also lead to conflicts when there is surplus labour and lead to conflicts between domestic and foreign workers. The displacement of local labour by foreign workers is a politically sensitive issue, which may lead to hostile reactions on the part of the national population.

Unemployment has been on the rise in most European countries, rising from around 2 per cent in 1980 to a peak of 10.5 per cent in 1993. The demand pattern in the European labour-receiving countries has changed from unskilled or semi-skilled migrant workers to qualified

workers. While the emigration of highly qualified Pakistani workers has helped the supply of workers to foreign labour markets, it has also created the problem of brain drain in Pakistan. On the other hand, the low-skilled workers see no job prospects in the foreign labour market.

The positive effect of migration on the receiving countries is likely to be greater when migration provides labour for business expansion and enhances demand for goods and services within the host country as migrants settle into communities, begin paying taxes and spending in the local economy. According to a statement by an American labour economist, Julian Simon:

“when there is no constraints upon migration, emigrants improve the situation of native workers by smoothing out employment over the business cycle. This is especially true of temporary emigrants because they go and come in response to the job situation.¹²

Migrant workers are an important source of labour supply to ease manpower constraints in host countries and facilitate rapid economic growth. This was the case in western Europe from the end of the Second World War to 1973-74 and continues to be the case in the Middle East and Malaysia.¹³ Most labour-receiving countries are now devising policies to control emigration flows and thereby reduce the social costs of migration.¹⁴

In Malaysia, labour market studies indicate that the presence of foreign workers has not depressed the wages of local workers. In Singapore, the evidence is mixed. However, it is acknowledged that Singapore's growth, averaging 7.9 per cent between 1990 and 1998, would not have been possible without the inflow of foreign workers.¹⁵ There were also some indications of less positive impacts in other areas, some examples being: negative productivity in the construction industry, increased social inequality because of lower wages in the less skilled sectors, rising property prices due to foreign induced demand etc. However, Singapore has responded to these problems through policy interventions. Evidence showed a rise in female participation due to inflows of foreign domestic helps.¹⁶ It is also acknowledged that the presence of foreign domestic helps enabled the local people to spend

more time with their families. However, in Taiwan there is evidence that the use of foreign workers in manufacturing, construction and social services increased unemployment among the local labour force. Australia presents a contrasting picture, with migration appearing to have had a positive impact on Australian society.¹⁷ Thus the impact of out-migration depends upon the level of economic development, the labour market situation, social adjustment in the society etc.

5.7 Household Economy For Migrant Workers

5.7.1 Family life

Out-migration by Pakistani workers is usually of a short-term nature and, therefore, the emigrants are usually not accompanied by their families. The education level of the migrant workers is generally low and they are largely drawn from poor and middle level families. They go abroad alone for a specific time period for earning money and have earned the nickname of ‘target saver’ since they are aiming at accumulating a greater amount of savings. A sample survey of 480 return migrants households in four provinces conducted by PMI in 1988 showed that the return migrants remitted 60 per cent of their monthly income to their families, which have changed the consumption pattern and habits of their family members. This also has an unintended consequence as, on their return, the migrants are faced with the problem of maintaining the higher living standard that their families have got used to.

Child education

Out-migration has, in some cases, changed the attitude and behavior of dependents, especially the education of the children of migrant workers. Children get large amounts of money and so often indulge in wasteful activities. Their behavior also affects other children of the area.¹⁸ The PMI study also indicates that the education of the children suffers. Lack of guidance has resulted in children in the NWFP becoming heroin addicts. However, there are cases where children of migrant workers have used their fathers’ earnings to educate themselves, with a few even moving to urban areas to pursue higher and professional education.

Income, saving and investment

Before out-migration, 26 per cent workers were earning up to Rs.1,000 per month; 30 per cent between Rs. 1,000 and Rs. 1,500; 24 per cent Rs. 1,500 and Rs. 2,000; 18 per cent between Rs. 2,000 and Rs. 2,500; and only 2 per cent were earning Rs. 2,500 and above. In contrast, while working abroad the monthly income of 23 per cent of migrant workers was up to Rs. 4,000; 20 per cent earned Rs. 4,000 to Rs. 6,000; 18 per cent earned Rs. 6,000 to Rs. 8,000; 23 per cent earned Rs. 8,000 to Rs. 10,000; and 16 per cent earned Rs. 10,000 and above. This shows that the income of migrant workers was many times higher than what they earned before migrating. Since most male workers go abroad alone, they try to curtail their consumption expenditure so that they can remit larger sums to their families.¹⁹

The average total overseas earnings of the majority of those on short-term employment abroad (one to three years) were less than Rs. 75,000; while the earnings of those staying three to six years or seven to nine years was about three to eight times higher than that of those on short-term employment. There is a positive relationship between workers' educational levels and their remittances, with the average total remittances of professional workers being almost four and a half times higher than those of unskilled workers.

A study conducted by PMI in 1990 showed that 30 per cent of return migrants saved Rs. 6,000 and more each month and 29.9 per cent saved between Rs. 3,000 to Rs. 5,000. On an average, each return migrant saved Rs. 4,000 a month. The study also indicates that 41 per cent of the return migrants did not invest productively but spent money on marriages, repaying loans, treatment of illness, purchase of consumer durables like furniture, refrigerator, washing machines, televisions electrical appliances, etc. However, 59 per cent of the return migrants made some productive investment – 30.4 per cent invested in building houses and purchase of plots, 18 per cent in business (retail trade), 17 per cent in transport, 3.4 per cent in small scale manufacturing industries, 4.5 per cent on the purchase of agriculture tools and 5.4 per cent on the purchase of agriculture land.

An ILO survey conducted in 1986 showed that the migrant households received about Rs. 126,000 a year on an average from the

Middle East and 37 per cent of these remittances were directed into investment. Households saved 31 per cent of the remittances. Migrants families located in urban areas invested relatively higher portion of the remittances than their rural counterparts, with 62 per cent of investment going into real estate. The other major investment area was business, especially retail trade. Households of migrants who stayed abroad between two and six years directed substantial amounts of remittances to savings and investment, but the remittances of those staying for less than three years was not enough to invest in real estate or businesses.

The cost of migration is negatively related to the amount of remittances directed towards investment. The migrants who financed migration from their own sources of funds were able to use more remittances for investment than those who borrowed money to go abroad. Forty-one per cent of migrants had borrowed money to finance migration while 59 per cent financed migration from their own savings.²⁰

Migrant households, which had additional sources of income other than remittances, were able to put a higher share of remittances into investments than households where remittances were the only source of income. According to the ILO survey, 37 per cent of households were solely dependent on remittances. In the urban areas, almost half of the migrants' households had no sources of income except remittances, while in the rural areas less than one-third of migrants' households were dependent on remittances.

5.8 Human and Labour Rights

5.8.1 Discrimination

Migrant workers have made significant contributions to both their own countries as well as the labour-receiving countries, at enormous cost to the life, health and well being of themselves and their families. They are treated as little more than machines, separated from their families and uprooted from the support system of the community. The jobs migrant workers perform are dirty, dangerous and degrading and they suffer physical, mental and psychological problems. They are vulnerable to various forms of discrimination, such as low wages, racism and harassment. Female workers have to cope with violence.

Pakistani female workers do not migrate as domestic workers and, therefore, the problem of sexual harassment was not reported.

Despite a huge numbers of migrant workers, adequate attention has not been paid on their living and working conditions. The employers, by and large, continue to exploit their vulnerabilities. Despite the increasing importance of the phenomenon of migration, few states have formally recognized the issue as manifested in various ILO conventions or the 1990 UN Convention.

Migrant workers are generally ignored by the employers in the destination countries. They are often blamed for various problems such as rise in crimes, spread of diseases, job losses or depressed wages for local workers. Little effort is made to integrate them within host societies and there is a tendency to keep them on a temporary basis. Migrants are not allowed to participate in economic life and are excluded from the social, cultural and political spheres. Restrictions on family re-unification have deprived migrant workers of the right to family life.

The protection of migrant workers, regardless of legal status, calls for the observance of human rights, facilitation of family reunification and equal treatment before the law. Host countries maintain double standards in their policies towards highly skilled and professional migrants on the one hand and the less skilled workers on the other. The environment for the less skilled workers is relatively unfriendly. The Pakistan Government has initiated various steps to improve the welfare of emigrants such as visits and dialogues with the host governments as well as appointing CWAs.

Saudi Arabia has imposed a ban on the employment of 32 categories of foreign workers, including limousine taxi drivers. It is estimated that more than 15,000 persons in Pakistan will be affected by this step. The UAE Government has also prescribed matriculation as the minimum qualification for expatriate workers, which will create a lot of difficulties for the Pakistani workers.

The BE&OE received 136 complaints from migrant workers in 2003 against 73 in 2002, 104 in 2001 and 110 in 2000. The complaints received from migrants relate to the following issues:

- Non-compliance or unilateral change of Foreign Service Agreements

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by some employers. The fresh contracts are often in Arabic and the workers are not able to understand the contents.

- Delay/non-payment of wages
- Non-payment of dues by sponsors.
- Refusal to change sponsorship even in genuine cases.
- Non-renewal of work permits and driving licenses.
- Delay in dispatch of dead bodies.
- Delay in the finalization of death compensation cases.
- Delay in allowing consular service to imprisoned Pakistanis.
- Refusal to provide assistance in getting exit stamps on passports.
- Harassment of workers during pendency of cases before labour courts.
- Non-implementation of court decisions.
- Forcing workers to leave the country without settlement of dues.
- Drivers are forced to drive vehicles that are not insured and in case of accidents, they face long spells of imprisonment and heavy fines involving compensation to the family of deceased.
- Employers sublet their workers to other employers in violation of the Foreign Service Agreement due to non-availability of work.

After the 11 September incidence, things have become more difficult for migrants to western countries, especially for those from Islamic countries. Host governments need to make conscious efforts to promote a culture of tolerance and respect for human rights in an increasing culturally diverse environment. The promulgation of law and policies aimed at protecting the rights of migrant workers will serve as a strong signal that emigrants' rights should not be scarified in the name of economic efficiency.

5.8.2 Statements of migrants and manpower agencies

A total of 35 migrants/return migrants (comprising 10 each from Saudi Arabia and South Africa and 15 from the Gulf countries of Oman, Kuwait and Abu Dhabi) were interviewed in December 2003 to get an idea of the violation of basic human rights. Their responses are presented below:

Saudi Arabia: Nearly all the returnees from Saudi Arabia said they had not experienced any violation of the employment contract, racism,

unpaid salary, problems relating to injury compensation and sexual harassment.

Middle East: Similarly, all the respondents from Oman, Kuwait and Abu Dhabi said that they faced no problems relating to racism or unpaid salary, though all of them said that employers did not provide medical facilities and accommodation, in violation of the employment contract. They felt that the workers proceeding abroad with the assistance of their relatives faced no problem whereas the other migrants did face problems of a different nature.

South Africa: The overseas employment promoters said that the Pakistan Government has fully restricted out-migration towards South Africa. The license holder agents are not sending manpower to that country but some workers are going there illegally. All the 10 respondents said that the local population was highly discriminatory towards the foreigners. They faced problems of non-implementation of the employment contract but this may be due to their illegal status. In general, there is no security of life and assets; labour courts are ineffective; the police are corrupt and crime levels are high.

Manpower Agencies: Four manpower agencies which were interviewed said that the overseas demand is processed according to the rules and regulations and in keeping with the terms and conditions of foreign employment. They asserted that they are fair in their dealings, in order to avoid cancellation of their official licenses, but they are helpless in dealing with violations of agreements by foreign employers, as no mechanism has yet been evolved to deal with this. The return migrants were of the view that they had faced various problems in the process of migration such as being overcharged, information gaps and complicated procedures adopted by the recruiting agents.

Thus, migrant workers' rights are generally violated by foreign employers. This phenomenon is also dependent upon the level of socio-economic development of a country. There is a negative correlation between the violation of rights and the level of prosperity and development of the host country. The evidence of violation concerning employment, racism, discrimination etc. are relatively less in Saudi Arabia and the Gulf countries as compared to South Africa and other less developed countries.

5.9 Trade Unions Responses

5.9.1 Trade unions' policy on migration

There is a complete absence of migrant's organizations or any other formal structure for overseas labour in Pakistan as well as in some of the labour-receiving countries. The All Pakistan Federation of Trade Unions (APFTU), which is the largest union, admitted that there is no policy of the trade unions on migration, no supportive mechanism is available, and there is no networking or cooperation between trade unions in labour-sending and labour-receiving countries. Nor have trade unions established any helplines or legal services for migrants and their families. The Government migration mechanism also has not made any legal provision to involve trade unions or labour federations in migration.

The APFTU was of the view that a system should be developed to protect the rights of migrants under the country's labour laws as well as in the light of the ILO Conventions and Recommendations on migrant workers. The Additional General Secretary of the APFTU, who was interviewed, made the following suggestions:

- There is a need to establish associations of Pakistani migrants in the host countries, which can help solve the problems of migrants. Concerned departments of the Government should coordinate with these associations.
- All migrants should become members of trade unions and federations through the CWAs posted abroad.
- The Government should support visits by trade union representatives to see the problems of migrants and for providing legal and other services to them and their families.
- Trade unions should arrange one-day orientation courses for migrant workers before they proceed abroad.
- Supportive mechanism of trade unions should be evolved under a legal framework to protect the rights of emigrants.

The APFTU organized a seminar in 1991 on the welfare of migrant workers. The recommendations of the seminar can be used as inputs to evolve a mechanism of trade unions involvement in migration in both

labour-sending and labour-receiving countries. The seminar had urged the Government of Pakistan to ratify ILO Conventions 97 and 143.

The trade union movement can no longer remain aloof to the problem of migration. Besides sharing information and analyzing the ground realities, it is important to identify areas and modes of cooperation between trade unions in the labour-sending and labour-receiving countries. Trade unions should play an effective role at the national as well as international level to promote and ensure proper application of legal instruments recognizing the rights of migrants. It is necessary to obtain ratification of international conventions on equal treatment in jobs, wages, social security and union rights.

5.10 Conclusion And Recommendations

5.10.1 Conclusion

Migrant workers are moving to different countries in search of employment. Their skill levels, contract periods and wage levels vary a great deal. The remittances from migrant workers touched a peak of US\$ 4128.5 million in 2002-2003, which improved Pakistan's balance of payments position and boosted economic activity within the country. These remittances are used mainly for construction of houses, purchase of land, marriages and improving the standard of living of their families. The pace of out-migration, especially towards the western countries, has been affected after the 9/11 incidents. The Pakistan Government has initiated various measures to help migrant workers through visits, meetings and dialogues with the labour-receiving countries.

Migrant workers have had a beneficial impact on the economic development of the host country. However, they face problems of integration in the workplace and the society of labour-receiving countries. The migrant workers from Pakistan are generally less educated and prone to various kinds of discrimination concerning their basic human rights. Trade unions have not played an adequate role in addressing the issues of the migrant workers largely because of the absence of coordination between the trade unions in labour-sending and labour-receiving countries. The following recommendations should be seriously taken into account in order to secure migrant workers' rights.

5.10.2 Recommendations

- Development of human capital in accordance with the demands of the international labour market should form an integral part of the overseas employment process in Pakistan. Public and private organizations dealing with human resource development as well as overseas employment promoters and non-government organizations should be encouraged to contribute to this effort.
- The human resource development strategy should include the demand-supply position of workers, at the national as well as international level, to avoid imbalances at various skill levels.
- A sound emigrant information policy should be an essential component of a proper migration management strategy. This should focus on issues such as employment contracts, socio-economic problems, labour market situation, family reunification, etc.
- The ILO should play the role of a facilitator in the implementation of the international instruments and standards in the host countries so as to ensure the protection of the basic human rights of the emigrants.
- The institutional arrangements within Pakistan should be strengthened to provide advisory services and incentives to return migrants, especially in the rural areas, relating to employment and income generation activities. Similarly the return migrants in the urban areas should be encouraged to focus on education, health, tourism, hotels, restaurants, housing and industry.
- The Government of Pakistan must sign bilateral agreements with labour-receiving countries for the protection and welfare of migrant workers and their families in coordination with the ILO, business associations and overseas employment promoters of the host countries.
- Trade unions in the labour-sending and labour-receiving countries should be involved in activities relating to welfare of emigrants under a legal framework on a regular basis.
- Cooperation among labour-sending countries should be strengthened at public and private levels, especially in terms of information sharing and harmonization of policies on overseas employment.
- The Pakistani diaspora in host countries should play a significant

role in the protection and social development of immigrants. It should form social associations and clubs within the framework of laws, rules, custom and norms of the receiving countries. These organizations can provide orientation services such as briefing migrant workers about laws, rules, religion, culture and customs of the host countries. They should encourage and help migrants get actively involved in the society and solve their problems and difficulties.

- The knowledge and expertise of Pakistani expatriates should be fully used for capacity building of the individuals as well as of institutions.
 - The Transfer of Knowledge Through Expatriate Nationals (TOKTEN) programme under the National Talent Pool (NTP) should be further strengthened and enlarged.
 - Pakistani institutions in various fields should utilize the services of expatriates like doctors, engineers, information technology experts, professional managers and social scientists, on short-term basis through NTP.

NOTES

¹ Migration means migration of Pakistani workers for job through official channels.

² The Databank of the Bureau of Emigration and Overseas Employment.

³ Pakistan Manpower Institute.

⁴ These surveys were conducted in 1986 by the Ministry of Labour, Manpower & Overseas Pakistanis in collaboration with ILO/ARTEP and the Overseas Pakistanis Foundation.

⁵ Government of Pakistan, *Pakistan Economic Survey, 2002-03*, Islamabad, Finance Division, 2003.

⁶ The Databank of the Bureau of Emigration and Overseas Employment.

⁷ Pakistan Manpower Institute, *Economic Impact of Globalization on Employment and the Functioning of the Labour Market and Labour Institution in Pakistan*, 1995.

⁸ Government of Pakistan: *Labour Force Survey, 2001-02*, Islamabad, Statistics Division, 2003.

⁹ "Socio-Economic Impact of Emigration on Rural Barani Areas: Some Preliminary Findings" in *Pakistan Manpower Review*, 1986, Vol. XII:1.

¹⁰ Julian L. Simon, *The Economic Consequences of Emigration*, Cambridge, Massachusetts, 1989, p. 251.

¹¹ Peter Stalker, *The Impact of Globalization of International Migration*, Geneva, ILO, 2000.

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¹² Simon, 1989, op. cit.

¹³ Russel Stanton Sharon, *International Migration* Geneva, World Bank.

¹⁴ United Nations, *International Migration Policies and Programmes: A World Survey*, New York, 1982.

¹⁵ V. Kanapathy, "International Migration and Labour Market Adjustment" in *Proceedings of the International Workshop on International Migration and Structural Change in PAEC Member Economies*, Taipei, 19-20 October 2000, Institute of Developing Economies, 2001.

¹⁶ Hui Weng-Tat, "Foreign Manpower and Development Strategy in Singapore" in *Proceedings of the International Workshop on International Migration and Structural Change in PAEC Member Economies*, Taipei, 19-20 October 2000, Institute of Developing Economies, 2001.

¹⁷ Batisella, "Oceania" in *World Migration Report, 2000*, International Organization for Migration and United Nations, 2000.

¹⁸ Government of Pakistan, *Pakistan Manpower Review*, Islamabad, Manpower Division, 1986 Vol. XII:1.

¹⁹ G.M. Arif, *Remittances and Investments at the Household Level in Pakistan*, PIDE, 1999.

²⁰ PIDE, 1999, op. cit.

6 Sri Lanka

The Anxieties and Opportunities of Out-Migration

Malsiri Dias and Ramani Jayasundere

6.1 Introduction

Sri Lanka's economic reform policies include three key policy documents: the National Employment Policy, Regaining Sri Lanka which includes the Poverty Reduction Strategy, and the Relief, Rehabilitation and Reconciliation Framework targeted at the conflict-affected areas in the north and east of the country.

The National Employment Policy looks specifically at the issues of migrant labour. The policy is actually aimed at enhancing the productivity and the competitiveness of the Sri Lankan workforce in general. It is driven by the vision of Sri Lanka being "a provider of a globally employable, competitive human capital" and its main challenges have been set out as 'to facilitate employment creation through economic growth and the need to improve the position of the existing labour force'.

Initiatives of the Employment Policy deals with migrant labour. The policy declares that it will adopt a proactive approach to identifying employment opportunities and provide appropriate training to enhance their competitiveness. However, the Policy discriminates between female workers and male workers, acting on the premise that skilled work overseas is available only for male workers, and for female workers only unskilled or low skilled work is available. The section on skills enhancement for male workers is based on the premise that Sri Lankan male migrants, whose number is around one-third of the number of female migrant workers, face stiff competition from migrant workers from other countries in the region and hence aims at imparting them with skills and knowledge to face this competition.

The Policy identifies the need for measures to promote foreign employment of both male and female workers, strengthen the Sri Lanka Bureau of Foreign Employment (SLBFE), ratify treaties and conventions,

provide financial support and training to prospective workers and regularize recruitment to minimize exploitation.

Apart from focusing on the protection and safety of migrant workers and their families, strengthening national investment is an important part of the policy. It aims at 'ensuring that migrant returnees make rational investments enabling them to re-integrate with society' and envisages directing migrant returnees towards local community projects, financing micro and medium scale projects with management and marketing support and information on local employment opportunities. Skills training will also be provided with a view to ensuring smooth re-integration.

This study looks at pertinent and complex issues of the out-migration process, analyzing the characteristics of the process, studying the statutory safeguards and identifying problematic issues facing the migrant workers. It also scrutinizes the role and activities of trade unions as an instrument to secure the interests and rights of migrant workers.

6.2 Tracing the History Of Migration

The desire to secure employment in a foreign country has manifested itself in Sri Lanka since the turn of the century. In the 1960s, labour migration in Sri Lanka took the form of academically and professionally qualified persons migrating to western Europe, North America, Australia and to the more developed countries in East and West Africa. This was the result of a combination of factors – demand for qualified labour in the western countries, a sluggish domestic economy, the problem brought on by the change in the national language policy that took away English as the medium of education and lack of opportunity for technical advancement and research. Academics and professionals went abroad in search of secure employment that offered higher wages and chances of professional advancement. Though this kind of migration accelerated in the 1970s, the numbers did not exceed a few thousands annually making little impact on the employment situation in Sri Lanka.

In 1977, the new right-wing Government of the United National Party introduced a growth-oriented economic policy, aimed at increasing

the role of the private sector and allowing market mechanisms to develop. This coincided with the economic boom in the Middle East arising from the oil price increases and opened doors to new types of employment in new destinations. In the early 1970s, very few Sri Lankans knew about the Middle East and only a handful ventured to these areas for work in the booming construction sector in that region.¹ But in 1976, the largest group of Sri Lankan workers who responded to job opportunities abroad was those skilled in construction and this group constituted 44.5 per cent of the migrating labour population in 1978. However, the number decreased to 26 per cent in 1979. The skilled work force then expanded to include drivers, carpenters and mechanics and the unskilled workers mostly comprised housemaids and workers. Only 2 per cent of the total highly skilled migrants included doctors, engineers, accountants, managers, scientists, technologists and navigators.² In the early 1980s, the demand for overseas labour extended to East Asia as a result of the economic growth in the region and the shortage of semi-skilled labour in the industrial sector.

6.2.1 Gender dimension of Sri Lanka's labour force

Sri Lanka's labour force is estimated at 6.9 million. The labour force participation rate is 50.3 per cent and the unemployment rate is 9.1 per cent. The Sri Lankan labour force is men dominated, though there has been a gradual but continuous increase in the participation of women over the last three decades. The labour force participation rate of men is 68.2 per cent while that of women is 36.6 per cent. The significant impact of women entering the labour market can be seen in the reduction in the female unemployment rate over the past two decades. However, women's increasing participation in the labour force and contribution to the country's economy is not wholly satisfactory since they are largely in the low-skilled jobs, and a closer look at the status of women in the economy and related social spheres distinctly shows wide gender disparities and discrimination, unequal opportunities and exploitative situations.

6.2.2 Sri Lanka's migrant labour force

As of 2002, Sri Lanka's migrant population is officially estimated

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at close to one million (See Table 6.1). However, this number is questionable as there are discrepancies even in government statistics and there are practical difficulties in maintaining accurate and dependable data. It is possible that the actual number of migrant workers is more than the recorded number because a large number may be migrating through unauthorized sources and personal contacts and many others may have secured employment prior to the formalization of the registration procedures.

Table 6.1 Sri Lankan Migrant Workers by Manpower Levels 1986-2002 (%)

Year	Total (Nos.)	Professional level	Middle level	Clerical and related	Skilled	Unskilled	Housemaid
1996	1 62 576	0.37	1.21	2.07	14.92	13.5	67.95
1997	1 50 283	0.38	1.09	2.38	16.30	13.7	66.17
1998	1 59 816	0.43	1.77	3.06	19.87	21.5	53.41
1999	1 79 735	0.7	1.8	3.5	20.7	24.5	49.0
2000	1 82 188	0.51	2.08	3.20	20.02	19.6	54.56
2001	1 84 007	0.66	2.05	3.27	20.00	18.1	56.00
2002	2 03 710	0.72	2.23	3.55	22.32	17.9	53.27

Source: *Statistical Handbook on Migration, 1998-2002*, Sri Lanka Bureau of Foreign Employment.

In 1975 the total number of recorded migrants was 1,039, which increased to 12,374 in 1985 and to 172,489 in 1995. Records show that the migration for foreign employment has been increasing since 1998, touching 203,710 in 2002, a 10.7 per cent growth over the previous year.

6.2.3 Feminization of migration

Women account for nearly 65 per cent of the recorded number of Sri Lanka's migrant population (See Table 6.2). Significantly, in 2002, over 70 per cent of the migrant labour force comprised unskilled

Table 6.2 Migration for Foreign Employment by Manpower Level and Sex 1996 – 2002

Year	Professional Level		Middle Level		Clerical & Related		Skilled		Unskilled		Housemaids		Total
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Female		
1996	556	43	1 635	309	2 894	477	19 387	4 867	18 640	3 289	1 10 479	1 62 576	
1997	534	39	1 386	249	3 008	571	15 832	8 670	16 792	3 773	99 429	1 50 283	
1998	655	40	2 512	311	4 054	842	22 093	9 656	24 553	9 751	85 349	1 59 816	
1999	1 175	78	2 738	423	5 270	940	24 425	12 852	30 112	13 659	88 063	1 79 735	
2000	897	38	3 354	427	4 828	997	24 344	12 131	26 370	9 389	99 413	1 82 188	
2001	1 125	93	3 205	571	4 631	1 384	25 262	11 501	25 584	7 801	1 02 850	1 84 007	
2002*	1 293	166	3 932	623	5 622	1 617	30 677	14 791	29 202	7 273	1 08 514	2 03 710	

Source: www.slbfe.lk

workers, including 53.27 per cent housemaids. The increase in the number of female migrants seeking employment in the garments and domestic sectors is one of the most visible features of migration patterns in Sri Lanka.

In addition to the demand for unskilled or low-skilled female workers in the labour-receiving countries, the increase in female migrant labour is also influenced by a number of social, economic and policy factors within Sri Lanka. An important factor is the higher rate of female unemployment. Faced with poverty, women readily respond to employment opportunities which demand little or no training or experience. Apart from taking up foreign employment for sheer survival, a section of poverty-stricken women also sees foreign employment as a convenient mechanism to escape from domestic problems.

The lack of employment opportunities within the country is also reflected in the sectoral distribution of migrant women workers. The initial high percentage of urban women seeking work abroad was the result of the lack of job opportunities for women from low-income families with low levels of education. This was especially true of Colombo and the suburbs, where migration became a strategy for survival of the family. In the rural areas, few women opted for jobs in foreign countries in the initial stages of labour migration because state welfare systems provided health and education facilities and the network of roads, transport and communications was satisfactory and accessible to the people. Government policies on agriculture and irrigation and the decentralization of power also ensured development of rural areas and the pressure on land and jobs was relatively low. Tamil women readily found work in the tea estates and the need to look for alternatives did not arise.

6.3 Government Policy and Legislation

6.3.1 Local legislation

Migrant workers are not covered by existing labour laws that apply to workers within Sri Lanka. The Sri Lanka Bureau of Foreign Employment (SLBFE) Act No. 21 of 1985, amended by Act No. 4 of 1994, is the law that applies to all categories of migrant workers. The

Act, which repealed the Foreign Employment Agency Act No. 32 of 1980, primarily provides for the establishment of the SLBFE and sets out its functions and general powers. It also provides for licensing of employment agencies and collection of data on migrant workers. Though there are some lacunae in the provisions on contracts and the rights and privileges of migrant workers, the Act, overall, helps safeguard and improve the situation of migrant workers.

Section 15 of the Act, sets out the objectives of the SLBFE, which relate directly to issues that are of urgent concern to improve the status of unskilled workers, who are predominantly women domestic workers. The SLBFE has the following objectives:

- Setting standards for and negotiate contracts of employment.
- Entering into agreements with relevant foreign authorities, employers and employment agencies in order to formalize recruitment agreements.
- Formulating and implement a model contract of employment that ensures fair wages and standards of employment.
- Examining the authenticity of employment-related documentation issued outside Sri Lanka.
- Undertaking the welfare and protection of Sri Lankans employed overseas.
- Providing assistance to Sri Lankans going abroad for employment.

The Act sets out strict rules and regulations relating to foreign employment agencies. Section 24(1) stipulates that no one can undertake the business of a foreign employment agency without a license issued under the Act and without conforming to the terms and conditions of that license. The Act lays down detailed provisions for issue, renewal and cancellation of licenses. Section 37(1) bars licensees from issuing any advertisement or notice calling for applications for employment outside Sri Lanka without the written approval of the SLBFE. Section 40 further sets out detailed provisions regarding contracts between workers and employers abroad which ensure that the former are fully aware of the terms and conditions of service.

Section 62 of the Act makes unauthorized recruitment of workers for employment overseas and running of an unlicensed agency punishable

offences, attracting a fine of not less than Sri Lankan (SL) Rs. 1,000 and not more than SL Rs. 1,500 and imprisonment for a term not less than 12 months and not exceeding two years. However, under Section 62(3), no prosecution can be instituted without the sanction of the Secretary to the Minister. This raises a question about the actual and independent power of the SLBFE as a body established by the Act to check the illegal export of labour. In 2002, legal action was initiated only in 27 cases of illegal recruitment.

The Act also provides for penalties in case of licencing agencies not conforming to the requirement of providing valid contracts to workers and failure on the part of agencies to furnish prescribed information on Sri Lankans recruited for employment abroad to the SLBFE.

Section 53 of the Act requires the SLBFE to establish and maintain an Information Data Bank on all Sri Lankans employed abroad and return migrants. This data has to be provided by all licensed employment agencies and Section 53(3) requires every Sri Lankan leaving the country for employment to register with the SLBFE prior to departure. The Information Data Bank has been converted into the Information Technology Division, which provides information on the activities of the SLBFE and employment agencies and functions as a job bank to which any interested person can send an application for employment. Information about applications and procedures are disseminated through post offices. An employment application form can be purchased from a post office for SL Rs. 5 and the post office itself mails the application to the General Post Office in Colombo, which emails the application to the SLBFE. The Division also manages the SLBFE website (www.slbfe.lk) where information on the SLBFE, employment opportunities and employment agencies (including blacklisted agencies) can be accessed.

However, the Act covers only those who are registered with the SLBFE or with employment agencies which are registered with the SLBFE. The large number of workers who migrate through unrecorded sources are not eligible for the various protection measures under the Act.

Implementation and enforcement of laws and regulations relating to migration for employment is complicated by the fact that most of the

harassment and exploitation of migrant workers takes place outside the country and the wrong-doers cannot be brought to book. In 2002, there were only 27 convictions out of 60 cases filed.

6.3.2 International instruments

Among the various international instruments relating to migrant workers, Sri Lanka has ratified the UN International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, 1990 and ILO Convention Concerning Migration for Employment, Revised 1949 (No. 97). It has not ratified ILO Convention Concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, 1975 (No. 143) and the Forced Labour Convention, 1930 (No. 29). However, it has ratified the following ILO Conventions: Equal Remuneration Convention, 1951 (No. 100), and Discrimination (Employment and Occupation) Convention 1958 (No. 111) and The Minimum Age Convention, 1973 (No. 138). Sri Lanka has also ratified the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) and the Sri Lanka Women's Charter was formulated in 1993. The Charter, which is 'a policy document regarding the rights of women expresses the "state's commitment to remove all forms of discrimination against women and to addresses the crucial areas relevant to women and makes a commitment at State level to recognize and promote women's right to economic activity and benefits." The Charter shows the commitment of the Government to secure the rights of women workers, including female migrants.

6.3.3 Sri Lankan foreign missions

The protection and welfare of Sri Lankan migrant workers is the shared responsibility of the Ministries of Foreign Affairs and Labour and the SLBFE. The outflow of workers to the Middle East led the Government to open missions in the United Arab Emirates (UAE), Kuwait and Saudi Arabia not only to serve the interests of the Sri Lankans employed in those countries but also to promote further employment.

At present, embassies provide a range of services to migrant workers including shelter and medical services to runaway workers, repatriation

of workers and issuing passports to those who have lost their passports or whose passports are retained by the employers or agents. In addition, the missions, within the framework of laws applicable in the countries, institute legal action to obtain payment of wages and compensation.

However, there is often a criticism that the missions lack interest and sensitivity in dealing with disputes between employer, employee and agents, grievances of employees and in cases where Sri Lankan workers are involved in court cases. The missions, on their part, lack the required staff and financial resources to address the large number of cases they have to handle. Their performance is also impaired by the laws, rules and regulations of labour-receiving countries.

In an attempt to address the widening gap between Sri Lankan foreign missions and Sri Lankan migrant workers, the Government has appointed labour attachés in several foreign missions and welfare officers in all countries which have more than 25,000 Sri Lankan migrant workers, in order to follow up complaints or referrals from employment agents. There are six labour attachés and 13 welfare officers in the UAE, Saudi Arabia, Kuwait, Oman, Qatar, Lebanon, Jordan and Singapore.

6.3.4 Preparing workers for overseas employment

One of the important tasks of the SLBFE is protecting the migrant from abuse and exploitation in the destination country. Over the last decade the SLBFE has introduced significant measures to help migrants prepare for overseas employment, deploying both manpower and finances to facilitate communication between the prospective migrant and the SLBFE. The SLBFE provides training for migrant workers in a classroom setting attempting to instill new knowledge, skills and attitudes in order to protect the worker from abuse and exploitation. The majority of training programmes are geared towards female domestic workers, and training for women seeking employment for the first time as housemaids both in the Middle East and elsewhere is compulsory.

In 1996, pre-departure training was made compulsory for domestic workers and a training certificate was made a mandatory requirement for registration with the SLBFE. At present there are 29 training centres all over Sri Lanka, except in the Northern Province, 22 of which are

run by the SLBFE and 7 by private recruiting agencies. Nearly 5,000 women are trained every month at these centres.³

The training for women workers covers various aspects of housekeeping including cooking and using modern equipment, a basic knowledge of English and Arabic, pre-migration arrangements, financial management including information on banking and savings, strategies to overcome disorientation from core values, emotional pressure, loneliness, culture shock, anxiety and psychological breakdown and re-integration. Specialist lecturers are invited to talk on these subjects. In addition to training for domestic workers, the SLBFE also provides training for sewing machine operators (for garment factories). This is the only training programme open to male migrant workers seeking employment in garment factories abroad. However trainees are not provided with information on gender-specific issues. This shortcoming has been realized and the SLBFE is looking at incorporating gender-specific issues, especially information on issues of violence and protection against violence, into the training through programmes for SLBFE trainers.

6.3.5 Prevention of exploitation

The Government policy adopts a multi-pronged approach for ensuring the safety of migrant workers, covering workers prior to departure, at the place of employment and on their return, with special focus on housemaids. The commitment to protect migrant workers, both male and female, is reflected in two major policy initiatives – the registration of all migrant workers with the SLBFE and the licensing of recruitment agencies under the SLBFE Act as well as by the formulation of model contracts and negotiating of minimum wages.

The SLBFE Act requires all persons proceeding for foreign employment to register with the SLBFE and attempts are made for strict enforcement of this provision. However, in spite of this, a certain amount of workers continue to leave the country without registering. It is estimated that 70 per cent of the unskilled and semi-skilled women migrant workers register with the SLBFE prior to departure. Such compulsory registration enables the SLBFE to maintain information not only about the destination country of each migrant worker but also the name and address of the employer. This becomes useful when an employer breaches an employment

contract with a Sri Lankan migrant worker. The SLBFE is then able to blacklist the employer and prevent other Sri Lankan workers from being employed in such a situation. Although migrants are a bit reluctant to pay the required registration fee (a minimum of SL Rs. 5,200), they are gradually realising the benefits that come with registration, such as insurance cover. This insurance cover, the *Jathika Suraksha* Overseas Employment Insurance, implemented by the National Insurance Corporation Limited, provides support in the event of death, permanent and total disablement, partial disablement as a consequence of serious illness and meet transport expenses. An article in the *Daily Mirror* dated 19 September 2003 gives an idea of the issue relating to insurance.

The SLBFE reveals that 37 Sri Lankans who died in West Asia were brought home during July 2003. Of the bodies 22 were women employed as housemaids. The SLBFE is taking action to get the insurance claims paid to families of those who were insured.

There have been media reports that a special insurance scheme for migrant workers is to be implemented by the Ministry of Labour under which 7,50,000 Sri Lankan migrant workers in Saudi Arabia, Kuwait, UAE and Lebanon will get foreign insurance cover through four insurance companies in these countries. Under these schemes, Rs. 500,000 will be paid to the next of kin if a worker dies.⁴

Private recruitment agencies play a key role in helping migrants secure employment abroad. All recruitment agencies must be licensed with the SLBFE and fulfill certain conditions. They are required to be equipped with an office with a telephone and facsimile machine. In addition, the Enforcement and Legal Division of the SLBFE has been strengthened for closer monitoring of all activities of recruiting agents.

In addition, model contracts between migrant workers and employers have also been introduced in an effort to curb exploitation of workers. Through a series of memorandums of understanding (MoUs) signed between the SLBFE and recruitment agents in the Middle East, Singapore and Hong Kong, it has become compulsory for employers wishing to hire Sri Lankan housemaids to sign a contract which has to be endorsed by the Sri Lankan Embassy prior to obtaining the seal of approval for a housemaid to leave the country. This contract registration scheme requires verification of the credibility of prospective employers by missions prior to registration. In addition, the foreign sponsor/agent

has to sign an agreement, which is authenticated by the embassy concerned. This binds the sponsor/agent to fulfilling obligations to domestic workers and helps monitor activities and hasten grievance settlement. The standard contract contains particulars of the overseas sponsor and the domestic worker, conditions under which the contract is offered, monthly wage, duties and hours of work, rest days and leave, undertakings to provide food, lodging, medical care and transportation to host country, termination of contract and disputation procedure, insurance cover and provision in the event of death of employee.

This contract is operative in ten countries: Kuwait, Saudi Arabia, Oman, Qatar, the UAE, Lebanon, Bahrain, Jordan, Cyprus and Singapore (See Annexure: A for Model Employment Contract). In the two years that it has been in operation, the SLBFE has not faced any problems arising out of its implementation. The contract provides workers with some kind of recognition and the SLBFE gathers information on specific locations of all registered workers leaving the country.

However, the model contract does have certain deficiencies, the main one being that it is not legally binding on the employer. Printed as it is in English, with the onus of filling the blanks being placed on the employer or agent, the contract has had little impact on preventing exploitation of the migrant worker. It has helped to ensure at least a few basic rights for the workers, especially in cases of unfair termination of employment or non-payment of wages. The document is a basis for negotiation between the staff of the Sri Lankan embassy in the destination country and the local recruiting agent.

Another dimension of exploitation faced by migrant workers in the home country is when they are preparing for departure when financial demands for registration fees, agents' fees and departure preparations exceed the financial abilities of the prospective migrant. At this point, the migrant workers are exploited by private moneylenders who loan money at exorbitant interest rates. To overcome the exploitative practices of moneylenders, State banks and financial institutions have initiated schemes to grant credit.

6.3.6 Protection and assistance against abuse

Concerns about protection from abuse at various stages of the migration process have led the Government to introduce safeguards

prior to departure, at the scene of employment as well as on return. A number of Government agencies, namely the SLBFE, the Ministries of Foreign Affairs, Health and Women's Affairs, The Airport and Aviation Authority and the Department of Immigration and Emigration, have been mobilized for this task. The SLBFE is responsible for ensuring that the migrant worker is not duped by the recruitment agents as well for steps like compulsory registration, insurance and training and facilities to settle disputes between the migrant worker and the employer. Some of the initiatives taken by the SLBFE are the opening of a safe house in Kuwait in March 2001 to provide shelter for 500 women and a shelter in Abu Dhabi to provide a safe haven for runaway maids and the use of insurance funds for repatriation as well as for compensation.

The media has been used to disseminate information about the laws and guidelines concerning foreign employment and services available to migrant workers. Within Sri Lanka, return migrant workers are provided with a safe house, called *Sahana Piyasa*, situated close to the airport where a range of services for traumatized workers is provided.

6.4 Employment Perspective

Sri Lankan migrant workers fall within different categories of skill levels. The number of skilled workers shows a tremendous increase from 1975, when there were no unskilled migrant workers, to 9,024 in 1985 and to nearly 150,000 in 2002. The number of professional, middle-level, clerical and skilled workers has risen only in small numbers since 1975.

6.4.1 Profile of migrant workers

As can be seen from Table 6.3, the majority of workers falls within the age group of 25 to 39 years, with the numbers reducing in the 40-44 and 46-49 years age groups and only a very small number in the over 50 age group. Records show that 78.9 per cent of the women and 68.3 per cent of the men are married.

6.4.2 Number and destinations of outmigrants

Annexure B indicates the spread of destination countries to which Sri Lankans emigrate. The number of destination countries increased

continuously in the early 1990s but fell marginally by 2002. In 1992, 124,494 workers migrated to ten countries while 129,076 workers migrated to 12 countries in 1993. In 1994 the number of destinations soared to 46 countries to which 130,027 workers migrated. By 1998 the number of workers had increased to 159,816 but the destination nations had reduced to 33. In 2002, 203,710 workers had migrated to 36 countries.

Sri Lankan workers are employed predominantly in the Middle East, especially Saudi Arabia, the UAE, Bahrain, Oman, Kuwait, Qatar and Jordan. Whilst the Middle East is considered the most favoured destination for women workers, recent media reports state that Italy, Greece and Cyprus also offer employment for domestic workers.

6.4.3 Women in the Migratory Process

Despite traditional family commitments and cultural constraints that look down upon women working outside the house, women in Sri Lanka have shown a great willingness to work overseas. In the late 1970s, the increase in demand for labour from the Middle Eastern countries saw Sri Lanka's first women migrant workers leaving the country. Sri Lanka was one of the first countries to respond to this demand of the labour market and the only country to do so without any restrictions. The numbers increased rapidly in the following years. The vibrant garment industry in the country also helped boost the number of female migrant workers securing work in garment factories abroad for higher wages. Literacy and education have a strong effect on female labour migration. The female literacy rate in Sri Lanka is 85.2 per cent, which is high for a developing country.

A survey of 100 women shows that the decision by women to take up overseas employment is very much an individual and personal one, although it is influenced by a number of reasons, mostly arising out of poverty and the inability to earn a comparable income at home.⁵ None of the women surveyed indicated that they had decided to migrate because they were compelled to or instigated by someone else. The two women who said that the decision had been made by someone else informed that it was prompted by factors such as financial difficulties, the need to build a house, desire to provide good education to children, need to get rid of indebtedness and to escape from problems at home. They did not have the courage to make their own decision.

Table 6.3 Sri Lankan Migrant Population by Age Groups and Sex (2000 -2002)

Age Group	2000			2001			2002 (provisional)		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Below 20	10	26	36	26	56	82	212	885	1 097
20 – 24	3 462	10 540	14 002	5 770	14 848	20 618	10 728	20 058	30 786
25 – 29	12 867	20 573	33 440	12 377	22 441	34 818	15 418	27 124	42 542
30 – 34	12 358	21 264	33 622	11 265	22 107	33 372	12 832	24 978	37 810
35 – 39	9 238	22 628	31 866	8 826	22 475	31 301	10 018	25 933	35 951
40 – 44	7 511	19 746	27 257	6 828	18 369	25 197	7 967	19 395	27 362
45 – 49	4 738	10 507	15 245	4 405	8 467	12 872	4 656	8 029	12 685
Above 49	4 152	3 878	8 030	3 693	2 966	6 659	3 499	2 697	6 196
Not Reported	5 457	13 233	18 690	6 617	12 471	19 088	5 396	3 885	9 281
Total	59 793	1 22 395	1 82 188	59 807	1 24 200	1 84 007	70 726	1 32 984	2 03 710

Source: www.slbfe.lk

6.5 Economic Impact on Sri Lanka

6.5.1 Foreign Exchange Earnings

Remittances from migrant labour play a significant role in Sri Lanka's foreign exchange earnings, second only to earnings from the garment industry. Recorded sources of foreign exchange earnings show that migrant workers brought in SL Rs. 123,183 million in 2002, accounting for 27 per cent of the country's total foreign exchange earnings, which is a huge leap from 1.2 per cent in 1972 (Table 6.4).

Table 6.4 Private Remittances 1991-2002

Year	Remittances (Rs. Million)		Middle East as % of total remittances
	Middle East	Total	
1991	9 515	18 311	52.0
1992	13 186	24 037	54.8
1993	16 932	30 592	55.3
1994	20 196	34 992	57.7
1995	23 567	40 482	58.2
1996	26 728	46 003	58.1
1997	33 202	54 445	61.0
1998	39 466	64 517	61.2
1999	45 766	74 342	61.7
2000	55 252	87 697	63.0
2001	62 680	1 00 427	62.4
2002*	75 579	1 23 183	61.3

* *Provisional*

Source: *www.slbfe.lk*

6.5.2 Government policy on remittances

There is little documentation on remittance management by different sections of migrant workers in Sri Lanka. All micro studies show that the earnings are spent mostly on consumption. Only a small minority of them invests in productive activities. Very few migrants are left with savings to invest in entrepreneurial activities.

The Government has, in the past few years, attempted to encourage investment and long-term financial planning by return migrant workers

by offering an array of credit schemes. The viability and success of these has not yet been documented. The credit schemes do not focus solely on investment but also cater to other identified needs of migrant workers, making them more realistic in application. The People's Bank offers three low-interest loan schemes. The first, called *Siyatha*, is offered to returnees who had to suddenly return from the war-torn Gulf countries and with a credit up to SL Rs. 250,000 at 16 per cent interest for purchasing land to build a house or to invest in self-employment activities. The second and third schemes, known as *Ransaviya* and *Videshika* loan schemes, provide support to meet pre-migration expenses and post-migration requirements. The loan limits vary from SL Rs. 50,000 for pre-migration expenses to SL Rs. 500,000 for housing with loans for self-employment going up to SL Rs. 300,000. All credit schemes are subsidized by the SLBFE, which pays 9 per cent of the interest on *Siyatha* loans and 7 per cent on *Videshika* loans.

A study by the Centre for Women's Research of 88 people who had obtained *Ransaviya* and *Videshika* loans shows that 83.3 per cent of them had borrowed loans for economic activities and 13.9 per cent for non-economic reasons (See Table 6.5).

Table 6.5 Details of Ransaviya and Videshika Loans Taken by Migrant Workers

Amount (SL Rs.)	Ransaviya		Videshika		Total	
	No.	%	No.	%	No.	%
Less than 75 000	4	7.7	-	-	4	4.5
75 000 < 1 00 000	2	3.8	3	8.3	5	5.7
1 00 000 < 1 50 000	7	13.5	9	25.0	16	18.2
1 50 000 < 2 00 000	11	21.2	5	13.9	16	18.2
2 00 000	8	15.4	3	8.3	11	12.5
2 50 000	4	7.7	7	19.4	11	12.5
2 60 000	1	1.9	-	-	1	1.1
3 00 000	14	26.9	6	16.7	20	22.7
5 00 000	-	-	3	8.3	3	3.5
Amount not known	1	1.9	-	-	1	1.1
Total	52	100	36	100	88	100

Source: Centre for Women's Research

In addition, the Bank of Ceylon offers two credit programmes to migrant workers – the *Ransaviya I* to set up self-employment projects at an interest rate of 16 per cent of which the SLBFE pays 8 per cent and *Ransaviya II* where Non-Resident Foreign Currency account holders can obtain credit to improve their standard of living at an interest rate of 16 per cent of which 7 per cent is paid by the SLBFE.

Though state-owned banks have taken the initiative to encourage savings with enhanced interest rates for foreign currency accounts and other loan benefits, they have failed to provide the necessary support systems such as skills in financial management. Neither the Government nor the financial institutions have seen the returnees, especially housemaids, as a potential investors. At present, there are no interest-free loans or low-interest loans available through Government sources to any disadvantaged group and the Government is yet to devise a scheme to alleviate the problems associated with indebtedness among the majority of migrant workers. It is for this reason that most migrants take to repeat migration.

In an effort to encourage investment, the People's Bank, working with the United Nations International Children's Emergency Fund (UNICEF), launched the Rehabilitation of the Gulf Returnee Project in 1992, which grants loans for self-employment and small enterprise projects to returnees from Kuwait, the majority of whom were domestic workers. This scheme was also available to the families of the returnees and loans were provided on a low interest rate of 11 per cent per annum on amounts ranging from SL Rs. 10,000 to SL Rs. 50,000.⁶ However, this scheme failed because of a number of reasons. Since it was not a State-sponsored strategy for re-integration and future sustainability, it received little support. More importantly, the returnees lacked motivation and skills to engage in a long-term entrepreneurial activity which could never provide an income equal to the salaries of the unskilled domestic workers. Moreover, the implementers and the loanees failed to consider basic factors essential for the success of a commercial venture such as markets, competition and management. As a result of the lack of monitoring and rapport between officials and the returnees, many migrants used the loans instead to pay agency fees for another stint abroad or to meet personal consumption or emergency needs.

6.5.3 Commercial banking sector

Private banks have ventured into countries with large number of Sri Lankan migrant workers and opened branches to assist them in remitting their earnings. These branch offices have managed to attract a fair number of clients with a personalized service. However due to constraints arising from work conditions, the housemaid category still prefers to use informal channels to remit earnings because they find it more convenient. With the fluctuation in the value of the dollar, many of these women were unaware that their informal contacts are not giving them a fair exchange rate and that they were, therefore, losing out on the transaction.

6.6 Economic Impact on Receiving Countries

There is a paucity of data on the impact of Sri Lankan migrant labour on the economies of the labour-receiving countries, even in the Middle East where the majority of the migrants go. However, there have been sporadic media reports in the last two years about the efforts of certain Middle Eastern countries to expel all illegal workers and restricting certain jobs to their own nationals. The economic recession in the United States has had an impact on Sri Lankan garment workers in Oman as a report, *Sri Lankan Migrant Garment Factory Workers: Mauritius and Sultanate of Oman (2002) states:*

The economic recession in the United States starting in 2000, which escalated after the September 2001 attacks in New York, had a devastating impact on the garment industry in Oman. The year 2000 was a particularly bad period for the Sri Lankan garment workers, the majority of whom were women machine operators. By February 2002, only four of the 27 garment factories in which Sri Lankans were employed were functioning in a satisfactory manner. There were approximately 500 Sri Lankan workers who were content with their work environment and were receiving regular salary payments. However, a large number of women in these factories faced problems.

6.7 Household Economy of Migrant Workers

6.7.1 Economic impact on households

At a social level, the positive impact of the earnings of migrant workers, especially women domestic workers, has been tangible. There has been an improvement in living standards, better opportunities for children's education, purchase of 'luxury goods', the accumulation of savings, investment in assets and business ventures. Yet the adverse social costs of migration have also been high.

A number of studies have been carried out to ascertain the social impact of female migration and they have resulted in diverse findings. As S.T. Hettige says:⁷

.. there is no agreement on the nature of its (migration) social impact. While some tend to emphasize the negative outcomes, others point to the gains that women make in terms of independence, power and relative social status. These disputes may never be fully resolved, as arguments are not based on empirical facts alone. Ideologies and interests constantly influence empirical investigations and their outcomes. Yet, this should not prevent us from identifying obvious social costs as well as obvious benefits. Various field studies undertaken by researchers point to the fact that the outcomes of migration are diverse depending on various situational factors. This is true even within a single community. While some families have been shattered due to migration, others have not only survived but also become more cohesive and prosperous.

The majority of migrant women workers belongs to low-income families and have previously been unemployed. Thus, they have not been contributing to the family income. Their migration to foreign countries for employment as domestic workers has led to an increase in the levels of individual and family income. This, in turn, has resulted in higher living standards, better education of children and investment in housing and household durables. At the same time, there is excessive expenditure on consumption, which results in little savings and investment. Consequently, women feel the need to take on a second stint of foreign employment.

A study of 100 migrant women workers and their families from across the country shows that the workers earned a minimum of SL Rs. 4,800 a month with a considerable number earning more.⁸ Despite high earnings and repeated migration, 78 per cent of the workers had no savings at all. Only 10 per cent saved the remittances in full and another 10 per cent saved a part of it. Another study covering all districts except those in the north and east, shows that only 4 per cent of the earnings was invested in income generating activities, while the bulk of it was spent on improving housing, meeting consumption needs and repaying debts.⁹

An analysis of the use of remittances shows that the improvement in economic situation through radically enhanced earnings does not spell financial or economic security for the women concerned. A perusal of the findings of the above study shows that 80 per cent of the families use the income earned to meet consumption needs. Therefore, invariably, the family reverts to a situation of low financial security. This results in repeated migration by many women.

All this naturally raises the question of whether the migrant female domestic workers ever come out of their poverty. With expenditure patterns weighing heavily towards consumer items and improving the standard of living, there is immediate relief from the levels of poverty they were in prior to their departure. However, given the lack of investment in income-generating activities, the emphasis on long-term earnings appears less.

6.7.2 Social impact on families

While there is no social discourse on the impact of the absence of male migrant workers on their families, the effects of female migration on their families has been much discussed. While there is little information on the families that successfully survive the mother's absence for long periods of time, extensive research has been done on the problems faced by workers in relation to husbands, children and extended families.

A high percentage of migrant women workers are married with children. Since they were not employed prior to migration and were full-time housewives, the adjustments that their families have to make in

their absence is extremely difficult. This becomes exacerbated given the lack of social support and institutional guidance and the added 'burdens' of the sudden increase in income and changes in lifestyles.

One of the adverse consequences of female migration is the impact on children ranging from lack of care and neglect to physical and mental abuse. In the absence of the mother or other female relatives, the male members do not take the responsibility of looking after the children.

One study of a selected sample of migrants found that the majority of mothers left young children only on the assurance that they would be properly cared for and in 50 per cent of the cases, the immediate or extended family provided care for children and elders left behind.¹⁰ There is another point of view that most field studies show that children are the worst affected by the absence of their mothers¹¹. Children are often left in the care of grandmothers who are incapable of providing the necessary care. The situation is aggravated by the fact that spouses of the migrant women are either absent or negligent towards their children.

The gravity of the lack of proper childcare is reflected in children dropping out of school, taking to drugs and, in some cases, being physically abused by relatives, including fathers. This is also a reflection of the impact on male spouses who spend the earnings remitted home by the women workers on alcohol and drugs or on extra-marital affairs.

A study of 2000 households of Gulf returnees in 17 districts shows that 45 per cent of women had experienced at least one adverse consequence of migration in differing degrees of intensity, while 33 per cent had faced family-related problems.¹² However only 9 per cent were of the view that the social costs of migration outweighed the few benefits they had obtained. One of the problems faced by the women in the sample was that children were not taken to clinics for periodic health examinations, they were not immunized on time and they were undernourished because those in-charge of child care did not provide them caregiver was the required nourishment.

The study makes a distinction between the negative effects faced by all low-income group families irrespective of where the mothers have migrated and those specific to female migration. The social problems of disruption of children's education, children going astray, husbands

taking to alcohol and the sexual abuse of females in the household (including those in households in which they were employed as domestic workers) are faced by a number of families. The issues pertaining to migrant worker families are that young adult females were either migrating as domestic workers or dropping out of school in order to handle domestic chores because the mother had migrated. A parasite culture was being nurtured in the households of migrant workers where remittances discouraged husbands and adult children from working to earn a livelihood and was encouraging them to indulge in wasteful expenditure and anti-social behaviour.

Migrant women bear a psychological burden because of the situation on the home front. Childcare is a task reserved for the females in the household. On deciding to migrate for employment, a woman is usually found to rely mainly on her spouse for the care of the children, with additional support from his extended family. However, they appear to be well aware of the inadequacies of such arrangements and make all-out efforts to relieve the domestic burden cast on the husbands by assuring them of an additional income and consoling themselves that their decision to migrate will lead to a better future for the children.

The longer a woman stays away from her family, the more difficult it becomes for her to reconcile her roles as mother and overseas worker. Women who repeat the migratory cycle to four or five destinations during a period of six to seven years are those confronted with problems of family discord even prior to their departure. Being away from the scene of family conflict becomes a way for them to psychologically cope with the situation. It is in such families that children feel the absence of the mother and cases of child abuse and neglect are common.

However, it would be wrong to conclude that female migration results only in family breakdown and neglect of children. Research over the last decade shows that the earnings of the women have contributed to a better quality of life for the family. Policy makers are well aware of the situation of the most deprived families and have already initiated programmes for the welfare of children left behind.

Acknowledging the negative impact of migration and the need to provide support services to migrant female workers, the SLBFE has launched a project to encourage children to continue their education

through a scholarship scheme. This takes the form of financial awards in fixed bank deposits for children excelling in examinations. School requisites and an award of SL Rs. 15,000 is given to children passing the Year Five scholarship examination while those clearing the Advanced Level examination get SL Rs. 20,000.

The SLBFE has also initiated three pilot projects to provide a social security network for families of migrant workers in the District Secretary's Divisions of Mawathagama, Borella and Weligama. The projects identify services needed by families such as health services, educational facilities and advisory services and ascertain ways of providing these through both governmental and non-governmental organizations. The projects also involve collecting data for initiating self-employment projects and setting up counselling centres in schools.

Another SLBFE project, which is still in the proposal stage, envisages establishment of day care centres for children of migrant women during the period they are out of the country. The Department of Child Care and Probation has received a grant of Rs. 1.5 million to construct a house in Kuliypitiya to provide shelter to children of migrants. A non-government organization (NGO), the Sri Lanka United Nations Friendship Organization, is running a hostel for girl children of migrant workers in Kanandeniya in the south of Sri Lanka. The cost of running the hostel, which houses 30 girls, is met through a monthly fee of SL Rs. 1500 per child and support from the non-government sector.

6.8 Labour and Human Rights

One of the main labour rights issues facing migrant workers from Sri Lanka relate to the difficulties arising from the non-existence of service contracts between workers and agents as well as workers and employers or the inability of legally enforcing existing contracts in many labour-receiving countries. This led to the introduction of the standard model contract by the SLBFE in 1997, which is now accepted by ten major labour importing countries.

A perusal of complaints received by the SLBFE and the Ministry of Foreign Affairs during the period 1999 to 2002 from both domestic and non-domestic migrant workers show that female workers face

diverse forms of harassment, ranging from non-payment of wages to death while on duty.

Table 6.6 Number of Complaints Received From Migrants by Nature and Sex

Nature of Complaints		Sex		Total	
		No. of Female	%		No. of Male
Harassment	1 337	18.1	70	1.0	1 407
Salary	1 437	19.5	342	4.7	1 779
Breach of contract	469	6.4	772	10.5	1 241
Lack of communication (with home country)	4 596	21.7	124	1.9	1 720
Deaths	49	0.8	59	0.7	108
Stranded	33	0.4	3	-	36
Others	880	12.0	182	2.5	1 062
Total	5 811	78.9	1 552	21.1	7 353

Source: Conciliation Division SLBFE, Information Technology Division-SLBFE

A number of migrant workers face serious harassment. However, there are no accurate sources of information and much of the tales of hardships and dangers are limited to stories in the media.

A list of employment-related complaints by female domestic migrant workers includes work-related issues like heavy workload ranging from 15 to 20 hours a day, delay and non-payment of salaries, lack of proper food and clothing and facilities such as a separate room with heating or air conditioning and medical treatment.¹³ There are also misunderstandings with employers due to language differences. Some of the problems arise partly due to workers' ignorance, lack of awareness and training. They have no knowledge of contact numbers or addresses of employers or employment agents, of their passport numbers or insurance number given by SLBFE and have no facilities to send letters home. These workers are also illegally transferred from

one house to another and not allowed to return home on the completion of the contract or even for emergencies such as the death of the spouse or child. There are also many instances of physical torture and assault by the employer, the employer's spouse and, sometimes, children as well as sexual harassment by agents. Many workers who run away from abusive employers and seek safety with the recruiting agents are often handed back to employers.

The problems faced by migrant workers in factories were primarily the absence of proper contracts setting out terms and conditions of work, leading to unpaid wages, long hours of work, non-repatriation on completion of contract, unsuitable accommodation, insufficient food and medical facilities and non-payment of benefits such as annual leave and gratuity.¹⁴

As a result of the lack of transit homes and safe houses for workers in host countries, Sri Lankan foreign missions are often overflowing with runaway or stranded domestic workers. The SLBFE has attempted to address this by establishing safe houses in Kuwait, Lebanon and Saudi Arabia. These safe houses, established in 1998 and 1999, are maintained by the Sri Lankan missions in these countries and offer refuge to stranded and runaway Sri Lankan workers. These safe houses are proposed to be monitored before a decision is taken to establish more in different locations. Interestingly, the establishment of these safe houses has led to an increase in the numbers of runaway workers.¹⁵

A serious problem faced by approximately 10 per cent of the female migrant workers is harassment and abuse. They are particularly vulnerable because their work isolates them from other workers. However, it is difficult to capture the extent of such harassment statistically since 'harassment' is not defined and the nature of complaints is included in the 'other' category.

Attention has been focused in the last two years on trafficking of women during the process of migration. Some NGOs working on the issue, identifying and tracing links in an area where there is little documented evidence have pointed out that Sri Lanka's regulations have been ineffective in curtailing exploitation of migrant workers by traffickers. Ignorant women and youth come into contact with 'agents' who entice potential migrants with stories of high-paying jobs and luxurious lifestyles. Once outside the borders of Sri Lanka and away

from their family and community support systems, the migrant workers become especially vulnerable to exploitation, ranging from confiscated travel documents, debt-bondage due to exorbitant fees, physical/sexual abuse by employers, or other coercive schemes.

6.9 Trade Union Responses

6.9.1 Trade Unions and Migrant Workers

Trade unions in Sri Lanka have traditionally been strong in the public sector, especially rail and road transport, ports, and clerical service in the government. In 1983, it was estimated that about 1.8 million workers, or just under one-third of the gainfully employed labor force, were union members. Membership was fragmented into over 1,000 unions. Many of the unorganized workers were small farmers and rural labourers.

While several trade unions in Sri Lanka, namely the National Workers Congress (NWC), the National Congress of Women (NCW), the *Jathika Sewaka Sangamaya* (JSS) and the *Lanka Jathika Estate Workers Union* (LJEWU), have recognized female migrant domestic workers as an active and important labour group, there has been little attempt to organize them and work has concentrated on providing welfare, support and training services for migrants and their families. This is inadequate considering the need to organize the migrant work force to recognize their contribution to the country's workforce and economy and find solutions for the diverse problems they face, most of which are unique to them.

The lack of interest within the trade union movement to organize this group is largely because the majority of the workers are temporary workers who have no intention of being in the trade for a long period of time, many of them are satisfied with their work, despite its drawbacks, and the physical difficulty in organizing workers located in foreign countries. Also the conventional strategies of mainstream trade unions are unable to cater to unorganized groups. The nature of their work – they are generally on duty for 24 hours in the relative isolation of a household – makes it difficult for them to come into contact with their fellow workers. A rest day, when they are permitted to attend church, is used for social contacts rather than to organize themselves

for collective action. There is also the lack of labour rights for domestic workers, both in Sri Lanka and the destination country and domestic workers are not covered legally by a collective agreement as in normal trade union practice. This gives them little or no bargaining power in terms of wages, working hours, leave and other benefits and assigned list of duties.

The women themselves are reluctant to get involved in any activity which may jeopardise their job security. The non-registered domestic workers are in a far worse position. There is always the possibility of being apprehended by law enforcement officers and being placed in police custody under inhumane conditions as seen in places such as Taiwan. These factors and the lack of a stable workforce with a long-term stake in the enterprise hamper the development of a successful trade union movement.

The same difficulty is faced in attempting to organize women migrant workers on their return to Sri Lanka. These women re-integrate into their original societies and communities with ease and lead the same lives as they did prior to migration, save for changes in living conditions and aspirations for children. They show no interest in coming together as a group and to negotiate beneficial conditions for the trade as a whole.

Trade union involvement in female migrant worker issues is taken up by the All Ceylon Federation of Free Trade Unions (ACFFTU). This organization concentrates on providing training and welfare services to migrant women, which includes providing information sharing opportunities like awareness and knowledge of potential problems, counseling services, distress loans to women returning prior to the termination of their contracts, weekly radio programs for prospective migrant women workers advising them on issues related to migration and also providing information on alternatives to migration such as self-employment and a telephone hotline for workers and their families. All these services are provided through the Migrant Services Centre (established in Dehiwela, a suburb of Colombo) run by the ACFFTU. The ACFFTU also lobbies to secure voting rights for migrant workers and pension schemes for returnees. These campaigns have received attention at policy level but are yet to be discussed and implemented.

In 1997, the NWC and the NCW took up the issue of obtaining

compensation and providing relief for women returning from Kuwait after being displaced due to the war. Their first project was launched through the Migrant Services Centre and involved organizing migrant women by setting up migrant worker associations, first in Matugama and Kegalle. The trade unions view these migrant worker associations as a social safety network designed to provide solutions to issues confronting migrant women workers. The mandate of these grassroots level associations is wide and includes service provision as well as advocacy and lobbying. The objectives are:

- to provide valid information;
- to work with children and adolescent members;
- to provide access to appropriate sources of finance;
- to handle problems relating to the powerlessness of migrants;
- to examine recruitment procedures offered by agents, contracts of employment and provide advice;
- to assist in dispute settlement and provide psychological and social support and
- to articulate grievances and undertake advocacy.

These associations are voluntary bodies sponsored by a trade union or a non-profit organization. They are introduced to communities only if women migrants, returnees and their families wish to come together to set up such an association. Currently, there are five associations – two in Matugama and Deniyaya sponsored by trade unions, one in Kegalle formed with the help of an NGO, the Forum on Development, one in Hatton with the plantation community and one in Seeduwa with the Katunayake Export Processing Zone workers.

6.9.2 Participation of non-governmental organizations

A number of NGOs work with migrant women workers in different areas. These organizations are not entirely concerned with the issues of migrant women workers but include these workers among other disadvantaged people they provide services for. In 2000, these organizations came together to form the Migrant Workers Action Network (ACTFORM).

The intention of the network is to bring together NGOs with representatives of the SLBFE and other relevant Ministries and also to

link the media with NGOs and State agencies working on the issue. The aims of ACTFORM are to collect and disseminate information, to monitor the implementation of State policy, to lobby and advocate on policy and policy reform, to offer counseling and outreach programmes to migrant workers, to conduct research and to offer legal assistance.

ACTFORM publishes a trilingual (Sinhala, Tamil and English) newsletter, *Tharani*, edited by the Women and Media Collection, through which it networks with its members and provides information on activities related to migration. In the first issue of *Tharani*, published in April 2000, ACTFORM proposed an active campaign to enable migrant workers to exercise their vote by postal vote, proxy or any other suitable method in future elections.

6.10 Conclusion and Recommendations

6.10.1 Conclusion

Migrant labour makes a valuable contribution to Sri Lanka's economy. Recognizing this, the Government has attempted to address the various issues of migrant workers in diverse ways. The policy of the Government focuses primarily on unskilled workers and welfare measures to safeguard migrant workers.

The policy and initiatives of the Government have served all three stages of the migratory process – pre-migration, on-site and post-migration. Pre-migration training, compulsory registration, insurance schemes, the appointment of Labour Attachés and Welfare Officers at Sri Lankan missions in host countries and the setting up of the Migrant Assistance Centre and programmes at the airport to assist returnee migrants as well as assistance schemes for the families of migrant workers are some of the important initiatives undertaken by the Government.

However, welfare and protective programmes have hardly benefited the 10 per cent of migrant workers facing abusive and exploitative situations. The primary reason for this is the inability to account for undocumented workers who migrate without the compulsory registration requirement or through personal contacts. Another reason is the continuation of exploitation and abuse in the host countries. A third reason stems from the lack of control over private recruiting agencies in Sri Lanka, which are the source of much of the exploitation.

Little progress has been made by trade unions in terms of organizing migrant workers. Much of the trade union effort has been in the form of welfare assistance, crisis support and forming of associations of returnee migrants. There has been little attraction for trade unions among migrant workers because of the difficulty faced in operating in receiving countries. This has been one reason for the struggle of one trade union to secure voting rights for migrant workers, which has become a long drawn out campaign that is yet to be realized.

A number of programmes and schemes have been initiated on improving the status of women migrant domestic workers. But there is little emphasis on the status and problems faced by non-skilled male migrant workers, as well as semi-skilled and skilled male and female workers.

With the dawn of this decade, the focus has shifted to exporting more skilled workers, an intention that the Government clearly stated in its National Employment Policy. This was also clear in the Government signing an agreement with Malaysia to send 50,000 workers to Malaysia. Further, there has been a focus on discouraging the migration of female domestic workers due to the negative impacts on the workers themselves and on their families, despite the benefits of their earnings on family incomes and the national economy.

6.10.2 Recommendations

Government

- Ratify the ILO Convention No. 143 in order to receive international recognition and be in a position to negotiate with labour-receiving countries.
- Study the need for Sri Lanka to enter into bilateral agreements with the national governments of host countries. This would entail detailed negotiations between the Sri Lankan Government, represented by the Ministries of Labour and Foreign Affairs, and the governments of the labour-receiving countries.
- Strengthen the implementation and enforcement of the provisions in the SLBFE Act pertaining to regulating, monitoring and supervising the labour recruitment trade. State mechanisms must be strengthened to enable the SLBFE to address the issue of unauthorised recruitment agents and agencies.

- Establish a complete, comprehensive and gender-sensitive database on international labour migration from Sri Lanka, including statistics and information on male migrant workers and case studies of abused and exploited migrant workers, on the basis of which programmes for protecting them can be formulated.

Civil Society

- Review support services provided to migrant workers in the following areas in order to make recommendations on the improvement of services:
 - Support services to prevent abuse and exploitation of migrant workers.
 - Training programmes for prospective migrant workers. The training should necessarily be holistic to instill self-confidence and discipline and impart negotiating skills to workers. Language training in English and Arabic must be an essential component of this. The training should be provided in a residential campus, where modern training techniques are used.
- Promote NGO initiatives and the formation of migrant worker groups to build an active movement for effective awareness raising, networking, advocacy and lobbying in order to prevent abuse and exploitation against migrant workers.

Trade Unions

- Take on advocacy and lobbying roles to fight for the rights of migrant workers as well as to organize them. This is an arduous task, given the background of lack of interest among women migrant workers to get organized, physical difficulties in organizing migrant workers while in employment and the historical low female participation at decision-making levels in trade unions movements.
- However, a more active role by the women's movement in Sri Lanka on female migrant worker issues would be a beginning in organizing this workforce. This would also do away with the present welfarist and protectionist attitudes adopted by the State and non-State machinery addressing migrant worker issues.

ANNEX A

MODEL EMPLOYMENT CONTRACT

This Employment Contract executed and entered into by and between (Employer) hereinafter referred to as Employer and Mr/Mrs/Miss/ (Employee) of (Address in Sri Lanka) hereinafter referred to as Employee, provides for the terms and conditions of employment, as follows:

A. Particulars of Employee:

1. Full Name, as in Passport:
2. Passport Number:
3. Date of Issue:
4. Place of Issue:
5. Profession in Passport:

B. Basic terms:

1. Employment Site:
2. Employee's Classification Position or Grade:
3. Basic Pay:
4. No of hours of work per day:
5. No of hours of work per week:
6. Overtime Pay:
 - a. For work over regular hours:
 - b. For work on holidays:
7. Leave with full pay (per contractual year of 12 months):
 - a. Vacation:(or money value if not used)
 - b. Sick leave:

8. Duration of contract: Years from date of arrival in the country of employment. Contract is renewable at the option of both parties.
9. Other benefits:

C. The Employer shall provide the Employee:

1. Free air ticket Colombo/..... at the beginning of the contract.
2. Free return air ticket to Colombo in the following cases:
 - a. Expiration of contract
 - b. Termination of contract by employer without just cause
 - c. If Employee is unable to continue work due to work connected with disease or injury.
 - d. Force Majeure; and
 - e. In such other case when contract is terminated through no fault of the Employee.
3. Free food pr food allowance of US\$ per month.
4. Free accommodation, with living facilities/allowance in lieu of accommodation of US\$ Per month.
5. Free emergency medical attention and medicines.
6. workmen's Compensation Benefits for service connected illness, injury or death, according to laws of and war hazard protection.
7. company benefits provided to other Employees in same work.

D. The Employee shall observe Employer's company rules and abide by the pertinent laws of and respect its customs and traditions.

E. The Employer shall assist the Employee in the regular remittance of his monthly salary and allowance or any portion of them, as the employee may decide to his/her beneficiaries in Sri Lanka. The Employer shall provide a statement of such remittances to the Sri Lanka Bureau of Foreign Employment/Embassy of Sri Lanka in the country of employment, if requested.

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- F.** In case of death of the Employee, the Employer shall bear the expenses for the repatriation of the mortal remains of the Employee and transfer of his personal belongings to his relatives in Sri Lanka or if repatriation of the remains are not possible under certain circumstances, the proper disposal thereof upon previous arrangements with the Employee's next-of-kin or in the absence of same with the Sri Lanka Embassy in the Country of employment.
- G.** Termination of Contract of Employee by Employer. Employer may terminate the contract of the Employee for any of the following just causes.
1. The closing or cessation of operation of the establishment or completion of the project
 2. Serious misconduct or willful disobedience of lawful order or Employer or his representative at work
 3. Gross or habitual or willful neglect of duties.
 4. Fraud, criminal offence or assault by Employee of Employer, his representative or a fellow worker.
- H.** Employer may also terminate Contract of Employee in the following circumstances.
1. Installation of labour saving services.
 2. Redundancy.
 3. Retrenchment to reduce or prevent losses, and
 4. If Employee has been found to be suffering from any disease and whose continued employment is prohibited by law or is detrimental to his health and/or that of his co-employees.

The termination of employment due to installation of Labour saving devices, redundancy or retrenchment shall entitle the employee affected thereby to repatriation pay equivalent to one (1) month pay for every year of service whichever is higher, a fraction of an year of at least 6 months to be considered as one (1) whole year and all other benefits granted to those who may be terminated at end of contract through the normal termination process.

I. Termination of Employment by Employee

1. An employee may terminate the employer-employee relationship before the expiration of the Employment Contract, by serving written notice on the Employer at least one (1) month in advance. The employer upon whom no such notice has been served may hold the Employee liable for damages. The return airfare in these cases shall be borne by the Employee.
2. An Employee may put end to relationship without serving any notice on the Employer for any of the following just causes:
 - a. Serious insult by the employer or his representative on the honour and persons of the Employee.
 - b. Inhuman and unbearable treatment accorded the Employee by the employer or his representative.
 - c. Commission of a crime or offence by the Employer or his representative against the person of the employee or any of the immediate members of his family.

J. Dispute Settlement Procedure

All disputes arising from this employment contract shall initially be settled amicably through negotiations, with the participation of either a Sri Lankan Embassy representative or any representative of the Sri Lanka Bureau of Foreign Employment.

K. Applicable Laws

Other terms and conditions of employment not covered herein shall be governed by the pertinent laws of the country of employment without negating or rendering nugatory other applicable laws in Sri Lanka and international covenants on expatriate employment. In the even of disputes arising out of interpretation of this agreement the English version of the document shall prevail.

IN WITNESS WHEREOF, we hereby sign this contract thisday of 200..., at

.....
Signature and seal of Employer

.....
Signature of Employee

ANNEX B

Departure for Foreign Employment by country 1998-2002

Country	1998		1999		2000		2001		2002*	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
Saudi Arabia	28 555	30 842	32 283	31 302	26 161	35 198	26 672	40 013	27 670	43 825
UAE	4 320	17 563	7 949	22 210	10 346	22 469	9 169	19 122	12 601	20 278
Bahrain	1 043	6 073	1 164	4 496	1 484	4 993	948	2 790	957	3 568
Oman	1 056	3 238	2 020	8 450	1 284	3 680	1 266	2 403	1 340	2 237
Kuwait	4 069	24 765	5 620	28 064	5 340	28 293	6 041	29 059	6 721	35 111
Qatar	9 997	2 579	8 913	2 626	9 350	2 787	11 169	2 884	17 196	3 545
Jordan	91	3 741	127	6 869	383	6 971	447	7 629	389	6 144
Singapore	176	1 661	183	1 846	147	1 470	229	1 278	114	1 156
Lebanon	1 134	12 512	487	6 378	443	12 752	442	14 993	424	12 268
Greece	106	44	45	124	90	49	96	55	78	63
USA	38	8	21	6	36	5	26	4	3	4
Cyprus	439	1 168	449	1 536	448	1 891	639	2 451	685	2 407
Maldives	2 053	745	2 557	885	2 078	977	1 727	665	1 503	1 392
Mauritius	46	134	54	23	47	24	26	78	46	113
Libya	36	4	29	2	16	-	101	-	114	3
Italy	156	123	1 227	505	115	68	22	6	6	1
Malaysia	25	20	13	33	1165	39	185	151	99	281
Republic of Korea	202	239	308	202	654	201	280	73	424	98
Hong Kong	22	220	20	328	22	352	12	370	03	267

Country	1998		1999		2000		2001		2002*	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
Seychelles	37	59	40	4	33	4	21	3	100	-
Pakistan	28	20	15	7	15	15	15	11	14	14
Syria	9	29	11	18	10	18	5	21	5	12
China	7	3	-	-	2	-	24	1	2	1
Kenya	1	-	16	1	4	1	21	5	14	18
Madagascar	-	-	3	1	-	-	21	-	02	-
Israel	2	2	3	13	1	8	4	20	21	38
Ireland	-	-	-	-	-	-	16	4	39	8
Spain	2	-	-	-	1	2	7	8	2	-
Yemen	10	11	-	-	2	3	10	6	6	4
United Kingdom	7	12	4	8	8	1	5	15	18	11
France	2	4	2	2	-	-	2	-	1	1
Canada	-	1	1	2	2	1	-	3	1	1
Japan	59	1	4	-	8	-	20	3	-	2
Thailand	4	-	2	-	-	1	-	1	2	2
Africa	-	-	5	2	12	-	31	14	20	7
Egypt	2	60	9	34	22	77	21	36	6	60
Others	133	68	136	38	64	45	87	25	100	46
Total	53 867	105 949	63 720	116 015	59 793	122 395	59 807	124 200	70 726	132 986

*Provisional

Source: www.slbfe.lk

NOTES

¹ Anton De Silva, *Ceylon Daily News*, 15 October 1976.

² M. Dias, "Sri Lanka Country Study" in Manolo I. Abella and Yogesh Atal (ed), *Middle East Interlude: Asia Workers Abroad A Comparative Study of Four Countries*, Bangkok, UNESCO Regional Office, 1986.

³ The Government training centres are at Anuradhapura, Badulla, Chilaw, Colombo (two centres), Dambulla, Diyatalawa, Galle, Kadawata, Kalmunai, Kalutara, Kandy, Kegalle, Kurunegala (two centres), Matara, Meegolla, Meerigama, Mt. Lavinia, Moberagala, Ratnapura, Tangalle, Trincomalee (*to be started*). The private training centres are at Kurunegala (two centres), Colombo (four centres) and Welisara.

⁴ "Foreign insurance cover for migrant workers" in *Daily News*, 13 September 2003, p. 1.

⁵ Lalana Kanti Yapa; "The Decision Making Process of International Labour Migration with special reference to the Sri Lankan Housemaid". Colombo 1995.

⁶ M. Dias and T. Shanmugam; *A Credit Programme for Kuwaiti Returnees, An Evaluation Report*, Colombo, Centre for Women's Research (CENWOR), 1993.

⁷ S.T. Hettige; "Social Cost of Migration" in *Documents from the International Conference on Migrant Women Workers*, Colombo, The American Centre for International Labour Solidarity, 1997.

⁸ Yapa, 1995, op cit.

⁹ M. Perera; "Research in Labour Migration, Findings of a Recent Study in Sri Lanka" in *Proceedings of the Regional Meeting of Officials of Labour Exporting Countries*, Sri Lanka Bureau of Foreign Employment and Asia American Free Labour Institute, 1997

¹⁰ Yapa, 1995, op. cit.

¹¹ Hettige, 1997, op. cit.

¹² Perera, 1997, op. cit.

¹³ B.G.R. Uyangoda; "Role of Sri Lankan Missions in Coping With Issues Related to Migrant Workers" in *Documents from the International Conference on Migrant Women Workers*, Colombo, The American Centre for International Labour Solidarity, 1997.

¹⁴ M. Dias and L. Wanasundara; *Sri Lankan Migrant Garment Factory Workers: Mauritius and Sultanate of Oman*. Colombo, CENWOR, 2002.

¹⁵ Information gathered from an interview with Ms. Kanthi Yapa, Director, SLBFE, April 2000.

7 Concluding Remarks

Pong-Sul Ahn and Piyasiri Wickramsekera

There is a growing realization in the South Asian region that out-migration helps promote national economic growth, eases the pressure of unemployment, brings in much-needed foreign exchange through remittances and increases consumption, savings and investment at both the household and macro levels. The protection and social issues concerning migrant workers have become a topic of discussion globally. In addition, national and international legal instruments must be effectively implemented to protect and promote the legitimate rights of migrant workers.

Millions of workers migrate globally, but their economic contributions and their identity as workers are not adequately recognized. There is limited monitoring of such migrant labour flows both at the international and at the national level. Nevertheless, migration should be viewed as an instrument for economic and social development involving labour market needs in receiving countries, planning for supply and training of potential migrants in sending countries, and contributing to the welfare of both countries of origin and destination and the migrants themselves. Therefore, trade unions, governments, civil society and the other stakeholders should attempt to maximize the positive aspects of migration and minimize its negative consequences, and effectively address the various problems faced by migrant workers. This chapter summarizes the strengths and weaknesses of institutional frameworks related to the governance of migration as reflected in the country studies (Bangladesh, India, Nepal, Pakistan and Sri Lanka) and highlights areas for action by concerned stakeholders.

7.1 Bangladesh

In December 2002, the Government framed three rules under the Emigration Ordinance, 1982 – the Emigration Rules, Rules for Conduct

and Licensing Recruiting Agencies, and Rules for Wage Earners' Welfare Fund. However, the main weakness of the present legal system is that the migrant workers do not have the right to seek legal redress directly. Only a concerned government functionary can make a complaint relating to any violation of the Ordinance. The existing laws do not provide adequate protection against fraudulent practices on the part of unscrupulous intermediaries, which has increased the cost of migration.

The Wage Earners' Welfare Fund, created in 1990 and managed with subscriptions from migrant workers, interest earned from the deposit of license fees of recruiting agencies and other personal and institutional contributions, governs the welfare of migrant workers and their families. Bangladeshi missions abroad also play an important role in ensuring the welfare of the migrant workers in host countries. The Bureau of Manpower, Employment and Training (BMET) is involved in the regulation of recruiting agents, collection and analysis of labour market information, organizing pre-departure briefing sessions, implementing training programs and resolving legal disputes.

Over the years, the rise of unemployment in some Arab countries has resulted in reducing the intake of Bangladesh migrant workers, since domestic workers are competing for jobs. While the costs of migration have increased, the wage rates have fallen. Working and living conditions of migrant workers differ from country to country and according to the types of jobs. Health facilities provided to the migrant workers also vary from country to country. In Saudi Arabia, the UAE and Bahrain, they can access to primary health care and general hospital facilities. The majority of the complaints received by the BMET from migrant workers relate to violation of job contracts in some Gulf countries and non-payment of wages. In some cases, workers have returned home without years of wages being paid. The trade unions in Bangladesh have organized some workshops and seminars on the migrant workers and they are in touch with the trade unions in a few labour-receiving countries.

7.2 India

The Emigration Act, 1983 is the main legal instrument relating to Indian migrants. The Act is regulatory in character and covers only a

limited category of migrant workers. However Indian diplomatic missions and the Ministries of Labour and External Affairs are playing a pro-active role in protecting the interests of migrant workers. The Government has introduced the Emigration (Amendment) Bill, 2002, which proposes to set up a National Manpower Export Promotion Council and an Indian Overseas Workers' Welfare Fund. The Government has also announced the *Pravasi Bhartiya Bima Yojana*, 2003, which is a compulsory insurance scheme for those going abroad for employment. In addition, the northern state of Punjab has appointed a headman in villages having more than 20 emigrant families to protect their interests in matters relating to land disputes, etc.

Indian migrants, especially those who migrated in an irregular or illegal manner, face problems relating to violation of their human and labour rights. These relate to the retention of travel documents by employers, change of contracts after arrival, delayed payment of salaries and overtime, etc. However, the Ministry of Labour considers these problems as not large in number and manageable. The amount of money that changes hands in cases of human trafficking varies from destination to destination. Indian trade unions have no policy relating to migrant workers but they have played some role, albeit limited, in presenting their views at international seminars and conferences.

7.3 Nepal

The Foreign Employment Act, 1985, aims at controlling and managing the migration process as well as maintaining the economic interest of Nepalese migrant workers. The Act provides for recruitment agencies to be licensed, payment of a deposit and registration fee and stipulates procedures to be followed for the selection of workers, points to be included in the contract to be made between workers and foreign employers, etc. It also prohibits foreign employment for children and women without the consent of a guardian. License holders (recruitment agencies) must inform migrant workers about various details regarding the destination country. However, there is no separate foreign employment policy to protect workers and promote foreign employment for the benefit of migrants.

The large volumes of remittances from migrant workers have clearly

helped the economy. Nepalese migrant workers face problems of low wages, non-payment of wages, long working hours, lack of access to holidays and accident benefits as well as poor working and living conditions. The trafficking of women for sexual exploitation is reported to be a cause for the spread of HIV/AIDS. Though the trade union movement in Nepal is active in the area of labour migration by setting up support groups for migrant workers, these efforts have not met with much success in India where the majority of Nepalese emigrate for employment.

7.4 Pakistan

The emigration law in Pakistan guarantees social security, occupational safety and health, wages and other terms and conditions of service offered to emigrant workers, through employers who are registered with the Protector of Emigrants. The Government has established various institutions to regulate labour emigration.

The Bureau of Emigration and Overseas Employment (BE&OE) currently has offices of Community Welfare Attaches (CWAs) in the major receiving countries. The CWAs are responsible for safeguarding the interests of emigrants in the host countries, including settling of disputes and negotiations with their employers. The Overseas Employment Corporation provides valuable services both to the employers and workers. The Overseas Pakistanis Foundation has been set up to look after the welfare of emigrants and their families. Trade unions in Pakistan play only a limited role on migration policy issues, largely because of lack of networking and cooperation with unions in the labour-receiving countries.

7.5 Sri Lanka

The Sri Lanka Bureau of Foreign Employment (SLBFE) Act, 1985, was enacted to protect and promote the interests of migrant workers. The Act requires the SLBFE to maintain a data bank of all migrants. However, the Act covers only those who are registered with the SLBFE or with employment agencies that are registered with the SLBFE. Those migrating through undocumented sources not registered with the SLBFE do not enjoy the protection under this Act. In 1997, the Government introduced

a standard model contract, which is now accepted by ten major labour receiving countries.

The outflow of workers to the Middle East led the Government of Sri Lanka to open missions in the UAE, Kuwait and Saudi Arabia, not only to serve the interests of the Sri Lankans employed there but also to promote further employment. Foreign missions provide a wide range of services to migrant workers, including shelter and medical services to runaway workers, repatriation of workers and issuing passports to those who have lost their passports or whose passports are with the employers or agents. The missions institute legal action to obtain payment of wages and compensation for migrant workers. However, there is also criticism that missions lack interest, sensitivity and expertise in dealing with labour disputes and workers' grievances. Sometimes, the missions lack adequate staff and resources to address issues of large number of migrant workers.

In view of the fact that workers are often duped by unscrupulous agents, the Government has initiated a pre-departure training program, mainly for female migrant workers. Some trade unions have taken several initiatives for migrant workers in recent years, concentrating on providing training and welfare services to migrant women.

7.6 Policy Implications

In December 2003, the ILO organized a "Trade Union Technical Consultation Meeting" in New Delhi, India to discuss the findings of the country studies. It was attended by about 40 delegates representing trade unions, civil society, academia, research institutions, national governments, UNDP and ILO (see the Programme in Annex A). The country studies presented and the intensive discussions at the meeting have provided valuable insights into issues of out-migration.

The meeting generated a broad consensus that out-migration should be managed in a concerted manner through tripartite partnerships, and national and international cooperation. Comprehensive strategies should be developed to harness the benefits of migration as well as protect the rights of migrant workers.

There is need for a comprehensive policy framework covering all stages in migration from pre-departure to post-migration, to create *decent work* for migrant workers. National governments, trade unions, employers,

civil society and international agencies including the ILO, have important roles to play in addressing the issue of labour and human rights of migrant workers. The meeting has come up with the following recommendations to the national governments, trade unions, civil society and ILO, with special reference to the South Asian context.

Governments

- Both labour- sending and receiving countries should ratify international instruments relating to migrant workers: in particular, the ILO Migration for Employment Convention No. 97, (1949) and Migrant Workers Convention No.143, (1975) and the 1990 United Nations International Convention on the Protection of the Rights of all Migrant Workers and their Families.
- Governments in both labour-receiving and labour-sending countries must deal with the incidence of irregular migration through mutual cooperation and appropriate policies that address root causes and respect the basic human rights of workers consistent with international norms. The long-term goal of government policy should be to create and maintain an environment that is congenial to reducing migration pressures by creating productive opportunities at home and providing incentives to return.
- Governments must develop a comprehensive human resource development (HRD) policy, a demand-supply analysis and management system, regular training programs for skill development, information dissemination, and pre-departure facilitation for migrant workers.
- The Governments of labour-sending countries should try to maximize development benefits from migration, in particular through developing suitable policies and infrastructure to facilitate the inflow of remittances and their utilization for productive purposes.
- Governments must cut down bureaucratic procedures by establishing 'single window' processing centres so that migrant workers and recruitment agents are encouraged to follow regular channels. There should be transparent systems for licensing and monitoring private recruitment agencies. Malpractices of recruitment agencies should be dealt with by appropriate legislation and effective law enforcement combined with sanctions and penalties. Countries in the region should

consider ratifying the ILO Private Employment Agencies Convention No. 181 (1997).

- Governments must strive to formalize cooperation through bilateral and multilateral labour agreements. Existing subregional cooperation mechanisms such as the Association of South East Asian Nations (ASEAN), and the South Asian Association of Regional Cooperation (SAARC), etc. should be mobilized to play an important role in advancing this objective.
- Governments must develop accessible mechanisms for redressing grievances of migrant workers and minimizing violations of their rights, through the adoption of minimum standards for employment contracts, training and information, the provision of labour services in diplomatic missions, and recourse to independent tribunals or human rights commissions.
- Governments in South Asia have established special institutions such as migrant workers welfare funds and appointed community welfare officers/attaché in embassies in the receiving countries to promote and protect the interest of migrant workers. While some countries lag behind in this respect, the functioning and effectiveness of these organizations, where they exist, should be strengthened and improved.

Workers' Organizations

- Workers' organizations must launch awareness campaigns on migrant workers' issues and develop education manuals for their members.
- Workers' organizations can compile and disseminate success stories of international/national trade unions in protecting the rights of migrant workers.
- Workers' organizations must lobby their respective governments to formulate an appropriate labour migration policy in order to promote migration and protect the human and labour rights of migrant workers, in line with ILO and UN instruments relating to migrant workers.
- Workers' organizations in labour-sending countries should attempt to network with those in labour-receiving countries in order to effectively address the labour rights issues of migrant workers. This is possible, especially in countries where trade unionism is permitted by law.

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Where trade union activities are not allowed, the unions of labour-sending countries should attempt to network with other civil society organizations.

ILO

- The ILO should promote the ratification of international instruments relating to migrant workers through provision of advisory services and other technical assistance.
- The ILO should provide support to tripartite constituents and social partners to develop strategies and policies to improve the working and living conditions of migrant workers.
- The ILO should continue to support the observance of the International Migrants Day, 18 December.
- The ILO should conduct seminars and briefings for trade unions, civil society and other stakeholders as needed with a view to sensitizing them on migrant workers' issues as well as helping them develop an action plan for supporting migrant workers.
- The lack of comprehensive information on migration flows and migrant workers is a serious handicap in formulating migration policies and programmes for the protection of migrant workers. Therefore, tripartite constituents and other stakeholders in both labour-sending and labour-receiving countries should give priority to developing transparent and accessible information and database systems.

<Annex A>

**TRADE UNION TECHNICAL CONSULTATION MEETING ON
STUDIES OF OUT-MIGRATION**

in Bangladesh, India, Nepal, Pakistan and Sri Lanka

India Habitat Centre, New Delhi

1-2 December 2003

PROGRAMME

Monday, 1 December 2003

- 09.00 – 10.00 hrs. Registration
- 10.00 – 10.40 hrs. **Opening Session** (facilitator : Mr. Pong-Sul Ahn,
Workers' Activities Specialist, ILO SRO-New
Delhi)
- Welcome Address by Mr. Maurizio Bussi, Deputy
Director, ILO SRO-New Delhi
- Address by Mr. N.M. Adyanthaya, INTUC and
Member of ILO Governing Body
- Keynote Address by Mr. K. K. Sharma, Managing
Director, Non-resident Indians (NRIs), Punjab
- 10.40 – 11.00 hrs. Tea
- 11.00 – 11.45 hrs. **Technical Session 1** : Background and Summary
of the Research Work – Mr.Pong-Sul Ahn, ILO,
New Delhi
- Discussion
- Chairperson : Dr. T. Haque, Chairman, Commission
for Agricultural Cost and Prices (CACP), Ministry
of Agriculture, New Delhi

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- 11.45 - 12.45 hrs. **Technical Session 2** : International Labour Migration: International Perspectives and Relevance for Asia - Mr. Piyasiri Wickramasekara, Senior Migration Specialist, International Migration Branch, ILO-Geneva
- Discussion
- Chairperson : Dr. S.K. Sasikumar, Fellow, V.V. Giri National Labour Institute, Noida
- 12.45 - 13.45 hrs. Lunch
- 13.45 – 15.05 hrs. **Technical Session 3** : Experiences from Sri Lanka - Ms. Malsiri Dias and Ms. Ramani Jayasundera, Colombo
- Discussion
- Chairperson : Mr. R. Palanimuthu, Ceylon Workers Congress, Colombo
- 15.05 – 15.20 hrs. Tea
- 15.20 – 16.40 hrs. **Technical Session 4** : Experiences from India – Mr. Krishan Chand Senior Research Fellow, Centre for Research in Rural & Industrial Development (CRRID) and Ambassador P.S.Sahai, CRRID, Chandigarh
- Discussion
- Chairperson : Ms. Sukti Dasgupta, Senior Specialist on Employment and Labour Market Policies, ILO-New Delhi
- 16.40 – 18.00 hrs. **Technical Session 5** : Experiences from Bangladesh - Ms. Tasneem Siddiqui, Professor of Political Science, University of Dhaka, Dhaka

Discussion

Chairperson : Mr. Mohd. Rafiqul Islam, Social Welfare Secretary, Bangladesh Jatiotabadi Sramik Dal, Dhaka

18.30 – 20.00 hrs. Reception

Tuesday, 2 December 2003

10.00 – 10.10 hrs. Introduction of 2nd day's programme.

10.10 – 11.30 hrs. **Technical Session 6** : Experiences from Nepal - Mr. Jagannath Adhikari, Nepal Institute of Development Studies (NIDS), Kathmandu

Discussion

Chairperson : Dr. Pravin Sinha, Friedrich Ebert-Stiftung (FES), New Delhi

11.30 – 11.45 hrs. Tea

11.45 – 13.00 hrs. **Technical Session 7** : Experiences from Pakistan - Mr. Qamar Ali Shah, Researcher, Pakistan Manpower Institute (PMI), Islamabad

Discussion

Chairperson : Mr. D.S. Poonia, Joint Secretary, Ministry of Labour, Government of India, New Delhi

13.00 – 14.00 hrs. Lunch

14.00 – 15.15 hrs. **Group Work**: Developing a Plan of Action for Managing Labour Migration in South Asia

Migrant Workers and Human Rights

Presentation and discussion

Chairpersons: Mr. K.C. Singhal, Professor, Department of Business Management, Punjabi University, Patiala and Mr. Pong-Sul Ahn, Sr. Specialist on Workers' Activities, ILO, New Delhi

15.15 - 15.30 hrs.

Tea

15.30 — 16.30 hrs.

Panel Discussion : Role of Trade Unions in Protecting the rights and interests of Migrant Workers

- Mr. R.A. Mital, Secretary, Hind Mazdoor Sabha, New Delhi.

-Dr. Sucha Singh Gill, Professor, Department of Economics, Punjabi University Patiala, Patiala

-Mr. Mahesh Arora, Deputy Secretary, Emigration Division, Ministry of Labour, New Delhi

- Ms. Malsiri Dias, Researcher, Study on Sri Lanka

Chairperson : Ms. Tasneem Siddiqui, Professor of Political Science, University of Dhaka, Dhaka

16.30 – 17.30 hrs.

Valedictory Session (facilitator : Mr. Pong-Sul Ahn, ILO)

- Mr. R.A. Mital, Secretary, Hind Mazdoor Sabha, New Delhi

- Dr. Piyasiri Wickramsekera, Senior Migration Specialist, ILO, Geneva

- Dr. P.D.Shenoy, Secretary, Ministry of Labour, Government of India

- Mr. Herman van der Laan, Director, ILO SRO-New Delhi

ABBREVIATIONS

ACFFTU	All Ceylon Federation of Free Trade Unions
ACTFORM	Migrant Workers Action Network
AITUC	All India Trade Union Congress
APFTU	All Pakistan Federation of Trade Union
ARTEP	Asian Regional Team for Employment Programme
BAIRA	Bangladesh Association of International Recruiting Agencies
BE & OE	Bureau of Emigration & Overseas Employment
BIGUF	Bangladesh Independent Garment Unions Federation
BILS	Bangladesh Institute of Labour Studies
BMET	Bureau of Manpower, Employment and Training
BMS	Bharatiya Mazdoor Sangh
BOESL	Bangladesh Overseas Employment Services Limited
BTUF	Bangladesh Trade Union Federation
CITU	Centre for Indian Trade Unions
CWA	Community Welfare Attaché
DECONT	Democratic Confederation of Nepalese Trade Unions
DFID	Department for International Development
DLEP	Department of Labour and Employment Promotion
GEFONT	General Confederation of Nepalese Trade Unions
HMS	Hind Mazdoor Sabha
ICATU	International Confederation of Arab Trade Unions
ICFTU	International Confederation of Free Trade Unions
IIRA	Indian Industrial Relation Association
ILO	International Labour Organization
INSTRAW	United Nations International Research and Training Institute for the Advancement of Women
INTUC	Indian National Trade Union Congress
IOM	International Organization for Migration
IT	Information technology
JSS	Jathika Sewaka Sangamaya
LJEWU	Lanka Jathika Estate Workers' Union

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NAFEA	Nepal Association of Foreign Employment Agents
NCW	National Congress of Women
NGOs	Non-government organizations
NHS	National Health Services
NIDS	Nepal Institute of Development Studies
NRI	Non-resident Indians
NTB	National Training Bureau
NTP	National Talent Pool
NTUC	Nepalese Trade Union Congress
NWC	National Workers Congress
NWFP	North West Frontier Province
OEC	Overseas Employment Corporation
OECD	Organisation for Economic Cooperation and Development
OPF	Overseas Pakistanis Foundation
PMI	Pakistan Manpower Institute
RMMRU	Refugee and Migratory Movements Research Unit
SAAT	South Asia Advisory Team (renamed Subregional Office for South Asia)
SDCs	Skill Development Councils
SLBFE	Sri Lanka Bureau of Foreign Employment
TOKTEN	Transfer of Knowledge Through Expatriate Nationals
UAE	United Arab Emirates
UNDP	United Nations Development Programme
UNFPA	United Nations Fund for Population Activities
WARBE	Welfare Association of Repatriated Bangladeshi Employees
WCL	World Council of Labour
WFTU	World Federation of Trade Unions
WTO	World Trade Organization

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