

CARAM ASIA REPORT

REMITTANCES:
IMPACT ON MIGRANT WORKERS'
QUALITY OF LIFE
OCTOBER 2010



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SECTION 1 : EXECUTIVE SUMMARY >>

Key Findings

Remittances as a Tool for Development

The CARAM Asia research was undertaken to ascertain whether the improvement in the material aspects of the lives of migrants and their families that purportedly comes from remittances, compensated for the deterioration of other aspects in their quality of life, including the social and human costs of migration that is often hidden or ignored within the larger migration debate. The study was undertaken with CARAM partners in countries within the broader Asia region. The three main destination countries within the study included the United Arab Emirates, Malaysia and Thailand. Source countries for migrant workers and their families included Pakistan, India, Philippines, Sri-Lanka, Cambodia, Nepal, Bangladesh, Indonesia and Burma.

One of the key themes found within contemporary migration discourse is the preconception that remit-

tances from migrant workers can be used by developing countries of origin as a policy of sustainable development. This theme has been heavily promoted by global financial institutions such as the International Monetary Fund (IMF), the World Bank and other representatives from the private sector that seek to push for corporate globalisation and deregulation of state government controls on migration policies. Advocates of the remittances and development approach highlight the ever-increasing remittance inflows to source country economies and their potential to sustain developing nation's economies through increasing the Gross Development Product (GDP), reducing deficits and by extension reducing the dependence on borrowing from foreign states. Such a mentality has inevitably resulted in the commoditisation of migrant workers where developing coun-

tries are placed in a situation where they are forced to compete with one another in order to maximise their citizen's potential for overseas employment. In the subsequent drive for a bigger stake in the market of remittances, countries of origin find themselves undercutting their own citizens' standard of employment and labour rights in order to increase their own viability overseas. As such, this approach continues to produce cheap labour for developed countries while simultaneously trapping developing counties in a state of interdependence instead of improving the rights and well being of migrant workers. Within this paradigm there is limited analysis of exactly how these remittances are being used to further develop infrastructure and economic stability within source country economies or in fact lead to improvements in the quality of life of migrants and their families.

Policy Findings

While the impact of the recent financial crisis on the rate of remittances remains inconclusive, it is widely recognised by the World Bank and other credible statistical sources that the influx of capital from earned remittances has continued to increase over the past two decades. As a result of this, many developing countries throughout the world have sought to develop Labour Export Policies (LEP) in order to capitalise on the growing international demand for cheap unskilled foreign labour. These policies however often lead to the exploitation of migrant workers in developing countries, and as this research has found, labour and human rights violations

occur consistently at all levels of the migration process. The national policy frameworks and regional agreements governing migration in all of the countries within this study, in practice fall short of protecting and promoting the rights of migrant workers and their families. There is a strong focus within countries in the study, on the promotion of migration through the liberalisation of labour markets allowing for increased flow of labour between countries. The study showed varying levels of commitment amongst source country governments to the effective development, implementation and monitoring of migration policy aimed at protecting migrant

rights. Out of the nine source countries in the study, three had national migration policies that were currently under review and in draft form (Pakistan, India and Sri Lanka). The remaining countries had varying levels of migration policy in place, with all sending countries showing some evidence of policy protections for migrant workers' rights (either in draft form, in policy documents or in national migration laws). However a common concern was the inadequate resources available to ensure effective implementation of migration policy at even the national level which in reality resulted in minimal protections for migrant workers. In addition to na-

tional policies a variety of MOU have been ratified by all source and destination countries within the study, and all countries have ratified at least some of the core international human and labour rights conventions that give protection to the rights of migrant workers. However despite this comprehensive legal framework, the experience of migrant workers interviewed in the study show continued high levels of exploitation of the migrant workforce within the region. For sending countries common areas of policy failure are primarily related to a lack of monitoring and regulation of pre-departure processes commonly leading to high levels of corruption and over-charging from both state and private sector recruitment agencies. In addition there is insufficient state resources targeted at support for families and returned migrant workers post-migration as

well as a lack of effective repatriation and support systems for workers who face difficult circumstances in sending countries.

In terms of destination countries, there are common policy failures in all countries in the study regarding national labour laws that fail to ensure basic labour protections for migrant workers - including minimum wages and occupational health and safety protections. In addition there is a lack of implementation of existing policies, in terms of the protections and monitoring processes outlined in MOU with sending countries, that leads to rampant contract violations by employers in destination countries, who continue to exploit, abuse and violate both the human and labour rights of migrant workers with impunity. All destination countries in the study have failed to ratify inter-

national standards allowing workers the right to organise ensuring that collective action to protect migrant workers is impossible. Access to the justice system for migrant workers in destination countries is minimal, with multiple barriers that effectively discriminate against migrant workers and allow significant labour and human rights violations to continue without redress. In addition there is minimal resourcing of emergency repatriation and support programmes from sending country governments, which leaves migrant workers in all of the destination countries in highly exploitative and sometimes life threatening conditions with little opportunity for protection, redress or sometimes even return to their own countries.

Remittances and the Burden of Debt

Despite the increasing reliance of labour export policies by sending countries to increase their GDP in line with the drive for development, the fact remains that remittances have not been sufficiently analysed in the context of the wider social costs for migrants and their families or the economic dependence and vulnerability that these migration policies lead to. Moreover, many developing countries continue to overlook the fact that the increasing dependence on the use of labour export has in fact resulted in a greater dependence on foreign states to employ their citizens. The recent economic downturn has resulted in millions of migrant workers being deported from destination countries which in turn increases the economic vulnerability of states that rely on this capital. While the migration discourse continues to promote the use of remittances as a means of securing economic development, the evidence points to the fact that the

standard of living amongst citizens in developing countries remains increasingly polarised in comparison to developed nations. At the individual household level, the research with families of migrant workers in this study reveals a strong pattern of short-term and immediate use of remittances for household survival, with little opportunity for savings or investment in longer term business, capital or community development. The research shows some evidence of the positive value of remittances for individual families of migrant and in these cases the benefits of remittances to families of migrant workers are undeniable. In many cases in the research the basic needs of the migrant worker and their family could be met when remittances were sent home and there is evidence of remittance being spent on housing, children's education, health and land or assets purchases. Very few families in any of the sending countries however,

had any significant level of savings as a result of the migration experience. Additionally there was no evidence that remittances were being used to develop communities, improve the status of women or were in anyway sustainable despite the fact that countries are increasingly receiving billions of dollars in foreign exchange through this process. There was an overwhelmingly negative response from participants in the study, regarding the capacity of remittances in promoting long term improvements in the economic security and quality of life for families of migrant workers. Most of the respondents noted short term benefits of remittances that were able to be used over the time of migration or for a short period post-migration to support household needs. However the burden of debt incurred in the departure process severely affected the benefits of remittances for many families.

Sending countries are guilty of inadequately addressing this burden of debt incurred by their own citizenry, due primarily to the lack of regulation and management of labour recruitment agencies as well as the inadequate labour protections for their workers abroad. In order to pursue overseas employment, migrants within this study were forced to incur heavy debts due to the high costs of pre-departure processes which forced many families into a deeper poverty trap. The research found that it is not just the individual migrant worker who incurs the burden of debt for migration, but also other family members including spouses, parents and grandparents who invest their hard earned savings and limited household assets to cover the initial migration costs, in the expectation of improved financial returns which will improve their lives. In many cases these investments have resulted in limited benefits, with all sending countries

in the study, (apart from Burma)¹ revealing common cases of migrant workers who were unable to pay back even the initial migration costs and loans, and others being able to pay back only a proportion of their loans. For those that were able to pay back the debt there were vastly different time-frames of repayment – ranging from 6 months to 5 years of working abroad, in order to clear their loans and household debts. The research found that in some cases, migrants were even unable to return to their country of origin due to the fact that they had been unable to repay the loan in full and so were forced to remain in the destination country until sufficient earnings could be made. This situation led to increased economic stress on the families of migrants who were not only depending on the remittance income for daily survival needs but also had commonly mortgaged significant family assets, such as land and housing in order to finance the

migration costs of their family member. The research revealed common examples of ‘failed migration’ which led to worse outcomes for some families including increased debt burden, decreased education of children, and increased economic vulnerability of migrant family households. These outcomes were directly related to the experience of contract violation and recruitment agency corruption which resulted in higher than expected debts incurred through the departure and recruitment process and corresponding lower than expected wages in the destination countries due to rampant contract violation and exploitation by employers and agents. These issues related to the burden of debt are central to the question of remittance-sponsored development due to the impact on both migrants and their families.

¹ Migrant workers from Burma did not commonly experience high levels of debt to cover migration costs to Thailand, as they mostly used informal channels of migration due to the lack of access to formal migration processes within Burma, and the fact that the border between Thailand and Burma is a land border which makes for comparatively easier and cheaper access.

Quality of Life for Migrants in Destination Countries

Migrant workers in destination countries were routinely found to be trapped by the host country's oppressive migration systems that limited the rights and basic freedoms of migrant workers at every step. Under the current corporate paradigm of migration, destination countries increasingly rely on short term contracts that reduce the risk of responsibility and thus reduce the risk of economic vulnerability to their own nation's economic stability. Within this context migrant workers face difficult, dangerous and often de-humanizing conditions in destination countries. The migrants who were interviewed for this research commonly experienced contract violation and exploitation. Contract violation was widespread and inevitably resulted in lower than expected wages and reduced working conditions for migrants who had signed contracts prior to migration only to find that these contracts were commonly dishonoured by employers and agents in destination countries. In addition, in Malaysia, Thailand and U.A.E the use of national legislation by host countries allowed employers the right to terminate and cancel work permits while limiting the ability of migrant workers to change their employer which severely impacted on the mobility, freedom of movement and quality of life for migrant workers in these countries. Essentially under these conditions the workers were forced to accept the reduced working entitlements or risk becoming illegal and facing deportation. A common practice identified by workers in all destination countries was the with-holding of migrant workers formal documentation such as passports and work permits, by employers, which again vastly restricted the ability for travel and movement of migrant workers. In addition there was a common experience of debt bondage found within many migrant workers in the study, whereby the system of loans implemented via recruiting agents and employers prior to migration, resulted in reduced wages or sometimes no wage at all when they commenced work in the destination countries - until such they had paid off the loan and interest of their original debt.

There were high levels of abuse, maltreatment and violence experienced by migrant workers in all destination countries in the study with documented cases of rape, assault and deaths of migrant workers. Abuse was commonly perpetrated by employers and authorities such as police, migration officials and recruiting agents. A general climate of racism, discrimination and xenophobia was common in all destination countries with cases of violence against migrant workers at times perpetrated by citizens within destination countries. There was a severe lack of access to justice in all countries for migrant workers which meant that the perpetrators of violence continued to escape any form of prosecution for human, employment, and sexual rights violations against migrant workers despite the fact that they were well documented and appeared to be widespread.

Migrant workers in the study invariably reported high levels of stress, including physical and mental health issues, and a common experience of maintaining limited social activities and having minimal opportunities for rest and relaxation options. For many migrant workers there was a loss of personal freedom and movement, and a deep sense of fear and anxiety felt within their everyday lives in destination country communities, leaving them feeling lonely and afraid due to the tense, exhausting and unpredictable living situation. Being migrants, they invariably had lesser protection and social services than locals in the destination country, with access to health care being limited particularly for migrant workers in the U.A. E. and Malaysia. For workers in Thailand there was access to an affordable health care system for migrant workers however undocumented migrants had particular difficulties accessing health services due to their illegal status.

Living conditions for migrant workers in the study were varied however there were common concerns of overcrowded and unsanitary living conditions for migrants in the U.A.E. and Malaysia. Migrant workers in all countries were often forced to share inadequate accommodation with others from within the migrant community due to the high costs of accommodation relative to the wages they were receiving.

This research demonstrates that gender variables related to migration impacted at all levels of the migration process. In terms of macro level factors in the countries within the study – there was evidence of gender discrimination in national migration policies which impacted on the numbers and proportions of women migrating. There was also clear evidence of the feminization of labour in countries within the study in the region, which saw a trend of women migrating from sending countries, to work in feminized labour sectors, primarily as informal domestic labour, over the last two decades.

The research highlighted the intersection of gender with occupation, and showed that both male and female workers in certain occupations suffered extreme exploitation; namely female domestic workers in all destination

countries, and male labourers in the U.A.E. Male workers in the U.A.E. working in labour camps faced comparatively worse living and working conditions than other workers in the U.A.E and there was an identified lack of crisis support services for male Filipino workers compared to female workers in the U.A.E. Female migrant workers across all countries in the study were particularly vulnerable to the lack of protection and decreased standard of employment due to their over-representation in informal and unregulated sectors. The research found that female migrants working as domestic workers in all destination countries lived and worked in slave like conditions where they were subject to exploitation, restricted mobility, restricted communication with others in the community and with family members at home, and high levels of violence including gender based violations with limited opportunity for redress. Domestic workers and workers in the sex industry were commonly not included in the labour laws of the three destination countries giving them less access to labour and human rights protections than other workers.

Female migrants in the study also commonly identified discrimination in relation to reproductive health rights, which included incidents of forced contraceptive treatment prior to migration for women in Sri Lanka, a lack of access to reproductive health services for migrant women in Malaysia and U.A.E. who were commonly deported if they became pregnant, whilst in Thailand those who were pregnant often lost their employment. Sexual assault and harassment perpetrated by employers and authorities was a common concern for many of the female migrant workers interviewed in the study.

In analysis of the change in gender roles due to the migration process there was little evidence of long term changes to the status of women – either as migrant workers or within the families of migrant workers. For some families of female migrant workers there were changes in the household division of labour with males participating in child rearing activities. However these changes were not sustainable post migration with female migrant workers inevitably reverting back to traditional gender roles within their households and families upon return from abroad. There was little evidence of any increase in women's participation in decision making, political participation, business ventures or other indicators of empowerment related to development.

Quality of Life for Migrants in Sending Countries

The findings of the research show different impacts on families of migrant workers depending on the economic success of the migration experience. Increased poverty and loss of land and resources in order to cover the costs of departure and recruitments however is common to the experiences of families in all sending countries. When actual household income decreases the result is migrant families are often reduced to subsistent living, particularly over the times when there is no remittance sent from family members abroad. This increased poverty means greater social impact on the lives of the community. As noted above the benefit of remittances for families of migrant workers depended largely on whether they were able to pay back the original migration debt. For many families this was not possible and in these circumstances family members faced greater poverty, were forced to rely on other community and family members for their economic survival and faced continued harassment by lenders and stigma within the community due to their inability to pay the outstanding debts.

Apart from the economic impact of migration however families identified numerous positive and negative affects of migration. Positive impacts invariably were related to the cases where remittances were able to meet household needs and the migration debt was able to be paid off sufficiently. In these cases migrant workers identified a sense of satisfaction and pride at their achievements and increased status within their home communities and families. However there were also numerous social costs related to the migration experience that is not commonly considered within the remittance and migration paradigm.

The emotional and psychological impact on family members of migrant sending households was significant. For most participants in the study the migration period spanned over 1-5 years; a significant time-frame in terms of maintaining long-distance relationships with family members. The two main areas of impact on families of migrant workers were seen in marital relations and child-rearing. The issues identified which caused stress within martial relations were varied. The levels of loneliness and anxiety suffered by spouses – both those working overseas and those remaining at home, was significant. While most respondents were able to keep regular communication with families over the migration period there were notable exceptions for domestic workers who had limited capacity to communicate with families at home. This caused high levels of anxiety for family members and spouses as to the well being of the migrant worker, particularly given that the exploitation and abuse suffered by domestic workers was widely known in many source country communities.

Relationships of spouses within the study were affected in different ways with some spouses separating, while others entered into another relationship or had other sexual relations whilst abroad, and some cases revealed problematic issues such as alcoholism, domestic violence and gambling. Some migrant workers noted that relations with their family and spouses had deteriorated due to the high expectations from the family in terms of income and remittances, which were not able to be realized due to the labour exploitation in the destination country. The focus on the migrant workers role as an income earner and the pressure to send money home had caused stress within the relationships of some spouses. Spousal conflict was also increased due to the migration debts that were sometimes to be paid off by family members in the country of origin, upon the expected receipt of remittances. Migrant workers who were not able to pay up their debts caused shame and problems for their families that were left behind.

For some migrant workers, being away from the family for an extended time, caused a communication breakdown between family members and led to problems and conflict within the family. Not being able to support the home family at significant times was also an issue which was particularly devastating in instances where there had been deaths of members of their extended family at home, and the workers were unable to afford to return to participate in funerals and support their families. Additionally working abroad for the sake of one's family entailed a lot of sacrifices. The homesickness, separation from their families and friends, and adaptation to a new environment were often extremely challenging for migrant workers to cope with, particularly given the substandard living and working conditions that were a common experience.

The impact of migration on children in the study was also found to be both positive and negative. For some families migration led to improvements in educational opportunities for children which was seen as an important priority for most families with children. In addition some families identified improved child care practices from returned migrants who were able to provide for better health care and social activities for their children due to the increased income from migration. An increase in single parent families is another characteristic trait of migration and the negative impacts identified by participants in this study were related to the challenge of child rearing given the loss of one parent who worked overseas for long periods of time. Parents who worked overseas often missed out on many important occasions in the life of their children, such as birthdays and graduations. Many respondents had concerns over the effect of the migration on their children left behind and were greatly concerned that the separation was depriving them of the opportunity to be a part of their children's lives to help them not only with their education but also to instil moral values. They were also concerned that the limited remittances they were able to send home were not enough to support their children's education.

The increased burden of care of children was an issue for families in both male and female sending households. In female sending families in the study this extra burden of care was often taken up by grandparents, sometimes siblings and fathers / spouses who were often also working to earn an income in the source country. The issue of single parenting was also identified by many women in male-sending households as a concern. Some respondents were concerned about the absence of their husbands as an elder family member, who would ordinarily be a major decision maker in the family and also a symbol of protection for the family. The burden of single parenting; in having to act as both mother and father to the children; added additional pressures in practical care giving activities and parental decision-making. In some cases the children of migrant workers grew up with one or both parents absent for long periods, with some growing up hardly knowing their parents. Children were sometimes left in the care of relatives, if both parents were working overseas, as was the case for some families in the Philippines.

Community expectations of migrant workers and their families also revealed further pressures for migrant workers and their families. In some source country communities, returned workers faced stigma and discrimination, particularly evident for female migrant workers from India and Cambodia. In some of the sending communities there was a common and false perception amongst community members that female domestic workers were sexually promiscuous and morally corrupt and returned workers or their families were discriminated against. Community expectations of returned migrant workers were a problem for many respondents who noted a common trend whereby members of source country communities expected that migrant families were rich. In many cases this was a false assumption given the issues faced by workers in destination countries however community members and neighbours in the source countries had many expectations from returned workers resulting in pressure for migrant families to provide gifts and loans to others in the community. For migrant workers who returned home early or with less than expected earnings there was a struggle for survival and a difficulty to rein-

tegrate back to into the source country community with some workers being stigmatized and judged negatively for leaving their families and communities.

The Cycle of Re-Migration

Despite an increase in remittances for sending countries and a subsequent rise in their overall GDP, many developing countries still fail to invest and develop their own infrastructure. This is especially noticeable when it comes to the issue of job creation and the quality of health and education services. The lack of re-integration programmes was a concern for migrants interviewed in the majority of sending countries in the study. This appeared to be due to both a lack of state policy and a lack of resourcing for programs to support migrant workers post migration in their home countries. For those migrants who returned home there was commonly a lack of effective options to support them with issues related to the migration experience including the management of debts incurred through corrupt and illegal exploitation; access to justice for violations committed abroad, and access to compensation and adequate health care. Migrants who had experienced health issues as a result of the exploitative working conditions abroad, were often unable to access adequate compensation from either employers or governments or afford health treatment in either the destination country or upon return home.

A common issue for returned workers was the lack of employment in their country of origin even after they returned from migration. Some workers found the employment opportunities even worse than when they left for work overseas and so were forced to consider the option of re-migration for the economic survival of themselves and their families. The main factors pushing re-migration included the lack of employment and low wages in source countries, as well as the outstanding migration debt for some families and the ongoing need to support their family's livelihood.

In addition to a lack of employment, those workers who were able to bring home sufficient remittance earnings for investment found limited opportunity for business opportunities within their home communities that could lead to sustainable employment in the longer term. For many there was a feeling that they were not able to make any changes to their village or communities as most of them were not able to bring home any significant money, goods or new skill with which to invest in community development.

A notable difference in the pattern of return and remigration was found in migrants from Burma who were impacted both by extreme poverty and unemployment in Burma as well as the political factors related to the military dictatorship in Burma. This situation meant that many migrant workers considered migration as a recurring cycle with no fixed end-point until the situation within Burma changes. In addition workers from Burma often migrated with other family members or spouses and the movement of undocumented workers across the borders between Thailand and Burma was known to be a fluid pattern of migration, return and re-migration.

Conclusion And Recommendations

Clearly there are significant concerns regarding the quality of life for migrant workers and their families arising from this research. The severe exploitation, violence and abuse, the daily struggle and overwhelming isolation and loneliness for migrants working overseas, coupled with severe, unrestrained labour rights violations that continue with impunity – begs the question – is it worth it?

Families in home countries, have scraped, saved and sold their lands and livestock to send their family member abroad in the hope of increased income to feed their children, to fix their houses, and pay for school-books. Parents, children and spouses also suffer the deep loneliness, increased poverty and insecurity of struggling to survive whilst awaiting the promised remittances – often to find that the remittances are in fact inadequate. The added burden of debt, the shame and the increased poverty as a result of migration leaves one to wonder – is it worth it?

Migrant workers and their families had different opinions on the risks and gamble of migration. Whilst many of the workers in the research noted that they would not again choose migration as a way to support their families, others noted that they had no choice but to re-migrate to cover their living costs and debts, whilst still others noted they would be pleased to migrate should they have the chance again. Whilst for many the outcomes for migration are clearly not worth their while – however each day thousands of workers in the region will continue to leave with the promise of a dream – the chance for employment, the chance to improve their lives, travel and support their families. For these workers there needs to be something better.

Recommendations From Migrants And Their Families

Governments of source countries must invest in local communities and economies to provide employment, education and income earning opportunities in order to reduce the need for migration

Effective training and skills development programs should be available for migrant workers prior to departure, covering issues such as remittance management, language training for destination country languages, information on redress mechanisms for human and labour rights violations in destination countries

Governments of source and destination countries must develop and effectively implement mechanisms to monitor and prevent corruption in recruiting agencies and to reduce the pre-migration costs for migrants and their families.

Minimum labour standards and entitlements should be included in standardized work contracts within destination countries and an effective system implemented to monitor employers compliance with contract entitlements.

Minimum wage standards for migrant workers in different sectors should be set and effectively monitored within all destination countries. This could be done through mutual recognition arrangements and other means of determining skills equivalence of migrants at the bilateral and regional levels.

Minimum occupational health and safety standards should be implemented for workers in all sectors in destination countries

Domestic work should be recognized as work and included in the labor laws of both sending and receiving countries.

Governments of source and destination countries should implement gender sensitive approaches and measures for the protection of migrant workers, especially female migrants.

Governments of source countries must implement mechanisms to enable migrant workers who are stranded in destination countries, due to being cheated by agents and employers, to return home

In cases of migrant deaths overseas, source and destination countries must ensure mechanisms for timely repatriation of the deceased and adequate compensation, access to justice and information for families of the deceased.

Governments of source countries should prepare for the eventual return of the migrant worker by developing viable and effective re-integration policies and programs. These programs should include entrepreneurial and livelihood training, and the promotion of investment and business opportunities for migrants and their families within local communities.

Recommendations From The Gmfd Caram Paper 2009:

- Both sending and receiving countries must immediately sign and ratify the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (1990)
- States that host female migrant workers must adhere to existing rights as laid out in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979). All governments in the region should implement the immediate recognition of domestic work as work with protection in domestic legislation.
- Migrant workers must be protected by core Labour Rights and Decent Work Standards set out in the ILO conventions and related human rights instruments

All states should consult with trade unions and other stakeholders to ensure that all workers are entitled to and receive living wages that are structured around skills, not based on nationality or legal status.

Source and destination countries must honour their obligation to ensure social security for migrants and their families and work towards developing portable social security systems within the context of international migration.

ASEAN governments must amend the ASEAN Declaration for the Protection and Promotion of the Rights of Migrant Workers and their Families, to ensure all documented or undocumented migrants are entitled to fundamental human rights including the right to health, equal access to justice, freedom of movement, freedom of association and to freedom from abuse and exploitation including torture and cruel, inhuman and degrading treatment.

Governments should ensure that adequate and informed pre-departure orientation is given to all migrant workers including health and rights awareness.

States must implement regulating and monitoring processes for recruitment industry to ensure labour and human rights of migrant workers and ensure that migrant workers are not charged exorbitant fees.

States must stop the propaganda the myth of remittances as tool for development and start to work on fundamental, lasting political, economic and social reforms needed in countries including infrastructure for sustainable development by creating employment opportunities, universal healthcare, education and security of life at home while protecting and promoting the rights and well being of migrant workers.

Human rights and social justice should be core standards for development with comprehensive - work for balance of social, cultural, political and economic progress and in line with the definition and framework as stated in the UN Declaration on the Right to Development (1986). Alternative development should place the human person at the centre of development and be aimed at improving the quality of life and dignity of all people and their environment.

Recommendations Noted By Editing Compiling Team Chiang Mai Meeting Nov 2009

Recommendations should target: ASEAN SARC GCC UNDP ILO and ALL governments in Asia rather than listing individually specific recommendations for separate national governments and countries CARAM MHG Taskforce needs to develop a general position / recommendation on remittances and its role in development, forced re-migration and genuine economic development

RECOMMENDATION FROM CLUSTERS could be made in the following areas:

CLUSTER 1 Destination: Malaysia, Sending: Nepal, Bangladesh, Cambodia, Indonesia

Malaysia: abolition of the migrant worker levy policy and RELA (Volunteer Peoples Corp) / Abolition of corporal punishment, arbitrary detention

Investigation of detention of migrant workers, the conditions and deaths in detention

Halting of mass deportations of migrant workers

Improve communication options for migrant workers with their families in source countries

Implement non- migration policies that address gaps in prosperity, inequalities in social conditions, human rights conditions,

CLUSTER 2 Destination: UAE, Sending: Philippines, Pakistan, India

UAE: Improvement of conditions in labour camps, increased public transport for migrant workers to allow freedom of movement

Employment contracts; ensure monitoring and compliance to original contracts

Immediate abolishment of Kafala system in UAE and GCC states

Ensure religious freedom and non discrimination for migrant workers working within Muslim countries

Access to justice for distressed migrants: conditions in shelters, men's access to shelters

Welfare Fund in source countries: ensure migrants and families can access, States to develop funds to be more accessible, efficient.

Natural disasters/conflict; no infrastructure for transfer of remittances at a time when desperately needed: preparedness and coordination between sending and receiving countries for migrant workers and their families welfare and well being.

CLUSTER 3 Women and Migration

Abolish mandatory pregnancy testing and recognize and uphold sexual and reproductive health rights of migrant workers

Violence against Women / Cultural and social stereotypes that discriminate against women migrants

Recognition of domestic work/ and informal work with labour rights

Ensure gender equality in wages and working conditions

Ensure non discrimination in terms of recruitment processes

Non commoditization of women migrants as remittance senders

Need for protection of labour rights and access to justice particularly for women in informal and unregulated sectors – need protection and access to justice, labour rights

Source country development; ensure women's equal role in development

SECTION 2 : BACKGROUND > >

Methodology

The research was undertaken as qualitative, participatory action research aimed at exploring the reality of the debt burden, social cost and quality of life for migrants and their families in eleven countries within the Asia region.

Research Objectives

The aim of the research was to ascertain whether the improvement in the material aspects of the lives of migrants and their families that purportedly comes from remittances, compensated for the deterioration of other aspects in their quality of life, including the social and human costs of migration that is often hidden or ignored within the larger migration debate. The four research objectives include:

1. To challenge the current migration discourse which promotes remittances as a tool for development within the context of neo-liberal globalisation policies and structures
2. To define and highlight non-monetary indicators and dimensions of the quality of life of migrants and their families.
3. To provide migrant community perspectives on remittances as a tool for development and identify the reality of conditions of work and burden of debt incurred by migrants and the social costs of the unwavering reliance on remittances as a tool for development.
4. To address dependencies on remittances and its role in inducing forced re-migration and neglecting genuine sustainable economic development.

The scope of the research included a three pronged strategy looking at migration and remittances from the source country, the destination country, and identifying gender issues in the process. The research aimed to look beyond locality and explore trends and issues in the regional context. The research was undertaken by research partners who were members of the CARAM Asia network and had significant links, contacts, and experience working in the area of advocacy for migrant worker rights in the Asia region. A steering committee was formed under the CARAM Asia Migration, Health, and Globalisation Taskforce with representatives from ten organisations, to oversee the research. Members on the taskforce who were research partners included the following organisations:

- AMI (Arunodhaya Migrant Initiatives), India
- CARAM-CAMBODIA
- DAWN (Development Action for Women Network), Philippines
- HDO – Human Development Organization, Sri Lanka
- LHRLA (Lawyers for Human Rights & Legal Aid), Pakistan
- MAP (Migrant Assistance Program), Thailand
- NIDS (Nepal Institute of Development Studies), Nepal
- OKUP – Ovibashi Karmi Unnayan Program, Bangladesh
- Solidaritas Perempuan, Indonesia
- Tenaganita, Malaysia

Geographical Focus

The study included analysis of migration in twelve countries including both source and destination countries for migration. The choice of countries was related to the links with research partners who had the capacity to undertake the study as well as an analysis of common migration trends in the region. The following countries were included in the study:

Destination Countries:

United Arab Emirates (Dubai and Sharja), Malaysia, Thailand,

Source Countries:

Pakistan, India, Philippines, Sri-Lanka, Cambodia, Nepal, Bangladesh, Indonesia, Burma

Research Methodology

The research was undertaken by research partners in the different countries using a Participatory Action Research (PAR) frame-work. There are three principals to PAR – Investigation, Education, and Collective Action.

The primary research tools in the investigation phase included in-depth interviews (IDI) and Focus Group Discussion (FDG). Primary research was undertaken via focus group discussions, individual interviews and surveys with migrant workers, their families and communities. In some cases interviews were undertaken with officials working within immigration agencies and representatives from non government agencies working in the field of migration. Research partners developed complementary questionnaires and focus areas and each partner translated standardised questionnaires into their respective language prior to interviewing.

Each partner conducted interviews with migrant workers across various occupations and sectors, gender, age and ethnicity. The research included both male and female documented and undocumented migrant workers in the study groups. Family and community members included spouses, parents and siblings of migrant workers as well as other community members such as neighbours, teachers, and religious leaders. The overall research questions for the participatory action research focused on four key questions:

1. In what way has the quality of life of migrants and migrant's families improved?
2. In what way has their quality of life deteriorated?
3. In what way have neo-liberal policies in destination countries affected the quality of life of migrants and their families?
4. Overall, have migration and the remittance income it provided improved the quality of life of migrants, their families, and their communities?

In source country research the focus was on the impact of migration and remittances on the quality of life for migrants and families. In destination countries the focus was on the actual experience of migrant workers and the impact of migration policies on their quality of life whilst working abroad. The methodology for both groups was focused primarily on non-monetary indicators as a strategy for highlighting the social and personal impact of migration rather than highlighting the economic costs and benefits.

Secondary research was undertaken via literature review to provide background information on migration trends and current migration laws and policy within the countries in the study. The research also drew on the experience of research partners who included non-government agencies working in source and destination countries in the area of migration and development.

Participants in the Research

The research consisted of interviews with a total of 674 participants. This included migrant workers from occupations including domestic work, entertainment, construction, service industry, agriculture, factory, sex workers and general workers. It also included family members. The following table provides an overview of research participants.

COUNTRY OF INTERVIEW	MIGRANT WORKERS	MIGRANT WORKER OCCUPATION	FAMILY	MALE	FEMALE	TOTAL
Nepal	None	No information collected	42 spouses 16 family members	4	54	58
Cambodia	8 returned from Malaysia:	Domestic work Other	28 family members	8	28	36
Bangladesh	20 returned from Malaysia:	Construction labour, factory worker, cleaner, Pipe fitter, Welder	20 spouses 15 parents	32	23	55
Malaysia	116 current in Malaysia	Domestic work Factory Service General	None	105	11	116
Indonesia	24 returned from Malaysia	Domestic work Construction Factory		4	20	24
Sri Lanka	160 All women Returned from Middle East	Domestic work			160	160
Thailand	74 current in Thailand:	Domestic Work Sex Work Karaoke Construction Factory Agriculture	43 Spouses	43	74	117
Philippines	12 current in Dubai 10 returned from UAE	Construction Service Retail Domestic Work Driver Machine Operator	2 family members 1 spouse	12	13	25
India	18 current in Dubai / Sharja 22 returned UAE	Construction Domestic Work Seafarers Labourers	2 spouses	36	6	42
Pakistan	18 current in UAE	Carpenter Labourer Machine Operator Surveyor Steel Fixer Cleaner	4 family members	4	18	22

Framework for Analysis

Analysis of the research findings and development of recommendations was undertaken by partners in the study, to ensure a consensus process, to cross check the accuracy of the data and to provide deeper analysis of regional and global issues for advocacy. The research partners participated in a planning workshop in Kuala Lumpur, Malaysia in July 2008 with the focus theme: Dependencies on Remittances – the impact on migrant workers quality of life. This workshop utilised a participatory process to develop: overall research questions, the main hypothesis, research design, scope and framework. Partners then undertook primary research within their designated countries, utilising staff within their organisation to facilitate individual interviews and focus group discussions within the identified target groups in their community. This process allowed for capacity building with activists and workers within local NGOs and networks through their participation in the research process. The research with migrant workers and their families took place within each country over a timeframe from September 2008 to July 2009. A second workshop was held in Kuala Lumpur, Malaysia in September 2009 and focused on regional analysis of the research findings from each partner. From this workshop a set of revised indicators for comparative analysis was developed and undertaken by partners. A meeting of a smaller group - the compiling and editing team was held in Chiang Mai in November 2009 to develop the final report format with final input into the findings and recommendations from partners occurring in July 2010 prior to publication. Analysis of the research findings was undertaken according to three cluster groups:

- Cluster 1: focus on migration to the United Arab Emirates
- Cluster 2: focus on migration to Malaysia
- Cluster 3: focus on the experience of female migrants and their families, in relation to three source countries: Sri Lanka, Burma and Indonesia

The research team agreed upon the following definitions in order to define the framework of analysis and research.

Remittance: this were defined as the private funds of migrant workers, and it was agreed that remittances should not be used as an income-generator for governments or as a tool for national economic development. Remittances could include both capital and wages inflow, ie: used for large purchases such as buying land or a home, or used for daily living, purchasing clothing and food. This research also aimed to ascertain the methods that migrant workers used for remittance sending. This included formal systems, such as local, national or international banks, remittance centres and remittance providers (eg Western Union,). Informal methods included in the study included patterns of remittance sending through the postal system, sending through family and friends or through the use of 'hundi' or 'hawala' – where monetary value is transferred via a network of dealers or brokers from one location to another.

Quality of life: this term was selected as the major focus of the research. Though there was not a rigid definition of the term, the research team agreed that comprehensive elements of one's life, including political, social, economic, and cultural rights, were needed to be satisfied in order to have a satisfactory quality of life. These broad areas were used to develop comprehensive research questions for the individual and group discussions and indicators for analysis.

Rights-Based Framework: it was agreed to examine remittances and migration using a rights based framework to highlight the impact on the political, social, economic, cultural and labour rights of migrants. Indicators that highlighted fundamental human and labour rights were used for investigation and analysis.

Gender Analysis: the cluster group focusing on women's migration was used to develop indicators related to gender which were then applied as an analysis tool to the research findings. The four areas that were highlighted for research and analysis included: gender-based rights violations such as violence against women and reproductive health rights; gender based migration laws and policies; changes to gender roles within families of migrants; and gender discrimination that affected the lives of migrant workers in destination countries.

A framework of analysis including monetary and non- monetary indicators was used to highlight the impact of remittances and migration upon migrants and their family's quality of life. The monetary indicators that were used were related to levels of household debt for migrant sending households, remittance sending patterns from migrants working overseas, as well as economic indicators at the national level highlighting sending and receive-

ing country remittance, human development and economic development levels. Non-monetary indicators included a range of areas related to the quality of life of migrant workers in destination countries including labour rights, working and living conditions and civil and political rights.

Exchange rate calculations were undertaken using official exchange rates as of July 31st 2009, using an online calculator with the following exchange rates:

Currency	Exchange Rate	
	USD	(local)
India Rupee	0.02087	(47.9130)
Sri Lanka Rupee	0.00871	(114.8483)
Thailand Baht	0.02938	(34.0379)
Pakistan Rupee	0.01201	(83.2562)
Philippines Peso	0.02082	(48.0196)
UAE Dirham	0.2723	(3.6726)
Indonesian Rupiah	0.000101	(9,899.0825)
Nepalese Rupee	0.01273	(78.56100)
Bangladeshi Taka	0.01476	(67.73000)
Cambodian Riel	0.0002439	(4100.10)
Malaysia Ringgit	0.2839	(3.5227)
Burma (Kyat)	0.1826	(5.4772)

Source: 10 Year Rate Calculator from Bank of Canada: <http://www.bankofcanada.ca/en/rates/exchform.html> and <http://www.oanda.com/convert/classic>

The findings of the research are presented in this report in four sections. Section 1 includes an analysis of the main findings and recommendations from the research across all country groups. Section 2 includes an analysis of the global context of migration remittances and development. Section 3 provides an analysis of the research into the legal and policy context impacting on migration within each source and destination in the study, including labour export / import policies and the human and labour rights obligations of states. Section 4 includes a presentation of the feedback received from migrant workers and their families. This is presented in the three cluster groups in the study as noted above – the Malaysia Cluster, the U.A.E Cluster and the Women and Migration Cluster. This section gives an overview of the experience of migrant workers and their families using a rights-based analysis – giving voice to the concerns, viewpoints and lived experience of migrants and their families, highlighted within a human rights perspective.

Context: Migration in the Global and Regional Context

Modern migration is a by-product of economic and political globalisation strategies and policies. Within the Asia region (including South East, East and South Central Asia), international labour mobility has become increasingly important in terms of national level economic development. Asia is the largest source of temporary contractual migrant workers worldwide, and in 2005 it was estimated that the number of Asian migrant workers abroad was around 25 million both within and beyond the Asian region.¹ In Asia migrants move from developing countries such as the Philippines, Indonesia, India, Pakistan, Bangladesh, Sri Lanka, Nepal, Cambodia and Burma. They migrate to industrialized countries such as South Korea, Malaysia, Hong Kong, Thailand, Japan and oil rich Gulf countries. Some countries such as Thailand and India are both sending and receiving countries. India and the Philippines remain in the top three migrant sending countries in the world alongside China.² In the last two decades the labour market conditions in the region have undergone considerable changes with both the number of migrants and the pace of migration increasing. Migrants from sending countries in South Central Asia, including Bangladesh, India, Nepal and Sri Lanka often include mainly low skilled workers who migrate to work in the Middle East as temporary contractual labour for infrastructure projects in the Gulf states or unskilled

1 Hugo, G. 2005 "Migration in the Asia-Pacific region", paper prepared for the Policy Analysis and Research Programme of the Global Commission on International Migration (GCIM), September, Geneva, <http://www.gcim.org/mm/File/Regional%20Study%202.pdf>

2 International Organisation For Migration 2010 Regional and Country Data. <http://www.iom.int/jahia/Jahia/about-migration/facts-and-figures/regional-and-country-figures/cache/offonce/>

domestic labour.³ In addition migrants from sending countries such as Burma, Indonesia and Cambodia migrate to Malaysia, Singapore and Thailand, whose economies increasingly show a high dependence on foreign labour.⁴ International migration is thus not only a South to North phenomenon but also a South-South process. It is a multi-directional phenomenon in which many countries are both source and destination countries at the same time.

There is significant evidence of the feminization of labour migration within the Asia region, where hundreds of thousands of women emigrate each year. This has resulted in increasing numbers of female migrants from destination countries joining the migration workforce in response to the growing demand for cheap female labour in domestic and care work over the last three decades. Women from Asia are increasingly migrating as the main economic providers for their households or are commonly working in feminized occupations and sectors such as commercialized domestic workers, caregivers, and sex industry workers with the main destinations being Hong Kong (China), Malaysia, Singapore, and the Middle East.⁵ Further information on the trends regarding the feminisation of labour within countries in the study is provided in the section related to gender.

Migration Flow Of Countries In The Study



Neo-liberal Globalisation

The process of economic and political globalisation is a common phenomenon worldwide and plays an important part in determining global migration trends. Neo-liberal globalisation has emerged as a key catalyst for labour migration. Economic liberalisation, privatisation, deregulation and restructuring of economies have been increasingly implemented in countries in the Asia region and these conditions act as both push and pull

3 World Migration Report 2008, Regional Overviews, International Organisation of Migration

http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published_docs/studies_and_reports/WMR2008/Ro_WMR08.pdf

4 World Migration Report 2008, Regional Overviews

http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published_docs/studies_and_reports/WMR2008/Ro_WMR08.pdf

5 Feminization Of Migration, Remittances, Migrants' Rights, Brain Drain. UN Economic and Social Council, Commission on Population and Development, Thirty-ninth Session Prial 5th 2006 from <http://www.un.org/News/Press/docs/2006/pop945.doc.htm>

factors to migration. The neo-liberal approach to development utilises economic growth policies based on market liberalisation to determine the distribution of human, capital and financial resources.⁶ It utilises macro-economic policies such as the liberalisation of trade and foreign investment, the privatisation of public services, competition policy, tax reform, and the liberalisation of domestic labour markets in the aim of increasing income per capita and so reducing poverty and promoting economic growth.⁷ Proponents of the neo-liberal approach argue that economic growth, free of government intervention on free-market capitalism, is the primary means of development and poverty eradication. The market plays a central role in the globalization process and the deregulation of the labour market is promoted through a liberalised international migration process that relies on the mobile exchange of cheap, short-term human labour flows. The effect of an unregulated labour market however often results in reduced protections for migrant workers who are increasingly subjected to high levels of exploitation due to the push and pull factors of source and destination countries that participate in the paradigm of Neoliberalism.

The impact of these policies have seen migrant communities experience a negative impact on their health and wellbeing as well as their economic survival. Intensified migration pressures have resulted in the anticipated benefits for migrants increasingly being eroded. Wages earned from migrant labour in destination countries are negatively impacted by the oversupply of cheap labour in the global market, which sees migrant workers from different source countries competing for employment opportunities in destination countries. At the same time the income, collected by both government and private agents in source and destination countries, has been scaled up through the implementation of fees and charges imposed on migrants in the form of departure fees for visas and official documentation, job placement services, and interest charges related to loans and remittance funds. Destination countries have lowered their standards of labour-migration policies due to economic downturns and rising unemployment amongst the local workforce which has resulted in reduced protective mechanisms and prospects for implementing rights-based regulations for non-citizens, in particular migrant workers.

Push factors: Source Country Poverty and Underdevelopment

Migration from source countries in the Asia region often occurs under circumstances of poverty, unemployment, underemployment, economic and political instability, internal conflict, landlessness and the deterioration of the environment. Extreme economic vulnerability in the home country, often forces migrants to travel abroad in search of better employment opportunities in order to guarantee the economic survival of both themselves and their families. Within the paradigm of globalisation the liberalised international labour market impacts significantly on sending countries which rely on international labour market demand and the corresponding monetary rewards that flow from international migration through remittances. It is widely recognised that the influx of capital from earned remittances has continued to increase over the past two decades. As a result, many developing countries throughout the world have sought to develop labour export policies in order to capitalise on the growing demand for cheap unskilled foreign labour.

These policies have been embraced by the governments of sending countries regardless of the fact that they often lead to the exploitation of migrant workers in developing countries, particularly for migrant women, and those from underprivileged race, class, or ethnic backgrounds. The potential for foreign remittance earnings to support the developing country's economy often overrides the human and labour rights violations that are experienced by citizens of these countries who migrate for work abroad. The promotion of labour export policies in source countries, in fact generally results from the inability of the state to manage the significant issues of domestic unemployment and stagnant economic growth. In many cases the increase in the influx of remittances, far from being used for internal development, has in fact been used by governments to prop up their own mismanagement of domestic economic policies. One of the best examples to demonstrate the failings of labour export as a national policy is in the Philippines, one of the world's top three remittance receiving countries. Despite three decades of migration and the ever increasing remittance in-flows, Filipino citizens are still pushed into migration for economic survival, whilst government spending on job creation, education, health services²³ continues to fall well below the minimum recommended amounts under international standards.⁸ Unsurprisingly, this is not a unique situation.

6 McKay in Kingsbury, D, Remenyi, J. McKay J. and Hunt, J. 2004 Key Issues in Development Palgrave, London and New York

7 McKay in Kingsbury et al 2004, and Kenny, S. (1999) Developing Communities for the Future. Community Development in Australia. Nelson ITP, South Melbourne

8 Labour Export as Government Policy: The Case of the Philippines By Kevin O'Neil Migration Policy Institute (January 2005)

According to the latest statistics provided by the Central Intelligence Agency's World Fact Book, six out of the ten sending countries in the study (Philippines, Sri Lanka, India, Cambodia, Nepal and Pakistan) have experienced recently increasing rates of unemployment.⁹ Indeed the findings of this research highlight that the majority of migrants identified domestic unemployment as the primary reason for migration. Additionally, many developing countries continue to overlook the fact that the increasing dependence on labour exports has resulted in a greater dependence on foreign states to employ their citizens. This results in further vulnerability to global macro economic trends for source country economies. The recent economic downturn provides an example of this interdependence and has resulted in millions of migrant workers being deported from destination countries which in turn increases the economic vulnerability of families, communities and developing states that rely on this capital.

The human dimensions in such migratory movements of people are largely ignored. When migrant workers move to another country, they often enter a significantly different social, cultural, and labour environment without any of the traditional (family or community based) support systems that they are accustomed to in their home countries. It is often the poor, illiterate and uneducated who are forced to migrate from the source country. Hence their inherent vulnerability and labour rights violations which commonly occur in such a mechanized trading system of labour utilization inherent in the neo-liberal paradigm. The social and economic impact of the movement of migrant workers, who in general tend also to belong to prime working and child bearing age sectors of the sending countries' population and who also tend to possess physical and or intellectual skills most needed by their home countries' economies, are often overlooked in the drive for migration-led development policies.

Pull Factors: Destination Country Economic and Political Agendas

The motivation for developed or destination countries within the neo-liberal migration paradigm, to engage in a state of interdependence with sending countries is not difficult to ascertain. Destination countries undoubtedly profit from employing cheap labour from sending countries due to the fact that they can employ migrant workers at both a lower cost and with reduced terms of employment protection that they would accommodate for their own citizens. Developed economies welcome migrant workers because of shortages in the domestic labour force and their reluctance to perform specific jobs. This generally includes the '3 D jobs' (dirty, dangerous and difficult) such as those in the construction sector or domestic services. Rising standards of living, education and income potential within the destination country labour force has resulted in insufficient domestic labour being available to perform 'unskilled' work with low remuneration and poor working conditions. In addition the impact of economic downturns and rising unemployment amongst the local workforce have lowered existing labour protection mechanisms and reduced the prospects of implementing rights-based regulations for non-citizens in receiving countries.

The flow of migration to destination countries is thus based upon a demand of labour that is solely at the discretion of the labour market requirements of the more developed destination country. Due to the fact that the potential supply of cheap labour is so vast, the destination country can be selective and control the terms of employment. Thus, the relationship of interdependence between the source and destination countries is one in which the power of control solely rests with the host countries. In this context the argument for development and migration is more applicable to the needs of the developed country's economic interests. In the global context, whenever the bargaining power of the sending countries increases – for example through the implementation of protective legislation by sending countries or via multi or bilateral agreements between sending and receiving countries – the destination countries can easily revert to the global market and instead open migration to other countries that can guarantee cheaper and more flexible (or exploitable) labour supplies. In addition destination countries increasingly rely on short term contracts that reduce the risk of responsibility and thus reduce the risk of economic vulnerability for their own nation's economic stability.

The reliance on multi or bilateral memorandums of understating (MOU) and other forms of non-binding agreements between source and destination countries is promoted as a solution to protecting the labour rights of migrant workers abroad. However in many cases these agreements do little to protect the rights of migrant workers as they often contain inadequate human and labour rights protections, are commonly badly imple-

⁹ Central Intelligence Agency World Fact Book. Country Table and Unemployment Estimate
<https://www.cia.gov/library/publications/the-world-factbook/fields/2129.html>

mented, and even when reasonable protection clauses are included they are often subject to national labour or migration policies within destination countries which undermine the rights of migrant workers, that are supposedly enshrined in the regional agreements. A common example of this is the use of national legislation by destination countries which allows employers the right to terminate and cancel work permits while limiting the ability of migrant workers to change their employer. In addition national laws legalising the arrest, detention and deportation of migrant workers in many destination countries effectively contribute to gross violations of human and labour rights, often at the hands of state authorities in destination countries.

The drive for economic development within the neo-liberal paradigm has also had a hugely detrimental effect on the scope of international legislation that seeks to protect migrant workers overseas. Most sending countries, in reality are forced to undercut their citizen's terms of employment overseas in order to maximise their potential employability. Only four out of the nine sending countries in this study have signed the International Convention of the Rights of Migrant Workers and their Families. Tellingly there are few destination countries that have signed this Convention – and none within this study, again demonstrating that developed countries national and political interests are prioritised over the human and labour rights of migrant workers, despite the fact that their economies often rely on the cheap and expendable labour provided by migrant communities. In addition, under the GATS Mode 4 Agreement for trade in services, which applies to all 148 members of the World Trade Organization (WTO) aimed at liberalizing 'trade in services' - movements of people are strictly temporary, and the receiving country has no obligation to accord to the worker social security and other rights that may be entitled to a person who decide to migrate.¹⁰

Remittances

As remittances exceed Official Development Assistance (ODA) there is growing emphasis and promotion of remittances as a tool for development. Globally remittance flows from migrant workers are estimated to be over US\$414 billion worldwide (in 2009), with more than three-quarters (US\$316 billion) sent to developing countries.¹¹ In 22 countries, remittances were equal to more than 10 percent of Gross Domestic Product (GDP) in 2009; in 11 countries they were equal to more than 20 percent of GDP.¹² For developing countries the size of remittances outweigh the importance of official development assistance (ODA) providing a counter-cyclical and stable source of external finance vis-à-vis private capital flows. The burden of socio-economic development has in fact shifted from the development aid provided by wealthy, developed countries to the earnings generated from poor migrant communities who work in exploitative conditions in order to send funds home to their struggling families and communities. Recently released data from the World Bank's Outlook for Remittance Flows 2009-2011 indicate that the flow of remittance capital, coming primarily from cheap and undervalued labour exports, has reached \$325 billion, representing a 15% increase from the year before.¹³ Yet despite the increasing reliance on labour export policies by source countries to increase their GDP through remittances, in line with the drive for development, the growing dependency on remittances as a financing tool for development remains largely unchallenged.

The fact remains that remittances have not been sufficiently analysed in the context of the wider social costs or the economic dependence and vulnerability that these migration policies lead to. The presumption that remittances can be used by developing countries as a policy of sustainable development is promoted by powerful institutions including the International Monetary Fund (IMF), the World Bank, the Global Forum for Migration and other representatives from the private sector, all of whom advocate for corporate globalisation and deregulation of governmental controls on migration policies. The main arguments behind this premise lie in the potential for the significant inflows of capital from remittances being able to sustain developing nation's economies through increasing the Gross Domestic Product (GDP), reducing deficits and by extension reducing the dependence on borrowing from foreign states. Such a mentality has inevitably resulted in the commoditisation of migrant workers due to the fact that developing countries are now placed in a situation where they are forced to compete with one another in order to maximise their citizen's potential for overseas employment. On the other hand however, little time is spent analysing exactly how these remittances are being used to further develop infrastructure and economic stability.

10 Migration and Trade: A Report from Cancun' a background paper prepared by Genevieve Gencianos of Migrant Rights International collaboration with the National Network for Immigrant and Refugee Rights

11 World Bank's Migration and Development Brief 12 (April 23, 2010): Outlook for Remittance Flows 2010-11, <http://go.worldbank.org/SSW3DDNLQ0>

12 Migration Policy Institute Data Hub. <http://www.migrationinformation.org/datahub/remittances.cfm>

13 World Bank's Migration and Development Brief 12

This drive towards remittance inflows is especially evident within the context of Asia, where five of the top ten recipients of remittances are located, generating a collective \$136 billion dollars in 2008.¹⁴ In developing and least developing countries in Asia remittances as a percentage of GDP are among the highest in the world. For countries in this study India is the largest remittance receiver worldwide, the Philippines is fourth on the list and Bangladesh is ninth in remittance receiving countries across the globe.¹⁵ Remittance flows have assumed increasing significance as a stable and pro-cyclical form of external financial flow into source country economies which are seen as more reliable than foreign direct investment or overseas development aid. As workers remittances are influenced by a different set of motives such as lifecycle savings, family obligations, and implicit loan contracts, these flows are less sensitive to factors such as interest rate arbitrage, which drive other capital flows.¹⁶ Remittances therefore appear to be a much more stable source of income than private flows, both direct and portfolio, which tend to be more volatile and flow into a limited set of countries.¹⁷

Given the increasing amounts and relatively stable nature of remittance inflows, source country governments increasingly rely on remittances as a way to finance national infrastructure and debt, which should in fact be financed by state investment. In this context migrant workers are forced to toil abroad to ensure that development and poverty reduction occur within their home communities, in place of state responsibility to ensure poverty alleviation, adequate employment opportunities, and promotion of sustainable development.

It is clear from this and other research that remittances have significant benefits for individual migrant workers and their families, in terms of contributing to source country household income. Remittances have been used by migrants and their families to contribute towards daily living costs, for education, health, housing and sometimes investment opportunities for families and in home communities. Remittances clearly are in fact the private funds of migrant workers. However due to the lack of employment and infrastructure in source countries remittances are increasingly being relied on to keep mismanaged economies afloat, finance national debt or to fund state development plans. Remittances are contributing to source countries GDP with significant profits being made by national and international financial institutions who gain from the earnings sent home by migrant workers through the implementation of fees and charges. There is a growing trend for governments, researchers and migration stakeholders to focus on how migrant remittances can be effectively utilized by the families who receive them, to ensure that their spending supports productive investments and local economic development within their home communities. However this practice can add yet another layer of burden on migrant workers that is not placed on other productive sectors, whose workers are not questioned about whether their earnings are being used to accelerate the development of the country.¹⁸ With the drive for more effective and efficient use of remittances by governments in source countries, the concerns regarding the well-being of migrant workers, the protection and support of their rights and the promotion of effective economic and human development at home is largely left out of the debate.

Remittances and Human Development

There is an understanding within modern development discourse that one of the primary goals of development is human development.¹⁹ The Human Development Index provides a summary composite index that measures a country's achievements in three basic aspects of human development: longevity (measured by life expectancy at birth); knowledge (adult literacy rate and the combined primary, secondary, and tertiary gross enrolment ratio) and a decent standard of living (measured by GDP per capita).²⁰ It must be noted that

14 World Bank's Migration and Development Brief 12

15 World Bank 2009 Migration and Development Brief 11, Migration and Remittances Team, Development Prospects Group: <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1110315015165/MigrationAndDevelopmentBrief11.pdf>

16 Ratha, D., 2003, "Worker's remittances: An Important and Stable Source of External Development finance" in *World Bank Global Development Finance*.

17 Sander, C., 2003. Migrant Remittances to Developing Countries. A Scoping Study: Overview and Introduction to Issues for Pro-Poor Financial Services. And

18 Ramirez C et al 2005, Crossing Borders: Remittances Gender and Development Working Paper, UN International Research and Training Institute for the Advancement of Women.: www.un-instraw.org¹² Migration Policy Institute Data Hub. <http://www.migrationinformation.org/datahub/remittances.cfm>

19 Sen A 1999, Development as Freedom, Oxford University Press

20 UNDP Human Development Index: <http://glossary.econguru.com/economic-term/Human+Development+Index>

empowerment women and gender equality are a basis for the notion of human development.²¹ However within the global paradigm of migration for remittances, female migrants have become more marginalized and face greater exploitation due to gender discrimination, which sees their over-representation in marginalised and unprotected labour sectors.. While human development indicators tend to rise and fall in line with income, there is often discrepancies between a country's status as remittance receivers and their ranking within the Human Development Index (HDI). This discrepancy in many cases is due to domestic policy failures around employment, health and education. Within the neo-liberal paradigm the argument for remittances is that increased remittances will help to improve the quality of life of both migrant workers and their families and also assist in the general human development in the country that is receiving remittances. If this was the case there should be correlations between high levels of remittances and high levels of human development. However this is not necessarily the case as this study has found. Within this study, Bangladesh and India are both ranked within the top ten remittance receiving countries worldwide in 2008, however in terms of the Human Development Index rank in 2009 are at the Medium level of human development and ranked in the bottom third of 182 countries in the Index.²² On the other hand, Sri Lanka receives less remittance than most countries in the study however ranks the highest of all sending countries in this study according to the Human Development Index and stands in the middle third of countries in the HDI 2009. These discrepancies in remittance income and levels of human development within source countries indicate that there is not an automatic equation guaranteeing effective human development on the back of remittances. This calls into question the motivating factors behind source country governments who pursue active labour export policies for their citizens in the guise of receiving increased remittance income supposedly to support increased human development and improved quality of life for families and communities within their country. In fact effective and sustainable human development relies on more than just increased remittance income. In fact it requires pro-active state intervention in ensuring effective infrastructure, health, education and civil services, as well as effective policies for equitable wealth distribution, and pro-poor development policies that ensure that those who are earning the remittances are in fact able to benefit from them.

The chart below provides an overview of the comparison between remittances, human development and economic growth for countries within the study.

Remittances And Human Development Status For Countries In The Study

COUNTRY	ANNUAL REMITTANCE INFLOW 2008 USD millions	HUMAN DEVELOPMENT INDEX 2009 Country Rankings Lowest HDI rating = 182	GDP per Capita PPP (2007) USD
BURMA	150	138	904
CAMBODIA	325	137	1,802
NEPAL	2,727	144	1,049
SRI LANKA	2,947	102	4,243
INDONESIA	6,795	111	3,712
PAKISTAN	7,039	141	2,496
BANGLADESH	8,995	146	1,241
PHILLIPINES	18,643	105	3,406
INDIA	51,581	134	2,753
THAILAND	1,898	87	8,135
MALAYSIA	1,920	66	13,518
UAE	NA	35	45,200

Source: International Organisation for Migration 2010 Regional and Country Data

²¹ Ramirez C et al 2005

²² United Nations Human Development Reports 2009: <http://hdr.undp.org/en/statistics/>

Quality of Life for Migrants and their Families within the Neo- liberal Migration Paradigm

There is an absence of meaningful analysis and debate within current migration discourse giving consideration to a holistic approach to the quality of life experienced by migrants and their families. The current discourse provides an overwhelming focus on the macro level benefits and potential for the capital and remittances earned by migrant workers to support the development and economic growth of source country economies. It invariably measures the success of migration for individuals through evaluating increased income levels and family or community financial investments that flow from remittance earnings. The preconception with the idea that remittances can be used by developing countries of origin as a policy of sustainable development needs to be tested against the experience and lived realities of migrant workers and their families. While the prevailing ideology continues to assume that migration and remittances can be viewed as a means of securing economic development, the evidence points to the fact that the standard of living amongst citizens in developing countries remains increasingly polarised in comparison to developed nations. The findings of this research reveal that a strong pattern of short-term and immediate use of remittances for household survival, with little opportunity for savings or investment in longer term business, capital or community development is the norm for migrants from nine sending countries in Asia. It also highlights the impact of the 'remittance ideology' and labour export policies pursued by source country governments which in fact lead to the perpetuation of conditions of forced labour migration, exploitation and the feminisation of migration in the region.

Analysis of the impact of migration and remittances cannot be limited to macro-economic variables and as such this research attempts to highlight the non-monetary dimensions related to the quality of life experienced by migrant workers and their families. Migration is undertaken by people: men, women, families and communities are intimately involved in the migration equation. The experience of migration and the impact of migration are real life events that result in life long impacts on the relationships, health, psychology and life paths of the people who migrate, their loved ones, their neighbours and colleagues. This research attempts to capture the lived realities of migrant communities through an analysis of the impact of migration on the relationships and challenges faced by families, children, parents and spouses of migrant workers who remain at home whilst their family member works abroad. It also provides an insight into the conditions in which migrant workers live and work in destination countries – including the places where they live, the communities in which they work and travel and their capacity to socialise, meet friends, pray, rest and work. By explicitly defining and exploring the non-monetary dimensions to the quality of life of migrant workers, it is hoped to promote a change of focus within migration discourse to begin to challenge the macro economic dependency on remittances and economic development by reflecting on the micro details of people's lives.

SECTION 3 : COUNTRY POLICIES > >

Summary of Migration Policy Findings

An overview of the policy framework used by countries in this study for protection of the rights of migrant workers and their families indicates that there are three levels for protective policy measures. The first level occurs within the national framework – whereby governments of sending and receiving countries, can implement national laws to protect the rights of migrant workers through mechanisms such as labour law, immigration law and the effective resourcing of government departments to oversee migration processes. The second level is through various bilateral, regional and sub-regional agreements on various aspects of migration. These agreements require special administration to ensure their smooth operation and effective agreements and information sharing between the countries involved. The third level is through the ratification and implementation of international conventions aimed at protecting both human and labour rights for migrants in both sending and receiving countries. An overview of key findings within this three tiered policy framework for sending and receiving countries in this study is included below.

National Level Migration and Labour Policy

The legal and policy framework governing migration within the sending countries in the study differed in their level of development however all sending countries had reviewed or amended their national migration laws over the last decade. However there was clearly varying levels of government commitment in terms of the effective implementation and monitoring of these laws and policies, with a common complaint being that there were inadequate resources available to ensure effective implementation at even the national level. Out of the nine source countries in the study, three had national migration policies that were currently under review and in draft form (Pakistan, India and Sri Lanka). The remaining countries had some level of migration policy in place, with all sending countries showing some evidence of policy protections for migrant workers' rights (either in draft form, in policy documents or in national migration laws). However all sending countries were found to have inadequate implementation of migration policy which led to greater exploitation of the migrant workforce from these countries. In addition there was evidence of sending country governments acting in direct opposition to their stated policy aims, (for example: the ban on women's migration in Nepal and the push for labour export over migrant worker protections and domestic employment in the Philippines). Another area that stands out as policy failure included the lack of effective monitoring of recruitment agencies and departure processes in both source and destination countries which resulted in the exploitation of migrant workers. In many countries there was a focus within national law and policy, on the procedural aspects of migration and fairly weak clauses and implementation when it came to the protection of migrant workers and their families. Another common gap for sending country policy was the lack of repatriation, and reintegration programs to assist returning workers and their families. All sending countries in the study showed evidence of inadequate programs and limited effectiveness in terms of services to assist migrant workers in reintegration with their communities or finding employment on return.

In destination countries in the study there was clearly a lack of protection for the rights of migrant workers – with inadequate health, safety and labour protections included within all of the destination country labour laws and a lack of access to destination country justice systems for protection or redress for migrant workers. In addition the lack of support or crisis services provided by sending country governments through their overseas missions for migrants working in destination countries was also a common concern highlighted in this research. Further information on national level policy interventions is included in the country reports below.

Bilateral and Regional Level Policy Agreements

All of the countries in the study had signed either bilateral or regional agreements aimed at regulating migration. A formal bilateral agreement is aimed at articulating the commitments and responsibilities for both source and destination country and in some cases may provide for quotas. Less formal policy agreements include the Memorandum of Understanding (MOU) which is more commonly used by most countries of destination, probably because as non-binding agreements they are easier to negotiate, implement, and to modify according to changing economic and labour market conditions.¹ All of the countries in this study had in fact signed various MOU on labour and migration. Malaysia had signed MOU with five of the sending countries in the study (Indonesia, Bangladesh, Cambodia, Sri Lanka, and Pakistan and was negotiating MOU with Nepal and India). The U.A.E. had signed MOU with five countries in the study – India, Philippines, Bangladesh, Sri Lanka and Pakistan. Thailand had signed MOU with two sending countries in the study: Cambodia and Burma as well as with Malaysia. With the plethora of agreements signed and ratified by governments in the study it would appear that there was a high level of commitment to the regulation of migration and the protection of migrant worker rights. In practice however, as revealed through the voices of the workers in this study, it appeared that these state level agreements had little impact in protecting the rights of migrant workers, and commonly appeared to be poorly implemented in both source and destination countries, which was not surprising given that they are non-binding in nature. These agreements generally require special administration to ensure their smooth operation however, monitoring and enforcement mechanisms tended to be weak and typically they concentrated more on recruitment procedures and less on welfare and protection.

In addition to the various country to country agreements the two main regional processes that countries in the study were involved in included the Association of South East Asian Nations (ASEAN) regional meetings and agreements and the Colombo Process; a non-binding informal regional consultative process (RCP) aimed at migration issues within the Asia region. Six countries in the study were members of ASEAN including Cambodia, Indonesia, Malaysia, Myanmar/Burma, Philippines, and Thailand. ASEAN has provided a number of initiatives to promote training, capacity building and cooperation amongst member countries and actively promotes labour migration within the framework of liberalized trade within the ASEAN region.² Some member countries have also signed ASEAN treaties related to migration in the region, the most significant being the 2007 ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers ratified by Thailand, Philippines, Indonesia, Cambodia, Burma/Myanmar, and Malaysia.³ Within the Colombo RCP, there were eight countries in the study who were members including Bangladesh, India, Indonesia, Nepal, Pakistan, the Philippines, Sri Lanka, and Thailand, with Malaysia and U.A.E. as observers. The Colombo process has provided research, training and capacity building for member countries in the areas of migrant worker protections, regulation of recruitment processes, minimum standards for labour contracts and overseas workers welfare fund developments amongst other areas.⁴ Again however the capacity for these regional initiatives to promote and protect the rights of individual migrant workers appears dubious given the experiences described by workers in this study.

1 International Labour Organisation, Bangkok Asian Program on the Governance of Labour Migration.
<http://pstalk.com/ilo/i-bilateral.html>

2 ASEAN Plan of Action for Cooperation on Immigration Matters: <http://www.aseansec.org/16572.htm>

3 ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers <http://www.aseansec.org/19264.htm>

4 Colombo Regional Consultative Process: <http://www.colomboprocess.org/>

International Level Human Rights and Labour Conventions

Human Rights Treaties

International human rights treaties can offer protection for the rights of migrant workers and their families, however within this study there were variances in the level of commitment to the international human rights framework between different countries. All countries in the study, as member states of the UN, had binding commitments under the Universal Declaration of Human Rights (UDHR) and the Prohibition on Torture. Despite this, it is of note that two of the three destination countries in the study – Malaysia and U.A.E. – were not signatories to the UN Convention against Torture. In fact these two countries fell short of their human rights commitments compared to Thailand as the third destination country, which had signed all of the major UN treaties on human rights protections apart from the Migrant Worker Convention. In comparison Malaysia and U.A.E. had failed to sign the Conventions on Civil and Political Rights; and Economic, Social and Cultural Rights; with Malaysia also abstaining from the Convention against Racial Discrimination. This meant that migrant workers in these countries had limited international protection and could only claim protection and redress within the national justice system of these countries which often failed to support migrant workers. All of the countries in the study had signed the Convention on the Elimination of Discrimination against Women (CEDAW), and the Convention to Protect the Rights of the Child. However Malaysia, U.A.E. and Bangladesh have reservations to the CEDAW convention against articles that contradict Sharia law, and four countries (Indonesia, India, Burma, Pakistan, and Thailand) had reservations against Article 29 which limit the capacity to refer violations to the international court. These reservations impacted on the lives of female migrant workers as shown in this study, especially in relation to female domestic workers in Malaysia and U.A.E.

Migration Treaties

The UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families was introduced in 1990 and contains the most significant and comprehensive international standards to protect and promote the rights of migrant workers and their families. However international signatories to this convention have been limited with only 31 countries in total who are signatories, and 42 who are party to the convention as of July 2010 despite two decades of the Conventions existence. Of note within this study is the fact that only two out of the twelve countries have ratified the UN Migrant Worker Convention – the Philippines and Sri Lanka - both classified as sending countries within this research. None of the three destination countries in the study Thailand, U.A.E. or Malaysia has signed this treaty. Again this resulted in limited international protection for migrants in the majority of the countries under study, and their rights were subject primarily to domestic law which also had limited protections for migrant workers.

Labour Treaties

A further level of international legal protection for migrant workers is via the International Labour Organisation (ILO) labour standards which provide legal instruments for governments, employers and workers to ensure basic principles and rights at work. All countries in this study were ILO member states and had signed various treaties related to labour rights and protections. Of relevance were the treaties which aim to protect core labour and human rights of migrant workers including Conventions 29 and 105 related to Abolition of Forced Labour, Conventions 87 and 97 related to Freedom of Association and Collective Bargaining, Convention 111 related to Non discrimination and Conventions related to Minimum Age and Abolition of child labour. The three destination countries in this study – Thailand, Malaysia and U.A.E. – had signed the Conventions enabling Non-discrimination, Equal Remuneration and Abolition of Child Labour however had failed to sign the Conventions related to the Right to Organize and Collective Bargaining which left migrant workers with little bargaining power in their workplaces abroad. Furthermore Malaysia had actually rescinded its signature to the Forced Labour Convention which it denounced in 1990 due to divergences with the ILO in the interpretation of national legislation with regard to this Convention.⁵ Burma/Myanmar stands out amongst sending countries in terms of its minimal level of commitment with only two ILO Conventions signed (Forced Labour and Right to Organize) and even within this context Burma has been repeatedly criticized by the ILO for breaches to the Forced Labour convention with alleged forced conscrip-

⁵ ILO Country Baseline Review Malaysia 2008:

http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_decl_fl_mys.pdf

tion of child soldiers and forced labour at the hands of the military.⁶ Of significance for migrant workers in the study was the fact that very few countries that had signed ILO Convention 143: Convention on Migrant Workers, which specifically addresses the rights of undocumented migrant workers (1975). In fact worldwide there are only 23 ratifications of this Convention and within this study the only country to ratify this convention was the Philippines. This convention ensures migrant workers have equal rights and labour standards as the local workers in the destination countries and allows for some protection for undocumented migrants including recognition of basic human rights. For further information about individual country policy commitments at the national, regional and international level, please refer to Chart 1 and to the individual country policy reports below.

6 CEACR 2008 Eightieth Session, Individual Observation concerning Forced Labour Convention, 1930 (No. 29) Myanmar (ratification: 1955) International Labour Office:
http://www.burmalibrary.org/docs08/CEACR_2009_Report%28en%29.pdf

CHART 1: INTERNATIONAL HUMAN AND LABOUR RIGHTS COMMITMENTS OF COUNTRIES IN THE STUDY

UN CONVENTIONS	UAE	Philippines	India	Pakistan	Malaysia	Nepal	Cambodia	Bangladesh	Indonesia	Thailand	Burma	Sri Lanka
<i>UN Convention of the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)</i>	No	Yes	No	No	No	No	Signed	Signed	Signed	No	No	Yes
<i>UN Convention on the Elimination of All Forms of Discrimination against Women 1981</i>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<i>UN Convention on the Rights of the Child 1990</i>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<i>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1986</i>	No	Yes	Signed	Yes	No	Yes	Yes	Yes	Yes	Yes	No	Yes
<i>UN Convention on the Elimination of All Forms of Racial Discrimination 1967</i>	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	No	Yes
<i>UN Covenant on Civil and Political Rights 1986</i>	No	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	No	Yes
<i>Convention on Economic, Social and Cultural Rights (1974)</i>	No	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	No	Yes
<i>Protocol to Suppress and Punish Trafficking in Persons (2002)</i>	Yes	Yes	Signed	Yes	Yes	Signed	Yes	No	Yes	Signed	Yes	Yes
SOURCE: Office of the High Commissioner for Human Rights; UN Human Rights Treaty Database.												

ILO CONVENTIONS	UAE	Philippines	India	Pakistan	Malaysia	Nepal	Cambodia	Bangladesh	Indonesia	Thailand	Burma	Sri Lanka
<i>C 87 Freedom of Association /Protection of the Right to Organize</i>	No	Yes	No	Yes	No	No	Yes	Yes	Yes	No	Yes	Yes
<i>C98 Right to organize and collective bargaining convention, 1949</i>	No	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No
<i>C29 Forced labour convention, 1930</i>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<i>C105 – Abolition of Forced Labour</i>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
<i>C100 Equal remuneration convention, 1951</i>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
<i>C111 Discrimination (Employment & occupation) convention, 1958</i>	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No	No	No
<i>C138 Minimum age convention, 1973</i>	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
<i>C182 Worst forms of child labour convention, 1999</i>	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
<i>C no. 143: Convention on Migrant Workers (rights of undocumented workers 1975)</i>	No	Yes	No	No	No	No	No	No	No	No	No	No

SOURCE: ILO Database of International Labour Standards

Destination Countries: Labour and Migration Policy

THAILAND

- IOM Member State since 1986
- Capital: Bangkok
- Population (2010): 68.1 million
- Area: 513,120 sq km
- Language: Thai
- Currency: Baht (THB)
- GDP per Capita PPP (2007): USD 8,135
- HDI Rank (2007): 87 of 182
- Remittances (2008): USD 1,898 million
- Net Migration Rate (2005-2010): 0.9 migrants /1,000 population
- Immigrants (2010): 1.7%
- Women as a Percentage of Immigrants (2010): 48.4%
- Population under 15 (2010): 21.5%
- Adult HIV Prevalence (2007): 1.4%

Migration Trends

Thailand is the fourth richest nation in Southeast Asia in terms of per capita income and is a net labour importing country attracting economic migrants and those escaping conflict, from Burma and the South East Asian region. Thailand's rapid economic growth from the 1990s has given rise to a labour market with a shortage in low-skilled workers that has been filled by migrant labour from Burma and the region.¹ The Thai labour force of 36 million in 2007 included about 5 per cent or 1.8 million migrants; however this is an underestimation due to the large number of undocumented migrants coming from neighbouring countries, with more realistic estimates being in the figure of at least 3 million migrants.² From the late 70s through to the early 90s, Thailand saw a large influx of lower-skilled migrants from neighbouring countries such as from China, Viet Nam, the Lao People's Democratic Republic, Cambodia, and especially Burma – who fled into Thailand because of war or internal conflict – and were mostly therefore 'undocumented'. Gradually, these intra-regional flows have expanded to include primarily 'economic' migrants who migrated to fill Thailand's growing demand for manpower particularly in low-skilled jobs.³ However despite the increased in-flow of migrants to Thailand much of the migration flow still occurs through informal channels with large numbers of undocumented migrants entering Thailand through its long, porous borders and living and working in Thailand in an informal capacity as undocumented workers.

For the purposes of this research, interviews were undertaken with Burmese migrant workers - as the largest group of migrant workers in Thailand. The demographics of Burmese migrants in Thailand include common characteristics of low levels of education, rural geographic origins, and a background of poverty.⁴ The gender distribution of migrants from Burma shows slightly higher numbers of men than women though there has been an increase in jobs traditionally done by women such as garment-manufacturing, domestic work and sex-work industries within Thailand and it is likely that female migration is under-reported.⁵ The Burmese migrant population has a relatively younger age range in comparison to both the Thai and general population in Burma, with a high proportion of youth and children migrating.⁶ Literacy and education of Burmese migrants in Thailand is generally lower than in the population from Burma, with high rates of illiteracy partly due to

1 Chalamwong Y, 2008 Case Study by Economy Southeast Asia Thailand, Revised Paper. PECC-ABAC Conference on "Demographic Change and International Labor Mobility in the Asia Pacific Region:

2 Martin P 2007, The contribution of migrant workers to Thailand: Towards policy development International Labour Office, Bangkok: p. 11.

3 Sciortino R and Punpuing S 2009, *International Migration in Thailand 2009*, International Organization for Migration (IOM), Bangkok

4 Yuan Fu Yang 2007, Life and Death Away from the Golden Land: The Plight of Burmese Migrant Workers in Thailand, 8 Asian-Pacific Law and Policy Journal Number 485.

5 Sciortino R and Punpuing S 2009,

6 Martin 2007

the large proportion of disadvantaged ethnic minorities who migrate to Thailand.⁷ Burmese migrants tend to stay in Thailand for comparatively long periods with many migrants working for more than five years and they tend to be geographically distributed according to the sectors where they work.⁸ This includes Southern agricultural zones, coastal communities working in fisheries, Bangkok and central area industrial zones, and northern agricultural and special economic areas like Mae Sot for manufacturing. Increasingly the North East of Thailand is housing large factories and attracting migrants from neighbouring countries. Other main sectors for work include construction, domestic work; and tourism.⁹ The most common sectors for Burmese migrant women include, domestic work, fisheries processing, agriculture, construction, entertainment, and sales, while male migrants predominantly work on fishing boats, in agriculture and construction. Migrant worker wages show both occupational and gender differentials with workers in agriculture and domestic service earning the lowest wages. Women are more likely to be employed in the informal sector, which can mean less pay, more vulnerable conditions, less freedom of movement and employers who are less willing to declare and register them.¹⁰ Women in retail and the entertainment industries however appear to have comparatively more freedom of movement and in some cases better pay as is shown in this research. Additionally unregistered migrants receive lower wages than registered migrants, and all migrants are generally paid less than the Thai average daily wage rate.¹¹

Labour and Migration Policy

Over the last two decades, migrant workers in Thailand have been subject to a range of laws, resolutions and mechanisms dependent on the political and economic environment of Thailand. Migrant workers in Thailand have been subject to two policy approaches using both immigration and employment law. The Thai Immigration Act BE 2522 implemented in 1979 and amended in 1992, requires all migrant workers to hold a suitable visa for entering the country which regulates their activities and length of stay according to the immigration policy related to their country of origin. Migrant workers are also legally required to hold a work permit (linked to specific jobs and employers) – which was mandated under the Alien Employment Act B.E. 2521 prior to 2008, and is currently mandated under Alien Employment Act B.E. 2551, implemented in February 2008.

These migration and employment laws effectively require all foreign workers to hold a work permit and a suitable visa however this has been particularly problematic for the large numbers of migrant workers from Burma, Cambodia and Laos who have entered Thailand without any documentation and are thus considered by law to have committed an administrative offence and are liable for arrest and deportation. Given the continued demand for the labour of these migrant workers within the Thai economy however, the Thai government has instigated a range of additional policies, aimed at temporary registration for migrant workers, which allows undocumented migrants to stay and work legally in the country under special circumstances. This system however leaves these migrant workers legally susceptible to deportation due to their undocumented immigration status, with mandatory deportation required whenever their temporary worker registration expires.

In 1992, the Thai government instigated the first Cabinet resolution on migrants which mandated a temporary migrant registration system; however it was limited to only a few border provinces, certain jobs, and was very expensive so few migrants actually registered in this process. The 1996 registration was the first nation-wide registration system which gave rise to a process of registration and temporary work permits for migrant workers, whereby every one or two years, migrant workers were required to register or renew registration according to the policy criteria at the time. The policy criteria have fluctuated over the last decade, sometimes in response to internal political factors in Thailand or at other times related to external global and environmental factors. At different times, the registration process has employed a range of control mechanisms, through the use of work permits and /or temporary identification cards, which have restricted workers mobility,

7 Huguet, Jerrold W. and Sureeporn Punpuing (2005). *International Migration in Thailand* International Organization for Migration, Bangkok,

8 Interview with Migrant Assistance Program Coordinator, Jackie Pollock 2008 Thailand

9 Chalamwong 2008

10 Sciortino and Punpuing 2009

11 Migrant Assistance Program 2006, No Human Being is Illegal, No Migrant Worker is Illegal, 1996 – 2006 Ten Year Book, Chiang Mai, Thailand

employment sector, and length of stay. The system has tended to restrict workers to a single employer, and create an environment where the employer has disproportionate control of the work, movement, and equality of the employee and leaves workers vulnerable to abuse. In addition, in the process of application for registration a number of exclusionary clauses have been used at different times, including the refusal of permits for certain occupations, as well as exclusions according to health criteria. This currently includes exclusion of migrants in the last stages of TB, leprosy and syphilis (earlier stages are treated and migrants can stay), mental health issues, drug users and alcoholics. The cost of registration has been subject to change on a yearly basis, with additional costs for health checks and 'deportation fees' being added according to the policy of the time. Over recent years however the costs have remained stable ranging from 3500-4000 baht (USD 103-118) despite increases in the minimum wage in Thailand - indicating that initially the fees were disproportionately expensive when considering the wages and earning potential of migrant workers.¹²

In addition in some provinces in Thailand with significant numbers of migrant workers, there have been provincial decrees issued restricting workers through curfews, and bans on riding motorbikes or using mobile phones, over certain time periods. In 2008 Thailand's National Human Rights Commission ruled that the provincial decrees violated several core articles of the Thai Constitution and over 2009 the Minister of Interior revoked the provincial decrees in response to the NHRC recommendations

In 2003, the Thai government instigated a series of Memorandum of Understanding (MOU) with Laos, Cambodia and Burma, aimed at regularizing migration – via implementing a system to legalise those migrants who have entered the country undocumented. The MOU stipulate that undocumented migrants in Thailand must participate in a Nationality Verification (NV) process with officials of their own government. After verification, migrants will receive a temporary passport from their own government with a visa issued directly by Thai Immigration, thereby legalizing their entry into Thailand. Migrants with a temporary passport and visa will then be permitted to travel throughout Thailand without restriction. All workers who do not apply through the NV process however will become undocumented and liable for deportation. A quota system was also instigated whereby all new workers are required to be processed through source country recruitment agencies. While Laos and Cambodia have had some success with the NV process over the last few years, there has been limited success within Burma. The NV process has seen delays in implementation in Burma, with no significant efforts being made until 2009, when the NV process was officially started. Unlike Cambodia and Laos where verification is done via their consular officials in Thailand - the NV process for Burma requires that that all Burmese migrants must return to one of three border towns in Burma to apply for nationality verification.

This process has resulted in increased costs for Burmese migrations and documented incidents of corruption and over-charging by recruitment agents who have been quick to take advantage of the vulnerable situation of many Burmese migrants.¹³ Furthermore since the nationality verification is determined by the military government of Burma – the State Peace and Development Council (SPDC) – there are also added risks for migrants from some ethnic groups in Burma. The NV process excludes ethnic Rohingya, a Muslim minority population in Burma that is denied citizenship by the SPDC and also puts migrants from Shan and Karen ethnic groups at risk of persecution by the SPDC, as these groups have been involved in long-term insurgencies against the Burmese military government.¹⁴ Migrants are also at risk of imprisonment or fines for violating Burma's own Immigration Act through undocumented migration.¹⁵ In addition to these issues, The NV process has been criticised by migrant advocacy groups due to the long delays in documentation processes due to under-resourcing, the lack of information provided to migrants, weak implementation, and disagreements on issues related to recruitment and use of agencies.¹⁶ As of 25 January 2010, a total of 147,381 migrants had successfully completed the NV process: including only 18,904 from Myanmar/Burma with another 800,000

12 Migrant Assistance Program 2006, No Human Being is Illegal, No Migrant Worker is Illegal, 1996 – 2006 Ten Year Book, Chiang Mai, Thailand

13 Human Rights Watch 2010 International Organization for Migration (IOM), "Migrant Information Note: Registration and Nationality Verification 2009 at a Glance," November 2009,

14 Human Rights Watch Thailand, 2010 From the Tiger to the Crocodile. Abuse of Migrant Workers in Thailand New York, United States of America

15 Ibid

16 Mekong Migration Network website: Nationality Verification of Burmese Migrants: A Meaningful Debate, Nation by Andy Hall Director of the Human Rights and Development Foundation's Migrant Justice Programme.
<http://www.mekongmigration.org/?p=555>

migrants entering the process to become eligible for the temporary passport.¹⁷ All of those who have not registered with the NV process or made official steps to start the process, are subject to deportation leaving potentially hundreds of thousand of workers at risk of deportation in the current situation

Securities Policies - Arrest, Detention and Deportation.

Over the last fifteen years the policy context of migration within Thailand has had a detrimental affect on the security, safety, working conditions and quality of life of migrant workers. Migrant workers face an unpredictable environment, where they are continually at risk of arrest, abuse and deportation and are vulnerable to the erratic changes in migration policy. It has also had the effect of discouraging migrants to apply for registration which has led to a dramatic decrease in the proportion of registered migrants in Thailand, from 85% of migrant workers registered in 2004 to 27% estimated to be registered in 2007.¹⁸ Undocumented migrants face heightened risk of deportation, with the ‘circulation’ of migrant workers from Burma now a common phenomenon in Thailand. This occurs when undocumented workers are arrested by Thai Immigration authorities, transported to the Burma border via bus, car, or truck, forced to cross the border into Burma, and inevitably return undocumented to Thailand – sometimes immediately sometimes after a few days or weeks.¹⁹ This system is rort with corruption, bribes and abuse perpetrated by both Thai and Burmese authorities and leaves migrant workers in precarious and sometimes life threatening situations within the current legal context in Thailand. Recently in February 2008, the Alien Employment Act BE 2551 was revised to regulate the hiring of low-skilled and semi skilled workers in Thailand, and has a number of new provisions that the government is exploring. Of concern are those which require migrant workers to contribute to a ‘repatriation fund’ for deportation costs at the expiry of the work permit, increased penalties for both employers and employees and a reward system for ‘informers’ of undocumented migrants. These provisions are likely to increase the security risk and vulnerability of migrant workers within Thai communities. In addition in June 2010, as part of the NV process noted above the Thai government proclaimed a further crackdown on migrants in Thailand, and established high level committees with representation from government as well as the military, who are tasked with the arrest, and deportation and of all undocumented migrant workers in Thailand. This has seen an increase in deportations and abuse of migrants in the country.²⁰

In addition to the impact of Thai securities policies on migrant workers safety, some workers are exposed to unacceptable risks in their workplaces within Thailand due to political factors within the country. In 2007, a special Registration Scheme was implemented in the Southern Provinces of Thailand, due to a labour shortage caused by the violence and civil unrest in these areas. Migrant workers have been proactively recruited in the three southernmost provinces of Pattani, Yala and Narathiwat, where more than 3,500 people have been killed since separatist unrest erupted five years ago.²¹ Documented migrant workers in these areas are restricted to work only in the designated provinces, effectively imprisoning them in an area of violence and insurgency. In August 2009, a Burmese migrant woman was killed and three others wounded as a result of the violence in the Pattani province.²² In addition to the risk of death faced by migrants working in areas of high risk, the deaths of Burmese migrants in Thailand is reported on regular in the media. Migrant advocacy organisations collect data on death cases which show that during 2010 alone, there have been already been 23 reported deaths of migrant workers resulting from acts of suppression. This includes incidents such as the shooting of nine Karen job-seekers in Phop Phra district allegedly after being unable to pay a bribe to local police; the death of three migrant children (a three year old, six year old and sixteen year old) shot dead when soldiers fired at the car transporting them, and the death by drowning of two young sisters trying to escape a police raid on their camp.²³ It should be noted that there are no accurate statistics recording deaths of migrant workers in their place of employment which is a significant issue given the lack of work and safety standards in many workplaces.

17 International Organisation for Migration 2010 Migrant Information Note: Extension of Nationality Verification Process: Frequently Asked Questions Issue # 4 – February 2010, Labour Migration Programme, International Organisation for Migration, IOM Thailand Office

18 Sciortino and Punpuing 2009, p79

19 Migrant Assistance Program 2006

20 Irrawaddy News magazine: Thai Government Steps Up Crackdown on Illegal Migrants, by Lawi Weng, http://www.irrawaddy.org/article.php?art_id=18797 June 24 2010

21 ABC News: Five killed in southern Thailand violence, Posted Tue Jan 6, 2009 2:42pm AEDT <http://www.abc.net.au/news/stories/2009/01/06/2460117.htm>

22 The Irrawaddy <http://www.irrawaddy.org/> Burmese Women Shot in the South Posted Wednesday, August 19, 2009

23 Case data collected by Migrant Assistance Program, Thailand, 2010

Migrant Worker Rights In-Country

Mechanisms for protection of migrant rights in Thailand include: The Thai Constitution, the National Human Rights Committee and the recently formed ASEAN Intergovernmental Commission on Human Rights. Thai labour law under the Labour Protection Act of 1998 (amended in 2008) allows protection for all workers irrespective of their immigration status. While in principle, migrant workers are accorded the same rights as Thai nationals – there are exceptions including specific exclusions on the right to establish and lead a labour union for any migrant worker. In terms of collective action of migrant workers, this essentially means that the state prevents them from legally forming trade unions and acting as union committee members which inhibit their ability to negotiate with employers. Migrants are only able to join existing Thai trade unions however given the high levels of discrimination faced by Burmese workers in Thailand their participation within the Thai trade union movement is relatively unheard of.²⁴ In addition some workers such as domestic workers and sex workers are not afforded any protection at all - as the Labour laws do not recognize their work and workplaces with fewer than ten people are not allowed to form and join trade unions.²⁵

In reality migrant workers are often not able to realise the rights they are entitled to. The working conditions of migrant workers vary by industry, however migrant wages and occupational health and safety requirements are often below standard, and migrant workers often do not receive the regular benefits prescribed by Thai labour law such as social security, retirement benefits, sick and maternity leave, days-off and compensation for occupational injuries.²⁶

Thailand passed a resolution in 2005 on the mechanism to provide access to education for all non-Thai and non-documented people. Migrant children often access the education system through migrant schools operated by NGOs or local communities, with only a small percentage of them accessing the state education system. Shortages of teachers and associated costs make education inaccessible for some migrant families.

Since 2004 migrants with a temporary ID card or migrant workers card and their dependents were able to access the universal health care scheme. In a positive move made in October 2009, the Thai government began permitting registration of children of registered migrant workers holding work permits. However, in some cases local officials insist on onerous documentation requirements that effectively frustrate this benefit.²⁷ Undocumented migrants and their dependents however have to pay full costs for medical treatment and many of them fear exposing themselves as undocumented and therefore have limited access to health services. The Thai government is currently working with the ILO to develop a Decent Work Country Programme which is said to include extension of health and safety protection to all workers including informal economy workers and migrant workers in Thailand.

Signatories to Regional and International Agreements

Thailand has ratified 14 ILO conventions on labour standards, however has been criticised for its denial of work compensation to migrants from Burma as a breach of its obligations as a signatory to ILO Convention 19.²⁸ The Thai government has also been criticised for its failure to ratify ILO Conventions No. 87, 98 and 111 related to Freedom of Association, Collective Bargaining and Discrimination in Employment, however it has pledged to implement these conventions so as part of its recent acceptance for candidacy to the Human Rights Council for the term 2010-2013.²⁹ Thailand has not ratified the United Nations International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families. (Please refer to Chart 1) The Thai government has signed a number of regional level treaties through its membership of ASEAN, including the ASEAN Declaration Against Trafficking in Persons Particularly Women and Children in 2004 and the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers in 2007 – which unfortunately does not uphold the rights of undocumented workers. Apart from the range mechanisms noted above, the Thai government is a signatory to bi-lateral labour agreements with sending countries such as Burma, Laos and Cambodia in areas related to the NV process discussed above as well as in the area of HIV prevention and anti-trafficking.

24 Arnold D, 2007 Capital Expansion and Migrant Workers: Flexible Labour in the Thai -Burma Border Economy, Mahidol University, Thailand.

25 Ibid, p 22

26 Migrant Assistance Program 2006

27 Human Rights Watch Thailand, 2010

28 Report prepared for the 99th Session of the International Labour Conference in Geneva this month, the ILO's Committee of Experts on the Application of Conventions and Recommendations, March 2010

29 Information provided by the Department of International Organizations, Ministry of Foreign Affairs, Royal Thai Government, to Human Rights Watch on February 22, 2010.

MALAYSIA

- Capital: Kuala Lumpur
- Population (2010): 28 million
- Area: 330,803 sq km
- Language: Bahasa Malaysia
- Currency: Malaysian Ringgit (MYR)
- GDP per Capita PPP (2007): USD 13,518
- HDI Rank (2007): 66 of 182
- Remittances (2008): USD 1,920 million
- Net Migration Rate (2005-2010): 1.0 migrant /1,000 population
- Immigrants (2010): 8.4%
- Women as a Percentage of Immigrants (2010): 45.2%
- Population under 15 (2010): 29.1%
- Adult HIV Prevalence (2007): 0.5%

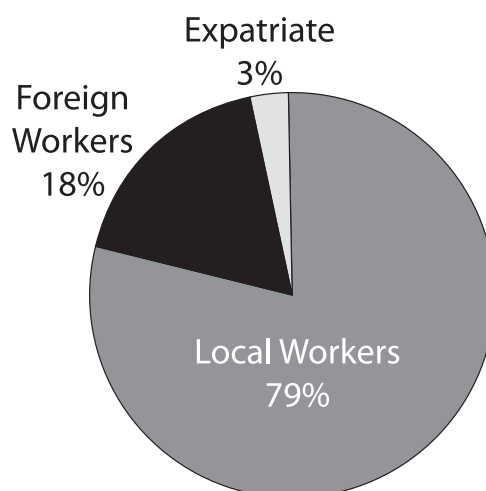
Migration Trends

Migration into Malaysia is not a new concept and a large portion of the Indian and Chinese population in the country exists because of cross border migration during the British rule. However, more recently, migration into Malaysia for employment has seen a significant increase especially from countries like Indonesia, Bangladesh and Nepal. This trend is escalated by policies that until recently encouraged the in-flow of foreign workers to fill employment vacancies that were rejected by the local labour force.

Malaysia's unemployment rate stands at 4% of the total labour population. The industries with the highest labour force participation by locals are the manufacturing, service and agricultural sectors with women only occupying an average of 15% of the workforce in each sector. The total labour force participation of Malaysian women in the year 2007 was recorded as 46.4% of the total female population as compared to 79.5% participation from the male population.¹ The Malaysian Department of Labour records the most job vacancies for the agricultural, manufacturing and construction industries – however despite the unemployment rates, these industries do not seem appealing to locals and as such, foreign workers often dominate employment in these sectors.

According to the Human Resource Ministry, in the year 2008, 17.5% of the nation's workforce consisted of registered foreign workers. This number however does not include undocumented or unemployed foreign workers. Based on 2008 statistics, the employment sector with the highest number of foreign workers is the construction industry with foreign workers making up 40.5% of the workforce. This is followed by the agricultural sector with 38.3% foreign workers and the manufacturing sector with c 22.2% foreign workers.

National Workforce 2009



Source : Malaysian Immigration

¹ Kanapathy V 2007, Controlling Irregular Migration: The Malaysian Experience, Paper presented at the Regional Symposium on Managing Labour Migration in East Asia, Singapore May 16-18, 2007. Institute of Strategic and International Studies (Malaysia)

Official data on the in-flow of foreign workers is limited to registered foreign workers in the country; thus the actual amount of migrants is estimated to be much higher. The following information however provides an official estimate of migrants from different countries in the region as of 31 January 2009

Migration from Indonesia

The total registered number of Indonesian migrant's in the country is approximately 991, 940 persons. Most of the Indonesian foreign workers come in to Malaysia to work as Domestic Workers (230,141persons), in the Forestry sector (260,232 persons) and the Construction sector (196,929 persons). Foreign workers from Indonesia contribute to more than half (51.71%) of the foreign workforce in Malaysia to date.

Migration from Bangladesh

The total registered number of Bangladeshi migrants in the country stands at approximately 319,000 people. Most of the workers are concentrated in the manufacturing (173,821 persons) and construction (65,212 persons) sectors. These sectors are closely linked to the sectors with large employment vacancies and large contributions to the country's income.

Migration from Nepal

The total registered number of Nepali migrant's in the country is around 182, 668 persons. Most of the Nepali workers that come to Malaysia work in the manufacturing sector (139, 845persons) and the Services sector (28, 929 persons). A large number of Nepali workers that come to the country are male and seem to be concentrated in the security services industry.

Migration from Cambodia

The total registered number of Cambodian workers is not as high as the above foreign workers. As of 31 January 2009 approximately 11, 542 Cambodians work in Malaysia. Most of the women Cambodian migrants come to Malaysia to work as domestic workers (8,713 persons) whilst the men seek employment in the manufacturing sector (2,183 persons).

The table below details all registered foreign workers in Malaysia as of 31 August 2009.

COUNTRY	DOMESTIC WORKER	CONSTRUCTION	MANUFACTURING	SERVICES	FORESTRY	AGRICULTURE	TOTAL	%
INDONESIA	230,141	196,929	167,155	38,684	260,232	98,799	991,940	51.71
BANGLADESH	23	65,212	173,821	28,893	32,064	19,007	319,020	16.63
NEPAL	89	3,605	139,845	28,929	1,919	8,2814	182,668	9.52
MYANMAR	127	14,350	90,175	23,134	2,000	9,945	139,731	7.28
INDIA	224	5,314	17,353	52,336	16,690	30,465	122,382	6.38
VIETNAM	858	3,576	65,359	2,342	42	505	72,682	3.789
PHILLIPINES	10,004	1,733	2,516	3,625	3,672	2,834	24,384	1.27
PAKISTAN	6	5,962	2,334	1,623	1,236	10,730	21,891	1.14
THAILAND	372	1,183	710	16,570	63	504	19,402	1.01
CAMBODIA	8,713	104	2,183	244	173	125	11,542	0.60
CHINA	15	1,453	958	6,563	30	19	9,038	0.47
SRI LANKA	769	80	1,240	686	128	418	3,321	0.17
LAOS	2	7	16	3	1	28	57	0.003
UZBEKISTAN	-	-	-	4	-	-	4	0.00
KAZAKHSTAN	1	-	-	-	-	-	1	0.00
LAIN - LAIN	11	67	2	3	-	-	83	0.004
TOTAL	251,355	299,575	663,667	203,639	318,250	181,660	1,918,146	100

Source : Malaysian Immigration

Labour and Migration Policy

Two laws govern Malaysia's recruitment of foreign workers: the Employment Act 1968 and the Immigration Act 1957 - which regulate the entry, residence and employment of foreign labour. However, the lack of a coordinated and comprehensive approach to immigration governance results in regulation not only via these laws but also via a series of regulations and policies from the Ministry of Home Affairs (MHA) which issues work permits, and labor laws overseen by the Ministry of Human Resources (MHR). This system has resulted in ad-hoc policies on migration that have a detrimental effect on the lives and labour rights of migrant workers in Malaysia.

In 2005, recruitment policies were introduced whereby companies hiring fewer than 50 workers were required to go through one of the outsourcing companies approved by the government. Recruitment agents therefore are often involved or act as representatives of companies in employing migrant labour. To date there are over 277 licensed outsourcing companies that recruit, supply and manage the inflow of foreign workers. This mechanism of outsourcing, although meant for labour flexibility, has however led to fraudulent recruitment of workers by outsourcing companies, who often do not provide proper places of work and leave the migrant worker without employment upon arrival into Malaysia. Further, some employers circumvent the policy of going through a licensed outsourcing company, and recruit more than 50 workers despite not having places of work for them.

The recruitment policy is also discriminatory where domestic workers are concerned. The Philippine government has placed clear terms to protect its domestic workers including a weekly off day with a minimum wage of USD400 with other benefits agreed to by the Malaysian government. On the other hand, Indonesian domestic workers who make up more than 90% of domestic workers receive between RM450-RM500 or USD187 per month without a day off per week. The struggle for a one day per week leave entitlement has been going on for the last 5 years and still there has been no MOU signed, with a current freeze implemented by the Indonesian government on recruitment of domestic workers to Malaysia.

The labour laws in Malaysia provide equal treatment for migrant workers and migrant workers are entitled to access justice through the labour and industrial courts. However this right is impeded by the Immigration Act, in its regulations regarding the work permit. Work permits are used as an instrument to regulate the inflow of migrant workers into Malaysia and are issued to all foreign workers to authorize their entry and employment. There are two types of work permits used to target skill levels. Unskilled and semi-skilled workers are classified as those earning below Malaysian Ringgit (RM) 2,000.00 (US\$526) per month. This group of workers is generally termed as "migrant workers" or "foreign workers." Those earning RM 2,000 and above, classified as "professional workers" and popularly termed "expatriates," are issued with employment passes if their employment contracts are at least 2 years. Expatriates on short-term contracts (less than a year) are issued visit passes for professional employment.²

The work permit can only be given by an employer. The migrant worker can only work under the specific employer in whose name the work permit is issued. A migrant worker is therefore bonded within this contract. The migrant worker who is being exploited or abused cannot in practice move to another employer. The policy states that in these circumstances the worker must terminate the employment and leave the country, and then make a fresh application for recruitment to re enter the country for employment. Such a policy leads to extremely exploitative conditions for migrant workers whereby employers routinely fail to pay wages, abuse and keep workers in a state of slavery and servitude – with impunity.

This situation has worsened since the government changed its policy requiring that a levy be paid by the employer – yet another instrument of foreign labour management. The annual levy varies by sector and skills. The main aim of the levy is to raise the cost of hiring and discourage the use of foreign workers. The annual levy ranges anywhere from RM300.00 (US\$79) to as much as RM1,200 (US\$315) per year for each worker. As a consequence it is not surprising that today in the country there are easily over 1.5 million undocumented workers especially in the construction, plantation and service sectors – as both employers and workers face financial barriers to remain within legal working conditions for foreign workers.

² Orozco M 2005, Regional Integration? Trends and Patterns of Remittance flows within South East, Southeast Asia Workers Remittance Study

Securities Policies - Arrest, Detention and Deportation

Undocumented workers in Malaysia can be arrested either by the authorities or the People's Volunteer Corps (Relawan Rakyat Malaysia, or RELA – the Malay acronym). RELA is a national organisation that was formed to assist the police and immigration officers in times of emergency and to provide information on persons posing as security threats. RELA is essentially an armed yet poorly trained and part-time volunteer corps that has been repeatedly accused of serious human rights abuses against migrant workers. To date there are over 400,000 RELA reservists who are paid an allowance of a minimum of RM25 per day for being on duty. Tenaganita as well as various human rights organizations in Malaysia have received numerous complaints alleging that RELA members extort money from migrant and refugee communities, and use force and violent behaviour towards migrant workers threatening arrest and detention, in order to do so. There is a high level of concern that the use of this voluntary vigilante corp with wide powers to arrest and detain foreigners, as well as enter the homes of migrants and refugees without a warrant leads to the rise of racism and xenophobia. Various organizations including the Malaysian Bar Council and Human Rights Watch have strongly called for the abolishment of RELA. But the current government has plans not only to expand recruitment but also to further institutionalize it.

When undocumented migrant workers are arrested in Malaysia – either by authorities or RELA members - they are invariably sent to immigration detention camps, where they undergo a trial process to determine their rights to stay in the country. The lack of access to justice for migrant workers placed in these camps however has been widely condemned. The camps utilise Special Courts to determine the charges and penalties against migrant workers – including monetary fines, imprisonment, corporal punishment (up to six lashes for men, none for women) and deportation.³ The Malaysia Bar Council estimates that that 33% of the prison population is foreign born, but migrants are responsible for only 2% of the crimes committed every year in the country.⁴ The Council also notes concerns about the detention camps – in particular the denial of migrant workers right to legal counsel and the language barriers which inhibit their right to understand charges and processes against them.

Migrant Worker Rights In-Country

There is a large gap in the actual rights of migrant workers when compared to their legally entitled rights within the Malaysian policy framework, evident across a range of areas from health to labour rights. Guidelines for the treatment of migrant workers are outlined in the Policy on Recruitment of Foreign Workers adopted in 1991, which sets out wages, terms and conditions of employment similar to local workers. The policy requires that all migrant workers have a written contract, that employers cover the costs of recruitment and repatriation and ensure clean and hygienic housing and food to migrant workers they employ. This policy however is not routinely adhered to as this research clearly highlights.

A similar gap exists in the ability of migrant workers to access justice or redress in situations of labour rights violation whilst working in Malaysia. Article 60 (1) of the Employment Act of 1955 allows migrant workers to file a complaint with the Director-General of Labour in cases of discrimination in employment, and issues of unfair dismissal complaints can be filed by migrant workers under the Industrial Relations Act. Migrant workers (often with the assistance of NGOs and trade unions) can file complaints related to wages and working conditions under these mechanisms. However in practice – employers have the ultimate right to withdraw the workers legal working permit which results in deportation – and this effectively renders the legislation inaccessible to migrant workers seeking redress of labour rights abuses.

There is a program for health insurance in Malaysia through the Malaysia Foreign Workers Insurance Guarantee; whereby a security deposit is required by the Immigration Department from employers for the employment of foreign workers in various sectors. The amount and the period of guarantee is pre-determined by the Department and is based on the nationality of the workers. The amount of guarantee ranges from RM 250.00 to RM 3,500.00. with the duration required ranging from thirteen (13) to thirty six (36) months. The feedback from participants in this research shows however that for the majority of migrant workers – access to health

³ Robertson P. S, 2009, Migrant Workers in Malaysia – Issues, Concerns and Points for Action, Fair Labour Association.

⁴ Malaysian Bar Council, 2008, Submission of the Malaysian Bar Council to the UN Council on Human Rights, Kuala Lumpur.

care was minimal with very few cases of guaranteed health care treatment being paid for by employers in Malaysia – most workers either forwent treatment due to unaffordable costs or had to pay for medical treatment out of their salary. Another significant human rights issue for migrant workers in Malaysia is the restriction on movement in their daily lives. This research highlights that it is common practice for employers to hold migrant workers' passports or identification documents - despite the fact that this practice is illegal under the Passports Act of 1955. This practice appears to be widespread in Malaysia despite statutory protections, and employers invariably do not incur penalties for withholding documentation which further perpetuates this abuse.

Signatories to Regional and International Agreements

Employment of foreign workers in Malaysia is largely based on the policy of Memorandum's of Understandings between Malaysia and sending countries. Malaysia has in fact signed MOU with a number of source countries including Bangladesh, Indonesia, Philippines, Thailand, Pakistan, Vietnam, China, India, Nepal, Sri Lanka, Myanmar, and Cambodia. These MOU are used to regulate the numbers and sectors of the migrant workforce in Malaysia and amongst many provisions - provide that only female foreign workers from Indonesia, Thailand, Cambodia, Philippines, and Sri Lanka may be employed as domestic workers in the country. As noted above, Malaysia continues to stall negotiations with Indonesia on the imposition of minimum wage and labour rights for domestic workers.

Malaysia participates in two regional processes - the Bali Process and the Colombo Process - for which IOM serves as the Secretariat. The Bali Process is a regional cooperation mechanism to combat people smuggling, trafficking in persons and related transnational crime. Malaysia has been a member since its launch in 2002. Malaysia also participates in the Colombo Process on the Management of Overseas Employment and Contractual Labour for Countries of Origin in Asia, as a labour receiving country. In 2008, with 19 other countries, it signed the Abu Dhabi Declaration on Overseas Employment and Contractual Labour for Countries of Origin and Destination in Asia. Malaysian officials also regularly participate in a variety of migration management training workshops that IOM organizes in the region and beyond.

Malaysia is a signatory to the UN Convention on Elimination of Discrimination against Women (CEDAW), the UN Convention on the Rights of the Child (CRC), and has ratified five of the eight core ILO Conventions. It has however failed to ratify a number of core human rights conventions including the Convention of the Protection of the Rights of All Migrant Workers and Families (1990), the Convention against Torture (1986), the Convention Civil and Political Rights (1986) and the Convention on Economic, Social and Cultural Rights (1974). Despite these failures Malaysia is a member of the UN Human Rights Council. It is also a signatory to the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, adopted by ASEAN in January 2007. (Please see Chart 1).

UNITED ARAB EMIRATES

- Capital: Abu Dhabi
- Population (2010): 5.06 million (20 percent Emirati nationals and the rest are immigrants)
- Area: approx. 82,880 sq. km.
- Language: Arabic
- Currency: Emirati dirham (Dh or AED)
- GDP per Capita PPP (2008): \$45,200
- HDI Rank (2009): 35
- Remittances (2008): NA
- Net Migration Rate (2010 est.): 21.7 migrants/1,000 population
- Immigrants (2010): approx. 80 percent of total population
- Population under 15 (2010): 20.4 percent of total population
- Adult HIV Prevalence (2001 est.): 0.2 percent

Migration Trends

The United Arab Emirates (U.A.E.) is a federation consisting of the seven emirates of: Abu Dhabi, Dubai, Sharjah, Ras al Khaimah, Fujairan, Umm al_Qaiwan and Ajman. This federation is bordered on the north by the Persian Gulf and Iran, on the east by Oman and on the south and west by Saudi Arabia. With a significant GDP, based primarily on oil, the U.A.E. plays an important role in the affairs of the Middle East. The largest and wealthiest of the seven emirates is Abu Dhabi which covers 87 percent of the U.A.E. total area and accounts for 90 percent of the federation's oil and gas production and 60 percent of the U.A.E. Gross Domestic Product. Dubai is the regional commercial and transportation centre. Sharjah also has oil and gas deposits, and at the same time has interests in light manufacturing and port facilities.

The U.A.E. is strategically important because it has the world's third largest conventional oil reserves and fifth largest natural gas reserves and is a major player in world energy markets. These reserves are mostly located in Abu Dhabi. Over the past several years, the U.A.E. has used these resources and strategic location to become one of the wealthiest states in the world. After Saudi Arabia, it is the Middle East's second largest economy. The U.A.E. relies heavily on its huge oil and gas reserves, which account for around a third of its GDP, 40 percent of exports, and the bulk of government revenue for its economic development. But the U.A.E. has also started to diversify its economic activity. Dubai for one has positioned itself to be a tourism destination and a financial hub. It has built several hotels, malls, massive port facilities and a range of free trade zones to attract industries. The rapid development of the U.A.E. from a traditional, homogeneous society in the mid - 20th century to a modern state at the beginning of the 21st century has attracted foreign workers to this oil-rich nation. Workers to the U.A.E. come from India, Egypt, Jordan, Yemen, Pakistan, the Philippines, Sri Lanka, and Bangladesh. The Indian nationals residing in the U.A.E. are the single largest expatriate community in the U.A.E., followed by Pakistan, Bangladesh and Filipino workers. The U.A.E. in comparison to other destination countries such as Saudi Arabia attracts migrants due to its comparatively more lax laws, general prosperity and modernity of the country. It is seen as being one of the more tolerant states in terms of the religion and culture in the Middle East. Foreigners staying in the country for instance can freely practice their religion and in some places such as Dubai are able to wear western style clothes, while non-Muslim women do not have to wear the abaya. In the U.A.E. about 80 percent of the entire population constitutes non-nationals with 90 percent of its labour force is composed of expatriates.¹

Another attraction of the U.A.E. for foreigners is the ease in entering the country. The visit visa has attracted foreigners seeking employment opportunities. Visit visas are valid for 30 days and used to be extendable. Such visas must be sponsored by an individual or an establishment. Potential migrant workers can use the visa to enter the country and look for work. If they do not find work immediately and the visa is about to expire, they can cross the border and secure another visa to return. Usual border exit points are the Kish Island, which is part of Iran, and Oman. Once a person secures a job, they can apply for a working visa. In August 2008, the issuance of the visit visa however became more difficult with changes in the requirements meaning that now

¹ Country Profile: United Arab Emirates, July 2007 (Library of Congress, Federal Research Division in <http://memory.loc.gov/frd/cs/profiles/U.A.E..pdf>)

migrants must return to their own country to secure another visa to the U.A.E., rather than just crossing the border. This has resulted in hundreds of migrant workers being stranded in Oman and the Kish Island.

Labour and Migration Policy

Federal Law No. 8 of 1980 regulates labour relations in the U.A.E. It was amended by Federal Laws No. 24 of 1981, No. 15 of 1985 and No. 12 of 1986. Its provisions apply to both U.A.E. nationals and migrant workers. While it is the Ministry of Labour who is responsible for implementing the federal labour law, each emirate can also set up its own agencies to enforce the law. The labour law sets out the terms of recruitment of workers by U.A.E. employers, regulates maximum working hours, and provides for annual leave and overtime.² The labour law likewise includes articles on industrial safety and health care for workers. It requires employers to protect workers against the hazards of occupational injuries and diseases by “providing appropriate safety measures.” It also sets the terms for workers’ compensation in cases of work-related accidents or death. The law also establishes a mechanism for the resolution of disputes between workers and employers, under the Ministry of Labour’s arbitration board.

However the law is deficient in many ways. There are some sectors not covered by the U.A.E. Labour Law. This includes workers employed by the federal government, government departments of the member emirates, the municipalities, public bodies, federal and local public institutions and those workers employed in federal and local government projects; members of the armed forces, police and security units; domestic workers; and, agricultural workers engaged in grazing. Domestic workers and employees in the agricultural sector have great difficulty in negotiating employment contracts and are particularly exposed in the event of a dispute with their employer. All migrant workers except domestic workers fall under the jurisdiction of the Ministry of Labour. Domestic workers however fall under the Naturalization and Residence Department (NRD) and they are not covered by the labour law in any way. Any U.A.E. national can hire a domestic worker regardless of their salary. They do not have to pay an annual fee for the issuance of an entry permit and renewal of visa of their hired domestic worker. Expatriates in the U.A.E. however have to earn a minimum of Dh6,00 (about US\$1,634) a month in order to be eligible to hire a domestic worker and are also required to pay a number of visa fees as well as cover the cost of airfare, medical tests, and insurance for the worker.

The labour law prohibits migrant workers from going on strike. Those who do, or provoke a public demonstration “without a valid reason” can be banned from working for a year, and if they are absent from work for more than seven days without a valid reason, can have their work permits cancelled and be deported. The U.A.E. has not signed the ILO Conventions on Workers’ Rights to Association, Right to Organize or Right for Collective Bargaining (see Chart I) and the Labour Law does not recognize the right of workers to organize or form trade unions. As such there are no institutions to represent the interests of workers. Workers can be deported if they try to organize trade unions. The 1980 labour law prescribes the institution of a minimum wage which to date has not been implemented. This has led some companies withholding any entitlements for wage increases in the salaries of workers until the government has prescribed a minimum wage.

Securities Policies for the U.A.E. - Arrest, Detention and Deportation

Documented migrant workers in the U.A.E. are also bound by the sponsor system, which puts them at the mercy of their employers and recruitment agencies. The U.A.E. uses immigration policies that rely on sponsor-based visas, as a method of controlling the movement of migrant workers. As in many states in the Middle East – the kafala system, whereby an employer sponsors the visa of his/her employee is common practice. The kafala system prevents the worker from seeking alternative employment, or ceasing employment without approval of the original employer. This system can increase the vulnerability of migrant workers leaving their mobility dependent on the whim of their employers – including their ability to return home, either in times of distress or at the end of their original contract period and their ability to escape situations of employer exploitation or abuse. A common complaint from migrant workers in U.A.E. includes cases where employers refuse to give permission for an employee’s exit visa – meaning that they cannot even leave the country against their employers wishes.

² Labour Law in the United Arab Emirates, Al Tamimi and Company, Advocates and Legal Consultants:
<http://www.zu.ac.ae/library/html/U.A.E.Info/documents/U.A.E.LabourLaw.pdf>

In the U.A.E., the laws governing migrant workers also limit their movement in public, and demand that every worker must carry a 'Bataka' or identity card if they are moving about in public. These cards are issued to all registered foreign workers soon after they settle down in their jobs. In addition many workers have reported that employees in the U.A.E. withhold personal documentation including passports and identity cards which further restricts their mobility. In the U.A.E. there is also a tendency for local people to mistrust foreign workers. Public discourse often frames migrant workers as a security threat and are often blamed for destruction, looting and crimes against public and private properties.

Migrant Worker Rights In-country

The U.A.E. has made some progress in reforms to improve the conditions of migrant workers in the country. According to the U.A.E. Ministry of Labour, the U.A.E. Cabinet has passed the following reforms³:

- Workers in all labour sectors have rights to transfer employer sponsorship
- The U.A.E. has created bank guarantees that earmark funds for worker compensation
- It is illegal for employers to withhold workers' passports
- New licenses are being denied for foreign labour brokers and recruiters who cannot demonstrate full compliance with U.A.E. laws
- In April 2006, the U.A.E. created mandatory employment contracts to protect the rights of domestic workers in relation to salary, accommodation, healthcare and working hours
- While the labour law does not require employers to maintain insurance for compensation or medical care, the government of Abu Dhabi passed a law requiring all companies that have more than 1,000 employees to provide private medical health insurance for their employees, starting July 2006. Companies with fewer than 1,000 employees will be required to implement this law as of January 2007.

After the holding of the Global Forum on Migration and Development (GFMD) in Manila in 2008, the U.A.E. announced a pilot project with the Philippines and India for the improvement of the quality of life of migrant workers. The project is aimed at exploring practical measures to improve recruitment and "pre-deployment" before arrival; improved living and working conditions in the U.A.E.; and steps to facilitate the return and reintegration of workers to their home country.

While the U.A.E. has made considerable progress in some areas with regards to improving its human rights record, much remains to be done when it comes to its treatment of migrant workers. There is a need for greater accountability and remedy by the U.A.E. government in terms of the abuses suffered by migrant workers who play a major role in developing the U.A.E. into the modern society that it is today. Compliance by companies and employers with current labour laws needs to be more effectively monitored. Despite the legal reforms confiscation of passports still occurs on a large scale, especially among unskilled and semi-skilled workers. The kafala system still operates to prevent workers from seeking alternative employment without approval of the original employer. Non-payment of wages and poor safety practices are widespread. The issue of exploitation, including sexual abuse among female domestic workers remains a concern considering that they are not covered by the labour law. The U.A.E. government does not allow for trade unions and there have been crackdowns on worker protests. Foreign workers who are sick are also deported.

Signatories to Regional Treaties and Agreements

The U.A.E. hosted two international meetings on labour in 2008: the Ministerial Consultation with labour-exporting countries, and the Gulf Forum on Temporary Contractual Labour. In addition it has negotiated MOU with some sending countries. This includes a MOU with the Philippines signed in April 2007⁴ and bilateral labour agreements with the governments of sending nations such as Nepal, India, Pakistan, Bangladesh, Sri Lanka, China and Thailand.⁵ The MOU generally aim to open up labour import into the U.A.E. and some aim to eliminate the middlemen or recruitment agencies that charge exorbitant placement fees, including the cost of visa which should be borne by the employer. Some also create provisions for migrant workers in the U.A.E.

3 "Labor Rights in the U.A.E.," in <http://www.U.A.E.-embassy.org/U.A.E./human-rights/labor-rights>

4 Memorandum of Understanding between Republic of Philippines and the U.A.E., See Annex 1: http://www.poea.gov.ph/docs/uae_moa.pdf

5 U.A.E. Ministry of Labor. The protection of the Rights of Workers in the United Arab Emirates. 2007 Annual Report, p. 11

to be covered under the labour laws of both sending and receiving countries. The Filipino MOU stipulates the use of a standard labour contract for migrant workers in the U.A.E. There are a number of problems with the implementation of MOU however particularly in regards to labour contracts. Contract substitution is common in the U.A.E. whereby the original work contract signed by the worker becomes non-binding upon arrival in the U.A.E. since it is basically an agreement between the placement agency and the migrant worker. The fact that an agreement often allows for a separate labour contract between the worker and the employer in the U.A.E. means that the terms and conditions of work may be to the worker's disadvantage. In many cases, the migrant worker is forced to accept such a situation rather than return to their country of origin empty handed. In addition, the contract signed is in Arabic and in the case of disputes the Arabic version is used in the U.A.E. courts, which disadvantages most migrant workers who do not speak Arabic.

None of the MOU signed with the U.A.E. provide for adequate protections for domestic workers, who fall under a separate agreement, with different terms and conditions. In the agreement with the Philippines government – the U.A.E. government has implemented an employment agreement for domestic workers and sponsors⁶ which places puts all domestic workers under the jurisdiction of the Naturalization and Residence Department (NRD) and not under the Ministry of Labour. This shows a clear non-recognition of domestic work as work by the U.A.E. government and results in continued abuses and harm inflicted on domestic workers. Domestic workers receive no provision in the contract that guarantees a paid day off, with only a reference to the need for “adequate breaks” and a one-month paid vacation after finishing the two-year contract. There is a four-month probationary period for domestic workers wherein their rights and condition of work are not specifically stated. It is not specified how much a domestic worker should receive during the probationary period. In a case of conflict between the worker and the employer, Article 10 allows for the case to be taken to the NRD for mediation, and if no resolution is reached within two weeks it can be referred to the federal court. If the case goes to court, the employer is in an advantageous position since the language used is Arabic. Section 2 of the same article also states that “Without setting aside the punishment that is mentioned in the entry and residency law, the second party's rights are null and void if the second party absconds”.

Signatories to International Treaties and Agreements

In December 2008, the U.A.E. received its first ever Universal Review from the UN Human Rights Council (UNHRC). The Minister of State for Foreign Affairs of the U.A.E. reported to the UNHCR that with regard to rights of temporary contractual workers mentioned, U.A.E. Ministries of Labour and Interior will “continue to strengthen laws that improve the working and living conditions of expatriate workers” and that “a domestic workers law, which will positively impact women, is in a very advanced stage”.⁷ He mentioned cooperating with labour exporting countries and the signing of MOU with them, as well as the launch of a pilot project that focuses on the difficulties faced by expatriate workers and ways of overcoming them. He also said that “the government has created an agency to protect the interests of expatriate workers to monitor complaints about unpaid wages and regulate wage-related conflicts”.⁸

For the periodic review, the UN made 74 suggestions, including a number of issues that specifically concern migrant workers as well as freedom of expression of NGOs and human rights associations. Of the suggestions made, the U.A.E. government accepted 36; rejected 21 and the rest were kept under study. Among the suggestions which the U.A.E. rejected are recommendations related to migrant workers economic, social and cultural rights, access to labour justice and consular assistance, freedom of association, assembly, and expression, and civil and political rights.

The U.A.E. is an ILO member state and has ratified a total of nine ILO Conventions (see appendix) however has not ratified core ILO Conventions relating to freedom of association, right to organize and collective bargaining. The U.A.E. however as a member of the ILO is duty bound to respect the right to collective bargaining and freedom of association. The U.A.E. has not signed or ratified many of the core international

6 Memorandum of Understanding between Republic of Philippines and the U.A.E. See Annexes 2, 3, 4, 5.
http://www.poea.gov.ph/docs/uae_moa.pdf

7 Statement of the Minister of State for Foreign Affairs Before HRC. In
<http://www.wam.org.ae/servlet/Satellite?c=WamLocEnews&cid=1235661038811&p=1135099400124&pagename=WAM%2FWamLocEnews%2FW-T-LEN-FullNews>

8 Ibid

UN Conventions which provide protection to the rights of migrant workers, most notably falling to sign Conventions related to Economic, Social and Cultural Rights, the Convention against Torture, the Convention to Protect the Rights of Migrant Workers and their Families, and the Convention for Civil and Political Rights. (Please refer to Chart 1)

SENDING COUNTRIES:

LABOUR AND MIGRATION POLICIES

BANGLADESH

- IOM Member State since 1990
- Capital: Dhaka
- Population (2010): 164.4 million
- Area: 143,998 sq km
- Language: Bangla (Bengali)
- Currency: Taka (BDT)
- GDP per Capita PPP (2007): USD 1,241
- HDI Rank (2007): 146 of 182
- Remittances (2008): USD 8,995 million
- Net Migration Rate (2005-2010): -0.7 migrants /1,000 population
- Immigrants (2010): 0.7%
- Women as a Percentage of Immigrants (2010): 13.9%
- Population under 15 (2010): 30.9%
- Adult HIV Prevalence (2007): <0.1%

Migration Trends

Bangladesh is a country of 150 million people and is one of the world's most densely populated countries. Despite a falling birth rate, the country's population is expected to be 250 million in 2050. Per capita gross national income was \$470 a year in 2007, according to World Bank Development Indicators, half the level of India (\$950) and Pakistan (\$870) and a third the level of Sri Lanka (\$1,300).¹ Reducing poverty requires a growth rate of at least seven percent a year, which Bangladesh has rarely achieved. Poverty causes significant internal migration as rural residents move from the poorer western and northern sections of the country to the central and eastern sections dominated by Dhaka and Chittagong seeking employment. A 2009 analysis of the Bangladeshi economy and migration² showed that the Bangladeshi labour force was 55 million in 2008-09, and growing by 3.3 percent a year.

Employment of 52 million people in 2008-09, included 80 percent in the informal sector, which comprised agriculture (48 percent of total employment) and informal urban employment - about 75 percent of employed Bangladeshis were in rural areas. Under employment and poverty were widespread in agriculture and among those employed in the urban informal sector. A third of the 12 million Bangladeshis with formal sector jobs were employed by the government in the civil service or in state-owned enterprises. Unemployment in Bangladesh increases every year in the absence of creating job opportunities for the growing population.³ In addition, rapid urbanization has been occupying arable lands every year and contributes to a decrease in the number of agro-based families and an increase of landless families. Natural disasters such as floods, droughts, cyclones and river erosion are regular features in the life of Bangladesh, and every year more than one million people lose their homesteads or arable land due to river erosion.

The Bangladesh Institute of Development Studies (BIDS) revealed that the real wages of people at the national level decreased by 3.95 percent in December 2007 compared to the wages of January that year. The wages of farmers also reduced by 4.6 percent during the period while the real wages of people working in the manufacturing sector decreased by 2.37 percent and construction sector by 4.40 percent.⁴

In Bangladesh, market-oriented liberalizing policy reforms were initiated in the mid-1980s to face the challenge of achieving economic growth and alleviating the massive poverty of its huge population.

¹ World Bank Development Indicators 2008 <http://data.worldbank.org/indicator>

² Philip Martin: "Reducing the Cost Burden for Migrant Workers: A market based Approach"/August 2009 http://www.gfmdathens2009.org/fileadmin/material/docs/roundtables/martin_bangla_report.pdf

³ Bangladesh Bureau of Statistics 1998-1999 <http://www.bbs.gov.bd/>

⁴ Bangladesh Institute of Development Studies: <http://www.bids.org.bd/bids-bd/>

Bangladesh embraced globalization in the 1990s, through trade liberalization and export incentives which saw a transition towards economic growth and a reduction in its reliance on foreign aid. The average annual growth in per capita income steadily accelerated from about 1.6 per cent per annum in the first half of the 1980s to 3.6 percent by the latter half of the 1990s.⁵ This improved performance was due to a slowdown in population growth and a sustained increase in the rate of GDP growth, which averaged 5.2 percent annually during the second half of the 1990s.⁶ During this time, progress in human development indicators was even more impressive. Bangladesh was in fact among the top performing countries in the 1990s, when measured by its improvement in the Human Development Index (HDI). Bangladesh's main industries include the export-oriented garment industry which employs around 2.5 million workers - mostly women from low-income, rural backgrounds, and the export-oriented shrimp farming industry, also a labour intensive industry employing nearly half a million rural poor.

The movement of temporary labour migration and resulting inflow of migrant remittances play an important role in the national economy. Remittance inflows have grown from about 2.5 percent of GDP in the beginning of the 1990s to 11 percent in 2008 (amounting to about USD 9.2 billion).⁷ Migrant workers who send remittances are mostly unskilled or semi-skilled, and most of them come from poor rural families, making their remitted savings an important means for their families to escape poverty. In the wake of the global recession, Bangladesh's reliance on foreign countries as a market for exports and as a source of remittances has become even more marked.

In Bangladesh, overseas migration started during the period of British colonization. Labour migration can be traced back to the 1970s due to the increase in labour demand from Gulf countries such as Saudi Arabia, and the U.A.E. Subsequently, labour migration also expanded to other parts of Asia particularly in the South-East Asian countries including Japan, South Korea, Singapore and Malaysia. Other major destination countries for Bangladeshi migrant workers are Kuwait, Qatar, Oman, Libya, Bahrain, Jordan, Brunei etc. Lebanon is a new popular destination for many Bangladeshi migrant workers particularly for women migrants. Apart from those, UK, Italy, and some African countries are destinations for contract Bangladeshi migrants.

According to the Bangladesh Bureau of Manpower Education and Training,⁸ Bangladeshi migrant workers were first deployed in Malaysia in 1978 with only 28 Bangladeshi migrants sent to Malaysia in that year. The outflow of Bangladeshi migrants to Malaysia began to increase significantly in the 1990s until Malaysia faced a severe economic slow down in 1997. In the last decade, migration to Malaysia has more than doubled from 4921 workers in 2001 to 12,402 in 2009. Migration from Bangladesh has primarily comprised of male migrants, due to restrictive government policies limiting women's migration particularly over the last decade. Since 2001 there has been a total of 444, 457 Bangladeshi male migrants to Malaysia in comparison to only 1536 female migrants. The majority of Bangladeshi migrant workers are unskilled and are engaged employment in the areas of construction, cleaning, security guards etc. There are also skilled and semi-skilled Bangladeshi workers employed in different factories, markets etc.

Labour Export Policies and Procedures

Overseas labour migration in Bangladesh is regulated under the Emigration Ordinance 1982 which was inherited from the British Colonial Past Immigration Act 1922. This was transformed into Emigration Rule in 2002 and included The Recruiting Agents Conduct and Licence Rules and Wage Earners' Welfare Fund Rules. These Rules however mostly covered the provisions of the Emigration Ordinance 1982, and focused on the procedural aspects of emigration rather than the promotion of the rights of migrant workers and a number of shortcomings of the Ordinance in the current context have not been effectively considered.

One area where government migration policy has been restrictive of migrant rights has been in relation towards migrant women from Bangladesh. From 1981 onwards, the Bangladeshi Government repeatedly banned or

⁵ Wahiduddin Mahmud: "Bangladesh Faces the Challenge of Globalization: Reliance on exports and remittances exposes vulnerability" / YaleGlobal online magazine, 22 October 2003

⁶ *ibid*

⁷ Bangladesh Bank database <http://www.bangladesh-bank.org/>

⁸ Bangladesh Bureau of Manpower Education and Training BMET Database <http://www.bmet.org.bd/BMET/index>

restricted the out-migration of so-called “unskilled” women.⁹ The major reasons behind the restrictions on female migrant workers were the repeated cases of exploitation and abuse faced by Bangladeshi women who migrated to work in the informal or unskilled sectors of employment. In early 1981, a Presidential Order stated that professional and skilled women could migrate as principal workers whereas semi-skilled and unskilled women could migrate as principal workers, only if they were accompanied by a male guardian. In 1988, the government withdrew the ban but imposed restrictions on the migration of unskilled and semi-skilled women. In 2003, an announcement was made that the employment of Bangladeshi women as domestic workers in Saudi Arabia would be permitted, provided they were above 35 years old, preferably married and accompanied by their husband. In September 2007, a Gazette Notification was made by the Government of Bangladesh on women and migration (No. prokaboikomo- 5/ a-2/ 2005/1628), applicable only to female domestic workers bound for Saudi Arabia and other Middle Eastern countries. This notification provided for particular rules regarding the issuance of a work permit, visa processing, and mandatory training and briefing at the pre-departure stage. It also stated that a database management had to be maintained and or controlled by recruiting agencies, embassies, and the Bangladesh Missions. It also set 25 as the minimum age of outgoing domestic women migrants. On October 2006, the government of Bangladesh adopted the ‘Bangladesh Overseas Employment Policy’ considering the great contribution of migrant workers to the national economy. Under the policy, the government is committed to extend assistance to both male and female Bangladeshi citizens, in the process of choosing standard employment overseas. The policy asserts that the government shall remain vigilant in ensuring and protecting the rights and privileges of migrant workers as per the labour laws of the host country and ensure protection of their universal human rights and social securities. This includes the protection of both economic and social identities of migrants. The key issues of the policy include: abolition of any scope of irregular migration; protection of migrant worker rights; social security for migrant workers and their families; monitoring and accountability of recruiting agencies; improved use and transfers of remittance flows; assistance for returnee migrants and effective resource allocation for the institutions of migration. Under the policy both men and women are supposedly free to migrate abroad to work and the earlier ban on female migration is being reviewed on a case-by-case basis.¹⁰

While the policy in fact is progressive, it has yet to come into force. The Ministry of Expatriate Welfare and Overseas Employment (MEWOE) has developed a nine-point strategy in line with the policy for its implementation, however to date this has not been activated.

Domestic: Recruitment Repatriation and Protection

The government has three major agencies to deal with the 3 R’s of recruitment, remittances and returns. The Ministry of Expatriates’ Welfare and Overseas Employment (MEWOE) has authority over all government agencies dealing with labour migration, including private recruiters and migrants, the labour attaches in Bangladeshi missions abroad, and the Wage Earners’ Welfare Fund.

The Bureau of Manpower Employment and Training (BMET), established in 1976 with 17 offices across Bangladesh, is charged with promoting the employment of Bangladeshis abroad. This includes encouraging them to send remittances home, providing employment counselling, regulating private recruiters, and training and conducting research on migration and its effects on development. All Bangladeshis migrating abroad legally must be registered with BMET, and the agency reports that some three million Bangladeshis have registered since registration began in June 2004, with 2.6 million workers having left Bangladesh.¹¹ Registered job seekers receive a photo ID with a registration ID and personal information. In an effort to encourage workers to register with BMET as a first step in migration abroad rather than a leaving until the time of migration, BMET is supposed to operate a lottery, so that a recruiter seeking 100 workers is provided with the names of 100 workers with the requisite qualifications who are registered with BMET. This however apparently does not happen in practice.

The Bangladesh Overseas Employment and Services (BOESL) is a government agency with 38 employees and a 2009 budget of 20 million taka¹² (USD295, 000) that publicizes the availability of Bangladeshi workers

9 Siddiqui, T. 2001. *Transcending Boundaries: Labour migration of Women from Bangladesh*, UPL, Dhaka.

10 World Migration Report 2008, Regional Overviews, International Organization of Migration

11 Bangladesh Bureau of Manpower Employment and Training Database: <http://www.bmet.org>

12 Of six million taka, 30 percent represents BOESL salary costs.

in foreign countries via its own offices and in collaboration with local partners. BMET operates three one-hour pre-departure training programs a day, and issues the certificates of attendance (emigration clearance cards) that are required to leave Bangladesh. The cards are bar coded to be read while departing from the country. It is noteworthy however that only 200 participants can attend the pre-departure training daily at BMET within its present capacity while the BMET has to release clearance for more than six thousands migrants in a day indicating that most migrants receive the clearance without attending any pre departure training. BMET also manages 38 Technical training centres throughout the country and specializes in providing skilled and professional migrants for large civil engineering projects abroad, via a screening and interview process for Bangladeshis interested in these foreign jobs. In most cases, foreign employers cover the pre-departure costs of BOESL-deployed workers, although migrants going to Korea must pay for Korean language training.¹³

In Bangladesh, licensed recruiters have a monopoly on helping Bangladeshis depart for overseas work. There are 831 licensed recruiters in the Bangladeshi Association of International Recruiting Agencies (BAIRA) as of June 2010; but only 100 are active in deploying migrants. The remaining 700 non-active BAIRA member recruiters reportedly assist Bangladeshis who have received foreign job offers via friends and relatives abroad, or who are returning to foreign employers, to complete required paperwork in Bangladesh. These migrants are categorised as migrating ‘on-their-own’ in the Bangladeshi government data collections. Some licensed recruiters sell, rent, or trade their recruiting licenses to others.

All licensed recruiters must post a 1.6 million taka (USD23, 600) bond with the BMET and become members of the BAIRA which has a 35-point list of aims and objectives, including #25, to compensate “persons wrongly selected and sent abroad.”¹⁴ Most of the recruiters are Dhaka-based having their offices in one of the most expensive parts of Dhaka, Gulshan. These recruitment agencies depend on foreign recruiters to provide job offers and layers of subagents known as Dalals to find migrants to fill these jobs. The Dalals who deal with migrants in villages are generally older returned migrants living in the same or an adjacent village, in their 40s rather than in their 20s, and better educated. Most subagents have high-school educations, and must be able to read work contracts and communicate with Dhaka-based recruitment agencies.¹⁵ Subagents explain the foreign job to often illiterate migrants, and help them to complete the paperwork needed to obtain passports; some accompany migrants to Dhaka for medical tests, and to the airport for departure. Subagents receive commissions from the recruitment agencies of 10,000 to 60,000 taka (USD147 to \$885) per migrant.¹⁶ Because migrants trust village-based subagents, they do not compare fees charged by recruiters, so suggestions that recruiters be required to advertise their total charges may not lead to competition that reduces migrant costs.

According to government data, about 60 percent of Bangladeshi migrants leave on their own, 39 percent leave with the help of recruiters, and one percent leave via government and other channels¹⁷ However, most of the 60 percent who leave “on their own” in fact leave with the help of private recruiting agents who coach migrants to say they are leaving on their own. By going “independently,” the government loses a tool to check that the foreign job is genuine, and “independent migrants” have little recourse if the foreign job turns out to be something other than promised.

The capacity for government to monitor recruitment agency practice is limited, to the point of being non-existent. In reality there is no systematic follow up by BMET to monitor the agencies recruitment activities. It is only at the time of renewal of the recruitment licence every two years that BMET visits the particular agency’s premise and the agencies have no obligation or reporting requirements to BMET. In reality, BMET is running at less than half of its sanctioned manpower with only 1377 of the 2137 mandated officer posts being filled resulting in the officers being over-loaded in their daily activities with limited opportunity to implement

¹³ BOESL noted that it must often cover at least the local costs of foreign employers who come to Dhaka to interview Bangladeshi workers.

¹⁴ Bangladeshi Association of International Recruiting Agencies (BAIRA): www.hrexport-baira.org/aims_objective.htm

¹⁵ Afsar R, 2009, Unravelling the Vicious Cycle of Recruitment: Labour Migration from Bangladesh to the Gulf States Bangladesh Institute of Development Studies / International Labour Office Geneva p 18-19

¹⁶ Afsar 2009, p 20

¹⁷ OKUP-UNDP: ‘HIV vulnerabilities faced by women migrants: from Bangladesh to the Arab States’/2009

monitoring visits and review reports from 831 agencies on regular basis. However there is an arbitrary cell in the BMET through which migrant workers can submit claims against the recruitment agency with proper documents. The arbitrary cell overseas complaints and hearings against recruitment agency corruption and can assist in recovery of migration costs if the agency is found to be at fault. BMET reported receiving 392 complaints about recruiters during the year of 2008, and returned 90 million taka (USD1.3 million) to aggrieved migrants. The results of its inspections of recruiters are not made public, although recruiters whose licenses are suspended are named. A 2009 study reported that several migrants sued subagents and recruiters for cheating them, including relatives, but without receipts were unable to win compensation. Ten percent were injured at work abroad, and none reported receiving assistance from Bangladeshi labour attaches.¹⁸ However, given the large number of Bangladeshis deployed to work abroad, the proportions that file complaints against recruiters is insignificant with fewer than 400 complaints filed with BMET in 2008, when almost 900,000 migrants went abroad.

The 2005 PRSP (Poverty Reduction Strategic Plan) asserts ‘the recruitment industry will be regulated more effectively and that the renewal of licenses of private recruiters can be made contingent on their performance.’¹⁹ However, in comparison to the Philippines, the Bangladeshi system of regulating recruiters is much more relaxed. Bangladeshi recruiters must post a 1.6 million taka bond (USD23, 600), and then they receive a permanent license, with little monitoring or review of their activities after that point.

At present, there is no government program for reintegration of returnee migrant workers. Very recently, in collaboration with ILO, BMET has undertaken an initiative to develop a reintegration project for the returnees. The government is also working to set up an “Expatriate Bank” in order to support migrant workers, both potential and returnees, to manage migration costs and to support economic reintegration initiatives.

Abroad: Bi-Multilateral Agreements and Migrant Worker Protection

Following the Bangladeshi government’s restriction on labour recruitment since 1997, Malaysia reconsidered recruitment of Bangladeshi workers and signed an agreement governing labour migration between the two countries. Under the agreement, more than 400,000 Bangladeshi workers were outsourced during 2007-2008 through an unknown number of “outsourcing” companies based in Malaysia. The majority of these outsourced Bangladeshi migrants were dumped in different parts of Malaysia. They were left stranded without a job, food, transport, or any opportunities for assistance. A large number of research respondents in this study who migrated to Malaysia during 2007-2008 said that they were not provided with the nominated job that they had signed up for prior to migration, and instead were sold several times from one agent to another. As this situation deteriorated and evidence of extreme exploitation surfaced, the Malaysian authorities halted recruitment of Bangladeshi workers again in 2009.

Between 1999 and 2006, selected private recruiters sent Bangladeshi workers to South Korea; with a maximum recruitment fee of 210,000 taka (USD3100). Under the Korea-Bangladesh labour migration MOU signed in 2006, BOESL has a monopoly on sending migrants under the Employment Permit System, and charged a maximum 60,000 taka (USD870).²⁰ BOESL sent 1,500 migrants to Korea and an additional 430 to other destinations in 2008, that is, the average cost of deploying 2,000 migrants was about USD145. BOESL charges reflect the cost of job matching—BOESL does not receive government subsidies.

Apart from these bilateral agreements, Bangladesh has Memorandum of Understandings (MOU) with several countries including U.A.E., Korea, Oman, Libya, Kuwait and Malaysia for the recruitment of labour migrants. Unfortunately, there is little information available to the public regarding the MOU. Bangladesh is an active

18 Asfar 2009, pp 0-51

19 Poverty Reduction Strategic Plan 2005 Bangladesh Planning Commission: LCG Bangladesh:

<http://www.lcgbangladesh.org/prsp/index.php 80>

20 Before the EPS system went into effect in 2004, four Bangladeshi recruiting agencies linked to MPs controlled the migration of trainees to Korea. They reportedly charged trainees 800,000 to 1,100,000 taka, (\$11,600 to \$14,500), which encouraged some to change employers to earn more, including traveling to Japan, where trainees were paid more. Korea eventually banned the recruitment of trainees in Bangladesh. Porimol Palma, “Manpower market shrunk for policy failure,” Daily Star, November 5, 2006.

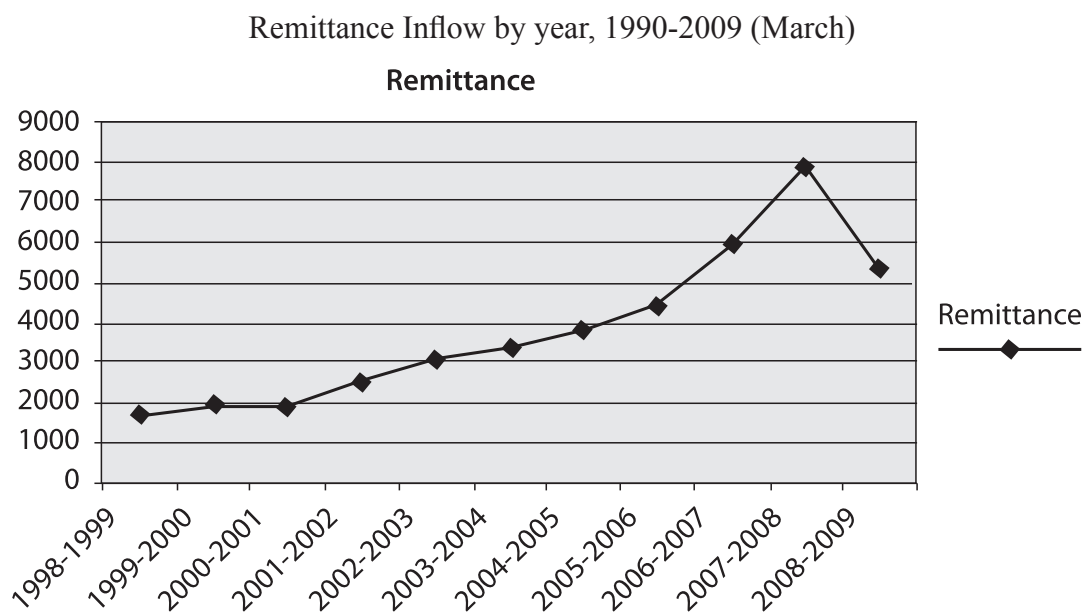
member of the 'Colombo Process', which is a regional forum of 11 countries from Asia and Middle East. During the last Colombo Process meeting in Abu Dhabi, the countries came to a common agreement in order to ensure managed migration but there has been little initiative developed in this regard.

Signatories to UN/ILO Conventions

Bangladesh is a signatory country of the UN Convention on Rights of All Migrant Workers and Their Family Members 1990. The government of Bangladesh has signed the convention in 1998 but has yet to ratify. Migrant Associations in Bangladesh and civil society organizations jointly have been advocating with the government to ratify this international instrument to promote and protect the rights of migrant workers. The ILO Conventions (Particularly the Convention No. 97 and Convention No. 143) as well as the Multilateral Framework on Migration are still waiting for the ratification of the government. Bangladesh has ratified the UN Convention on Elimination of Discrimination Against Women (CEDAW). (Please refer to Chart 1)

National Remittance Profile

Bangladesh is one of the major remittance recipient countries in South Asia. The remittances reached as high as USD9.2 billion at the end of 2008 from only USD23.71 million in 1976.²¹ Remittance inflows have grown from about 2.5 percent of GDP in the beginning of the 1990s to 11 percent in 2008 and remittances were equivalent to 56.1 percent of total export earnings of the country in 2008. Remittances amount to almost nine times that of Foreign Direct Investment (FDI) flows to the country and around four times more than the total foreign aid received. Amongst the remittance source countries for Bangladesh migrants, Saudi Arabia is the largest accounting for 30 percent of all remittances in 2007, followed by the USA (17 percent) and the U.A.E. (16.78 percent).²² Malaysia became the eighth largest remittance source country for Bangladeshis in 2008 which accounted USD11.69 million.²³ Remittances are Bangladesh's second leading source of foreign exchange.



Source: Bangladesh Bank

The government of Bangladesh has taken a number of policy initiatives to increase remittance sending through banking channels but 'hundi' is still an alternative channel that is used by many. A study shows that in the late 1990s, that 40 percent of the remittances came through formal channel whereas the proportion of the remittances through "Hundi" was 46 percent.²⁴ Companies such as Western Union and the Moneygram have set up a wide-range of business in collaboration with public and private banks (25) in Bangladesh as well as with micro-finance institutions through which the remittances are sent to its recipients. The Central Bank of

21 & 20 Bangladesh Bank database <http://www.bangladesh-bank.org/>

22 & 23 BMET Data source: <http://bmet.org>

24 C R Abrar and Tasneem Siddiqui, 2003, Migrant Workers' Remittances and Micro-Finance in Bangladesh, International Labour Office Working Paper-38

Bangladesh has taken a number of initiatives to expand access to remittance sending by migrants in host countries, and offering competitive exchange rates and saving and investment options both in foreign and local currencies. Government policy has also been implemented as a regulatory tool on remittance flows in the areas of Foreign Exchange regulation, money laundering prevention and suspicious transactions detection.

Remittance has a major role in Bangladesh economy as it not only provides valuable foreign exchange that the country needs, but also has a multiplier effect on GDP as well as in other macro-economic determinants. A study by the International Organisation of Migration found that an increase in remittance by one million taka would result in an increase in national income by Tk.3.33 million.²⁵ The study concluded that remittance had a strong positive impact on GNP, consumption, investment and imports and the steady flow of remittances resolved foreign exchange constraints, improved the balance payments, and helped increase the supply of national savings. Remittances also contribute to the annual development budget in Bangladesh. Remittances account for 12.8% in 1977/78, increasing to 49.3% in 1982-83.²⁶ In more recent years (2002- 2003), the volume of remittances (Tk.177288.10 millions) sent by these migrant workers to Bangladesh outweighed the annual development budget. The World Bank report in 2006 noted that the remittance inflow has helped Bangladesh to reduce poverty by 6 percent.

25 Murshid, Ibal, Ahmed 2000 “A study on Remittance inflows and utilization” International Organisation of Migration

26 Bangladesh Bank, 2004 <http://www.bangladesh-bank.org/>

BURMA

INFO FROM IOM

- Capital: Nay Pyi Taw
- Population (2010): 50.5 million
- Area: 676,578 sq km
- Language: Myanmar (Burmese)
- Currency: Kyat (MMK)
- GDP per Capita PPP (2007): USD 904
- HDI Rank (2008): 133 of 177
- Remittances (2008): USD 150 million
- Net Migration Rate (2005-2010): -2.0 migrants /1,000 population
- Immigrants (2010): 0.25%
- Women as a Percentage of Immigrants (2010): 48.7%
- Population under 15 (2010): 26.6%
- Adult HIV Prevalence (2007): 0.7%

Migration Trends

Burma has a diverse population of 50.5 million made up of the majority ethnic Burmese, with 30% of the population including Shan, Karen, Rohingya, Arakanese, Kachin, Chin, Mon, and other smaller indigenous ethnic groups. Burma, has ruled by military since a 1962 coup. Political repression, widespread human rights violations and a failing economy has driven millions of war refugees, economic migrants and political dissidents into exile to neighbouring countries, including Thailand, Bangladesh, India and Malaysia and further abroad to the West. The military junta's mis-management of the economy has devastated the once rich country and forced the majority of the population into poverty.¹ The regime has created a downward economic spiral with a 2007 GDP per capita of USD 904 and over 30 per cent of the population with incomes below that necessary to provide for basic food and other needs.² Foreign investment has declined since 1999 due to the increasingly unfriendly business environment and international sanctions. Education has suffered from a lack of public funding and in 2007, the expected levels of education for males was 13 years and females 14 years with only a quarter of Burmese children completing primary school.³

In 2006, public health expenditure equalled only 0.3% of Burma's GDP and high infant mortality rates and short life expectancies highlight poor health and living conditions.⁴ In 2008 Burma was ranked 133 out of 177 countries on the Human Development Index. With an estimated 10% of its population migrating out of Burma, the most common destination for Burmese migrants is the neighbouring Kingdom of Thailand, with over one and a half million migrants estimated to be living there.⁵ Other receiving countries with significant Burmese populations include South Korea, Japan, Malaysia, and Singapore. It is difficult to estimate the actual number of Burmese migrants working in Thailand, due to the complex social, legal and historical factors to migration. Estimation of Burmese migrants in Thailand includes documented migrants (i.e. those that are registered with a work permit) and undocumented/ unregistered migrants. In December 2007, the total number of migrants registered in Thailand was 537,732 with approximately 91% of these being from Burma.⁶ Estimates of

1 Turnell S (2008) Burma's Economy 2008: Current Situation and Prospects for Reform, Burma Economic Watch/Economics Department Macquarie University, Sydney, Australia

2 United Nations Development Programme (UNDP) 2006, Impact of the UNDP Human Development Initiative in Myanmar, 1994-2006, Yangon: UNDP

3 World Bank Database 2007 : <http://ddpext.worldbank.org/ext/DDPQQ/showReport.do?method=showReport>

4 UN Development Programme 2006 Asia Pacific Human Development Report Trade on Human Terms, UNDP, Macmillan India Ltd, New Dehli

5 Asia Migration Yearbook 2005 Burma, Asian Migrant Centre : http://asian.station186.com/index.php?option=com_docman&task=doc_details&gid=47&Itemid=48

6 Sciortino R and Punpuing S. 2009 International Migration In Thailand 2009, ILO Bangkok

unregistered migrants in Thailand vary between 800,000⁷ and 1.2 million.⁸ The majority of Burmese migrants in Thailand are undocumented due to the fact that most migrate through irregular means, leaving Burma without notifying the authorities, and arriving without personal and travel documents.⁹ Although undocumented migrants face a precarious situation due to their status as illegal migrants, most are able to find employment in Thailand as the demand for low skilled labour is high and many Thai employers prefer to employ unregistered migrants as a cheap and flexible form of labour.¹⁰

Labour Export Policies and Procedures

The government of Burma has shown a strong interventionist approach to labour export from Burma or Myanmar (the official country name used by the military government). The motto of the Myanmar Ministry of Immigration and Population is “The Earth will not swallow a race to extinction but another will” portraying the protectionist approach to migration inherent in government policy.¹¹ The stated aims of the Ministry are: to prevent the illegal movement of foreigners into Burma and control the movement of foreign citizens within Burma; to prevent citizens of Burma who have left illegally from returning; and to collect demographic data of Burmese citizens for population census and security purposes.¹² The Ministry of Immigration, established in 1995, supervises the Immigration and Manpower Department to execute immigration services, under an extensive system of nation-wide offices including the Head Office, 14 State/Division Offices, 64 District Offices 324 Township Offices, 22 Teams for Preventing illegal immigrants and the Border Immigration Headquarters (Maungtau) with a strength of 641 officers and 8,623 of other ranks totalling 9,264.¹³ The Ministry also oversees numerous border trade areas along its borders, including three checkpoints and official trading zones along the Thai Burma border.

The Myanmar Department of Labour collaborates with a select number of source and destination countries to support overseas employment for Myanmar nationals.¹⁴ The Department provides economic migrants with information on the policies and regulations of certain destination countries and operates a formalized emigration process undertaken through government recruitment agencies or the Department of Immigration. Major countries of destination of migrants from Myanmar are Australia, India, Indonesia, the Philippines, Thailand, and the United States.¹⁵ According to UN Population Division estimates, the foreign population represented 0.2 percent (117,435) of the total population of Myanmar in 2005.¹⁶ Two sets of laws, the Immigration Emergency Act of 1947 and amended in 1990, and the Citizenship Statutes of 1982, form the core of migration policy within Burma/Myanmar.¹⁷ The Emergency Act contains strict entry provisions for persons to travel into Burma and allows for immigration officials to conduct searches without a warrant and to charge fees according to their own prescriptions.¹⁸ The Citizenship law proclaims ethnic group of the Kachin, Kayah, Karen, Chin, Burman, Mon, Rakhine or Shan to be Burmese citizens, excluding the Rohingya citizens in Arakan state

7 Mekong Migration Network and Asian Migrant Centre, 2008 Migration In The Greater Mekong Subregion Resource Book, (Third edition) In-depth Study: Arrest, Detention and Deportation, Mekong Migration Network (MMN) and Asian Migrant Centre, Hong Kong

8 Martin, P. 2007 The Economic Contribution of Migrant Workers to Thailand, ILO, Bangkok

9 Sciortino R and Punpuing S. 2009

10 Mekong Migration Network 2008

11 Myanmar Ministry of Information and Population Government and Policy:

<http://www.modins.net/myanmarinfo/ministry/population.htm>

12 Ibid

13 Ibid

14 Wongboonsin P 2003 Comparative Migration Policies in the ESCAP Region, in Migration Patterns and Policies in the Asian and Pacific Region Asian Population Studies Series No. 160, Economic and Social Commission for Asia and the Pacific, New York: United Nations. 2003

15 Migration Policy Institute database:

<http://www.migrationinformation.org/datahub/countrydata.cfm?ID=559>

16 UN Population Division. 2006. Trends in Total Migrant Stock: The 2005 Revision. POP/DB/MIG/Rev.2005

17 Myanmar Immigration Policies :

http://www.ehow.com/about_6542313_myanmar-immigration-policies.html

18 UNHCR Burma Immigration (Emergency Provisions) Act, 1947:

http://www.unhcr.org/refworld/type_LEGISLATION,,MMR,3ae6b4fa18,0.html

and mandating the Council of State with the power to decide whether any ethnic group is national or not.¹⁹ The Myanmar government restricts international travel for women, particularly those under 25 years of age, forbid females under the age of 25 from crossing the border unless accompanied by a guardian in the stated aim to reduce and control trafficking.²⁰

Domestic: Recruitment Repatriation and Protection

An ordinary citizen needs three documents to travel outside Burma/Myanmar: a passport from the Ministry of Home Affairs; a revenue clearance from the Ministry of Finance and Revenue; and a departure form from the Ministry of Immigration and Population.²¹ Since August 2004 migration policy has allowed citizens to retain their passports after completing trips abroad through their validity dates, namely: one year for incidental travel; three years for dependents; four years for employment; and 18 months for those travelling on business. In January 2005 the government announced that new passports would be issued within a week. However, it is still common for citizens to wait for several months to receive a passport, as the government implements rigorous control of passport and exit visas in a climate of rampant corruption. In 2005 applicants were forced to pay bribes of up to \$230 (300,000 kyat), the equivalent of a yearly salary.²² Furthermore applicants may be denied passports on political grounds, and many people from the country's ethnic groups such as Karen and Shan groups, are vulnerable to this exclusion due to continued and historical resistance of these groups to the rule of the central government. The formal migration channel however is essentially inaccessible to the majority of the population, as the process of obtaining a passport is expensive, difficult to obtain, and relies on the applicant having well-placed connections, and the ability to pay large amounts of money. Generally, only the wealthier, better-educated Burmese are able to utilize these channels.²³ In addition, Myanmar law prohibits males under the age of 18 and females under the age of 25 from travelling abroad without a legal guardian.²⁴ The impact of this law as well as the costs associated with formal migration means that many young people and those from poorer areas in Burma migrate illegally or through informal channels. National ID procedures in Burma do not reach all rural populations, and exclude many ethnic minority groups and those escaping political persecution are often unable to access documentation.

Abroad: Bi-Multilateral Agreements and Migrant Worker Protection

Most of the regime's formal efforts related to regulation of labour mobility have been focused on trafficking and HIV AIDS. In 2001 Burma signed an MOU for Joint Action to Reduce HIV Vulnerability Related to Population Movement, with Cambodia, China, Laos and Vietnam. In 2005 the Burmese government signed the Anti-Trafficking in Persons Law and has since established a government Task Force, the Working Committee for the Prevention of Trafficking in Persons, and hosted the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) meetings, to promote anti-trafficking efforts in the Mekong sub-region as well as working with international NGO and the UN on the trafficking issue. From July 2002 to September 2006, Burmese authorities detected a total of 748 human trafficking cases, arrested 1,484 traffickers and rescued 3,694 victims.²⁵

The Burmese government has also taken steps to formalise labour migration with Thailand in response to increasing pressure from the Thai government to regulate the large numbers of Burmese migrants. In 2003 a Memorandum of Understanding was signed between Burma and Thailand on the Cooperation of Employment of Workers, however implementation of the MOU was delayed for a number of years. In November 2006, the

19 UNHCR Burma Citizenship Law 1982, <http://www.unhcr.org/refworld/docid/3ae6b4f71b.html>

20 Bureau of Democracy, Human Rights, and Labor 2009, 2008 Country Reports on Human Rights Practices <http://www.state.gov/g/drl/rls/hrrpt/2008/eap/119035.htm>

21 Home Office UK Border Agency, Operational Guidance Note Burma: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/countryspecificasylumpolicyo/gns/burma.pdf?view=Binary>

22 Ibid

23 Asian Migration Yearbook 2005

24 Social Environmental Research Consultant (SERC), 2010, A Comparative Picture of Migration in Laos, Myanmar, Cambodia, Vietnam and Thailand accessed at On Line Burma library: <http://www.burmalibrary.org/show.php?cat=1672>

25 Asian Migration News (AMN) February 2007, Scalabrini Migration Centre, Available at: <http://www.smc.org.ph/subscribe.php?code=AMNS> 17 Mar 2009

Burmese government took steps towards regulation by issuing provisional (temporary) passports at three offices along the Burmese-Thai border (in Tachilek, Myawaddy and Kawthoung) to Burmese nationals wishing to work in Thailand implement the National Verification (NV) process, a designated process in the 2003 MOU with Thailand, to ensure migrants from Burma could legally stay and work in Thailand upon verification of their nationality. The Burmese government's commitment to the NV process however has been criticized for the lack of adequate resources committed to process the thousands of workers applications required, the delays in implementation, as well as concerns from migrant workers regarding costs, and possible intimidation, corruption and threats to the security of migrants and their families.²⁶ Further information about the NVP process is included in the Thailand Country section. In addition Burma as an ASEAN partner country has signed a number of Asean Declarations including: the Declaration against Trafficking in Persons Particularly Women and Children 2004, the Declaration on the Protection and Promotion of the Rights of Migrant Workers, 2007 and the Declaration on the Elimination of Violence Against Women in the ASEAN Region 2004.

Signatories to UN/ILO Treaties and Conventions

The Burmese government has a poor record of ratifying international human rights and labour rights treaties and faces regular and high level criticism through the UN Security and Human Rights Council and the International Labour Organization for its appalling human rights record. The Myanmar government has in fact signed two of the UN human rights conventions – related to the Rights of the Child and Elimination of Discrimination Against Women (CEDAW and ratified the ILO Conventions against Forced Labour and Right to Organize. In reality however there has been consistent criticism and documentation of violations of all these conventions by various international human and labour rights advocates and governments over the last fifty years. Burma's military government has used forced labour in many forms, from building roads to carrying military supplies through the jungle with reports of people being forced to act as human shields in minefields in ethnic states. In 2009, the Network for Human Rights Documentation recorded continued human rights violations perpetrated by state authorities including forced labour, murder, rape, forced relocation, torture, and more.²⁷ In 2010 the ILO noted that the use of forced labour, including the forced recruitment of children into the military was continuing to occur despite Burma's ratification of the ILO convention against forced labour and the UN Convention on the Rights of the child.²⁸ The trade union movement in Burma continues to remain under government restriction with a recent rejection by the government in 2010 telling seven labour organizers that they could be prosecuted if they formed a national union.²⁹ Burma's violations of the CEDAW convention have also been documented and include failed policies impacting on women and girls in the areas of education, health, and rural development.³⁰ The women of Burma face high levels of violence perpetrated by state and non-state actors, including violence at the hands of the military. Failed policy responses have in fact led to increased trafficking of women.³¹ Systematic militarization of Burma has also propped up the existing patriarchal system, with the 2008 constitution failing to promote gender equality, and giving limited protection and promotion of women's rights under the militarized system of governance.

National Remittance Profile

The World Bank estimates that total workers' remittances and compensation of employees received in 2008 in Burma amounted to USD150 million. This official remittance figure however greatly understates the remittances sent by Burmese migrants, due to the significant amount of remittances sent through informal channels. When analyzing the individual remittance behaviour of Burmese migrants in Thailand, studies show that on

26 Migration Assistance Program (MAP) Foundation 2006 No Human Being Is Illegal, No Migrant Worker Is Illegal, 1996-2006, Chiang Mai.

27 Network for Human Rights Documentation ND-Burma quarterly Human Rights violations update (July - September, 2009) <http://nd-burma.org/reports/219-quarterly-report-july-sept09.html>

28 The Irrawaddy News Magazine, Labour Pains, January 2010: http://irrawaddy.org/article.php?art_id=17655&page=2

29 The Irrawaddy News Magazine: Burma rejects Labour Union Application June 2010: http://www.irrawaddy.org/article.php?art_id=18796

30 In the Shadow of the Junta, CEDAW Shadow Report, Women of Burma 2008: <http://www.womenofburma.org/Report/IntheShadow-Junta-CEDAW2008.pdf>

31 Ibid

average Burmese migrants remit an annual aggregate amount of between Bt15,000 (USD440)³² to 30,0000 Bhat; (USD881)³³ that most migrants tend to use informal monetary transfer, and that female Burmese migrant workers remit a higher proportion of their income compared to males.³⁴ In a 2005 study of remittances from Burmese migrants in Thailand, an estimate of annual remittances to Burma amounted to \$US367.2³⁵ million. Similarly a 2007 study of Burmese migrant workers, found an estimated aggregate annual flow of remittances to Burma to be approximately \$US300 million.³⁶ This amounts to more than twice the amount of foreign direct investment received in Burma and around 5 per cent of Burma's GDP in the year of the study. These estimates effectively double the official remittance figures for 2008 outlined above.

It is clear that remittances sent to Burma are both intended and utilised for the daily survival of migrant sending families. Studies of remittance use by families in Burma show that the majority of money received is spent on daily living expenses, followed by expenditure on housing, education and health.³⁷ This demonstrates the intensity of poverty within Burma and the dependency on migrant families for remittances to sustain basic survival. Additionally one study found that a significant proportion of migrant-sending families in Burma (over a third of those in the study) also used remittance funds for coerced payment to security officers including military and police, demonstrating the state of insecurity and violation that families in Burma continue to live with.³⁸ The studies found that the majority of families in Burma were not able to use the remittance money for income generating activities or investments, either because there was insufficient money left over after spending on daily needs, or due to the fact that there are limited opportunities for productive investment due to weak infrastructure and wide-spread poverty within sending communities.³⁹ It appears that despite migration and remittance sending over a period from three to ten years there has been no significant industry, income generation or economic improvements within the villages and home communities of Burmese migrants in Thailand.⁴⁰ These studies suggest that any local or national economic development benefit derived from remittances are largely absent in the Burma context due to the political economy which undermines these processes.

32 Turnell 2008

33 Deelen L and Vasuprasat P, 2010, Migrant Workers' Remittances from Thailand to Cambodia, Lao PDR and Myanmar. Synthesis report on survey findings in three countries and good practices. International Labour Organisation, ILO, Thailand

34 Jampaklay A and Kittisuksathit S 2009 Migrant workers' remittances: Cambodia, Lao PDR and Myanmar, International Labour Organization, Thailand

35 Huguet, J.W. and Punpuing S. (2005). International Migration in Thailand, Bangkok, International Organization for Migration

36 Turnell, 2008

37 Turnell, 2008, Jampaklay and Kittisuksathit 2009

38 Jampaklay A and Kittisuksathit S 2009

39 Khine, N.K. 2007 "Migration as a Development Strategy: A Case Study of Remittances Flows from Thailand to Mawlamyine, Mon State, Myanmar", M.A. Thesis in Development Studies, Chulalongkorn University.

40 Khine 2007, SERCA

CAMBODIA

- IOM Member State since 2002
- Capital: Phnom Penh
- Population (2010): 15 million
- Area: 181,035 sq km
- Languages: Khmer, French
- Currency: Riel (KHR)
- GDP per Capita PPP (2007): USD 1,802
- HDI Rank (2007): 137 of 182
- Remittances (2008): USD 325 million
- Net Migration Rate (2005-2010): -0.1 migrants /1,000 population
- Immigrants (2010): 2.2%
- Women as a Percentage of Immigrants (2010): 51.7%
- Population under 15 (2010): 32.6%
- Adult HIV Prevalence (2007): 0.8%

Migration Trends

Cambodia is a major sending country of migrant workers to growing Asian economies, including Malaysia, the Republic of Korea and neighbouring Thailand. Migration from Cambodia has a number of causal factors primarily related to poverty and underdevelopment. Cambodia has seen positive national development since 1991, when more than 2 decades of isolation and conflict ended and the country began to rebuild institutions, and stabilize the economic, social and political environments. Gross domestic product (GDP) growth has been strong at nearly 9 percent over the last 10 years.¹ However, Cambodia ranks 137 out of 182 countries. Thirty-five percent of the Cambodian population is estimated to be living under the national poverty line, with the majority of poor people living in rural areas.² The country has one of the highest population growth rates in the Greater Mekong Sub-region (1.75 percent in 2008)³ and a literacy rate of 73.6 percent.⁴ Population growth through the 1980s and 1990s doubled resulting in a current population of 60.8 percent being 24 years of age or younger.⁵ From 2001 to 2004, Cambodia experienced strong economic growth, a result of a rapidly increasing tourist industry and an expanded garment sector. The global economic downturn however has affected both of these industries with diminished demand for exports and a smaller percentage of the Western population capable of affording international travel. Cambodia currently receives \$504 million in international aid and counterterrorism assistance.⁶ Internal migration is significant in Cambodia with Phnom Penh the urban capital facing rapidly increasing number of poor migrants. However rural migration is the most common form - rural to rural migration represents 68.90 percent while rural to urban represent only 13.90 percent.⁷ Cambodia is a destination country for labour migrants, mainly from Viet Nam and China, and is a source and transit country for men and women, migrating to Thailand and Malaysia.⁸

The main destinations for Cambodian migrant workers are: Thailand, South Korea and Malaysia. There is anecdotal evidence of the presence of Cambodian migrant workers in Gulf Countries and other Asian countries, but there is no information available on their number and occupation. In the last few years, Thailand has become the main hub for labour migrants from all over the GMS region. Estimates of migration need to take into account both documented and undocumented migrants as there are significant number of Cambodian migrants who use informal channels for migration particularly to the neighbouring country of Thailand which is the most popular destination country. Although Thailand has received migrant workers from Cambodia since 1994, most of them are undocumented or irregular. Official recruitment only started in 2006 following

1 Asian Development Bank, 2009 Cambodia Fact Sheet http://www.adb.org/Documents/Fact_Sheets/CAM.pdf

2 UNDP Human Development Report 2009: <http://hdr.undp.org/en/reports/global/hdr2009/>

3 World Bank (2006) Cambodia: Halving Poverty by 2015

4 National Institute of Statistics Cambodia 2008; <http://www.nis.gov.kh/>

5 Country Profile Cambodia International Organisation for Migration

6 Asian Development Bank 2009

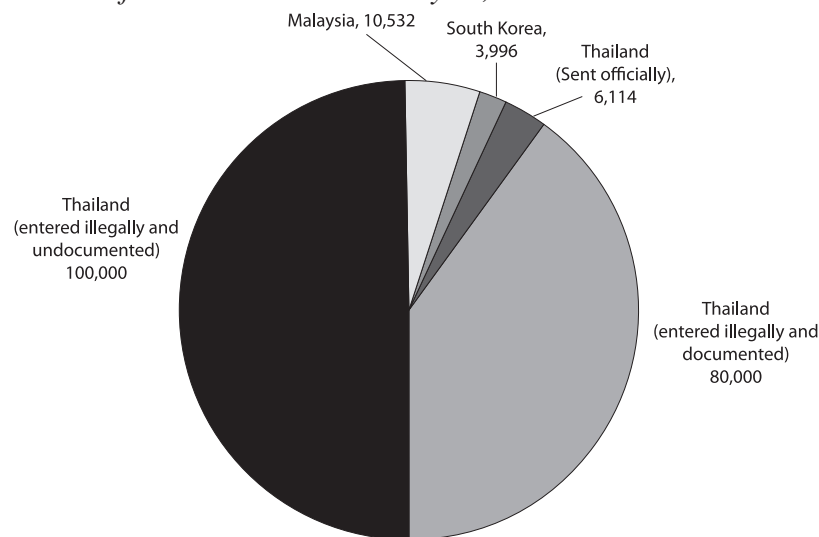
7 National Institute of Statistic Cambodia 2004

8 Cambodia Country Information, The Joint United Nations Initiative on Mobility and HIV/AIDS in South East Asia (JUNIMA). <http://www.junima.org>

the inception of an MOU between Thailand and Cambodia. Between 1998 and the end of 2007 Cambodian official estimates indicate a total of 6112 migrants going to Thailand, however more realistic estimates indicate 180,000 Cambodian migrants to have entered Thailand.⁹ Male migrant workers tend to stay short term in Thailand, while female migrant workers usually stay longer. Undocumented migration from Cambodia to Thailand is an increasing concern as they are vulnerable to exploitation and abuse and have little access to human or labour rights protection or other civil services. Since 2003, Cambodia has been sending approximately 650 migrant workers (trainees) per year to The Republic of Korea (hereafter referred to as Korea) through a “trainee system” which allows Cambodian nationals to work in Korea for short periods of time to acquire new skills that they may be able to use upon their return to Cambodia to secure gainful employment. Currently there are 2464 Cambodian migrant workers employed in Korea. All of them are documented migrants and the great majorities are male for factory jobs.

Cambodian migration to Malaysia, between 1998 and the end of 2007 has resulted in a total, of 10,532 migrant workers.¹⁰ The majority of migrant workers sent to Malaysia (81percent) have been female with most undertaking migration for work as female domestic helpers or housemaids. In addition to these official estimates however an estimated 10,000, regular and irregular Cambodian migrants worked in Malaysia in 2003.¹¹

Number of migrant worker from Cambodia in Malaysia, South Korea and Thailand by January 2008



Source: Ministry of Labour and Vocational Training (official statistics), UNIFEM (2006), IOM (2006)

Labour Export Policies and Procedures

As labour emigration is a relatively recent phenomenon for Cambodia, the Cambodian government has struggled in formulating policy, legislation and regulations to deal with the outflow of migrant workers. The country was plunged into civil war and isolation until 1993 when the newly democratic government was formed following a UN-organized election. The coalition government represented by the Co-premiers then issued a legal document called Sub-decree 57, in 1995, to regulate the sending of Cambodian workers overseas.¹² Aside from this legal binding document, there are no other laws to specifically regulate migration. Known as “Sub-decree 57 on Sending Khmer Migrants to Work Abroad”, the document was drafted by the then Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation (MoSALVY) in collaboration with the Ministry of Interior and Ministry of Foreign Affairs. It recognised the lack of employment opportunities in the domestic market and stated the objective of improving the standard of living through income generation and skills to be acquired by workers from working overseas. The Sub-decree mandates the current Ministry of Labour and Vocational Training (MoLVT) as the providing party and a recruitment company/agency as the receiving party. In addition to the Sub-decree 57, there is a legal document related to Labour migration: Prakas 108 issued in May 2006 on “Education of HIV/AIDS, Safe Migration and Labour Rights for Cambodian Workers Abroad” and Sub-decree 70, issued in July.

⁹ Ministry of Labour and Vocational Training (official statistics) www.mlv.gov.kh

¹⁰ Cambodia Ministry of Labour and Vocational Training (official statistics) www.mlv.gov.kh

¹¹ CARAM Cambodia NGO estimates

¹² See Annex A of Sub-decree 57

Domestic: Recruitment Repatriation and Protection

There are currently 18 recruiting companies officially operating legally in Cambodia and recognized by MoLVT. Of these agencies 13 recruit to Thailand, only 1 agency recruits to Korea and 9 recruit for Malaysia. In reality however many of the recruiting agencies are non-operational. The Cambodian government signed a labour export agreement with Malaysia in 1997, and has given only two agencies, the Cambodian Labour Supply and the Human Resource Development, agency the authorization to recruit Cambodians and issue permits for them to work in Malaysia. The Cambodia Labour Supply (C.L.S) has been operating since 1998 and is the primary agency for recruiting Cambodian women to work as domestic workers in Malaysia. The fee charged by recruiting agencies in Cambodia is not standardized. It is common practice of some agencies to deduct four or five months of the migrant workers salary to cover the costs of migration. The categories of expenses to be deducted include passport fees, medical check up, visa fee, and living cost at the recruiting agency (food, electricity, and water), training fee and other service charges. Private recruitment agencies in Cambodia recruit applicants through advertisements including newspaper, radio, television, and magazines and through word of mouth. It is common for potential migrants to gain information on recruitment through brokers who represent recruiting agencies in their communities. Some brokers are ex-migrant workers and are chosen for their popularity and their skills in promoting migration to locals. Brokers in fact promote migration through promises of salary earnings of up to USD120 per month, from which will be deducted the four months for pre-expenses and offer assistance in the application process for migration through the recruiting agencies. These conditions appear favourable to many Cambodians who apply for jobs abroad who come from rural areas with low education and high levels of poverty.

The recruitment agencies are expected to provide training on language, culture and skills but are not mandated to provide information on migrant workers rights. Documented migrant workers to Malaysia and the Republic of Korea are eligible to receive a three month pre-departure vocational training course from recruitment agencies that focuses on reproductive health, HIV/AIDS and general medical exams. There are no evaluation and monitoring processes however to ensure the delivery of such training courses and to assess their quality. In addition undocumented migrant workers, who are especially exposed to exploitative forms of labour in their destination countries, are difficult to reach with information on HIV-risk situations and safe migration. At present there is only one non-government organisation; the Coordination of Action Research on AIDS and Mobility (CARAM Cambodia) which provided Pre-departure training program with Cambodian migrants who are preparing to work abroad in collaboration with recruiting agencies. There is a need for investigation, evaluation and monitoring of the practices of recruitment agencies in Cambodia particularly for reducing the costs of pre-migration procedures and investigating mechanisms to more effectively protect the rights of Cambodians who migrate for work.

Abroad: Bi-Multilateral Agreements and Migrant Worker Protection

Since the Malaysian Immigration Act gives employers the right to terminate and cancel work permits and does not allow migrant workers, whose employment has been terminated or who run away from their employer, to stay in the country, migrant workers are put in a vulnerable situation and are abused and exploited. Furthermore, the provision 2.17 of the "Recruitment Procedures for Cambodian Nationals for Employment in Malaysia" explicitly declares that: "The employers shall be responsible for the safe keeping of the workers passport and to surrender such passport to the Cambodian in the event of absconding". Even if formally limited to the passport, this provision essentially authorizes the confiscation of documents and other relevant papers by the employer.

As well as the Malaysian agreement the Government of Cambodia has implemented a number of regional agreements primary with its neighbours and countries within the Asian region, in order to promote more effective overseas migration. In 2006 an MOU was signed with Korea on "The Creation of the Manpower Training and Overseas Sending Board" The latter is designed to specifically regulate sending workers to Korea. Cambodia and Thailand signed a MOU on Cooperation in the Employment of Workers in 2003 aimed to formalize the documentation process for Cambodian workers through a National Verification Process. This process provides potential to increase protection for Cambodian migrant workers by ensuring they have legal Thai work permits which allow eligibility to work for two years in Thailand and better access to health services and labour protections. However the process has no capacity to recognize the large numbers of illegal migrants

currently working in Thailand and includes a process of deportation which will significantly affect Cambodian workers both economically and through increased vulnerability to exploitation and abuse. The MOU did not provide any promotion of rights of protection for workers who migrated through illegal channels. In addition there was a lack of awareness amongst many Cambodian migrant workers who have no access to information regarding the protection entitlements that are in the MOU such as savings funds contributions by employers intended to act as insurance for workers. This results in migrant workers being unable to claim their entitled compensations and savings due to having missed the deadlines for claims when they finished their employment contract such as:

- Employment Workers are required by authorized agencies to make monthly contribution to a saving fund in the amount equivalent to 15% of their monthly salary (Article XI).
- Workers who have completed their terms and conditions of the employment contract and return to their permanent address shall be entitled to full refund of their accumulated contribution to the saving fund and the interest by submitting the application three months prior to scheduled date of their departure and the disbursement shall be made to employment workers within 45 days after the completion of employment. In the case of employment workers' services are terminated before completion of employment and have to return to their permanent address, the refund of accumulated contribution and the interest shall also be made within 45 days. However, in the case of employment workers do not return to their permanent address upon the completion of their employment terms and conditions, accumulated contribution fund and interest are revoked / nullified. (Article XII & XV).
- The authorized agencies of the employing countries may draw from the saving fund to cover the administrative expenses incurred by the bank and the deportation of workers to their countries of origins (Article XVI).
- Furthermore, Cambodia has signed on ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers on January 13, 2007, Cebu, Philippine. This declaration required all state parties to set up a mechanism to promote and protect on the rights of migrant workers.

Signatories to UN/ILO Conventions

Cambodia is a signatory country of the UN Convention on Rights of All Migrant Workers and Their Family Members 1990. The government of Cambodia has signed the convention in 2004 but has yet to ratify. Cambodia has however ratified other core human rights conventions. In terms of international labour standard Cambodia has ratified all of the core conventions governing labour rights apart from C no. 143: Convention on Undocumented Migrant Workers. (Please refer to Chart 1)

National Remittance Profile

Cambodia, one among fifty Least Developed Countries, is following a global trend of remittances increase. In 2007 Cambodia had approximately USD 322 million of inward remittance flows.¹³ In less than 10 years remittances have tripled, and today represent more than 4.1 per cent of the GDP.¹⁴ In addition points with regard to remittances in Cambodia these formal statistics reflect registered remittances only and it is believed that unregistered remittances can comprise as much as 50 percent of total remittances. Projections made by the ILO indicate that remittances could reach USD 500 million, with a more effective migration management system in place.¹⁵ However, the reliance on overseas migration as a primary tool for economic growth for Cambodia is questionable. Most of the registered remittances to Cambodia are in fact due to the inflows from Cambodian Diaspora and to a very small extent to Cambodian migrant workers in foreign countries. Additionally several studies show that remittances are primarily used for living expenses, mainly for food and health costs, and a negligible quantity for productive investments.¹⁶ In this sense remittances are hard earned private inflows that are used for poverty alleviation and survival for families and individuals in Cambodia who are not able to access domestic employment or state services.

¹³ World Bank 2007. Migration and Remittances Fact Book

¹⁴ Ibid

¹⁵ International Labour Organisation 2008: Labour Migration Management Institute, Policy and Legal Frame Work in Cambodia

¹⁶ Suzana Crassard: Analyzing the Impact of Remittances from Cambodian Migrant Workers in Thailand on Local Communities in Cambodia IOM Cambodia

INDIA

- IOM Member State since 2008
- Capital: New Delhi
- Population (2010): 1.2 billion
- Area: 3,287,263 sq km (1996)
- Languages: Hindi, English
- Currency: Indian Rupee (INR)
- GDP per Capita PPP (2007): USD 2,753
- HDI Rank (2007): 134 of 182
- Remittances (2008): USD 51,581 million
- Net Migration Rate (2005-2010): -0.2 migrants /1,000 population
- Immigrants (2010): 0.4%
- Women as a Percentage of Immigrants (2010): 48.7%
- Population under 15 (2010): 30.8%
- Adult HIV Prevalence (2007): 0.3%

Migration Trends

In 1998, Indian migrant workers alone accounted to around 3.5 million in the world, with the Middle East being the major receiving country with around 1.4 million migrants from India. Today, some 8 million Indian migrants live in Gulf countries. Saudi Arabia and U.A.E. were the principal destinations for Indian migrants during the past two decades - in 2000, they accounted for almost 72 per cent of India's total emigration to West Asia and in 2007 it has increased to 95 percent.¹

There are three distinct types of labour migration that have been taking place from India since independence in 1947. Firstly, people with technical skills and professional expertise have migrated to countries such as the USA, Canada, UK and Australia as permanent migrants since the early 1950s. Secondly, unskilled and semi-skilled workers have migrated to oil exporting countries of the Middle East on temporary contracts since the 1970s. In recent year's a third type of migration has occurred whereby people with technical skills, especially software professionals, migrate to industrialized and developed countries. It is estimated that by 2000, around 1.25 million Indians had emigrated to principal destinations in the industrialised West, and among them, only a small proportion constituted unskilled and semi-skilled labourers. On the other hand, the oil-rich countries in the Middle East became the abode of more than 3 million Indian migrant labourers by the beginning of the present millennium, with nearly 360,000 persons migrating annually to the region since the 1990s.²

The growth in demand for foreign labour in was triggered by the oil price boom in the mid-1970s' resulting in semi-skilled and unskilled Indians migrating to West Asia and the OECD countries. The continuing escalation in oil revenues, the high rate of investment in domestic industry and infrastructure of the oil-rich states, and the shortage of domestic labour only fuelled this demand further. While the Gulf crisis in 1990 triggered a temporary reversal of this trend, even so from 1990 to 2001, nearly 360,000 labourers migrated from India to the Gulf countries, consisting of a primarily lower skilled workforce. While data for Indian migrant workers in the Middle East is sparse, the overseas Missions in Saudi Arabia and U.A.E. have estimated that 80 percent and 65 percent of the workers respectively are blue collared workers, whereas the Mission in Qatar has reported that approximately 65 to 70 percent are unskilled and semi-skilled workers.

The movement of Indian migrants to overseas labour locations was further accelerated with the opening up of an absorbing global labour market since 2000, irrespective of the restrictive regimes in the host countries. The state-wise distribution of Indian emigration clearances granted during the period 2003-2007 shows that more than 35 states in India contributed to the process of emigration to other countries. Three states/provinces - Kerala, Tamil Nadu and Andhra Pradesh – together accounted for 50-60 per cent of those who obtained

¹ Based on data from the Ministry of External Affairs, Government of India. Adapted from Srivastava, Ravi and S.K. Sasikumar. 2003. An overview of migration in India, its impacts and key issues

² K C Zachariah, K P Kannan and S Irudaya Rajan (eds). 2002. Kerala's Gulf Connection: CDS Studies on International Labour Migration from Kerala State in India. Centre for Development Monograph Series,

emigration clearance.³ The number of migrant workers travelling from India to the Middle East in 2009 however saw a 30% decline of due to the international economic recession which led to a fall in demand for skilled and semi-skilled workers in Gulf States.⁴

Migration from India has characteristically been that of single male migration, however smaller proportions of female migrants also leave the country to work as domestic workers in Singapore, Hong Kong and in the Gulf countries. Due to restrictive state policies limiting female migration the numbers of women has remained minimal and in many ways female migration from India has remained largely an invisible migration.

Given the diversity in the nature of migration in India, the causes of migration are also bound to vary. The National Commission on Rural Labour, focusing on seasonal migration, concluded that uneven development was the main cause of seasonal migration. Along with inter-regional disparity, disparity between different socioeconomic classes, the government's development policy adopted since independence has accelerated the process of seasonal migration. The landless poor, who mostly belong to lower caste, indigenous communities, from economically underdeveloped regions, migrate for survival and constitute a significant proportion of seasonal labour flow.⁵

Labour Export Policies and Procedures

Official Indian migration policy has removed restrictions to emigration, but does relatively little to support and protect migrants once they leave the country. Indian migration law - The Emigration Act, 1983 provides the regulatory mechanism to labour migration. The Act applies to a restricted category of persons, who go abroad for 'work'. It largely covers unskilled migrant workers plus a few other categories, such as nurses, secretarial and hospitality staff. The Indian Migration Act 1983 makes it mandatory for the registration of all recruiting agents with the Ministry of Labour before they can conduct the business of recruitment for overseas employment. The Protector General on Emigrants (PGE) grants the registration certificate after obtaining security deposit ranging between 3 lakhs to 10 lakhs (USD 6,261 to 20,871) in the form of a bank guarantee. Section 22 of the Act gives The Protector of Emigrants the capacity to reject an application for emigration in situations where the applicant will have to work or live in sub-standard conditions, where the employment violates norms of human dignity and human decency, or where the employment is discriminatory or exploitative. Despite this protective legal framework however, it is well-documented that migrants from India continue to leave in large numbers and work in sub-standard working and living conditions where they are exploited by the employers. One area where government migration policy has been implemented is in the Special Measures for Women Emigrants. This policy was made in response to concern for Indian women who emigrate to GCC countries and Malaysia for domestic work and face exploitation, ill-treatment and physical abuse from foreign employers. The Ministry of Overseas Indian Affairs has worked with several government departments including the National Commission for Women, and State Governments of the leading sending states to implement an emigration policy which forbids women below the age of 30 years to migrate, except with special permission.⁶

This Policy was introduced in 2003 and mandated that all women below the age of 30 years could not be granted emigration clearance if they were seeking employment as housemaids/domestic workers in any foreign country. In 2004 however a government order listed 54 countries placed in the 'Emigration Clearance Not Required' (ENCR) category that Indian women (above 30 years) could travel to without clearance, including as housemaids/domestic workers. For these countries there is no requirement for any emigration clearance from the POE office. This Government Order has led to increased trafficking of women to other countries as domestic workers. Even after a recommendation made by the National Women's Commission to review this order, the Union government has not changed its stance. This policy effectively restricts the opportunities for young women to take advantage of any type of migration to any country, while at the same time failing to protect women who do migrate for domestic work. In addition there appears to be little done by the

3 Office of the Protector General of Emigrants Statewide Figures of Workers granted Emigration Clearance ECNR Endorsement during years 2003-2007

4 Ministry of Overseas Indian Affairs: Indian Migrant Workers Decline 2009

<http://www.randstad.com/the-world-of-work/indian-migrant-workers-decline?c=5175>

5 Srivastava, Ravi and S.K. Sasikumar. 2003. An overview of migration in India, its impacts and key issues

6 Special Measures for Women Emigrants Ministry of Overseas Indian Affairs:

<http://moia.gov.in/services.aspx?ID1=175&id=m13&idp=143&mainid=73Special Measures>

government domestically in terms of programs or strategies to address the socioeconomic needs of women migrants. In 2002 The Emigration (Amendment) Bill, was proposed, advocating for major reforms in migration policy especially in the area of migrant worker rights. The bill advocated for a framework where workers could change work contracts with foreign employers in situations of disadvantage, and noted issues such as non-payment or delayed payment of salaries, poor working and living conditions, workers being stranded overseas, non-availability of jobs after arrival in the foreign country. Section 22 of the bill proposed that the Indian Overseas Workers' Welfare Fund should provide for the expenses towards return ticket for stranded emigrants, compensation for injury, accident, disability, transportation of dead body or any other just and reasonable ground.

It also advocated a proposal to set up a Central Manpower Export Council to promote employment opportunities in various countries, establish and operate a data bank of workers seeking employment overseas, lay down standards and guidelines for recruitment for overseas employment and advise Central and state governments and training institutes on strategies to redesign their training programs to keep pace with technological developments and current-day requirements.

Unfortunately to date none of these reforms have been implemented as the bill is yet to be passed by the Houses of Parliament and it requires the assent of the President of India. An examination of the provisions of the Emigration Act indicates that overseas employment policies in India have been largely confined to ensuring that the terms and conditions of employment conformed to certain specified norms so that agents and employers did not subject the workers to exploitation. Efforts to manage and direct export of manpower have indeed been minimal. The policy regime has also not been concerned with migration of persons with technical or professional qualifications. The Emigration Act has considerably reduced the problems encountered by migrant workers however, there is little policy influence on the forces of market supply and demand which still largely determine the emigration of workers from India.⁷

Domestic: Recruitment Repatriation and Protection

The establishment of public sector recruiting agencies and the regulation of private recruitment agencies via a licensing system was mandated under the 1983 legislation. To date, however, labour market development has largely hinged on the personal efforts of job seekers, kinship and personal links and the efforts of some state and provincial Governments. For example, there are nine Overseas Development and Employment Promotion Consultant organizations, first developed by the state government of Kerala, and now set up in various states; however there has been no coordinated national activity in this area. More recently in 2005 Kerala again led the migration reform process in the area fisheries by adopting social security measures for both domestic and migrant workers from Kerala working in the fisheries industry. The state government argued for the national union government to work with international labour groups for the protection of all Indian fisheries workers testifying to the lack of pro-activity at the national level and the lack of coordination on migration issues across the country and abroad.

The role of recruiting agencies in India is mainly to explore new areas and avenues for deployment of Indian workers abroad. As of April 2009 there were 1987 recruiting agencies registered with the Ministry of Overseas Indian Affairs.⁸ Little or no official effort however is directed at protecting migrant workers' rights both at the time of recruitment and during the period of employment. Theoretically, it is not necessary to use 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. Under the Emigration Act, migrants can take any three routes in seeking emigration clearance from the Protector of Emigrants, in whose jurisdiction they fall: they can process the case themselves, go through a recruiting agent or go through an employer, who in turn, might use a recruiting agent. The Government has made detailed provisions regarding recognition and removal of recruiting agents in the 1983 Act and the Emigration Rules, 1983. It is mandatory for registration of all recruiting agents with the Ministry of Labour before they can conduct the business of recruitment for overseas employment. A recruiting agent works under a permit initially for a period of three years, which can be subsequently renewed. They are required to provide a security deposit, the amount of which varies on the basis

⁷ S, Ravi and S.K. Sasikumar: 2003

⁸ The Ministry of Overseas Indian Affairs 2009: <http://www.moia.gov.india>

of the number of persons they are authorized to recruit. The present scale is: Rs.300, 000 (USD 6,262) for up to 300 workers; Rs.500, 000 (USD10, 435) for 301-1000 workers; and Rs.1, 000,000 (USD20, 871) for over 1,001 workers. The Government has prescribed a scale of fees which the migrants are required to pay. The Recruiting Agents are authorized to charge, as service charges, from each worker ranging from Rs.2000 (USD 41) for unskilled workers, Rs.3000 (USD 62) for semi-skilled workers to Rs.5000 (USD 104) for Skilled Workers and Rs.10, 000 (USD 208) for others.⁹

Another matter of concern is corruption within recruiting agencies. In July 2009 The Central Bureau of Investigation in India, unearthed a well-organized corruption racket, forgery and bribery in the office of the Protector of Emigrants (POE) in Chennai in which emigration clearance was given on the basis of forged and fabricated documents. The probe revealed that an average of 300 emigration clearances were being issued by the POE, Chennai, every day, and the bribe amounted to Rs.3 lakh (USD 6261) and was collected through select recruiting agents. The amount, collected by the POE, Chennai, alone amounted to Rs.8.5 crore (USD17.7 million) in the past one-and-a-half year.¹⁰

Migrants do not have access to any countrywide pre-migration training or awareness programmes. Through the Protector of Emigration offices, the government provides basic information for those leaving the country to take up jobs in the Gulf and South East Asian countries. The information comprises of the contact information of Indian embassies and consulates and basic orientation information regarding the history of the host country. At best, some technical skills are provided to construction workers - either through NGO networks or through sponsoring agencies in the receiving county.

Likewise, there is no welfare fund for workers abroad; there is, however, a proposal from the Ministry of Labour for the constitution of such a fund to be utilized to meet eventualities such as the repatriation of stranded workers; financial assistance to the families of workers who die or become permanently disabled while working abroad with foreign employers. In 2003 an Insurance Scheme - Pravasi Bharatiya Bima Yojana - was implemented through the Ministry Of Labour (Emigration Division). The scheme provides insurance protection for migrant workers for a minimum sum of two lakh rupees in the event of death or permanent disability leading to loss of employment while abroad. It covers medical support for families, return airfares to return bodies in the event of death, or return airfares if the employer cancels the contract in the first 6 months. The scheme also provides for capped maternity care for migrant women in to be provided in India. The insurance scheme however is not popularized and many migrants are not aware of these provisions. Recruitment agents who utilize illegal means for emigration also deny many migrant workers access to the Insurance Schemes. In India very few NGOs or civil society organizations are involved in protecting Indian migrant workers before departure or after arrival from their destinations. The popular belief seems to be that overseas migration is a privilege for a person to rise out of poverty which very few are able to access. As privileged workers, migrants should not expect too much attention from civil society. NGOs have only recently begun to realize the level of exploitation of migrant workers that is occurring. Several NGOs working on labour and health have started incorporating the migrant dimension into their work. Awareness of the need for legal protection for migrant workers is slowly growing amongst NGOs, and has resulted in advocacy for such issues as: safe migration, work with returnees, legal assistance, and information dissemination through community based programs and awareness-raising on the real situation abroad.

For returned migrants there is no government intervention in the area of remittances, in spite of the significant contribution of remittances to foreign exchange earnings (around 10 per cent). Likewise, there are no programs that address the reintegration needs of returning migrants. There is no official information about the occupational patterns and investment decisions of returnees; the few initiatives in this space have been spear-headed by NGOs. It is often difficult for returnees to give an honest account of their negative experiences, if any, for fear of being marginalized by their community.¹¹

9 Office Memorandum No: Z-11025/57/2000-Emig. Government Of India, New Delhi. Dated 20th November, 2003 'CBI unearths corruption, forgery in Protectorate of Emigrants', Chennai The Hindu 23 August, 2009, <http://hindu.com/2009/08/23/stories/2009082360450900.htm>

10 'CBI unearths corruption, forgery in Protectorate of Emigrants', Chennai The Hindu 23 August, 2009, <http://hindu.com/2009/08/23/stories/2009082360450900.htm>

11 D'Sami, 2000, Migration Patterns and Challenges for Indians Seeking Work Abroad - A Special Focus on

Several NGOs are also advocating that the Government use part of the large amount of foreign remittances for welfare and protection purposes in cases of emergencies and special need. Trade Unions in India do not have a common stand on migration nor have they developed strategies to represent the interest of migrant workers. They primarily work on an ad – hoc basis. Given the lack of their own initiative, national trade unions often go along with the policy of the international union organizations to which they are affiliated.

Abroad: Bi-Multilateral Agreements and Migrant Worker Protection

The increasing numbers of Indian workers overseas led to the need for better mechanisms for overseas Indian workers to be able to communicate with the multiplicity of organization and departments related to migration. In 2004 the Indian Government set up an independent Ministry to address the concerns of the Indian Diaspora. The Ministry of Non – Resident Indians' Affairs was created on 27th May 2004 and was renamed as Ministry of Overseas Indian Affairs (MOIA) on the 3rd September. The Ministry is headed by Cabinet Minister, Shri. Vayalar Ravi . On the administrative side, the Ministry functions under the secretary. There are 3 divisions in the Ministry each headed by a joint Secretary they are: Diaspora Service Division, Financial Services Division and Overseas Employment Services Division.

However, the Indian Government, especially its consulate representatives abroad, continue to singularly fail in their duty to protect migrant workers. As more and more complaints of abuse become known embassies or consulates continue to provide little or no assistance

The government of India signed the first labour agreements with Jordan and Qatar in 1980s. However, no further progress was made in this direction until 2004, when the Ministry of Overseas Indian Affairs entered into Memoranda of Understanding (MOU) with the major labour receiving countries for bilateral cooperation towards protection and welfare Indian migrants. In 2006 India signed an MOU with the U.A.E. Other agreements include an MOU with Kuwait in April 2007, an additional protocol to the labour agreement with Qatar in November 2007, an MOU with Oman in November, 2008, MOU with Malaysia in January, 2009 and currently an MOU with Bahrain being finalised. Efforts are being made to negotiate MOU with Saudi Arabia and Yemen as well as important labour receiving countries of the Central and Eastern Europe and Asia. The MOU all include similar principles such as: enhancement of employment opportunities between countries, protection and welfare of the workers in the host country particularly the unorganized sector, and agreed procedures for recruitment and employment agreements. The weakness common to all MOU are that they invariably not revisited or revised once they have been signed and that all of them exclude undocumented migration / migrants from being entitled to any basic protections.

Signatories to UN/ILO Conventions

India has ratified most of the core international conventions related to human rights including the Convention to Protect the Rights of the Child, CEDAW, and Conventions regarding Civil Political and Economic, Social and Cultural rights however it not a signatory to the Convention on the Rights of Migrant Workers (1990). In terms of ILO Conventions the Indian government has ratified conventions on Forced Labour, Discrimination and Equal Remuneration but has failed to ratify conventions relating to the Rights to Organise and Freedom of Association and has not signed ILO Conventions against Child Labour and Minimum Age. The Indian Constitution contains basic provisions relating to the conditions of employment, non-discrimination, right to work etc. (for example, Article 23 (1), Article 39, Article 42, Article 43) which are applicable for all workers including migrant workers within the country. (Please refer to Chart 1)

National Remittance Profile

The surge in migrant workers' remittances to India, particularly during the decades of the 1980s responding to the oil boom in the Middle East, and the information technology revolution in the 1990s, have placed India as the highest remittance receiving country in the World.¹² Remittances over the past 30 years have financed much of India's balance of trade deficit and have thus reduced the current account deficit. Out of the estimated annual figures for world-wide international remittance of US\$ 100 billion, about 20 per cent flows into South

South India, National Forum of Migrant Workers Rights

12 World Bank 2009 Migration and Development Brief 11, Migration and Remittances Team,

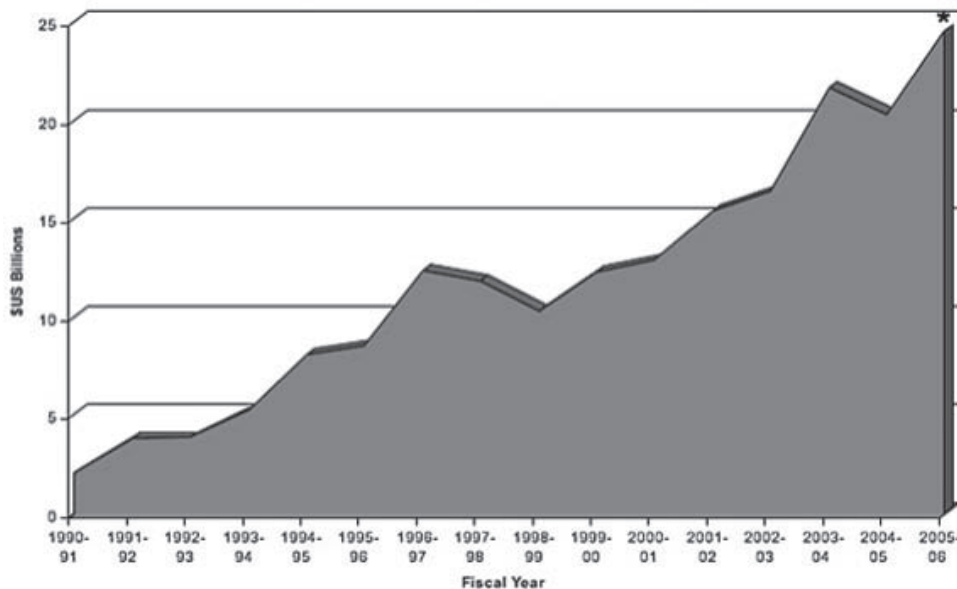
Development Prospects Group: <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934->

1110315015165/MigrationAndDevelopmentBrief11.pdf

Asia of which India account for 78 per cent. Countries like China, Mexico and Philippines come after India in the list of the highest remittance receiving-countries with only Mexico (11.5 million) and Russia (11.5 million) who have more of their citizens working outside the respective countries as migrants.¹³

Remittances have increased from USD 13 billion in 2000 to USD 27 billion in 2007, approaching almost 3 per cent of India's GDP.¹⁴ This is certainly a spectacular growth, considering the fact that the remittances to the country were just USD 0.08 billion in 1970, USD 2.79 billion in 1980 and USD 3.42 billion in 1991.¹⁵

India: Amount Remitted between 1990 and 2006



Note: *Projected amount for 2005-2006.

Source: Reserve Bank of India. "Balance of Payment Statistics," RBI Bulletin

Remittances come from migrant workers in a number of countries with 2006 estimates showing 44 percent coming from North America and 24 percent coming from Gulf countries, with the remainder from countries around the world where Indian workers are located.¹⁶ The Reserve Bank of India (RBI) has reported that Indians living abroad transferred USD24.6 billion to India in the fiscal year 2005-2006. India, thus, continues to retain its position as the leading recipient of remittances in the world. The World Bank estimates for 2005 put India in the lead at USD 23.5 billion, with China and Mexico close behind at USD 22.4 billion and USD 21.7 billion, respectively. Yet India's dominant position in remittance receipts is a relatively recent one. In 1990-1991, for instance, RBI reported that remittances from overseas Indians were a modest USD 2.1 billion. They have risen steadily in the last 15 years, and rather dramatically in the last 10 years. The figures rose to USD 12.3 billion in 1996-1997, and then jumped to almost USD 22 billion in 2003-2004. Between 2000-2001 and 2003-2004, remittances almost doubled. With a small dip in 2004-2005, the 2005-2006 figures RBI reported suggest that the trend is here to stay.

Remittances from Indian expatriates are growing due to a combination of factors such as India's economic liberalization, which began in 1991, and gradually ended the state monopoly on a range of industries, allowed foreign capital in most sectors of the economy, lowered taxes and tariffs, and rolled back currency controls. The sheer size of remittance transfers can be understood from the fact that even in 2007-08 when India had record net

¹³ Migration and Remittances Fact Book Migration and Remittances Top 10 World Bank sitesources. worldbank.org/INTPROSPECTS/.../Top10.pdf

¹⁴ World Bank 208 Migration and Development Brief 10 <http://sitesources.worldbank.org/INTPROSPECTS/Resources/334934-1110315015165/Migration&DevelopmentBrief10.pdf>

¹⁵ Irudaya Rajan, S. 2004. 'From Kerala to the Gulf: Impacts of Labour Migration' Center for Development Studies.

¹⁶ Reserve Bank of India. "Invisibles in India's Balance of Payments." RBI Bulletin, November 2006.

Table: Source Regions of Remittance Flows to India

FDI inflows, private transfers still accounted for over 1.2 times the Net FDI to India.¹⁷ Further, remittances now account for about 3 per cent of India's GDP although in 1991 they accounted for just 0.7 per cent. They have offset India's merchandise trade deficit to a large extent, thereby keeping the current account deficits modest through the 1990s and have been one of the least volatile inflows in either the current or capital accounts of India's BoP.¹⁸ Whilst in India there is tremendous potential for using remittances to encourage economic growth and development given the size of remittance inflow, policy-makers need to ensure that remittances are firstly able to provide positive contributions and economic enhancement for the individual migrants, their home families and communities.

17 Irudhayarajan S. et al 2009, Beyond The Existing Structures: Revamping the Overseas Recruitment System In India submitted to the Ministry Of Overseas Indian Affairs (MOIA) Research Unit On International Migration, Centre For Development Studies, Trivandrum, India 2009

18 Ibid

INDONESIA

- IOM Observer since 1991
- Capital: Jakarta
- Population (2010): 232.5 million
- Area: 1,860,360 sq km
- Language: Bahasa Indonesian
- Currency: Indonesian Rupiah (IDR)
- GDP per Capita PPP (2007): USD 3,712
- HDI Rank (2007): 111 of 182
- Remittances (2008): USD 6,795 million
- Net Migration Rate (2005-2010): -0.6 migrants /1,000 population
- Immigrants (2010): 0.1%
- Women as a Percentage of Immigrants (2010): 44.5%
- Population under 15 (2010): 26.6%
- Adult HIV Prevalence (2007): 0.2%

Migration Trends

International labour migration is not a new trend in Indonesia. The oil boom in 1980s triggered a significant wave of Indonesian migrant workers to the Middle East, particularly Saudi Arabia. This was followed by the rise of the economy in Asia in the 1990s, along with the economic crisis in Indonesia in 1997, which caused rocketing unemployment and triggered a new wave of labour migration. The crisis created new destinations, among others Malaysia, Singapore, Taiwan, and Hong Kong. During this time, migration was both a 'solution' to the issue of domestic labour surplus, as well as an antidote to economic recession whereby Indonesian migrant workers supported the economy during the crisis from the remittance they sent to families back home. Due to their significant contribution to the economy, the government uses the title for Indonesian migrant workers as the 'foreign exchange heroes' (pahlawan devisa).

The number of Indonesians migrating overseas was more than 7.48 million in 2008. Those migrating to Malaysia to work included approximately 1.9 million in 2008, and 1.2 million in 2009.¹ Documented Indonesian migrant workers in Malaysia (as of 31 Dec 2008) included plantation labourers: 274,978; Constructions/Buildings: 203,337; Factory/refinery: 192,814; Agriculture /agribusiness: 104,460 and female domestic workers: 69,602. Undocumented migrant works and those deported back to Indonesia numbered 30,816 in 2008.²

Labour Export Policies and Procedures

The unavailability of jobs in the domestic labour market due to labour surplus and the corresponding shortage in the labour market in other countries has triggered many Indonesian workers to work abroad. Instead of providing the job market needed by its citizens, the Government of Indonesia has considered the export of labour as a solution to the labour surplus. The labour export policy can be traced back to the Five-Year Development Plans in the eighties, which set specific targeted numbers for the placement of Indonesian migrant workers over specified time periods beginning with a target for 100,000 migrant workers in 1979-83.³ Whilst the Indonesian government has proclaimed migrant workers as 'foreign exchange heroes' it has been slow to protect migrant worker rights and welfare. For years, the migration of labour was only regulated by ministerial decree. Stronger legal based regulation was finally issued in 2004 (Law No. 39/2004 on the Placement and Protection of Indonesian Workers in Foreign Countries). Since that time this law has become the key legislation for other policies and regulation concerning Indonesian migrant workers. Even so, the law does not provide effective protection but rather focuses heavily on the processes related to placement of migrant workers, with articles in the law regulating placement outnumbering the articles related to protection and a focus on workers obligations rather than entitlements.⁴

¹ Ministry of Manpower, Feb 2010, statistics:

http://www.indonesia.go.id/en/index.php?option=com_content&task=view&id=7817&Itemid=691

² Research and Development Department of Kompas, Daily Newspaper, 19 May 2010

³ Graeme Hugo, Indonesian Overseas Contract Workers' HIV Knowledge: A gap in information (Bangkok: United Nations Development Programme, 2000)

⁴ Law No. 39/2004 on the Placement and Protection of Indonesian Workers in Foreign Countries: Chapter V is titled 'Procedures of Placement', consists of 50 articles (Article 27 to Article 76); meanwhile,

The government established the National Authority for the Placement and Protection of Indonesian Overseas Workers (Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia or BNP2TKI) in 2000 through Presidential Decree. It has a mandate to implement the placement of Indonesian migrant workers, covering service, coordination and monitoring of documentation, recruitment, departure to repatriation, conflict settlement, financial resources and improvement of the welfare of Indonesian migrant workers and their families. Ideally BNP2TKI works as a coordinating body to the entire process of migration which involves various governmental bodies include the Ministries of Manpower and Transmigration, Foreign Affairs, Social Affairs, Immigration and the Police Department. The Ministry of Manpower and Transmigration, plays a significant role in policy making on migration. In reality this means that there are two major governmental bodies managing migration issues, along with a plethora of other agencies, which in practice leads to policy division, ineffectiveness, confusion and often conflict. The government bodies involved often criticize their counterparts for not working seriously on migration issues and blame shifting between the BNP2TKI, the Ministry of Manpower and Transmigration, the Police Department, and the Ministry of Foreign Affairs is a common occurrence.⁵ The lack of practical and effective coordination from all parties involved means that the problems facing Indonesian migrant workers remain unresolved, despite the legal framework and policy mandate.

An important regulation derived from the Law No. 39/2004 is the Presidential Decree on the Policy to Reform the System of the Placement and Protection of Indonesian Migrant Workers, issued in 2006. The decree sets immediate steps which should be taken to improve the situation of Indonesian migrant workers within one to two years. However, since the law focuses on placement of rather than protection, this decree also sets more actions on the placement of migrant workers. Furthermore the actual implementation of the decree has been delayed due to the fact that it took until early 2007, for the BNP2TKI as coordinating body responsible for implementation, to be completely established.⁶

The Law No. 39/2004 clearly only regulates migrant workers that depart through official procedures with valid/legal documents and fails to protect the rights of Indonesian migrant domestic workers in irregular situations or those who are undocumented (either due to placement through informal procedures, falsification of identity, or confiscation of legal documents). Ironically, the government does recognize that the estimated number of Indonesian migrant workers in irregular situations is high; according to the BNP2TKI, today there are 4.3 million Indonesians working abroad, and additional two to four millions are working illegally.

⁷ However little has been done to ensure protection for these workers.

At the local level, some local governments have also issued local regulations (Peraturan Daerah or Perda) concerning the placement and protection of Indonesian migrant workers from their area of authority. A study of local regulations concerning migrant workers by the National Commission on Violence Against Women (Komnas Perempuan) found three main reasons behind the weak local regulations: the weak legal reference used for the protection of the rights of migrant workers; the tendency to give priority to retribution or local income; and the limited inclusion of absence of a gender and human rights perspective within the local laws.⁸ Out of the six existing local regulations studied, only one - the regulation issued by West Lombok Regency - used a human rights and gender equality perspective.

Domestic: Recruitment Repatriation and Protection

Recruitment agencies and sponsors play a significant role in the movement of Indonesian migrant workers. The process of placement is centralized in the larger cities, particularly in Jakarta, however some recent efforts to decentralize the migration processes has led to the processing of passports and the development community-based training centres in various villages in Java.⁹ However the sponsors play a large role in seeking and approaching prospective migrant workers outside of cities. Sponsors generally recruit potential

5 Dewi Kurniawati & Hera Diani, "The Misery of Indonesia's Migrant Workers". accessed from <http://thejakartaglobe.com/home/the-misery-of-indonesias-migrant-workers/324780>, March 2, 2010.

6 Krisnawaty, 2006 Futile: Reform is Impeded by Bureaucracy, Jakarta: Komnas Perempuan

7 Dewi Kurniawati & Hera Diani, 2010

8 Catatan Tahunan 2008: 10 Tahun Reformasi: Kemajuan dan Kemunduran Perjuangan Melawan Kekerasan dan Diskriminasi Berbasis Jender (Jakarta: Komnas Perempuan, 2008).

9 Dewi Kurniawati & Hera Diani, 2010

migrant workers from their own neighbourhoods and assist them with the documentation processes and travel to the recruitment agencies in the city. Prospective migrant workers usually pay the sponsors 2,000,000IDR (200USD) for transportation and other expenses, and the sponsors will also receive 600,000IDR (60USD) to 1,000,000IDR (100USD) per recruited person from the agencies.¹⁰ Once the migrant workers are in the shelter of the recruitment agencies, they become the ‘responsibility’ of the agencies, for the processing of documentation, medical check-up, and training. The government has set a standard placement fee for the agencies to charge the prospective migrant workers according to the destination country. However, the standard fee is very high, which impacts significantly on migrant workers since the fee will be deducted from their salary.

Migrants who travel to Malaysia are charged a standard fee of 2.5 million rupees (USD253) going to East Malaysia and 3.865 million rupee (USD390) for those going to West Malaysia. They use a standardized contract form developed specifically as result of an MOU agreement between the Indonesian and Malaysian government. Workers going to other destinations do not use a standardized form. All workers sign both the placement contract (between prospective migrant worker and recruitment agency); and later, prior to departure, sign the working contract (between prospective and prospective employer). As regulated by Law No. 39/2004, the placement contract should include the rights and obligations of both parties, type of work requested by the employer, and amount of placement fee paid by migrant worker. The provisions in the working contract are similar but also include details regarding labour conditions (including working hours, wage and method of payment, leave and rest arrangement, facilities, and social security), and period of work. There are however issues with the signing of the contracts as migrant workers have claimed that they are often made to sign the working contract at the airport so they do not have time to read the contract properly, and some migrant workers are not able to read the contract due to their illiteracy or the limited understanding of the language used in the contract.

To date there is no regular monitoring conducted by the government for either recruitment agencies or sponsors. In 2004 there was an estimated 400 licensed recruitment agencies operating in Indonesia, and more are operating illegally.¹¹ Nevertheless, BNP2TKI issues a list of ‘problematic’ recruitment agencies annually, and will revoke the license when there is evidence of poor performance or negative reports about migrant workers placed by these agencies. However it is not difficult for the suspended agencies to re-establish a new recruitment agency under a new company name. Without regular monitoring there is no guarantee that recruitment agencies adhere to regulations. For instance, prospective migrant workers are supposed to wait at the agency for a month or two before departure however in practice it is common for migrant workers to stay at the agency for up to six months because the agency has not found the ‘suitable’ job for the migrant workers. During the training period, prospective migrant workers should not be employed, but sometimes there are reports from prospective migrant workers that they were employed at the agency’s owner’s house. The condition of the shelter is also often overcrowded, with poor accommodation, food and living conditions and migrants are often prohibited from leaving and have limited contact with their families and communities.

Recruiting agencies are also mandated to provide pre-departure education and training, delivered over two days, covering conditions and culture in the destination country, risks of working abroad, language-skill, and the rights and obligations of Indonesian migrant workers. Prospective migrant workers are obligated to participate in this training and to receive a certificate of work competency. In addition the agencies provide training for prospective migrant workers to increase their working skill to meet the requirement of the country of employment. The training includes language lesson, cooking, practices to use electronic appliances for domestic workers, etc. However, in reality, prospective migrant workers often do not receive sufficient training needed for their work overseas.¹²

Migrant workers returning to Indonesia, who have experienced problems overseas can seek assistance from the Ministry of Foreign Affairs’ Office in Jakarta, Directorate of Protection of Indonesian Citizens and Legal Bodies (Direktorat Perlindungan WNI dan BHI). The services include legal aid, assistance to repatriate

10 Pei-Chia Lan, 2006, *Global Cinderella’s: Migrant Domesticities and Newly Rich Employers in Taiwan*, p. 82.

11 Human Rights Watch, 2004, *Help Wanted: Abuses Against Female Migrant Domestic Workers in Indonesia and Malaysia*.

12 Interview by Solidaritas Perempuan with female migrant workers, January and October 2009

Indonesian migrant workers who are having problems overseas or with the return of the bodies of Indonesian migrant workers who died overseas.¹³ Another mechanism created by the government to protect the migrant workers upon their return is the special terminal for Indonesian migrant workers at the Soekarno-Hatta Airport. The terminal is set up for migrant workers to report any work-related issues and cases that are commonly reported include termination of contract by employers, repatriation due to illness, unpaid wages, work contract violations and physical and sexual abuse.¹⁴ Out of 1,000 Indonesian migrant workers returning through the terminal daily, there are around 100 work-related cases reported.¹⁵ The cases reported are dealt with by the officials, and then considered closed after the migrant worker receives insurance compensation. Ironically however the location and practices within the migrant terminal has lead to additional layers of exploitation and disadvantage for returning migrant workers. Due to the terminal's location the workers are forced to pay extra transport costs and higher ticket prices for travel between the terminal and their home communities, and the exchange rate used within the terminal is lower than the rate within the regular airport.¹⁶

Apart from these issues based repatriation services there is no clear reintegration scheme sponsored by the government. Returned migrant workers usually use the money they gained from working abroad for consumption, not for production. The government, hand in hand with local NGO and banks, has started to encourage migrant workers to use their money to be involved with micro credit and start small business. However, the response from returned migrant workers is still weak.

Abroad: Bi-Multilateral Agreements and Migrant Worker Protection

Article 8 of the Indonesian migration law recognizes the rights of migrant worker's whilst they are working in placements abroad. This includes their right to information and equal access to the labour market abroad, to receive equal service and treatment whilst abroad, the right to religious freedom and labour rights including wage standards, legal protection and standard work contracts. However these rights also defer to the legislation of the destination country. The law mandates however that the representatives of the Government of Indonesia should give protection to the Indonesian migrant workers abroad according to the legislation and international law and customs, and for this purpose, the government is able to create the post of Labour Attaché in destination countries. Since 2007, the Ministry of Foreign Affairs gradually formed Citizen Services at embassies/consulates in countries with significant numbers of Indonesian citizens including: Singapore, Brunei, South Korea, Qatar, Syria, Jordan, Saudi Arabia, United Arab Emirates Hong Kong, Kuwait and three areas in Malaysia (Kuala Lumpur, Johor Baru and Kinabalu).¹⁷ These services however are often inadequate and Indonesian embassies are often full of Indonesian migrant workers seeking protection from exploitative working conditions in these destination countries, and often the shelter provided by the embassy, (if there is any), is not sufficient to accommodate all of those who need assistance.

The government of Indonesia has signed six memorandum of understanding (MOU) with destination countries. This includes: Malaysia (one concerning migrant workers signed in 2004 and one concerning domestic workers signed in 2006); Korea (2006), Taiwan (2004), Jordan (2001) and Kuwait (1996). In general, the MOU stipulates terms for the placement of migrant workers, rather than their protection, because the spirit of the agreement is to increase the efficient flow of labour migration between countries. The actual rights and protections of migrant workers are weak and fall short of international labour standards failing to provide clear standards on wages and working conditions. For instance, in the MOU with Malaysia concerning domestic workers (2006), it is stipulated that domestic workers are not allowed to be married in the country of employment; there is also no stipulation for basic entitlements such as a mandatory 'day off' or leave or minimum wages. At the current time, the government of Indonesia and the government of Malaysia are negotiating a revision to the MOU concerning domestic workers (2006). It is said that the new MOU will include a minimum monthly wage (600RM, around 173.9USD); however, the requests of the Indonesian

13 Kementerian Luar Negeri Republik Indonesia:

<http://www.deplu.go.id/Pages/ServiceDisplay.aspx?IDP=1&l=en>

14 Catatan Tahunan 2008: 10 Tahun Reformasi: Kemajuan dan Kemunduran Perjuangan Melawan Kekerasan dan Diskriminasi Berbasis Gender, p. 18. Komnas Perempuan,

15 Ibid

16 "TKI, Pahlawan Devisa yang Tak Diperhatikan," November 19, 2009, accessed from <http://www.rnw.nl/id/bahasa-indonesia/article/tki-pahlawan-devisa-yang-tak-diperhatikan>, March 2, 2010

17 Dewi Kurniawati & Hera Diani, 2010

government for the workers to have one day off and to be able to keep their passport and documentation have not been agreed.¹⁸ Bilateral agreements and MOU also tend to regulate only workers that migrate through official procedures and again leave undocumented workers outside of the regulations and vulnerable to exploitation.

In addition to the MOU, at certain times the Government of Indonesia has declared a moratorium on the placement of Indonesian migrant workers due to exploitative conditions in certain destination countries. For instance, since mid 2009, the Government of Indonesia halted temporarily the placement of Indonesian migrant workers in informal sectors in Malaysia, triggered by continuous reports of abuses against Indonesian migrant workers by their Malaysian employers. The moratorium is a way to urge the Malaysian government to give serious protection for Indonesian migrant workers in the country. Until now however the moratorium stands until governments can agree on the minimum standards of protection.

Signatories to UN/ILO Conventions

The Government of Indonesia has signed but not ratified the International Convention on the Protection of Rights of All Migrant Workers and Their Families on September 22, 2004. As the most comprehensive convention protecting the rights of all migrant workers, regardless of their status, it has been scheduled twice in the National Plan for Action on Human Rights (Rencana Aksi Nasional Hak Asasi Manusia or RANHAM), however to date it has been scheduled again for the third time, with no significant progressive effort made in terms of effort to ratify the convention soon. Indonesia has however ratified all of the core ILO labour rights conventions apart from Convention 143 for undocumented workers. (see Chart 1).

National Remittance Profile

Remittances to Indonesia have grown from around 2 billion in 2001 to 8.2 billion USD (2009). Every year, the government estimates the size of remittance from the migrant workers, with the 2010 estimate that Indonesian migrant workers would send remittance up to 10 billion USD to Indonesia.¹⁹ Estimates of remittance shows only those recorded through formal channels with the actual amounts estimated to be significantly higher. For instance, in 2006, Bank Indonesia recorded the remittance sent by migrant workers as 5.6 billion USD, but according to the estimation of the Head of BNP2TKI, the total remittance in that year might reach 11-12 billion USD.²⁰ Such a significant gap occurs because migrant workers often prefer to bring the money they earned with themselves when they return to Indonesia rather than send it via bank.

Target and Realization of Placement and Remittance of Indonesian Migrant Workers, 2001-2007

No.	Year	Target		Realization	
		Placement	Remittance (in USD)	Placement	Remittance (in USD)
1.	2001	400,000	2,000,000,000	295,148	
2.	2002	400,000	2,000,000,000	480,393	2,000,000,000
3.	2003	400,000	2,000,000,000	293,865	1,663,402,112
4.	2004	400,000	2,000,000,000	380,690	1,883,913,027
5.	2005	700,000	3,000,000,000	474,310	2,930,916,519
6.	2006	700,000	3,500,000,000	680,000	3,416,300,120
7.	2007	700,000	4,844,000,000	644,290	4,850,000,000*)

*) Data up to the first week of 2007 Source: BNP2TKI ²¹

18 Putri Prameshwari, "Foreign Affairs Minister Discusses Migrant Workers, Human Trafficking", in Jakarta Globe, February 9, 2010, accessed from <http://www.thejakartaglobe.com/national/foreign-affairs-minister-discusses-migrant-workers-human-trafficking/357544>, March 3, 2010.

19 Jakarta Globe "Indonesian Migrant Workers Expected to Send More Money Home in 2010," in <http://thejakartaglobe.com/home/indonesian-migrant-workers-expected-to-send-more-money-home-in-2010/338625>, March 2, 2010.

20 "Tahun 2007 TKI Sumbang Devisa US\$ 480 Milyar", December 28, 2007 accessed from <http://bnp2tki.go.id/content/view/106/180/>, March 5, 2010.

21 BNP2TKI Data cited in Komnas Perempuan, Catatan Tahunan 2008: 10 Tahun Reformasi: Kemajuan dan Kemunduran Perjuangan Melawan Kekerasan dan Diskriminasi Berbasis Gender, p. 16.

From the interviews conducted by Solidaritas Perempuan, migrant workers are often unaware of the procedure of sending their money through banks due to the lack of information from the government.²²

The Government of Indonesia clearly benefits from these significant levels of remittances and hails migrant workers as ‘foreign exchange heroes’. By sending their income back to the family in Indonesia, migrant workers contribute directly and indirectly to the national economy. The financial sector benefits from those who send their remittances via the banking system. The government benefits via significant foreign exchange contributions. And at the same time, the remittance sent by migrant workers is also important in motivating the local economy in the village.

²² Interview by Solidaritas Perempuan with a former female migrant worker at Karawang, October 11, 2009.

NEPAL

- IOM Member State since 2006
- Capital: Kathmandu
- Population (2010): 29.8 million
- Area (1994): 147,181 sq km
- Language: Nepali
- Currency: Nepalese rupee (NPR)
- GDP per Capita PPP (2007): USD 1,049
- HDI Rank (2007): 144 of 182
- Remittances (2008): USD 2,727 million
- Net Migration Rate (2005-2010): -0.7 migrants /1,000 population
- Immigrants (2010): 3.2%
- Women as a Percentage of Immigrants (2010): 68.2%
- Population under 15 (2010): 35.9%
- Adult HIV Prevalence (2007): 0.5%

Migration Trends

The history of migration for employment is not new for Nepal, having its roots in migration for military purposes 200 years ago. Nepalese men migrated to join the armies of the British in the 1800s, the Indian Military in 1947 and the armies of Singapore and Brunei. India however was the first destination country to attract civilian migrants from Nepal and now India represents the largest market for Nepali migrants mostly from mid and far west Nepal.

Current destinations for Nepalese migrants are based on the demand for labour and span a large number of countries within the Gulf States, and the Asia region. The Nepalese government has listed 107 countries¹ where Nepalese migrant workers can apply for official permission to work, compiled on an ad hoc basis for possible employment of Nepal's largely unskilled workers. It is estimated that every day some 560 Nepalese fly out of Nepal for foreign employment. Whilst there is no official cumulative figure on the total number of Nepalese working overseas due to a lack of data on returnee migrants; in the year 2008 the total number of people who migrated through official channels for foreign employment summed to 266,666.² According to the data from Department of Foreign Employment the Middle East remained the top destination for Nepali migrant workers with Qatar, Saudi Arabia, and United Arab Emirates (U.A.E.) as the main destination countries.³ In 2009, Qatar and U.A.E. saw a slight decrease in numbers of documented Nepali migrant workers. Following the Middle East, the East Asia region received a total of 50,344 Nepali migrant workers with Malaysia being the major destination country in this region. Others included Brunei, Cambodia, Hong Kong, Laos, Macao, Philippines, Singapore and Thailand. The SAARC region countries (other than India) such as Afghanistan, Maldives, Sri Lanka and Pakistan had 1,841 official migrant workers from Nepal going to work in 2009. There has been a decrease in numbers of Nepali migrant workers going to other Asian countries, Central America and Oceania while an increase has been recorded for those going to Europe (551), North America (466) and Africa (915) in comparison to official figures of 2008. Among the African countries Libya has been the major destination country. Nepali migrants are involved mainly in entry level or menial types of work. Common occupations for Nepali migrants include laundry operator, cleaner, transport labour, load and unload worker, plumber, glass cutter, construction worker, steel welder, truck driver, metal fitter, helper, gardener, steel fabricator, machine operator, security, carpenter, civil driver, sanitary and pipe technician, house maid, production men, and electrician.

¹ Department of Foreign Employment Nepal 2009. www.dofe.gov.np

² NIDS, 2009, Nepal Migration Book 2008, Heidel Press Pvt. Ltd., Katmandu, Nepal

³ Department of Foreign Employment, Nepal 2009: www.dofe.gov.np. Top ten list is prepared on the basis of data of 2009 available from the on the number of final approvals provided by the department both on organizational and individual applications for foreign employment

Labour export from Nepal is governed by the Foreign Employment Act 2064 (FOE 2007), which replaced the Foreign Employment Act 2042 (1985). The Act aims to develop overseas employment as a safe occupation, manage the migration process and to protect the rights and welfare of the migrant workers. It delineates the role of government in the management of foreign employment through: the regulation of recruiting agencies and processes; the establishment of minimum wages, labour contracts and insurance protections; training; the establishment of a welfare fund and handling of complaints for compensation. The Act provides for the formation of a 19 member Board, the Foreign Employment Promotion Board which is now chaired by the Minister/State Minister of Labour and Transportation Management. Further, it also has provisions for crime and punishment, investigation and enquiry, and legal redress in cases of trafficking and forced labour.

This relatively new legislation also has provisions to eliminate gender discrimination which previously resulted in a ban on Nepali women working in Gulf States unless it was in an organized sector. The removal of this ban was seen as necessary in that it unfairly prohibited all women from accessing migration opportunities in the informal sector due to concerns for their welfare and possible exploitation when working as domestic workers in the Gulf. However, despite the gender provisions in the new policy, the government has imposed an unofficial ban from the first week of September 2008 to female migrant workers embarking as foreign domestic helpers to the Gulf States and Malaysia. The ban has been implemented on the basis of request letters sent by Ambassadors of Nepal posted at Saudi Arabia and Malaysia. Both Ambassadors have stated that Nepali women are suffering from various difficulties which have made them more vulnerable. The ban by the Labour Department/Ministry implies forbidding a large group of women who are about to leave the country for working as foreign domestic workers. It is still in place at the time of writing this report.

Domestic: Recruitment Repatriation and Protection

The Department of Foreign Employment (DoFE) under the Ministry of Labour and Transportation Management is the regulating body for labour recruitment. Recruitment and pre-departure training is delivered via licensed private agencies in Nepal who meet the requirement as set by the government through the migration law. There are approximately 632 recruitment and 48 pre-departure orientation agencies operating in Nepal.¹⁰ The DoFE has a legal mandate to monitor recruitment agency practices through periodic inspections and review. DoFE officials are also mandated to play a role in approving individual applications for labour migration via official interviews with migrant workers who are applying to migrate and the issuance of final visa approval via a sticker of labour permission in the passport of the worker.

In practice however the government has little control in regards to monitoring and regulating migration. Due to poor governance in the sector many Nepalese migrant workers are being deceived either in-country or abroad by middlemen, relatives, agents, and employers. A lack of trust and understanding among key stakeholders, the recruiters and government, has resulted in the suffering of migrant workers. Due to the illegal activities of some recruiters, the negative attitudes of government officials and lacunas in government policies and legislation, many migrant workers continue to suffer. There are documented instances of coercive and corrupt migration practices that have resulted in the loss of life and property of migrant workers whilst many workers are in prisons abroad as a result of dubious foreign employment practices. This has led to a widespread public perception of foreign employment recruitment as being an unfair and unethical business despite its contribution to Nepal's subsistence economy.¹¹

The DoFE sets standard fees and practices for agents and agencies to abide by in the recruiting process. For Nepalese migrant workers going to Malaysia there is a standard recruitment fee set by the DoFE that places a maximum fee charge of no more than NPR 80,000 (USD1051) as the recruitment cost. However, there have been cases where migrant workers have been found to pay up to NPR 100,000 (USD1313). Focus group discussion with representatives of recruiting agencies undertaken in 2007, revealed that agents were forced to falsify migration documents to show wage rates for migrant workers that were higher than the actual wages workers would receive overseas (the documents noted that migrant workers are paid 17 Ringit per day (USD4.83) whereas in reality they are only paid 7-15 Ringit per day (USD2 - 4.26)). This resulted in a wide outcry that recruiting agencies were cheating people migrating to Malaysia; however the agents claimed

¹⁰ Department of Foreign Employment, 2009. Full list can be downloaded from [website www.dofe.gov.np](http://www.dofe.gov.np)

¹¹ NIDS, 2008, Study on Migrant Recruitment Practice in Nepal, Kathmandu, Nepal

Migration from Nepal occurs in the context of a developing country with high levels of domestic unemployment, slow progress in human development and a climate of political instability. Despite the availability of a significant labour force within the country (3.6 million people in 2008), it has not been fully utilized, with a large proportion of youth facing unemployment as well as widespread semi-unemployment and disguised unemployment in the agriculture and rural sector. The Nepal Labour Force Survey II (2008)⁴ found that although official unemployment was only 2.1 percent, 30 percent of the labour force was underutilized, 6.7 percent experienced time-related underemployment, 8.1 percent had inadequate earnings and 13.2 percent had skills mismatched. Males fared worse in all of these areas when compared with females, with higher levels of unemployment, underemployment, and skills mismatch.

Political instability in the country arising from the decades-long conflict between Maoist and the government forces has impacted negatively on economic growth. The Communist Party of Nepal (Maoist) formed the first government with support from other parties after Nepal becoming a federal democratic republic state in July 2008. However demonstrations and conflict have continued, resulting in commodity price increases and the shut down of domestic industries in the country. As a result, many of the workers in those industries have been forced into unemployment. Economic growth has also been stifled owing to factors such as the energy crisis, climate change, decline in capital expenditure, the absence of elected local representatives and the global economic crisis.⁵

Human Development indicators show that Nepal faces challenges with poverty levels and gender development, being ranked 99 among 135 countries using the Human Poverty Index, and placed amongst the lowest third of the 155 countries ranked in the Human and Gender Development indicators.⁶ The tattered economy has had very little to offer the youth and unemployed with both men and women forced to seek foreign employment in order to support their families and communities.

The government of Nepal has pursued measures for economic liberalization, via the implementation of a Free Trade agreement in 1995 with member states in South Asia, to open up the domestic markets to trade via the lowering of tariffs and more cooperative agreements of the movement of both products and labour. More recently there have been positive developments with the GDP growth rate growing over 2007/08 by 5.6 percent, owing to a developing peace process, gradually improved law and order and growing consensus and co-action.⁷ This is leading to a more investment-friendly climate, increased opportunities in trade and services sector and increased production of major agricultural crops.⁸ Remittances from migrant workers as well as a growing tourism sector has enabled more satisfactory levels of foreign exchange reserve and a balance of payment surplus were in a satisfactory condition over 2008.⁹ Though the government had announced the establishment of a separate fund for providing self-employment opportunities for youth it is still yet to materialize. With the fall of the Maoist led coalition government another coalition government without the Maoist was formed towards the mid of 2009.

Labour Export Policies and Procedures

The Labour Migration Policy (2006) was put in place to develop a joint perspective and strategy to control human trafficking and for the protection of the rights of Nepalese migrants with the cooperation of destination countries. The policy gives clear provisions for effective supervision and management at international borders and points of departure to control illegal human trafficking and informal migration. The policy also enables the Nepalese labour sector to organize and streamline its plans according to the basic guidelines of the International Labour Organization.

4 Nepal Labour Force Survey 2008: <http://www.cbs.gov.np/Surveys/NLFS-2008%20Report.pdf>

5 Budget Speech of Fiscal Year 2009/10, Ministry of Finance, Government of Nepal

6 Human Development Reports 2009: <http://hdr.undp.org/en/statistics/>

7 Budget Speech of Fiscal Year 2008/09, Ministry of Finance, Government of Nepal

8 Ibid

9 Ibid

that the government was complicit in the knowledge of this practice.¹² Further problems with the recruitment system are found in the fact that migrants are often not adequately informed or do not understand completely their rights and responsibilities under overseas employment contracts, and rely on sub-agents to assist them in managing this process. The lack of government monitoring of the practices of sub-agents however increases the potential for exploitation and corruption.

An investigative study of the recruitment process in 2007 found high levels of corruption and exploitation committed by both domestic and international recruiting agents and companies as well as government officials in Nepal.¹³ Common practices that were identified included: recruiting agents at the local level stealing passports and money from prospective workers, fraudulent agents using fake documents with false promises of work overseas that resulted in workers being stranded in the destination country; selling of fake certificates and documentation; demand for bribes by government officials; contract substitution from companies overseas and targeting of female migrants at airports for bribery and harassment. There are significant legal provisions within the FEA 2007 including punishment, compensation and redress for migrant workers who are victims of these practices. This includes fines, loss of recruiting license and imprisonment for up to 7 years, and reimbursement of all costs incurred for migration. However there has been little success in compensation claims to date and the system is in need of greater monitoring and accountability mechanisms to protect the rights of workers.

The government of Nepal has implemented a Foreign Employment Welfare Fund to provide social security and welfare to the workers and their family who have gone to or returned from the foreign employment. The Fund can be used for pre-departure skills training for migrant workers; compensation in cases of injury; financial support and employment oriented program for returned workers; and repatriation of the bodies of workers who have died overseas. Despite the existence of this fund however there have been no comprehensive re-assimilation programs for returned workers and their families implemented by the government to date.

Abroad: Bi-Multilateral Agreements and Migrant Worker Protection

For the protection of workers abroad there is provision for the appointment of a Labour Attaché in destination countries which includes an official from Nepal based within foreign Diplomatic Missions, assigned with the responsibility of promoting the welfare of Nepali workers. At the present time there are labour attaches in the Missions in Malaysia, Saudi Arabia, Qatar and the U.A.E., who are currently functioning at the level of either Under Secretary or Section Officer within the Missions organisational structure. The Ministry of Labour and Transportation Management recently sought consent from the Ministry of Foreign Affairs to appoint labour attachés in seven more destinations namely Japan, South Korea, Kuwait, Israel, Hong Kong, Bahrain and Oman. There have been reports however that Nepali Embassy officials abroad can do very little to assist undocumented migrant workers from Nepal as their services generally only extend to those who have migrated for foreign employment through official channels.¹⁴

In addition to diplomatic services Nepal has signed a number of bilateral agreements with significant destination countries including the U.A.E., a protocol with Qatar, and three agreements with South Korea that are expected to promote the welfare and interest of Nepali migrant workers in those countries as well as promote further employment opportunities for Nepali workers. In 2009 an agreement was signed with Bahrain and currently there is discussion at the government level regarding an MOU with Malaysia. The content and progress of MOU however are not often made public and details of the agreements are not routinely shared with migrants, their families or any of the organisations working to support the rights and protection of migrant workers from Nepal.

¹² NIDS, 2007. Focus group discussion with representatives of recruiting agencies on migration issues, 2007

¹³ Adhikari J. and Gurung BK., 2007, Overseas Recruitment Industry in South Asia – A case study of Nepal, NIDS, Kathmandu

¹⁴ NIDS, 2010, Nepal Migration Year Book 2009, Kathmandu

Signatories to UN/ILO Conventions

Nepal became the first country in South Asia to ratify the International Labour Organisation Convention No. 169 related to the rights of Indigenous and Tribal peoples, bringing to 11 the total number of ILO Conventions signed by Nepal. However Nepal has failed to sign or ratify ILO Conventions 87 and 143 related to the right to organise and collectively bargain, and the rights of undocumented workers respectively. Nepal has ratified all of the major human rights conventions affecting migrant workers, apart from the Convention to Protect the Rights of Migrant Workers and their Families (1990). (Please refer to Chart 1)

National Remittance Profile

A total of NPR 173,844 million was received as remittance through formal banking channels alone in 2008. In 2007 remittance had amounted to NPR 92,437 million. Media have been reporting on certain districts receiving a disproportionately high amount of remittance. The Nepal Living Standards Survey estimates that the total amount of remittance in the country is NPR 46 Billion in nominal terms.¹⁵ Flows from India accounted for 23 percent, three Arab countries for 27 percent, other countries for 17 percent and internal sources for the remaining share. This shows a large shift from eight years ago when internal sources and India accounted for more than three-quarters of the total amount.

Nepal Rastra Bank has estimated in 2005-06 (fourth household budget survey) that 22 percent of the remittance enters Nepal through banks, 44 percent through remittance-transfer companies, 29 percent (32 percent in rural areas and 25 percent in urban areas) through Hundi, and 5 percent through other medium.¹⁶ Slightly higher proportions of remittance come to urban areas through banks and remittance-transfer agencies as compared to rural areas. Until 1997, a large proportion (about 80 percent) was assumed to have come through Hundi.

The upsurge in remittances has led to a surplus in the current account, thereby strengthening the overall balance of payments position within the country. The share of remittances in total current account receipts, for instance, soared from 33.6 percent in 2001/02 to 50.8 percent in 2007/08.¹⁷

There is no fixed policy that directs the use of remittance in Nepal. Remittance is one of the forms of income which directly reaches households. As a result, its contribution at the household level is clearly seen.¹⁸ One of main reasons to migrate is to meet food deficits at the household level, i.e., to complement the number of months that the local farm economy would meet the food requirements. This is particularly so in case of seasonal and temporary migration to India that takes place as a regular phenomenon in far and mid west Nepal. Almost 70-90 percent households take part in this type of migration.¹⁹

¹⁵ Nepal Living Standards Survey, 2003/04, Central Bureau of Statistics, Kathmandu, Nepal

¹⁶ NIDS, 2009, Nepal Migration Year Book 2008, Heidel Press Pvt. Ltd., Kathmandu, Nepal

¹⁷ Pant, B., 2008, NRB/WP/4, Mobilizing Remittances for Productive Use: A Policy-oriented Approach, Research Department, Nepal Rastrya Bank, Kathmandu, Nepal

¹⁸ NIDS, 2009, Nepal Migration Year Book 2008, Heidel Press Pvt. Ltd., Kathmandu, Nepal

¹⁹ Ibid

PAKISTAN

- IOM Member State since 1992
- Capital: Islamabad
- Population (2010): 184.8 million
- Area: 796,095 sq km
- Language: Urdu
- Currency: Pakistan rupee (PKR)
- GDP per Capita PPP (2007): USD 2,496
- HDI Rank (2007): 141 of 182
- Remittances (2008): USD 7,039 million
- Net Migration Rate (2005-2010): -1.6 migrants /1,000 population
- Immigrants (2010): 2.3%
- Women as a Percentage of Immigrants (2010): 68.2%
- Population under 15 (2010): 36.6%
- Adult HIV Prevalence (2007): 0.1%

Migration Trends

Pakistan has one of the highest population growth rates in the world, and also faces issues of being a developing country with limited resources, and high levels of poverty and unemployment. Pakistan's economy is reeling from the effects of the War on Terror, as well as the economic restrictions imposed by the IMF loan undertaken in 2008 to stabilize the economy. In addition the country has increasingly been devastated by natural disasters and climate change with earthquakes and flooding damaging vital infrastructure (particularly housing), and along with war and terrorism, displacing tens of thousands of people. In mid-October 2008, the number of Pakistanis in poverty jumped from 60 million to 77 million because of food inflation.¹ The Pakistani government has estimated that a quarter of the population lives below its poverty line, but if poverty is measured as living on less than a dollar a day that would equate to 50 percent of the country living below the poverty line.² As of 2007, the unemployment rate was 7.5 percent but the percentage is likely much higher when taking account of underemployment, particularly in service jobs performed by women.³ The labour force is increasing by 2.4 percent, though labourers are often unskilled and illiterate.⁴ All of these factors combine to put pressure on the government to provide new employment opportunities, infrastructure, food, water, medical assistance, and financial aid, none of which it can adequately supply, and thus national debt and foreign dependence rises. The average Pakistani, facing unemployment, price hikes, devalued currency, inadequate services, pollution, and terrorism must seek employment outside of Pakistan if they and their family are to survive. Their exodus has not only reduced unemployment pressure in the country, but their earnings and savings in the shape of remittances has greatly helped in improving the national balance of payments. Today the export of labour has emerged as the one of the primary source of foreign exchange earnings in Pakistan and the government promotes migration for employment abroad to earn remittances, which is one of the most visible outcomes of labour migration.

The trend of migration for employment is increasing rapidly with as many as 4.2 million Pakistanis employed abroad from 1971-2007 as registered with the Bureau of Emigration and Overseas Employment.⁵ The majority of Pakistani migrant workers, (approximately 60 percent), are uneducated, semi-educated or unskilled with only 36 percent as educated professionals.⁶ The Middle East or the Arab Gulf Co-operation Council (GCC) Countries is the main destination for Pakistan labour with 96 percent of the total overseas Pakistanis working there. Saudi Arabia is the most popular country for migration, followed by the United Arab Emirates,

1 World News Network: http://article.wn.com/view/2008/10/17/Food_inflation_has_pushed_17m_more_Pakistanis_into_poverty_s/

2 Ibid

3 Index Mundi 2010: http://indexmundi.com/pakistan/unemployment_rate.html

4 Yes Pakistan.com: http://www.yespakistan.com/people/poverty_unemployment_stats.asp

5 of Documented Migration for Employment from Pakistan Source: Bureau of Emigration and Overseas Employment: <http://www.beoe.gov.pk/>

6 Bureau of Emigration and Overseas Employment: <http://www.beoe.gov.pk/>

Oman, Kuwait, Bahrain and Qatar. In 2008 there were a total of 221,765 workers registered in the U.A.E.⁷ In all major destination countries about 60 percent of Pakistani workers are working in the construction industry. Data shows that out of 4.2 million workers over the last four decades: 36 percent were unskilled labour followed by masons (306282) carpenters (222631), steel fixers (132286) and electricians 141998.⁸ Compared to male migrant workers, female migrant workers to the Middle East comprise less than 1 % of the total of migrants.⁹ Many Pakistani migrant workers are either illiterate or semi-literate as Pakistan's literacy rate is very low having just reached 54 percent in 2008.¹⁰

Labour Export Policies

In Pakistan the first migration law implemented was the Emigration Act 1922 which was later amended to form the Emigration Ordinance 1979 defining the role and responsibilities of related government and private agencies in relation to promoting and regulating emigration of workers for foreign employment. Established in 1971, the Bureau of Emigration and Overseas Employment (BEOE) (with seven regional offices - Protectorates of Emigration), is the centralized government agency set up to regulate emigration and to promote the interests and welfare of migrants and seafarers. The Emigration policy actively promotes labour export as a source of foreign exchange earning to support development in the country and as a tool for solving the unemployment problem. The policy promotes the operations of Pakistani businesses in obtaining contracts in foreign countries with strong incentives to encourage the export of services and labour abroad to bring in much needed foreign exchange.

The Emigration policy is currently under review and a draft national policy has been developed by the Ministry of Labour Manpower and Overseas Pakistanis. The first policy draft focuses on promoting migration, protecting migrants and developing effective re-integration strategies for returnees. The policy recognizes the great value of remittances for the Pakistani economy and emphasises the development of mechanisms for cost-effective and accessible remittance services through public-private partnerships. Developing the capacity of Migrant Associations in destination countries and incentives for building migrants' communities back home in Pakistan has also been promoted.

Some important measures for the protection of the rights of Pakistani workers overseas have been included in the draft policy including: the establishment of a help line, counselling services, more flexible opening hours and improved registration procedures in overseas missions; increased monitoring and penalization of recruiting agents; improved access to health and insurance coverage for migrants workers, improved pre-departure briefings, crisis management and preparedness.¹¹

Domestic: Recruitment Repatriation and Protection

The current Ordinance and Emigration Rules mandate both government private agencies to promote and regulate emigration. Lawful emigration under the Act can occur in a number of ways including: obtaining a letter of appointment and a work permit or employment visa from a foreign employer; obtaining an emigration visa from a foreign Government, being selected for emigration by a foreign employer through the Director General or by an Overseas Employment Promoter or under an agreement or treaty between the Government of Pakistan and a Foreign Government. The Ministry of Labour Manpower and Overseas Pakistanis issues licenses to recruitment agents called Overseas Employment Promoters (OEP) that procure demand for Pakistanis from abroad and process the demand according to the foreign employer's instructions. Each licensed OEP is required to obtain permission from the concerned Protector of Emigrants to undertake recruitment. There are currently about 2200 licensed OEP in the country. However, despite the fact that it is a cognizable offence for unlicensed recruiters to operate and law enforcement agencies are active in investigation and prosecution, it is estimated that there are an equal number or more of authorized OEP working in the field who are engaged in

7 Statement Showing the Number of workers registered for Overseas Employment by Bureau of Emigration and Overseas Employment during 2008. Bureau of Emigration and Overseas Employment <http://www.beoe.gov.pk/>

8 Data Table III- Overseas Worker's Job Categories Registered during 1971-200. Bureau of Emigration and Overseas Employment: <http://www.beoe.gov.pk/>

9 Bureau of Emigration and Overseas Employment: <http://www.beoe.gov.pk/>

10 Asian Development Bank: http://www.adb.org/documents/fact_sheets/pak.pdf

11 National Emigration Policy. Promoting Regular Emigration and Protecting Emigrants. Ministry of Labour and Manpower Islamabad (2009) <http://www.lmis.gov.pk/NMP.pdf>

illegal recruitment and smuggling of Pakistani migrant workers abroad. Despite the existence of licensing laws and the increasingly stringent anti-trafficking laws being implemented in many destination countries which see large numbers of Pakistanis being deported every day, the non-licensed OEP continue to operate a thriving illegal labour export market. Migrant workers from Pakistan however not only gain employment through licensed or unlicensed OEP but also find employment through their relatives and friends. Many of those who find foreign employment through licensed OEP will assist friends or relatives to register themselves through the regional government offices thereby playing an active role in promoting labour recruitment within their own communities.

Costs for migration are paid for by the migrant worker with set fees charged by government and recruiting agencies. The total costs include the following charges: Government agencies - 3500 PKR for mandatory medical tests; Protector of Immigrants - 2500 PKR (USD 30) for visa processing; Insurance Department - 650 PKR (USD 8) for each worker; Overseas Pakistani Foundation - 2000 PKR (USD 24); and the National Database and Registration Authority - 10,000 PKR (USD 120) for the overseas Pakistani identity card of the migrant worker. The Pakistani government has established three briefing centres in various cities of the country, where government officers carry out pre-departure briefings. These briefings are aimed at informing the workers of employers' rights, and stress the need for hard work, offer advice regarding home sickness, legal procedures for sending money to family members, securing travel documents and contacting the Pakistani embassy in case of need overseas. Furthermore workers are advised on customs procedures and prohibitions of the destination country, and given counsel on how best to conduct themselves in their country of work.¹² While the briefings provide advice for workers there is limited resources available to actually support them whilst overseas or upon return to Pakistan. There is no separate budget allocated to support health and welfare programs for migrant workers. The national health policy of Pakistan is based on "Health for All" but there is no specific policy on health issues particularly for prospective migrant workers or returnees. The new National Emigration Policy recognizes the need to set up a reintegration program for returning workers. The current lack of services for returning workers means that for many their lives have remained unproductive after migration and many would benefit from services to assist in their reintegration and employment upon return.¹³

Abroad: Bi-Multilateral Agreements and Migrant Worker Protection

The Emigration Act generally covers labour issues, but Emigration Rules under section 16 (2n) also emphasize measures for the welfare of emigrants and their dependents and establishment of machinery at home as well as abroad for the implementation of such rules. In order to implement these articles the government of Pakistan established the Overseas Pakistani Foundation (OPF) in March 1979. The Ministry of Labour, Manpower and Overseas Pakistanis administers the OPF with the head office located in Islamabad and regional offices in the provinces. The mandate of OPF covers its registered members abroad and their families in Pakistan as well as Azad Jammu & Kashmir. The main objectives of the OPE is to advance social welfare for Pakistanis working or settled abroad and their families in Pakistan by identifying their problems and contributing to their solutions. This includes establishing and managing a Welfare Fund that is mandated under the Ordinance. Funds are obtained from both the government and the private sector and each emigrant is required to contribute 550 rupees. The fund can be used in a number of areas such as the establishment and assistance for vocational training institutions providing training in such trades that are in demand overseas.

The Foundation also supports projects and initiatives for Pakistani workers overseas in the area of housing, education, religion, and health. In addition to the OPE there are 14 Community Welfare Attachés within Pakistani Embassies in nine different countries. Whilst government policy states that migrant workers abroad are eligible to receive assistance on health matters from the Community Welfare Attachés in destination countries, in reality, the Attachés do not appear to be involved in any health related matters, including cases of deportation based on medical reasons. There are no formal links between Embassies and any health institutions and programmes in Pakistan.

In terms of the countries within this study, the Pakistani government has signed labour MOU with both Malaysia and the U.A.E. In 2003 the Malaysian MOU was signed in order to promote the export of semi-skilled and unskilled workers to Malaysia, and in 2009 this commitment was re-emphasised by the High Commissioner

12 CARAM Pakistan, 2008, Review of Pre-departure program (PDP) for Prospective migrants and action research.

13 National Emigration Policy. Promoting Regular Emigration and Protecting Emigrants. Ministry of Labour and Manpower Islamabad (2009) <http://www.lmis.gov.pk/NMP.pdf>

for Pakistan who promoted bilateral relations with Malaysia, particularly in trade investment, business and opportunities for the Pakistani workforce in Malaysia, especially in relation to the expected boom in construction activities in Johor, Malaysia.¹⁴ For the U.A.E., the Pakistani government recently signed an MOU in May 2009, which was aimed at ensuring greater legal protection for the 860,000 estimated Pakistani workers in the country.¹⁵ The MOU is aimed at the protection of workers' rights and the prevention of exploitation by private labour supply agencies.

Signatories to UN/ILO Conventions

Pakistan has ratified all of the major UN Conventions related to the human rights of migrant workers except for the 1990 UN Convention on the Rights of Migrant Workers which provides the most comprehensive protections. IN terms of ILO conventions, again the Pakistani government has signed the major ILO conventions to protect labour rights part from the Convention to protect undocumented workers. (Please refer to Chart 1)

National Remittance Profile

The remittance sent by Pakistanis working abroad constitutes the largest single source of foreign exchange earning for the country. It is recognized in the draft National Migration policy that remittances have been playing an important role in the economy of Pakistan in providing balance of payments support, building up of foreign exchange reserves, generating funds for development and reducing poverty for decades. The Draft National policy indicates that total remittances sent by Pakistani nationals during 1972-2007 amounted to USD 68,241.3 million. According to the Central Bank, remittances sent home by overseas Pakistanis have touched an all-time high during the 2010 financial year to reach USD 8.906 billion.¹⁶ The majority of Pakistani emigrants send money through unrecognized private channels because of complicated banking procedures which include high transfer fees. However, remittances sent through 'hundi / money courier, friends, relatives, and parents are not documented. Therefore it is believed that total remittances are higher than officially reported. Pakistan relies on migrant remittances, which have had a far-reaching macro-economic impact, to provide 4.2 percent of Pakistan's entire Gross Domestic Product, in 2007.¹⁷

emittances have substantially reduced the dependence on foreign borrowing to finance investment and development projects, thus saving money that would be spent on interest payments. Dependence on foreign borrowing declined 45.3 percent in the early 1960s, another 22.3 percent in the early 1970s, and 12.5percent during the early 1980s.¹⁸ In 1982-3, when official remittance income from the Middle East peaked at \$3 billion USD, it represented more than 90 percent of Pakistan's annual export earnings, exceeding amounts earned from the major export items, such as cotton and rice, while also helping to overcome the country's large balance of trade deficits by a share as large as 80 percent. The following year, in 1983-4, Pakistan received twice as much in remittances as it did from foreign aid disbursements, and remittances through all financial years has continued to exceed aid disbursement.¹⁹ Remittances have also carried Pakistan through times of crisis: after September 11, 2001, despite the adverse affects of a global economic recession, the country's foreign exchange reserves nearly doubled; an achievement that the Asian Development Bank attributes to Pakistan's 112 percent increase in remittances.²⁰ The IMF has called Pakistan's remittances a vital component of Pakistan's balance of payments, that contributes to strengthening the rupee.²¹ Because remittance flows are larger than foreign direct investment flows, they are an imperative element in mitigating Pakistan's external vulnerabilities and conducting the monetary exchange rate policy. Barriers to the growth of remittances would cause an unbearable shock, not only to families of migrants individually, but to Pakistan's economy and national security in general.

14 Pakistan Defense Forum: <http://www.defence.pk/forums/economy-development/32664-100-000-pakistani-workers-malaysia-next-year.html>

15 Gulf News.com <http://gulfnnews.com/news/gulf/U.A.E./employment/U.A.E.-signs-mou-with-pakistan-1.153245>

16 The International News http://www.thenews.com.pk/daily_detail.asp?id=249830

17 Human Development Report Pakistan 2007: http://hdrstats.undp.org/en/countries/country_fact_sheets/cty_fs_PAK.html

18 Haider Yusufzai, 1997 Pakistani labour migration to the Middle East, Economic Review: http://findarticles.com/p/articles/mi_hb092/is_n4_v28/ai_n28687245/pg_1?tag=artBody:col1

19 Ibid

20 Asian Development Bank 2002 ; http://www.adb.org/Documents/news/PRM/2002/prm_200201.asp

21 Daily Times; http://www.dailytimes.com.pk/default.asp?page=2006\06\03\story_3-6-2006_pg5_1

PHILIPPINES

- IOM Member State since 1988
- Population (2010): 93.6 million
- Languages: Pilipino, English
- Currency: Philippine Peso (PHP)
- GDP per Capita PPP (2007): USD 3,406
- HDI Rank (2007): 105 of 182
- Remittances (2008): USD 18,643 million
- Net Migration Rate (2005-2010): -2.0 migrants /1,000 population
- Immigrants (2010): 0.5%
- Women as a Percentage of Immigrants (2010): 51.1%
- Population under 15 (2010): 33.4%
- Adult HIV Prevalence (2007): <0.1%

Migration Trends

The Philippines has a long history of overseas labour migration beginning from migration to the United States during the 1960s, the Middle East in the 1970's and in the 1980's to Japan, Canada United Kingdom Europe, Hong Kong and Singapore. The cause of Filipino migration is mostly economic in nature. Poverty, unemployment and the lack of prospects and alternatives are some of the push factors to migration. Some Filipinos migrate overseas to join family members who are already based abroad. There is a strong culture promoting migration in film, media and informal networks in the Philippines which inspires many to seek better prospects and lifestyles abroad.

Up to the mid-1980s, the vast majority of migrant workers from the Philippines were men, however female migration increase during the late 1980s, due to demand for service work in the international arena. In 1975, women only comprised 12 percent of Filipino migrant workers however by 2004 this figure reached a high of 74 percent, with women migrating for household domestic work and care-giving, as well as in the entertainment sector (mostly in Japan until 2005) and nursing. In recent years though, the ratio of male and female migrant workers have more or less evened out.¹ Approximately one out of every six families in the Philippines has a member who is an Overseas Foreign Worker (OFW),² which translates to approximately 2.5 million families out of the country's 18 million families having an OFW member working abroad.

Data on migration indicates that on a daily basis, some 3,772 documented overseas Filipino workers were deployed globally in 2008 (more than 1.376 million OFW were deployed overseas in 2008, up by 27.8 percent compared to 2007).³ The top destinations of OFW are Saudi Arabia, the United Arab Emirates, Qatar, Hong Kong, Singapore, Kuwait, Taiwan, Italy, Canada and Bahrain. They are engaged in service work, as professionals, and as domestic helpers, labourers and care-givers. The Philippines relations with Middle East countries, including the U.A.E. is important due to the Philippines dependence on oil imports, the issue of Muslim separatism in the south, and the many Filipino contract labourers in the Middle East. In 1980, the Philippines established diplomatic relations with the U.A.E. and since then, it has become a top labour-receiving country in the Gulf region for Filipino workers. It is estimated that 120,000 OFW were deployed to the U.A.E. in 2007 up from about 99,000 deployed in 2006. For the years 2006-2007, it has remained the number two destination of OFW both for new hires and re-hires. In fact about 25 percent of the total OFW who were deployed in 2007 went to U.A.E. It is also in the top ten sources of remittances to the Philippines.⁴

1 Philippine Overseas Employment Administration "Total Deployment of new-hire temporary Workers by Gender", POEA Statistics 1992-2007. <http://www.poea.gov.ph/html/statistics.html>

2 Mahar Mangahas, Social Weather Stations, Philippine Daily Inquirer, May 24, 2008; in figures from March 28-31, 2008 Social Weather Survey at the national level

3 Philippine Overseas Employment Administration (POEA) 2007 <http://www.poea.gov.ph/html/statistics.html>

4 Ibid

Labour Export Policies and Procedures

Prior to the 1970s there was minimal government control of overseas employment in the Philippines however the last four decades has seen increasing government involvement, firstly in the promotion and export of overseas labour and more recently in moves to protect the rights of overseas workers. The 1974 Labour Code created the Overseas Employment Development Board (OEDB) and the National Seaman Board (NSB) to undertake a systematic program for overseas employment. They were mandated as the primary government agencies for market development, recruitment and placement for Filipino workers. In 1982, the Philippine Overseas Employment Administration (POEA) was created taking over the functions of the OEDB and the NSB. It was also given jurisdiction over cases involving contract workers.

The Welfare Fund for Overseas Workers was established in 1977 to provide social / welfare services, skills and career development services to Filipino overseas workers, to undertake research for enhancement of their social, economic and cultural well-being, and to implement specific projects for the benefit of Filipino overseas workers. In 1987, this agency was restructured and named the Overseas Workers Welfare Administration (OWWA).

In 1987, the Philippines amended its Constitution including the provisions contained in it. The labour policy was defined in Article XIII of the new Constitution and it states that “The State shall afford full protection to labour, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.”

During the term of President Corazon C. Aquino, overseas Filipino workers were hailed as the country’s new heroes (Bagong Bayani) and overseas migration for labour was heavily promoted across the country. The flow of remittances from migrant workers enhanced the desirability of overseas migration. As more Filipinos were deployed abroad more opportunities surfaced, but at the same time more problems started to emerge. This included issues such as illegal recruitment, lack of welfare and protection for workers and their families, the plight of undocumented workers, and the exploitation of women migrant workers.

During the Ramos Administration, Republic Act No. 8042 otherwise known as the Migrant Workers’ Act was enacted which now serves as the legislative framework on overseas deployment policy. The Act recognizes the significant contribution of Filipino migrant workers to the national economy through their foreign exchange remittances, however mandates the State to move away from reliance on remittances for national development and instead to promote local employment opportunities, and to ensure the dignity and fundamental human rights of the Filipino citizens abroad and at home.

Despite the governments stated goal to achieve a domestic economy with adequate employment however, the global economic crisis shifted the focus again to the option of labour export as a means to cushion the effects of the crisis. In December 2008, President Arroyo issued Administrative Order 247, directing the POEA “to execute a paradigm shift by refocusing its functions from regulation to full-blast markets development efforts, the exploration of frontier, fertile markets for Filipino expatriate workers.” She urged to break through the 200-country barrier and directed her cabinet to extend full support and cooperation to the POEA efforts.

From this pronouncement one can deduce that overseas migration has become a policy of the State contrary to the law. The government is actively promoting overseas migration for employment rather than providing adequate and decent local employment and livelihood opportunities. This is despite the fact that over the last two decades the Philippines was increasingly seen as ‘a country of domestics and prostitutes’, or that large numbers of Filipino migrant workers were exploited and abused. Whilst the Philippine Government has never admitted that it regards labour migration as a permanent solution to the country’s economic problems, it appears to seize every opportunity to send Filipinos for work abroad; communicating that labour migration is here to stay. With the election of a new Philippine President, there has been a commitment to create more jobs in the country so that working abroad will be made out of choice and not necessity and to guarantee the welfare and protection of overseas Filipinos and their families.

Domestic: Recruitment, Repatriation and Protection

There is an extensive administrative system to monitor and regulate overseas migration in the Philippines with several government agencies tasked to oversee overseas employment, and a large number of private recruitment agencies that manage training and deployment. The Department of Labour and Employment (DOLE) is mandated to ensure that labour and social welfare laws in foreign countries are applied fairly and equally to migrant workers. The Department has 16 regional offices, 34 overseas posts, 6 bureaus, 7 staff services, and 11 agencies attached to it for policy and program coordination.

The Department of Foreign Affairs (DFA) is mandated to protect the rights of migrants and migrant overseas workers and extend immediate assistance, including the repatriation of distressed or beleaguered migrant workers and overseas Filipinos. The DFA also assumes various functions in the negotiation of employment opportunities. In some countries, the DFA authenticates employment contracts between OFW and foreign employers.

The Philippine Overseas Employment Administration (POEA) is mandated to manage the migration of Filipino workers. It was established in 1982 with the core functions to: regulate the overseas employment industry (recruitment agencies and setting of minimum labour standards); facilitate overseas employment (monitoring and promoting employment contracts); and worker protection (complaints, education, legal assistance) and administrative services. The POEA management structure includes high level government members as well as representatives from the private sector, women, sea-based and land-based sectors. In 2008, the POEA function changed from being a regulatory body to a marketing agency tasked with looking for new markets where Filipinos can be deployed.

The Overseas Workers Welfare Administration (OWWA) oversees the provision of welfare and other forms of assistance to OFW and their families and dependents. It is a single trust fund pooled from the USD25.00 membership contributions of foreign employers, land-based and sea-based workers, investment and interest income, and income from other sources. From these funds, the OWWA finances programs and services for migrant workers and their families. This includes emergency repatriation of workers in cases of war, or disasters and the provision of a National Reintegration Centre for OFW since 2007 which provides livelihood programs, projects and coordinated support programs for or returning Filipino migrant workers.

The sustained demand for overseas work over the years has led to the growth in the number of private recruitment agencies in the country. There are two types of agency: members of the Philippine Association of Service Exporters, Inc. including agencies that charge placement fees, and members of the Association for Professionalism in Overseas Employment, Inc. who do not charge fees. Members of these groups are all officially licensed and registered with the POEA. In September 2009 there were 3,322 licensed recruitment agencies including land and sea-based recruiters.⁵ However many of these have been closed down, banned or had licenses cancelled or suspended leaving only 1391 licensed agencies of good standing. There are also a large number of unlicensed agencies that operate throughout the country and links between licensed and unlicensed agencies also exist.

The POEA regulates private recruitment agencies through licensing, monitoring and arbitration of complaints cases and where necessary suspension or revocation of licenses. Filipino recruiters must fulfil a three-month temporary license period before being made permanent, licenses cannot be sold or lent, and those who do not deploy at least 100 migrants a year can lose their licenses. Recruitment agencies are required to show proof of sufficient capital, post bonds and deposits, and satisfy nationality requirements, (75 percent ownership by Filipino citizens required). This ensures that Philippine authorities can easily assume jurisdiction in cases of violation, and the funds deposit guarantees available resources in case of valid and legal claims.

Foreign employers are required to be verified and accredited through a process involving embassy officials abroad, and the POEA. Licensed recruitment agencies then recruit for accredited foreign employers. The agencies require all applicants to undergo medical examination from government accredited medical clinics and some employers also require the prospective OFW to pass a trade test administered by government

⁵ Philippine Overseas Employment Administration (POEA), September 14, 2009 <http://www.poea.gov.ph/>

authorized training centres. If the foreign employer is a government entity or a government-owned or controlled company, the latter may opt for hiring through the POEA Government Placement Branch (GPB). There are standard employment contract forms for seafarers, household service workers, and other skilled workers with fees to be paid by either the employer or the employee. Fees include the POEA processing fee, the OWWA membership fee, visa fee, and other related expenses. The OFW has to secure an exit clearance in the form of an electronic receipt from the POEA for exemption from paying the travel tax and airport terminal fee. Seafarers and workers recruited through POEA-GPB do not pay placement fees. In countries where collection is allowed, the maximum legal placement fee charged by licensed recruitment agencies from applicants must not be more than one-month salary of the worker, except in countries like Taiwan/Korea which have special placement fee schedules. The amount does not include documentation and processing costs. The POEA Adjudication Office hears and decides cases against private employment agencies, foreign employers and OFW found to be in violation of POEA rules and regulations. In 2007 there were a total of 5336 cases handled by the office with 1624 cases of illegal recruitment handled in 2007.⁶ There is also the National Labour Relations Commission, a quasi-judicial body attached to the Department of Labour and Employment that can assist OFW to resolve labour and management disputes involving both local and overseas workers through arbitration and dispute resolution.

The NGO community working for migrants' rights in the Philippines is very active and has been at the forefront in the promotion of migrants' rights and welfare. In cases of problems with contracts, OFW can also get in touch with their recruitment agencies. However, there have also been many instances when the recruitment agencies are a source of irregular practices or have become involved in abuses made on OFW. Their connivance with some corrupt government officials has also been an issue.

When it comes to the repatriation of documented OFW or that of his/her remains, it is the primary responsibility of the recruitment agency in cases where the foreign employer fails to provide for the repatriation cost. Repatriation procedures are monitored by the POEA working with the agency. The service is part of the benefits OFW should get after having contributed USD25. Despite the fact that it is employers who are mandated to pay the contribution fee, in many cases it is the worker that pays for the contribution fee in practice. When there is a need for immediate repatriation, OWWA shall advance the cost and the POEA shall ask the concerned agency for a reimbursement of the costs advanced by OWWA. Chapter XV of Republic Act 8042 is specific on the procedure for the repatriation of Filipino migrant workers, including the immediacy of repatriation. In many cases however, repatriation takes time, even several months to process which is why shelters abroad are often full.

Under the OWWA policy, only active members can use the services and benefits provided by the agency, such as the P100,000 life insurance (USD2082) for natural death and P200,000 (USD4165) insurance for accidental death, disability benefits, scholarship programs, repatriation, and reintegration programs. OFW can only avail themselves of these benefits within the duration of their employment contract.

In 2007 the National Reintegration Centre for OFW was launched with a mandate under the Migrant Worker Act to provide a Re-placement and Monitoring centre. Their brief is to develop livelihood programs and projects for returning Filipino migrant workers; coordinate with private and government agencies in the promotion, development, re-placement and full utilization of OFW potential; and develop programs to promote the welfare of returning Filipino migrant workers.

Abroad: Bi-Multilateral Agreements and Migrant Worker Protection

Overseas, there are the embassies, consulates, welfare offices, and Philippine Overseas Labour Offices (POLO) that can be accessed by migrant workers to help them in times of distress. The Philippines has 62 embassies and 24 consulates general offices with each post hosting an 'assistance to nationals' (ATN) section tasked to respond to urgent requests for assistance by Filipinos overseas. The care and protection of OFW operate under the one-country team approach where OWWA Welfare officers in 38 posts abroad provide shelter, board, medicine, bedding and counselling to OFW on-site, whether they are members or non-OWWA members. They can also operate the emergency repatriation fund and coordinate with international organizations for repatria-

⁶ Philippine Overseas Employment Administration 2007 Annual Report, p. 21 <http://www.poea.gov.ph/ar/ar.htm>

tion in times of crisis. Aside from government agencies, there are laws that were passed to provide protection for migrant workers abroad including the Labour Code, and the Republic Act 8042 or the Migrant Workers and Overseas Filipinos Act of 1995. There are also other laws related to OFW such as the Anti-Trafficking in Persons Act of 2003, the Absentee Voting Act, and the Dual Citizenship Act.

As a sending state, the Philippines has entered into bilateral labour agreements (BLA) and Memorandum of Agreement (MOA) or Memorandum of Understanding (MOU) with other countries pertaining to different labour aspects. The Philippines to date has entered into BLA with 13 of the 197 countries hosting OFW. There are also a large number of MOU and MOA agreements on labour migration with destination countries such as Canada, UK, Korea, Switzerland and Norway. In relation to countries within this research the Philippine government has signed an MOU between the Philippines and U.A.E. in the Field of Manpower; and an MOU with Bahrain on Health Services Cooperation. The Philippines has likewise forged separate agreements with several countries worldwide in relation to its maritime industry with Filipino seafarers' certificates being now recognized in many countries. The many and varied agreements entered into by the Philippine Government are aimed at protecting Filipino migrant workers, ensuring access to another country's labour market and easing the unemployment condition in the country, as well as securing remittances.

Signatories to UN/ILO Conventions

The Philippines government has signed most of the relevant migrant and human rights protection laws related to labour and migration. It is only one of the two countries in this study that has ratified International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ratified in 1995). A recent review of the Philippine government's compliance with the Convention by the UN Migrant Workers Committee observed that there was insufficient implementation by the Philippines of existing policies on labour migration and urged the government to review its labour migration policy to develop time bound mechanisms for effective implementation of policies. It also highlighted the need for greater collaboration between government, non- government organizations and civil society, as well as the need to do more to protect women's rights and empowerment and to improve consular and on-site services to migrants, as well as strengthen the regulation of recruitment agencies.

At the level of the International Labour Organization, the Philippines have ratified the eight core Conventions related to the right to organization and association, and conventions against forced labour, discrimination and child labour. The Philippines is supportive of the proposed convention for domestic workers expected to be voted upon in June 2010. However CSO advocates claim that more needs to be done that include the issues of labour rights and protection of families of migrant workers. (Please refer to Chart 1)

National Remittance Profile

Remittances are estimated to account for about 10 percent of the country's gross national product (GNP) and remittances account for a larger portion than foreign direct investments and official development assistance in the Philippines. Remittances from Filipino workers have been growing and are said to have kept the Philippine economy afloat, especially in times of economic crises. Even with the onslaught of the recent global financial crisis, the Philippines was still able to post remittances in the amount of USD 17.3 billion for the year 2009, up from about USD14 billion in 2007.⁷ These figures do not yet reflect remittances that come through informal channels. In 2007, about 644 million US dollars in remittances came from the U.A.E.⁸ Remittances in 2009 in fact increased, despite predictions early in 2009 from the Bangko Sentral ng Pilipinas (BSP) and private sector economists that remittances would post a flat growth for that year and might suffer from a contraction in remittances because of the global turmoil. More recently the BSP has predictions has raised its growth forecast for remittances for 2009 8 percent from 6 percent previously.⁹

The top sources of remittances to the Philippines are the United States of America, Saudi Arabia and the United Kingdom. The U.A.E. is also among the top ten sources of OFW remittances but it is estimated that

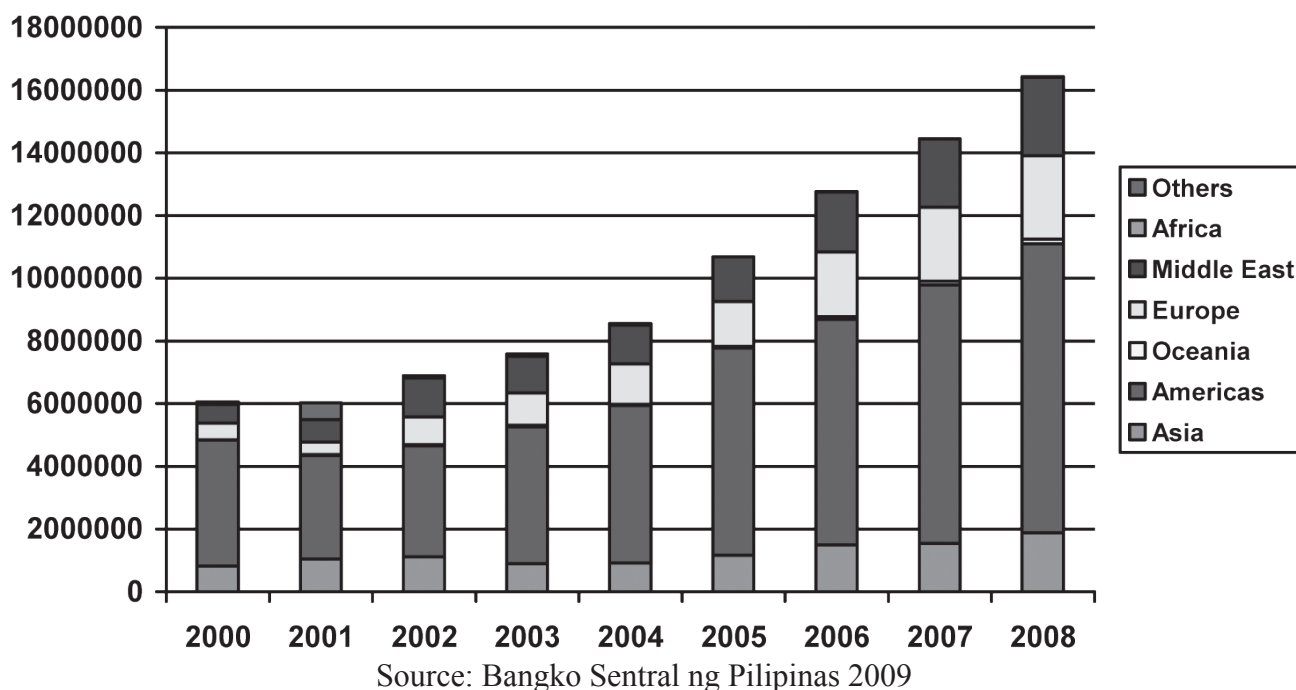
⁷ Bangko Sentral ng Pilipinas (BSP): <http://www.bsp.gov.ph/statistics/overview.asp>

⁸ Sentral ng Pilipinas (BSP): <http://www.bsp.gov.ph/statistics/keystat/ofw.htm>

⁹ Reuters News Agency: "Philippines' April remittances at \$1.52 bln, up 5.4 pct.":
<http://www.reuters.com/article/idUSMNA00278620100616>

remittances from this country will decrease slightly as a result of the global crisis. In fact, for the first four months of 2009, the Bangko Sentral ng Pilipinas reported that remittances from the U.A.E. declined slightly to \$198,682,000 or 1.86 per cent over that of \$202,454,000 in 2008 for the same period. In terms of gender, male overseas workers remit more than female overseas workers in terms of total and average remittance. By occupation, male plant and machine operators and assemblers have been, for the past seven years according to the 2001-2007 Survey on Overseas Filipinos of the National Statistics Office (NSO), the top remitters among OFW. Among female remitters, labourers and unskilled workers are the top-remitting sub-group.¹⁰

Overseas Foreign Workers Remittances, by Region of Origin
(Year 2000-2008, in thousand US dollars)



Remittances in Filipino families are usually spent for the education of the children, paying debts, and other commitments. A recent survey in 2009, showed investments made by OFW families have increased significantly compared to the previous survey conducted.¹¹ Of the OFW households surveyed, 96.2 percent said they spent part of their remittances for food and other household needs. 68.2 percent said they used the remittances for education expenses and more than half (51.1 percent) allotted remittances for debt payments. The percentage of OFW households that utilized remittances to purchase consumer durables and motor vehicles increased to 25.9 percent and 7 percent, respectively. A total of 10.8 percent allocated part of their remittances to amortization or full payment for houses purchased. The percentage of households that allotted portions of remittances to savings dropped slightly to 38.3 percent (from 40 percent in the first quarter), and those that allotted remittances to investment increased to 8.3 percent (from 5.9 percent in the first quarter). Aside from the benefits to households, remittances through the years have helped narrow the trade gap, control external debt, facilitated debt services and produce much needed foreign exchange.

¹⁰ National Statistics Office – Survey on Overseas Filipinos (2005-2007) in Philippine Migration and Development Statistical Almanac: <http://almanac.ofwphilanthropy.org/>

¹¹ Consumer Expectation Survey conducted by the Bangko Sentral ng Pilipinas (BSP), http://www.bsp.gov.ph/publications/regular_consumer.asp

SRI LANKA - SENDING COUNTRY

- IOM Member State since 1990
- Capital: Colombo; Sri Jayewardenepura Kotte is the legislative capital
- Population (2010): 20.4 million
- Area: 65,610 sq km
- Languages: Sinhala, Tamil, English
- Currency: Sri Lanka rupee (LKR)
- GDP per Capita PPP (2007): USD 4,243
- HDI Rank (2007): 102 of 182
- Remittances (2008): USD 2,947 million
- Net Migration Rate (2005-2010): -3.0 migrants /1,000 population
- Immigrants (2010): 1.7%
- Women as a Percentage of Immigrants (2010): 49.8%
- Population under 15 (2010): 24.3%
- Adult HIV Prevalence (2007): <0.1%

Migration Trends

It is estimated that Sri Lanka's migrant population includes 1.4 million people working abroad amounting to approximately 7% of the country's population in 2008.¹ The annual rate of migration from Sri Lanka has increased from around 16,500 people in the late eighties to a record level of 252,021 in 2008 with 67 percent of migrants coming under the categories of unskilled workers and housemaids.² The increasing level of migration from the country is related to political, social, and economic reasons with the most common reasons for migration being; search for more skilled positions, asylum, poverty, better opportunities overseas, educational purposes, and tourism.³ Sri Lanka has suffered through a brutal civil war from 1983 to 2009 however despite the war the country saw GDP growth average nearly 5% in the last 10 years with growth at 3.5% in 2009, still high despite the world recession.⁴ Sri Lanka's most dynamic sectors are now food processing, textiles and apparel, food and beverages, port construction, telecommunications, insurance and banking. Despite improvements in Sri Lanka's economic growth over the last two decades and significant progress in some industries however there remain high levels of income inequality. In addition unemployment in 2008 was at 5.2 percent and is still a major concern within the country notably for workers from poor or uneducated backgrounds.⁵

Migration from Sri Lanka shows different patterns according to location. Of note is the high rate of departure for immigration in the Eastern provinces, which may be due to unsettled conditions related to ethnic conflict, which have also acted as a push factor for migration for some populations within other provinces. There are also different patterns of migration within ethnic and religious groups in Sri Lanka which has changed over time. In Sri Lanka, the opportunity for migration to the Middle East was opened in the late 1970s, and was mostly confined to a low income group in and around the city of Colombo. The migrant workers from the city of Colombo constituted around 57 percent of the total migrant workers in 1979 with large scale migration of Muslim migrant workers for employment in Muslim countries.⁶ However, the situation has significantly changed where currently migrant workers are not only from the slums and shanties of Colombo but also from other parts of the country representing all ethnic communities and religions in the country. Analysis of migration data⁷ shows that the share of Muslim migration in proportion to their population remains high at nearly 22 percent of migrants compared to about 7 percent of the total population. The Sinhalese are about 75 percent of the total population in Sri Lanka and they constitute about 63 percent of the migrants. The Sri

1 National Labour Migration Policy for Sri Lanka 2008, Ministry for Foreign Employment, Promotion and Welfare, Colombo

2 Annual Statistical Report 2008 Sri Lanka Bureau of Foreign Employment (SLBFE)

3 Sri Lanka Country Information: Colombo Process www.colomboprocess.org/

4 Sri Lanka Country Facts CIA Fact Book:

<https://www.cia.gov/library/publications/the-world-factbook/geos/ce.html>

5 Annual Statistical Report 2008 Sri Lanka Bureau of Foreign Employment (SLBFE)

6 Hettige, S.T. (1988), Social values, Morality and the Migration of Female Workers from. Sri Lanka to the Middle East in Vidyodaya Journal of Social Science

7 Departures for Foreign Employment by District and Country 2008 Sri Lanka Bureau of Foreign Employment (SLBFE)

Lankan Tamils represent almost the same proportion while their share of population is 12 percent. The Indian Tamils who are heavily concentrated in the tea plantation sector constitute around 6 percent of the total population with migration to the Middle East a recent phenomenon. Until the year 2000, only a few Indian Origin Tamil (IOT) plantation workers sought employment in the Middle East countries, however it has increased to nearly 20 percent of the total population of IOT workers engaged in Middle East employment. Most of these are female workers migrating as housemaids particularly to countries such as Saudi Arabia, Kuwait and Qatar. The feminization of the migrant labour force is another feature of Sri Lanka's out-migration where female migrant workers have constituted around 60 percent of the total migration during the last decade. These are mostly women from rural areas in Sri Lanka taking up overseas domestic work. Significant changes in the gender composition of migration have occurred during the last two decades in Sri Lanka. Female migration rose rapidly from the mid eighties - from 33 percent in 1986 to a peak level of 75 percent in 1997 in response to the increased demand for housemaids from employers in the Middle East.⁸ Since early 2000, however the share of male migrants has gradually risen so that male and female migration is now fairly even (in 2008: males 51% and females 49%).⁹ Data from the Sri Lanka Bureau of Foreign Employment (SLBFE) shows that the bulk of the male migrant workers were in the age groups of 20 to 30 years whereas most females were concentrated in the older age groups of 25 to 44 years. Among the male workers, 42 percent were employed in the skilled category (drivers, masons and carpenters) and 40 percent in the unskilled sectors (mostly in garment factories, construction and hotel sectors). In comparison female migrants included nearly 80 percent as housemaids and only 11 percent as skilled sector workers with employment in high-paid jobs in professional and middle level categories being particularly low.

Middle Eastern countries have remained the major destination for Sri Lankan workers since 1970. In 2008 more than 90 percent of all overseas contract workers from Sri Lanka were in the Middle East with the top three top destinations being Saudi Arabia, followed by Kuwait and the United Arab Emirates.¹⁰

Labour Export Policies and Procedures

The government of Sri Lanka has used labour export policies over the last three decades to promote the migration of their citizens abroad for employment. The Sri Lanka Bureau of Foreign Employment (SLBFE), which is currently under the purview of the Ministry of Foreign Employment Promotion and Welfare (MFEPW), was established in 1985 with the aim of recruiting temporary labour for employment abroad. The SLBFE is a public corporation mandated to undertake several tasks relating to foreign employment including promotion of overseas employment, as well as regulation of recruitment, and protection and welfare for migrant workers employed abroad and their families. The Sri Lanka Bureau of Foreign Employment Act, 1985 is the primary piece of legislation that applies to Sri Lankan workers migrating for overseas employment.

Over the decades the SLBFE has implemented a range of policy approaches such as the introduction of a compulsory registration scheme for foreign employment in 1995, the promotion of foreign employment opportunities for female domestic workers, and various measures to prepare migrants for overseas employment including training and orientation programs. However, there are definite limits to the SLBFE programmes and there has been a history of difficulties in its implementation and enforcement of national migration policies and protections, particularly for Sri Lankan workers in destination countries.

More recently however the government has reviewed labour migration policies with the basic legislative framework of 1985 (the SLBFE Act) currently under modification. In 2007 the newly formed MFEPW launched a Policy Framework and Action Programme for the promotion of foreign employment and welfare. The framework overtly focused on "*converting the entire labour market migration sector into a demand driven process to meet the competitive challenges of the market*".¹¹ Following this initiative in early 2009 the Ministry launched a National Migration Policy that was developed with the assistance of the International Labour Office and aligned to the government's international and national commitments for the protection of

⁸ Information Technology Division-2008 - Sri Lanka Bureau of Foreign Employment (SLBFE)

⁹ Annual Statistical Report 2008 Sri Lanka Bureau of Foreign Employment (SLBFE)

¹⁰ Departures for Foreign Employment through all Sources by Country and Sex 2004-2008 Sri Lanka Bureau of Foreign Employment

¹¹ National Labour Migration Policy for Sri Lanka 2008; p 14

migrant workers and their families. The policy articulates State commitment to ensuring that labour migration adheres to principles of good governance and rights and responsibilities for migrant workers as enshrined in international instruments. In April 2009, the Government of Sri Lanka approved the new National Policy on Labour Migration in order to streamline the process of migration for employment and protect the rights of all migrant workers. There are positive commitments made within the policy towards such areas as standardised recruitment and training processes, better protections for migrants overseas and access to repatriation and reintegration services for migrants and their families upon return. However to date the policy is yet to be implemented.

Domestic: Recruitment Repatriation and Protection

Recruitment for employment overseas is handled by the Sri Lanka Foreign Employment Agency, which is a subsidiary of the SLBFE and private sector recruitment agencies. All Licensed Agencies are members of the association, and subject to supervision by the SLBFE. There are a small number of government-run recruitment agencies, however most are private sector agencies. At the end of 2007 there were 691 recruitment agencies in Sri Lanka approved by the SLBFE with most of them located in Colombo and other major towns. The agencies are set up as legal business entities whose task is to recruit workers for international employment, offer training, and organise documentation including visas, passport, work contracts and medical tests. The recruitment agencies provide services for both male and female migrants and recruit for various industries and countries. Due to the large number of agencies there is strong competition and a wide range of practices and standards within the sector.

The recruiting agencies in both public and private sectors are required to practice according to Sri Lankan labour standards and must also abide by the requirements of any Bilateral Agreements that are entered into with the relevant destination country. However there is evidence to suggest that many agencies do not adhere to these standards and fail to inform migrant workers about their rights and entitlements. Most of the workers accepting foreign employment are from poor backgrounds with low levels of formal education and are not familiar with employer/employee agreements and labour standards due to their lack of experience as workers in the formal sector. Hence many are unaware of their rights to information, job security and adequate labour conditions.

A vast majority of migrant workers are also unaware of the details, rights and obligations related to their insurance procedures. This is a notable feature among migrants from the plantation sector and the East and the Sinhalese communities. While a majority of those going through the government agencies are insured and their jobs are secured, their insurance policy often depends on the jobs they have been recruited for and the arrangements with foreign employers. Furthermore, those who migrate through private agencies are not necessarily guaranteed any insurance within their contracts, as this often depends on the determination of the agencies. The lack of knowledge of insurance schemes on the part of workers acts as an obstacle in seeking redress or compensation in the event of accidents or injury whilst in employment overseas. In addition in cases of forced repatriation the workers are often unaware of the correct procedures to claim compensation. This is clearly demonstrated in the case of Sri Lankan workers based in Kuwait and Lebanon who were compelled to break services due to war in those countries, but never received any compensation for loss of career or recovery of migration costs.

There is a similar problem in the ability for migrant workers to access health care either in Sri Lanka or abroad. All migrants are expected to bear medical certificates from a recognized medical centre prior to migration. However whilst the Sri Lankan government is mandated under both migration policy and international conventions, to ensure workers have access to health treatment and information, a vast majority of the migrant workers are from rural and plantation areas and have only a rudimentary knowledge of health and welfare entitlements. Some migrant workers have access to health information provided by SLBFE or registered recruitment agencies during pre-departure training. Agencies are required to provide workers with pre-departure training and orientation programs, which vary according to the agency, the type of occupation of migration and the destination country. Training programs vary in length from a few days to up to two months and in most cases participants have to bear the travel, accommodation and food costs.

It must also be noted that the situation for undocumented migrant workers is comparatively worse, due to their vulnerability to exploitation and the complete lack of legal rights in the destination country. It is reported that 20-30 percent of persons leaving Sri Lanka for employment abroad do not register with the Foreign Employment Bureau.¹² Hence, they are unprotected by any binding contract while at work. In addition domestic work is not recognized under the labour laws of most destination countries which leave the majority of female migrants from Sri Lanka without adequate labour protections whilst working overseas.

Generally it is accepted that the fundamental rights of migrant workers should be protected by formal legal instruments which can provide remedy and redress for rights violations. Returned migrant workers who come back home with various experiences of rights violations often however have limited capacity for redress. In Sri Lanka they can approach the Sri Lanka Bureau of Foreign Employment, the Human Right Commission or the Labour Department to find assistance. Data from SBLFE in 2007 records a total of 8445 complaints from returned migrant workers with the most common issues being the non-payment of wages (1,495 complaints), lack of communication (1686) and harassment including physical and sexual abuse (1273 with 97% of harassment complaints from female workers). These figures do not encompass the full extent of exploitation, abuse and infringement of rights suffered by Sri Lankan Migrant workers, as it is likely that the majority of workers do not access the complaints mechanisms - however the data does give an indication of the common violations experienced by migrant workers.

Abroad: Bi-Multilateral Agreements and Migrant Worker Protection

The Sri Lankan government has signed labour migration agreements with two of the destination countries in the study - one with Malaysia and one with the U.A.E. In addition Sri Lanka has signed MOU with Bahrain, Jordan, Korea, and Kuwait and is currently negotiating MOU with Japan and Saudi Arabia. The MOU however are essentially non binding agreements which do not have the force of more formal bilateral agreements and tellingly the most crucial destinations in the Middle East have failed to sign any binding bilateral agreements with Sri Lanka. The current MOU agreements need to be tightened to gain the best results for the bulk of Sri Lanka's migrants who are located in the Middle East.¹³

In terms of migrant worker protection; Sri Lanka's diplomatic missions in labour receiving countries are mandated to provide for the protection and welfare of Sri Lankan workers overseas. However their capacity has been limited due both to a lack of State monitoring mechanisms in labour receiving countries and a lack of adequate resourcing to ensure that their services are accessible to migrant workers abroad. Under the recent National Policy on Migration 2009, the diplomatic missions in receiving or host countries are targeted for improved capacity in their protective functions and their ability to support effective repatriation for all workers in need.

In tandem with government initiatives the trade union movement in Sri Lanka has been notably active in the area of foreign employment. Workers in Sri Lanka, especially in the formal sectors are well organized and represented by the Trade Unions of their affiliation. However they often lose this support when working abroad in countries where they do not have the legal right to association. Trade Unions in Sri Lanka have responded to this situation by instigating a process of negotiation with their counterparts in Bahrain, Jordan and Kuwait promoting Bilateral Agreements to protect migrant workers rights and welfare. Three cooperation agreements were signed in May 2009 extending trade union protection to migrant workers in the four countries and supporting the development of a campaign lobbying for changes in labour rights, housing and occupational health and safety issues for migrant workers.

Signatories to UN/ILO Conventions

The Government of Sri Lanka has signed all of the key human rights protection laws related to labour and migration. It is one of only two countries in this study that has ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (in March 1996). However the Convention took seven years to come into force in Sri Lanka and despite more than a decade of ratification

¹² Migrant News Letter for February 2010 Released by MSC – NWC Sri Lanka

http://www.eureka.lk/migrant/test/newsletter_feb.htm

¹³ Sri Lanka International Migration Outlook 2008 International Organisation for Migration IOM

of this Convention the government has yet to effectively protect and promote the rights of its' migrant population abroad. A review of Sri Lanka's progress in implementing the Convention, undertaken in 2008 found that the government needs to do more to implement the full provisions of the Convention including legal protection for its workers abroad, implementing better pre-departure information and education processes, ensuring voting rights for migrant workers and improving the regulation of recruiting agencies.¹⁴

Sri Lanka has also been slow to ratify international labour standards with only two conventions signed (C87 and C29) out of the eight core Conventions related to international protection for migrant workers including Conventions of the right to organization and association, and conventions against forced labour, discrimination and child labour. (Please refer to Chart 1)

National Remittance Profile

Remittance from foreign employment reached a record level of USD 2.9 billion in Sri Lanka in 2008 and it constituted about 7.1 percent of GDP and 36 percent of the total export earnings of the GDP.¹⁵ Remittance is the country's highest net earner of foreign exchange into the country and it boosts the balance of payments of the economy. The main source of remittance is from semi-skilled and unskilled migrant workers who are working in Gulf countries, particularly Saudi Arabia and the United Arab Emirates. These unskilled workers and housemaids are basically from rural villages; and for them migration for foreign employment has been a final resort that generates income for their households.

Workers' remittance has become an increasingly significant tool for the socio-economic development of Sri Lanka for the last few years. Remittances account for 30 percent of national savings.¹⁶ Remittance growth in Sri Lanka has been significant – from Rs 2,519 million or 3.8 percent of the GDP in 1980 (USD 21.9 million), rapidly increasing to Rs. 16,053 million in 1990, (USD 139.7 million) and reaching USD 2.9 billion in 2008. As far as the per capita remittance is concerned it was only USD10 in 1980, and increased to USD125 in 2007.¹⁷ These figures do not include remittances that are sent via informal channels, which are not included in the balance of payments or national accounts, and were estimated to have reached as much as 45 percent of total private remittances to Sri Lanka in the mid-1990s.¹⁸

Trends of Remittance from Foreign employment to Sri Lanka: 1980-2007

	1980	1985	1990	1995	2000	2007
1. Remittance from:						
i. Middle East Work	59 (39%)	148 (51%)	217 (54%)	423 (58%)	730 (63%)	1451 (58%)
ii. Other Countries	93 (61%)	144 (49%)	184 (46%)	304 (42%)	430 (37%)	1051 (42%)
Total US\$ Million.	152	292	401	727	1160	2502
2. Remittance Rs. Million (Gross)	2,519	7,920	16,053	37,259	87,905	276,771
3. Population ('000)	14,747	15,842	17,015	18,136	19,102	20,010
4. Per Capita Remittance (in US \$)	10	18	24	40	61	125
5. Remittance as % of GDP	3.8	4.9	5.0	5.6	7.0	7.7

Source: Compiled from various issues of Central Bank Annual Reports of Sri Lanka

Remittances have also helped to reduce national dependence on foreign borrowings and are more stable and less costly than other foreign exchange sources such as foreign direct investment and foreign borrowings. Remittance transfers can particularly assist economies which are affected by internal conflict or natural disaster as Sri Lanka's own experience shows, in the context of the prolonged North East conflict and the tsunami.

¹⁴ Report of the Committee on the Rights of Women Migrant Workers, Human Rights Commission of Sri Lanka, August 2005; Robyn Iredale, Nicola

¹⁵ Sri Lanka International Migration Outlook 2008 International Organisation for Migration IOM

¹⁶ Central Bank of Sri Lanka <http://www.cbsl.gov.lk/>

¹⁷ Trends of Remittance from Foreign employment to Sri Lanka: 1980-2007, Central Bank of Sri Lanka Annual Reports <http://www.cbsl.gov.lk/>

¹⁸ World Bank, 2005b. <http://econ.worldbank.org/wdr/wdr2005>.

Remittances have contributed to reduce the poverty levels of families with migrant workers. National banks in Sri Lanka invest the remittance in foreign currency bonds which are issued by the government. The Government of Sri Lanka supports a Non-Resident Foreign Currency accounts scheme for returned migrant workers whereby account holders get some benefits such as obtaining low interest housing loans. However the majority of the migrant workers who are sending remittances to their households have received little attention from a development perspective despite the significant benefits from remittances to the national economy of Sri Lanka.

SECTION 4 : RESEARCH CLUSTER FINDINGS: THE EXPERIENCE OF MIGRANT WORKERS AND THEIR FAMILIES > >

MALAYSIA

Countries in the Research Cluster:

Source: Cambodia, Nepal, Bangladesh, Indonesia

Destination: Malaysia

Participants in the Research Cluster:

Malaysia: Six focus group discussions and 20 interviews were held with a total of 116 migrant workers, working in Malaysia. The groups included both documented and undocumented workers in the occupations for domestic, factory, service and general work categories.

Cambodia: Focus group discussions were held with 28 family members of migrant workers and interviews conducted with 8 migrants who had experienced working in Malaysia, mostly in the area of domestic work. The research was conducted in where in Cambodia.

Nepal: Two focus group discussions were held with spouses of migrant workers and 40 individual interviews with spouses and other family members of the migrant workers who are or were working in Malaysia. A total of 58 individual respondents were part of the research with all respondents were from satellite towns situated around Pokhara sub-metropolitan city.

Bangladesh: Five focus group discussions were held with spouses and family members of migrant workers and returnee migrant workers who migrated to Malaysia in 2007 and 2008 after the lifting of the migration ban in October 2006. Ten interviews were also conducted with returned migrant workers; documented workers who migrated before and after the migration ban and undocumented workers who migrated during the ban period. There were a total of 53 research participants from Dhaka, Narayangonj, Munshigonj and Nar-sigdi districts with two recently returned migrant workers from Chandpur and Comilla districts.

Indonesia: Three Focus Group discussions were held with former migrant workers from Malaysia. Two of the discussions were held in two regions in Sukabumi District (West Java Province) Bojongembar and Kadu-dampit villages and one held in Karawang District (West Java Province) in the village of Pasir Kaliki. The discussions included a total of 20 female returnee migrant workers who had worked in the domestic work sector in Malaysia. Five interviews were also conducted, three with returnee migrant workers (one female returnee migrant worker in Sukabumi District and two male returnee migrant workers in Karawang District). Two interviews were conducted with the government staff (Head of Bojongkembar Village, Sukabumi District and Director of Empowerment of National Body for Placement and Protection of Indonesian Migrant Workers (BNP2TKI).

Key findings arising from the feedback from families and migrant workers from the three source countries in this cluster groups have been summarised in the section below.

THE JOURNEY TO OVERSEAS MIGRATION

Reasons for Migration

Respondents from all source countries in the cluster - Indonesia, Bangladesh, Nepal, and Cambodia – identified similar reasons as ‘push factors’ for migration. Most respondents noted that their family income prior to migration was not sufficient to cover family expenditures, either due to the low wages in the source country or the lack of employment opportunities that were available. In addition the high level of poverty in sending countries meant that many families were not able to afford the education of their children and were living in sub-standard housing. In this context respondents hoped that through migrating to work in Malaysia they would be able to improve the standard of living of their families and provide significant contributions to the family income.

Departure Fees and Processes

Whilst each country has differing recruitment systems, a common pathway for migration for all migrants in this cluster was through recruitment agencies in the source country. The majority of the respondents in the research used this formal recruitment method which entailed the payment of fees and levies, by the migrant worker to cover the costs of migration. The total costs of these fees differed amongst countries however respondents from all countries commonly found the expenses unaffordable and indicated that they were forced to take on significant debts, either via loans through money lenders, middlemen, agents, families and friends. Instances of workers being over-charged for the departure fees were also common. This debt impacted on both the quality of life of workers in Malaysia and the value and benefits of remittances to the family in the source country.

Bangladeshi labour migration to Malaysia occurred through both formal and informal channels but was dominated by unscrupulous agents or middlemen. Costs for migration had increased since August 2006 after a ban for migration was lifted and an MoU between Malaysia and Bangladesh was tabled. Despite the government set limit of Taka 84,000 (RM 3943) BDT 84,000 (USD 1235) as a maximum recruiting charge for workers to migrate to Malaysia, the Bangladeshi respondents who travelled to Malaysia during 2007 and 2008 paid almost three times the legal fee limit (average of RM 10461) BDT 200,00 to BDT 230,000 (USD around 3000 – 3500). The amount varied between individuals based on their relationship and negotiation with the local middlemen. Respondents who migrated to Malaysia during the 1990s reveal that costs were much lower as they spent less than BDT 100,000 (USD 1470) for migration. None of the Bangladeshi respondents were able to manage the migration fees from their own sources and either borrowed money from relatives or money lenders, sold their assets or mortgaged their houses. Most Bangladeshi migrants, who fill low-skill jobs abroad are from rural areas, and use private moneylenders for loans to cover the high cost of their migration. Servicing this debt is relatively expensive because of high interest rates and therefore, the migrants fall into the vicious cycle of debt. Rural moneylenders charge very high interest rates, often 60 to 100 percent. Migrants with few assets sometimes find a local guarantor to co-sign the loan; the guarantor often receives 10 percent of the value of the loan for each year that that a guarantee is provided.

The common recruitment practice in Cambodia was for migrant workers to sign three contracts arranged by the recruiting agency: the recruitment service contract delivered by the agency; the loan contract for the cost of recruitment; and the employment contract between the worker and the employer in the receiving country. The majority of Cambodian domestic workers interviewed cited that departure expenses to migrate to Malaysia were initially covered by recruiting agencies, with the agreement for the costs to be deducted from the first four months of their salary in Malaysia (which is USD120 to130 - equal to RM 480 for domestic workers in Malaysia). Departure expenses included passport, medical check up, visa fee, living costs at the recruiting agency, training fees and other service charges. The fee charged by recruiting agencies in Cambodia was not standardized or effectively monitored and over-charging was an issue that was identified by respondents. The repercussions of over-charging resulted in some migrant workers being unable to pay off the loan (usually taken over a two year period) which resulted in increased levels of debt or sometimes in court cases for those unable to pay. It also resulted in a form of bonded labour for domestic workers in Malaysia as noted in the section below.

The majority of Nepalese migrant workers interviewed (83%) indicated that they had borrowed money to support their migration with most having to pay interest on the loan up to 5%. Nearly 20 percent however loaned money from friend or relative who required no interest. Remittances were used to cover loans and interest, mostly being paid off over a period of more than 13 months.

Migrant workers from Indonesia paid between 4-6 six million rupee (USD 404-606), to agents to cover their departure expenses. This was a significant amount for most families who were required to either take a loan from agencies or relatives, or pawn personal belongings or family assets. Some respondents noted that they were aware that they were being cheated and over-charged by agents however their expectations and need for migration meant that they abided by the departure process that was available to them. Some respondents felt that the recruitment agents were profiting greatly from over-charging and in one case it was noted that the agency commonly was profiting from the illegal sale of the passports of migrant workers who had decided not to migrate.

More than half of the individual respondents working in Malaysia had borrowed money from their family members or friends to migrate, with some having sold their land and other valuable items. Migration costs identified by migrants in Malaysia ranged from less than RM5000 to RM10,600 covering documentation and travel

“Why should the levy be different for different foreigners when we are all coming here to do work?”

(Malaysia, migrant worker)

expenses. Of concern was the relatively large proportion of interview respondents (35%) who were uncertain about the total migration cost because it was deducted by the agent from their monthly salary. Seventy five percent of focus group respondents noted that they had debts to pay when they returned home, but the salary they earned in Malaysia was insufficient to pay these debts.

An additional cost for migrant workers in Malaysia is the requirement to pay an annual levy to cover the cost of their work permit, which is paid by the migrants (from their monthly salary) through their employers. In 2008 the fee ranged between RM 1,200-R1,800 (US \$331-\$500) for each foreign worker employed by a local company or employer. The research found evidence of corruption in the levy process with vastly different amounts of levy being charged to workers from different countries. Bangladeshi respondents noted that some employers deducted the levy in advance from the salary of migrant workers, thereby reducing their monthly payments. There was also a nexus between employers and middlemen (recruiters from Bangladesh) which resulted in cases of over-charging with the usual price of the levy increased twofold to RM 3000 per person, as the middlemen profited. In general, the Bangladeshi migrant workers had little knowledge about the process of payment or the legal amounts required to be paid in levy fees. According to the Cambodian respondents, the annual levy they paid ranged from RM300 (USD85) to as much as RM1200 USD (USD341) per year deducted from the monthly pay of each worker. This is in fact lower than the fixed fee and significantly lower than what other migrant workers paid, and is likely related to their occupation as domestic workers who receive very low wages. Respondents who were working in Malaysia cited annual levy payments ranging from RM1800 (USD511) paid monthly at 150 RM, (USD42) to lump sum payments of RM 5000 (USD1419). Those workers who were undocumented however did not pay the levy and this was the case for half of the Malaysian respondents that were interviewed who were either undocumented or unemployed.

These vast differences in levy payments for migrant workers in Malaysia pointed to high levels of corruption amongst employers and recruiting agents in both sending and receiving countries. As one worker in Malaysia noted There was some discussion of training provided by recruitment agencies in both the Malaysian focus groups and the Cambodian group. The respondents from Malaysia spoke about the education and training that they received in Malaysia. Only a quarter of the respondents had received training however noted that this training was not applicable to their work. Cambodian respondents noted that they received pre-departure training about the Malaysian culture and language which was useful for their work and they also noted that they were able to learn to speak English throughout their migration period which was a positive experience.

DURING MIGRATION

LABOUR RIGHTS and QUALITY OF LIFE FOR MIGRANT WORKERS IN MALAYSIA

The research with respondents, who were working in Malaysia at the time of the study, provided an insight into the living and working conditions of migrant workers in Malaysia and highlights the extreme circumstances which many workers experience and the generally poor quality of life, hedging on minimal daily survival for many workers in Malaysia. The research with returned workers in Bangladesh, Cambodia, Indonesia and Nepal also adds some insights into the grim conditions under which migrant workers endured for the purposes of income generation to support their families at home. A summary of the findings is included in the section below.

Legal Status of Migrant Workers: Undocumented workers

Respondents from Malaysia, Cambodia, Indonesia and Bangladesh all noted particular issues related to workers who are undocumented. Almost half (45.7%) of the respondents from Malaysia were undocumented workers, all of whom were working in the manufacturing and service sectors in Malaysia. There were a range of reasons why workers were undocumented including being cheated by agents, awaiting for extension of work permits that had not been renewed and being cheated by employers. These workers identified significant issues related to their undocumented status including lack of security and labour rights, and lack of access to health care.

“I have no documents, sometimes, I am afraid to go to a clinic, what do I tell them when they ask for my documents?”

(Malaysia, Migrant worker)

Bangladeshi respondents mentioned that migrants often become undocumented because they were not able to pay their annual levy. Some Bangladeshi respondents were unable to find regular employment despite what was promised in their contracts, and therefore were unable to pay the annual levy, either as a lump sum or in monthly payments. This situation forced many migrant workers either to become undocumented in Malaysia or to return back home empty handed with a large debt to pay off.



PHOTO: OKUP Bangladeshi workers being deported from Malaysia after detention in KLCC

Migration through illegal or informal channels to get to Malaysia is undertaken by many Cambodian workers due to the delays and high costs of migrating through legal channels - often migrant workers have to wait from 3 to 12 months to leave for Malaysia via legal channels. Cambodian respondents who were undocumented in the study however said they did not get any benefit from the migration process due to migrating through an illegal channel or broker. They worked under slavery like conditions, without rights to access social services and did not get social benefits from the destination country, Malaysia.

Some female Indonesian respondents noted that they had worked in Malaysia as undocumented migrants due to the fact that the recruiting agencies did not complete the correct documentation procedures. In the registration and departure process, they said that they did not get any documents at all and did not prepare the documents themselves. Their departure process was managed by the recruiters or agencies and all important documents were held by their employer in the destination country, therefore, they knew nothing about their legal status in Malaysia.

“No, not at all. I just knew I was there, arrived in Malaysia, then was picked up, that’s all, picked up by the employers.”

(Indonesia, Domestic Worker)

Nevertheless, the process they used was via legal recruitment channels; they just did not hold all of the required documents. This situation was different in comparison to one of the male informants who admitted that he migrated through an illegal process again as a result of corrupt recruiting agencies. This worker arrived in Malaysia only to realise that he was a victim of deceit by the sponsor as his passport was illegal and was not able to be used. Therefore, he was not able to live legally in the country of destination.

“I only said that the way I departed was different and I was illegal and sold by the agency and I realized that when I was there. It means that the visa fee was also a lie, because no visa was needed. Only passport, but even the passport had already expired, was not valid.”

(Indonesia, undocumented worker)

Undocumented migrants identified significant concerns related to harassment from authorities and police raids, restricted mobility due to fear of being reported by locals and arrested and deported and being forced to return to Indonesia via illegal and risky means. At times the government would announce crackdowns on illegal migrants and offer 1000 RM (USD 284) reward to informers, which forced undocumented workers to keep a low presence during these times. Despite the fact that they were illegal however, employers were still willing to hire them though often exposed them to exploitation and abuse and the workers had no recourse for justice due to being undocumented.

“When we were working, if there were policemen, it meant there was an inspection. It’s called purification. We who were illegal should be in hiding, as smart as we were. Usually we went hiding in the forest. Even though there were tigers, snakes, in there, the point is we should hide as smartly as possible if we wanted to be safe. Usually it’s about one hour. Well, the boss might inform us that there would always be an inspection on this date, there’s purification on this date. He told us beforehand because he did not want to lose his labourers.”

(Indonesia labourer)

Labour Rights: Contract Violation and Exploitation

Results from all countries reveal that the exploitation of migrants in terms of wages and fair pay is a common experience. The research shows that migrants were not given the wages promised in their original contracts, some were not given any salary, many received irregular payments and money was sometimes withheld by employers which in return, caused irregular sending of remittances. When it came to contract violations, respondents from all countries had similar complaints such as being forced to work under conditions and in sectors that they had not agreed to in their original migration contracts. Wage levels for documented and undocumented workers were significantly less than was promised by recruiting agencies prior to migration. There is no comprehensive minimum wage structure in Malaysia that applies to migrant workers and employers take advantage of this situation to suppress wages and exploit workers.

Out of the twenty individual respondents working in Malaysia, half earned a monthly income between RM 500 – RM 1000 (USD 142-284) and 15 percent earned less than RM 100 a month (USD29). The official poverty line (monthly) income is RM 691 in peninsular Malaysia, RM 765 in Sarawak state and RM 888 in Sabah. Of concern was the fact that 35 percent of respondents had never been paid by their employers and most had no other income sources apart from their current employment. No action was taken for most of these respondents because they were undocumented therefore were not eligible for any legal protection against withheld wages, which employers took advantage of. The majority of respondents (77%) received some accommodation, transportation or food allowance from their employers so were able to survive however these entitlements were often sub-standard. Besides their monthly income, none of the respondents had other valuable assets such as land or vehicles and obtaining a loan for assets was virtually impossible for a low-income migrant worker. Despite these conditions half of the workers had a small amount of savings, however half were unable to save at all. Factory workers, construction workers and waiters complained of being cheated, money being withheld by employers, with some of them forced into an illegal status as their employer had refused to renew their working permit. Those working in the service industry complained about low wages and long working hours. Most of them were overworked and underpaid as compared to a Malaysian in the same position at work. The majority of workers (75%) said they did not receive benefits such as holiday or health entitlements.

The Nepali Department of Foreign Employment has set a standard that Nepali migrant workers going to work in Malaysia need not pay more than NPR 80,000 as the recruitment cost. They have also set a minimum wage for all foreign employment as USD 125 even though different minimum standard are being followed within destination countries. However in Malaysia Nepali respondents noted those employers in Malaysia did not comply with minimum wages or even with the wage stated in the original contract papers. Nepali migrant returnees related that they had to go in search for jobs other than the one they were assigned to originally because they were not accorded the pay as agreed in their contract. The contract was originally drawn up with recruiting agents in Nepal, which meant that workers were forced to take the risk of the uncertainty of not getting appropriate accommodation, food and salary as promised by the agent. Most of the migrant workers found they had to look for alternative jobs in Malaysia as they did not receive what they were promised by their agents.

Nearly a third of individual respondents from Malaysia (30%) experienced forced contract substitution upon arrival in the country. Many of the respondents in Malaysia were promised work in restaurants but ended up working in factories. In addition 40 percent (N=8) of the respondents were subcontracted to other employers.

Most of the respondents from Bangladesh migrated to Malaysia during the year 2007-08 under the notorious “outsourcing” agreement whereby an MOU promoting the export of unskilled labour from Bangladesh to Malaysia was implemented. This agreement however resulted in grave labour and human rights violations due to corrupt recruiting agents and a lack of monitoring mechanisms, which saw thousands of Bangladeshi workers stranded in Malaysia. In this situation the majority of them had been dumped in Malaysia, their contracts violated and most were only given temporary work. This was the case for the majority (70%) of the Bangladeshi research respondents who noted that the contract substitution was largely facilitated by the local middlemen in Bangladesh, who offered contracts for employment with high salaries, however upon arrival workers were dumped into confined areas and forced to sign new temporary work contract papers.

“On the second day in Kuala Lumpur, we the hundred workers were travelled to Penang and were kept in a house of two rooms. After three days in Penang, the agent handed over the workers to a Chinese person in small groups. We forty workers in the last group were handed over to a Bangladeshi agent over there. By this time, we came to know that we were sold to those agents.”

(Bangladesh, Migrant worker)

Feedback from Indonesian workers showed that the majority experienced contract violation in terms of receiving wages that were lower than agreed to within their contracts. The workers had little control over the amount of deduction that was taken from their wage payments to cover their departure costs. Employers simply reduced the wage or were deducting payments for levy and departure costs over and above what was agreed with in the original contract. One worker noted that the recruiting agency had kept his passport and documentation which he could not access until his debts were paid back through his monthly wage earnings. In addition workers commonly experienced delayed and irregular wage payments.

“I worked for 4 months, sometimes in a month, there’s 5 days off. The wage was paid by instalments, not paid in full. I didn’t stay permanently; I slept at the oil palm plantation. Every month the wage was deducted for the permit. My passport was held by the agency, before I paid in full, the passport would not be given to the employer.”

(Indonesia Construction worker)

Domestic workers from Cambodia and those working in Malaysia were employed under similar exploitative labour conditions. Domestic workers in Malaysia were generally bonded for 4-6 months minimum, upon arrival to Malaysia by working without any wages. Wages in these initial months are usually transferred to the recruiting agent to pay for their migration fees and annual levy. Domestic workers from the Malaysian interviews showed that on average they had higher monthly savings as compared to male migrant workers as their living expenditures were covered by their employers. However, their savings only began after their debts were paid off to their agents towards the middle of the first year. Cambodian domestic workers appeared to suffer more wage violations with some of them noting that their pay was cut for an extra two months longer than was originally promised, and some workers noting that they did not receive any wages at all for the whole period as their salaries were kept by the employer until the two year contract was completed.

Working Conditions and Social Security

Most migrants in Malaysia worked on an average of 10 to 13 hours a day with just one off day in a week.

Factory workers were often forced to work in unsafe environments with inadequate break or rest time. Indonesian respondents reported that workplace accidents were common in Malaysia citing cases of broken hip, broken legs and in one case a man’s fingers being sliced off in a rattan machine. One of the workers from Indonesia described how he was exploited by the employer in the factory where he worked. He was only given rest time in rotation for 10 minutes from the 30 minutes of rest time. During the rest time, he and all labourers in the factory were watched by the guard, so not spending too much time to eat.

“Resting for half an hour, we were eating, smoking, it was not enough. The resting time was also given in rotation, for instance, it’s the turn for these, then later the others. So, in turn, 150 persons in the factory in rotation, about 10 persons each time. Therefore, the rest time was only 10 minutes, eating, it was also watched when we ate, like we’re some sort of something.”

(Indonesia, Factory worker)

Similar concerns were shared by respondents from Nepal and Malaysia regarding working conditions where migrants were exposed to dangerous environments such as working with heavy machineries with little protective measures or training. Factory and construction workers had minimal safety supervision, were made to work for long hours in dangerous environments with heavy machinery, with inadequate training. None of the workers in the study were covered by any insurance or social security in case of medical emergencies or workplace accidents. For domestic workers, the prolonged working hours was one of their main working concerns. According to the Malaysian respondents domestic workers were required to work more than 15 hours a day, seven days a week with no entitlements to holiday leave or sometimes even medical leave. Their working conditions were entirely under the control of their employer and due to their isolated work and living place also led to their exposure to physical, verbal and sexual abuse.

Organizing and Association

Migrant workers in Malaysia faced restrictions in their right to join associations including trade unions. While it is legally possible for a migrant worker to join an existing labour union the conditions connected to the issuance of work permits to migrant workers includes a prohibition on them joining any sort of association. Employers in Malaysia mostly interpret this provision to mean that migrant workers are forbidden to join unions, and often write this restriction into migrant worker contracts. The threat of firing and deportation prompts great fear in migrant workers who become reluctant to join any organisations.

According to the Malaysian respondents, none of the respondents were or had been a part of a group or association or trade union whilst in Malaysia. Some of the respondents (20%) expressed an interest in joining trade unions but noted that they had limited options to do so even in the practical sense due to restrictions in time, mobility and transport. Domestic workers as informal workers not covered under the labour laws, are prohibited from being involved in any labour unions.

One of the Indonesian respondents however explained that he had in fact set up an organisation to protect the rights of Indonesian working in Malaysia by offering group protection for migrant workers by migrants themselves and sharing religious activities at gatherings – conducting halal bihalal - informal gatherings after Ied-ul-Fitr, to ask forgiveness for one another. Apart from this example however none of the workers in this research cluster admitted to membership of any unions or associations.

HUMAN RIGHTS and QUALITY OF LIFE FOR MIGRANT WORKERS IN MALAYSIA

Violence and Harassment

In addition to labour exploitation migrant workers in Malaysia suffered violence and harassment from employers, recruiters and police. Of the twenty Malaysian migrants interviewed, half had suffered verbal and emotional abuse from employers and 55% had been physically abused on a regular basis by employers. All five of the domestic workers interviewed in Malaysia were either verbally or emotionally abused. They also reported experiences of sexual harassment and abuse. Most abuse cases of domestic workers go unreported because they have no avenue of reporting the cases. According to the Malaysian domestic workers, they were confined within the house of their employer thus they had no opportunity to seek help if they were being abused and very limited capacity to stop any sexual harassment or abuse by employers.

“My employer started out good but as time went on, he became strange. He use to seduce me, touch me inappropriately, and he tried to rape me but I manage to escape and run away before he did anything.”

(Malaysia, Domestic Worker)

“My employer sometimes asks me to drink things with funny smells. He sometimes insisted to sleep beside me at night and he made sexual advances towards me.”

(Malaysia, Domestic Worker)

There was evidence of extreme forms of violence, forced confinement, abuse and isolation experienced by migrant workers in Malaysia at the hands of recruiters and employers as noted in the cases below.

“My son was kept in a jungle with a group of Bangladeshi migrant workers. They were not provided food for four consecutive days. He somehow managed to call me and tell of his ordeals. I went to the local middleman in the village and asked him to do something. The middleman contacted his agents in Malaysia and asked him to give them food.....my son next time called me and informed that the agents in Malaysia beat them for his calling and warned him not to try to contact with family back home.”

(Bangladesh, mother of migrant worker)

“When my employer finally agreed to send me home, he told me I would go home by airplane but he lied. Instead I was taken to the jungle. I slept in the jungle for 3 days with no food or water. I was almost bitten by a snake and almost attacked by a crocodile. I had cuts all over my legs and body from travelling in the jungle. I was afraid that I would be beaten by the agent if I didn't do as he told me to. When it was time to leave they asked me to go out into sea and get on a boat that was waiting for us. But I could not swim and so I drowned. I was unconscious for 4 hours and everyone thought I was dead. I only survived because it was God's will. I have never experienced anything like that before. I thought I was going to die.”

(Malaysia, Migrant worker)

Respondents from both Malaysia and Indonesia noted that police harassment was a common experience for migrant workers in Malaysia, including extreme physical violence, bribes and corruption, and harassment of both documented and undocumented workers. Most of the migrant workers regardless of their legal status feared the local police.

“Apart from the low wages, the major distressing problem is police harassment despite them having valid documentation. One man told us how the police would stop them, take them to the jungle, conduct strip searches and beat them up should they not be able to pay a bribe. Should they protest or fight back they would be beaten even more and everything will be taken including hand phones and other valuables.”

(Malaysia, Migrant worker)

“They (police) take us into the jungle and hit us in the car, until we are too weak to walk, then they chuck us by the roadside.”

(Malaysia, Migrant worker)

“My hand phone was taken 3 times by the police and I was forced to surrender everything. The police are the real terrorist.”

(Malaysia, Migrant worker)

In addition to police migrant workers faced violence and harassment from members of the RELA troops, a form of civil paramilitary organisation that has operated in Malaysia since the late fifties. RELA (Ikatan Relawan Rakyat Malaysia of Volunteer League of Malaysian Civilians) consists of civilian members who have undergone basic military training and operate in groups usually under the supervision of an armed commander. They conduct raids seeking illegal workers who may have been smuggled into Malaysia and were a significant threat for undocumented migrant workers in Malaysia. Several migrant workers in the research from Indonesia alleged that RELA often mistreated migrant workers in Malaysia and extorted money from workers through threats, as well as perpetrating sexual harassment and rape of undocumented female workers. RELA is also known to be active in harassing undocumented workers in several border areas such as Sarawak and Selangor.

Other than the police and RELA, some of the Malaysian respondents reportedly lived in notorious areas, where gangs were common and local gangsters broke into homes which made them very afraid. When asked about feelings of safety and security the majority of respondents (95%) admitted that there was nowhere that they could feel safe, with only 5% feeling safe in their own home. The rest of the 75 percent (N=15) of the respondents did not feel safe outdoors, travelling to and from workplaces and many had a fear of local people as they were often threatened by them when returning home and sometimes beaten up for no reason.

Housing and Living Conditions

Indonesian and Malaysian respondents identified a range of sub-standard living conditions including inadequate food, sanitation and housing options while living in Malaysia. According to the Indonesian respondents, the majority lived around their place work and many were living in substandard conditions. He also said that his housing had asbestos in the roof and no ceilings. The majority of the Malaysian respondents were unsatisfied with the cleanliness of their house and neighbourhood with most migrants living in small terrace houses or wooden shacks either to save cost, or because it was provided by their employers. There was no proper ventilation in the houses because a small space was used to fit in many rooms with an average of 5-12 migrant workers sharing a house, with minimal bathing space usually in an open area. They had minimal household appliances with a rice cooker, stove, a television, fan and a radio shared between 12 to 20 people and basic furniture only. Many of the migrant workers complained that their location was inaccessible for public transport and shops making it difficult for them to buy food and travel. The living conditions of factory

workers were particularly bad – with up to 13 people sharing a small wooden room, no means to keep the room clean and limited access to water.

“The agent took us to the factory and I had to stay there for 2 months with no work. There were 80 people in one place with just one toilet. The place was dirty, and we had only plain rice and dhal once a day.”

(Malaysia, Migrant worker)

Malaysian respondents had a staple diet of rice with the majority only able to afford two meals a day and no meat at all to save on costs, with 30 percent not having regular access to food. Those working as waiters saved money by eating leftovers from their customers. One quarter of the respondents had no access to clean water with the rest required to boil water before consumption. Similarly one of the Indonesian informants who worked in a pineapple plantation said that the place in which he stayed for almost two years was in the middle of a peat moss area, and the water for drinking and showering which was provided via a well in the middle of the plantation, was dirty and brown from the mossy soil. Factory workers in Malaysia also noted that there was insufficient food and due to their restricted mobility they could not purchase the food required.

“The food was not guaranteed and when I was there, I was thinner than I am now. People said that it was like in the prison. The queue was very long... the food was also served on a tin plate. I wanted to eat something else, but I could not, because the factory was a closed area so I could not go anywhere. So it was locked and we could not go anywhere.”

(Indonesia, Factory worker)

“I sleep when I’m hungry sometimes, when I wake up, it is time to go to work and I forget about the hunger.”

(Malaysia, Migrant worker)

Domestic workers from Malaysia noted that whilst they generally had satisfactory living environment within their employer’s house, they were often deprived of adequate living space and personal privacy.

Health Issues

Respondents from Cambodia, Indonesia and Malaysia identified low levels of access and information about health care including sexual and reproductive health, despite experiencing high levels of physical and mental health issues. Sixty percent of Malaysian respondents noted they were required to undergo an annual medical examination with mandatory blood tests for migration purposes. However apart from this most respondents did not access any sort of health care whilst in Malaysia despite suffering health complaints such as extreme tiredness, skin problems, muscle and back pain. Only 15 percent of respondents had seen a doctor in Malaysia as most noted that medical fees were unaffordable, and time constraints and their status as undocumented workers made it impossible to access health services. One of the respondents was forced to stop his heart medication upon arrival to Malaysia because of money constraints. Indonesian male workers received no health coverage from their employers, and had to cover all medical expenses themselves. Even in cases of an accident in the workplace, the employer or the company in which they worked did not pay for their treatment and medication. Cambodian respondents also did not access health care due to a lack of information and knowledge about where to find services, as well as similar access issues for undocumented migrants. Domestic workers noted that their access to health care was dependent on their employers and they were often denied medical attention and forced to work despite being unwell. They were also vulnerable to unplanned pregnancy and sexually transmitted diseases in cases of sexual abuse from employers as they had no access to contraceptive or reproductive health services. Both Cambodian and Malaysian respondents reported low levels of

awareness of sexually transmitted diseases and limited access to sexual health services. All of the Malaysian respondents were aware of the use of condoms as contraceptives however none of the respondents used contraceptives regularly with some noting that condoms were not affordable on their wages. Thirty percent (N= 6) of the respondents claimed to be sexually active in Malaysia with either one or more partners. Some workers also made use of sex worker services, in some cases with charges for the services being taken out of their wages.

In the Malaysian research mental health issues were identified as a common, serious health concern that in all cases went untreated. All of the respondents had been through experiences of trauma and shock. All of the domestic workers (N=5) expressed that the physical and sexual abuse that they experienced had effected their life greatly, resulting in them becoming very timid, living in fear of men and strangers and unable to forget the abuse. They identified very low levels of confidence and self worth. Respondents that worked as waiters, construction and factory workers were also affected by their trauma and shock. They lived in fear of authorities, and were constantly afraid for their personal safety. The experience of being cheated had affected their self worth and resulted in a loss of respect amongst their family. Problems with the family due to debts and distance also increased stress levels. The burden and stress of migration often lead to depression with one respondent reporting that he had considered suicide in response to this situation.



PHOTO OKUP: Bangladeshi returned migrant worker seeking health treatment for injury incurred during migration

Deaths overseas

Respondents from Indonesia spoke about deaths of their fellow migrants during migration which had occurred either by accident or through illness. One of the former migrant workers said that in the area where he worked in East Malaysia, the death of a migrant worker was commonly not investigated fully and in some cases the bodies of the person were not sent home to families or given appropriate burial or funeral services.

“At East Malaysia, the regulation was really bad. Even if they died because of illness, they were not returned to Indonesia. Just thrown away or buried anywhere, at random; I saw it, as though they were an animal.”
(Indonesia migrant worker)

This opinion was also shared by the Bangladeshi respondents who said that there was limited incentive or initiative for authorities in Malaysia to investigate the death cases of Bangladeshi migrants even though the death cases had been increasing.

Discrimination and Xenophobia

All the respondents that were interviewed from Malaysia complained of being discriminated against. This included discrimination in the workplace when compared to local workers in the same position when it comes to benefits, working condition and wages. In relation to their rights, migrant workers had minimal rights as compared to other workers under the labour law in Malaysia. Other than that, there was a general level of discrimination experienced within Malaysian society where migrant workers were frowned upon and considered a nuisance, by many locals. Indonesian respondents also spoke about discrimination and xenophobia experienced in Malaysia. They experienced discrimination from their employers and other workers from Malaysia who looked down on migrant workers from Indonesia.

CIVIL, POLITICAL AND SOCIAL RIGHTS and QUALITY OF LIFE FOR MIGRANT WORKERS IN MALAYSIA

Religion, Language and Food

Some migrant workers in Malaysia found that they were unable to practice their religion, due to time constraints and employer controls within their workplace. The Malaysian and Indonesian respondents who were Muslim identified that when working at the employer's house or in the factory, there was a prohibition where most of the migrant workers were not permitted to pray like other Muslims. The limited time that they had for leisure meant that they were not able to perform their prayers freely, and in some cases they were expressly forbidden by the employer, who asserted that religious practice would interfere with their work. In terms of language and food, migrants from the Malaysian research identified that they maintained their source country language with fellow migrants and were mostly able to purchase food that was suitable to their culture as this was often available in areas where migrants worked such as factories and construction sites. A small number (15%) of Nepali migrant workers identified that migration impacted on their religious practice in that they felt alone at festival times and began to lose faith in God as their prayers for betterment of their family were not realized. Domestic workers indicated that they found it difficult to practice their culture and religion as they were under the constant watch of their employers and had limited time and space. They were not able to purchase their local food however had access to food preparation as part of their work.

Socialization and Recreation

Only half of the Malaysian respondents practiced relaxation and leisure, mostly on weekends, doing simple things that did not involve much time and money such as having dinner and gathering with friends. None of the respondents socialized with local Malaysian people. The other half did not practice any sort of relaxation and leisure due to financial and mobility constraints especially with domestic workers and undocumented workers. Domestic workers noted that there was no time or opportunity for relaxation and leisure. They were house bound, and the only time they went out was with their employers only meeting with the friends and family of their employers. The majority of Malaysian respondents (80 %) had no family support whilst they were working in Malaysia and there was no support systems set up within the workplace. However, migrants that lived within a community shared that they had a good support system with other migrant workers who they could talk to and share their problems. Most of the respondents felt that they had no respected social status within their community.

Movement and Communication

According to the Malaysian respondents, language problems were commonly experienced by all new migrants except those from Indonesia who could speak Bahasa Malaysia. Most migrants had trouble communicating to locals in Malaysia and other migrant workers however admitted to the situation improving as their fluency improved. Migrants who lived within a community maintained frequent communication with the rest of their community members in Malaysia. However a large number of respondents (45%) in Malaysia had stopped communicating with their family at home for more than a year, due to having no access to communication and experiencing a prolonged time away from their family. The rest of the migrants communicated with their family less than once a month, with the phone being the most common method of communication. Migrant workers often encountered problems such as the high cost of communication, employer prohibitions on phone calls and time constraints. Factory workers in isolated areas had limited access to public phones. Indonesian respondents noted they were able to communicate freely with their families at home, however they were limited in terms of costs, and having time off work. Domestic workers in Malaysia and from Cambodia rarely communicated with their family to avoid any sort of pay deduction. Communication with family could only be made through their employers who would deduct the costs of phone calls from their salary. Cambodian domestic workers estimated that they only contacted their family on average twice a year by telephone and sometimes by sending letters to their home. Most Nepali migrants had communicated with their families whilst they worked in Malaysia, mainly via phone, with some sending regular letters or using the traditional way of sending message through persons returning home.

Voting

Political rights for voting either in the source or destination countries were limited for migrant workers. Very few of the migrant workers in the study identified any capacity to exercise voting rights for elections occurring in their source countries due to the lack of formal provisions provided to ensure migrant workers can participate in elections whilst working abroad. For those that were provided with voting options there was practical access issues as outlined by respondents from Indonesia noted the barriers faced by migrant workers in placing an absentee vote whilst working in Malaysia.

“When there was a general election, I was there (Malaysia), but I didn’t participate. It was too far to do the election, no place of election nearby. It was pretty far, about 4 km. There was one at Johor, but I was at Pakung; probably there was also one in the city centre, but it’s in the city. Although there were thousands of Indonesians there, no one participated.”
(Indonesia migrant worker)

Access to Justice

During their work in Malaysia, migrant workers were legally entitled to the same treatment and access to law and justice as other foreign citizens in Malaysia. However migrant workers who were undocumented and therefore considered illegal – did not have access to legal protection particularly for labour rights violations. One of the main concerns identified by the Malaysian respondents was migrants who were labelled as illegal. In Malaysia the employers had the ability to cancel a workers legal work permit, via a complaint or alleged misconduct of the worker, or through non payment of the levy when the fee was being taken by the employer from the workers salary. The cancellation of the work permit by employers then made the migrant worker illegal, liable to arrest, fines and deportation and ensured that the worker had no legal labour rights. Seeking justice for illegal migrants was a very difficult process. In this research respondents from non government agencies working to protect workers rights outlined a common experience whereby employers cancelled the workers permit to deliberately limit their access to justice for labour rights violations.

“When we file a case in the labour court, the employer cancelled the work permit and the migrant workers become illegal. We apply for a special permit that cost RM 100 for 3 months. If the case is not settled, they would have to return home and come back for the case after the labour court has decided the tentative date. It takes a long time for a case to be resolved, an average of 6 months. It is difficult to persuade the employers to come forward because there is no law to pressure them.”
(Malaysia NGO worker)

Like undocumented migrant workers, domestic workers had minimal access to justice as they had no opportunity to lodge complaints because of the nature of their work that kept them confined to their employer’s house. In addition most domestic workers could not file a complaint with the labour office to claim wages or to complain against other labour rights violations, as this process required a passport. Most of the time, the domestic worker’s passport was kept by the employer hence the labour office was reluctant to take up the case.

None of the respondents identified being involved with the criminal justice system however some respondents were arrested for civil or immigration offences. Malaysian respondents who were arrested settled their problems through either bribing the police, or they were bailed out by their friends. Those who were unable to pay were sent to the migration detention camp.

Domestic workers within the Malaysian respondents had sought the help of local Non Government organisations to assist them in lodging court cases against their employers. In these cases the NGOs were able to provide shelter for female migrants where they could stay pending the outcomes of the case. However, male migrants had no place of refuge available should they experience any unjust criminal or civil cases.

Retrenchment and Repatriation

According to the Bangladeshi respondents, 33 percent migrants who travelled to Malaysia during 2007-08 were forced to return back within five to nine months of their migration to Malaysia before completing their contract, with many returning empty handed with a large amount of outstanding debt due to the loans taken for migration. In addition many workers were left stranded in Malaysia, either because they do not have the funds to purchase a ticket home, or because they are forced to continue to seek work in order to pay for their debts.

“If I wanted stayed back in Malaysia I would have given the levy charge. The amount was more than RM 2000 that I never seen at a time during my expatriate life in Malaysia. Finally I decided to come back home after one year. I returned home empty handed even without recovering my migration cost.”
(Bangladesh migrant worker)

According to the Indonesian respondents, most of them did not seek permission to resign from work due to fear of the reaction of their employers. Most workers were dependent on wage payments or savings kept by their employers to actually be able to return home. They said that if they sought permission to return home to see their family it would not be given so some used fake stories about family emergencies just to be able to break the contract and return home. Others were forced to use illegal means to return home in order to escape exploitative working conditions. Indonesian workers told of being forced by the recruiting agents or employers to sign an extension to their contract and were refused wage payments and travel entitlements to return home. They then had no choice but to use illegal means to return to Indonesia which included high costs due to extortion from people smugglers and bribes to border authorities, immigration officials, and police with considerable risk to their lives in attempting to return home. One of the informants had the experience of returning home via sea in a difficult and dangerous journey.

“I was sent in the official way, and so how I want it for home. But since my employer said forcefully I have to extend the contract since the three years’ due time is over, I decided to go home illegally, through Batam. It only suits 10 people but the boat carried up to 40 people. All of them were Indonesian migrant workers going through the sea route. If the fate weren’t on our side, all of us could die. We were smuggled at 12 am from the Malaysian forest. Waiting until the patrol left. I spent 2.5 million rupiah to return home. Official route will only cost Rp700,000. After we’ve reached Indonesia, the Indonesian officer asked for money, each Rp150,000. They said it was for the koramil (district military) and AL (Mariner officer). The returning process involved both police from Malaysia and Indonesia.”
(Indonesia, Migrant worker)

Remittances

Remittance processes/mechanisms/amounts

The research with returned workers and their families from Bangladesh, Cambodia, and Nepal and Indonesia provided insight into the patterns of remittance sending of migrant workers from Malaysia. There were some differences found in main methods of transferring money with Nepali Malaysian and Indonesian respondents mostly using banks as the main money transfer method. Bangladeshi and Cambodia respondents however preferred informal methods of remittance transfer. Domestic workers from Malaysia and Cambodia had limited control over the remittance process or amounts as they had to depend on their employers to send their money to their family.

Most Nepali migrants were able to remit at some time whilst they were working overseas as the interviews with migrant workers families and spouses showed that 95% had received remittances from Malaysia, generally sent every three months, sometimes sent only twice per year. Remittances were sent mostly through banks (58.97%) with Hundi being used by approximately 20% of respondents and small numbers using either private money transfers (12.82%) or sending money through persons returning to Nepal (2.56%). The majority of spouses received less than NPR 3000 per month (42USD) with 36 percent receiving between 3500-6500 NPR (USD49-91) and a small percentage receiving between 7-10,000 NPR (USD98-140) per month. Family members interviewed received larger remittance payments with most receiving up to 10,000 NPR per month (USD140), 20 percent received between 11-20,000 NPR (USD 154-280) and 10% received between 21-40,000 NPR (USD 294-560) per month.

In comparison to Nepal most Bangladeshi respondents, used informal remittance sending mechanisms such as hundi, with only 13 percent of migrant workers sending remittances via the banking channel. Bangladeshi respondents preferred hundi as most were unable to access the formal banking system due to a lack of legal documents required for the process, difficulties in completing written forms and a lack of time and access to transport to use formal banks for remittance sending. Most Bangladeshi workers however were unable to send any remittances at all, with only 29 percent of all respondents remitting. Interviews with returnee migrant workers and spouses showed that only 4 out of 10 migrant workers, who migrated before the outsourcing agreement, had been able to send money. Focus group discussion revealed that 6 out of 20 migrants sent remittances between Taka 20,000 (USD266) – Taka 25,000(USD333) every 2/3 months. Most respondents however noted that they could not send money home every month because their jobs were not permanent.

Among the Cambodian respondents, the most common means of sending remittances was through recruiting agencies which charged a fee of 25RM for RM 990 ((USD7-281) or over. Respondents avoided using bank systems or Western Unions because they perceived them to be too technologically advanced and complicated. In most cases the respondents confirmed that they did not use the banking system to transfer money home but either directly carried money home or sent through recruiting agencies and informal channels without signing any paperwork. According to the Cambodian respondents, they were rarely able to send their remittance home because it was hard to access their money and their money would often only be released at the end of the contract when they returned home.

“I saved money with the boss, after I finished contract I directly carried home.”

(Cambodian migrant worker)

Malaysian respondents were aware of a number of methods of transferring money including foreign and local banks, post offices, friends /family and fax. All of the respondents that were actively sending home money to their family used these methods, with majority remitting through foreign banks. Those who did not have their own accounts, sent money home through a trusted friend's account. Only 50.00 percent (N=10) of the respondents had sent home money within the past year. Of this group, half had sent an average amount ranging from RM 1000 to RM2000 (USD 284-568) per year whereas the rest sent an average amount ranging from RM 2000 to RM 3000 (USD568 – 852) per year. According to the Malaysian respondents, domestic workers depended on their employers for transportation and “permission” to remit money. Sometimes,

their salary was withheld for months and they were given a lump sum, thus regular sending was not possible. Through the interviews it was found that women migrants remitted an average of RM 800 (USD227) or more a year. However, all the women migrants that were interviewed were domestic workers and thus they have a much lesser living cost as compared to the male migrant workers.

According to the Indonesian respondents were not sent regularly each month. Male migrant workers were able to send remittance to their family once every 5 or 6 months on an average of RM1000 every time. They sent it via the nearest private bank. The reason that they preferred private banks were because they were able to send it by themselves, and the deduction by the private bank was about 10% or RM 100 for every transaction.

Remittances, Household Incomes, Debt and Savings

Respondents from all of the countries in this cluster noted major challenges for migrant-sending households in source countries, in being able to pay off the original debt incurred for migration abroad due to the lower than expected earnings from remittances in Malaysia, and in some cases the forced return of migrant workers with insufficient earnings, resulting in further loss of household assets. The results show a common pattern of quashed expectations, outstanding debt, and limited savings patterns for migrant workers and their families.

Most family members (75%) and spouses (88%) of migrant workers in Nepal were forced to take loans to cover both the initial migration costs and to support the family in Nepal, as the remittance money was not sufficient to do so. Money was generally borrowed from relatives and friends, with comparatively low interest rates. During the migration period, most of the families were dependent on income earned through other livelihoods or sources, as they could not rely on the remittance income. Remittances were often spent on paying back the migration debt which for most of the spouses interviewed (63%) and a large number of family members interviewed (42%) took more than 13 months to pay back, due to lower than anticipated wages in Malaysia.

“They give less salary and take labour charge. So, we have not been able to repay the loan. Even he could not return back to Nepal also because he has to buy plane ticket himself and loan is not repaid yet.”

(Nepal, Family member of migrant worker)

One family admitted that it had taken more than four years to repay back the loan amount and be free from the debt. Others were able to pay back their initial loan over a period between 6-12 months depending on the wages earned in Malaysia. The majority (67.5%) percent of the Nepali respondents were not able to save any money from the remittances, due to their large families and low income. A large percentage of the spouses and family members stated that over the time when they received no remittances, they had to either use their previous savings or pension money received by their in-laws to support their family livelihood or borrow money from their friends/relatives.

All of the Bangladeshi respondents were dependant on other livelihood activities apart from remittances over the time of migration. Family members of migrants worked in occupations such as agriculture, power loom workers, and small grocery shop. The majority of these families had some extent of arable lands while 15 percent farmed on leased land. The majority of the migrants and their family covered in the study could not make their migration a success as only 29 percent could send remittances, and 33percent returned home without adequate earnings, with only four migrant workers being able to have some savings from their remittances when they returned home, and many migrants still stranded in Malaysia. Most of the people who migrated had lost their previous livelihood and sold valuables and assets for migration yet were still unable to pay back their loans, meaning that many of them were facing severe economic hardship within their household. Of the Bangladeshi respondents, 80 percent took a loan from local money lenders at 10-15 percent interest, more than half had to sell their land and 20 percent borrowed money from relatives. Some migrants had taken money advances on their land for a certain period of time on the condition that they would provide crops off the land until the money was paid back. One case however found that the money lender took over the land after the migrant failed to return and pay back his loan in time.

“I could not able to pay back any more loans and interests that I took for migration. All the pawn-brokers are hammering me to pay back their monies. I couldn't say my situation in words. One pawn-broker (cooperative society) claimed 100,000 taka (loan with interest) against 25000 taka loan. They have warned me if I fail to pay their monies within next one month they would seize the land. Finally they did so.”

(Bangladesh Migrant worker)

“I lost the last means of our survival to send my husband to Malaysia. I bought miseries instead of happiness sending him abroad. I don't know what will happen to him in Malaysia? What will happen to my children?”

(Bangladesh, wife of Migrant worker)

There was mixed outcomes for Cambodian migrants who went to Malaysia, however some migrants noted that they had taken significant debt with their families in terms of payment for training and departure expenses which were not able to be effectively paid off via the earnings in Malaysia. Some of these respondents noted that they were unable to fulfil their contracts and were therefore forced to sell their land or house, or depend on other family member's earnings to pay their debts. One family noted they had sold their property in order to pay back the debt which they incurred from the recruiting agency to send their daughter to Malaysia and as a result were even more reliant on remittances being sent from abroad.

Respondents who were currently working in Malaysia also voiced concern over the level of debt they had undertaken within their household in order to migrate, and their future ability to pay this off over the time of migration given all the hidden costs, and worse than expected wages and working conditions.

“The money I have sent home is not enough to improve my family's quality of life. We have so much loans to pay back and the money is not enough to cover it. I am very unsatisfied and I feel that I have made a wrong decision to come here. I have invested RM12000 to migrate and it takes me 2 years to make back that money. How am I going to pay for pre-existing loans? Before migration, I planed to make a lot of money so that I could save and invest it on my son's future but that's not possible with my salary. Further, being away from my wife and son is too difficult.”

(Malaysia, Migrant worker)

According to the Indonesian respondents, there was only a small amount of migrant workers who worked in Malaysia that said that the remittance they received was able to influence the quality of life of their family and their surroundings. Whilst 20% said they had some savings they noted that the savings were not significant enough to increase their quality of life. Another 20% noted that they were still in debt when they returned home and owed money for their loans to their neighbour and close families. Remittances were used by most respondents to fulfil the daily needs of their children and spouses. For most the money received was only sufficient for consumption, although some of them used it to buy land, field and other household assets.

Profile of Remittance Use

Respondents from all of the countries in the cluster had a common priority in their remittance usage firstly to pay up their debts. Other than that, respondents who in fact did receive remittances were able to spend them in a number of areas including daily living expenses, children's education and assets purchases. In interviews with spouses of migrant workers from Nepal it was found that half of the spouses used remittance funds for agricultural activities, 46% spent it on children's education and buying land/home; 37% spent it on food, clothing and household appliances with a third spending it on loan repayments. Spouses in the focus groups

indicated similar spending patterns of remittance use, but also included spending on training for themselves and cultural rituals. Family members of migrants indicated similar patterns with more than half (56%) of the remittance money being used for food, clothing, buying land/home and for education of children and 38% spending on household appliances, agriculture and loan repayments. Management of remittance was mostly (81.64%) handled by the eldest members of family of migrants as they still lived in a joint family system. Some spouses (18.36%) who lived independently were also found to manage the money received from Malaysia by them selves.

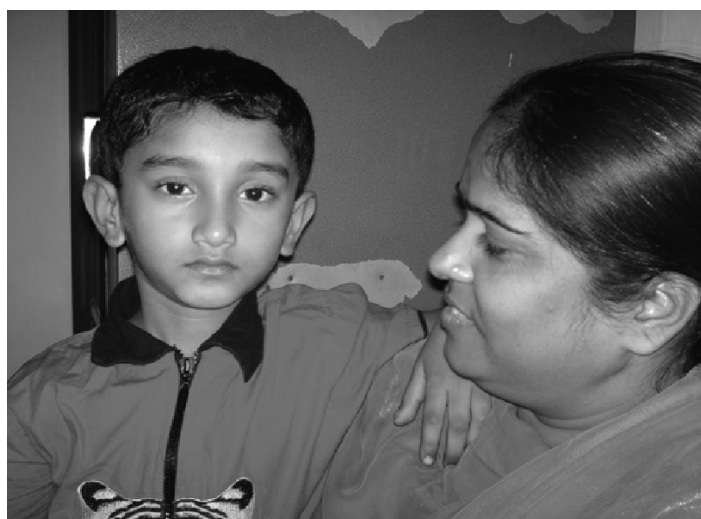
According to the Bangladeshi respondents, remittance was the primary source of income for most of the families. Any remittance received was usually spent for daily consumption (including food, clothing, and medical treatment) and to repay loans. Apart from this, remittances were also used for house construction, land purchase and education of children. A small amount of Bangladeshi respondents said during their interview that they had been successful in migration in terms of maintaining household economic solvency and improved living standards.

Cambodian respondents confirmed that there were some positive points in term of remittances being used to improve standards of living and to purchase some material, fixed assets and equipment. In addition to using the remittances to repay the original migration debt, respondents indicated the following remittance spending patterns: 35% spent on buying a rice field, 50% used for daily living and 15% spent on children's education. Malaysian respondents who were able to send remittances to family at home indicated similar use of the funds noting that families in the source country spent remittances on accommodation, education, savings, medical, land, durable goods, debts, food and clothing. Some Indonesian respondents said that the remittance had helped to improve their immediate economic quality of their life for their family back home. Many respondents spent remittances on their children's education as a common priority area. A few respondents were able to make improvements to their housing, and buy assets such as a motorcycle, and one was able to use the one to pay for marriage ceremony costs.

There was limited evidence of investment for small businesses by the respondents. However some had been able to purchase land, livestock and housing resulting in the potential capacity to improve family living standards and act as the foundation for business ventures in the future given appropriate opportunities in the source country. Some of the Nepali respondents invested in small scale investment activities, using their funds to generate income on land investments – however respondents noted that they felt that there was limited development and business activities within their local economy in Nepal. This lack of opportunity for investing meant that most migrants who had any extra funds deposited them in banks as savings rather than being used for productive investments. Among the Bangladeshi respondents, there were no successful examples of using remittances for micro-business. Only four migrant workers were able to save from their remittances when they returned home with three of them investing their money to buy land. According to some of the Cambodian respondents, they received benefits from migration such as building new houses, buying rice fields, cows, motorcycles and some materials for usage in the house, which could all lead to the foundation for a business or livelihood program in the community; however no businesses had been developed at the time of study. Whilst some of the Indonesian respondents identified savings from migration again there was no evidence of productive investment of those savings into small business ventures. One Indonesian respondent who was able to develop a small fish business said that is was not however due to his remittance earnings as his wages in Malaysia did not result in enough capital to do so.

Impact On Families And Communities

Most of the information on the impact of migration on source-country families and communities within this cluster is taken from the research with migrant worker's families and spouses living in Nepal, Bangladesh and some information from Cambodia. Some insight into the impact on family was also offered by some of the Malaysian and Indonesian respondents. There were very different responses when asked about the change in the quality of life for families. Cambodian respondents expressed that there were both positive and negative effects on the family. Most of the Nepali respondents mentioned that there was no difference in their quality of life after migration despite the sending of remittances. There were a small number of



Bangladeshi migrants who had experienced successful migration which brought positive changes however the majority felt that their life had become more stressful and unmanageable since migration. The impact of migration on Indonesian families is analysed more comprehensively in Cluster 3 Women and Migration. Malaysian respondents were still working at the time of interview so only offered information from that perspective.



PHOTOS: OKUP Families of migrant workers from Bangladesh

Family Impact

Most Nepali families (85%) noted that their lives had little noticeable improvement from the migration of their family member. The majority did not feel any change brought about in their area/location of settlement due to remittances with only a few who had moved to a better area for settlement. A few families (2.5%) felt that water supply and sanitation conditions in their residence had become worse than before migration however, most of the respondents did not experience any change on their water supply and sanitation conditions in their residence as an impact of remittance. Nearly half of the respondents (47.5%) noted an increased level of work on the families left behind as they were less one person to provide income and household help. Some respondents (12.5%) felt that there had been changes in their perception and behaviour towards their children and elder family members after the migration, however most felt that their family relationships remained unchanged. According to the Nepali respondents, 75.0 percent felt that family safety and security had not improved after the migration of their family members to work in Malaysia. Those spouses who were living alone only with their in fact felt more insecure due to the absence of their husbands. Discussions with the families of migrants in Bangladesh revealed that for the majority of them migration had brought insecurity in their lives. Due to the high level of migration debt, many had lost their cultivable lands which they had previously used successfully to grow crops for sale and were able to make a decent profit. Migration however had not only meant a loss of land and assets but also increased pressure on the family to pay back the loan money.

*“We had at least a roof above our head before his migration to Malaysia.
I could at least provide meals to the mouth of my children by own hand. ...
Now my children look at others’ face for getting their grace.”*

(Bangladesh, wife of migrant worker)

Family conflict

Most of the Nepali respondents felt that migration had not caused any major family conflict. A small number of Nepali respondents however (12.5%) noted incidents of conflict with other members of the family that appeared to be related to independent movement for the wives of migrant workers whilst they were overseas. Almost all respondents (95.83%) who were wives of migrants said that they were not able to move about freely in their communities in Nepal, without interference from other family members. Absence of their husbands made it more difficult to approach their in-laws to ask for permission for going out of their homes. Those women who were living in a single family however did not face any opposition for moving about freely whilst their husbands were working overseas. Some Nepali respondents also complained of misbehaviour towards the spouses of migrant workers by their in-laws in circumstances where the migrant workers (sons of the in-laws) were unemployed. However, the majority did not feel any positive or negative impact on their family relationship. In contrast the majority of Malaysian respondents (75%) felt that migration had caused family conflict such as communication breakdown between spouses due to the debts left behind. Most of the conflict was caused by debts that were left in the country of origin due to their migration. Migrant workers who were not able to pay up their debts caused shame and problems for their families that were left behind. Being away for a long time from the family caused a communication breakdown between the family and led to problems and conflict within the family. Not being able to support the home family at significant times was also an issue noted by Malaysian respondents. This was particularly devastating in instances where there had been deaths of members of their extended family at home, and the workers were unable to afford to return to participate in funerals and support their families. Bangladeshi respondents also agreed that debt had caused them family conflict with some Bangladeshi spouses who said that they had a broken relationship with close relatives because they borrowed money from them but could not pay back according to their promise.

Marital Relations

Bangladeshi and Malaysian respondents felt strongly that migration had negatively affected their marital relationships. A total of 60.34 percent of the Malaysian respondents said that their migration had negatively affected their marriage. Relationships between the spouses worsened due to both the troubles faced by the workers in Malaysia, and the conflicts started within the family at home. In addition some workers noted that the abuse suffered by them in Malaysia continued to impact on them after their return home, through associated problems experienced within their marriage.

*“My husband is very angry with me after he found out that another man
(the employer) has touched (sexually abused) me.
I don’t know what to say to him”*

(Malaysia, Domestic Worker)

According to the Bangladeshi respondents, their stress had doubled after migration due to the absence of their spouse. As one woman explained

*“We had hardship before migration but we had our husbands with us. Now
we have neither husband nor money. So the tension is double.”*

(Bangladesh, Wife of Migrant Worker)

Most of the Nepali respondents (82.5%) felt that migration of their family member to Malaysia did not bring about peace of mind. While the majority of them felt that migration had no effect on their marital relations, 8.33 percent had experienced a conflicting relationship and it was generally agreed amongst spouses in the source country that a feeling of suspicion often developed between husband and wife due to the time and distance of migration.

“Due to distance in relationship they might think that we (wives) may not be using money wisely. For example; my husband scolds me if the money is finished soon and asks me where it was used. He always asks about the money which is sent by him. This makes me feel bad.”

(Nepal Wife of Migrant Worker)

More than half of the Nepali respondents (52.5%) stated that migration had led to difficulty coping with the long distance relationship. They used to comfort themselves by talking over the phone, engaging in household activities and attending to their children which had helped them to remain busy. A large portion (87.50%) of the respondents however did not feel any positive or negative impacts in their husband and wife relationship.

Children

Most (79%) of the Nepali respondents felt that migration had no effect on child bearing however 20 percent noted that it had helped with family planning. However, the respondents voiced concern of the effect of the absence of their spouse on their children, in that the children lacked guidance and support. They also said that they were lacking the psychological support of parenting whilst their spouse was away and this was particularly hard felt at times when they themselves were ill. Nepali migrants spoke about the education of their children in Nepal with the 92 percent noting that migration had no effect on the level of education of the children. In a small number of cases (2.5%) say that it had reduced the level of education for their children due to the impact of debt on the family.

Bangladeshi respondents mentioned that due to migration, some of them had to stop their children's education. The majority (92.5 percent) felt that migration had no positive effect on improving education or literacy levels of their children or other family members with a small number (2.5 percent) stating that the number of the family members pursuing education had decreased. One of the main concerns of the Bangladeshi respondents was financial worries in that they did not have enough money to support their children's daily living expenses. There was a common concern among the spouses in the focus groups, that they would not be able to secure higher education of their children due to a lack of income from both migration and employment in the source country. In fact the education of children was one of the main reasons behind the migration of their husbands however there was limited success in this area. Due to a lack of income they were unable to enrol their children in new classes, to buy them new books or to provide them with tuition fees. Despite the fact that the children were successful at school with some in higher classes at the secondary level, they were about to drop out the school system due to a lack of income.

“My husband is stranded in Malaysia. My brother is providing food to us for the last six months. I am afraid of asking him to provide education to my children even though, he (son) stood first in his class (grade eight).”

(Bangladesh, Wife of Migrant Worker)

Health

According to the Nepali and Bangladeshi respondents, migration did not lead to improvements in access to social services or health care for families in the source country. While most Nepali respondents (85.0%) did not feel any change in terms of access to social services, those women who lived independently of their in-laws whilst their husband worked overseas, felt that their access to social services had become more difficult as they had limited knowledge about how to do this. Respondents noted both positive and negative health impacts of migration. A large number of respondents (70.83%) felt that migration to work in Malaysia had not been the brought about any change in their access to health care. Many respondents noted that migrant had a negative impact on their mental health due to increased worry and anxiety for their spouses working overseas, which was especially significant in cases where there was limited communication or contact during the migration period. The primary positive impact of migration was seen as the financial assistance that was sent thorough remittances.

Bangladeshi spouses and family members reported significant levels of psychological stress and sometimes physical illness (heart problems) as a result of migration. This was caused by both their concern for their family member overseas as well as the financial hardships experienced at home. Due to the migration debt and lack of income there was no scope for improvement in health care access for Bangladeshi families with many of them avoiding any visits to the doctor as they could not afford either the treatment fee or to pay for any medicine.

Community-Level Impact

The research highlighted that in all source country communities there were both positive and negative impacts of migration at the community level and this was felt in various ways by families left behind in the home community. Nepali respondents spoke about their socialization during the absence of their spouse with a large percent of respondents admitting that they turned to family and friends when they needed help such as financial assistance. Whilst most of the Nepali respondents said that there was no change to their support system within the community, some (10%) felt that their relationship with other relatives and neighbours had worsened due to the fact that migrant workers did not receive much respect within Nepalese society and were often looked down upon by others, while female spouses of migrant workers were often perceived with suspicion as to their behaviour whilst the male member of the family was away. According to the Nepali respondents, most migrant workers (69.23%) were not able to contribute financially to their community, however nearly one third of respondents were able to contribute in cash or kind to the community in which the respondents lived in after the migration. The contributions were made for community welfare activities, construction of public drinking water taps, roads and electric poles. Voluntary contributions were also made to help flood victims.

Cambodian respondents reported some negative community attitudes particularly towards women who migrated, which led to degradation in the social status of migrant women and their families. There was a community perception noted by some Cambodian respondents that women who migrated to work in Malaysia were all recruited into the sex industry and this was seen as a negative and shameful occupation by many in the home communities. Other respondents however noted that there was a positive perception of migration within their communities as it was seen that migrant workers were taking positive action to support their families.

Bangladeshi respondents faced discrimination and stigma from their community particularly because of their economic status and their debts, noting the conflicts between migrant families and money lenders had caused considerable shame and distress for families, particularly spouses. Local money lenders were usually in powerful positions in the community and caused problems and harassment for the migrant families if they could not pay the instalments of their loans. This situation had decreased the social status of many migrant families with spouses of migrant workers noting that they often felt embarrassed to associate with other relatives and community members.

“I could not pay the loan. People come to me and misbehave with me.... They shout, use bad language. Neighbours come around and gather. I feel shy and get embarrassed.”

(Bangladesh Migrant worker)

The few families in Bangladesh however, who were able to benefit from migration noted an increase in respect and status within the community.

“I observed that people greeted me in many ways that they usually did not do when I was a simple carpenter in a village shop. I realized that people respected me because I had earned money and been able to bring a bit economic improvement after migration.”

(Bangladesh Migrant worker)

Re-Migration Patterns

When asked about migration and remigration, the respondents from the sending and receiving country had many mixed answers. According to the Nepali respondents, a large proportion (45.0%) had felt the need for remigration due to lack of other sources of income and employment in Nepal. Only a handful (7.5%) perceived that there were better earnings and adequate job opportunities in Nepal. In the Bangladeshi research there were different responses to the issue of remigration depending on the financial capacities, networks of migrant relatives and the influence of middlemen. Three out of nine returnee migrants attempted to re-migrate however only one was able to do so through the assistance of a relative who worked in Saudi Arabia. The main factors pushing re-migration included the lack of employment and low wages in Bangladesh as well as the outstanding migration debt for some families. Others however noted that in some cases it was preferable to accept the lower wages earned through agricultural or other employment in Bangladesh despite the fact that it was insufficient to support the families – as in comparison to remittance money – at least the income was but was steady and regular perhaps leading to more financial security. The majority of Malaysian respondents (84.48 percent) noted that they were either most likely or definitely returning to their source country. The rest of the 15.52 percent were uncertain or most likely not to return to their source country. The issue of re-migration would depend on their capacity for income and remittance sending over the migration period.

UAE AND THE MIDDLE EAST

Countries in the Research Cluster:

Source: India, Pakistan, Philippines

Destination: U.A.E.

Participants in the Research Cluster:

Philippines: Two focus group discussions and 14 interviews were held with a total of 27 participants in both the Philippines and in the United Arab Emirates. Returned migrant workers who had worked in the U.A.E., along with three family members, participated in interviews and focus groups in Manila. Interviews were also conducted with male and female workers from Philippines working in U.A.E., as well as NGOs, officials and the Consul General in the U.A.E. Migrant workers came from a range of occupations including domestic work, retail, service, construction, drivers and machine operators.

India:

Interviews and focus groups were conducted with spouses of migrant workers who had worked in the U.A.E., and returnee migrants who worked or are working in the Middle East and South East Asia. The research was conducted in Kancheepuram and Kanyakumari Districts of Tamil Nadu, India. Migrants were mainly from villagers close to Kalpakkam town in Kancheepuram District. In Kanyakumari District migrants and spouses in the coastal villages were interviewed. Migrant workers in both groups included those who were or had been working in the U.A.E. as seafarers, construction sector workers and domestic workers. In addition focus group discussions were held with male migrant workers from India, including 9 workers in Dubai and 9 workers in Shaijha who were working who were working as labourers.

Pakistan: Focus group discussion were conducted with 18 male migrant workers in the U.A.E. in Dubai and Ajman, who were working in a range of occupations including Carpenter, Labourer, Machine Operator, Surveyor, and Steel Fixers. In Pakistan four interviews were conducted with families of migrant workers who had worked in the U.A.E., including 3 spouses and 1 family member (sister).

Key findings arising from the feedback from families and migrant workers from the three source countries in this cluster group have been summarised in the section below.

THE JOURNEY TO OVERSEAS MIGRATION

Reasons for Migration

Migrant workers from Pakistan, India and the Philippines identified economic factors as the primary reason for migration to the U.A.E. Unemployment at home, the increasing cost of living, the lack of prospects and alternatives available for earning income in their home country communities, and the demands to support their family's daily living expenses and children's education costs, were the common reasons that respondents stated as motivating factors for migration.

Departure Fees and Processes

The migrant workers from the three countries in the research cluster used official channels for migration via recruitment agencies in Pakistan, India and the Philippines. Departure costs commonly included documentation costs for passports and visa, transport fees and medical tests; and insurance fees - all of which were paid to recruiting agents prior to migration. The majority of migrant workers were required to take out loans in order to migrate. In addition to loans, respondents from the three countries commonly mortgaged assets such as family jewellery or sometimes even housing to cover the costs of migration.

Indian respondents all paid significant expenses in terms of departure fees. The majority of respondents took out loans at 5-10% interest to cover departure costs. Loans were taken either from family members or through other private means, as there was no formal loans mechanism from official finance institutions that were accessible to migrant workers in India. In the study group – seafarers paid the highest fees for migration followed by domestic workers, with fees for construction industry workers being the lowest. Seafarers from India migrating to Dubai, Bahrain and Saudi Arabia paid between 60,000 to 183,850 rupees (USD1252-3819) with an average cost of 106,668 rupees (USD 2226) per person. All respondents took out loans to cover these costs, with interest rates between 5-10%. Domestic workers from India who worked in the

U.A.E. (Jordan, Saudi Arabia and Dubai) paid fees between 35,000 to 75,000 rupee (USD 730-1565) with an average cost of 56,500 (USD 1179) per person and loans of up to 5% interest. Those working in construction industries in the U.A.E. Kuwait, Saudi Arabia, Dubai and Oman paid between 25000 – 70,000 (USD522 – 1461) for departure expenses with differences related to the occupations in which they were employed. The average per person cost in the interview group was 49,511 rupees (1033) and the majority (70%) took out loans with 5% interest.

Migrant workers from Pakistan seeking work in the U.A.E. or other Gulf countries were required to pay departure costs between Rs.160,000 to 200,000 (USD1922-2402). These costs were paid to a number of different agencies and departments in the application process. The average departure fee for a migrant worker from Pakistan totalled PKR 16150 (USD 182). Respondents either took out loans in order to pay these costs to recruitment agencies or signed agreements with the recruiting agents for wage deductions in the destination country in order to pay back the departure costs. These deductions commonly amounted on average to half a year's salary. The agreement or employment contract that workers signed prior to leaving the country, include three parties - the worker, employer and recruitment agency - and nominated the salary amount that workers would receive in the U.A.E. Respondents estimated their capacity to re-pay the departure loans based on the information in these contracts and on this basis either agreed to deductions or took out a loan. All of the respondents said that they had to arrange money to pay either all or some of the required charges of recruitment agencies. The process of decision making often involved not just the migrant worker but also included family members who had a major stake in the migration experience in both their reliance on anticipated remittance income as well as the investment of family assets to cover the costly loan conditions for migration.

The departure costs for Filipino workers going to the U.A.E. varied according to factors such as: whether the worker was hired directly or not; which recruitment agency the worker applied through; and the occupation or the country where the worker was deployed. Departure costs for Filipino migrant workers are estimated to range from PhP30,000 to PhP500,000 (US\$638 to US\$10,638).¹ The majority of respondents in this research took out loans either from family members or through formal money lending channels provided through recruitment agencies. They also identified other methods to cover departure costs such as pawning property, or entering into salary deduction arrangements with recruitment agencies.

In the Philippines recruiting agencies commonly referred migrant workers to money-lending partners who offered loans to prospective workers. Despite the fact that the Philippines had a system of state regulated departure processes, recruiting agencies commonly over-charged migrant workers either via mandatory 'up-front' payments or through salary deductions in the destination country. Under state migration policy, recruiting agencies were supposed to charge the majority of migration costs to the employer - including the processing and insurance fees charged by the Philippine government migration agencies (USD125) as well as the costs of visa fees and airfares. However in many cases agencies charged these costs to the migrant workers rather than employers. Additionally agencies often charged fees that were above the maximum stipulated amount mandated within Philippine state migration policy (which should be equivalent to no more than one month's salary excluding documentation costs). Overcharging practices were common but remained unreported – as workers were reluctant to report these issues for fear that they might not be deployed abroad. The application process itself took from 3 months to a year and the workers were required to pay extra costs related to this process including transportation and communication while applying and processing documents; housing for those who were from the provinces and were required to apply in Manila; food, and other incidentals. Many workers were also forced to pay bribes in order to expedite the processing of documents or the application process. The climate of corruption that continues to exist, despite the existence of state policies for regulation of the recruiting industry, is highlighted by one case in the research where the conditions related to interest and repayments of loans (66% interest over a 6 month period) were so exploitative and clearly impossible to fulfil, that the worker refused the loan.

“Before, I wanted to get a loan of P30,000. The term is for me to pay within 6 months. They payment would be P50,000, so I did not push through with the loan.”

(Philippines, Returned Migrant Worker)

¹ Asis, Maruja. Preparing to Work Abroad, January 2005.

LABOUR RIGHTS and QUALITY OF LIFE FOR MIGRANT WORKERS IN U.A.E.

The research with Indian, Filipino and Pakistani respondents who were either working in the U.A.E. at the time of study or had worked there previously, identified common experiences of labour rights violations and exploitation faced by migrant workers in the U.A.E. A summary of the findings is included in the section below.

Legal Status of Migrant Workers: Undocumented workers

In the U.A.E. there was a range of practices and factors that impacted on the legal status of migrant workers. The kafala system is commonly used in the U.A.E. and other countries in the Middle East and in practice means that the legal status of migrant workers was dependent on the employer or sponsor. The kafala system - drawn from a concept of “guardianship” – allows nationals and companies to hire migrant workers who are dependent on their employers for food and shelter – and gives employers near-total control over migrants’ ability to change jobs, and sometimes to leave the country. Under this system it difficult to scrutinise and regulate the working and living conditions of workers employed through the kafala system and they are explicitly unable to exercise the rights and freedoms afforded to other workers. The kafala system was problematic for migrant workers interviewed in this study, particularly those who were domestic workers who faced exploitation but were reluctant or in some cases unable to leave their workplaces due to their fear of losing their legal status in the country. The significant debts undertaken by migrants for employment abroad, made this situation worse and many workers were forced to compromise their rights and accede to the miserable working and living conditions in order to pay back their initial migration debts.

Within the research groups all of the Pakistani respondents were documented workers and therefore noted that on one level they were not concerned about deportation as they had adequate legal documentation, but on another level they were all concerned that their employers might terminate their work and send them back home. Hence they lived and worked in a precarious situation, being completely dependent on the whim of their employer and for many working and living under sub-standard conditions. In the research group from the Philippines, two of the domestic workers who migrated to the U.A.E. as documented workers, became illegal due to being forced to escape severe exploitation and abuse from employers and therefore losing their legal status. This meant that they were at greater risk of exploitation, abuse, harassment by authorities and arrest and deportation. In the Indian research about half of the returned workers in the interviews and focus groups were ‘undocumented’ including both female domestic workers and male workers.

Workers are also increasingly becoming ‘undocumented’ in the U.A.E. due to changes in immigration laws which occurred in 2008. It has been common practice from many years for potential migrant workers from destination countries to migrate to the U.A.E. using a ‘visit visa’ which has no guarantee of work; however it is the easiest and fastest way to migrate. Nationals of developing countries are required to secure a visit when planning to visit the U.A.E. on a temporary basis. Prior to 2008, it was common practice for migrant workers to use the visit visa for entering the U.A.E. and then find employment and organise a sponsor so that they could then stay and work in the country. Those who could not find work within the period stamped on their visa would exit the U.A.E. into neighbouring countries and then return with a new visa. In 2008 however the U.A.E. amended its policies regarding visa issuances which meant that multiple entries were no longer allowed. Instead workers were required to exit the U.A.E. before the visit visa expired and return to their country of origin in order to be reissued an entry visa into the U.A.E. This situation lead to greater risks for workers who migrated under a visit visa and then became stranded in neighbouring countries or in the UAE as undocumented workers if they could not find employment within the timeframes covered by their visa. A Filipino migrant interviewed for this research told how he had taken a loan to migrate to Dubai under a visit visa, however had not been able to find work after two months, was forced to leave the country as his visa expired, and became stranded in Oman for a further 3 months with hundreds of other Filipino workers. This situation is also becoming increasingly common for migrants from Pakistan and India both of which have large numbers of undocumented workers in the Middle East. The India research identified that it was common practice by many Indian recruiting agents to use the visit visa for migrant workers from India rather than ensuring that they had valid work permits – leading to workers having incorrect documentation for

working and living in the U.A. E.; which most workers were not aware of until they had migrated. This situation led to high numbers of undocumented workers from India working in the U.A.E. These undocumented workers inevitably face greater risks of trafficking, exploitation and abuse due their illegal status.

Labour Rights: Contract Violation and Exploitation

Cases of contract violation and employer exploitation and abuse were common to migrant workers from all three countries. The research from India revealed that recruiting agents had exploited migrant workers by charging large sums of money and failing to ensure that contract conditions were fulfilled in the U.A.E. For Indian workers – as well as the misuse of visit visas noted above - the majority of the workers in the study identified that they were not paid the promised salary in the U.A.E. Contract violation was common to all four domestic workers interviewed with two who worked for no salary at all for one month and then returned home without any wages at all. The other two domestic workers received lower wages than was agreed to in the original contract - between 2-3000 rupees per month (USD 41-63) less below the agreed wage. Fifty percent of interview respondents who worked in the construction industry in U.A.E. identified contract violations in terms of receiving lower wages than was originally promised in the employment agreements.

“The job and salary I was promised was not provided to me when I reached Abu Dhabi. The agent promised me that the company provides me good salary, decent living and food. But it was totally a different situation when I reached. I had to cook for everyone, leave for the work. Yet I am paid only half the salary of what other country men were getting. They get Rs.40, 000 whereas I was paid only Rs.20, 000. Unlike other countries, India doesn’t negotiate with the country which requires labour.”

(India, Construction Worker)

Often the migrant workers were not told about the exact working conditions and salary structure by the recruiting agents. The labourers from both India in the focus groups held in the U.A.E. were commonly unaware of the subject matter of the contracts they signed due to the fact that agents and employers failed to provide adequate information to workers. In addition many workers from India were illiterate and therefore unable to read their contracts - and in some cases the contracts were written or explained in Arabic with no translation provided. In addition the Indian respondents highlighted the impact of the kafala system whereby the employers often withheld their passports and hence the labourers found it impossible to switch their jobs. The majority of the labourers did not face any physical abuse however many of them had to put up with constant verbal abuse from their employers. Many of them also complained that they did not get enough rest and sleep. However they were not able to escape this situation due to the risk of employers cancelling their sponsorship guarantees under the kafala system and the workers then facing deportation.

Pakistani respondents commonly experienced contract violation at the hand so of employers who changed the condition of the original contract. All workers had carefully considered the employment contracts they signed prior to migration, particularly in terms of the expected wages so that they could decide on loan and debt repayment conditions, prior to migrating, However the respondents found that on arrival in the U.A.E., employers would simply change their contracts - usually reducing the salary and taking out provisions for entitlements such as medical insurance and health treatment. Similar to Indian worker - the Pakistani migrant workers Most Pakistani workers were under-paid earning wages between 600 AED to 1000 AED per month (USD163 -272) as ‘unskilled’ workers. This situation of forced contract substitution and reduced wages, generally occurred unexpectedly and immediately upon arrival to the U.A.E., and put Pakistani workers in a helpless and vulnerable situation compelling them to accept the revised contract and compromise their working conditions in order to be able to pay back their migration debts. In addition the actual process of receiving salaries was also open to further exploitation. Workers generally received their wages as cash as there was no formal accounting system in place, and no documentation or record of salary deductions. In many cases salary deductions were not only taken by the agent but sometimes also by the companies that hired the workers, and workers were left with the small amount of payments to use for their daily survival and remittance sending.

Filipino workers also experienced contract substitution despite the comparatively more rigorous laws in place in the Philippines to ensure standard or model contracts to protect Filipino workers abroad. The respondents noted that many Filipino migrants were unaware of how they could access these protections when overseas as they did not know who to approach, and some were afraid to lodge any complaints. Some respondents noted that they did attempt to complain about contract substitution but this was not successful.

“I even complained (to the agency in Dubai) that it was not the agreement in the Philippines but they told me I had no choice. Apparently, one comes here clueless about the real score. What if they do something bad, I am a stranger here.”

(Philippine, Domestic Worker)

The implementation of standard or model contracts had not protected Filipino domestic workers. Of the three domestic workers in Dubai who were interviewed, two were forced to sign a new contract upon arrival, and all three said they did not receive the minimum wage stipulated under Philippine migration policy of USD400 per month as salary. One worker received a day off under her employment contract and worked in other work to earn enough for living, whilst the other two workers actually ran away from their employers because they could no longer tolerate the conditions of their work. The conditions of domestic work were commonly exploitive including long hours, no guarantee of wages, and no time off.

Working Conditions and Social Security

In the U.A.E., working hours varied but the standard for working hours for locals was 8 hours per day. Those in the service or sales sector generally worked from 8 am to 11:00 pm with a break from 11:30 am to 4:30 pm to allow for rest and prayers. Rest days for government workers were Fridays and Saturdays. Most workers were entitled one-day off per week and for many this was taken on a Friday. Wages in the U.A.E. varied by sector however there was no minimum wage system implemented in the country. The majority of migrant workers from Philippines, India and Pakistan were legally eligible for labour law entitlements regarding maximum working hour limits, health and workplace safety, and compensation however none of the workers in the study received any of these entitlements. The domestic workers and seafarers were not even covered under U.A.E. labour law. The majority of respondents were not satisfied with the working conditions in the U.A.E. which included discriminatory wage payments, lack of any insurance benefits, extended working hours.

Respondents from India working in a range of sectors in the U.A.E. complained of discrimination in wages with migrant workers receiving lower wages than local workers.

Monthly wage payments varied amongst respondents, with domestic workers receiving the lowest at 5000 rupees per month (USD104 or approximately \$3 a day) construction industry workers earning between 9000 – 18,000 monthly (USD188-376) and seafarers earning a percentage of the catch, where profits are divided up amongst members of their boat crew. Respondents noted that wages were based on nationality and ethnic origin, not on work skills and experience and discriminated against Indian workers. Domestic workers appeared to face extremely difficult, hazardous and exploitative working conditions with low wages and no time off work at all. One domestic worker noted that if they took time off, even if they were sick, they were at risk of their employer cancelling their work permit and sending them home.

“We face discrimination at the destination country based on ethnicity and language. Workers from Indonesia and Philippines get a maximum salary of Rs.10, 000 whereas workers from India and Sri Lanka get only half of the amount. (i.e) Rs. 5,000. Indians and Sri Lankans are verbally abused and they are treated badly.”

(India, Domestic Worker)

“Workers salary is fixed based on country of origin. For example, if my salary is fixed as Rs.15,000, a worker from other country gets Rs.40,000 for the same work. They are recruited based on the number of workers’ allotment given to a particular company. So their salary is fixed whereas we are exploited to the core. Arabs discriminate against people from other countries, especially migrants based on ethnic origin.”

(India, Construction Worker)

Pakistani respondents also voiced concerns regarding discrimination in wages in the U.A.E., noting that local workers received more money for the same type of work and that as migrant workers they could not expect to earn the same no matter how hard they worked. Whilst the wages were higher than those earned in Pakistan all of the respondents said that they had to work extremely hard under very bad working conditions including extended working hours, extremely hard physical labour, and insufficient time for rest breaks. A small number of respondents (10%) said they could earn extra money though working overtime paid at 5 U.A.E. Dirham an hour (USD1.30/hour). However, a quarter of respondents said they refused the overtime work as the wages were so low, with 45% noting that they were interested in working overtime to earn more money however did not have the capacity due to the extreme physical conditions they were working under. Holiday and health entitlements were often removed from work contracts, except for the vacation leave entitlement which allowed workers 1-2 months leave after two years of working so that they might return home to see their families. Whilst 95 % of respondents were eligible for this entitlement, 20% of them could not return home as they could not afford to pay for air fares. Only one respondent said that he received a return ticket with leave every two years. Around 90% of the respondents said that there was no insurance within their work contracts and they knew nothing about accessing or demanding entitlements in this area. Despite these deplorable conditions workers felt they could not change employment as they were bound by the contract they had signed with the employer and depended on them for their legal status.

Working conditions for all Filipino workers were legally mandated to be covered in the employment contract however for many Filipinos who came to the U.A.E. using the visit visa, their working contracts were between them and their employers. For domestic workers from the Philippines it was mandated that working conditions were included in the POEA model contract for household service workers, however the agreement does not provide minimum standards for a day off or working hours. Amongst the Filipino respondents the domestic workers were the group most dissatisfied with their working conditions in the U.A.E. as they faced exploitation and abuse as a common occurrence and were not covered by the labour law. The domestic workers, from the Philippines complained of overwork, long working hours, low salary, having no privacy, and no day off, similar to the issues noted for Indian domestic workers.

Organizing and Association

None of the migrant workers were able to join a labour union in the U.A.E. as this was illegal, and workers could be deported if they were found attempting to organise a union or participating in any form of public demonstration. Focus groups with returnee Indian migrant workers noted that as trade unions were considered illegal in the U.A.E., even when their rights were violated, access to justice was beyond question as they did not have a platform to voice their problems and could not even organize and collectively fight for their rights. Despite attempts to remove the prohibition to join unions from the model employment contract for Filipino workers in the U.A.E., the Department of Labour and Employment (DOLE) clarified that despite the scrapping of the prohibition, overseas workers were still required to follow the laws of their destination country. This meant that Filipino workers in the U.A.E. were also prohibited from organizing or joining labour unions.

In terms of other types of association, workers in the study could participate in a range of activities with non government organisations and community groups, if these were available in their living area. Filipino respondents noted that there were now many social and community organisations for Filipinos in the U.A.E. which they could join for social, religious and educational activities. There were also some Filipinos organisation that could provide assistance to migrant workers living in shelters by providing goods like

food, milk, sanitary napkin, rice and canned goods. For Pakistani migrant workers, the U.A.E. was a major destination country, and U.A.E. hosted a large Pakistani community. Indian workers also formed large migrant worker communities in the U.A.E. with organisations in the areas of welfare, recreational and regional groupings, as well as different groups such as Tamils, Malayalees and Telegu who formed informal community groups to support of each-other in the U.A.E.

HUMAN RIGHTS and QUALITY OF LIFE FOR MIGRANT WORKERS IN U.A.E.

Violence and Harassment

The research highlighted the fact that domestic workers in the U.A.E. faced high levels of violence and harassment from their employers. This was found in interviews with both Indian and Filipino respondents. For India domestic workers two returned home after one month, with no earnings at all, to escape the abuse from their employers.

“The employer told that the agent that she doesn’t want me. Immediately, the agent in the destination country with whom I was in contact with abused me by kicking with his shoes. He asked, ‘if I desire to go to home. I said, yes’. He grabbed me and banged my head against the wall. Realizing the condition my husband approached Panchayat Leader (Local elected representative) in India. Subsequently the Panchayat leader arranged a meeting with the local agent. The agent said money cannot be refunded. So my husband signed an undertaking stating that he would not demand money. Only then, I was allowed to come back to India.”

(India, Domestic Worker)

“One day the employer saw me sleeping in my room and she dragged me from my room. My employer did not listen to me even though I pleaded her that I am running with high temperature. I was discriminated at all times. She hit me with a scoop and that created mark in my face. So I couldn’t do my work and eat well”.

(India, Domestic Worker)

Similarly the research from Philippines highlighted that on average there are 2 or 3 cases every day of domestic workers who approached the Consul General in Dubai for urgent assistance to escape the abuse and exploitation from their employers. One domestic worker who ran away from her employer sought the assistance of her recruiting agency in Dubai. When she arrived at the agency, she saw that there were many others, from the Philippines and elsewhere recounting their experiences of employers who abuse them.

“They told me that if I don’t go back to my employer it may take me a little while longer. I don’t want to stay long. They hit and slap their people there.”

(Philippines Domestic Worker)

Due to the isolation and lack of legal protection, domestic workers had limited redress or protection from the violence and harassment perpetrated by employers in the U.A.E. Workers in other sectors reported incidents of violence and harassment – with Indian workers reporting harassment in public places, note further below.

Housing and Living Conditions

Participants from the Philippines, India and Pakistan identified poor housing and living conditions as one of the major concerns relating to their quality of life in the U.A.E. The housing situation for migrant workers

in the U.A.E. depended largely on their occupation and employer. While there were companies that provided lodging to foreign workers, some employers allowed their employees to look for their own places to stay. Domestic workers stayed with their employers. Construction workers were generally housed in barracks. Some workers were given housing allowances, while others had to pay for their lodging places from their own salaries. Those working on several projects for the duration of the contract would sometimes have to transfer accommodation.

Male migrants from India who had worked in the U.A.E. in the area of construction had to live with inadequate housing and sanitation. These conditions were comparable with the living conditions of Pakistani and Indian migrants interviewed who worked in other Middle Eastern countries where overcrowded and unsanitary conditions particularly for male migrant workers in 'labour camps' were a common experience.

"Twenty of us lived in one room and we had just one toilet."

(India, labourer)

Pakistani workers also complained of their living conditions in the U.A.E. with respondents noting that 6 to 8 people lived together in one room. Water and toilet facilities were shared with one toilet for four rooms, each of which was occupied by six migrant workers - hence a single toilet was shared by 24 persons.



PHOTOS LHLRA: Pakistani workers shared accommodation in Dubai

According to Philippine focus group residents, those working in large construction companies had to share accommodation with several thousands of foreign workers. These were usually rows of buildings or barracks, with separate rooms. Each room would have 6-8 persons, mostly of the same nationality. Food was also for free and most of the time they were able to eat what they like or are used to eating because they had Filipino cooks. The main complaint was the inadequate bathroom and toilet facilities, which were located outside the building near the sleeping quarters.

"The bathroom is separate. It is in another building... We have to go out... there were many but you still have to fall in line. (There is a line for the bathroom) because there were many of us. We had to get up early, at about 2 am so we are ahead in the line. We have to take a bath. At 2:30 we have to wash our clothes. If you do not want to line up, you have to wake up early, about 2:30. But work starts at 6 am. ... This means we really lack sleep because of the kind of accommodation that we have."

(Philippines, Construction Worker)

Domestic workers on the other hand lived in the houses of their employers with some having their own small rooms, while others slept in the living room or kitchen at night.

In the case of many migrant workers in Dubai, some employers provided their workers with housing allowances and the workers found their own accommodation. One apartment unit visited during the research located in the Karama district in Dubai had three bedrooms, one kitchen, and one toilet/bathroom. There were 17 Filipinos living in the unit with 7 females sharing one bedroom, one family and another group in the other two. Some similar units in the area housed up to 28 individuals. Many Filipino workers endured such cramped living conditions due to the high rental cost in Dubai.



PHOTOS: DAWN Typical room shared by Filipino migrant workers in Dubai

Health Issues

By law, all employers in the U.A.E. should provide their employees and workers with health benefits however in practice this did not occur. In focus group discussions with labourers from India the majority complained that they often fell sick, especially during summer due to the excessive heat. No medical benefits were provided by employers so most of the workers had to spend a significant amount of their wages on medical treatment. Some of them even said that the supervisors refused to allow them to go to hospitals or grant them any leave during illness.

“The heat is unbearable here in summer and most of us succumb to illness. However, accessing health care facilities is a formidable task as it is very expensive and none of us can afford it.”

(India Labourer)

The labourers also discussed sexual and mental health issues. Accessing sex worker services was a common practice for labourers who live away from their spouses for extended periods. Separation and loneliness coupled with excessive work pressure seemed to have had an adverse impact on the psychological health of the migrants.

“I miss my family and most of the time I feel depressed. Though I have friends here I do not get to spend much time with them as my job does not give me enough free time.”

(India, Labourer)

The majority of respondents from Pakistan said they had needed health treatment at some time whilst they were working in the U.A.E. However most of the respondents said they avoided going to hospital to seek medical treatment as it was extremely expensive and they had to pay for the treatment out of their wages. A number of them (10%) said the hospital was more than an hour away from their work and living areas and sometimes there were no doctors on duty to treat patients so they had to return without getting any treatment. Around seven percent of respondents said that they got feverish occasionally but tried to cure it by using medicine which was available. All felt that their health was better before they migrated adding that they felt tired all the time in the U.A.E.

The Philippine respondents indicated that access to health care was better than that for Indian and Pakistani migrants due to the fact that Filipinos engaged in construction in the U.A.E. were mostly occupying supervisory work rather than being employed as low-skilled workers. The focus group participants in the Philippines and in Dubai said that they were provided with free medicine by their employers. In the larger companies, they also had doctors. Among the male focus group participants they said their common ailments were just fever and colds. One migrant shared that he had a co-worker who had appendicitis and was operated on and

was then sent back to the Philippines after the operation. Again for the Philippines however the situation for domestic workers was significantly worse. Two of the domestic workers interviewed in Dubai had recently given birth. When they were interviewed, they were at the Philippine Consulate in Dubai seeking assistance. Both had run away from their employers and had been surviving by doing part-time jobs wherever possible. U.A.E. law, which is based on Islamic law, prohibits sexual relations outside of marriage, or illicit relationships. Unmarried pregnant foreign women usually serve a short sentence in prison before being deported along with their children. Since both of the domestic workers were unmarried, they were to be detained in jail while their papers, including that of their babies, were being processed for their repatriation. Both of them had given birth without the aid of a doctor or health worker as they could not afford to go to a hospital and feared being reported to the police, since they were unmarried.

Mental health issue was another area raised in the Philippines research. Many cases of mental instability have been reported amongst Filipino domestic workers, with official reports showing 228 cases (134 in 2006 and 94 in 2007) or 0.10 percent of total deployed household service workers (HSWs) for the year 2006-2007. The breakdown of the cases includes: 24 cases in the Americas and Europe, 26 cases in Asia and 178 cases in the Middle East². Mostly, these are female domestic workers who become unwell because of the abuse and exploitation they suffered at the hands of their employers. As a result however the Philippines' Department of Foreign Affairs (DFA) recommended mandatory psychiatric testing for those wanting to work abroad as domestic workers. This has drawn criticism from various stakeholders as a discriminatory strategy affecting women and domestic workers in particular as well as a strategy that fails to target the main cause of the issue – employer exploitation and abuse. Domestic workers interviewed for this study reported high levels of abuse and corresponding high levels of dissatisfaction with their living and working conditions, with even the Embassy in Dubai noting the high number of 'runaway domestic workers' who were desperate to escape this situation.

Deaths Overseas

Both the Philippine and Indian research mentioned the issue of migrant deaths overseas. Respondents in the Indian research noted two cases of reported deaths overseas both of whom were male sea-farers from India that died whilst they were working overseas. The families received only the migrant's corpses with no explanation as to the cause or circumstances of the death. In these cases the wives were left as widows, supporting two and three children respectively, with the outstanding migration debts of their husbands. They received no compensation from the employer or any support from the Indian or U.A.E. government. The Filipino research noted the issue of suicide as a concern for Filipino workers in the U.A.E. The Philippine Consul General in Dubai noted that suicides tend to increase during times of 'crackdowns' on migrant workers – when the authorities in the U.A.E. pursued active arrest and deportation procedures against illegal migrants.

Discrimination and Xenophobia

Discrimination was identified by respondents from all countries, especially noting the discrimination in wages and working conditions between migrants from different sending countries and local workers in the U.A.E. In addition it appeared that racial discrimination was experienced by workers as a common issue in their daily lives in the U.A.E., with Indian and Pakistani workers reporting this issue more than Filipino respondents. Indian workers reported that discrimination prevailed strongly in the U.A.E. in both their workplaces and in public places, based on their ethnic origin. They reported being treated like bonded labour, being verbally abused by employees and being discriminated against for being Tamil and not being able to speak either Hindi or Arabic. Workers told of harassment in the street and false criminal charges perpetrated by locals in the UAR.

2 Philippines' Department of Foreign Affairs (DFA) Report for the Meeting of the Consultative Council of OFW, July 2008Abroad, January 2005.

“One can find discrimination based on ethnicity. Indians are not treated on par with other country men. Arabs even beat us up and even on a false case put us in jail.”

(India, Construction Worker)

“Even an Arab child calls us derogatory terms. They use words like dog to mention us. By narrating an incident I can highlight how Indians especially workers were treated in public. Once my cousin and I were chatting in a public place; at some distance around 10 children -Arab- were playing and suddenly a PEPSI empty bottle hit our leg splashing liquid. I thought those children threw empty PEPSI bottle after consuming it. But those bottles were filled with urine since we smelled it on our legs when we wiped it. We were literally chased by those boys, the very moment I showed my resentment in my face. We ran for about two and a half hours and I never ran like that before in my life.”

(India, Seafarer)

Pakistani respondents noted the discrimination was common in their workplaces. Some of them also said that whilst they did not suffer physical abuse, they had suffered psychological abuse as a daily occurrence as there was no respect shown for expatriates in the U.A.E.

Filipinos, according to the male migrant returnees interviewed, were better off than other migrant nationalities and sometimes even given preferential treatment. Their hard-working ethos and knowledge of the English language were advantages for them. Filipinos also mostly did not stop work for prayer unlike other Muslim workers, whether from Arab countries or other countries. But compared to locals or nationals of the U.A.E., the Filipinos interviewed said the locals received much higher pay levels even if they had similar jobs. They also claimed that the locals were given special treatment and they ate separately and different food compared to the migrant workers. Discrimination was very much pronounced for Filipino female migrant workers in the U.A.E. Generally domestic workers in the U.A.E. were discriminated against and considered as uneducated, unskilled workers and treated poorly and as though they were servants. Most female migrants from the Philippines were assumed to be domestic workers and treated in the same way regardless of their work, legal or personal status.

CIVIL, POLITICAL AND SOCIAL RIGHTS and QUALITY OF LIFE FOR MIGRANT WORKERS IN U.A.E.

Religion, Language and Food

Religious practices, although curtailed in most Arab countries, were allowed in the U.A.E. Filipino and Indian migrant workers who had worked in Saudi Arabia were also interviewed, and they reported that their religious practice was restricted and women were required to wear the abaya and avoid associating with men. Migrant workers in the U.A.E. however were not so restricted but still faced challenges in adapting to the different cultural environment where they were living and working.

Indian workers identified the paucity of preferred food as an issue where many of the migrants found it hard to deviate from their inherent food habits and cope with cuisines alien to them.

“I could not eat the Arab food they served, although it was fresh and hygienic. Hence, I starved most of the days and always craved for Indian food.”

(India, Returned Migrant Worker)

Adequate consumption of healthy food was also affected by climatic variations. Some respondents noted that most often they had to eat stale food for lunch as the cooked food spoiled rapidly due to the scorching heat. For others the issues related to food consumption were also related to the lack of time to even eat due to exploitative labour conditions.

“We usually have our breakfast early morning at 4.30 a.m. and by 5 a.m. we are out for work. Though we take a lunch pack with us it becomes rotten by afternoon and we work in fasting. The only option available for us is to have dinner when we reach our room after work. At times we have our lunch as early as 10 a.m. without being noticed by others; if we get noticed an explanation is sought from us.”

(India, Construction Worker)

All the respondents from Pakistan said they were Muslims and as such were able to practice their religion freely and attend the mosque and pray as required. In terms of food consumption however, while twenty percent of respondents said that they could eat their food of choice sometimes, the majority (70%) said that since they ate at the one mess so they did not have a choice.

Respondents from the Philippines who were mostly catholic said that there were catholic churches in the U.A.E. where many Filipinos went on Fridays. Those who practiced other religions congregated in other places for their services. Domestic workers however did not enjoy the same privilege. Many among them worked seven days a week and hardly had the chance to go out of their employers' homes so were not able to attend church services even if these were close to their place of work.

Socialization and Recreation

The opportunity for socialisation and relaxation were restricted by working conditions which for most respondents meant limited opportunity for these activities. However there were notable differences in this area, with Filipino workers seemingly having greater capacity for these activities than Pakistani and Indian workers. Indian respondents said that they had limited channels for socialization and many of them could interact only with Indian labourers due to language barriers. Though many of them spent time with their friends and watched television during holidays, none of them had the chance to be involved in any cultural activities or sports. Many undocumented workers said that they suffered severe stress as they lived in dread of getting arrested and therefore kept a low profile and avoided any public or communal recreational activities. Respondents in focus groups in Sharjah said that they had to endure a restricted social life as their jobs did not give them time. Some of them said that entertainment was a matter of expense and hence most of them had inadequate income and avoided spending on travel or movies.

Pakistani respondents also said that they don't get free time as most of the time they remain busy with work obligations. If they had a little free time they preferred to sleep due to the extreme working conditions which allowed little time for adequate rest. For social support, respondents said they met co-workers, friends and country mates and talked over issues of concern. They often turned to fellow migrants within their community in the U.A.E. however for some this was only possible to do every one or two weeks. Pakistani migrants tended not to associate with locals or nationals in the U.A.E. due to language barriers and none had any friendships or intimate relationships with locals. Generally all migrants expressed that they felt lonely and missed family members and friends. Some of the respondents said that in times when they were stressed or felt sad they made a short call to family members, whilst others said they performed ritual prayers to relax. None of the respondents were able to participate in sporting activities which they had commonly done in Pakistan by playing cricket regularly, as they did not have either the time or chance to play in U.A.E.

Filipino respondents had comparatively more opportunity for participation in community, cultural and other social activities than Indian and Pakistani workers. In the U.A.E. there were more than 90 Filipino community organizations and associations including social, professional and religious organisations. The Philippine Embassy regularly sponsored social and cultural activities such as national celebration events and concerts. There were also eight schools for Filipino children in places where there were concentrations of the Filipino population. Respondents said that they participated in sports and social events and frequented Filipino shops and restaurants especially in Dubai. Those that had access to cable television were able to subscribe to the Filipino channel to keep abreast of the latest news, trends, and even gossip in the Philippines. Some respondents however noted that during their free time, they preferred to take on part-time work, in order to earn extra money to send to their families. In general leisure and relaxation time was quite limited.

Movement and Communication

Movement of migrant workers in the U.A.E. was restricted due to the kafala system whereby it was legal for the sponsor-employer to keep the passports of employees until their contract was ended. It was also restricted however due to factors such as discrimination and fear of harassment by authorities and community members in the U.A.E., and language barriers, which considerably impacted on the quality of life of migrant workers in the U.A.E. Filipino workers however appeared to have more freedom in this area than Indian and Pakistani migrants.

Indian respondents indicated that theoretically their movement should not have been restricted as they were legally allowed in the U.A.E. however they were in reality unable to carry their original employment card - the IQAMA - which was retained by their employer. This restricted their movement to areas near their place of employment.

“On Fridays, a weekend holiday, we are allowed to go out. The workers are supposed to carry “Iqama” in original when we go out. But employers withhold the original with them and give us only photocopy. For fear of being caught by the police we avoid going out. Arabs respect Americans, Thais and Filipinos whereas for Indians they abuse.”

(India, Pipe Builder)

Additionally Indian migrant workers generally needed to be very careful in public places as they were treated with suspicion and at risk of abuse by members of the public.

“Even, Arab child mock at us and we can't even touch a child out of love. Some time back one of the Indian workers touched the face of 3 year old child and immediately Arab got furious and abused us verbally. Indian worker was about to be beaten. I had to save him by asking apology since he did not know the language.”

(India Seafarer)

The research from India also highlighted the restriction on movement faced by domestic workers.

“Since my work confines me to home, I hardly go outside. ,,,. I am not allowed to go out; I don’t know the local language; no contact with outsiders and I find it difficult to overcome this loneliness since it affected my wellbeing.”
(India, Domestic Worker)

Pakistani respondents also indicated that they were able to travel freely in the U.A.E. only if they carried their labour card. Since many of the workers spoke both Urdu and English, some respondents said they didn’t find it difficult to communicate. However, some of the respondents said they experienced difficulty talking to Arabic-speaking people which made their movement and communication more difficult.

Filipinos on the other hand were very visible in the U.A.E., working as professionals, skilled and semi-skilled workers, and hence were more accepted by the general public, faced less racial discrimination and had more freedom of movement. Filipino migrants who worked in the U.A.E. said they did not feel that their movements and travel were restricted. One migrant woman interviewed in Dubai drove her own car. For others the issues that impacted on their movement were related more to the lack of public transport options that were available and their lack of finances to afford transport options. For Filipino domestic workers however, there were restrictions in movement. Most domestic workers had no entitlement for leave or travel outside of duties related to their work. Those that did receive a day off however noted that they were restricted in their movements due to their location and the lack of affordable transport options. Domestic workers who lived in residential villas had to walk for considerable distances to access public transport or rely on transport from their employers. In most cases, as it was difficult to go out, they preferred to stay home and save the money rather than take a taxi. If they chose to remain at home however, they were mostly expected to undertake chores and therefore forfeit any opportunity for a break from work activities.

Language also played a major role in deciding the working and living conditions for migrant workers in the U.A.E. This impacted significantly on Indian and Pakistani respondents, who for the most part had low levels of education, were not exposed to English language and could not speak Arabic. This meant that they were dependent on translation from others in the U.A.E., mostly relying on fellow migrants who had learned some Arabic. For domestic workers however this situation was particularly difficult due to their isolation and in some cases resulted in increased abuse from employers due to communication difficulties. It also limited any opportunity for assistance in cases of abuse.

“I had to be totally dependent on the agent since I didn’t have formal education. I was unable to get any help, share my difficulties and tell people that my working condition is abusive. If I ask any queries to my employer they don’t answer but rather I get beatings. The major reason for me to undergo this experience is due to language.”
(India, Domestic Worker)

“Language is one of the major barriers for my work. I was abused many times since I couldn’t understand her instructions.”
(India, Domestic Worker)

Voting

Filipinos working or residing abroad can legally participate in absentee voting. Those working in the U.A.E. usually approach the Embassy or Consulate to register or vote. Unfortunately, some migrants said they cannot afford to visit the Embassy or Consulate because of the distance from their place of work or residence. There was also the added issue that many Filipinos hold the notion that their votes won’t make any difference anyway. There was a need to improve postal voting so that those who are far from the voting areas can exercise their rights. Indian workers also noted that they had no voting right when elections were held in India with the most recent election being held in 2009 for the parliament. Indian civil society groups have raised this issue which the Ministry of Overseas Indian Affairs (MOIA) has promised to take it up with the government.

Access to Justice

Migrant workers in the U.A.E. who experienced issues related to abuse, exploitation, labour rights and contract violation had limited opportunity for redress both in the U.A.E. and in source countries. For Indian migrant workers the main source of support for access to justice was the Indian Embassy however from the experience of migrant workers in the study the Embassy had failed to protect the rights of its citizens abroad. For Filipino migrant workers, both the Philippines Embassy and the government of the Philippines had failed to provide effective mechanisms for justice for migrant workers in the U.A.E., particularly domestic workers, despite the existence of various domestic and bilateral agreements to protect the rights of Filipino workers in the U.A.E.

For Pakistani all respondent in the focus groups stated that they had no idea about how to access justice in the U.A.E., with the Pakistani embassy not providing much support in the matter. They said that they usually sought help from their friends and their co-workers.

Respondents from India noted the lack of justice and support that was offered through the Indian Embassy in Dubai. The Indian Embassy was the primary means of institutional support and protection for Indian migrant workers, given their lack of access to the justice system in the U.A.E. and the lack of other options such as non government agencies, trade unions or civil society organisations. Respondents in the research however felt that the Indian Embassy was not effective in protecting the rights of Indian workers in the U.A.E. Feedback from migrant workers showed an overwhelming experience of abandonment, disappointment and in some cases cynicism in regards to the role of the Embassy in protecting and assisting migrant workers in the U.A.E.. A common perspective from respondents was that the Embassy in fact was preoccupied with maintaining harmonious relations with the officials and citizens of the U.A.E. rather than advocating for the protection of migrant workers and seeking redress for the violations experienced by Indian migrant workers in the U.A.E. Of concern were the allegations from some migrant workers that Embassy staff had in fact violated the confidentiality of Indian complainants in the U.A.E. by giving the personal identifying information of complainants to officials in the U.A.E. immigration department which resulted in the deportation of Indian migrant workers who had lodged complaints with the Embassy. This perception was a barrier for migrant workers in seeking justice for the violations that were perpetrated upon them whilst working in the U.A.E.

“The Embassy keeps its office premises just as a show piece. It does no good work for migrant worker community. They said it only benefits Arabs the and not for Indians. If any complaint is made against Arabians, immediately the workers send back home. The Embassy doesn’t support us rather they support only locals. Whereas I heard that Philippines and Indonesian embassies listen to their citizens and intervenes with Government on their behalf.”

(India, Domestic Worker)

“We don’t go to Indian Embassy for any help. We wonder if the Embassy is working for Indians or for Arabs. We fear to give complaint against Arab since workers in Indian embassy betray us by revealing our names and thereby earning money from Arabs. We are even been abused. If we lodge a complaint with the embassy they drive us away by using derogatory words. To quote, ‘You workers, come here to earn. Why you unnecessarily fight with locals. Just leave this place’. Even if we prove that the mistake is with Arabs, the embassy calls them and reveals our names.”

(India, Construction Worker)

For Filipino workers it appeared there was more options for access to justice through NGO support however interviews with NGOs showed similar issues of concern regarding the ineffectiveness of the Philippine Consulate in protecting workers rights. For domestic workers or other female workers experiencing exploitation or abuse there were two shelters funded by the Philippines Government, one in Abu Dhabi and one in Dubai where they could access legal services, temporary accommodation and support to resolve their situation. However the shelters were inadequate for the large number of women seeking assistance and were usually filled to capacity, sometimes, accommodating more than what the shelter could actually hold. Filipino male workers who had problems could not stay in the shelter and there was no similar provision for accommodation or support for distressed male workers in the U.A.E. For legal support documented workers could lodge a complaints case with the Philippines Overseas Labour Office (POLO) or through labour attaches. For undocumented workers and domestic workers, there was no protection under labour law even if they had a signed contract and they were only eligible for protections under the immigration law. If they were documented workers, the POLO contacted their employers. Cases were usually settled through repatriation, with the employer asked to pay for the airfare back to the Philippines. In cases where the employer refused to pay for the repatriation of the worker, government funds were used. There were only limited options to pursue matters through the criminal justice system which meant that the majority of employers or agents who perpetrated exploitation and abuse did do with impunity. Asked about government's response to the cases and available legal assistance to migrant workers, the Consul General in the U.A.E. said

“The system here is that you can only hire a lawyer for those accused of crimes that could lead to conviction and capital punishment. We devote the legal defence fund for such cases, not those which do not warrant capital punishment. (For other cases, we just opt for) negotiations. We cannot afford to go on litigation because there are lots of them. An acceptance fee for a criminal case already amounts to a minimum of 5,000 dollars. That's only the acceptance fee, how much more if you actually file the case?”
(Philippines, Consul General)

Filipino workers could also approach NGOs in the U.A.E. for support in accessing justice. Feedback from the one of the officers of international NGO Migrante International operating in the U.A.E., highlighted the difficulties migrant workers faced in filing and pursuing a case through the justice system given the lack of resources and support available. According to officer interviewed, many distressed Filipinos in the U.A.E. were not interested in pursuing their cases, especially with the Embassy or Consulate. For others who chose to pursue their case there were inevitably long delays in the process and sometimes, complainants just became tired and frustrated of waiting for a case to prosper.

At first, they would like to pursue the case. But since there is no support, they slowly change their minds because they have nothing to support their family while the case is pending. Where would they stay? What will they eat? The tendency then is for them to just go home because they have nowhere else to go anyway. Can they last without a meal? Can they fight without a shelter? They obviously cannot stay here for long. What other choice do they have?
(Migrante International, U.A.E.)

Migrante also cited the case of a woman who was a rape victim that they assisted via referral of her case to the Consulate. Migrante claimed that the woman was told the case could drag on and was advised by the labour attaché that it would be best to simply ask to be indemnified. The victim did not pursue her case. Migrante lamented the fact that some consul officers did not know how to handle cases and were sometimes very insensitive. If the case involved a ‘visit visa victim’ they were advised just to leave the country, and if it was a labour issue, they would offer two options for workers; either to accept an indemnity and / or leave the country.

It was noted that in this situation, the lack of justice for workers and the impunity of employers, agents and other alleged perpetrators continued, and therefore the abuse and exploitation of workers continued as well.

Apart from individual cases there was also a case cited in the Philippines research of more than one hundred (137) Filipino men who became victims of illegal recruitment in Dubai. These men were recruited in 2008 from the Philippines via a recruiting agency and lending company that charged exorbitant placement fees and promised them jobs as drivers. However upon arrival there were no jobs and the workers became stranded. At the time of research 68 men continued to languish in Ajman where they were brought to live in a tenement building beside a garbage dump. The Embassy and Consulate officials would visit them to bring them food and water and to look into the progress of their cases. The others had managed to return to the Philippines with assistance from the government, and a few managed to secure jobs in Qatar, with assistance from the Labour Department of the Philippines. Meanwhile the families of the 68 still in Dubai borrowed money from friends and relatives to send to their husbands. The children of these men were not able to enrol in school because there were no funds. The recruitment agency had been temporarily shut down with its owner nowhere to be found. The drivers had filed a case before a court in the Philippines but it was expected to take some time, maybe years, for them to get justice.

Remittances

Remittance processes/mechanisms/ amounts

Most of the respondents in the research were able to send home remittances to their families, using both formal and informal sending systems, though the amounts were mostly lower than originally anticipated prior to migration. Indian respondents mostly sent their remittances through formal banking channels, preferring to use the Western Union Money Transfer services. It was noted however that migrant workers who were newly arrived and those who were undocumented tended to send money through informal channels such as the Hundi system which was often provided by the recruiting agent from India who was well networked and delivered funds to families at home both quickly and cheaply. The Indian migrant workers sent money every month on average however if the wages were not paid in time or were irregular they sent it once every two or three months. Pakistani respondents noted that they too preferred to use the Hundi system, to send their remittances from the U.A.E., instead of banks. This system ensured that their families received the remittances in Pakistani currency within a short time-frame and despite the fact that there were no formal receipts used in the process, it appeared to be effective for the families at home. During the discussions the majority of workers from Pakistan said that they sent around 70-80 percent of their salary to their family back home. They tended to keep money just for basic expenses whilst sending the remaining salary to their families. Filipino migrant workers mostly used banks or other official channels such as specialised remittance centres (eg FX Remit, G-Cash,) or remittance sending companies such as Western Union. The minority who sent money informally did so either through the mail enclosed in cards or letters or asking friends or acquaintances returning to the Philippines to take money to their families. These means were riskier and the intended recipients at times did not receive the money at all. Most Filipino migrants sent remittances to their family members every month. One respondent said he preferred to send larger amounts every two months. Aside from the regular remittances, they sometimes sent additional money during special occasions or when a family member requested financial support. The majority of respondents said they sent as much money as possible, with male migrants stating that they retained just enough to cover expenses for food, cellular phone load, personal items and other miscellaneous items. A female migrant returnee also said that she sent home most of her earnings to her family and retained only a small amount for herself so that she could make phone calls to her family.

Remittances, Household Incomes, Debt and Savings

For Indian respondents there were both positive and negative outcomes for source country households and families, from remittances. No households in the interview groups were able to have savings as a result of remittances. Domestic workers had the worst outcomes with two of the women returned after working for one month with no salary hence incurring significant debts - between 70-75000 rupees (USD 1460 to 1565) to pay. The remaining two workers who stayed overseas were paid lower than expected wages and at the time of

research one woman said she had not managed even to pay back the interest of her loan. The other noted that she had repaid her loan however this came at the expense of her family's needs as she was forced to make a loan repayment instead of sending money to assist in family emergencies such as when her child became sick at home.

“I couldn't save any money with that salary. I could repay the premium amount for only one loan. I am still paying interest for the above said loan amount and also repaying other loans too.”

(India, Domestic Worker)

For Indian seafarers the majority of respondents were paid off their loans (62%) however repayment took a period of 1- 2 years of working. Seafarer wages were dependent on profits made from their catch, so there was no guarantee of a minimum level of payment each month. More than one third (37%) of respondents however were not able to pay back their loan and experienced difficulty meeting the interest and repayment schedules due to lower than expected earnings or the loss of employment, which in one case left an outstanding debt in the hands of parents of the worker. The two spouses interviewed were widows of migrant sea-farers – both of their husbands had died whilst working overseas. These women were supporting children (two and three children each respectively) and had inherited the outstanding migration debt of their husbands totalling 100,000 and 110,000 rupees respectively (USD2087 and 2296). Both women indicated that they were unable to repay either the premium or interest on the loan. Neither respondent had received any form of compensation for the death of their husband and were living in a precarious financial situation as a result. There was mixed success with loan repayments from workers in the construction industry with at least 30% noting they were able to pay back their loan – two persons paid back within the first 6-8 months of work. Others however were unable to pay their loan debt in the first year, with one respondent noting that after 6 years of work overseas, he still had 40% of his loan outstanding and others noting that the jewels they offered as collateral were still lodged with the bank.

Amongst focus group respondents only a few had managed to save any money as the amount left after meeting their living and family expenses was found to have spent on clearing debts. Some of them even said that the money they earned was enough only to clear their debts and buy their return flight tickets with no ability to send remittances home at all.

Pakistani respondents did not identify outstanding loans as a major issue within most source country households however for those households that were dependent on remittances for survival the debt was a significant issue. In most cases the migrant workers noted that remittances were not invested or saved but rather spent on the immediate needs of the family in Pakistan. The families of Pakistani workers often included more than 8 members as they lived in an extended family situation with multiple dependents. For most families of respondents (70%), the migrant worker in the U.A.E. was not the sole earner for the household as there were other family members (such as fathers and brothers) who were also employed in the home community. For a small number of families however (30%) the person who migrated was the sole income earner of the family which meant that they were highly dependent on remittances for daily household survival. Whilst remittance money assisted all households in the study to some extent, the benefits were mitigated by the both the level of income of the migrant worker and the extent of reliance of the family on remittance income. In some cases the worker who was the sole earner could not manage to save enough money to send back home and when this occurred the families suffered severely, as most of them were in debt to money lenders. For these families the remittances were vital to pay off the debt repayments as well as to cover other living expenses and their living situation worsened considerably without the expected, regular transactions of money every month. In families however who were not so dependent on remittances and had other members of the family earning income, the families were able to afford their basic necessities and use the remittances to pay back their debt.

Filipino respondents estimated that it took between 6 months to over a year, depending on the salary of the migrant worker, to finally recoup their migration expenses. While abroad, many of the migrants said they were hardly able to save. They mostly sent their earnings to their families back home and whatever savings

they did have, they used to buy gifts for their families when they returned home. But at times, there was not enough money to save or invest at all. The workers said they could hardly save because even if they were earning, there were also regular expenses that had to be met in both source and destination countries. There were also emergency cases that migrants and members of their families sometimes had to contend with which increased expenses. Even if they were able to save some money, it was often spent upon returning home post migration, where migrant workers found they were often unable to find work immediately. The majority of the male focus group participants however said that despite the lack of savings working abroad had helped them improve their lives. They were able to provide for the needs of their families which they would not have been able to do had they not gone abroad. This was because the pay they received abroad was still higher than that which they would have earned in the Philippines had they opted to stay. Some of those in the focus group said they were able to buy for their family house and allotment. This was only true however for those who had worked long enough abroad or who were professionals and getting high salaries. For those workers on lower wages or those in exploitative situations the sending of remittances to families at home was sometimes impossible and in many cases uncertain.

“I hesitate to ask (about my salary) because whenever I tell them that I have to send money home they would tell me that I had been so remiss on my duties, that I committed lots of mistakes and things like that. ...It has been like that for eight months—eight straight months so that could have been a lot of money. But here I am not even getting a single dirham. It was supposed to be 200 US dollars a month. I don’t know what happened because I think the 200 was reduced to 120, and now reduced to uncertainty.”

(Philippines, Domestic Worker)

Profile of Remittance Use

Spending of remittances amongst the three countries showed similar priorities in terms of being used to cover basic living expenses for families at home with children’s education as a priority. Pakistan and India showed patterns of more short term and immediate use of remittances however Filipino respondents noted more opportunities for investment of remittances in their home communities.

In the Indian focus group discussions the majority of respondents said their spouses received the remittances and it was spent on daily living expenses, medical expenses, children’s education, housing and sanitation. Almost all respondents noted that their children’s education was a major priority with some using remittances to fund private school education for their children in India. Most respondents had spent considerable amounts of their income on constructing toilets, providing drinking water facilities and renovating the houses for their families. However a matter of concern was that despite all the socio economic benefits of remittances the migrants’ families enjoyed; only a few managed to save any money, as much of their earnings were used to pay off their debts and interest to recruiting agents and money lenders. For Indian workers in the construction industry, only 30 percent of respondents noted that they were able to use remittances other than for debt payment; to purchase housing, consumer goods and vehicles such as a motorbike and moped. In interviews with seafarers from India, only three workers (37%) had been able to use their remittances productively after paying back their loan and they used the funds to cover activities such as housing repairs and construction, dowry and marriage costs, and land purchase. None of the workers were able to have any savings from their earnings as sea-farers. There were no instances of business investments in India from remittance funds.

According to participants of Pakistani focus groups remittances were primarily used to pay for basic necessities such as food, clothing, and medical expenses. It was also spent on children’s education, and repayment of the loans incurred for migration. In most cases remittances were not invested or saved. However, money was also spent on building or repairing houses if family recipients could spare that amount. Some families were also

able to purchase household items such as a fridge, washing machine, television, video and furniture. Whilst remittance spending depended on the income of the migrant worker there were common priorities regarding spending patterns. The recipients of remittances decided to spend money according to their immediate needs. First, they preferred to satisfy daily household necessities, healthcare and education. After that if there was money left over they attended to other priorities or needs. Some family members said that the money which their migrant family member sent was not even enough to meet the family's daily needs. Others said that they could now just cover the daily living expenses and their life had improved to an extent where they could afford proper education for children. Remittances were also spent on cultural activities such as marriages and used when emergencies occurred. Some families were able to buy agricultural land, farms or houses and some returnee workers were considering trying to establish a business with their remittance funds. Remittances had played a vital role in quick recovery from earthquakes in Pakistan, however many respondents said that they were struggling to re-build their houses that were destroyed in earthquakes and their recovery was dependant on their respective earnings. Despite the spending of remittances within households and in some cases the purchase of household assets, all of the Pakistani respondents unanimously agreed that their socio-economic status remained the same as it was prior to coming to the U.A.E.

Filipino respondents spent their remittances on similar priorities such as food, education of the children, payment of rent, and payment of debts incurred. With regards to decision making, as to who would control the money remitted, the migrants said they usually left that up to their family. In one case of a female migrant returnee this had negative consequences as her spouse had spent the remittance funds that she sent on gambling and in the end the only thing she could buy was a tricycle, which her husband used to ferry passengers in order to earn an income. In this case the woman was forced to consider migrating again in order to support her four children. A mother of a migrant worker who was interviewed said that the amount her daughter sent for her son was not even enough. As the one taking care of her grandson, she often spent her own money for the other needs of her grandchild. Some families of migrants who were interviewed had more success and were able to invest in building houses and small businesses. A wife of one migrant worker said she and her husband were able to buy properties in the province which they hoped to use when her husband retired. A mother of a migrant worker, who used to be a migrant worker herself, said she was able to construct a two-storey building. The ground floor had been converted into a gym by her son, who was a seaman, while the other rooms were rented to a computer shop and families.

Impact On Families And Communities

Many of the labourers in the focus groups in the U.A.E. complained that their families shared a materialistic relationship with them and treated them as merely a provider of money.

"Though I talk to them once in two weeks, they do not really care for me. All they want to know is about my earnings. They do not really understand my suffering."

(India Labourer)

Migration had undeniably improved the living conditions of Indian migrant's families especially in terms of sanitation, drinking water facilities and housing, for those who were able to earn enough wages for remittance sending or those who had worked overseas for long periods. The majority of the returnees interviewed noted that they were happy about the fact they migrated as they felt that they migrated for their family's well being and hence found a high sense of purpose in their lives. Spouses of the migrants also shared a similar opinion. However most of them (both returnees and spouses) admitted that they had suffered from separation and loneliness due to being away from their spouses or families.

Migration for employment seemed not to bring visible change in the lives of Pakistani migrants and their families. The respondents in focus groups in U.A.E. had been working there for over five years. Despite this fact, none of them was able to build or buy a house with some even having lost their housing in a 2005 earthquake and another who had no electricity in his house in a village in Pakistan. Respondents who were living with parents prior to migration said they were still unable to have a house of their own and similarly none of the respondents had been able to buy or own a vehicle. The majority (65%) felt that there was no

benefit from migration other than a slightly better salary. While most of the (75%) said that their relationships with their families were the same as before the migration, all of them said they felt very bad to be separated from family and missed them extremely. All of them said leaving their home country and living without family was very difficult but they did not have a choice because of unemployment and poverty. Some noted that relations with their family had deteriorated due to the high expectations from the family that were not able to be met through the work in the U.A.E. A 35-year old immigrant said

“It is because I cannot meet their expectations, they don’t understand our problems. Everybody think that I am very comfortable here and enjoying life which is just not true. I have to do lots of hard work.”

(India, Labourer)

Migrant worker’s family members in Pakistan had differing opinions about changes in their lives since the migration abroad. The wives who were interviewed noted that many changes had occurred due to the absence of their husbands as an elder family member, who would ordinarily be a major decision maker and a symbol of protection for the family. However in terms of financial status for the family they felt that there had not been much change at all. Other family members voiced different opinions of the impact of migration – those who had received remittances had positive opinions in terms of noted improvements in living conditions for the household. For some the fact that the family member found work overseas was an improvement on the situation prior to migration when they could not find any work at home. Those who were not receiving remittances, or whose family member had difficulties finding employment in the U.A.E. were unhappy with the decision for migration and felt that their lives had become more miserable and desperate. Most of the respondents opined that relationships were not affected amongst family members in Pakistan due to one person’s migration to work abroad. All of the respondents said that they missed the respective family member a lot. Communication usually occurred every two weeks when all members of the family had the chance to talk to the person on the phone. The family members said that when the migrant worker didn’t call they felt concerned about whether they were in trouble or had been in an accident. Some family members replied that they missed the person’s presence at significant events such as marriages and birthdays.

Filipino migrants identified a range of family problems caused by migration. The homesickness, separation from their families and friends, and adaptation to a new environment were challenging for migrant workers to cope with. Additionally working abroad for the sake of one’s family entailed a lot of sacrifices. Parents who worked overseas often missed out on many important occasions in the life of their children, such as birthdays, graduations, and other important occasions.

“A female migrant returnee who was interviewed said she left the Philippines because her husband got laid off in his job. She went to Abu Dhabi when her first born was only 8 months old and left her in the care of her mother and husband. Through the years, she kept on working overseas to support her family. While her husband remained true to her and did not leave her for another woman, he acquired a vice. He became addicted to gambling and was soon spending part of their savings to finance his vice.”

Some migrant workers who experienced problems overseas did not tell their families of their problems. They say that they were reluctant to burden their families with worry or concern. Family members back in the Philippines sometimes learned of the problems or misfortunes of their loved ones not directly but through other persons. In some instances respondents said that families in the Philippines received the information only after it was too late to assist in any way – when they received the news that their family members was languishing in jail or even had died overseas.

“When they found out (that I got pregnant and gave birth) they were so worried. My father couldn’t eat for days. From where I came from, it is not allowed ...but then again they are my parents. My parents haven’t told anybody about it. They just talk between themselves, according to my sisters. They just talk and cry... I have long accepted what they might tell me. What else can I do, it is already here. I haven’t told anyone when I was still pregnant. Now that I have given birth, what choice do I have?”

(Philippines, Domestic Worker)

In some Philippine families the migration experience had impacted over generations and caused broken relations within families. In one migrant family all of the adults had gone abroad to work. The mother of a migrant worker was interviewed and said that her husband and eldest son had both worked overseas as seafarers, her daughter used to work in Japan and her middle child was currently working in a hotel in Dubai. She herself had worked as a nursing aid in Saudi Arabia. She said that while their family was able to invest and had adequate money, they had become a broken family. Her husband went into a relationship with another woman and left them. He spent his money with his other family so the woman filed a case with the POEA to force her husband to send money for her children. After winning her case, she packed her bags and went abroad to work, leaving her remaining three children, who were still in the elementary level at school, in the care of their grandmother.

The Philippines research noted that some families could in fact legally invite family members for a visit to Dubai. However, they had to fulfil certain criteria to qualify including the criteria for having a minimum level of income or savings. For many this option is not available as they do not earn enough let alone to pay for the travel of their family as well.

Marital Relations

Migrant workers from India noted that migration had affected the relationships with their spouses in a number of ways. The focus on their role as income earners and the pressure to send money home had caused stress within the relationship. Male migrant also said the long distance and extended duration of working overseas meant their sexual relations were affected and some sought the services of sex worker in U.A.E. in this situation. One migrant worker told of being a victim of domestic violence within her relationship after she had returned home after unsuccessful migration abroad

“A female Migrant Domestic worker aged 40 from a coastal village in South Tamilnadu, India, worked in Jordan for 9 months. She returned to the village due to adverse work conditions. She mortgaged her house and borrowed Rs.75,000 from 3 persons in the village. She couldn’t get her salary for 2 months and she was told that the amount was adjusted for her ticket. Upon returning home she faced monetary issues since the family could not repay the loan amount and the house was still mortgaged. She also faced physically and mental abuse from her drunken husband ever since she had returned.”

(India, Domestic Worker)

Pakistani respondents did not note any major issue within marital relations, with most workers able to communicate home regularly. All the respondents said that they had very good relationships with family members at home. For those that were unmarried they noted that because they were Muslim they it did not suit them to have relationships with females without getting married. One 25 year old migrant worker said that he needed money to get married therefore went to U.A.E. to earn some money however he had been working here for the last three years but still had not earned enough money to get married.

For Philippine migrants separation from the family because of overseas work sometimes resulted in permanent separation of the couple. Of the male focus group participants, only one admitted to having separated from his wife after working abroad. While they recounted many of their co-workers' experiences noting that either the husband or the wife left behind, entered into another relationship. In order to cope with homesickness and stress, some migrant workers overseas resorted to going into a relationship with fellow migrants. The migrants said that it had become common for some to enter into illicit relationships, even if they were already married. Although among those who joined the group, only one male migrant had admitted to having a girlfriend while abroad.

"Sometimes the detachment is also the reason why families break apart. They say loneliness is driving them to look for company though it astonishes me to hear that just because one is lonely he can now go out fooling around. Some, on the other, get frustrated by the fact that their families cannot save no matter how much they send home. Husbands and wives would quarrel over the money and before they know it their marriage breaks apart... Our families think you lead a good life here and end up depending on you. Meanwhile here you are sweating blood, thinking that the little money you send would ease their lives somehow. You both suffer."

(Philippines, Migrant Worker)

Children

Indian respondents did not note any issues concerning children however Pakistani and Filipino respondents had concerns over the effect of the migration on their children left behind. Half of the Pakistani migrant workers expressed concern that the separation was depriving them of the opportunity to be a part of their children's lives to help them not only with their studies but also to instil moral values. They were also concerned that the limited remittances they were able to send home were not enough to support their children's education. Most said they still could not afford to send their children to private schools as they had hoped as it was beyond their financial capacity so their children were still as yet attending government schools where the standard of education was not as high. However they did note that their circumstances were better than some of their neighbours in Pakistan who could not afford to send their children even to government schools. Feedback from families of migrants in Pakistan showed that for some the parenting of children with the support of their fathers was also a problem. The children missed their father, asked questions and cried a lot. One woman noted that she missed her husband's support in ensuring that her children attended school. For another woman the absence of her husband was particularly a challenge as the children were very young and required her care which left no chance for her to earn other income.

Filipino wives of migrant workers also shared the added burden of single parenting having to act as mother and father to the children. One woman told of the pressure of acting alone in child rearing and having to decide alone when there were problems concerning family matters. Sometimes the children grew up with one or both parents absent, some grew up hardly knowing their parents. They were sometimes left in the care of relatives, if both parents are working overseas. Communication with parents was invariably through text messages or phone calls from time to time. One child who was interviewed said his younger brother cried when their mother left for Dubai. He said he was asleep when his mother left, so she was already gone when he woke up. They were left in the care of their paternal grandparents. Their father was also working in Dubai.

With regards to relationship with their children, one participant said his children are closer to their grandmother, whom they call Mama, than to him. Some male migrants lament that while their children had their mothers with them, they have nobody with them abroad. There is no one to comfort them in times of need and whenever they have problems. Bonding between the mother and the children also becomes stronger if the father is working abroad. They also recounted how some of their friends or family members who also worked abroad had problems with their children. Some children did not want to come near their fathers. At times, the father had to woo the child to re-establish the relationship or bond with their children. Some parents, in order father had to woo the child to re-establish the relationship or bond with their children. Some parents, in order

to compensate for the absence, resorted to giving material gifts to their children. Whilst many children had increased economic and educational opportunities due to their parents' migration the lingering emotional costs of separation from family were often not considered.

Community Impact

There were varying attitudes towards migrant workers in their communities of origin which impacted on the experience of migrant families. In India in some of the villages it was said that foreign domestic workers were treated with less respect. There was a common and false perception amongst villagers that domestic workers were sexually promiscuous and morally corrupt and returned workers or their families were discriminated against. For other workers who returned home early or with less than expected earnings there was a struggle for survival and a difficulty to reintegrate back into the village community. Some workers were stigmatised and judged negatively for leaving their families and communities.

“After my husband’s death, I had to run the family. I thought that the best way to bring my child without any financial difficulty would be to work in a foreign country. So I left my child with my mother’s custody and left. Because of that I had to encounter many problems and I was humiliated by villagers and my relatives. They look at me as if I had done something morally wrong since I worked in a foreign country.”

(India, Domestic Worker)

Pakistani respondents that many in the community expected that migrant families were rich. In many cases this was a false assumption however as some of the family members were not even employed in the U.A.E. or had difficulty earning enough money to support their family. Community members and neighbours in Pakistan however, had many expectations from them and when the workers returned home they would receive many visits from community members who came to borrow money or seek favours. This put a lot of pressure on both the workers and their families who in reality could not live up to the elevated status as they themselves were often struggling to meet their own household expenses.

“People of the community think that we are very rich and when my husband comes to Pakistan they think he has lots of money. But my husband does not do any job in Pakistan and spends all the money in Pakistan saved at and brought from abroad.”

(Philippines, Spouse of Migrant Worker)

Filipino migrants expressed a similar issue with members of home communities who perceived that all those who went abroad have money. Some neighbours expected a migrant returnee to present them with some souvenirs or to treat them to food or drinks. It was also common for some friends and relatives to approach the migrant returnee or the family to ask for loans, thinking that they had money. In reality though, even families of migrant workers were sometimes finding it difficult to make ends meet.

Re-Migration Patterns

For the majority of migrant workers from India, Pakistan and Philippines the likelihood of re-migration was high. Usually when migrant workers finished their job contracts successfully and returned home, or were deported for any reason, they were still motivated to seek work with another employer overseas or in another country. The reasons noted for this trend included the lack of employment in their home communities, their outstanding debts and the ongoing need to support their family's livelihood. Respondents said that they wanted to help their families and they had dreams they wished to fulfil, one of which was to see their children finish school. Even given the labour exploitation they experienced, the potential for income and employment was generally higher overseas than within their own countries. Some migrants noted that they also found it difficult to adjust back into their home country family members and in the overall community.

WOMEN AND MIGRATION

Countries in the Research Cluster:

Source: Burma, Sri Lanka, Indonesia

Destination: Thailand, Middle East (Saudi Arabia and Qatar), Malaysia

Participants in the Research Cluster:

Thailand: Ten focus group discussions and 15 interviews were held with a total of 117 participants in Thailand. Participants included 73 female migrant workers from Burma who were working in a range of sectors including domestic work, sex work, karaoke entertainment, construction, factory and agriculture. The focus groups also included 43 male participants from Burma who were spouses of migrant workers living and working in Thailand. The research was conducted in four sites: Mae Sot, Phang Nga and Chiang Mai and Bangkok.

Sri Lanka: A total of 160 participants took part in 82 household survey interviews and six focus group discussions. Participants included returnee female migrant workers who had worked as domestic workers in the Middle East (Saudi Arabia and Qatar), their family members and community members. This included 52 participants from the Sinhalese (Buddhist) community in the northern province of Kurunekala, 58 participants from the Muslim community Mavady Pally in the east, and 50 participants from the Indian Tamil (Hindu) community of Maskeliya in the central provinces.

Indonesia: Three Focus Group discussions were held with former migrant workers from Malaysia. Two of the discussions were held in two regions in Sukabumi District (West Java Province) Bojongembar and Kadudampit villages and one held in Karawang District (West Java Province) in the village of Pasir Kaliki. The discussions included a total of 20 female returnee migrant workers who had worked in the domestic work sector in Malaysia. Five interviews were also conducted, three with returnee migrant workers (one female returnee migrant worker in Sukabumi District and two male returnee migrant workers in Karawang District). Two interviews were conducted with the government staff (Head of Bojongkembar Village, Sukabumi District and Director of Empowerment of National Body for Placement and Protection of Indonesian Migrant Workers (BNP2TKI).

Key findings arising from the feedback from families and migrant workers from the three source countries in this cluster groups have been summarised in the section below.

The Journey To Overseas Migration

Reasons for Migration

For all of the respondents migrating from Burma, Sri Lanka and Indonesia, the main aim of migration was to increase the living standards of either themselves and / or their families in their home community. Indonesian women identified that the reason they became migrant workers was to increase their family's economic quality of life and to afford the costs of children's education and housing, often as a supplement to their husband's income. Similarly for the Sinhalese and Tamil women, the living conditions in Sri Lanka with high levels of poverty, debt and a lack of adequate employment, were factors pushing the women to pursue migration in order to improve the daily lives of their families. They identified specific aims for foreign employment being housing improvements, children's education, to settle outstanding debts and to afford 'luxury' items. The main reason women from Burma identified for migration was also for employment and increased income. There was however a unique context to women's migration from Burma with a significant number of participants who migrated to be with friends or family already living and working in Thailand or migrating due to family problems in their home community. Additionally many of the Burmese migrants tended to migrate for a longer term purpose rather than as a short term process to earn income to send home.

Departure Fees and Processes

The women in the study used both formal channels, such as sponsors and recruitment agencies, and informal channels, such as with family or friends to travel to the destination countries. For all women there were a number of costs, including medical, visa and security expenses, that they were required to pay prior to departure. For many women from Sri Lanka and Indonesia these costs resulted in a significant debt via loans

undertaken with recruitment agents, which impacted on their migration experience. In addition the research revealed experiences of coercion, corruption, deceit, violence and discrimination in the migration process, perpetrated either by recruitment agencies, brokers, employers and governments in both sending and receiving countries.

The use of recruitment agencies to employ female domestic workers for overseas work was common to both Indonesia and Sri-Lanka. The agencies provided training, documentation and employment services for the female workers applying for overseas work. Departure expenses charged by the agencies were a significant cost for the respondents from Indonesia and Sri Lanka. For Sri Lankan women the departure fee varied according to occupation and expected wages entitlements and ranged from Rs. 50,000 (USD 435) for domestic workers to Rs.100,000 (USD870) for women migrating for nursing positions. In Indonesia male workers noted they paid between 4-6 million rupees for the departure fee (USD404-606) however female respondents noted that they were unsure of the exact cost of departure fees, as they were not given adequate information by the recruitment agency. Most of the Indonesian respondents and all of the Sri Lankan were granted a loan through the recruitment agents or sponsors to assist with the migration fees. This process assisted the women to cover the pre-departure costs however in reality resulted in a situation of debt bondage to agents and employers in the destination country. Indonesian women working in Malaysia stated that it took between three to six months to pay off the loan on the salary of a domestic worker whilst Sri Lankan women spent on average four months without salary. Given this situation, migrant women were forced to pawn their belongings and family assets, so that they would be able to afford their daily needs in the destination country and support their family's needs back home over the period of paying back the loan. One of the informants, who worked in Malaysia for two years, pawned the field that she owned in Indonesia, prior to migrating for work, as a preparation that she would not be paid by the agents for a few months.

"I pawned my field for my needs and my children's. To pay for the passport, they will cut my salary, but I don't know how much."

(Indonesia, Domestic Worker)

A major issue for female migrant workers from Indonesia was the lack of information provided about the loan amounts and process. None of the women who migrated knew the exact amounts of actual departure costs, loan interest costs or expected salary in Malaysia. It appeared the agents deliberately withheld these details from female workers – they were merely told that their salary would be cut if they borrowed the departure expense, but were not given any further information, leaving them vulnerable to corruption and overcharging by the agents. In comparison, the four male migrant workers in the study noted that they were given information about the departure costs and loan information, indicating that there may in fact be discriminatory practice within the agencies related to the gender of the workers in this process. Another major issue for Sri Lankan women migrants was the lack of knowledge and access to information on the insurance procedures for the majority who were migrating. This was a notable feature among the migrants from plantation communities who were mostly women who have a lower standard of education and a lack of experience in dealing with travel and recruitment arrangements. This meant that most of them were uninformed about either the costs or their entitlements to insurance and protection within their contracts. It appeared that the lack of an effective monitoring system allowed substandard, corrupt and discriminatory labour recruitment practices within the agencies.

In addition to the loan costs, migrant workers from Sri Lanka migrating to the Middle East were required to undergo medical tests and training at their own expense. Training and test centres were located in larger cities, resulting in increased costs for women who lived outside these areas, who sometimes had to travel for two days and stay for significant periods in the city in order to complete their applications. There was some evidence of discrimination in regards to medical fees, whereby the cost of the medical test for the majority of migrants who were Muslim were mostly borne by the employer in the Middle East whilst those from non Muslim, Tamil and Sinhala backgrounds were charged Rs. 4500 (USD39) of which an advance of Rs. 2000 (USD17) should be paid two years before the departure. A number of Sri Lankan women also told of instances of violation and sexual abuse that were experienced during the medical testing process. One woman told of an incident where

a young woman applying for migration as a domestic worker was coerced, sedated and sexually assaulted by a sub-agent to the recruitment agency, when she was in the city for pre-departure preparations. In addition to individual women being subject to sexual violence, it appeared that women's reproductive health rights were systematically violated through the mandatory medical testing process at the Sri Lanka clinics. An informant in the study noted that it was mandatory practice for all women applying for migration, both married and unmarried to be given contraceptive medroxyprogesterone injections to prevent pregnancy. This practice was common to all recruitment agencies in Sri Lanka. The majority of the migrant workers attending the testing centres were from rural and plantation areas, with low levels of literacy and education and limited knowledge regarding health treatment and rights, and the extent of informed consent for these women was questionable.

"I am married with 3 children. I have stayed twice abroad, 2 years each time. I went abroad, after giving birth to 3 children. When I went for medical test, they told me that I should take contraception injection. I refused but many unmarried women were forcibly given injection. I know that unmarried women given contraceptive injection will fall ill with various complications."

(Sri Lanka, Domestic Worker)

Recruitment agencies in Indonesia and Sri Lanka also provided pre-departure training to migrant workers. Respondents however noted that in both countries this training was ineffective and added further costs for the women prior to migration. Training for Sri Lankan female domestic workers was provided through the Bureau of Foreign Employment or registered agencies as a 15 day house keeping and orientation program for unskilled female migrant workers going to the Middle East, which included some language training. The training added significant costs for workers, especially for workers who resided outside of the city centres in terms of travel and food costs. The training fees were added to the departure costs for the workers. Most of the migrants from rural and plantation areas only attended 1-2 days of the training program and found that it was not useful in acquiring any knowledge about their employment, job security and the culture of the host country. In Indonesia training was provided by recruitment agencies and held in shelters based in the main city Jakarta. Some of the migrant workers were required to stay at the shelter and undergo training prior to departure, including lessons on foreign language, cooking courses, sewing, and childcare. However, upon departure, the women noted that the training was inadequate as they felt they had inadequate knowledge of the country where they were going to work. Respondents described the conditions of the shelter as grossly overcrowded with the workers held responsible for the cleaning as well as daily food costs and preparation.

"In the agency, I and my friends woke up early. Some were sweeping, some were mopping, some were cooking. We slept in rooms, using mattress. But in a room, there were 203 persons, yeah, although it was not like at home. For daily needs, we bought it by ourselves."

(Indonesia Domestic Worker)

Migrant women from Burma, who travelled to Thailand for work, faced different challenges and costs. In comparison to Indonesia and Sri Lanka, women from Burma were less likely to use brokers and the majority did not incur significant debts for migration costs. Burmese respondents primarily used informal channels of migration rather than recruitment agencies, due to the lack of access to formal migration processes within Burma as well as the fact that the border between Thailand and Burma is a land border which makes for comparatively easier access via informal channels. This results in significant numbers of undocumented workers entering Thailand in a variety of ways. The women in the study travelled to Thailand with friends, family members, teachers and colleagues on cars, buses, boats and by foot. There were varying costs associated with this travel which included public and private transportation costs, money paid at immigration checkpoints, fees to brokers who facilitated migration, and border crossing fees (official and unofficial). Reported total travel costs varied significantly ranging from 3000 kyat (about USD3) to THB 7000 (about USD220). Some women had already saved enough money to cover these costs, others sold belongings or received funds from relatives (sometimes to be repaid, sometimes not) with a minority of women entering into debt with a broker

who was then repaid over a period of time. Approximately 30 percent of women used an agent or broker to travel to Thailand with costs ranging from 3500 baht to 15,000 baht (USD103-441). Those women that used brokers to travel to Thailand were also more likely to pay fees after arrival in Thailand to find and sustain work. For participants who used brokers, a variety of different methods to cover the costs were used, including assistance from families (mothers, mother in-laws, brothers), individual savings, and sale of personal gold to cover costs.

The research also highlighted that some migrant workers faced considerable risk to their personal safety especially for those using informal means of travel and lacking the appropriate documentation. Some workers explained that their trips from Burma to Thailand were unpredictable, difficult and dangerous especially when they relied on unknown brokers to assist in their travel.

“I came here by a car. I sat at the front. My husband hid among the fire wood. Then, we changed to another truck. We had to hide among the fire wood which were covered by a large rubber [tarp]. One woman was very angry and yelling. It was so hard. We had to change to another truck later on. There we had to sit on each other.”

(Burma, General Worker)

LABOUR RIGHTS and QUALITY OF LIFE FOR FEMALE MIGRANT WORKERS

Undocumented workers

The legal status of migrant workers impacts greatly on their quality of life and those workers who do have recognised documentation are more vulnerable to exploitation and have limited if any mechanisms to access justice. This was particularly an issue for the women in the study from Burma given the challenges in obtaining correct documentation and legal status to work in Thailand. Amongst Burmese respondents there was a wide spectrum of legal status for migrants depending on their occupation and location. Notably only 27.3 percent of respondents from Burma specifically stated they had some form of official documentation such as work permits or labour cards. The complex arrangements for the documentation or registration of Burmese migrants in Thailand had led to a myriad of situations whereby migrant workers needed to negotiate with employers and immigration police for employment and ‘security’. For some workers the payment of security fees was a mandatory practice within their workplace to ensure that they would not be harassed by police for bribes, corruption, or immigration issues and to avoid the threat of deportation. In reality however payment of fees did not necessarily reduce the vulnerability of migrant workers who faced a wide range of precarious and vulnerable situations in relation to police harassment. Overall about 38 percent of participants reported that security fees were deducted from, their salary with differences according to the location and sector of the workers. Female migrant workers in construction, karaoke, sex work and factory work identified that they paid security fees, ranging from 300 – 900 Thai baht (USD8-26) per month, sometimes paid by the worker, or by both the employer and worker. Some general workers noted that their employers had assisted them with obtaining work permits. Within factories there were commonly both documented and undocumented workers, and in many cases even fully documented workers worked for employers who “negotiated” with police for workplace security. Comments from karaoke workers suggested that in lieu of having a work permit, employers instead made an agreement with police to ensure workplace security. While no sex workers reported being fully documented those who were interviewed sometimes had a level of agreement with the police or employers aimed at maintaining their security. For others however their security situation was precarious and resulted in cases of sexual assault by police authorities or women hiding and fleeing from police raids.

“The employer provided our security at the workplace. They discussed and get agreement with the Thai police. We have no work permits, just illegally allowed to work.”

(Burma, Sex Worker)

“They [employers] don’t take responsibility for our security. If the police come we have to run, but we have to pay 1000 baht per month to the police.”

(Burma, Sex Worker)

“The employer is taking care of our own security at the working place. They negotiated with the local police. Security is ensured for the police. But when police visited our working place, we have to serve them free of charge, unpaid. The policemen also pointed the girl they liked and took her out.”

(Burma, Sex Worker)

The majority of respondents from Burma (62%) identified that they were in fact not subject to salary deductions for security fees however many avoided police and authorities, either by fleeing police raids or sometimes facing enforced restricted movements from employers who did not want to attract police attention. The research showed that even migrant workers who held formal documentation had no guarantee against arrest and detention or harassment by police and authorities in Thailand. Respondents from the construction sector told of their experiences of workers being arrested by police even in the workplace, and the employer then having the responsibility to negotiate the release of the workers through bribes and payments. This occurred despite the fact that they had standard work permits.

Migrant women workers from Sri Lanka and Indonesia in comparison appeared to have more formalised recruitment and migration processes which meant that most of them were considered legal and had correct documentation in the destination country. However for these women there were also issues regarding employers and recruiting agencies withholding documentation and information which meant that some of them were not even sure of their legal status in Malaysia or the Middle East. Indonesian women departing to Malaysia stated that during the registration and departure process they did not receive any documents at all and did not prepare any of the documents themselves. All important documents including their passport were firstly held by the sponsor in Indonesia then held by their employer in Malaysia. Therefore, they admitted that they knew nothing at all about their legal status in Malaysia.

Contract Violation and Exploitation

In Malaysia, the Middle East and Thailand many migrant women were exploited for their cheap labour and it was common for female migrant workers to receive wages that were lower than the minimum daily wage, with domestic workers receiving extremely low wage rates and identifying particularly exploitative working conditions. There was evidence of contract violations and bonded labour as a common occurrence for domestic workers from Indonesia and Sri Lanka. Indonesian migrants in Malaysia reported lower wages than that which was originally agreed in the employment contract with recruiting agencies. Similarly migrants from Sri Lanka reported that employers often did not comply with the wages and working conditions in the workers contract, and there was no redress or accountability mechanism for this.

Domestic work included tasks such as childcare, cooking, ironing, washing, cleaning houses, vehicles and gardens and taking care of the elderly. Domestic workers from all three countries noted that they were forced to work extended working hours as a regular occurrence with daily work hours ranging from 15 - 20 hours a day. In addition many workers were forced to work seven days a week and had limited time for meal or rest breaks. Most of the Indonesian domestic workers in Malaysia felt that they were exploited in regards to their working hours and conditions. Employers in Malaysia commonly demanded high standards of patience, neatness and perfection from these workers and had complete control over their work duties, sometimes exploiting them to work in the family business or for other friends and relatives, as well as within the home

“Only tidying up, taking care of children, if there’s a guest for her husband, I washed the car. At her husband’s office, I also washed the car. My work was like that, over and over again. No stop at all. After finished washing the car, I cleaned up the window, then cleaned up the toilet, brushed it, washed in the office. I slept at 11 pm. After the children sleep, then you sleep.”

(Indonesia, Domestic Worker)

When comparing the working conditions of the male migrants interviewed from Indonesia, it was found that the female domestic workers from Indonesia experienced longer hours of work as an everyday occurrence due to the nature of their work and the fact that they were living in their place of work. Sri Lankan migrant women who worked in the Middle East faced similar working conditions. Domestic workers were expected to awaken at 4am, at the time when their employers arose for their religious activities, and were expected to work from then until late in the evening. During the day time employers who arose early were able to sleep, however the workers were not allowed a break from their daily labour.

Domestic workers from Sri Lanka and Indonesia reported wage violations as a common experience. Indonesian women were rarely given information about their basic wage entitlements either by sponsors in the recruitment process or by employers in Malaysia and they noted that they were not in a position of confidence or security to question this situation. One informant expressed that she had felt so grateful to get a work contract abroad, that the amount of wage became the second priority. Some of the women noted they received lower than expected wages from their employers, whilst others were worse off and did not receive any wage for periods of between 3-10 months of work. Furthermore employers sometimes created random rules for workers that further reduced their wage payments.

“I was told nothing, after working for 3 months, then I was told, “Your (salary) is deducted for 3 months; after 3 months, you will get the salary.”

(Indonesia, Domestic Worker)

“If breaking a glass, then it’ll be deducted up to 5 Ringgit, he said, - if you break a glass, you should replace it, 5 Ringgit. If I go out, the 5 Ringgit is deducted.”

(Indonesia, Domestic Worker)

Sri Lankan domestic workers reported contract violations that occurred in the Middle East despite the fact that they had signed a legally binding contract prior to departure. The workers routinely received a written contract from the recruitment agencies outlining their work entitlements and duties, as well as verbal agreements made between the recruiting agencies and the worker. However given the low levels of literacy amongst plantation women, many were unable to read the contract documents presented. During the research a returnee worker presented a copy of the agreement which showed only part of the agreement - without the first ten conditions included in the agreement. In any case the contract seemed to be of little use in guaranteeing wage payment in the destination as some of the workers reported that they were not paid the agreed wages rate in the contract with some paid no wages at all. In some cases for several months only part payments were made. For both Sri Lankan and Indonesian women the situation of debt bondage to the recruitment agencies and sponsors meant that they were forced to remain with the original employer to whom they were contracted, despite receiving no payments.

The experience of contract violation was not noted by women workers in Thailand – due to the fact that formal written contracts are rarely used for migrant workers in Thailand, and not used at all for undocumented workers. Given the significant difficulties with legal status, the majority of migrant workers in Thailand were employed in an informal system under verbal agreements with employers. However domestic workers in Thailand reported similar experiences of exploitation in their wages and working hours. For most domestic workers their hours were not fixed and they worked as many as 15-20 hours per day; however in some cases the hours

were shorter - with only as few as five hours a day. This variation seemed to depend on particular employers. Domestic workers who lived in their employer's home worked longer and more irregular hours than those who lived in other accommodation. An analysis of the wages of the migrant women working in Thailand showed that domestic and agricultural workers from rural areas were receiving wages that were consistently less than the minimum wage in Thailand with domestic workers in border areas citing the lowest wages of all groups.

Working Conditions and Social Security

Comments on wages and working conditions from migrant women workers in Thailand who worked in sectors other than domestic work showed wide variation in these conditions depending on which sectors the women worked in, seasonal factors, the work required in particular industries and according to the will of employers. Karaoke workers reported working from 11-20 hours per day whilst general workers had shorter days ranging from 8-12 hours. Women working in sectors such as sex work, and factory work noted that their working hours varied according to work demands at different times. Sex workers in Phang Nga whose customers were primarily workers in the fishing industry report similar variation in hours, while sex workers in Mae Sot reported working between 8 - 10 hours per day. Similarly factory workers reported that working hours vary according to the level of production orders, which in many cases means working hours were effectively seasonal according to common production cycles, while plantation workers noted that night shifts were common for rubber tapping. Similarly the women who worked in other sectors experienced variable wage rates depending on the location, with workers in city centres being paid more than rural workers. Wage entitlements also fluctuated with seasonal and occupational workloads and within some industries the women noted that males within their workplace received higher wages than the women workers (in construction, masonry and factory work).

For women in Thailand the variation in working hours and wages was not of itself identified as a major issue, and in some circumstances were seen to have benefits for workers in terms of an opportunity to earn extra income and have flexible work times. The key issue however was the capacity for workers to have control over their working hours, wage security and a guaranteed minimum wage standard. As noted above for the majority of domestic workers in the three countries this was not the case and for many of the women working in other sectors in Thailand there was a similar lack of control due to their precarious legal status and living and working conditions.

As well as wages and working conditions, the study found that social security and health entitlements were variable and in most cases non-existent for migrant women workers in all destination countries. Even where they were available, female workers identified a lack of information about their rights to compensation or treatment in the event of accidents or illness over their working period. In Malaysia despite the existence of a government mandated employee health insurance scheme the women from Indonesia reported that they received no information on benefits or coverage for health or social security, and were dependent on the whim of their employers in terms of their access to health care. Sri Lankan women also noted that they had no social security or health care coverage provided for them in the Middle East. Women working in Thailand reported limited knowledge or access to workplace insurance or accident protection. The majority of women were either unsure about workplace accident compensation; reported that their employer didn't provide it; or reported that the employer would cover some of the costs but not all. Most common was the experience that the employer took no responsibility in the case of workplace insurance schemes or compensation. In Thailand all documented migrant workers were eligible for the 30 baht health scheme which enabled them to access standard general and emergency health care at public medical centres for the cost of 30 baht (less than USD1). However undocumented migrants did not have this benefit.

Organizing and Association

Migrants in Thailand by law may join labour unions, but they may not found labour unions nor sit on executive committees. Migrant workers however had extremely limited access to formal mechanisms for organizing and association, as often unions did not exist for migrant-heavy sectors and language and socio-cultural differences also limited organizing potentials in practice. Participants in this research did not report having access to formal labour unions, but some were aware of worker associations that sought to serve comparable objectives. Due to sector and location however, some participants were less likely to be aware of such associations, or to have access to the work they do.

In Malaysia migrant workers also faced legal barriers to organising, as the entitlement to union activity was curtailed under Malaysian law which prohibited migrants to join associations. In addition none of the domestic workers from Indonesia had the capacity to join any kind of associations, unions or community activities due to the severe restrictions on their mobility. Many of the plantation workers in Sri Lanka were considerably organized and as a result some women workers from the plantation had knowledge of labour laws and rights. However for most of the women migrating for domestic work there was limited knowledge of labour rights and entitlements or union experience or networks. In addition most Middle Eastern countries had severely restrictive conditions that prohibit organising and associations for migrant workers in their countries. Whilst the UAE was seen as one of the less restrictive destinations in the Middle East, even there the participation of migrant workers in trade unions was prohibited.

HUMAN RIGHTS and QUALITY OF LIFE FOR FEMALE MIGRANT WORKERS

Violence and Harassment

In all country groups there were incidents of violence against women in the form of harassment and abuse by employers and state authorities, occurring with impunity due to the limited redress mechanisms available to them. Indonesian participants noted that within some employer households there were instances of abuse against domestic workers. For instance, one informant told of an incident with a domestic worker where the employers threw a pot at the migrant worker's face because she had made a mistake at work. The informants also said that they were afraid of their employers as they often acted arbitrarily. Despite some incidents of violence however, there were no incidents of sexual harassment identified by Indonesian women, from their employer or others. Indeed women who worked in Malaysia perceived that their situation was comparatively better than domestic workers in the Middle East, due to the fact that there were similar cultural practices between Indonesia and Malaysians. Incidents of sexual abuse by employers however were reported in the previous section, in Malaysia Cluster report by domestic workers working in Malaysia at the time of the research. Many of the Sri Lankan respondents told of being physically abused by their employers over the time of their migration in the Middle East. The women gave examples of incidents where they were beaten, pushed from upper stair cases to the lower through windows, had boiling water poured onto them, burned with a hot iron, and had their head fully shaved as a punishment. In addition to these physical assaults, the women also experienced sexual harassment from their employers and the employer's relatives. Many of the women were denied personal privacy even to minimum standards and this meant that they were unable to protect themselves from sexual advances from employers and family members in their workplace. Some Sri Lanka respondents reported being raped on a regular basis by their employers, as told by a 29 year old plantation woman who had been a housemaid in Kuwait:

"I had been on several occasions harassed and sex abused by Baba. I had studied up to grade 5 in the estate school, and I do not know at all of gender. Baba forced me to take pills while he used condom. I did not conceive. I came back after 2 years and 8 months. I have the money I earned. I never shared my experience abroad with anybody."

(Sri Lanka, Domestic Worker)

Domestic workers in Thailand also appeared to be at greater risk of harassment and abuse compared to workers in other sectors, due to the isolation of their working and living conditions. Domestic workers from a border town Mae Sot - several of whom reported not being able to leave their workplaces - reported cases of sexual harassment from their employers with little chance of escaping the abuse due to their restricted mobility.

Abuse and harassment perpetrated by state authorities and other citizens was also identified by migrant women in Malaysia and Thailand. In Malaysia migrant workers were mistreated by the RELA (Ikatan Relawan Rakyat Malaysia or Malaysia People's Volunteer Corps) force that often extorted money from migrant workers, as noted in the Malaysia Cluster report. One informant also claimed that the RELA force often sexually harassed Indonesian migrant women in Malaysia. In the Thai research participants in almost every

sector contended with harassment and abuse. Sex workers, karaoke workers and migrants who worked in relatively isolated workplaces such as plantation and domestic workers, reported high degrees of harassment and abuse. Interviews with sex workers suggested at-times intensive physical and sexual abuse from both customers and state officials with employers tolerating the abuse in order to maintain customers and sometimes abusing the women themselves. Karaoke workers reported commonly reported verbal abuse from customers or male co-workers. The prevalence of abuse of migrant workers in Thailand was well known with workers in the study regularly commenting either on their own experiences or of incidents taking place elsewhere or to others with the common experience for migrant workers of being unable to seek redress.

“I have heard about people killing each other and young Thai people raping young women. Victims are afraid to report the cases because we are Burmese”
(Burma, General Migrant Worker)

“My ex-employer’s brother raped one female worker when I was working for them. My employer did abortion for her. She went back to her village after that. She was so shy to report that case to a police. We cannot report to a police because we are Burmese. That is why I quitted my job. My uncle and aunt did not let me work there as well”.

(Burma, General Migrant Worker)

Housing and Living Conditions

Indonesian domestic workers voiced no concerns regarding their accommodation in Malaysia which was in their employer’s house. All of them either had their own room or were accommodated separately to the living area of their employer. However the workers had limited capacity to choose their personal living space and were not allowed to live off-site. The situation was similar for Sri Lankan domestic workers in the Middle East. One of the young women from Sri Lanka reported that she was given only a little space to sleep in front of the employers’ toilet entrance, with little privacy and located in such a way that left her open to sexual harassment from her employer. This highlighted the lack of control that the women generally have over their living circumstances and the non-existence of a safe and secure living space for many women.

For migrants in Thailand, living at the worksite was a common situation as expressed by participants in this research. For domestic workers, sex workers, and many general workers, living at the worksite was seen as comparatively cheap and secure, insofar as the employer often arranged for security. Types of accommodation for workers included rented rooms, huts and houses made of wood and zinc for plantation workers (sometimes described as long halls, and often with multiple families under one roof) and multiple- family living quarters at factories. Many participants noted they did have privacy, however living in accommodation with multiple families, was a common arrangement which in fact limited their individual privacy. It appeared also that for many of the workers their living quarters were crowded and sub-standard. Construction workers in Bangkok described barracks where they lived with rooms as narrow (2 meters x 2 meters) with separators made of thin plywood or hard paper, whilst a dressmaker in Bangkok said she lived with 5 people in one room. Other respondents noted the difficulties felt within their relationships in some instances due to their overcrowded and very small living spaces.

Health Issues

For domestic workers health was of major concern due to their demanding working conditions which they said commonly caused pain, stiffness and weariness in their bodies. Most of the Indonesian respondents stated that they had been sick or unwell at some time during their time in Malaysia. Whilst the women’s medical expenses were borne by the employer, there was evidence of employers deducting the costs of medical expenses from the worker’s salary without giving the women information on the full costs and expenses. The women had no control over access or expenses in relation to medical care as this was totally reliant on their employers.

“I was sick once, I fell, when I was cleaning the wall, I fell down. But it was only my feet which was hurt, and I was taken to the doctor by my employer and (the expense) was paid by her, my employer. Because I did not receive any money, I didn’t know whether there was a deduction on the wage or what. I didn’t get any money because of it”

(Indonesia, Domestic Worker)

Women from Sri Lanka working as housemaids appeared also to have limited access and a dependence on employers to access health care in the Middle East. Many of the Sri Lankan respondents noted that they were generally restricted from accessing medical care even when they became ill and they were often forced to continue to working 20 hour days whatever their health condition may be. For domestic workers and for some sex workers in Thailand– the issues related to health access were similar in that their working conditions effectively prevented them seeking health assistance, at least in terms of immediate responses, from almost anyone but their employers. Another issue impacting on health access for some migrant workers in Thailand was that of discrimination. In both urban and rural settings some workers reported discrimination, with examples of health staff being rude and refusing to treat workers who were undocumented.

Sexual and Reproductive Health

The mandatory policy and procedures for migration to Malaysia and the Middle East prohibited any women that were pregnant from entering the country for work purposes. Women were not allowed to enter the country or continue to work in the country should they become pregnant and were deported if found to be pregnant – regardless of the circumstances or reasons for pregnancy. Cases of deportation could include cases where women have become pregnant through sexual abuse or with a national of the destination country. A woman from Sri Lanka reported that she became pregnant through being raped by a sub-agent in the recruitment process prior to leaving Sri Lanka, only to find she was pregnant when she was overseas and was thus deported with no wages, no employment and facing the issue of being a single mother. The case study also highlighted the difficulty for migrant women in accessing services for termination of unwanted pregnancies. In both the Middle East and Sri Lanka abortion is illegal which means that women who become pregnant whilst working overseas, not only lose their position of employment but also were forced to return to home and face the myriad of challenges related to this situation including economic, health and social stigmatisation from their home communities.

The situation regarding migrant women’s access to sexual and reproductive health care whilst working overseas differed across the countries in the cluster. For women in Malaysia and Middle East there was limited services in this area whereas in Thailand there appeared to be comparatively higher access and information about sexual and reproductive services. Women migrating from Sri Lanka received pre-departure training and information on women’s health. However many of the women who migrated to the Middle East for work were village or plantation women, where the culture prohibited public or open discussion of sexual or reproductive health needs. Therefore they still faced barriers to help seeking in the Middle East – both due to their cultural and educational background as well as the fact that all of them relied on their employers to access health services. In this restrictive environment, women who suffered sexual harassment or abuse in the Middle East were unlikely to seek help or justice and unlikely to have had any contraception or protection against sexually transmitted infections including HIV/AIDS. A public health inspector interviewed in Sri Lanka attested to the fact that women from both Muslim and Non Muslim communities had returned from work in the Middle East requiring access to confidential treatment for HIV AIDS which they had contracted whilst working abroad. The stigma attached to HIV/AIDS particularly within Muslim communities prevented public acknowledgment and discussion of this issue making the situation even more difficult for those affected.

For domestic workers in Malaysia there were similar issues related to the lack of access to reproductive health care due to the fact that the workers could only access these services through their employer. In most cases this meant no access at all, leaving the women at greater risk of unplanned pregnancies, sexually transmitted infections (STI) and HIV AIDS.

The migrant women from Thailand indicated comparatively higher levels of access to sexual and reproductive health treatments. The majority of women stated that they were using contraception, including condoms, three month Depo Provera injections, and the oral contraceptive contraception. Most participants felt that they had at least a basic knowledge of STI, often gained through trainings and outreach by NGOs and health organizations. Most participants stated that they knew where to access women's health care and those who had been pregnant reported receiving antenatal care at clinics and hospitals in Thailand. Domestic workers however showed lower levels of knowledge about treatment services than other workers, with Karaoke workers and sex workers, being very knowledgeable both about STI and where to seek treatment. The study found that in communities where NGO and other outreach mechanisms were strong there was greater awareness amongst the migrant women. In Thailand the lack of maternity protections was also raised as a concern for female migrant workers and their families. Apart from migrant workers working with NGO groups, participants reported that they did not receive maternity leave, with women who were pregnant commonly reporting that they would not be hired in factories or other workplaces or would be fired instantly if found to be pregnant. One of the domestic workers, who became pregnant, noted that her employer had ordered her to have an abortion and when she refused to do so - she lost her job.

Deaths Overseas

While it is difficult to obtain accurate information regarding the number and causes of deaths for migrant workers, some informants from Indonesia noted that deaths by suicide were a common occurrence amongst migrant workers in Indonesia particularly for women. One of the former migrant workers from Indonesia said that suicide seemed to be especially common amongst female migrant workers as a result of sexual abuse by the employers of women workers.

"Some also killed him/herself because of stress, usually it's a girl, who was previously promised to be employed, but she was forced to give service to bosses. It contradicted her will, so she killed herself. It was a lot; some hung herself, jumped off from a building, some were pregnant when she returned, then she killed herself."

(Indonesia, Construction Worker)

In the study group with female domestic workers from Indonesia there was an incident of attempted suicide reported by a female migrant worker which appeared to support the claims of the informant above, though the reasons given for attempted suicide were due to economic conditions rather than sexual abuse. The female informant from Indonesia told of her own personal experience whereby she attempted to kill herself because of the stress she was under working in Malaysia for two years. The woman explained that she was in a state of extreme emotional distress due to the fact that she had worked for a year and had not received any salary from her employer. In desperation she attempted suicide by drinking an insecticide. The woman was taken to the hospital because of the suicide attempt. The woman's explanation portrayed the reality of her situation of bonded labour, whereby she felt that suicide was her only option as in reality even if she applied to the recruitment agency to return home, she felt that this would not be possible and she would be forced into working again for no salary.

Migrant workers from Sri Lanka working in the Middle East also highlighted this tenuous situation. A 2002 study highlighted high levels of suicide deaths in for women employed as domestic workers or housemaids in the Middle East and this issue has been widely published in the Sri Lankan media. Since the beginning of 'housemaid exports' to the Middle East' in the 1980s, there had been regular news articles appearing in the Sri Lanka press describing the crimes against women workers in the Middle Eastern countries. Yet women still decided to migrate and face these risks due to the poverty they face at home. In one interview with Sri Lankan respondents a migrant worker's husband explained how he believed his wife was killed as a result of a conflict between herself and the employer in Bahrain. The circumstances of the death appeared suspicious as the woman had contacted her family complaining of severe abuse by her employer and was attempting to find an

1 D M P Samarakkody, public health inspector, Health Office, Bandaranayake International Airport, Katunayake, Sri Lanka).

avenue for escape, however soon after contacting her family she had died overseas with the official cause given as suicide. At the time of research the family still had no progress on their demands for an investigation and had received no compensation for the death of their loved one. In addition the husband has been left alone to support his three children.

Research from Thailand revealed that the deaths of Burmese migrants in Thailand were reported regularly and often included violent and exploitative circumstances. Interviews with an NGO in Thailand, the MAP Foundation, indicated that in 2010 over a five month period there had been 23 reported deaths of migrant workers resulting from acts of suppression. This included nine ethnic Karen job-seekers who were shot dead in Phop Phra district, allegedly after being unable to pay a bribe to local police; three migrant children (a three year old, six year old and sixteen year old) were shot dead when soldiers fired at the car transporting them in Ranong; two young sisters drowned while trying to escape a police raid on their camp in Phuket and in Petchburi province nine ethnic Chin migrants, including two young children, died and 19 others were seriously injured when the pick up they were travelling in was fired upon and chased by a police car.

Discrimination and Xenophobia

Public discrimination against foreign countries citizens or xenophobia in fact was rarely overtly experienced by the women migrant workers in Malaysia or Middle East due to the fact that they were rarely allowed out in public. The Thailand respondents however noted that in many areas in Thailand there was a prevailing environment of harassment and intimidation of migrant workers both by authorities and community members often meaning that migrant workers avoid public spaces at certain times and locations. Workers who needed to travel to their place of work or to travel for other reasons of necessity, often faced harassment and intimidation in transit, sometimes by authorities and other times by local gangsters, or other community members. Karaoke workers, who did not live at their workplace reported a series of safety and security concerns: facing the police when en route to work, or being cheated or harassed by other community members.

“There will be bad cycle taxi drivers. I have to try to get a good driver. If I faced the problem, I don’t know where I go and to whom the case was informed. It is very hard in other’s country. If I was questioned by the police, I can show my registration card.”

(Burma, Karaoke Worker)

“It is not safe much on the way to work [30 minutes by bicycle]. When I get back home, there are some gangsters on my way. But I avoided them by listening to their motorbikes’ noises.”

(Burma, Karaoke Worker)

CIVIL, POLITICAL AND SOCIAL RIGHTS and QUALITY OF LIFE FOR FEMALE MIGRANT WORKERS

Religion, Language and Food

In both Malaysia and the Middle East the respondents noted various forms of discrimination related to religious and cultural factors. Many Indonesian migrant women were Muslim and found commonalities between life in Malaysia and Indonesia in that they were able to understand the Malay language used by their employer and in most cases were able to eat the appropriate halal food required by their faith. However some of them noted that they were prevented from practising their daily prayers – as their employer would either restrict this practice outright or limit the time allowed to pray - due to work demands. Some Indonesian women who were not Muslim on the other hand, also experienced discrimination in terms of having no choice but to adapt to the Muslim practices of their employers. For example one of the women migrant workers admitted that she was not able to eat pork, the meat which is believed to be non-halal to be consumed by Muslims, even though this was not her religious belief.

Similarly in Middle Eastern countries the migrant women identified that they faced religious discrimination, especially if they came from a Non Muslim background. Some workers found that they were overtly denied their right to practice their own religious rituals even in private. During the time of their own Buddhist or Hindu festivals some Sri Lankan women noted that they were restricted from even a short prayer or other celebratory rituals. A returnee worker from Saudi Arabia reported that she was almost physically assaulted for having a photograph of a goddess of her religious faith inside her suitcase. Another worker who came from a cultural background which considers cows to be an object of worship - stated that she felt mentally tortured by the work assigned to clean a place where 12 cows were butchered in a house during the fasting festival of the employer. In addition, regardless of their religious faith – the women domestic workers were expected to adhere to the Muslim practice of fasting during Ramadan in cases where the employer's family undertakes the fast. However the workers, unlike the family, were unable to have a rest period during the day to account for the effects of fasting, but instead were compelled to work the entire day without food. The pressure to conform to the dominant Muslim culture can be seen by comments from many of the Tamil women workers who migrated to the Middle East who used Muslim names in their workplace and took on the Muslim religious practices in order to assimilate better within their places of work.

Many of the participants in the Thailand group identified far more religious and social freedoms than the women working in Malaysia and the Middle East. Discrimination against Burmese migrants in Thailand was not primarily seen in religious discrimination but rather was common and evident in the many of the situations outlined above in terms of security, movement and abuse and harassment. When looking at the issue of cultural practice such as food and language however there were some restrictions. A number of participants effectively were not in control of what they ate; often with employers who dictated what their employees may eat. This was especially the case for factory workers living within compounds conditions and for workers elsewhere also living at their workplace including domestic workers. As for language, participants often described being able to speak either a little or very little Thai language, with few people achieving an assured comfort level. In this sense, migrant communities' isolation by workplace and living space—in factory compounds, by living in fields, at construction sites, at employers' homes, or at entertainment businesses—was compounded by isolation in language. Indeed, the isolation that attended migrant working conditions is likely a significant limiting factor for migrants learning to speak Thai.

Socialization and Recreation

For domestic workers in Malaysia and the Middle East there were severely limited opportunities for socialization or relaxation. The majority of them effectively worked every day without a break or time off, and any opportunities for social activities were mostly undertaken at times with the employers families and friends – often when they attended family social events it was in order to care for children or to provide other services such as food preparation and service. For many migrants in Thailand the social opportunities were better as in some places migrant communities were large and cohesive enough to maintain a great deal of social and cultural integrity - inclusive of multiple sectors and sending communities, and vibrant with respect to festivals and holidays. However these opportunities appeared to be somewhat reliant on location with migrant community groups being stronger in some of the smaller communities rather than the populated capital of Bangkok. The relative isolation of different workers also inhibits participation in social or community events, in some cases because a participant's own neighbourhood may not directly be connected to the known activities of another neighbourhood.

Movement and Communication

A common concern for all domestic workers was the restriction on their mobility either from their employer or due to cultural practices in the destination country. For most of the domestic workers in the study, there was limited opportunity to leave their employer's house or the place of work. Some workers in Malaysia were actually forbidden to go out of the house at all. One of the informants who had worked for almost two years in Malaysia said that she was not allowed to go out of the house to talk to strangers and never had the opportunity to meet other people outside of her employer's guests or relatives. The majority of the women working in Malaysia said that they did not have the time to socialize with anyone in any case, as their daily routine was restricted purely to work.

Women migrant workers from Sri Lanka similarly noted high levels of restriction on their mobility due to cultural factors in Middle Eastern countries. Their social and personal life was restricted due to the prevailing cultural practices in the Middle East which discouraged women's presence in public places. In addition it was common practice for employers to hold the workers documentation which meant that they had no access to the identification papers required by law for migrants to travel within the countries in Middle East. Most of the women workers also noted that they had no day off to go out of the house to meet their relatives or friends, even if they did have access to their documentation.

All of the domestic workers interviewed in Thailand also shared that it was a common experience to be restricted by not being allowed to leave their workplace. Sometimes this was due to the 'security' situation noted above where employers did not want police attention for undocumented workers so restricted the workers movement.

"We are all not free to walk around. As we are housemaids, we have to stay indoors. We usually go to market once per week."

(Burma, Domestic Workers)

In Thailand, women working in other sectors also identified restrictions on their movement. Workers within factory compounds were commonly restricted in their movements with some factory workers rarely leaving the compound. A female mason working in Bangkok reported on her workplace practice:

"Our (supervisor) in charge of labour took the original labour card, so that we had to inform him whenever we had to go outside. The copy we hold was not seem to be secure."

(Burma, Masonry Worker)

Karaoke workers from Burma noted that they were restricted from leaving their workplace as the employers withheld the workers' documents.

"We do not need to pay any money for [security fees], but they keep our work permits. We have to pay 5,000 baht for work permit if we want to leave."

(Burma, Karaoke Worker)

For others, for example construction workers or karaoke and sex workers, movement is not restricted by employers or their workplace, but by the threat of intimidation and abuse at the hands of local authorities. Thus some of these participants note that they don't go anywhere at night or after 8 pm.

"Nobody goes outside after the work. In holidays, we go around our neighbours"

(Burma, General Workers: Dressmaking)

"In our workplace, nobody is permitted to go outside after 8 pm. There is a gate, so the people outside cannot go into the compound"

(Burma, General Workers)

As well as restrictions on movement domestic workers often faced limited access to communication with families at home. Indonesia women noted that they relied on the goodwill of their employer to be able to use the telephone (at their own cost) to contact families at home. One worker said that she was not able to communicate with her family via telephone, due to restrictions placed on her by the employer - which meant she had no time or access to phone communication as she was constantly working either at the employer's house or office.

“I was not allowed to use the house phone, use the letter. Asked about children, sometimes my family asked about my children’s condition. I never called my family because my family did not have a cell phone. So the communication was only via letter; while working there, I sent 5-6 letters to my family.”

(Indonesia, Domestic Worker)

For domestic workers in the Middle East more than 80 percent said they could not afford to communicate with their families, with less than 15 percent of the women workers having access to personal mobile phones. Furthermore, even if they had mobile phones, they were not allowed to use them in the presence of their employers and reported having to hide their phone under the pillow or somewhere else. The women felt that these restrictions were enforced by employers as a deliberate means to maintain control over the workers and restrict the information that they are able to share with other members of their family or community.

Communication with family in Burma however appeared a little easier for women working in Thailand. Despite the restrictions in movement most participants in the Thailand study indicated that they were able to communicate with their family in Burma with most participants phoning home once every few months. In addition, almost all participants noted no restrictions to owning or using mobile phones – which may indicate that the restrictions prohibiting mobile phone use which were implemented via provincial decrees over the past few years in Thailand have now been relaxed as claimed by the Thai government. It must be noted however that these findings are not representative for all migrant workers in Thailand. From 2006 to 2009, in some provinces in the south of Thailand local government decrees meant that migrant workers faced severe restrictions such as not being allowed to use mobile phones, ride motorbikes, or leave the worksite between 8:00pm and 6:00am, as well as a ban on assemblies of more than five persons. These decrees have only recently been withdrawn in 2009.

Voting

In the migration process a common experience is the loss of political rights for the migrant worker – in not being able to participate in absentee voting within their home country political system. This political disenfranchisement was identified by women from both Indonesia and Sri Lanka who were working abroad. For Indonesian migrants in the study, during the general election in 2004 and 2009, there were many informants who were not able to participate, and considering there were thousands of workers overseas this amounts to a significant voter lobby that was disenfranchised. The situation is similar for Sri Lankan migrant workers who over the last three decades have not been able to cast their votes. Under the existing system of the election every Sri Lankan citizen living or working abroad must be present within the country to cast their vote. Voting has not been a relevant issue for Burmese migrants in the past few decades as there has not been an election in Burma due to the political repression inside the country under the present military dictatorship. However in the 2008 constitutional referendum in Burma migrants in Malaysia were able to vote by postal ballot however migrants in Thailand were not. This is likely to be an issue again in 2010 given the proposed election to be held later this year. To date there has been no allowances made for migrant workers in Thailand to be able to vote in the proposed election in the Burma.

Access to Justice

Women’s access to justice during migration can be related both to their capacity for organizing and association as outlined above as well as their capacity to access justice through the criminal justice system for individual protection or redress when their rights have been violated. It has much to do with the multiple factors that impact on women’s experience noted above including debt bondage, isolation in the workplace, restricted mobility and communication, language and cultural barriers, limited education and information on labour rights and entitlements, and the precarious legal status of many migrant women. These factors coalesce to allow the myriad of violations occurring for migrant women to continue without redress or challenge. The case noted above of the domestic worker who allegedly died by suicide in Saudi Arabia highlights the barriers to seeking justice, whereby the family of the woman who died is still being denied access to a transparent legal process to ascertain the

facts of the woman's death and to investigate their concerns regarding alleged criminal abuse by the employers. The issue of access to justice also impacted on women who may be charged with offences in the destination country. Again a case from Saudi Arabia highlighted concerns voiced by migrant workers over their lack of access to justice in the country. In this situation a 21 year old Sri Lankan domestic worker was charged and convicted of the murder of an infant who was in her care whilst she was employed by a Saudi family. There was concern that the young woman was unfairly charged as she was not adequately trained for infant care and there were doubts that the woman received adequate legal representation in the court case. This resulted in the young woman being sentenced to death. Information from an NGO that supports Sri Lankan Migrants, HDO, noted that in their experience working with migrant communities, many people have suffered a lack of access to justice as the majority of migrants do not have sufficient information and knowledge about legal procedures and entitlements. In addition many migrants who lodge legal cases seeking compensation and redress for labour rights violation or exploitation, will often eventually withdraw from the case due to the lengthy delays in procedures and lack of outcomes. These issues are also common to the justice system for migrants in Thailand. Under the Thai justice system, migrant workers were legally able to file law suits and this process was often supported by NGOs who were able to assist migrant workers to lodge an increasing number of cases. In the past there had been some successful labour cases where migrants had been able to recover unpaid wages from the employer by going through the Labour court supported by NGOs. However these processes are long and the employers are crafty, declaring bankruptcy and closing down the factories. Migrant women who had been victims of sexual assault have accessed the justice system but NGOs such as MAP Foundation report that there are still cases pending where it appears that the police had not made a great deal of effort to find the perpetrators. In particular, MAP is concerned for a woman who was returning from a rubber plantation with her husband one night, when armed men killed her husband and then sexually assaulted the woman.

Retrenchment and Repatriation

Indonesian women in Malaysia did not have knowledge about or access to the official documents required for the process of repatriation. This lack of access and control over their personal identification and legal documents meant that the women were completely reliant on the employer and sponsor, both during their journey to Malaysia and their time working there and in order for them to return home. Most workers were also dependent on wage payments or savings kept by their employers to actually be able to return home. This left the women more vulnerable to control and restrictions by their employers and in circumstances where they may have wanted to return home – the women relied on permission and the goodwill of their employers and sometimes the recruiting agent to do so. Similar to the male respondents they noted that if they sought permission to return home to see their family it would in most cases not be given, so some used false stories about family emergencies just to be able to break the contract and return home.

For migrant women from Sri Lanka there were in fact legal protection mechanisms available through the government and private requirement agencies through various laws governing the migrant workers, in Sri Lanka for the women to return home if required. However anecdotal evidence indicated that often private agencies would refuse to assist workers who were in trouble overseas, despite the fact that they were contractually obligated to assist under their insurance agreements with workers. This was illustrated through the experience of a woman from Kandy in Sri Lanka who migrated to work for 2 years in Saudi Arabia, and suffered mistreatment and wage violations at the hands of her employer. Her daughter in Sri Lanka appealed to the recruitment agency in Colombo to urgently assist her mother to return to Sri Lanka after a year and a half of working with only five months salary remitted. Despite the clear violation in the work contract that was guaranteed via the agency, and the fact that the agency had received payment via commission fees for this guarantee, the agency officials did nothing to assist in the woman's return or her access to compensation.

Some migrant workers from Sri Lanka faced particular issues at home, due to the unstable political situation in the Middle East. A number of workers were forced to leave both Kuwait and Lebanon due to the instability in the countries environment and the outbreak of war. In 2006 for example around 4000 of 93,000 Sri Lankan workers in Lebanon had been evacuated during the war, with 90 percent of them being female. These workers were entitled to compensation under Sri Lankan law. However only the workers from the Kuwait war actually received paid compensation on the basis of the period served. The workers who were affected by the Lebanon war, the majority of whom were women from the plantation sector, the East and the Sinhalese communities, had not been paid any

compensation, despite their entitlements. .

For migrant women from Burma there were different issues that impacted on their ability to return home. The ongoing rule of the military government in Burma, the continued persecution of ethnic minorities and political activists in the country, the continued decline in the economy and growing poverty within communities worked as factors that prevented migrant workers returning. Migrants participating in this study reported that significant numbers of people within their home communities had in fact migrated to Thailand themselves. For many migrants therefore a return or repatriation to Burma was not a priority and in many cases to be avoided – and migrants instead tended to stay in Thailand where possible though legal means of obtaining documentation, and where not possible via living and working as undocumented workers. For those who did need to return home, the process would require negotiation with employers which would be difficult and sometimes impossible for those who were undocumented or who faced exploitative employers. In addition a common experience for undocumented workers and sometimes documented workers who could not afford to pay bribes to authorities, was their forced repatriation to Burma. This event was particularly common in times of police crackdowns on migrants in Thailand and research with NGOs in Thailand had shown that it often resulted in experiences of violence, abuse, extortion and increased costs for migrants and their families.² It is commonly known however that many migrants who are deported from Thailand, usually by being taken to the border of Thailand and Burma and forced by authorities to re-enter Burma, do not in fact stay in Burma but rather find other ways to return to Thailand. According to research from the NGO MAP Foundation:

“Nobody is any doubt that a large percentage of migrants who are deported return. Some return immediately, sometimes even faster than the immigration officers who left them at the border, and some go back to their village for a while, until lack of livelihood sends them back to Thailand. Others go home voluntarily when someone is sick or dying in the family, or for special festivals, much as Thai migrants do.”³

Remittances

Remittance Processes Mechanisms Amounts

Responses from participants from the three country groups showed differences in both in both the regularity and the methods used for remittance sending. For Indonesian migrants, remittances were usually sent via transfer between a bank in Malaysia and a bank in Indonesia. The remittance was not necessarily sent at regular intervals - but in variable amounts and time periods depending on the individual situation of the migrant workers and their families. Some sent remittances according to their families needs at the time; some sent it regularly once a month or once every two months. Some only sent it once or twice to their family; and when they returned home they brought some savings with them. The majority of female respondents from Indonesia noted that they relied on their employer to send remittances home to their family. This was due to the fact that the migrant women did not have sufficient knowledge of the mechanisms for sending remittances in Malaysia and therefore relied on their employers to access private banks or money transfer services on their behalf. In some cases this meant that the migrant women themselves have little control over the regularity and amount of remittance being sent as well as a lack of confirmation of the transfer of remittance.

For Burmese workers in Thailand there were also varied amounts and patterns of remittance sending identified. Overall, 41.8% of all participants indicated having sent remitted funds at some point during migration including both female workers and male spouses who were interviewed. There was a wide range of circumstances and practices identified in remittance sending. Some migrant workers did not send any remittances, either because they did not earn enough income to be able to send money home, or because there was no need to remit as

2 Migration in the Greater Mekong Sub Region Resource Book 2008 In-Depth Study on Arrest, Detention and Deportation. Mekong Migration Network

3 Migrant Assistance Program 2006, No Human Being is Illegal, No Migrant Worker is Illegal, 1996 – 2006 Ten Year Book, Chiang Mai, Thailand

they were single, or had no children or family in Burma. Others identified that they sent remittances once or twice per year, some sent regular monthly amounts, and some sent money at irregular intervals whenever they had enough savings. Participants that provided information on remittance amounts showed a very wide variation ranging from 500 baht per month (USD15 or \$170 per year) sent by male spouses who worked in the construction and rubber plantation industries, to 20-25,000 baht per year (USD588 – 734 per year) sent by female sex workers or karaoke workers. The information from participants seemed to confirm that higher salaries (in NGO work and sex work in particular) lead to higher remittances. Information on remittance processes indicated a spectrum of remittance sending mechanisms: at one end, the use of highly personal networks (friends, family), often if not always free of charge; at the other end, the use of official, international money transfer channels, like banks - seemingly a very uncommonly used mechanism however likely due to the lack of formal financial infrastructure in many communities in Burma. In addition the use of hundi is a common method of remittance sending to Burma.

Migrant women workers from Sri Lanka also showed variable amounts and timeframes of remittance sending. A notable trend amongst the Sri Lankan migrants interviewed was that none of the participants were able to send remittance home within the first four months of their time in the Middle East. This was due to the fact that most of them received limited or no wages as a result of the agreements and loans taken with the recruitment agencies prior to departure. After the fourth month however the majority were able to send remittances – with 60 percent having sent money home by the sixth month of working overseas. The range of remittance amounts sent included a minimum of Rs5000 (USD 43) per month Rs60,000 per year (USD 522) to a maximum of 125,000 SLRS per year (USD 1088) Only 6 percent of participants however were able to send home money on a monthly basis. Most of the time the remittances were sent through the banking system, with some women saving money over the last few months of working in order to buy goods to return home with.

Household Debt

Respondents from Indonesia and Sri Lanka showed similar impacts of migration upon the savings and debt patterns within their households with very limited opportunity for household savings and for some a significant outstanding debt from their migration which reduced the quality of life of family members within their households. For Burmese migrants it was not possible to ascertain the value of remittances for family households inside Burma due to the lack of access to families in Burma within this study methodology.

Most of the Indonesian respondents had taken a loan from the recruitment agents to pay the migration fees. Indonesian women working in Malaysia stated that it took between three to six months to pay off the loan on the salary of a domestic worker. However not all women were able to pay off their loans with a number of them from Karawang and Sukabumi areas who stated they were still heavily in debt after their return to Indonesia. Several informants disclosed that they were forced to take loans from neighbours and close families after their return with approximately 20% stating that they were still in debt. The majority of women from Karawang revealed that they did not get any wages during their working contract assignment with four women stating that they did not receive wages over a period of around 2 to 4 years' working. These women either eventually escaped their contracts in Malaysia by running away or returning home. Some had to borrow more money in order to return home whilst others were able negotiate a return journey home with their employer or agent. However they still had their original migration debt left to pay upon their return. These women and their families were hence faced with outstanding debts which resulted in their quality of life being considerably worse than it was prior to migration. Similarly savings patterns amongst Indonesian migrant workers were related to their success or otherwise of their migration experience. However the majority of migrant workers were unable to have savings from their work overseas as most household spent remittance money on daily living, education or housing. Only 20% were able to have savings from their migration experience.

All of the migrant workers from Sri Lanka undertook loans to cover the departure fees, in order to be able to work overseas. Whilst the majority of Sri Lankan women spent an average of four months without salary in the Middle East in order to pay off their loan, for some they remained in debt even after the period of migration. Even after the migration experience, all migrant workers in the study stated that the main challenge was the settlement of outstanding loans. At the time of research, almost 40 percent of returned migrants had an

outstanding loan of approximately Rs. 50,000 (USD 435). The rest had more than Rs.150, 000 (USD1306) to be settled. These loans were in part due to the costs incurred in the process of migrating as well as costs incurred for daily living and other expenses once the migrants had returned. All of the women who migrated from the Tamil community stated that the settlement of debts were difficult due to the subsequent accumulation of debt in order to renovate their houses upon return from their migration. A small number of workers however had been able to save some balance in the bank and others bought jewels to retain their wealth. For workers from the Muslim village, all of them were able to spend sufficient money for housing improvements, medical needs of their family members, education of their children and some accessories or luxury goods. However the majority of Sri Lankan respondents noted that the money was used within a short period of time, and there was limited opportunity for savings with only 7 percent being able to save from remittance earnings.



PHOTO: SP Returned Indonesian Domestic Worker at home.

Profile of Remittance Use

In all groups there were both positive and negative factors identified regarding remittance spending. For some the significant levels of debt undertaken and the wage violations occurring during migration resulted in limited benefits from remittances after migration. Many participants noted the remittances were of value only in the short term but did not lead to lasting improvements in the family's quality of life. On the positive side, many of the women identified that they were able to use the remittance money for family and household improvements, including housing, medical care, education and in some cases the purchasing of luxury goods. In this way migration was seen to have led to improvements in the quality of life for some households and household members.

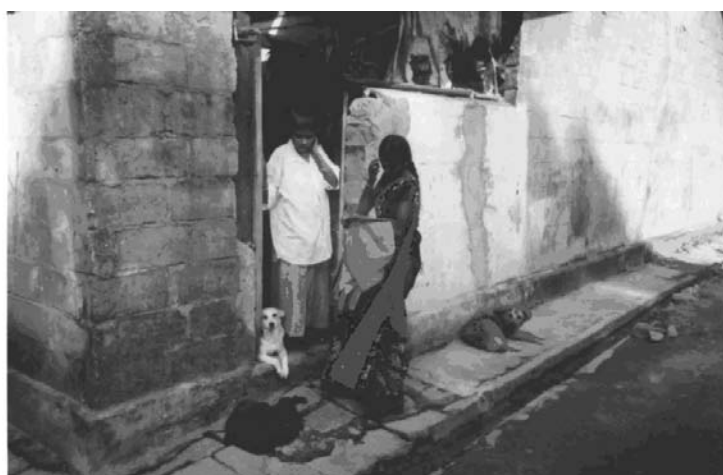
The remittance sent by most of the Indonesian migrant workers was used for daily needs and consumption, along with many of the families prioritising spending on their children's education and some able to afford to buy land and invest in housing or livestock. Only a small amount of the migrant workers however noted the remittance money was able to influence the quality of life of their family and the surroundings. The majority of them felt that they did not have an improved quality of life since the remittance was only used to fulfil the daily needs of the family. Instead, many of the migrant workers experienced the degrading of the economic quality of their family because they lost a lot of money. Most had not been able to count on the remittance to earn the capital to start a business or any further investments.

The research from the Sri Lankan Muslim community again reveals a strong pattern of short-term and immediate use of remittances for household survival, with little opportunity for savings or investment in longer term business or capital resources, or community development. Indeed two cases highlighted that returned female migrants

were currently living at the level of basic daily survival with other family members, participating in unskilled work such as making string hoppers, and preparing tea shop meals. This indicates that the migration process had no lasting benefits for the women's economic security or quality of life. The remittance from Sri Lankan migrants in the study provided a range of benefits for the families of migrant workers. Overall 34 percent of participants purchased property like land or housing, 24 percent spent money on children's education and 11 percent spent it on health care. Whilst there were benefits identified from remittance money there were also factors which reduced the effectiveness of remittance funds in improving the quality of life of families in their home communities. In the Indian Tamil Plantation Community, all of the participants in the focus group discussions identified that they were able to renovate at least one room in their houses and furnish their with relatively good quality of furniture. The majority of them said that they were living in what is popularly known as Line rooms and each room is 10'x12' in size. The Line rooms were constructed during the inception of the tea estates by the British and remain as the property of the estate management and not of the estate workers. Several attempts were made to renovate the line rooms but it has reached only around 30 percent of the tea workers.

The demands of the tea estate workers in terms of challenging the ownership of houses and revising the daily payments have never been a successful achievement for the workers. Therefore the workers were forced to use their remittance income to upgrade their living quarters, however did not receive any long term benefits from this investment in terms of assets improvement because in fact they do not own the housing assets. In this way the income from the workers was being used to cover the cost of house maintenance that should in fact be borne by the plantation management. Almost all participants expressed satisfaction at their renovations and considered it a major achievement which came out of the Middle East job and that which could not be performed by many others in the estate. However, all of them stated that the settlement of certain debts were difficult due to the subsequent accumulation of it, during the higher than expected costs for renovation of their houses. Apart from the renovation of their houses, none of the participants were completely satisfied with the outcomes of their Middle East jobs.

For Burmese migrants it was not possible to ascertain the value of remittances for families and communities inside Burma due to the lack of access to this study methodology. However reference can be made to the studies noted in the section related to Burma County Policy that studies of remittance use by families in Burma show that the majority of money received is spent on daily living expenses, followed by expenditure on housing, education and health.⁴



PHOTOS: SRILANKA: Housing and sanitation in a village of returned Sri Lankan migrant workers.

4 Turnell S (2008) *Burma's Economy 2008: Current Situation and Prospects for Reform*, Burma Economic Watch/Economics Department Macquarie University, Sydney, Australia and Jampaklay A and Kittisuksathit S 2009 *Migrant workers' remittances: Cambodia, Lao PDR and Myanmar*, International Labour Organization, Thailand

Impact On Families And Communities

Family

There were significant psychological and economic costs to the migrant worker's family identified by respondents as a result of the migration process. The extra burden of care placed on elderly and younger family members, and spouses who also were working to earn an income, the relationship issues and concern for children's welfare including education, safety, social needs and daily survival needs lends a sobering picture of the impact of migration on the families of migrant women. Indonesian migrant-sending families reported high levels of fear and worry by family members as to the status of the migrant worker, due to media reports in Indonesia detailing the human rights violations of migrant workers in Malaysia and this led to high levels of anxiety for migrant sending families. The lack of contact with the migrant worker while they were in Malaysia exacerbated this experience, with female sending households of migrant domestic workers being worse affected due to the lack of opportunity for domestic workers to contact home. As noted above in some cases the fear was well founded as the migrant workers did experience violence and had limited mechanisms for either the families in Indonesia or the migrant worker themselves to overcome the situation. Indonesian migrant women also experienced injuries and health problems from their migration experience that continued to affect their quality of life and even their ability to work, after they returned home. Almost all female domestic workers in the study experienced on-going health issues related to their work experience in Malaysia. Workers received no compensation either through source country governments or destination country employers to account for this loss of health.

"Being at home for a week, my body ached, was weak, because I'm accustomed to work there. Here I did not, so my body was weak."

(Indonesia, Domestic Worker)

"I often have back pain, because in Malaysia, I took care of 3 children, often carried them on my back."

(Indonesia, Domestic Worker)

An additional economic cost for the migrant sending families of domestic workers in both Indonesia and Sri Lanka was the combined lack of remittance income and loss of the female family member within the household for the first 2-6 months. While domestic workers pay back their recruitment loans, the sending household received no remittances, while at the same time losing the benefit of a productive member of the household unit. This impacted in increased income earning and care-giving responsibilities for the families of female migrant workers.

Sri Lankan women noted a number of issues which led to negative experiences for many returned women migrants which in turn impacted on their family's wellbeing. Many Sri Lankan women migrants found it difficult to find gainful employment again on their return home. One example pertained to female plantation workers from Sri Lanka, who migrated for work, and on return of migration lost the benefits that they were entitled to through their previous plantation work and were employed at the lowest level of remuneration, despite their past experience and employment within the industry. Other returned migrant women were interested to pursue self employment however found that they did not have the information or access to the resources and avenues required for entrepreneurial undertakings. For other women their experience of employment overseas has been so negative that they were reluctant to take up employment opportunities upon their return and instead exhausted any remaining resources that they had from migrating and depended on family support to survive.

Another major problem faced by the Sri Lankan women returning from the Middle East was their vulnerability to coercion in the use of their goods or money that they returned home with. Examples were given of women who fell prey to fraudulent organizations or individuals and lost their hard earned resources. The workers often lacked information and access to existing banking facilities in Sri Lanka which made them vulnerable to coercion and theft.

The feedback from the Muslim group from Sri Lanka highlighted a mix of both positive and negative impacts. One case study revealed that remittance money was required to cover the significant and unexpected costs of the male spouse's health care, and therefore was not able to be used for children's education needs as planned. This situation was seen to have negative long term impacts as the family was unable to escape the poverty cycle and were still at the level of basic survival years after the migration experience. On the positive side however, it was noted that Sri Lankan female migrants who returned were generally seen as prioritising the education of children with the use of remittance money.

Marital Relations

There were both positive and negative impacts on the marital relations of migrant workers in the study. Notably the returned migrant women from Indonesia, most of whom were married gave no evidence of themselves experiencing marital or relationship conflict. Indeed one of the informants even expressed that the migration experience had some benefits to her marital relationship by reinforcing the value of the relationship due to the fact that her husband missed her presence while she was working overseas. However some of the women did note experiences from others in the community who had worked in Malaysia and upon their return either divorced their husband or found that their husband had remarried – indicating that at least for some women and families there were long term negative repercussions from the women's migration to Malaysia. Of the women migrants in Sri Lanka from the Tamil communities, a majority were young women and some were just recently married. The focus groups with the Tamil community highlighted that migration had caused marital problems for some women whose husbands had developed alcoholism and partaken in extra marital affairs with other women.

For the Burmese migrant women in Thailand there were a number of different factors affecting the impact of migration on family. Many of the women in this research were either unmarried or married and currently living with their spouse in Thailand. In this context the factors affecting spousal relationships were related to the living conditions of migrants in Thailand with some issues identified regarding the inadequate size of living space and inadequate privacy. In addition, questions about how men and women spend leisure time differently, and how they dealt with stress differently, suggested cleavages in men's and women's experiences that at times may turn into interpersonal—and potentially spouse-related tensions. Also, while it seemed apparent that most women participating in this research made independent decisions regarding whether or not to migrate, and in some cases how to migrate. Yet while living and working in Thailand, married women migrants appeared limited in the social relationships they could access beyond their marriage.

Children

Some participants noted concerns about the adverse effects of migration, on their families, particularly on the well being of children. For female sending households with children, in both Indonesia and Sri Lanka, it was clear that female migration had significant effects on the households left behind. The parenting and care-giver role that was previously fulfilled by the female migrant worker prior to migration was required to be taken up by other family members during the migration period with differing impacts on families in the home communities. For Indonesian families, in most cases the children were taken care of by the husband and the grandparents. Some women expressed concern however that their children had not been receiving adequate care whilst their mothers were away working in Malaysia.

“After working (in Malaysia), my child was thin, not in a good health, not guaranteed. My body was also weary easily, nervous, confused.”

(Indonesia, Domestic Worker)

“With my husband, his/her father. My child was taken care of by anyone; when I returned, he/she was very thin, darker skin. When I returned home, I was also very thin, darker skin. I don't want to go again.”

(Indonesia, Domestic Worker)

One of the informants who was a widow left her children in the care of her mother (their grandmother) and relied on her first child to take care of her other siblings.

“Well, most of them got thinner, because they were only taken care by their grandmother, by my mother. But, there’s also the oldest sister, so they were also taken care by her. Probably they were thinner because they missed their parents. They surely wanted to meet since it’s been a long time.”

(Indonesia, Domestic worker)

Similar issues were noted from Sri Lankan families. In the Sinhalese migrant sending households it appeared that male spouses who remained behind were expected to take on the added burden of care-giving work usually undertaken by the female migrants. In the Tamil Plantation group there was some evidence of other female household members taking over the care giver role of the absent female migrant, with a ‘step-mother’ taking the place of a migrant woman worker whilst she was overseas. Much of the feedback on the impact on families in Sri Lanka with absent migrant females was presented as negative, particularly for the children within the family. It was noted that the bond between the children and the parents, particularly among the mothers had deteriorated. Other impacts on the children of female sending households included a decreased level of care of children in the family, decreased school attendance, increased vulnerability of girl children to sexual assault by male family members, and increased teenage alcoholism. There was also evidence of increased marital problems and alcoholism amongst male spouses left behind.

For the Burmese women in the study group who had children there were again a range of different issues depending on whether the child or children were in Thailand or in Burma. The research looked at the issue of child-rearing when the child or children were inside Burma. According to this research, it appeared that those who remained in sending communities were often children and the elderly - and in the absence of migrants, who were parents, grandparents or a sibling cared for the participant’s children. In such cases, migrants sent remittances to help care for their children.

Community Impact

The study highlighted both positive and negative trends within the communities of migrant women workers. Both Indonesian and Sri Lankan women who returned home, felt that they were not able to make any changes to their village or communities as most of them were not able to bring home any significant money, goods or news skill with which to invest in community development. In addition there were respondents from both countries who felt that they had been stigmatized within their communities, especially if they had not been able to earn enough money from migration to improve their family’s position in the community.

Indonesian respondents reflected on the reaction from the family, whereby most of them were grateful because their family member had returned safely. Nevertheless, there were some neighbours in the area who sneered at them or for being unsuccessful with migration to Malaysia.

In the Sri Lankan communities it was noted that migration has brought about changes in the behaviour and dress of returning female migrants which could be seen within community life. Some community members demonstrated a positive perception of the returned women migrants in terms of the perceived improvements in household and family care practices of migrant women and improved educational opportunities of their children. Of note however is that there was no mention in either Sri Lanka or Indonesia of women’s increased education, skills, knowledge, or participation in local political, economic activities.

Re-Migration Patterns

For most Indonesian women who migrated overseas, the situation upon return mostly saw no change for the women in terms of their status within their family and community or indeed in their economic status. When they returned to their family, most of them noted that they became housewives again. A telling response from the women from Indonesia, who felt that they were not successful in working in Malaysia or were cheated by

the sponsors - was their assertion that the best thing that came out of the experience was that they could tell others in their community not to take on domestic work in Malaysia. They saw the positive impact was that most of them were able to give valuable lessons from their experience to their neighbours and friends in their area in terms of suggesting that they do not repeat their experience.

Amongst the women from Sri Lanka there were some women who stated that they had considered returning to work abroad however had no capacity to do so, whilst others who did in fact go abroad for work a second time, still felt that they were not able to achieve their goals of increased wealth and improved living standards.

The study participants in Thailand overwhelmingly reported that the decision to work in Thailand was their decision alone and many described working in Thailand as creating a new sense of independence and strength. Yet this achievement came with an expression of deep loss of separation from family, sometimes including children. Respondents often reported that while their economic conditions had improved through coming to Thailand, they had lost a measure of personal freedom, and they often were forced to be away from their families. Respondents also often reported that while they may feel stronger as people, they also felt quite lonely and afraid due to their living situation in Thailand. A sense of loss was often reported as accompanying the experience of migration, mitigating its positive impacts - migration, for participants in this research, had largely been an experience of loss and disillusionment. Among a very strong majority of participants, a deep thread of anxiety, of concern and worry, pervaded comments received for this study: concern for family still inside Burma, sadness and loneliness at being separated from them, and anxiety about the living and working conditions in Thailand.

SECTION 5 : GENDER AND MIGRATION > >

Gender Analysis of Research Findings

This section provides an overview of key gender related issues that were identified within the research. The experiences of male and female migrants noted in this section are further expanded upon in the cluster reports. A gender analysis of the research findings from countries in the study, show that gender variables impacted at both the macro level - in terms of migration policies governing labour flow within the region; and at the micro-level – in the lives of individual male and female migrants and their families. At the macro level there was evidence of gender discrimination in national migration policies which impacted on the numbers and proportions of women migrating. There was also clear evidence of the feminization of labour in countries within the study, which has seen a trend of women migrating from sending countries, to work in feminized labour sectors, primarily as informal domestic labour. On the micro level, the impact of gender on migration was affected by other variables including occupation, legal status, class and ethnicity which interacted to form multi-layered gender discrimination which negatively impacted on the migration experience for some migrants. The research highlighted the intersection of gender with occupation, and showed that both male and female workers in certain occupations suffered extreme exploitation; namely female domestic workers in all destination countries, and male labourers in the U.A.E. In addition female migrants working in Malaysia, Thailand and the Middle East identified issues in relation to gender based violence and the lack of reproductive health access, treatment and maternity protections. In terms of source country communities the experience of migration appears to have impacted on the gender roles within female-migrant sending households over the time of migration, which saw male members of some households taking on the care-giving role for children. However it appeared that there was no significant long term changes in traditional gender roles as the research showed that post migration there was invariably a return to the care-giving role of women within the sending household. In addition there was very little evidence of any increase in women's participation in decision making, political participation, business ventures or other indicators of empowerment related to development.

Feminisation of Migration

The migration of both male and female migrant workers in the study was related to 'push' factors such as poverty, unemployment and underemployment in source countries and the labour export policies of national governments. The migration of women however was specifically affected by 'pull' factors related to the global phenomenon of the feminisation of migration. The feminisation of migration, particularly evident in the Asia region has seen increasing numbers of women migrating for work overseas primarily to work in occupations that are classified traditionally as a female role. For the most part, female labour migrants perform 'women's work' as nannies, domestic workers and sex workers – often the worst possible occupations in terms of remuneration, working conditions, legal protections and social recognition.¹ In this way, gender acts as a basic organizing principle of labour markets in destination countries, reproducing and reinforcing pre-existing gender patterns that oppress women.² The demand for this informal, female dominated labour force is largely due to the global "care crisis" whereby women from the middle and upper classes in destination countries are increasingly entering the domestic labour force in response to increased domestic economic growth and industrialisation.³ The subsequent gap in 'care-services' for children and the elderly within these families is increasingly being filled by domestic services undertaken by poor women who migrate from less developed countries. The international movement of female labour is also affected by supply-control factors, namely through gender prescriptive labour export policies implemented in sending countries.⁴

1 Gender, Remittances and Development 2007 Working Paper 1 Feminization of Migration, UN International Research and Training Institute for the Advancement of Women.: www.un-instraw.org

2 Ibid

3 Ramirez C et al 2005, Crossing Borders: Remittances Gender and Development Working Paper, UN International Research and Training Institute for the Advancement of Women.: www.un-instraw.org

4 Ibid

This study in fact highlighted varied policy approaches which were implemented by governments, sometimes promoting and other times restricting the out-migration of women from their national population.

In the past 30 years, most female migrants in Asia have come from three countries: the Philippines, Indonesia, and Sri Lanka. In these three countries, women represent about 60 per cent of all migrants.⁵ Migration of women from Indonesia and Sri Lanka is mostly for domestic work in the Middle East, Malaysia, and Singapore. Female migrants from the Philippines also migrate to these countries for domestic work but also work in entertainment and professional industries in a wide range of other countries.⁶ Thailand is also a major source countries of female migrants, but these are mostly unauthorized flows.⁷ Other countries of origin in the study have comparatively lower numbers of women migrating with the migration out-flow of Bangladesh, India and Pakistan largely comprising of male workers to meet the demand in infrastructure projects in the Gulf states.⁸ Burma's female migration is proportionate to males however is characterized by largely informal or unauthorized migration to Thailand.⁹ Bangladesh, Nepal, and Cambodia also showed increasing numbers of women joining the regional flow of women's migration in response to the demand primary in the Middle East and developing countries within Asia.

The feminization of labour in the region poses both challenges and opportunities for governments who have aimed on the one hand, to promote women's labour export for the purpose of increased remittances, whilst on the other hand they have come under increasing pressure to protect the rights of female migrant workers who are increasingly exploited in their work abroad. Within this study it appears that governments in source countries have increasingly implemented national labour policies mostly aimed at restricting the numbers of women migrating to work in the domestic work sector in response to the high level of exploitation suffered by these workers. A review of current national migration policies in countries within this study showed that more than half (five out of nine including Nepal, Bangladesh, Burma, India, Indonesia,) of the sending countries in the study had current restrictive policies targeting female migration. The Nepali government implemented a ban on women working in unskilled sectors in Gulf Country states in 1998 which is still current, along with the current ban in Indonesia of women working as domestic workers in Malaysia implemented since mid-2009. Since the 1980's Bangladesh has implemented migration policies limiting the migration of women, particularly those migrating for domestic work in the Middle East or Malaysia. In Bangladesh government policies have used various control mechanisms such as setting a minimum age for women migrating (currently 25 years) and giving preference to married women thereby vastly reducing the opportunities for migration for a significant proportion of the female working age population. Sri Lankan officials have actively encouraged male migration over recent years in response to the over-representation of women migrants under the past gendered labour export policies which saw an over-representation of women migrating for domestic work.¹⁰ The Sri Lankan cabinet implemented a ban in 2007 preventing young mothers with children under five from seeking employment abroad.¹¹ The Sri Lankan government's stated rationale for the ban was its concern about the social impact of migration on children who were unable to accompany their mothers abroad. Sri Lankan migrants' rights groups protested the proposed ban which has since been rescinded. The government of Myanmar/Burma has implemented various MOU with neighbouring countries focusing on the trafficking of women which place restrictions on women's migration reflected in national migration law which sets an official restriction for women below the age of 25 years to travel abroad 'unaccompanied'

5 (POEA, 2006; Sri Lanka Bureau of Foreign Employment 2005; Soeprbo, 2005 as referenced in World Migration Report 2008, Regional Overviews, International Organization of Migration.

6 Philippine Overseas Employment Administration "Total Deployment of new-hire temporary Workers by Gender", POEA Statistics 1992-2007. <http://www.poea.gov.ph/html/statistics.html>

7 World Migration Report 2008, Regional Overviews, International Organization of Migration

8 Asis 2005 in World Migration Report 2008, Regional Overviews, International Organization of Migration

9 Martin P 2007, The contribution of migrant workers to Thailand: Towards policy development International Labour Office, Bangkok

10 Michele Ruth Gamburd 'Sri Lankan Migration To The Gulf: Female Breadwinners — Domestic Workers' Middle East Institute 2010 http://www.mei.edu/Portals/0/Publications/Migration%20Gulf_Viewpoints.pdf

11 Human Rights Watch 2007, Exported and Exposed. <http://www.hrw.org/en/node/10592/section/6>

These restrictive policies are generally implemented by governments in the stated aim of protecting women from exploitation, particularly given the large numbers of women migrating for domestic work who have limited protection under labour laws in destination countries. However the issues regarding the protection of labour rights for domestic workers essentially centre on the basic protections required for all workers: minimum wages, adherence to basic health and safety standards, and protection from exploitation by employers, brokers and agents. However restrictive gender-based national policies that prevent women from migration essentially fail to challenge this issue of basic labour rights protection for female migrant workers. Instead, these policies effectively limit the opportunities either for all women or often primarily for younger women, to take advantage of migration for employment, while at the same time failing to protect the rights of women who do migrate for domestic work. In addition they fail to challenge the core problem of gender and class based discrimination within the global labour force. There also appears to be limited action by sending country governments domestically, in terms of developing adequate policy, programs or strategies to address the socioeconomic needs which drive the movement of female migrants into unprotected informal occupational sectors abroad. Rather than further restricting migrant women's labour rights by implementing various controls and bans, sending country governments should instead enhance economic and educational opportunities for women within their domestic economies so that domestic workers can migrate based on choice rather than being forced to migrate so that their families can survive.

Gender and Recruitment Processes

Within this study gender discrimination was also evident in recruitment procedures in some sending countries, with incidents of gender based violence and discrimination impacting on women from particular class, cultural or religious backgrounds. Both male and female migrants from all sending countries in the study identified high levels of corruption, by recruiting agents in the departure process. The cluster focusing on women's migration however identified several incidents of gender specific discrimination in this process. The research with Indonesian migrant workers showed that in comparison to male migrants, women had less access to vital information regarding the loan and wage conditions in their employment contracts prior to migration, leaving them more at risk of corruption and overcharging by employers and recruiting agents. Women in Sri Lanka also faced difficulties in negotiating their pre-departure employment contracts with recruiting agents due to the fact that the majority of women had limited literacy and educational background – a fact that was exploited by recruiting agents in Sri Lanka. In addition there was evidence of discrimination for Sri Lankan women who migrated to the Middle East, resulting higher costs for medical tests for women from non-Muslim backgrounds. This was due to the fact that Middle Eastern employers would commonly pay the medical costs of Muslim domestic workers however Non Muslim workers were required to cover these costs themselves. Incidents of gender based violence were also noted by Sri Lankan women who told of coercion and sexual abuse perpetrated by recruiting agents during the medical testing process. In addition there was evidence of forced reproductive health treatment for women from Sri Lanka where it appeared to be mandatory practice for all women applying for migration, to be given contraceptive injections to prevent pregnancy, with limited processes to ensure informed consent or freedom of choice for female migrants.

Gender and Occupation

Gender variables also coalesced with occupational factors in the study, via the feminization of certain labour sectors - in particular domestic workers, informal workers and sex workers. For male migrants gender variables also influenced occupational sectors in destination countries where the workforces within the labour and construction sectors in some destination countries were predominantly male. This led to comparatively worse outcomes and quality of life in destination countries for male and female workers in specific occupational sectors.

Domestic Workers

One of the most notable intersections of gender variables within the research was along the lines of gender and occupation, evident in the predominance of female migrants working in informal sectors, particularly in domestic work. This trend was common to six countries in the study where domestic workers were interviewed – Cambodia, Thailand, Philippines, Indonesia, Malaysia and India. In these countries the domestic work labour force was primarily made up of female workers and characterized by a lack of regula-

tion and labour protection mechanisms, low wages, an absence of basic labour entitlements, and heightened vulnerability to violence and exploitation. The exploitation and abuse of domestic workers has been a significant issue highlighted within the migration paradigm for the last decade. The legal and policy context that domestic workers migrate within affects their vulnerability. In all of the destination countries in the study – Malaysia, U.A.E., Thailand and a range of states in the Middle East - domestic workers were not covered under national labour laws – and therefore had limited protection against exploitation. The U.A.E. and Malaysia are currently considering changes to their national labour laws to give increased protection to domestic workers, however to date these changes have not been implemented and there is concern that the proposed protections are likely to fall short of basic labour entitlements.¹² Some sending countries in the study (Philippines, Indonesia and Sri-Lanka) had made attempts to protect the rights of domestic workers through implementing bilateral MOU with destination countries however these agreements typically offered weak labour protections and had unclear enforcement mechanisms and penalties. Indeed the MOU between Malaysia and Indonesia was recently rescinded whilst the Indonesian and Malaysian governments negotiate on increased protections for domestic workers. Progress with this MOU however has been delayed, due to the fact that the Malaysian government is refusing demands for minimum monthly wages and a day off for domestic workers.¹³

Some sending countries have implemented stricter recruitment and migration processes which were intended either to limit or screen domestic workers (Philippines and Bangladesh); and in some countries outright bans on the migration of domestic workers were implemented (Indonesia, Bangladesh, Nepal, Sri Lanka). However the study showed that domestic workers continued to experience high levels of exploitation and abuse, regardless of these various government policy initiatives. Female migrants in the study, who were employed as domestic workers in Malaysia, Thailand, U.A.E. and the Middle East commonly experienced contract violations, and in all countries, domestic workers earned lower wages than other occupational sectors. Even in cases where a minimum wage was part of the employment contract – such as with workers from the Philippines as mandated under the state MOU – this often did not occur in practice in the destination country.

For domestic workers in all countries, mobility was restricted as most workers lived with their employers and were required to be available 24 hours for work demands. In addition domestic workers commonly had no access to their personal documentation, including passports and work permits which were held by their employers. Working conditions commonly included 12-15 hour days, with no paid overtime, no annual or sick leave, and limited control over working hours.

Domestic workers in the study commonly reported gender based violence, including sexual violence perpetrated by employers or other family members, with limited ability for protection due to their severe lack of mobility or alternative social contact and support. Many domestic workers were also dependent on their employer in the process of sending remittances as they had no access to formal or informal remittance sending channels, leaving both them and their families more vulnerable to exploitation. Domestic workers also identified limited opportunities to contact their families at home whilst they were working abroad again being reliant on employers for this basic right. These experiences were primarily related to the occupation of domestic work, however because all domestic workers were women it led to a gendered impact to migration trends and experiences within the study.

12 Human Rights Watch Labour Reforms 2010. <http://www.hrw.org/en/node/90054/section/5>

13 Ibid

Case Study: Filipino Domestic Workers in Dubai:

Two of the domestic workers interviewed in Dubai recently gave birth. When they were interviewed, they were at the Philippine Consulate in Dubai asking for assistance. Both ran away from their employers and have since been surviving by doing part-time jobs wherever and whenever they can. Since they both gave birth without husbands, both are to be detained in jail while their papers, including that of their babies, are being processed for their repatriation. They related is that both gave birth at home without the aid of any doctor or health worker. They could not afford to go to a hospital and at the same time, they feared of being reported to the police, since both of them have no husbands. Fortunately for them and their children, no health complications occurred.

Construction Workers

The impact of gender variables on occupation was also highlighted by male migrant workers from Pakistan, the Philippines and India working in the U.A.E. as construction industry workers – a male dominated industry in the Middle East. Again despite the fact that the Philippines, India and Pakistan had all signed MOU with the U.A.E., male migrant workers in the country continued to live and work under sub-standard conditions.

Their conditions of employment were particularly exploitative, in terms of their living conditions as they reported to be commonly living in unsanitary and overcrowded accommodation, in labour camps close to their place of employment and often in areas where there was a lack of transport and communication facilities. In addition male migrant workers from the Philippines noted the lack of services available to assist male workers in distress in the U.A.E. Whilst there were limited services available for all migrants in the U.A.E., either through their consulate or NGO services, male migrants from the Philippines reported that they literally had nowhere to go to seek shelter in times of crisis as the emergency shelters provided through the Consulate were only accessible to female migrants and there was no similar or alternative shelter provided for male migrants who were in distress in the U.A.E.

Gender and Legal Status

The intersection of gender and legal status was also problematic for female migrants, who were over-represented in sectors such as domestic work, care-givers, and the sex industry, which were informal and unregulated. This again meant women working within these industries had no formal labour or human rights protection mechanisms in destination countries. The status of being an 'illegal' or an unregistered migrant was a particular problem for both male and female migrants from Burma who were working in Thailand; the majority of whom were undocumented. For Burmese women working as sex workers however there were notable exceptions to their migration experience. Migrant sex workers interviewed in Thailand indicated that whilst they were working in an informal sector and mostly working without legal documentation, they in fact had comparatively better working conditions, higher wages, greater mobility and sent home greater remittance amounts than other female migrants working in industries such as construction, agriculture, and domestic work in Thailand. They also however identified high levels of abuse and harassment from authorities and employers similar to other documented and undocumented migrant workers in Thailand.

Gender Based Violence

Female migrant workers in the study identified gender specific concerns related to sexual violence and reproductive health. In all countries both male and female migrants experienced violence and harassment at the hands of employers, authorities and community members in destination countries. However female migrant workers identified sexual harassment and assault as a particular issue often perpetrated by their employers. There was variation in women's experience of gender based violence however with Indonesian domestic workers reporting no sexual violence from employers, whilst domestic workers working in Malaysia at the time of study and those working in the Middle East reported it as a common concern. It is also likely that this situation is generally under-reported in all destination countries given the limited protection and redress

mechanism for female migrants working abroad. The lack of access to justice within destination countries for migrant women who were victims of gender based violence was commonly related to both their lack of mobility and legal protection and in some cases, highlighted by domestic workers from the Philippines, due to a lack of resources and a reluctance for migrant protection services to support cases of sexual assault within the destination country criminal justice system.

Case study: A 29 year old woman from Sri Lanka working as a domestic worker in Kuwait. "Baba and Mama of the house where I worked looked after me well at first. I am unmarried. Baba used to come back from his work daily after 12.00 midnight. I had to open the gate for him. Their bath room was opposite my room. Baba, when bathing at night had the door open and bathed naked. He would come out naked and call me to bring something. Thus trouble continued on a daily basis. I told this to a Sri Lankan Sinhala woman working next door. When I told her that I was going to complain to Mama about the Baba's harassment, she warned me not to do so and earn the ire of the household, but, instead, not to open the door at night when tapped. I did as she told me, but he was not prepared to leave me alone. I had been on several occasions harassed and sexually abused by Baba. I had studied up to grade 5 in the estate school, and I do not know at all of gender issues. Baba forced me to take pills while he used a condom. I did not conceive. I came back after 2 years and 8 months. I have the money I earned. I never shared my experience abroad with anybody."

Reproductive Health Rights

Gender based discrimination was also seen in the lack of access to reproductive health services, maternity protections and policies of exclusion, deportation or loss of employment for female migrants who became pregnant whilst working in destination countries. The lack of reproductive health care was particularly evident for migrant women working as domestic workers in Malaysia, the Middle East and the U.A.E. Their reliance on employers to access health services and the corresponding incidents of sexual abuse identified, implied a lack of protection against and vulnerability to sexually transmitted infections including HIV AIDS and unwanted pregnancies. The mandatory contraceptive treatment in the pre-departure process for Sri Lankan female migrants also constituted gender based discrimination against women's reproductive health rights and again left women with no protection against sexually transmitted diseases. For female workers interviewed in Thailand however there appeared to be comparatively better access to reproductive and general health care than in the other destination countries in the study. Free primary health care was available for documented migrants in Thailand, both male and female, however those who were undocumented were required to pay for health care which limited access to these services

The mandatory policy and procedures for migration to Malaysia and the Middle East prohibited any women that were pregnant from entering the country for work purposes. Those who became pregnant whilst working in Malaysia and the Middle East were deported – regardless of the circumstances or reasons for pregnancy. In addition abortion services were not legal in these destination countries. Women working in Thailand again had comparatively better maternity allowances in that they were not commonly restricted or deported from the country if they were pregnant however study participants reported discrimination from employers against women who were pregnant which commonly resulted in loss of employment for pregnant women.

Changes in Gender Roles and Status of Women in sending families and communities

The wide range of different groups within the study show different patterns and impacts on gender roles in migrant sending household as a result of migration. Highlights of key gender impacts were analysed according to the groups in the study that were from female sending households or male sending households.

Female Migrant Sending Households

For female migrant sending households whose family member migrated for domestic work overseas, there

were a number of different impacts of migration. Whilst it is anticipated that when women migrate for work and become economic providers, their negotiating power within their households increases and their status improves, altering gender relations at the symbolic level and giving women greater access to the productive sphere.¹⁴ These benefits were evident for some women in the study from Sri Lanka and Indonesia who cited improved status within their communities on return from migration. These women reported positive impacts from migration related to empowerment, such as expanding their worldview, increased feelings of independence in decision making and financial contribution to the household, changing their form of dress and allowing for purchases such as jewellery and luxury goods. However for many respondents the experience of migration did not lead to significantly improved status for women. Many of the Sri-Lankan and Indonesian respondents noted that, upon return from migration, they had reverted back to their previous roles within their households as care-givers with little change to their status within the household. Sri Lankan women who worked at tea plantations reported that they in fact lost their previously held labour entitlements in their work at the plantations due to their absence over the migration period – leading to a loss of status and benefits when they returned to their place of work post-migration. Some Sri Lankan women also reported having spent their remittances on family needs and reverting back to piece-meal and informal work within their communities upon return from migration. Cambodian returned domestic workers also reported facing community attitudes which stigmatised them, whereby community members perceived that they had worked abroad as sex workers rather than domestic workers. Sex work was generally seen as a negative and degrading occupation within home communities, reflecting conservative and stereotypical views of women, sexuality and migration. Domestic workers from Indonesia, India, Sri Lanka and Cambodia related that they were subject to contract violations which left them with significant debts, upon returning home which reduced any chance to improve either their social or financial status within their home communities.

Female sending households – with children or elderly members who require care services – are also impacted by migration in terms of the increased workload in source country households. In this study it was shown that the increased burden of care-giving work was undertaken by other female members of the household or by the male spouses / fathers of the children in the household. In some cases in Indonesia and Sri Lanka this led to changes in the traditional gender based division of labour within source country households with males participating in child rearing activities. However as noted above these changes were not sustainable and female migrant workers inevitably reverted back to traditional gender roles within their households and families post migration.

Male Migrant Sending Households

Gender impacts that potentially improve the status of women in male migrant sending household include changes to the traditional division of labour that see women at home moving more freely outside the boundaries of the household in order to attend public meetings, manage public resources or participate in religious ceremonies.¹⁵ There was however only limited examples of this within households in the study. In Nepali interviews it was noted that some female spouses who lived independently of their relatives in the home community did indeed have more freedom of movement whilst their spouse was working overseas. However the majority of respondents lived in extended families and reported that their movement was even more restricted by their relatives due to high levels of suspicion regarding the behaviour of spouses whilst their husbands were away working. The wives of migrant workers who were interviewed in India and Bangladesh did not identify any positive impacts of migration on their status within their home communities due to the fact that for a majority of these women the migration of their spouses had caused greater economic hardship. The Indian women who were interviewed were widows whose husbands had died overseas and they were left with high levels of debt from their husband's migration, received no compensation from the employers or source/destination country governments, and were struggling to survive as single parent families with children to support. The majority of Bangladeshi families reported that the migration had led to increased hardship due to the fact that their husbands who had migrated for work were victims of exploitation and contract violations and had either been deported or were currently stranded in Malaysia.

¹⁴ Ramirez C et al 2005

¹⁵ Feminization of Migration, Remittances, Migrant's Rights, Brain Drain UN Economic and Social Council, Commission on Population and Development, Thirty-ninth Session 5th 2006 from <http://www.un.org/News/Press/docs/2006/pop945.doc.htm>

Summary

The above analysis highlights that gender has a significant impact on the experience of migration. Male and female migrant workers and their families within this study were impacted by gender variables at the macro level in terms of the global trend of the feminization of migration and national level policies which restrict the migration for labour of women. The over-representation of women in informal and unprotected industries particularly domestic work resulted in extreme exploitation and gender based violence. Male migrant workers in labour camps in the U.A.E. were forced to live in sub-standard conditions with a lack of access to support in times of crisis. Within the families and communities of migrant workers there were minimal evidence of improvements to the status of women either for those that migrated for work or those that remained behind to support their families.

Caram Asia -Programmes

Regional Programmes

CARAM Asia's regional programmes are prioritized in line with three key thematic areas:

1. **Migrant Workers Rights**
2. **Migration, Health and HIV**
3. **Migration, Development and Globalisation**

Each programme area is managed and implemented through a task force comprising member organisations of the CARAM Asia network. A lead organisation plays the role of convener, who will guide programme direction together with the regional secretariat.

Migrant Workers Rights

The Migrant Workers Rights Programme seeks to remedy the extreme situations of a lack of legal protection, rights to redress and access to justice for migrant workers. The abuse, exploitation and discrimination faced by migrant workers are rooted in the absence of a comprehensive legal protection for migrant workers who are often treated as temporary cheap commodity to meet development needs. The situation is made worse when the costs of migration had also pushed many poor migrant workers to become undocumented migrant workers. Some exploitative employers also refused to renew work permits and defaulted in paying wages, hence forcing migrant workers to become undocumented too. However, CARAM Asia viewed the lack of documentation as an administrative issue which should not deny undocumented migrant workers their human rights. Through advocacy with various stakeholders, CARAM Asia lobby for a comprehensive legal protection for all migrant workers regardless of immigration status.

Foreign Domestic Workers (FDW) programme area focuses on the recognition of domestic work as a socio-economic activity and to have it included under national employment act or labour laws in both origin and destination countries. Key activities include advocacy, utilising appropriate international instruments, public campaigns and awareness programmes. It will also build regional cooperation with other networks, trade unions and organisations to strengthen the response towards protecting and promoting labour and health rights of foreign domestic workers. CARAM Asia also initiated the formation of the United for Foreign Domestic Workers Rights (UFDWRs), a coalition of regional or international groups who advocate for foreign domestic workers' rights.

Key Priorities:

- Foreign Domestic Workers
- Access to justice/ legal framework
- Undocumented migrant workers

Migration Health & HIV

Throughout the migration cycle, governments of origin and sending countries treat migrant workers as a commodity. Their wellbeing or protection of health rights are ignored largely. Migrant workers suffer from various health issues such as discrimination, lack of access to health and HIV preventive information, lack of access to treatment, counselling, referral and access to ARTs for HIV positive migrant workers, mandatory health and HIV testing etc.

Thus using various aspects of human rights and health rights frameworks, CARAM Asia developed the Migration, Health and HIV (MHH) programme by combining the previous TFEM and SoH programme to focus on migrant workers health rights including the issue of HIV and AIDS. The objective of MHH is to promote equity health care for migrant workers so that their access to health services and HIV prevention, care and support is facilitated.

This programme will also pay special attention on the health and well-being of undocumented migrant workers, with special focus on those going through detention and deportation. Sexual and reproductive health and rights, empowerment of migrants living with HIV and their spouses to be meaningfully involved in the development, implementation, monitoring and evaluation of programmes and policies addressing HIV & AIDS and migration issues are an integral part of MHH Task Force.

Key Priorities:

- 1) Mandatory Testing - on all health conditions including HIV – leading to universal access
- 2) HIV- prevention addressing HIV vulnerability and risks /Migrants living with HIV (TCS including **ART**, reintegration / **GIPA**
- 3) Sexual and Reproductive Health (SRH)
- 4) Mental Health
- 5) Health in Detention
- 6) Occupational Health and Safety

Migration, Development and Globalisation

Migration is global in nature and is heavily affected by neo liberal policies and structures which impacts migrant workers health outcomes and well-being. This programme aims at linking and filling the gaps in the current migration and development discourses by adequately addressing the impact of migrant workers health in the context of globalisation. Activities will include strengthening the analysis, perspectives, and awareness on globalisation/ World Trade Organisation (WTO) / International Financial Institutions (IFIs) policies on migration and health; the impact and implication of migrant workers health through the privatisation of healthcare and developing global action on debt and poverty to reduce all vulnerabilities in migration.

CARAM Asia (Coordination of Action Research on AIDS & Mobility) is an NGO in Special Consultative status with the Economic and Social Council of the United Nations. The organisation was set up in response to the growing global phenomenon of migration and emphasises a regional approach in addressing the issues of migration and health. Since its inception in 1997, the CARAM Asia network has moved actively to address special interventions for migrant populations at all stages of migration in order to reduce all vulnerabilities including HIV and advance their health rights.

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