

**International Labour Migration Governance:
The Case of Bangladesh**

**A Dissertation
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MAGD Batch II
ID No-07272017**

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**Institute of Governance Studies
BRAC University, Dhaka, Bangladesh
November 2009**



Declaration

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Md.Rashidul Hassan .

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**A Thesis
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Introduction:

People moved from one place to another, from one country to another from time immemorial. Their movements and settlements in other places or countries other than their own birth places or countries of origin have been influenced by a number of factors including increased income incentives, better livelihood, better life, better environment, natural disaster, religion, expulsion, political repression and human rights violations. In September 2002, the then Secretary-General of the United Nations in his report stated, "It is time to take a more comprehensive look at the various dimensions of the migration issue, which now involves hundreds of millions of people and affects countries of origin, transit, and destination." Currently, about 175 million people (approximately 3% of the world), reside in a country other than where they were born. Sixty percent of the world's migrants reside in more developed regions while the rest are in the less developed regions.

With the rise of global corporation in the 1950s and 1960s, the world economy became increasingly globalized and interdependent. Matching the trend, international migration as a key dynamic factor simultaneously grew in volume and significance (Castle and Miller, 2003). With the passage of time the trend of migration, meanwhile, has undergone transformation – labour migration now occupies the dominant position. International labour migration has become an integral part of the global economy. Almost all countries are involved in the migration process in one way or other. Some are participating as labour sending countries, some as receiving, and others as transit countries.

There has been a marked increase in the volume of migrant population. Increase in migrant flow is associated with growing flows of remittances. There are correlations between amount of remittance flows and poverty alleviation, between remittance flows and development. Besides, remittances have multiplier effects. Global figures show that official remittances has increased from less than US\$ 2 billion in 1970 to US\$ 70 billion in 1995 (ILO, 2000). This does not include informal transfers.

Remittances play a central role in many labour sending economies. They provide a major source of income and foreign exchange. They also finance imports and contribute in meeting international financial obligations, such as debt servicing. In some labour sending countries the quantum of remittance has exceeded the quantum of foreign aid received. In the resource scarce countries migrants' remittance has great potential to generate positive social, economic and cultural impacts. However, it is generally believed that in most of the remittance receiving countries maximum benefit is not derived out of it because of various anomalies/malpractices.

Labour migration has many beneficial elements for those countries which send and receive migrant workers, as well as for the workers themselves. It assists both origin and destination countries in economic growth and development. Nonetheless, labour migration has become an extremely exploitative and complex phenomenon. There is lack of transparency in the recruitment process, in journey, transit, and during stay in the destination countries. There are rampant reports of rights violations. There is hardly any recognition of the contribution of the labour migrants and improving conditions. International regimes involved in managing voluntary labour migration now highlights the need for development of national and regional policies along with international instruments to make migration mutually beneficial experience for all parties involved, the receiving as well as sending countries, and those who migrate. (Siddiqui-Star, 2004).

Bangladesh is a huge labour surplus country. On an average, it exports about 225,000 people annually (1990-99). More than 25% of its foreign exchange earning is derived from the remittances of the migrant workers (Siddiqui, Abrar, 2003). However, this sector is yet to be efficiently organized.

There are migration governance crises in countries, sending as well as destination. Migrant workers are often subjected to neglect, harassment and violation of rights both in the sending and receiving countries since sending states are reluctant to take up the issue seriously for fear of loss of labour market. Inadequate investment by these states to develop institutional structures to look after the welfare of migrant workers and establish effective regulatory framework to check corruptions and exploitations often makes it appear that states are acting like freeloaders at the cost of the migrant workers who invest their own resources to bring in so much financial benefits and their newly acquired skills to the region. In the receiving countries, embassies, particularly, of the South Asian countries are reported to have been much less proactive to deal with the problems faced by migrant labourers. In most cases these embassies are ill equipped to handle complaints due to lack of adequate manpower and resources from their home countries.

The real issue is the transparency and accountability in the sending country itself. Labour sending countries, especially Bangladesh, does not rate very high on the governance scale. The violations of rights of migrant labourers start at home by agents and recruitment agencies and these continue in the receiving countries as well. As most of the migrant workers come from rural areas, these people have very little access to knowledge of pre-departure information. They have to rely on informal agents without official designation, who often operate without the best of intentions. In most of the countries in South Asia there is less and less concern over labour rights as trade unions usually taken as trouble shooters, receive negligible attention of the concerned authorities. The workers in the region usually have weak social status, which has led the employers and governments to treat unions as less than equal partners in progress. The migrant workers do not have any mechanisms to protect their interest in the receiving countries since there is no scope for bargaining between employer and employee, including the right to form unions

The mindset of governments in both the sending and receiving countries needs to be changed. Sending governments usually see migration as 'manpower export', thus treating the issue as any other commodity to be exported. Another misused concept is 'illegal migrants', which is used by receiving countries to refer to irregular or undocumented labourers. Human beings can't be 'exported' as commodities or called 'illegal'. It is important to note why they have become undocumented labourers in order to develop appropriate policy.

It is important to direct attention to the need to adopt coherent and comprehensive national as well as international policies to effectively manage labour migration and to protect migrant workers' rights, human rights of all members of their families. It needs attention to the removal of multiple disadvantages and discrimination, rights violations often faced by migrant workers on the basis of gender, race or religion and migrant status. Further, issues related to the movement of workers across national borders cannot be effectively addressed when countries act in isolation; international cooperation in addressing international labour migration is required.

An orderly and properly managed migration system can be beneficial for both individuals and all stakeholders of the societies. Developed countries tend to favor tighter immigration policies and developing countries favour a liberal policy. States should recognize that global migration is increasing and will continue to increase.

They should cooperate in determining how to manage labour, irregular migration, protect the rights of migrants while encouraging development International cooperation is a primarily associated with control over entry and exit as well as prevention of irregular migration, broader human rights issues as well as the rights of foreign workers. It has indeed entered into the discussion and thus, has been a concern for the basic units of analysis of migration: the migrants themselves. It is yet to be seen to what extent serious efforts toward implementation of migrants' rights are made. Given the different interests involved on the part of various stakeholders, the push for greater cooperation faces serious challenges to the upholding and advancing of the human rights of migrants.

1.2 Problem Statement

There is a gap between the rights the migrants enjoy and the difficulties they experience in the countries where they live, work, and across which they travel. They even become subjects to various harassments at home country by elements such as middlemen, recruiting agents, sub-agents, high migration costs and human rights abuses, discriminations in destination countries,. They face lack of cooperation of officials of embassies, institutional and infrastructural inadequacy, and rigidity of official procedures.

1.3 Objectives

The overall aim of this paper is to investigate ways to ensure quality governance of migration. It enquires into the challenges of migration governance system in Bangladesh and explores the ways and means to address the challenges.

1.4 Research Questions

1. What are the basic features of national and international governance framework regarding migration?
2. What are the problems with the national and international situation that impedes migration friendly environment?
3. How is to overcome these problems and make it contributing to development?

1.5 Methodology

For convenience focus will be confined only to labour out-migrants, i.e. international labour migration. It will base mainly on secondary data, that is, existing information available and existing case studies on migration from Bangladesh as well as other countries.

1.6 Significance

There have been a number of writings on various aspects of migration but little has been done exclusively on labour migration governance. This study seeks to address the subj

Concepts of International Migration

The term migration is defined broadly as a permanent or semi - permanent change of residence. It is the movement of people, especially of whole groups, from country to another, particularly with the intention of making permanent settlement in a new location. Considered from geographical proportion and depending on location and national boundaries, there are broadly two types of migration: first, internal, migration within one country, and second, international, movement from one country to another. On the other hand, when migrants go from their country to an adjacent neighbor country crossing the border of their country is termed as cross- border migration. When migrants reach a destination country through a third country, then it is known as country of transit. Migration has also been labeled as temporary or short -term and permanent depending on the tenure of stay.

The United Nations' Department of Economic and Social Affairs has identified three categories of international migrants: the privileged, the victims, and the "average" international migrant. The privileged migrants include specialized skilled workers. This category of "international elite" has the advantage of choosing their own career path and residence.

The "average" migrant does not have the benefits of the privileged migrant. Average immigrant workers are often in the lowest socio-occupational group, are on the bottom of the wage scale, and are subject to the worst working conditions in their host countries. Immigrant workers can often only find temporary jobs and are the first to become unemployed during economic downturns.

The third category of migrants, known as victims or refugees, includes individuals who emigrate from their country in order to escape poverty, environmental disaster, persecution, or political chaos, and are those who are most at risk to have their human rights violated.

Besides, there is the kind of labour migration. Labour migrants are those who sell their manual labour. Surplus labours flow from rural areas into urban areas, from developing countries into the developed or labour sending turned labour receiving countries. Labour migration as an option of livelihood is largely a function of supply and demand in the labour market. It may not always be voluntary. Lack of any other viable choice results in involuntary labour migration.

Migrant worker

Article 2(1) of the 1990 UN Convention defines a migrant worker as: a person who is to be engaged, is engaged, or has been engaged in a remunerated activity in a State of which he or she is not a national. Workers who enter under the skilled migration category are considered to be professionals, whose skills are in great demand and who earn high salaries. Workers who are recruited under the unskilled/semi-skilled category are employed on temporary worker schemes to perform a specific job and are employed on work permits. They cannot access the labour market directly and are recruited through private agencies and under specific bilateral agreements (MOUs) between the labour-exporting and labour-importing countries. These workers are employed primarily in the agricultural and fisheries sector and in the tertiary sector in manual (construction) and service employment, with little direct foreign capital involvement.

International labour migration is an increasingly important aspect of global, regional and national economies. Recent estimates indicate that 86 million people are international labour migrants¹, regardless of their status, or the duration of their migration. Migrant workers benefit from increased employment opportunities. Origin and destination countries both benefit, the former as remittances are a reliable source of income and the latter because of the important contribution labour migrants make to the economy and society in which they live.²

There is other form of migrants called economic migrants. The term economic migrant refers someone who has emigrated from one country to another country for the purposes of seeking employment or improved financial position. Economic migrants are also called contract migrants. There are three essential characteristics of the contemporary international contract labour migration; first, it is a form of voluntary migration usually motivated by economic consideration. This characteristic makes it different from the earlier forced systems of labour migration. Recruitment is the second essential aspect of the contract migration. Third, contract labour migrants are usually authorized to provide only non-permanent, fixed-term labour services. Thus, the expectation of repatriation or return of contract workers is intrinsic in contract labour migration system (Zlotnik, 1998). Labour migration is primarily an economic phenomenon shaped by income and wage differentials between countries and the financial costs of transportation and communication.

There is the existence of irregular migration. Irregular migration generally refers to migration taking place outside a legal framework, or, when people enter a country or remain in a country without legal permission from the State. People who find themselves in this position are referred to as undocumented or irregular migrants.

Migrant workers are labeled as 'legal /illegal', 'regular / irregular' or 'documented or undocumented' on the basis of policy and the policy definitions of the sending and receiving countries. Documented migrants are those who have regular valid documents of exit from countries of origin and entry into destination countries. Such documents include valid passport, visa, acceptance, or, immigration letter, health examination report, fingered prints. In case of labour migrants, they should possess documents showing their requisition, recruitment, appointment, contract signed between the employer and the worker including terms and conditions of employment.

Undocumented migrants, on the other hand, do not have the above stated necessary documents. There is another term which is widely used is called 'irregular migrants'. 'Irregular migrant' refers to non citizens who have no valid leave to enter and / or remain within a state. Irregularity is defined by national immigration rules. The countries from which they come often see this as migration out of necessity, not choice, and also as the source of remittances which support families and contribute to development. 'Host' states tend to see them as non citizens who are illegally in the country, and should be removed at the earliest opportunity. From a human rights perspective, migrants are entitled to protection under international law, regardless of any irregularity under national law. Irregularity arises in a number of ways. Migrants may enter a country illegally,

¹ International Labour Conference, 92nd Session, 2004. Report VI. Towards a fair deal for migrant workers in the global economy ILO Geneva

² Beath A (2007). Migration. In: Goldin I, Reinert K, eds. Globalisation for development: trade, finance, aid, migration and policy. World Bank.

without valid visas, by avoiding border controls or with false documents. Those who enter legally but overstay their visas, become illegal; this is likely to account for most irregular migration, including those who are trafficked. Migrants may also enter on a non-working visa, then work and stay in a foreign country. Most irregular migrants are workers; they tend to be less skilled than those who move legally. Migration under legal coverage is increasingly restricted to those with the technical skills needed by developed economies. This, what is called 'managed' migration, covers doctors, nurses, and i.t. specialists.

Almost similarly, IOM describes irregular migration as the movement of persons that takes place outside the regulatory norms of the sending, transit and receiving countries. This phenomenon involves people who enter or remain in a country of which they are not citizens in breach of national law. These may include migrants who enter or remain in a country without authorization and those who are smuggled or trafficked across international borders. Irregular migration leads to high levels of exploitation, forced labour and abuse of human rights.

Irregular migrants are likely to work in the informal sectors³ of the economy or in the remote parts of the country. They do the three D-jobs; dangerous, dirty and demeaning. By virtue of their unlawful status, they are vulnerable or vulnerable groups⁴ (page 22, 25,) and easily open to exploitation, and have little or no avenue for legal redress. They easily succumb to poverty and live in squalid housing conditions. They often resort to crime when unemployed. By bypassing the health screening system for migrant workers, they could be a source of highly contagious diseases. Nonetheless, irregular migrants equally contribute to economic growth and development of the country. They help alleviate labour market imbalances, and especially enhance labour market flexibility by providing a reserve labour pool that can be easily tapped when needed (Kanapathy, 2003). The heavy reliance of the economy on this manpower reserve is clearly evident in policy reversals each time a crackdown on irregular migrants is implemented⁵ The challenge for the state is to strike a proper balance between protecting the rights of all those who are inside or at its borders, and maintaining control of the borders.⁶

³ The informal sector is economic activity that is neither taxed nor monitored by a government, and is not included in that government's Gross National Product (GNP), as opposed to a formal economy.

⁴ Vulnerability derives from the Latin word *vulnerare* (to be wounded) and describes the potential to be harmed physically and/or psychologically. Social vulnerability refers to the inability of people, organizations, and societies to withstand adverse impacts from multiple stressors to which they are exposed.

⁵ The harsh crackdown on irregular migrants following the 2004 amnesty severely affected key industries in Malaysia and had sparked fears it may exacerbate a slowdown in economic growth. In a desperate move to ease its labour crunch, the Malaysian authorities had to recruit workers from India, Pakistan, Sri Lanka, Nepal, Burma and Vietnam. Further, foreign workers were allowed to enter the country on tourist visas to seek employment, provided local authorities had a record of their fingerprints.

⁶ From a human rights perspective, migrants are entitled to protection under international law, regardless of any irregularity under national law. In practice, many irregular migrants are in fact outlaws in the original sense of that term: they live outside the law, and outside its protection..

Migrants with irregular status are at particular risk in four situations:

During the journey and at the border: At this stage migrants are at edge of loss of life and serious injury.

During periods of illegal stay: migrants are at risk. This is because of discrimination, denial of access to basic rights/ fundamental rights⁷ and absence of a rights –based approach⁸ such as emergency health care, exploitation by private employers without safe means of escape or complaint;

In detention: inhuman or degrading conditions; lack of access to legal means to challenge detention; the detention of children; and

In the course of expulsion procedures.

Visa trading: An Irregularity

The recruitment of low-skilled labour involves several intermediaries in the sending and receiving countries. Visa trading takes place when a migrant worker takes up employment for a person other than the sponsor. The occurrence of this type of irregular migration is described as visa trading involves many hands and raises their transactions costs as well as irregularity. It is the system of collecting foreign recruitment visas by fake employers in destination countries and selling on the black market of those visas at exorbitant prices by those employers or their agents to the recruiting agents or their sub-agents from the sending countries, or the actual employers in host country. This is very much in practice in the Gulf Cooperation Council (GCC) countries including Bahrain, Oman, Kuwait, Qatar, Dubai and Saudi Arabia. Nationals of GCC countries obtain business licenses and concomitant permission to import a given number of workers, and are thus given work visas for this purpose. They, it is alleged, however, sell the visas to persons looking for such visas instead of starting a business or using all the visas for the approved business. The person who buys the visa may find a job with an employer other than the one who initially sponsored him/her. This puts the migrant worker in an illegal status as he is not legally allowed to work for any one other than the sponsor. The practice amounts to cheating .It are a serious problem in orderly management of labor migration but remain an area where the statistical database is very weak.

⁷ Rights provide a claim or entitlement to a particular resource or opportunity such as right to housing, the right to adequate standard of living, the right to vote. Justifiable rights refer to rights that are part of the legal structure and that can be brought by an individual or a group before the courts for its judgement on whether the right can be enforced or can be used to ensure the provision of a particular resource

⁸ A conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. These rights are all interrelated, interdependent and indivisible.

Diasporas: A subject of debate

There is another kind of migration people popularly known as diasporas. They are dispersed ethnic populations. However, while refugees may or may not ultimately settle in a new geographic location, the term diaspora refers to a permanently displaced and relocated collective population.

Causes, linkage, networks and infrastructure of migration

The “push” and “pull” factors theory

The reasons for migration can be divided into two main aspects, the so –called “push” and “pull” factors. Push factors are those that push people to move from their old place. Push factors refer primarily to the motive for emigration from the country of origin. In the case of economic migration (usually labour migration), differentials in wage rates are prominent. If the value of wages in the new country surpasses the value of wages in one’s native country, he or she may choose to migrate as long as the travel costs are not too high. And this trend continue until the labours continue to get their subsistence wages.⁹ The cost of emigration, which includes both the explicit costs, the ticket price, and the implicit cost, lost work time and loss of community ties, also play a major role in the pull of emigrants away from their native country.

On the other hand, pull factors are factors in the target country which encourage people to move; these include peace and safety , a chance of a better job ,better education ,social security,¹⁰ a better standard of living¹¹ in general as well as political and religious freedom.

Types of Regimes for Migration Policy

State Policy Regimes

Ablla (1997:8) characterizes three different types of policy regimes. These are as follows:

1. Laissez-faire: When emigration process is left entirely up to the market without the imposition of any standards.
2. Regulated: when the sending countries create laws that regulate the recruitment of its nationals for employment abroad. The actual recruitment is mainly left to the market.
3. State managed: when regulation and state managed enterprises are set up to recruit and place workers abroad. The state may intervene in the market to increase the supply of skills that are in demand abroad.
4. State Monopoly: the state organizes labour migration and there is no place for private recruitment agencies. This exists in China and Vietnam.

⁹ Lewis’ theory of Unlimited Supplies of Labour ,or, Two Sector Economy: Professor W. Arther Lewis believes that in many underdeveloped countries an unlimited supply of labour is available at a subsistence wage.

¹⁰ Social security is primarily a social insurance program providing social protection. It is protection against socially recognized conditions, including poverty, old age, disability, unemployment and others.

¹¹Standard of living is generally measured by standards such as real income per person and poverty rate. Other measures such as access and quality of health care, income growth inequality and educational standards are also used. . On the other,the term quality of life is used to evaluate the general well-being of individuals and societies.

But no country is seen to follow a tight compartmentalized policy or practice. There is a mix practice all over.

Remittances

The amount of money that is sent back home by migrants is called remittances. It is a private flow. Remittances provide relief to poor individuals, families and communities. Also more indirectly, remittances can support a more vibrant economy by expanding job markets.

Social Remittances

According to Peggy social remittances are the ideas, behaviors, identities, and social capital that follow from receiving countries to sending country communities. They are the north -to –south equivalent of the social and cultural resources that migrants bring with them. These resources play crucial roles in promoting immigrant entrepreneurship, community and family formation, and political integration and this is widely acknowledged. (Levitt,Peggy,1998).

Conclusion: Migration – the movement of people for permanent or semi-permanent change of residence is a widely used term in international arena. People moved for change of residence for better conditions from time immemorial. This movement has been within a country or between countries. In today's imbalanced world with developed and developing countries, migration particularly international labour migration has got huge impact on remittance flows, unemployment reduction, and above all, development .It takes place in accordance with international laws, sometimes in unusual way, named irregular migration, which has been a concern for international community. Its governance is , therefore, a matter of great concern.

Migration and Development: Concepts and Relationship

There is a close relationship between development and migration and this has already been underlined in many writings. The development impact of migration is, however, dependent on effective migration governance.

Development primarily meant economic development. Economic development is measured by economic growth, which is again measured by increased per capita income. The term economic development is also defined as “the application of capital to raise human productivity, generate wealth and increase national income. Associated with it are a constellation of social and cultural changes that scholars generally call modernization “(massey,1988”383). The process of economic development, thus, revolves around variables other than economic as well. Overseas employment, a key to economic development, has also been instrumental in reducing local unemployment and boosting remittances.

To John Samuel Ph.D in Migration and Development it is a process of improving quality of all human lives. And it entails three important aspects that are : (a) raising peoples’ living levels, (b) creating conditions conducive to the establishment of social, political and economic systems and institutions that promote human dignity and respects, and (c) increasing people’s freedom to choose by enlarging the range of their choice variables¹²

Importance of Remittances

According to Sorensen (Sorensen, 2004). 60% of the global remittances flow is directed towards developing countries .This figure is more than global Official Development Assistance (ODA) as well as capital market flows (Gammeltoft, 2002) to those countries. In comparison to Foreign Direct Investment (FDI) in those countries remittances are over half of the total flow. Moreover, remittances as sources of financial flows are found to be more stable than private capital flows and to be less volatile to, changing economic cycles (Ratha, 2003). International financial institutions like the International Monetary Fund (IMF) , World Bank and Asian Development Bank (ADB) are increasingly appreciating migrants’ remittances as a tool to promote development . Besides remittances, there is the value of what is called social remittance, which is beneficial to the sending countries

There is a close link between remittance and poverty reduction. Adams and page (2005a) that argue remittances resulting from migration, reduce poverty. Adams and page use cross- country regression based on 74 countries and find that a 10 percent increase in the share of remittances in a country GDP can lead to an average 1.2 percent decline the poverty headcount. Chimhowu piese and Pinder (2005) examine the nature and role of remittances in household income. This study found a number of conclusions about the impact of remittances on poverty reduction..First, remittances now form an important part of household livelihood strategies. They also allow

¹² Todaro, as quoted by Samuel, 1997:

households to increase their consumption of local goods and services. Second, at the community level, remittances generate multiplier effects in the local economy, creating jobs and spurring new economic and social infrastructure and services. Remittances can make a difference, particularly in remote rural locations where state resources have not been effective. Third, at the national level, remittances provide foreign currency and contribute significantly to GDP. Fourth, remittances can redistribute resources from rich to poor countries. The increase in remittances reduces international inequality and promotes poverty reduction.

Adam and page (2005b) have examined the impact of international labor migration and remittances on poverty in developing world. This study based on a new data set on international migration, remittances, inequality and poverty from 71 developing countries. The results showed that both international migration and remittances significantly reduce the level, depth and severity of poverty in developing world.

In addition to financial benefits to the sending countries, migration provides opportunities to build their human capital and social assets. Returning migrants usually bring new skills during employment abroad through what is today recognized as beneficial transfer of know-how and competencies called 'brain gain'. A study on returning Pakistani migrant workers conducted in 1998 found that migrants who had worked abroad as mechanics, welders and machinery operators had learnt the use of advanced tools, instruments and machinery and new facets of how to organize their work. Employers in the home country rated them much higher than domestic workers with no overseas employment experience (Farooq, 1998). Migrants can also play an important role in their home country by strengthening political debate, strengthening the role of civil society, encouraging the education for non-migrants, and emancipating women and minority groups in countries of origin .(Hein de Hass,2006)

Migration can play an important role in the development of states' economies. Worldwide, remittances sent back to countries of origin by migrants are estimated at about \$100 billion per year, and approximately 60% of this goes to developing countries. Remitted funds are important social safety nets for poor families and may help to reduce additional out-migration from that country.

Thus, there is an intimate relation between labour migration and development. For this, establishing adequate and transparent mechanisms to channel labour migration into safe, legal, humane and orderly avenues is necessary. Failure to do so will not only adversely affect global economic growth, but will also fuel irregular migration and create enabling conditions for human trafficking and smuggling rings. On the other hand, inadequate opportunities for labour migration also negatively impact businesses that wish to recruit and move their personnel globally.

Conclusion: Migration and development are linked in many ways - through the mobile livelihood strategies of individuals, households and communities; through large and often well targeted remittances; through investments by migrants, refugees, diasporas and transnational communities; and through international mobility associated with global integration, inequality and insecurity. (Levitt , Sørensen 2004)

Migrants Rights

The scale of international migration has substantially increased in recent years and become a truly global phenomenon. It is estimated that more than 200 million people now live outside their country of origin. Labour migrants are an important population. In the case of international labour migration, remittances are considered as important yardsticks of migrants' contribution to their countries of origin as well as to migrants themselves. Various figures indicate that the flow of migrant remittances from receiving countries to sending ones is continuously growing. Since migrants make significant contributions, their issues are to be properly addressed. Migrants' issues include the human rights, labour rights and wellbeing at home and abroad. In matters of migration, by ILO, development is considered as economic growth, social advancement and greater political participation in countries of origin, sustenance of economic growth in countries of destination, and human capital formation of migrant workers. Therefore, migrants' human rights demand "respect. It is a legal obligation under international human rights law.

Sources of labour Migrants' Rights

Human rights in general and migrants' human rights have been spelt out in a number of international documents.

Human rights:

- (i) Universal Declaration of Human Rights,
- (ii) Convention on Political and Civil Rights
- (iii) Conventions on the Economic, Social and Cultural Rights.

Universal Declaration of Human Rights, 1945, UN Convention 1990, Migrants specific ILO Conventions. It is also critical to ensure that migration is a choice and an opportunity rather than a survival strategy." The conventions protect the civil and political rights of all migrants, both documented and undocumented. The rights include the right to life, the right to freedom from torture, and the right to freedom of expression. It provides further protection for documented migrants. Workers are entitled to rights equal to those of nationals of the receiving country, equal rights to education and health services, and the right to family reunification." Moreover, respect for the human rights of migrants is essential to improve the integration of migrants in countries of destination." A human rights approach to global migration governance is needed to protect the rights of all migrants and their families.

International Protection Regime

1. Migrant specific instruments
 - a. ILO instruments
 - b. United Nations

International Convention on the Protection of the Rights of All Migrant Workers And Members of their Families, 1990

- United nations Convention against Transnational Organizes Crime, 2000
 - Protocol against the smuggling of migrants by land, sea and air.
2. Fundamental Conventions of the ILO
 3. Other relevant ILO Conventions
 4. General Human Rights Instruments of the UN

The ILO Fundamental Conventions

Eight Fundamental Conventions:

- a. Freedom of Association and Protection of the Right to Organize Convention, 1948 (No.87);
- b. Right to Organize and Collective Bargaining Convention, 1949 (No.98);
- c. Forced Labour Convention, 1930 (No.29);
- d. Abolition of Forced Labour Convention, 1957 (No.105);
- e. Equal Remuneration Convention, 1951 (No.100);
- f. Discrimination (Employment and Occupation) Convention, 1958 (No.111);
- g. Minimum Age Convention, 1973 (No.138); and
- h. Worst Forms of Child Labour Convention, 1999 (No.182).

Migrant-specific Instruments

- (1) Migration for Employment Convention (Revised), 1949 (No.97)
- (2) Migration for Employment Recommendation (Revised), 1949 (No.86)
- (3) Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143)
- (4) Migrant Workers Recommendation, 1975 (No.151)
- (5) Private Employment Agencies Convention, 1997(No 181)

(iv) ILO –Non binding Framework, Guidelines and Principles.

Outside ILO, The UN 1990 International Convention on the Protection of the Rights of All Migrant Workers And Members of Their Families (herein after ICMR). This is eminently based on concepts and language drawn from the two ILO Conventions. It extends considerably the legal framework for migration, treatment of migrants, and prevention of exploitation and irregular migration.

The content of ILO Conventions 97 on Migration for Employment and 143 (supplemental provisions) formed the basis for drafting the UN Convention, The Convention expanded and extended recognition of economic, social, cultural and civil rights of migrant workers rights.

Then, in response to rising migrant numbers, often moving irregularly, and to evidence of human rights abuse during the migration cycle, migrants were identified as a vulnerable group and brought within the human rights mainstream. The International Convention on Protection of the Rights of

All Migrant Workers and Members of their Families was adopted by the UN General Assembly Resolution 45/158 of 18 December 1990 [‘CMW’] and a UN Special Rapporteur on the Rights of Migrants was appointed; some rights protection was integrated into the Palermo Protocols¹³, and the UN treaty bodies¹⁴ confirmed that all non citizens are protected by human rights treaties. Most recently, Parliamentary Advisory Council of Europe, PACE adopted minimum human rights standards for irregular migrants in Europe, drawn from international human rights law [‘European minimum standards’].¹⁵

States have a general duty to protect all migrants’ rights, regardless of nationality or status, both in transit, and within each state. Equally, migrants’ home states have a duty to protect the rights of their citizens, and to address human rights violations. In turn, migrants have duties to respect national laws in ‘host’ states.

The principle of equality and non-discrimination¹⁶ means that distinctions between groups are only permissible if they are prescribed by law, pursue a legitimate aim, and are strictly proportionate to that aim.

But migrants and human rights intersect at a number of points. When the migrants cross a frontier, international human rights law recognizes the right to leave one’s country; there are no corresponding

¹³ There are two protocols that are referred to jointly as the Palermo Protocols. The Palermo Protocols are two protocols adopted by the United Nations in 2000 in Palermo, Italy, together with the Convention against Transnational Organized Crimes. They are:

- the Protocol to prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and
- the Protocol against the Smuggling of Migrants by Land, Sea and Air.

The Protocol against the Smuggling of Migrants by Land, Sea and Air is aimed at the protection of rights of migrants and the reduction of the power and influence of organized criminal groups that abuse migrants. It emphasizes the need to provide migrants with humane treatment, and the need for comprehensive international approaches to combating people smuggling, including socio-economic measures that address the root causes of migration.

¹⁴ Charter bodies include the former Commission on Human Rights, the Human Rights Council, and Special Procedures. The Human Rights Council, which replaced the Commission on Human Rights, held its first meeting on 19 June 2006. This intergovernmental body, which meets in Geneva 10 weeks a year, is composed of 47 elected United Nations Member States who serve for an initial period of 3 years, and cannot be elected for more than two consecutive terms. The Human Rights Council is a forum empowered to prevent abuses, inequity and discrimination, protect the most vulnerable, and expose perpetrators.

¹⁵ . PACE Resolution 1509 (2006).

¹⁶ Article 7 of the Convention provides that States parties should respect and ensure the rights contained in the Convention without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status. Article 1 also states that the Convention applies to all migrant workers and members of their families without distinction of any kind.

rights to enter another country, even for a refugee, without that State's permission. This means that where a state decides that a migrant entered the country illegally, this decision conflict with human rights principles. But the fact that a migrant entered or remained illegally does not nullify the state's duty under international law to protect his or her basic rights without discrimination, for example, against torture, degrading treatment, or forced labour. This complex interrelationship between migration and human rights is multifaceted and found at all stages in the migratory cycles. : - in the country of origin, during transit, and in the country of destination.

Labor rights

International labour migrants or international migrant workers are important factors in international labour markets as well as in global development. They are part of international labour force¹⁷. In international arena labours employment is a contract between two parties , one being the employer and the other being the employee . A contract of employment is a category of contract used in labour law to attribute right and responsibilities between parties to a bargain. On the one end stands an "employee" who is "employed" by an "employer". An employee is any person hired by an employer to do a specific "job". He is a person in the service of another under any contract of hire, expressed or implied, oral or written, where the employer has the power or right to control and direct the employee in the material details of how the work is to be performed. An employee contributes labor and expertise , one of the three factors of production, to an endeavour. An employer is a person or institution that hires employees or workers. Employers offer hourly wages or a salary in exchange for the worker's labourpower.

Labor rights are a group of legal rights and claimed human rights having to do with labour relations between workers and their employers .In general, these rights' debates have to do with negotiating workers' pay, benefits, and safe working conditions. One of the most central of these "rights" is the rights to unionize. Proponents of " right to work " legislation claim that workers have the right to work whether or not they join a union..

Labour rights though a very broad issue can be boiled down to the protection and respect of human life in the workplace and the right to work itself. Some components of labour rights are the rights to job safety, collective bargaining, and equal pay for equal work. There are other labour rights issues that need global attention like maternity rights, living wages, working time, gender equality, and of course, unionization. Freedom of association is essential because it allows people to discuss matters: whether they are political or social- and act on them as well. The UN itself backed workers rights by incorporating several provisions into two articles – Articles 23,24- of the United Nations Declaration of Human. (Annexure-I)

¹⁷ In economics, the people in the labor force are the suppliers of labor. The labor force is all the nonmilitary people who are officially employed or unemployed.

Migrants concern

Today, international migration has tended to be understood primarily in development terms, as a response to disparities in income levels and employment opportunities between countries. One of the principal ‘drivers’ of contemporary international migration is economic globalisation, in which (i) goods and capital flow freely and create employment across national borders, (ii) better communication makes differences in living conditions clearly visible across frontiers, (iii) cheaper travel facilitates movement between countries and continents, and (iv) transnational – diaspora – communities link families at home with workers abroad.

On the other, confronted with rising numbers of irregular arrivals, often in mixed flows of asylum seekers and migrants, some states have resorted to undifferentiated interception procedures resulting in refoulement.¹⁸ A number of European states, for example, have ‘externalized’ their border controls¹⁹. These border control measures cost human lives and the process of removal and readmission of migrants have resulted in serious basic human rights violations ..

Therefore, though many migrants are well protected, particularly the highly skilled, irregular migrants are doubly vulnerable, both as non citizens, and because their status is illegal under national laws. In practice, vulnerability is greatest at four points in the migration cycle: in the course of arrival, by land and sea; during irregular stay; in detention; and on removal.

Abused in transit

Year after year, hundreds of migrants die trying to cross the increasingly militarized borders of our world. Less visible are the cases of abuse, trafficking, arbitrary detention, torture and attempts on migrants’ lives. Chased by poverty, often alone and disoriented, maybe without the proper documents, these migrants are particularly vulnerable to both aggressions from traffickers and a zealous approach to law enforcement from security personnel, especially in ports, airports, at borders and migration checkpoints.

Life in the host community

Once in the country of destination, a migrant's vulnerability is the result of a number of factors. Alien to the local society many migrants are unaware of their rights and often unable to defend themselves against abuse. They may face discrimination, denial of the right of association and assembly, unequal treatment and opportunities at work to nationals. In most cases, migrants are more likely to take up so-called 3-D jobs (demeaning, dirty, dangerous), in sectors where labour standards are not applied and where they are faced with abusive working conditions. At times of political tension, migrants are often the first to bear the brunt, or used as scapegoats- and treated as security risks. The effects of the "war on terror" are a striking example.

¹⁸ The principle of non-refoulement is a principle in international law specifically refugee law, that concerns the protection of refugees from being returned to places where their lives or freedoms could be threatened. Unlike political asylum which applies to those who can prove a well-grounded fear of persecution based on membership in a social group or class of persons, non-refoulement refers to the generic repatriation of people, generally refugees into war zones and other disaster areas

¹⁹ Securization

In Detention

Detention typically takes place on arrival and pending removal; where removal is impossible or does not take place, irregular migrants may remain 'liable' to be detained until such time as they are removed, or their status is regularized. Reports by Human Rights Watch, Amnesty International and other NGOs, as well as from the CPT, describe severe overcrowding, inadequate bedding and clothing, recreation or exercise, fresh air, food, or medical services in a number of states.

On Removal:

Some irregular migrants return voluntarily. Some do so with financial assistance provided by the International Organization for Migration. In all cases, return should take place in safety and dignity.

Migrants' concerns centre on

(a) Improper placement; compelling to do 3-D (dirty, demeaning, dangerous) jobs;(b); compelling to do indecent work (c) harassment by recruiting agencies at home; (d) harassment by Sub-agents at home and abroad; (e)harassment by foreign employer;(f) non-cooperation by embassy officials;(g)ignorance of destination country's norms and languages; (h) discrimination between migrant workers and locals nationals in destination country ; (i)absence of legal redress in case of irregular migrants ; (j)restrictions on family reunion; Restrictions on family reunion; (k) temporary nature of labour migration; (l) on-ratification of international legal instruments by national governments; (m)lack freedom of movements by irregular migrants (n)restrictions on trade unioning by the migrant workers; (o)seizure of documents by foreign employers and rendering them as irregular migrants; (p)high migration cost; exploitation by recruiting agents at home and destination countries; (q)lack of social welfare, social protection;

So , useful recommendations to provide protection to migrant workers include improving information dissemination and more accountable , simple and transparent procedures with regard to recruitment fees, wage levels and public information and success to audits conducted on recruitment agencies (Abella,1997).

Addressing the concerns.

Irregular migrants, the most vulnerable migrant groups, are, in particular, subject to exploitation. While regular migrants are not immune to human rights abuses, irregular migrants and trafficked persons tend to be most at risk. The **"four-P approach" -prevention, protection, prosecution and partnership** –may serve as a basis for government's policies and programmes on the issue. Instead of labelling migrants as a problem at worst, or a factor of production at best, migrants are first and foremost human beings with rights, needs and agency. A segmented approach to protecting the human rights of migrants is unlikely to succeed. Instead of looking at different abusive situations or specific migrant groups in isolation, a coherent approach that ensures respect for the human rights of all migrants – regardless of their status or specific situation – at all stages of the migration cycle is needed as a solid basis for protection. The strengthening of the basic human rights, (instead of social exclusion) social integration based on non- discrimination and equal

treatment in host societies they live in ,social accountability , equity , effective policymaking , ethical globalization may prevent human rights violation and migrants concerns.

Conclusion : Abuse of the human rights of migrants takes place throughout the migratory cycle: in the country of origin, during transit and of course, in the country of destination. There now seems to be a greater recognition of migrants' rights. UN Treaty Monitoring Bodies'²⁰ monitors migrants' rights violations. To make the most of this new trend, several actors such as the ILO, the Special Rapporteur on human rights of migrants and many NGOs have called for a "rights-based approach" to migration. They call for the integration of human rights principles and labour standards together into migration policies.

²⁰ HUMAN RIGHTS AT THE CORE OF MIGRATION:From margins to mainstream.

The concept of Governance

The concept of governance has a verity of scopes and dimensions. There is good governance, good enough governance, world governance, global governance, transgovernmentalism, intergovernmental, governances in public administration, governance in the age of new public management, In the English speaking world, 'governance' is a word that has been used routinely over the course of many centuries to refer to the exercise of authority within a given sphere. Governance implies the existence of a political process: 'governance involves building consensus, or obtaining the consent or acquiescence necessary to carry out a programme, in an arena where many interests are in play.'²¹ In other words, governance is characterized by decisions issued by one actor that a second is expected to obey²². Thus, governance is a set of authority relationships

Harlan Cleveland first used the term "governance" as an alternative to the phrase of public administration. In the mid -1970s, what he meant by governance was the following cluster of concepts.

"The organization that gets things done will no longer be hierarchical pyramids with most of the real control at the top. They will be systems- interlaced webs of tension in which control is loose, power diffused, and centres of decision plural. Decision -making will become an increasingly intricate process of multilateral brokerage both inside and outside the organization which think it has the responsibility for making, or at least announcing , the decision. Because organizations will be horizontal, the way they are governed is likely to be more collegial, consensual, and consultative. The bigger the problems to be tackled, the more real power is diffused and the larger the number of persons who can exercise it - if they work at it ". (p.13).

Thus, there are as many definitions of the concept of governance as a synonym for public administration as there are applications. Kettle, however, claims an emerging gap between government and governance. To him government refers to the structure and a function of public institutions, governance is the way government gets its job done. If government denotes the formal exercise of power by established institutions, governance denotes cooperative problem -solving by a changing and often uncertain cast.

The Commission on Global Governance has defined governance as "the sum of many ways individuals and institutions, public and private, manage their common affairs.' It has also posited that governance is continuing process through which conflicting and diverse interests may be accommodated and cooperative action may be taken²³ .Thus, simply put "governance" means: the process of decision-making and the process by which decisions are implemented or not implemented. As a process it includes the formal and informal actors (such as the civil societies) involved in decision-making and implementing the decisions made and the formal and informal structures that have been set in place to arrive at and implement the decision.

²¹ Cynthia, Hewitt de Alcantara, Uses and abuses of the concept of Governance.

²² . Miles ,Kahler and David A. Lake, Globalisation and governance,

²³ Makinda, Makinda, Recasting Global Governance.

Governance: Public Private Partnership

Traditionally, government itself managed most service delivery. But toward the end of 20th century, government, however, increasingly relied on non-governmental partners to do its work, through processes that relied less on authority for control. To Kettl, governance, as an approach to public administration, has primarily to do with contracting-out and grants to sub-governments.

Governance: Act of government

Peters and Peters with Pierre (2000) settles on the "steering" characteristic of governance as distinct from government" Public institutions continues to bear the primary responsibility for steering the economy and society .Government, may, however be able to discharge that fundamental responsibility through means other than direct imposition of authority, or use other instruments not requiring directly government involvement in the social process being influenced. Governance in the words of Walter Kikerter is "steering at a distance.

The regime Theory

The basic elements of the concept of governance in public administration are similar to the theory of international regimes. Regimes are deliberately constructed, partial international orders on either a regional or global scale, which are intended to remove specific issue areas of international politics from the sphere of self-help behaviour. Regimes help states and actors to cooperate with a view to reaping joint gains in the form of additional welfare or security: there are security regimes such as the nuclear non-proliferation regimes; economic regimes such as the international trade regime.

Good Governance

The World Bank and IMF use "good governance ' to refer to a particular type of political and economic order. For them good governance is associated with the spread of democracy and transparency in governments and free markets. It is opposite to arbitrary and self-seeking rules, corruption.. It has 8 major characteristics. It is participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law.

Global Governance

In contrast to the traditional meaning of "governance", some authors like James Rosenau have used the term "global governance" to denote the regulation of interdependent relations in the absence of an overarching political authority. Global governance and/or"world governance" is the political interaction of transnational actors aimed at solving problems that affect more than one state or region when there is no power of enforcing compliance. World governance designates regulations intended for the global scale and is about how to cope with problems which transcend the borders of nation- states.

Global governance can be either top-down or bottom-up, in other words, governance from above and governance from below.Supra-national governance comes from the top: governments cede some part of their sovereignty to a higher level of authority, which 'governs' their(states') actions in a manner analogous to the way that a federal authority governs its component states. The

supranational authority is supposed to make rules, constrain actions, and monitor compliance and sanction defiance.

The alternative to the top-down model is more promising. International governance from the bottom-up stitches together the common threads of governmental responsibilities for problem-solving purposes. It is very often done on the basis of intensive interactions among government officials (bureaucrats, regulators, legislators, judges) with similar functional portfolios. Global governance, from this perspective, is not a matter of regulating states the way states regulate their citizens, but it is rather addressing the issues and resolving the problems that result from citizens going global. The approach advocates coordinated solutions to common problems through constant exchange of information, the development of best practices, and the formulation of non-binding codes of conduct.²⁴

The concept of global governance, as distinct from 'good governance has another dimension and', refers to formal and informal sets of arrangements in global politics.²⁵ It implies that states alone cannot manage global affairs, and therefore it accords roles to international governmental organizations (IGOs), non-governmental organizations (NGOS) and multinational corporations (MNCs). Global governance, thus, refers to transnational networks, institution building, norm entrepreneurship, regime creation and the management of global change.²⁶ It covers many issues, such as women's rights, human rights, development, democratizations, the environment, security and investments. In a nutshell, global governance describes regimes or systems of rule, embracing both formal and informal regulatory mechanisms²⁷

The UN and the Future of Global Governance

Globalization and global governance will go on with or without the UN. The UN has been an agent of transformation. It has generated numerous ideas on such issues as development, the environment, human rights, and women's rights and peacekeeping. In this respect, the UN has become a very important norm-setting organization. The exigencies of global governance in this millennium require the UN to rethink its norms, structures, procedures and practices.

Supranational governmentaism

Supranationalism is a method of decision-making in multi-national political communities, wherein power is transferred or delegated to an authority by governments of member states. The term 'supranational' is sometimes used as a substitute for international, transnational or global. Supranational agreements encourage stability and trust, because governments cannot break international accords at a whim. The supranational action may be time-limited

²⁴ Global governance, institutions and norms.

²⁵ ibid

²⁶ .ibid

²⁷ ibid

Transnationalism

Transnationalism refers to global co-operation between people. Transnationalism – people belonging to or having ties with more than one society over the course of a lifetime is making it a more prevalent phenomenon. Its patterns are shaped by new transnational realities, the growing international mobility. It points to activities which transcend national boundaries in which nation-state governments do not play the most important or even a significant role.²⁸

Transgovernmentalism

Transgovernmentalism implies transgovernmental relations. S.Nye considers that there are two forms of international legal and regulatory cooperation. First, international legal and regulatory cooperation may consist of *interstate* cooperation between two states. For example, the states may negotiate, sign and ratify a treaty requiring them to cause certain legal or regulatory steps to be taken inside their respective borders

Alternatively, international legal and regulatory cooperation may entail *transgovernmental* cooperation, involving direct cross-border interaction between the states' government lawyers and regulators.

Slaughter defines transgovernmental networks as “pattern[s] of regular and purposive relations among like government units working across the borders that divide countries from one another and that demarcate the ‘domestic’ from the ‘international’ sphere.” To herit is a shift away from the State –up, down and sideways-to supra-state, sub-state, and, above all, non-state actors.

Transgovernmental networks allow governments to benefit from the flexibility and decentralization of nonstate actors

Social Governance

Social governance refers to the formal and informal rules that are used to monitor and govern social media use. Social media are media (communications) for social interaction, using highly accessible and scalable publishing techniques. It is distinct from industrial or traditional media, such as newspapers, television and film. Social media is a blending of technology and social interaction for the co-creation of value.

Summary

Exercising power and decision-making for a group of people is called governance. It happens everywhere – from urban centers to rural villages – and the well-being of a community depends on the choices made by people granted with this authority. Because of the diversity of organizational structures around the world, people such as land lords, heads of associations, cooperatives, NGOs, religious leaders, political parties and of course, government are all actors granted the power to govern. Good governance” is a relatively new term that is often used to describe the desired objective of a nation-state’s political development. The principles of good governance, however, are not new. Good governance is, in short, anti-corruption whereas authority and its institutions are accountable, effective and efficient, participatory, transparent, responsive, consensus-oriented, and equitable. These are the major characteristics of good governance as outlined by the United Nations.

²⁸ Wikipadea

Concepts of Migration Governance

The governance of migration

Exercising power and decision-making for a group of people is called governance. Governance, as defined earlier, is the process of decision making and the process of implementation of decision or not implementation of decisions. It is the process of cooperation, coordination, collaboration and co production involving others by the governments to get things done by social partners, NGOs, civil society. In line with this notion, migration governance means the process of decision-making in matters of migration, migration systems, migration operation, migration service delivery, migration administration, and its relation with other related things. etc., with national, regional and global dimensions. The global debate on migration is characterized by a (re-) emerging concern for an international framework for migration ‘management’ in form of state cooperation.

This means that although this shift in the migration policy debate to focus on international cooperation is primarily concerned with control over entry and exit as well as prevention of irregular migration, broader human rights issues as well as the rights of foreign workers have indeed entered into the discussion and thus, a concern for the basic units of analysis of migration: the migrants themselves. Consequently, one of the central questions raised is that are these two trends—managing migration and the protection of migrants’ rights—going hand in hand or do they constitute conflicting areas of concern and policy? And if so how to reconcile this? The first step toward ensuring that control and protection aspects are part of migration policies is by way of reaching broad social consensus via an informed debate.

Importance of Migration Governance

Migration is a global phenomenon. Every country is touched by migration somehow or other. The issue is beyond management of any single country. Therefore, it needs global top-down approach. It needs a search for enhanced multilateral governance in the sense of regulation of interdependent relations in international migration, an area where multiple interests are in play. This search for multilateral governance should begin with a consideration of what functions it (governance) would need to carry out for the good of countries of origin, destination and transit and for migrants themselves. For this what is necessary is

- Data collection, dissemination, analysis and monitoring of trends
- Policy research and development
- Technical assistance and training
- A platform for discussion
- Support for negotiations
- Coordination

The requisite regulation of the labor market and governance of migration may be viable only to the extent they are based on legislative foundation, and in turn, based on sound international standards. It should have a universal guide and standards for national policy and practice. In this context the existing international instruments for migration may serve as coherent global guidance for both national and international migration policies.

Underlying the ILO's work is the importance of cooperation between governments and employers' and workers' organizations in fostering social and economic progress. Dialogue between the governments and the two other "social partners" (employers' and workers' organizations) promotes consensus-building and democratic involvement of those with vital stakes in the world of work.

Multilateral Framework –Principles relevant to governance of irregular migration

ILO adopts a rights-based approach to labour migration and promotes tripartite participation (governments, employers and workers) in migration policy. The ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration aims to assist governments, social partners and stakeholders in their efforts to regulate labour migration and protect migrant workers. It provides a comprehensive set of rights-based guidelines and principles so as a global compilation of good practices on labour migration developed by governments and social partners. The Framework provisions relevant to labour migration governance are:

Prin.8: The human rights of all migrant workers, regardless of their status, should be promoted and protected. In particular, all migrant workers should benefit from the principles and rights in the 1998 ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, which are reflected in the eight fundamental ILO Conventions, and the relevant United Nations human rights Conventions.

Prin.9 (a): All international labour standards apply to migrant workers, unless otherwise stated. National laws and regulations concerning labour migration and the protection of migrant workers should be guided by relevant international labour standards and other relevant international and regional instruments.

Prin.10: The rights of all migrant workers which are referred to in principles 8 and 9 of this Framework should be protected by the effective application and enforcement of national laws and regulations in accordance with international labour standards and applicable regional instruments.

Prin.11: Governments should formulate and implement, in consultation with the social partners, measures to prevent abusive practices, migrant smuggling and trafficking in persons; they should also work towards preventing irregular labour migration.

Specific Guidelines-MFW

- 4.4. Implementing policies that ensure that specific vulnerabilities faced by certain groups of migrant workers, including workers in an irregular situation, are addressed;
- 8.1. Governments should ensure that national laws and practice that promote and protect human rights apply to all migrant workers and that they are respected by all concerned;
- 8.4.2. Protect migrant workers from conditions of forced labour, including debt bondage and trafficking, particularly migrant workers in an irregular situation or other groups of migrant workers who are particularly vulnerable to such conditions;
- 9.2. Adopting measures to ensure that all migrant workers benefit from the provisions of all relevant international labour standards in accordance with principles 8 and 9 of the Framework;

- 9.5. Adopting measures to ensure that all migrant workers who leave the country of employment are entitled to any outstanding remuneration and benefits which may be due in respect of employment and as applicable are given a reasonable period of time to remain in the country to seek a remedy for unpaid wages;
- 9.9. Entering into bilateral, regional or multilateral agreements to provide social security coverage and benefits, as well as portability of social security entitlements, to regular migrant workers and, as appropriate, to migrant workers in an irregular situation;
- 10.5. Providing for effective remedies to all migrant workers for violation of their rights, and creating effective and accessible channels for all migrant workers to lodge complaints and seek remedy without discrimination, intimidation or retaliation;
- 11.1. Adopting and implementing legislation and policies to prevent irregular labour migration and eliminate abusive migration conditions, including the trafficking of men and women migrant workers
- 11.3. Implementing effective and accessible remedies for workers, whose rights have been violated, regardless of their migration status, including remedies for breach of employment contracts, such as financial compensation;
- 11.4. Imposing sanctions and penalties against individuals and entities responsible for abusive practices against migrant workers;
- 14.4. Given the particular problems faced by irregular migrant workers or other vulnerable migrant workers as a result of their status, considering the implementation of policy options referred to in Convention No. 143 and its accompanying Recommendation No. 151;

Good Practices.-MFW

A number of good practices listed in regard to workers in irregular status:

Migrant Forum in Asia

NGOs' voice in general is not so strong with respect to migration but there are some international organizations, and particularly human rights organizations speaking for migrants. Migrant Forum Asia (MFA) is one networking body. The MFA is a coordinating council of major NGOs in Asia representing a network of migrant support and advocacy groups in both migrant-sending and receiving countries of Asia. Established in 1994, it has become a regional body advocating for the rights of Asian migrant workers and their families, regardless of their immigration status. It is an active partner in the international campaign for the ratification of the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Platform for International Cooperation on Undocumented Migrants (PICUM)

The PICUM is a network of organizations providing assistance to migrants in irregular status in Europe. PICUM promotes respect for human rights for undocumented migrants within Europe. The PICUM gathers information on law and practice regarding social rights for undocumented migrants, develops expertise in the field, strengthens networking between organizations dealing with undocumented migrants in Europe and formulates recommendations for improving the legal and social position of migrants in irregular status.

Spain-2005 regularization campaign

Regulation is one of the means for coping with irregular migration. It has been prominently voiced by eminent scholars. Spain, for example, carried out a regularization programme in 2005. In Spain, it came as an outcome of extensive consultation with workers' and employers' organizations. The programme permitted migrant workers who had registered with local governments for at least six months, had no criminal records and had the skills necessary for their jobs to regularize their status. Domestic workers were eligible to apply. Under the scheme those migrants who were regularized were given work and residency permits for one year.

It is a well established principle of state sovereignty that the state has broad powers in determining granting nationality, admission, conditions of stay, and the removal of non-nationals. In addition, the state has the authority to take measures to protect its national security. State sovereignty, however, also implies responsibility; the power to manage migration must be exercised in full respect of the human rights of nationals as well as non-nationals. In the current international environment (which is characterized by intensified efforts to combat terrorism and manage borders more effectively) it is vital that proportionate balance is achieved between protection of the human rights of the migrants and the need for governments to address legitimate security concerns.

Ratification:

It is a process through which an agreement is validated so that it becomes binding. Treaty ratification is usually done through an act of government in which the legislature votes on whether or not to ratify the treaty. If the vote passes, the treaty is signed and approved. A ratification instrument is the document by which governments confirm that they will comply with the treaty. Ratification binds a state to obey the terms and conditions of the treaty ratified.

Problems in case of ratification

While labor migration has demonstrated numerous benefits—such as the economic development of sending and receiving states—it also carries hefty costs to those who cross borders for employment. Migrant workers are vulnerable to economic shocks, exploitation, human rights abuses etc. These threats could be removed provided the rights of migrants as enshrined in the relevant international instruments are implemented. The implementation of the rights mentioned in international instruments largely depends on the necessary institutional infrastructures and ratification of the instruments. There are multiple problems in the ratification.

1. Expensive undertakings

Ratification involves costs. The creation of an environment of 'good governance' is necessary. On the whole, major problems are posed by the lack of resources, at the governmental level.

2. High collusion:

There is always a high level constant conflict between government officials and those involved in the human resources export business (recruitment agencies). Different policies within sending and receiving countries conflict making it difficult for all parties involved to enjoy the full benefits of

international labor. To effectively address this transnational issue, multi-state collaboration is necessary to develop transnational solutions.

3. Heavy costs:

There is an idea that ratification would involve heavy costs of implementation and monitoring. The biggest obligation would be the provision of pre-departure information campaigns and training sessions, the monitoring and imposition of sanctions on brokers and recruiters operating illegally and the provision of embassy services to citizens working abroad.

4. Fear of losing jobs

There is always a sharp competition between sending countries. Countries are afraid of losing jobs abroad.. For sending countries, the fear of being undercut by non-ratifying neighbors is also a major obstacle — fear that they will lose markets if they ratify

5. Lack of media coverage

International migrant workers have not yet become a major topic of concern in the media or among the general population because of their invisibility, hiding and lack of statistics.

6. The absence of Active NGOs activities.

There is no NGO exclusively dealing with migrants rights. The absence of an active NGO movement in this area is a definite disadvantage. There is no collective voice to highlight the situation.

Lack of awareness or ignorance on the part of the migrants themselves, and the strong interests involved in the ‘migration businesses are not favorable to the migrants.

Conclusion : For governance of migration various approaches have undertaken but every approach its own drawbacks.

International Labour Migrants Protection Regimes

Labour migration from the developing world is not a new phenomenon. Underlying these movements is a search for a better life. Migration can help to achieve this by associating people more closely with available employment and services. The monies sent back by migrants (remittance) contribute more to national and local economies than trade in several parts of the developing world. It is substantially greater than flows of development assistance in many countries. Migration acts as catalyst of social change or the consequences of social changes. Migrants are an important population. But unfortunately, it is equally clear that exploitation of migrants exists, and one of the key challenges is to prevent this exploitation from taking place. Particularly, irregular migrants have been a crucial concern for both host country and country of origin. Protection of the migrants and protection of the rights of the migrants, particularly the labour migrants has attained attention of academics, politicians, decision-makers, NGOs.

At global level different attempts have been underway to streamline migration issues. The relevant international instruments provides for the rights and opportunities of the international labour migrants. There are both general and specific international legal provisions for the protection of the rights of migrant workers. The Universal Declaration of Human rights is the standard setter that recognizes that certain principles are true and valid for all peoples without any form of discrimination. The Declaration recognizes the right to leave one's own country, which is significant for the case of migrants. The objectives of the Declaration are reinforced in two international covenants—International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR). Whereas the former recognizes equal rights of men and women to enjoy political and civil rights, including freedom of movement, the latter covenant ensures their right to work to achieve an adequate standard of living including, by joining and forming trade unions and to strike.

International Protection Regime

1. Migrant specific instruments

- a. United Nations
- b. ILO instruments

International Convention on the Protection of the Rights of All Migrant Workers And Members of their Families, 1990

- United nations Convention against Transnational Organizes Crime, 2000
- Protocol against the smuggling of migrants by land, sea and air.

1. Fundamental Conventions of the ILO
2. Other relevant ILO Conventions
3. General Human Rights Instruments of the UN

The ILO Fundamental Conventions

Eight Fundamental Conventions:

- i. Freedom of Association and Protection of the Right to Organize Convention, 1948 (No.87);
- ii..Right to Organize and Collective Bargaining Convention, 1949 (No.98);
- iii.Forced Labour Convention, 1930 (No.29);
- iv.Abolition of Forced Labour Convention, 1957 (No.105);
- v. Equal Remuneration Convention, 1951 (No.100);
- vi.Discrimination (Employment and Occupation) Convention, 1958 (No.111);
- vii..Minimum Age Convention, 1973 (No.138); and
- Viii.Worst Forms of Child Labour Convention, 1999 (No.182).

Migrant-specific Instruments

- (i)Migration for Employment Convention (Revised), 1949 (No.97)
- (ii)Migration for Employment Recommendation (Revised), 1949 (No.86)
- (iii)Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143)
- (iv)Migrant Workers Recommendation, 1975 (No.151)
- (v)Private Employment Agencies Convention, 1997(No 181)

The International Convention on the Rights of All Migrant Workers and Members of their Families articulates even more broadly than the specific ILO instruments the principle of equality of treatment between migrant workers and nationals before the court and tribunals, with respect to remuneration and other working conditions as well as with regard to migrant workers' access to urgent medical assistance and education for children of migrant workers.

Finally, nondiscrimination and equality of treatment are cornerstones of the widely ratified International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR). The UN Convention is based on the two ILO conventions on migrants' rights, which are elaborated below.

The International Labor Norms Regarding Migrant Workers.

The ILO elaborated labour standards specifically to cover migrant workers. The two ILO specific instruments on migrant workers, the Migration for Employment (Revised) Convention, 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), as well as their accompanying Recommendations, provide a framework for guidance on what should constitute the basic components of a comprehensive labour migration policy, the protection of migrant workers, the development of their potentials and measures to facilitate as well as to control migration movements. The ILO Convention No. 97 (Revised) is even more comprehensive and includes conditions governing the orderly recruitment of migrant workers, principles of equal treatment between nationals and regular migrants, provisions for family reunification, and appeals against unjustified termination of employment or expulsion. Its Convention No. 143 addresses the question of irregular migrants and provides minimum norms of protection applicable to migrants in irregular situation, or who were employed illegally, including in situations where their status cannot be regularized. More specifically, they call for measures aimed at regulating the conditions in which

migration for employment takes place and at controlling irregular migration and labour trafficking, and measures to detect the informal employment of migrants with the aim of preventing and eliminating abuses. They also provide minimum standards of protection for all migrant workers, irrespective of their migrant status. In addition, the two instruments call for measures related to the maintenance of free services to assist migrants and the provision of information, steps against misleading propaganda and the transfer of earnings. They define parameters for recruitment and contract conditions, participation of migrants in job training and promotion, and for family reunification and appeals against unjustified termination of employment or expulsion. Most importantly, the two instruments call for the adoption of a policy to promote equality of treatment and opportunity between regular status migrants and nationals in employment and occupation in the areas of access to employment, remuneration, social security, trade union rights, cultural rights and individual freedoms, employment taxes and access to legal proceedings.

The ILO Migration for Employment Convention, 1949 (No. 97) provides the foundations for equal treatment between nationals and regular migrants in areas such as recruitment procedures, living and working conditions, access to justice, tax and social security regulations. It sets out details for contract conditions, the participation of migrants in job training or promotion and deals with provisions for family reunification and appeals against unjustified termination of employment or expulsion and other measures to regulate the entire migration process.

Article 6 of Convention No. 97 provides for equality of treatment in respect of:

- a. remuneration, including family allowances, hours of work, overtime arrangements, holiday with pay, restrictions on home work, minimum age for employment, apprenticeship and training;
- b. accommodation;
- c. social security legal provision in respect of employment injury, maternity, sickness, invalidity, old age, death, unemployment and family responsibilities, and any other contingency, which is covered by a social security scheme.
- d. dues or contributions payable in respect of the person employed.

Article 9 of Convention No. 97 provides that each party to the Convention undertake to permit, taking into account national laws and regulations, the transfer of such part of the earnings and savings of the migrant for employment as the migrant may desire to employment.

(2) The Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) was elaborated at a time when concern about irregular migration was growing. Its two main objectives are:

- (a) to regulate migration flows, eliminate clandestine migration and combat trafficking and smuggling activities; and
- (b) to facilitate integration of migrants in host societies. It does set requirements for respect of rights of migrants with an irregular status, while providing for measures to end clandestine trafficking and to penalize employers of irregular migrants.

ILO Convention 143 provides specific guidance regarding treatment of irregular migration. Part I (Articles 1-9) contains minimum norms of protection applicable to migrants in irregular situation, or who were employed illegally, including in situations where their status cannot be regularized. This principle is expressed in Article 1, where it establishes the obligation of ratifying States to “respect the fundamental human rights of all migrant workers,” explicitly independent of their migratory status or legal situation in the host State. At the same time, Part II (Articles 10-14) this instrument substantially widens the scope of equality between the migrant workers / the rights of migrant workers in regular status and nationals, in particular by extending it to equality of opportunity.

Consistent with the aim of maximizing benefits from migration, article 14 of Convention N. 143 provides for the right of regular migrant workers to geographical mobility. Cases of non-payment or underpayment of wages have also been registered. Ensuring the payment of wages, therefore, is a right of importance to migrant workers and to their countries of origin.

(3) The ILO Private Employment Agencies Convention, 1997 (No. 181) offers better protection for temporary migrant workers and opportunities for employers in industry to combat unfair competition and its Recommendation (No. 188) draws the parameters of policy in this respect.

(4) ILO International Labour Conference, 2004: Resolution on a fair deal for migrant workers:

The resolution provides due consideration to the particular problems faced by migrants workers in irregular status and the vulnerability of such workers to abuse. It suggests for following best practices and guidelines on preventing irregular labour migration including amnesties and regularizations..

(5) The ILO Multilateral Framework on Labour Migration, 2004, a non-binding instrument is a unique compilation of principles, guidelines, and best practices to serve as a toolkit to assist constituents in developing and improving labour migration policies. Its fundamental purpose is to help governments and social partners achieve better, effective management of migration, protection of migrant workers and promoting migration development linkages. The Framework contains 15 principles which relate to, among others things, decent work, means for international cooperation, the protection of migrant workers, management of labour migration, social integration and inclusion and labour migration and development.

The ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines provides a comprehensive set of rights-based guidelines and principles so as a global compilation of good practices on labour migration developed by governments and social partners.

By far, the most comprehensive legal document is the UN Convention on the Protection of the Rights of all Migrant Workers and Members of the Families. It does not propose new human rights for migrant workers, but reiterates the basic rights that have been elaborated in the main human rights international treaties. The UN Convention recognizes the right of all migrants, including irregular migrant workers, to minimum degree of protection irrespective of their situation. The Convention seeks to discourage illegal labour migration, at the same time, it provides additional rights for migrant workers, including to the members of their family. The Convention protects

migrants through the whole migration process-decision making, pre-departure, migration preparation, transit and employment at destination country, and return/reintegration.

The fundamental principles and rights at work

The fundamental principles and rights of migrant workers at work results from:

- (i) freedom of association and the right to collective bargaining;
- (ii) the abolition of forced labour;
- (iii) equality and non-discrimination in employment and occupation; and
- (iv) the elimination of child labour.

These principles and rights enshrined in eight fundamental conventions are considered enabling international labour standards. They entail human rights at work, and respect for them in other areas too, including development. Development here is considered as economic growth, social advancement and greater political participation in countries of origin, sustenance of economic growth in countries of destination, and human capital formation of migrant workers

These principles in the eight fundamental Conventions of the ILO contain provisions are pertinent to non-national workers. These Conventions and the accompanying Recommendations are applicable to all workers, without distinction of nationality, and in many cases regardless of migration status.

All migrant workers, regardless of their status, should enjoy human rights. In particular, all migrant workers should benefit from the principles and rights of the eight fundamental conventions and the relevant United Nations human rights instruments. By providing an organized voice for workers, these standards make it possible for workers' views to be included in national and international economic policies as well as in the workplace. These policies are much more effective and sustainable if they include the voices of workers. The recognition of the right of migrant workers to organize and participate in collective bargaining increases the effectiveness of policies.

Conclusion: Migrant workers' rights are articulated in the international labour conventions adopted by the tripartite members of the ILO. They are entitled to the enjoyment of these rights by the mere fact of being workers. ILO member States are bound to apply the conventions they have ratified. Principles and rights at works deriving from eight fundamental conventions need to be respected, promoted and realized by all ILO member States, in good faith and in accordance with the Constitution, by the very fact of membership in the Organization, even if these conventions have not been ratified. The countries of destination should create the conditions for a positive international cooperation in labour migration, which would meet the interests of countries of origin and destination as well as those of migrant workers themselves..

Existing International Organizations and Migration Governance

International organizations play important role in the migration governance. An international organization is any cooperative arrangement instituted among states usually by a basic agreement to perform some mutually advantageous functions implemented through periodic meetings and staff activities.²⁹ The international organizations that are mostly involved in the migration governance are:

International Organization for Migration (IOM)

IOM, an intergovernmental organization is committed to the principle that humane and orderly migration benefit migrants and society as well. It provides migration services to its member states and to some migrants. Founded in 1951 to help resettle European displaced persons after World War II, IOM now has 127 member states and 93 observers including 17 States and 76 global and regional IGOs and NGOs. It has over 4000 staff, and offices or sub-offices in more than 100 countries.³⁰ It is not part of the UN system. It arranges organized transfer of migrants to countries offering opportunities; provides migration services, such as selection, recruitment, medical screening, orientation, and so forth; services for voluntary return; a forum for dialogue for promotion of cooperation and coordination of efforts on international migration issues, including studies in order to develop practical solutions.

World Trade Organization (WTO)

The purpose of WTO is to bring about “reciprocal and mutually advantageous arrangements for substantial reduction of tariffs and other barriers to trade” among its 144 members. But is also associated with migration governance. The movement of people comes into WTO trade negotiations through the General Agreement on Trade in Services (GATS). GATS recognize four modes of trade in services. Mode 4 involves service providers who are “natural persons” are providing services in another country. This Mode calls on governments to reduce barriers and improve market access to foreign suppliers of services.

International Labor Organization (ILO)

Founded in 1919, it is the only surviving body created by the Treaty of Versailles and became the first UN specialized agency in 1945. According to its Constitution, one of the purposes of the ILO is protection of the interests of workers employed in countries other than their own. The ILO sets standards in a unique tripartite consultation including representatives of labor union confederations, employers’ association and governments in matters of migration. It urges governments to formulate labour migrants friendly national policies in line with the ILO and UN instruments. It thus influences international labour migration governance.

The Human Rights Commission

The 53-member United Nations Commission on Human Rights (CHR), created in 1947, the main UN body deals with human rights. It makes elaboration of number thematic mechanisms to deal with violations of human rights - civil and political, as well as economic, social and cultural - in all world

²⁹ Palmer, Norman D and Perkins, Howard C., International relations, The World Community in Transition, New York, 1953, p. 333.

³⁰ IOM Information Fact Sheet, 2009.

regions. The thematic mechanisms include a Special Rapporteur on the Human Rights of Migrants. Appointed in 1999, it examines ways and means to overcome the obstacles existing to the full and effective protection of the human rights of this vulnerable group, including obstacles and difficulties for the return of migrants who are non-documented or in an irregular situation.” It exercises authority to elaborate recommendations to strengthen the promotion, protection and implementation of the human rights of migrants.

Breton Woods Economic Organizations

The International Bank for Reconstruction and Development, IBRD, popularly known as World Bank is primarily concerned with global development. Remittances have developmental effects. The importance of remittances was not recognized by the World Bank until recently. Now the volume of global remittance flow (\$414 billion (estimated) remittances sent by migrants in 2009 and \$316 billion (estimated) remittances sent by migrants to developing countries in 2009³¹) catches the attention of the Bank. It now undertakes research and analyzes data relating to migrant remittances, its impacts, promotion and formal flow of remittances and some of the other linkages between migration and development.

Regional Intergovernmental Organizations

Regional approaches to migration have tended to emerge from economic unions. They focus on the free movement of migrants within the regions. In European Union, for example, it processes a common policy on asylum and immigration. The policy provides for partnerships with countries of origin with a view to preventing irregular migrants, ensuring human rights of regular migrants, making action plans, recommendations, guidelines and principles on a range of migration-related issues including irregular migrations, harmonization of control mechanisms, providing training for border guards, and coordinating activities among various government agencies with competence in migration.

Conclusion

Dialogue and debate on international migration have proliferated in the period since about 1999, showing that the subject is very much on the international public policy agenda. The globally inclusive efforts that are planned or have taken place in multilateral contexts, such as the High Level Dialogue in the General Assembly, IOM’s Migration Policy Dialogue, UNHCR’s Global Consultations, the International Labor Conference and so forth show that the gap between words and practical results may be large.

³¹ Source Global Estimates: IOM Fact sheets.,2009.

International/ Inter-State Consultations and migration governance

International migration has increased significantly in recent years. Today, approximately one out of every 35 persons in the world is a migrant (United Nations, 2002). It has been more diverse and complex. Almost all sovereign states are now either points of origin, transit or destination and often all three at the same time. Governments in all regions of the world today are increasingly aware of the growing importance of international migrations as well as its multifaceted problems and issues. International migration holds great potential to contribute to the growth, development and stability of economies and societies worldwide. Migration, contribute to sustainable development in countries of origin through, *inter alia*, remittances, investments, diaspora networks, knowledge and skills transfer, and ‘brain circulation’ (reducing the impact of brain drain), social remittances, on the other. These positive contributions can be maximized if there is a good global migration regime. However, benefits migration can be maximized through strategic migration management policies; for example policies formulated to reduce migration cost, transfer costs for remittances, encourage investments by migrants and diasporas, and facilitate voluntary return and integration.

But migration management efforts at the multilateral level have not kept pace with the migration phenomenon itself. International intergovernmental organizations, the UN, UN agencies could not produce expected result in the harnessing international labour migration. Hence, there has been a strong realization of doing something beyond existing supranational governmental structures. It was strongly felt that international labour migration governance in the form international cooperation, coordination and networking could yield better results in terms of co production of services and co creation of values. So, since 1994, profound changes have taken place in the understanding of international collaboration on migration and there has been a proliferation of the establishment of informal States-owned consultation³² mechanisms on migration. States now retaining their sovereign authority and responsibility to determine which non-nationals may enter and stay in their territories, and under what conditions. Hence, there has been the practice and spread of inter-state consultation mechanisms.

Inter-state consultation mechanisms on international migration

Inter-state consultations are important. They may be both at the regional and the global levels. Here are one regional and two global consultative processes, for example.

(a) Regional consultative process on migration

(b) The Berne Initiative on migration, and

(c) IOM’s International Dialogue on Migration.

- Each of these mechanisms specifically focuses on migration, in contrast to consultation mechanisms that address migration as one of several topics;
- Each consultation mechanism has an ongoing nature, in contrast to one-time conferences and short-term consultation processes;

³² Consultation is a conference between two or more people to consider a particular question. Consultations are an important part of how we create policies and strategies.

- Each of the inter-state consultation mechanisms is working to increase understanding of contemporary migration dynamics, identify shared and complementary interests.

a. Regional consultative processes (RCPs) on migration

RCPs are a relatively recent phenomenon. Regional consultative processes on migration (RCPs) are informal groups made up of (i) representatives of States in a given region, or like-minded States in one or more regions with common migration interests, (ii) international organizations, and (iii) sometimes, non-governmental organizations (NGOs). These groups hold informal and non-binding dialogue and information exchange on migration-related issues of common interest and concern. RCPs, outside traditional institutional structures represent bottom-up migration management measures. These types of inter-state dialogue help information sharing, promote cooperation and confidence building and explore collaborative approaches on migration issues.

b. IOM's International Dialogue on Migration

IOM provides International Dialogue on Migration. It serves as a platform for IOM member States and observers to exchange views and experiences with a view to facilitating inter-state cooperation on international labour migration. It also serves as a platform for promoting coherence between migration and related policy domains as well as with others stakeholders and actors.

c. The Berne Initiative

The Berne Initiative is a States-owned global consultation mechanism. The Berne Initiative was launched by the Government of Switzerland (Swiss Federal Office for Refugees) at the International Symposium on Migration in June 2001 ("Berne I"). It institutes interstate dialogue and cooperation on migration management at the global level

d. Inter-agency Consultation

There are two other important ongoing nature complementary consultation mechanisms on migration; they are inter-agency rather than inter-state ones. They are Geneva Migration Group (GMG) and the United Nations Coordination Meetings on International Migration ("UN Coordination Meetings"). They facilitate inter-agency cooperation and coordination and the exchange of migration-related information. They promote synergies between the agencies. The members of the GMG aim to promote good governance of migration by working together for wider application of all relevant international and regional instruments and norms relating to migration.

Conclusion: Consultation mechanisms on migration play a significant role in facilitating effective migration management by States based on the principles of good governance, including transparency, participation, responsiveness and accountability, networking among others. The regional and global inter-state consultation mechanisms can play enabling roles to help develop States' capacity. Good governance is increasingly recognized as a crucial foundation for sustainable development. It is now highlighted of global and regional migration dialogues.

The IOM Council traditionally serves as an opportunity to highlight selected significant developments in the area of dialogue and cooperation on migration issues. The proliferation of regional consultative processes (RCPs) on migration and the growing importance of migration issues on the agendas of different regional integration bodies are a testimony to this. Regional initiatives have also proved to be an important stepping stone towards global cooperation.

International partnerships and migration Governance

International migration is a multi-state phenomenon. There are two ends in migration, the sending end, the departing country and the receiving or the destination country. In other words, it is a two way activity between two states. Hence an understanding between the sending and receiving is essentially a necessity. An international partnership on labour migrants is thus significant for migration governance.

Bilateral Agreements on Labor Migration in Matters of Recruitment

There are various types of bilateral agreement mechanisms for regulating interstate labour migration. A formal bilateral agreement sets out each side's commitments and provide for quotas. On the other, a Memorandum of Understanding (MOU) is less formal. Most destination countries prefer MOUs, probably because of its non-binding nature. In case of migration governance, these are easier to negotiate and implement and also to modify, if and when needed, according to changing economic and labour market conditions. Bilateral agreements for the destination countries help achieve a steady and assured flow of labours that meets the needs of their employers and industrial sectors. For the countries of origin, these agreements ensure continued access to overseas labour markets and opportunities to promote the protection and welfare of their workers.³³

These MOUs specify the terms and conditions of workers and both governments are required to ensure the return of workers to their countries upon completion of their employment contracts. The MOUs are also revised as the situation requires in either country. The MOUs are thus a governance structure for recruitment and repatriation policies and also for the protection of workers in host countries. Singapore prefers to rely on market forces for its labour recruitment.

Bilateral agreements in different parts of the world formalize a commitment for procedures and guidelines in migration as well as in offering political, social and economic benefits. Receiving countries are likely to be more cautious in signing such agreements, as these may be formal and legally-binding treaties or informal Memoranda of Understanding. However, they do so to address manpower shortages in their economy and to establish cooperation in the management of both regular and irregular migration. Sending countries are interested in bilateral agreements to ensure continued access to foreign labor markets while promoting protection and welfare of workers.

For migration management destination countries from their sides have entered into bilateral agreements, such as:

- (i) The Republic of Korea-For the hiring of foreign workers under its Employment System, the Republic of Korea has MOUs with Indonesia, Mongolia, the Philippines, Thailand, Vietnam, and Sri Lanka.
- (ii) Malaysia-There are MOUs with Bangladesh, China, Indonesia, Pakistan, Sri Lanka Thailand, and Vietnam to regulate recruitment processes and procedures.
- (iii) Thailand, -there are MOUs with Cambodia, Lao People's Democratic Republic and Myanmar.

On the contrary, there is also the instance of a bilateral agreement between sending countries (Philippines, Indonesia) that establishes cooperation mechanism to jointly promote the welfare and rights, to train and certify as well as to provide legal aid to migrant workers. The formation of these bilateral agreements may be guided by international instruments (ILO Model Agreements).

ILO Publication, Protecting Migrant Workers, p.26.

Under the terms of these agreements , the employment of workers requires prior permission of the authorized agencies of the respective countries, the submission of a list of available jobs and by the other of a list of selected applicants for these jobs , and supervision by both sides to ensure that appropriate visas and work permits are issued, that workers comply with requirements for health insurance, that contributions are paid to a savings' fund, that taxes are paid, and that workers have employment contracts.

Regional Arrangements

In addition to various bilateral arrangements there are also a number of regional and sub-regional agreements on various aspects of migration governance. They typically involve a series of meetings that allow participants to share experiences and develop relationships and a common understanding of mutual problems. One example is the Bali Process. Such regional arrangements hold regional seminars organized by the IOM on irregular migration and migrant trafficking. The ILO also has an agreement with the Gulf Cooperation Council to enhance existing cooperation and implement labour standards for foreign workers.³⁴

ILO Initiatives

ILO is also engaged in fostering networking opportunities not just between governments, but also between employers' organizations, trade unions and organizations of migrant workers.

The ILO assisted with the international networking of trade unions. For example, it has helped link Malaysia's MTUC with unions of Indonesia, Nepal, Bangladesh, India, Pakistan, Vietnam, and the Philippines; and the Korean Trade unions with those in Vietnam, the Philippines and Thailand.³⁵

The ILO's Regional action programme

The ILO Regional Office for Asia and Pacific has launched a regional programme to promote cooperation among member states in addressing migration challenges. The European Commission is supporting this effort with financial contribution to a 3-year project based in Bangkok. The project is being implemented in partnership with UNIFEM.³⁶

Conclusion: International cooperation in terms of dialogue or agreements on migration management considers migration primarily as a social phenomenon connecting and transforming people and places. It focuses on the social and cultural transformations induced in both societies of origin and destination by the temporary, circular or permanent movements of individuals and families, as well as the challenges posed by the changing notions of belonging and identity. As mobility is an essential feature of today's world, it is necessary to identify what measures can be taken by all stakeholders to make the social implications of migration as positive and beneficial as possible, particularly in the context of the current global economic crisis.

□ *ibid*,p29

□ *ibid* ,p.29.

□ *ibid*,p.30

Migration Governance at national Level

National Policy Initiatives: Policy Perspectives

Migration of population today touches almost every country of the world –be it either a sending, receiving or transit country. No country can avoid it. Consequently, national policies/ governance with regard to migration are to be considered from the nature of countries. National policy responses are guided by the realities of the country concerned. Broadly, there are two types of perceptions of state policies regarding migration – one, from the perspective of the sending countries and the other from the receiving countries.

National Policy Framework: A set of International Norms

ILO non-binding framework of 2004 and the two ILO conventions on labour migration and the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families provide the basic framework for national legislation and practice on managing labour migration. These instruments stipulate that States actively facilitate fair recruitment practices in transparent consultation with their social partners, reaffirm non-discrimination, and establish a principle of equality of treatment between nationals and regular migrant workers in access to social security, decent conditions of work, fair remuneration and trade union membership. Accompanying Recommendations provide important policy guidelines, including a model for bilateral migration agreements. The 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families is also based on concepts and language drawn from the two ILO Conventions. It extends considerably the legal framework for migration, treatment of migrants, and prevention of exploitation of irregular migration, though there is no proper estimates of incidences. Workers in regular status also have rights. UN Conventions and ILO 143 assured wages and social security. Basic human and core labour rights return in conditions of dignity.

These three Conventions together provide a comprehensive “values-based” definition and legal basis for national policy and practice regarding non-national migrant workers and their family members. They thus serve as tools to encourage States to establish or improve national legislation in harmony with international standards of migration governance.

Receiving countries

Receiving countries include Japan, Hong Kong, Korea, Malaysia, Singapore, Taiwan, The Middle East, European Union, the USA and Australia

Main Features of Immigration policies “of receiving” countries are marked as:

- No clearly defined or coherent policies, several agencies decide on policies with limited coordination ;
- Immigration –responsibility may range from Ministries of Home Affairs/ Foreign Affairs/ Justice/Interior/ Immigration Bureaus and Departments.
- Admissions policies for employment- 3 objectives ;
- (i) regulate and control the inflow of low skilled workers and protect the national workers in the local market, controls and sanctions amnesties and regularization return policy and deportations, awareness creation on risks, etc.

- (ii) Regulate and attract skilled workers, often as part of foreign direct investment programmes;
- (iii) Prevent irregular migration and combating trafficking
- Foreigners need work permits, for employment. Ministries of Labour, /Board of Investment; may be involved in work permit issues.

Policies of receiving countries

Protection governance is crucial problems. Policies of destination countries are guided by pool factors- magnitude of the demand of labour. The policy perspectives for the receiving countries can be categorized:

1. The first is a series of policy instruments primarily intended to avert the arrival or stay of irregular migrants
2. A second category is a series of policy instruments intended more efficiently to determine the status of asylum seekers;
3. A third category is policies designed primarily to provide people with access to regular migration channels.
4. Policy Experiments in Combating Irregular Migration; Control policies:
From a relatively benign policy towards migrants till the early 1980s, the state had switched to a regulated regime in the mid-1980s and 1990s to control and manage the large inflow of contract migrant workers. But since 1997, it has resorted to very harsh and tough sanctions to stem irregular migration.
5. Policy of Best practices in coordinating social security systems

Japan and East Asia

Japan and the East Asian tiger economies of Korea, Singapore, Hong Kong, Taiwan and more recently Malaysia are often considered as the preeminent examples of economies that attained, or have come close to attaining, at different periods of time, the desirable path of high growth, low unemployment, low inflation, (World Bank 1997).

Japan achieved what has been called its post-war economic miracle from 1952 to 1973, allowing it to wipe out poverty in the country. And while its growth has been relatively stagnant for more than a decade now, it is still the world's second largest economy possessing one of its highest per capita incomes. Korea's ascension to the ranks of industrialized economies was more recent but quite rapid, occurring from the early 1980s to the present, its run broken only briefly by the Asian financial crisis of the late 1990s. Singapore began its own climb towards developed-country status immediately after its independence in 1965 and after opening up to foreign investors - over the last four decades it has grown at an average annual rate of better than 8 percent. Hong Kong's growth began even earlier in the 1950s and 1960s as exporter of textiles, clothes, and toys, although it has moved mainly to financial and trade services since the 1980s - it has grown more than 7 percent per year in the last four decades. Malaysia's development is the most recent of the five countries, having in fact benefited from foreign direct investments from the earlier developers in the group, particularly Japan and Singapore. The Malaysian state's immigration policy and labour recruitment strategies are shaped by its bilateral agreements with source countries, the political, social and cultural contexts of the migrants, and the lobbying power of various employer groups in Malaysia. Essentially, the state did not have any structures or mechanisms in place for the importation of unskilled migrant

Labour Shortage Responses

In response to the huge extent of labour shortage in the country, Japanese government and private enterprises have instituted plenty of responses to try and address the problem.

Korea's response to the shortage has mainly taken the form of automation, relocation, open admission of skilled foreign workers, and the – until recently – reluctant admission of unskilled foreign workers.

Singapore has had extensive experience dealing with labour shortage having relied on foreign workers for needed labour for much of its pre-independence and post-independence history. A desire to attract and integrate high-skilled workers and to phase out reliance on low-skilled workers underpins much of its recent policy responses to its labour shortage. A large percentage of the migrant workforce in Singapore falls into the semi-skilled/unskilled category, and is employed on work permits in low-paying jobs such as domestic work and factory production. Of these, domestic workers experience the worst cases of exploitation due to the nature of their recruitment and employment.

In Hong Kong, off shoring migration and retraining of its workers have been Hong Kong's main response to labor shortage. Hong Kong undertook massive off shoring of its manufacturing enterprises to mainland China beginning in the late 1970s to accomplish the dual objectives of addressing its labour shortage in lower-skilled workers and at the same time improving its export competitiveness by utilizing the much cheaper labour in the mainland.

In the midst of its industrial boom in the early 1990s, Malaysia undertook several policies initiatives to better equip its workers for the needs of its booming economy (Kanapathy 2000). In 1990, it launched its Action Plan for Industrial Technology and Development. In 1993, it established the Human Resource Development fund to mandate the training of workers. (Kanapathy 2000). In other words, Malaysia designed to meet its workforce from within and its policy is therefore rather restrictive.

Taiwan, Province of China during the late 1980s, began to experience a shortage of labour among its low-skilled workforce. This shortage of low-skilled labour threatened the very survival of Taiwan's labour-intensive industries so that many employers in these industries started to recruit illegal immigrants from abroad. By 1989, it was estimated that there were approximately 30,000 illegal foreign workers in Taiwan, and the majority of them were found working in the construction and labour-intensive industries. To clamp down on these illegal foreign workers, the authorities in 1989 issued a decree that permitted foreign workers to enter the Island and work for a number of specific projects; these workers were provided with a one-year work permit with the possibility of an extension for one more year. The admission of such a small number of foreign workers was unable to meet the needs of the employers in the private sector and the employers thus put great pressure on the authorities to admit more foreign workers into Taiwan. As a result, in 1991, the authorities issued work permits for more foreign workers to work in 15 job categories within six manufacturing industries where the employers faced severe labour shortages. In 1992 the authorities then went on to enact the Employment Service Act (ESA) which established an official mechanism whereby employers in Taiwan would be permitted to apply for foreign workers openly.

Foreign workers that are admitted into Taiwan are allowed on a temporary basis and cannot under any circumstances change their status to that of permanent immigrants. Employers are allowed to recruit foreign workers only from the CLA-designated Labour-sending countries, i.e., Indonesia, Malaysia, Mongolia, the Philippines, Thailand, and Vietnam, because of less cultural difference and better diplomatic relationship. Among the sending countries, Sri Lanka, Philippines, Indonesia and India are the major ones. That is, Taiwan's ' labour import policy is very much selective as well as restrictive.

The last two decades have seen the ASEAN region emerge as a major area for cross-border movements of labour. In 2005 the UN estimated the population of migrants in the region at 5.6 million of whom probably more than 4 million are economically-active. These all suggest that continued expansion of the labour migration system can be expected in the coming decades. Whether or not the movements will be orderly and mutually beneficial will depend on the soundness of policies of both origin and destination states. But more importantly, the extent to which the states succeed in cooperating with one another in order to give greater effect to their respective policies the better.

The oil-rich six Gulf countries Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and United Arab Emirates (UAE) which are joined together for several purposes in an association known as the Gulf Cooperation Council (GCC) comprise a region with exceptionally high international migration of persons originating from a wide range of countries. During the 1970s and 1980s, large scale migration of "guest" workers started to enter as a response to the increase in the price of oil, and the consequent plans of the GCC countries for rapid development. Such plans necessitated the import of very large numbers of foreign workers. In the initial stages, construction workers were a major category of workers imported. While the demand for construction workers declined somewhat with the completion of projects, a persistent demand for such workers still exists, especially for the creation of new housing projects and buildings required for the growing number of nationals. With the growth of their population and workforce and completion of construction projects and saturation of the needs for foreign workforce in cleaning services, helpers, and domestic service, the demand for foreign workers declined drastically in the GCC countries. The continued predominance of foreign workers in the population and labor force of the GCC countries has been accompanied by a whole range of policies to regulate and manage such migration. For the last three decades expatriates have come to outnumber nationals in several of the GCC countries' populations. Consequently, a general policy was formulated that aimed at curtailing the number of foreign workers. This general policy started getting translated into action through various means during the mid 1990s. The driving force behind these restrictive policies is the rising level of unemployment among the nationals. The situation is giving rise to difficult economic and political questions for the governments.

Thus, summarily, labour migration policies in Gulf Cooperation Council Countries have been marked by

- Private sector led sponsorship or Kafala system of recruitment.
- Major restrictions on migrants' rights: strictly temporary contract migration retention of identity documents, tied to one employer, poor working conditions, no family unification.
- High share of non-national workforce, also Asian workforce.
- Localization of policies for reducing dependence on migrant workers;
- Reducing the size and growth of irregular migrant labour market.

In European Union –a significant progress is being made towards a common policy on asylum and immigration. Key elements include partnerships with countries of origin, a common asylum system and a series of legislative, operational and financial measures targeted on irregular migration.

The United States, Canada and Australia, are the ‘classic countries of immigration’ and their current populations are the result of histories of large-scale immigration. These countries have, for the most part, managed policies of immigration. They perceive immigrants as future permanent citizens and encourage family reunification.

Colonial empires such as the United Kingdom, France and the Netherlands, that had extensive Empires, permitted the entry of emigrants from former colonies. After the Second World War, there was increased immigration from former colonies and permanent residence and family reunifications were generally permitted. Most migrants enjoyed formal citizen rights, although this no longer applied since the Nationality Act 1981, (Castles and Miller 2003). Thus, developed states are particularly worried with irregular migrants. They have undertaken various control steps to meet the issue of irregular migrants .But States failed significantly to reduce irregular migration.

There were several dilemmas that make policy –making so difficult in this area .These are:

(a) Lack of Political will

There is a consensus among many commentators that certain States lack the political will to address irregular migration. They hold that irregular migration can not be addressed on a unilateral basis by individual destination states. It requires meaningful cooperation between countries of origin, transit and destination;

(b) Labour market demands

From an economic perspective irregular migration is quite functional for many destination countries. Irregular migrants provide a cheap source of labour and are often willing to work in sectors in which regular migrants and nationals are not. Political leaders in destination countries maintain mum over the issue of irregular migrants.

(b) State sovereignty and human rights

In order to maintaining inviolability of borders states have resorted to control policies of irregular migration. They are overwhelmingly control- oriented. In the name of security and state sovereignty the European Union countries, for example, have externalized their border controls. Some of these policies aim to reduce the scale of irregular migrations. They brought it under securization leading to killings and thereby human rights violations.

Migration Number and Security concern of States:

Facilitated by the forces of globalization, changing demographics, persistent disparities in wages and opportunity, and natural disasters, migration has gained prominence and has become a defining feature of economic , social and political life in a mobile world .

The control policies: its impact and effectiveness

There is a growing consensus that control policies alone cannot prevent irregular migration. There are a number of reasons why these policies have failed to achieve their goals (Castles 2004).

First, Some of the factors that shape migration are largely beyond the control of direct state intervention such as globalization, conflict and widening economic disparities between different parts of the world. Considering the cost of control policies many states now view return as an integral part of policy on irregular migration. But there are three debates as to the effectiveness and consequences of return of migrants.

- (i) the extent to which return actually impacts on the scale of irregular migration;
- (ii) how best to achieve returns;
- (iii) how to make sure return is sustainable.

But return may also incur problems - there is a risk of returning people to a precarious situation. Experts on the subjects argue that only an assisted voluntary return might be an effective way to promote return. But return to be sustainable it must be voluntary. Return and reintegration assistance appears to encourage sustainable return. Some destination countries are in favour of deportation of irregular migrants.

Return –both voluntary and deportation – has far more chance of success when there is genuine dialogue and working partnerships between countries of destination, origin, and as necessary, transit countries too. The most common policy framework in this respect has been bilateral readmission agreements.

Second, once a migration becomes established, its momentum is very hard to stop. In part this is a result of social networks, a consequence of social change and chain or circular migration. In part; it is because of a multi billion dollar migration industry that has evolved over the years. The industry has a variety of stakeholders including travel agents, recruitment agents, and lawyers.

Ways of addressing irregular migrants

There are a number of ways of addressing irregular migrants:

(i) Regularization.

(ii) Humane border controls

Harsh border enforcement makes migrants less likely to return to their country of origin, which weakens their ties with their homelands and, in turn, lessens the flow of remittances.

(iii) Pension transferability

A system of pension transferability between host and home countries could also encourage migrants to return to their countries of origin.

(iv) Improving facilities in sending countries

Developed countries that recruit from poor countries could implement education and training programs in the developing countries which would help provide skilled workers for the recruiters and provide training to otherwise uneducated citizens.

(v) Giving citizenship to the migrants

Migrants can be given citizenship status based on their reason for entry into a host country, which is necessary for employment, family unification. Eligibility for full social rights could be based on whether the migrant was able to maintain a residence and employment.

(vi) Civic stratification

Civic stratification serves as a way to monitor those migrants lawfully present in a country. Under a civic stratification structure, undocumented migrants either are absent or explicitly excluded from any citizenship rights.

Now, around the world, it is an undeniable fact that migration cannot be stopped and migrant workers have become indispensable to many economies. There is now a common understanding that the global economic, social and cultural dimension of migration must be more effectively realized. Receiving countries' governments should ratify international human rights conventions in view of the large population of migrant workers in their countries to incorporate these provisions into their national law and to implement them through public campaigns, monitoring and enforcement. In this context, the importance of applying the principle of non-discrimination to migrants is to be addressed repeatedly. The problem of illegal migration cannot be solved with tackling the gross exploitation and unfair treatment of legal migrant workers and devising systematic 'migrant worker program' with adequate appreciation of human aspects in the policy principles.

National Policy Framework: Sending countries

The national policy on migration aims to promote opportunities for all men and women to engage in migration for decent and productive employment in conditions of freedom, equity, security and human dignity. It is intended to do so through the institution of policies, laws, regulations, services and facilities for migrant workers and their families. Special emphasis is laid on the development of skills as a main and effective means of protection for migrant workers and their families.

Objectives of migration policies

Migration in conditions of freedom, dignity, equity and security is desirable. For a safe, orderly and humane migration three basic objectives of migration policy – good governance, protection and empowerment of migrant workers, promoting development benefits of migration are set to achieve.

Criteria of good migration policy

Good governance in migration management needs to address

(a) Policy coherence, (b) transparency, (c) normative base, (d) gender sensitivity, (e) social dialogue, (f) evidence based.

Governance Challenges

There are a number of challenges in ensuring good governance in migration system. These are:

- Institutional capacity for administration of migration for foreign employment;
- Formulation and implementation of transparent policies,
- Regulation of private recruitment agencies,
- Reducing cost of migration;

- Policy coherence among different ministries / agencies dealing with migration Involving social partners and other stakeholders, ;
- Cooperation with destination countries through bilateral or regional agreements and MOUs.

Protection Challenges

- Eliminating abusive migration practices; retention of identity documents , sending workers in irregular status ,
- Protecting female domestic migrant workers;
- Addressing trafficking and smuggling for sexual and labour exploitation;
- Protecting abuse and exploitation in destination countries: consular facilities;
- welfare of families left behind –especially, children

Migration for foreign employment policy

Migration policy has two aspects: emigration policy and immigration policy. The State, having the primary responsibility for the protection of migrant workers and their families, undertakes to protect and empower migrant workers and their families in all three stages of the migration process.

- At Pre-departure (from decision-making to training to preparation for migration),
- While in-service (for workers in employment and families left behind)
- On return and reintegration (with consideration for reintegration, acceptance and appreciation).

The State, in particular, will undertake to set minimum requirements for the profile of migrant workers to ensure their welfare and protection, develop an environment within which potential migrant workers can make informed and considered decisions to migrate for work, further minimize irregular and abusive recruitment processes, and offer significant measures to prepare and train migrant workers psychologically and professionally. This includes psychological and public health advice and support.

Instances of National Policies

Policies of sending Countries; these include the policies of Bangladesh, India, Pakistan , Sri Lanka, the Philippines and Vietnam.

The monies sent back by migrants (remittances) contribute more to national and local economies than trade in several parts of the developing world. It is certainly substantially greater than the flows of development assistance in many countries. Sending countries such as Sri Lanka, the Philippines and Vietnam have encouraged migration to solve unemployment, to reduce social discontent, and to earn foreign exchange. As a whole, state policies for sending countries are guided by push factors .. Policies are designed to ‘manage’ migration flows, facilitate emigration, maintain and social and family linkages, improve the safety of migrant workers and their families in destination countries; encourage safe and proper channel inflow of remittances and investment thereof. A central concern especially for labor-sending countries is the extent to which they are able to protect their citizens during their employment abroad. It is more like a trade policy of a developing country. Sending countries can take into consideration pre-departure training arrangement, skills improvement, model contracts and

contracts enforcement, appointment of Labor Attaches and Welfare Officers in time of considering national policy formulations.

Country Instances

Vietnam: The country has been described as a labour surplus country; its large population coupled with a history of wars creates significant pressures for labour migration. Overall, the "demand-pull" factor of income and the "supply-push" factor of excess labour supply interact to induce labour migration from Viet Nam. With a large underemployed workforce, the government has followed other Asian migration players in actively promoting labour export with the multiple aims of easing domestic under- and unemployment, and increasing the inflow of hard-currency remittances and national revenue.

The country's labour export policy is marked by three main waves (Dang, 2000). The first and second waves were directed to Eastern Europe and the Soviet bloc, aimed at partly financing Viet Nam's mounting debts to these countries. The third wave started in 1994, with East Asia becoming the main destination for contract workers. Labour migration has increased significantly since the late 1990s with East Asia and some Middle East countries being the major destinations of Vietnamese workers.

Sri Lanka:

Out-migration in Sri Lanka dates back to the decade of the 60s during which time. The oil boom in the Middle East in the 1970s shifted the dynamic of out-migration in Sri Lanka. In the 1980s, a new shift occurred in out-migration to coincide with the onset of globalization alongside the specific socio-economic conditions within Sri Lanka. The increasing demand for unskilled or low-skilled labor in the global market, largely in the domestic household sector, coupled with women's entrance into the labor force in Sri Lanka produced a third wave of migrants consisting largely of household maids. The facilitating measures include Pre-Departure Training, Skills Improvement, Model Contracts and Contracts Enforcement, The Overseas Workers Welfare Fund. Besides, Sri Lanka has ratified the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Philippines

Overseas Filipino Workers (OFWs) are often called modern-day heroes and their remittances frequently credited with having kept the country's economy afloat in the face of myriad political and economic crises over the past three decades. The Philippines is the largest sending country of migrant workers in South-East Asia. There are around 4.7 million temporary Filipino migrant workers in either regular or irregular status. Every year around one million migrant workers leave the Philippines for jobs abroad. Most Filipino migrant workers do not avail of the social security coverage of their host countries, unless the host country has a bilateral social security agreement with the Philippines.

To facilitate the migrants the government has undertaken Social Security System (SSS) scheme aiming to establish, develop, promote and perfect a sound and viable tax-exempt social security system suitable to the needs of the Filipino people. SSS is mandated to provide meaningful protection to members and their families against the hazards of disability, sickness, maternity, old-age, death and other contingencies resulting in loss of income and financial burden. It endeavors to extend social security protection to workers and their beneficiaries. SSS administers the Social Security Programme and the

Employees' Compensation Programme. The Social Security Programme provides replacement income for workers and their family members in times of death, disability, sickness, maternity and old-age. The Employees' Compensation programme provides compensation to the worker when illness, death or accident occurs during work-related activities. In addition to these benefits, members can also avail of salary, calamity, housing and business loans.

INDIA:

India follows a regulated system in respect of foreign employment policy. The policy regime mainly addresses temporary and contract migration. The most important policy instrument, the Emigration Act, 1983 deals with the emigration of Indian workers for overseas employment on a contractual basis and seeks to safeguard their interest and ensure their welfare.

Prior to the enactment of this legislation, the Emigration Act of 1922 governed the migration of Indians across national boundaries. The main purpose of this Act was to regulate and control the recruitment and emigration of unskilled agricultural workers. According to the Act, emigration of unskilled workers involved notifications for specific countries. A number of initiatives have been taken in India since independence to recognize and honour the significant contribution of overseas Indian community in India's social and economic progress. These include Pravasi Bharatiya Divas, Overseas Citizenship of India (OCI) Scheme and The Pravasi Bharatiya Bima Yojana, 2006, Incentives for Recruiting Agents. The performance evaluation may be based on a number of criteria such as quantum of recruitment, quality of those jobs, welfare activities, compliance with the rules and regulations etc. Suitable weights may be assigned to these criteria when evaluating and rating the performance of recruiting agencies.

Pakistan

Pakistan has developed institutions and set rules to regularize the labour recruitment processes. The official cost of labour recruitment is very low. In order to make the recruitment processes transparent and to prevent and eliminate exploitation, to curb exploitative practices on the part of a minority of unscrupulous recruiters, intermediaries and employers the government has devised the recruitment mechanisms in Pakistan. Ministry of Labour, Manpower and Overseas has also established Community Welfare Attachés in selected countries to oversee the employment conditions and welfare of Pakistani workers. A Complaint Cell for overseas Pakistanis was established in the Ministry for resolution of grievances through the Overseas Pakistanis Foundation (OPF). A range of services have also been set up by the OPF for the benefit of migrant workers, including pre-departure briefings, Foreign Exchange Remittance Card Scheme, vocational training, welfare fund and a Pension Scheme. Bilateral labour agreements have been concluded with a number of receiving countries. Pakistan is, in addition, a member country of the "Colombo Process", a regional forum for labour sending countries in Asia to discuss and share experiences and best practices on overseas employment and contractual labour, and to optimize its development benefits.

A viable and comprehensive National Policy Required

The governance of migration needs a viable policy both at national and international level. The policy should base on the existing international norms, recommendations already agreed to by representatives of nearly all governments of the world, and the experience of ILO with its tri-partite constituents over 80 years. At micro level (unit level), experts identify five core elements for viable and comprehensive standards-based national policy.

- 1) Transparent labor migration admissions system
- 2) Standards-based approach:
- 3) Minimum national employment conditions
- 4) Action plan against discrimination and xenophobia:
- 5) Consultation and coordination mechanism

These five themes may be the most essential lines for advocacy and practical work that assures protection of migrants and promotes decent work for all workers.

Way Forward for labour migration Policies

In matter of getting rid of the anomalies of the migration problems , the following steps need to be taken.

- (i)Steps to be taken to address governance, protection and development objectives (ii)Activities based on interstate cooperation and dialogue , involving all stakeholders-social partners and civil society should be undertaken;
- (iii)Transparent policies with full respect for rights and equal treatment of both national and foreign workers in line with international norms (ILO Multilateral Framework on Labour migration);
- (iv)Due consideration should be to gender specific concerns;
- (v)Policies should be framed based on proper assessment of short term and long term labour market demand for migrant workers;
- (vi)Effective use of regional integration frameworks for promoting freer mobility of persons and labour within regions particularly SAARC;
- (vii)National policies should be based on decent work opportunities at home, and facilitating migration by choice, and not by need (GCIM);
- (viii)Steps should be made for improving migration data and information to facilitate evidence based policies.

Conclusion:

A sending country's migration governance policy should be shaped by the search and accurate identification of new avenues of migration , their transparent recruitment ,safe journey, and arrival with legal documents , right placement , ensuring appropriate workplace and decent work , the protection of basic human and labor rights in destination countries, proper and timely workplace inspections , trade unioning, tripartite/ social dialogue, safe return and easy reintegration at home countries. Policies for migration governance should be based on effective consultation and coordination between government agencies social partners, civil societies as well as other concerned stakeholders. Governments need to develop robust legal frameworks that incorporate international human rights standards and consider the situation of migrants explicitly. It is the implementation of such standards that requires particular attention – creating relevant institutions, raising awareness and building capacity are among the most important steps to ensure all relevant actors have the knowledge and tools to apply human rights principles in their daily interaction with migrants.

The way in which each state manages the issue of migration should remain within the prerogatives of the state; however, its practices should comply with international agreements. These agreements, if negotiated correctly, could encourage cooperation and integration, which would return greater social and economic returns, as well as greater protection for international migrants.

**Governance of Migration and Transnationalisation of Migrants' Rights –
An Organizational Perspective³⁷**

³⁷ This is taken from Piper, Governance of Migration and Transnationalisation of Migrants' Rights –An Organizational Perspective.

The global policy debate on labour migration in recent years has centered upon the “management of migration”, with the main theme of promotion of cooperation among states in dealing with international migration. Another development has been the revival of a rights-based approach to the ‘management’ of labour migration by the International Labour Organization (ILO). Today, civil society organizations also play a significant part in the governance structures, especially when it comes to raising issues and concerns of ‘the marginalized’ such as irregular migrants. Civil society activism has taken place beyond the confines of the nation-state. They have become transnational by establishing advocacy networks across the region and beyond. Now, in an era of increasingly fluid migration patterns a transnational perspective is applied in addressing migrants’ socio-economic and legal insecurities – theoretically as well as on the operational level.

In this study an attempt is made to briefly outline today’s migration patterns and migrants’ rights issues, second, examining to what extent the emerging governing regime for labour migration, particularly, the irregular ones, has created an environment of enabling the protection of the rights of migrants rather than control, third, a discussion of the importance of a transnational approach to the rights of migrants, specially, the undocumented ones, rather than the issue of control, deportation, return ..

Temporary Migration Schemes and Migrants’ Rights issues around the World

According to ILO, Asia constitutes the region with the second largest volume of migrant workers after Europe (22.1 million or 27% as opposed to Europe’s 27.5 million or 34%) (ILO 2004:7). In recent decades, there has been a gradual shift of direction of destinations from the Middle East to East and Southeast Asia, with Malaysia, Hong Kong and Singapore having become major ‘importers’ of migrant workers from Indonesia, the Philippines, Bangladesh and elsewhere.

Asia contrasts with Europe and traditional immigration countries. Asian governments on the whole have practiced temporary migration schemes only. And, they thus, officially prevent migrants in the lower skilled categories from settling and reuniting with their families in the host country. This results in situation of lacking integration and family unification policies. In these circumstances, the acquisition of permanent residence status, let alone citizenship, remains out of reach for most migrants in Asia.. The system that evolved in Asia did not involve governments as such. It is contrary to the government-to-government arrangements in Western European guest-worker programs of the 1950s and 1960s. Here, recruitment has largely been left to private agencies and a dense network of brokers and intermediaries, giving birth to a practice of financial exploitation at all stages of the migration process (Asia 2005).

There are undocumented migrants. The number of undocumented migrants is especially high in certain countries. In the case of Malaysia they amount to about 50%, with the highest percentage being in Japan at about 68%. Amongst other, this has to do with porous borders, for instance,

between Malaysia and Indonesia.. The high occurrence of irregular migration has partly as a result resulted in wage discrimination and rampant labour rights violations.

In the absence of family reunification policies in Asia, migrant households very often constitute transnational ‘split families’. Moreover, the strictly temporary nature of migration and the high occurrence of undocumented migration encourages deportation, leading to unsafe, risk stay and perilous escape journey, capture, imprisonment and return migration. Migrants becoming unable to meet their targets, very often incurring high debts in the recruitment process, are compelled to re-migrate. This leads to a vicious circle of migration and remigration.

Migrants’ Rights Issues

As observed earlier, unskilled, lower skilled, semi-skilled temporary migrant workers form the majority of labour migrants particularly in Asia. They tend to work mainly in the informal and secret areas that are dirty, dangerous, and demeaning sectors of the labour market or in sectors where labour standards are not applied or do not even exist for local workers. Thus, they are more vulnerable to labour and human rights violations as opposed to the skilled migrants.

In these circumstances, besides human rights issues, the key issues and concerns for foreign workers with regard to workplace grievances can be broadly classified under two headings: 1) employment related, and 2) welfare, occupational health and safety issues. Employment-related issues mainly include non-payment or under-payment of wages and unauthorized deductions. Issues related to welfare, occupational health and safety are concerns pertaining to accommodation, long working hours and workplace hazards. The latter also includes work-related injuries and accidents as well as physical/ sexual abuse as encountered by foreign domestic workers. But official statistics on numbers and types of the various workplace grievances are rare and mostly non-existent.

Governing pattern– controlling or protecting migrant workers

International institutions normally address global concerns. In this connection, one important role of the institutional set-up governing international migration is to produce, reproduce and justify norms which resolve global ‘problems’ with migration, particularly labour migration, and shape policy responses. Regimes that are based solely on norms or informal rules are supposed to be weaker and implementation is more difficult to achieve goals. But regimes with strong global institutions are rare. Actually, global institutions can do little by way of implementing policies without state and non-state actors supporting them. In order to really make a difference to people on the ground – here the migrants themselves – their voices need to be heard.

There has been a shift in the global migration policy debate. The shift has moved towards focusing on international cooperation. It was primarily concerned with control over entry and exit especially to prevent irregular migration .Also, broader human rights issues as well as the rights of foreign workers, the migrants themselves, the basic units of analysis of migration, in fact entered into the discussion. The current shift in discourse and policy concerns raises two elements—managing migration and the protection of migrants’ rights— going hand in hand. An attempt is made to see how this is reflected and played out in terms of the various governing institutions including non-

governmental or civil society organizations in their policy making processes and there are mechanisms in place for the actual claiming of rights.

Global governance

Migration today has attained much high attention in global policy. But there is no comprehensive international legal framework governing cross-border movement of people and issues related to this. There is no one single United Nations (UN) agency whose exclusive mandate is international migration. Rather, the present state of affairs is such that there are various UN agencies whose competences include migration issues by focusing on migrants in their separate roles as workers, refugees, women, or non-citizens – but rarely in the entirety of these roles. Thus, migration has been less successfully institutionalized. States, though the constituents of international organizations, governments commonly take a utilitarian approach. Origin countries are often driven by the desire to increase foreign remittances and to solve the problem of high unemployment while destination countries are interested in solving labour market shortages in certain sectors by ensuring a highly flexible and compliant workforce. But governments usually take less notice of migrant workers' needs and concerns. At present, states follow independent domestic policies governing the movements of people but the results of these policies are often not in the best interest of the migrants or the states. States must work towards a standard system of rights for migrants that transcends the national level, protects migrants, and encourages development. There are only a few examples where the formulation of labour migration policies, laws and regulations takes place through formally established tripartite structures. Migrant worker specific instruments are least ratified. Therefore, global governance in case of international labor migration fails to ensure proper management, protect human rights and migrants' interests. It is necessary for the governments within the United Nations to negotiate a normative migratory framework for international migrations as it significantly influences states' economies, demographics, and social issues. The United Nations can be used as a forum for states to interact and agree upon universal, supranational rights for migrant workers. The United Nations, because of its significant role as an international institution, should be responsible for creating and overseeing supranational policy guides regarding migrants' rights.

Regional intergovernmental organizations acting with the UN advanced proposals and individual bodies of the UN cooperated on specific aspects of migration. However, there is a lack of a binding, comprehensive model that claims universal, transnational rights for migrants. Regionally, the European Population Forum, for example, held in Geneva, in January 2004 proposed the Berne Initiative, where the Swiss government took the initiative of establishing the Global Commission on International Migration. The goal of the GCIM, in acting on the encouragement of the UN Secretary General, is to launch a consultative process in order to establish a States' owned framework for cooperation on migration

The ILO and the Office of the High Commissioner for Human Rights (OHCHR) within the UN's current structure are the main standard setting agencies with regard to migrants. The UN Convention for the Rights of All Migrant Workers and their Families (hereafter: CRM) is the only migrant worker specific instrument by the UN which came into force only in 2003. Until fairly

recently, no relevant institutions within the UN had made any efforts to promote this Convention. There is now opportunity for submission of individual complaints to the Committee under certain circumstances. This Migrant Committee (The UN treaty body) now provides an avenue for complaints voiced through civil society organizations.

In addition to the treaty bodies, the UN has another system to monitor specific types (or target groups) of human rights: country-specific or thematic Special Reporters. The Special Rapporteur on the Human Rights of Migrants created in 1999 “examine ways and means to overcome the obstacles existing to the full and effective protection of the human rights of migrants”. The main functions of the Rapporteur include the gathering of information from all relevant sources; the promotion of the effective application of relevant international norms and standards; and the recommendation of actions and measures. In practical terms, this is done in a number of ways, such as sending ‘fact-finding missions’, participation in conferences and meetings relating to the human rights of migrants; the preparation of an annual report to the Commission on Human Rights.

The ILO has historically always included the protection of migrants as workers in its overall mandate and in all of its fundamental core standards. Its conventions relate to migrant workers. Its first migrant-specific convention dates back to 1949 and its second to 1975. To address rights violations, the ILO offers a complaint mechanism based on Article 22 and 23 of its constitution. State Parties, in accordance to these provisions, are obliged to submit reports on the implementation of the eight fundamental conventions. The violation of Freedom of Association is the only issue on the basis of which a complaint can be filed even when the perpetrating country has not ratified the relevant convention. Given its tripartite structure consisting governments, employer and workers’ organization, migrant worker-related concerns and complaints can be channeled through trade unions. NGOs have no direct access to this mechanism but they may seek the support of trade unions. Unions’ attempts to organize and assist migrant workers have resulted in concrete usage of the ILO’s mechanism to advance foreign workers’ rights. In order to increase the effectiveness supranational laws must require transparency on fees on exchange rates.

Regional mechanisms

At this current stage of the debate on global governance of migration, states are often intimidated by what they seem to compromise their sovereignty in the migration area. Regional agreements could be seen as less threatening and, thus, a more effective avenue to go about the advancement of a rights agenda.

Regional human rights bodies play an important role in consolidating a rights-based approach to migration. The most progressive example here is the Inter-American Human Rights system. This offers mechanisms for investigating and promoting human rights in the Americas.

Transnationalisation of Migrants’ Rights

Thus far, it is observed that no instrument of whatever scope is complete in protecting migrants’ human rights, particularly, the irregular ones. Studies reveal serious shortcomings in existing human rights instruments in terms of their flawed coverage of migrant issues as well as poor ratification

record (Satterthwaite , 2005; Piper and Satterthwaite 2007). In these circumstances, therefore, a broader human rights approach is called for. Now, what is needed and emphasized is the significance of political activism in order to advance and promote migrant rights. And as such a transnational perspective to reflect the dominant nature of migration and the socio-political sphere in which migrants move, operate is required. The migrants are as the agent and subject of transnationalism. Migration is, on the one hand, an important aspect of social change and, on the other, one of its key consequences.

The impact of transnationalism on families has come to the attention of policymakers across the world. Transnationalism implies changes and challenges to family unity and can affect children, gender and generational roles as families migrate or when some family members move and others stay behind. Policies on family unity and reunification, marriage migration or so-called “second- and third-generation migrants” are only some of the issues of interest to home and host governments. New policy challenges that result from an extension of family ties across borders and will help governments identify innovative solutions to make transnationalism beneficial for migrants and their families.

Transnational networks is important in shaping migration and migrants’ interaction with home and host societies. A key feature of transnationalism is the cross-border activity of migrants and migrant organizations, which seek to maintain ties with the countries of origin, and develop transnational linkages between two or more societies and thus influence global migration patterns in significant ways.

Transnational perspective

Labour migrants, particularly because of their largely temporary nature encounter a so-called ‘transnationally split family life’ whereby spouses and/or children are left behind. Transnational family life also brings to forefront the issue of state as well as societal responsibility. Family unification or other family-related matters have typically been treated as the realm for destination countries to deal with. But a transnational split family situation is also an issue of responsibility for origin countries as well. For temporary migrant workers, conventional family unification policies are irrelevant or not applicable. Facilitated by increased global telecommunication technologies, more and more migrants have developed strong transnational ties to more than one home country, blurring the congruence of social space and geographic space. There has been too little discussion on the situation of those left behind from a rights perspective. This issue needs to be addressed properly.

In addition, there has been a new development, a trend of rising interest among countries of origin in establishing a link to their nationals residing or working overseas. This is largely driven by origin countries’ recognition or hope that migrants can advance national development from abroad through monetary remittances, skill transfers or investment (Piper and Yamanaka2007) and social remittances. To stimulate such assistance, emigrants are increasingly being endowed with special rights toward this end.

Often, when temporary contract migrants lose their job, sometimes, in cases of unfair dismissal they are made to return home and thus have no channels available for recourse. Given the situation, transnational networking between NGOs and trade unions gains importance and could prove crucial for the protection of the migrants and their human rights. In such situations the involvement of lawyer associations would be vital. Freedom of association and the freedom to form organizations, in order to address the violation of specific labour rights thus constitute a vital core labour standard. A transgovernmentalism approach may prove useful to address these types of situations.

The above trends and issues point to the gradual transnationalisation of rights³⁸. Conceptually, the idea that origin and destination countries have obligations towards a migrant is covered by existing international instruments only in a specific and narrow manner. Therefore, a new approach to 'migrants' rights' is called for. The approach is supposed to conceptualize rights as broader responsibilities on the part of both the sending and receiving states as well as societies, and that the political process of advancing and promoting rights in form of transnational political activism .

Organizational Representation of Migrants around the World

Labour movement through trade unions has historically constituted an important vehicle for the representation of workers' interests. And trade unions have to adapt to a world of labour market to ensure their relevance as 'social reform' actors. Also, besides, trade unions; there has been a rise in the numbers of migrant associations. Moreover, NGOs can and are witnessed globally advocating for migrants' rights and offering essential services to this highly marginalized group (labour migrants) of workers. NGOs can address a protection deficit which is not often tackled by trade unions (Piper 2005a). In order to incorporate migrant workers into overall political struggle to uphold labour standards, recent studies have argued for a need to enhance collaboration between trade unions and migrant organizations (Piper and Ford 2006). These different types of organizations have their respective strengths and (also weaknesses) different opportunities for advocacy and labour organizing.

Transnational organizing by the migrants

In view of contemporary migration patterns being largely of short-term nature, often irregular, it is crucial to link country of origin to country of destination in analyzing international migration issues and formulating responses. Government policies rarely reflect such mutual responsibility. Therefore, it is the nongovernmental forces to work on highlighting this. So, much of the literature on transnational advocacy networks focuses on NGOs or civil society organizations role. But unfortunately, there is a big question mark as to the extent to which migrant worker NGOs are able to form alliances, especially within destination countries, and assert sufficient pressure on governments to achieve change. (Wee and Sim 2005). It is the rise of NGOs and other voluntary

³⁸ By this, it is referred to: (1) rights which migrants maintain vis-à-vis the country of origin when crossing borders; (2) rights which migrants gain when entering the destination vis-à-vis the country of origin and destination; (3) rights which migrants keep and gain when returning to their country of origin.

associations committed to addressing dire needs and alleviating serious problems of migrants in general and migrant women in particular has been a subject to research.

In the context of protecting foreign workers, the meaning of transnational networking and organizing, , refers to (1) local citizens campaigning on behalf of non-citizens; (2) activists following their compatriot migrant workers to the destination and campaigning on their behalf from there; (3) migrants campaigning on their own behalf challenging the government at the origin as well as destination; (4) migrant workers or their compatriot activists campaigning on behalf of all migrant nationalities, not only their own nationality group.

A supranational framework that regulates, clarifies, and simplifies rules and procedures for migrants regarding conditions for residence and employment would be advantageous because migrants are not guaranteed these benefits worldwide.

Conclusion

International migration poses a new challenge in the subject area of migrants' rights. The conceptual and normative linkages between a rights based approach to migration have yet to be worked out. Transnational and traninstitutional networking and coalition building from below by making creative use of global and regional governance structures may seem to be a possible way forward.

In the current political climate, the role of the regional level arrangements is probably more significant than the UN system. Most states at this stage are intimidated by what they perceive compromise their sovereignty in the migration area. In this context, the UN is still a significant venue for voicing rights concerns.

Migration associations and trade unions have key leadership roles to play in generating common strategies in mobilizing societies to ensure the implementation of a rights-based approach to the management of migration. The increasing levels of international labour migration and the political activism surrounding foreign workers when seen from a transnational perspective – have the potential to strengthen labour activism in general by highlighting the global connections between local and foreign workers.

The International Labour Migration Governance: The Case of Bangladesh

1. International labour migration (ILM) across sovereign national borders expanded rapidly in the 1980s. The phenomenal expansion was the result of the economic and demographic differences between countries; the role played by migration networks, transformations in communications, and lowered transport costs. The event witnessed the emergence of new regional migration patterns including fast growth in the demand for skilled as well as less-skilled migrants' in particular occupational categories; the creation of sub-regional labour markets; and the increasing feminization³⁹ of the migrant labour force.

Bangladesh is a huge human resource surplus country; and as such it belongs to the supply side of global labour market. Bangladesh is a labour exporting country with a regulated migration regime. Since mid- 1970s, millions of people have gone abroad to take up employment. It is estimated that at any given time over years at least 7 million Bangladeshis are employed abroad. Migration has contributed to employment opportunities within the country. Private recruiting agencies, their agents and sub-agents, travel agencies, medical centers, intera- state transportation owners and workers, all earn their livelihood by processing migration (Siddiqui). Last year (2009), Bangladesh received around \$11 (eleven) billion as remittance and at present about 7.00 million Bangladeshi labour migrants are at work abroad.⁴⁰ This amount of remittance was more than what it received as foreign aid. The steady flow of remittances has resolved the foreign exchange constraints, improved the balance of payments, and helped increase the supply of national savings. Remittances also constitute a very important source of the country's development budget. (Siddiqui-Star,2004)

2. In consideration of the weightage of labour migrant remittances, let alone NRBs(Non Resident Bengalis) labour export is very much crucial for Bangladesh economy as it has a very narrow export base .Ready-made garments, frozen fish, jute, leather and tea are only few major export items to name. They along with other non –traditional items account only for four-fifths of the countries export earnings. The garments manufacturing is treated as the highest foreign exchange earning sector of the country (US\$4.583 billion in 2003). But compared to the net earning from migrant workers' remittances is higher than that of the garments sector alone. In 2003, net export earnings from ready made garment were estimated to be between US\$2.29 billion and US\$2.52 billion, whereas net earnings from remittances was US\$3.063 billion. In fact, since the 1980s, contrary to popular belief, monies sent by migrant workers have played a much greater role in sustaining the economy of Bangladesh than the garments sector. During the period 1977-1998, the annual average contribution of remittances was 26.5 per cent. This has been used in financing the import of capital goods and raw materials for industrial development. ((Siddiqui and Abrar, 2001).

3. Sequentially, in 1998-1999, 22 per cent of the official import bill was financed by remittances (Afsar, 2000; Murshid, 2000). The steady remittances flow has resolved the foreign

³⁹ Formerly only male workers migrated. But now increasing number of female workers also go for overseas employment with the ban /restriction on female movements withdrawn.

⁴⁰ This was disclosed by the Expatriates Welfare and Overseas Employment Minister in an Radio interview with BBC Bangla transmission on 2nd December,2010.

exchange constraints, improved the balance of payments and helped increase the national income and savings (Quibria, 1986). Mention worthy, in the year 2000, total volume of remittances amounted to 50 per cent of the country's total development budget. Such is the importance of remittances, a by-product /backward linkage of labour export/migration from Bangladesh.

4. The contribution of remittances to Gross Domestic Product (GDP) has also grown from a meager 1 per cent in 1977-1978 to 5.2 per cent in 1982-83. During the 1990s, the ratio hovered around 4 per cent. However, if the unofficial flow of remittances is taken into account, the total contribution of remittances to GDP would certainly be much higher. Murshid (2000) finds that an increase of BDT (Bangladesh Taka) 1 in remittances would result in an increase in national income of BDT 3.336.

5. In October 2010, remittances went up to \$917 million, from \$837million in September. The amount was \$900 million in October last fiscal year. However, during the period from July to October, remittances fell by .90 percent compared to the same period last year. The July – October period last year saw a growth of 21 percent. The earning in the four month period this year was \$3.57billion, down from \$3.60 billion during the same period last year.⁴¹ However, though the value of per capita remittances has declined over the years, the total value of remittances has increased in absolute terms(. Siddiqui, Star,2004). Overall, the remittances by migrants have a major impact on the national economy. The importance of labour migration as a foreign exchange earner as well as job generator can hardly be overemphasized.

6. The massive labour out migration from Bangladesh turned to be a significant source of financial flows in the form of remittances. This proved to be a valuable and inexpensive source of foreign exchange available for economic development of the country. The Statistics Department of Bangladesh Bank records the annual flow of remittance from all over the world. The remittances by migrant workers have grown over time. It increased from a partly figure of US\$23.71m in 1976 to US\$1806.63m in 199 (Siddiqui, Abrar,2003).

7. The government creates laws that regulate the recruitment of its nationals for employment abroad. The actual recruitment is mainly left to the market. Within this context, in matters of migration governance, four main measures may be identified: bilateral agreements, MOUs between Bangladesh and labour receiving countries, individual imitative, migration family networks. Earlier movement bans on females have resulted in migration being driven underground; for migrant women, the risk of being undocumented has made them even more vulnerable to exploitation and abuse (Amarjit, 2007).

8. Labour migration in particular, from Bangladesh has got a bit long history. Bangladesh, a labor intensive economy, has had a significant imbalance in the human resources market in the country. Necessity, more than option, forced Bangladeshi laborers to migrate to other countries for employment. Also, a choice for better earning prompted many to migrate.

⁴¹ Remittance sedges up as Eid nears, The Daily Star Business Page , dated 5th November, 2010.

9. For Bangladesh it starts from the origination of demands for workers by the foreign employer – the receiving end. Initially and particularly to the Middle Eastern countries it started in the early 1970s following the oil crisis when Middle East countries earned lot revenue and concentrated on building their infrastructures. It opened up huge overseas jobs , reduced the unemployment rate at home, one of the major problems of Bangladesh and helped earn record foreign currencies as well . From seventies workers migrated in large numbers to the Middle East and other parts of the world, including also Europe and other Asian countries while large scale migration to East and South East Asia commenced in the late 1980s. Systematic recording of migration of Bangladeshi workers started from 1976 when the Bureau of Manpower, Employment and Training (BMET) was created under the Ministry of Labour and Employment of the Government of Bangladesh. BMET is in charge of keeping the record of Bangladeshis who have left or leave the country for overseas employment. BMET has classified temporary migrant population into four categories: professional, skilled, semi skilled and unskilled. Doctors, engineers, teachers and nurses are considered professionals, manufacturing or garments workers, driver, computer operator and electrician are considered skilled, while tailors and masons etc. are considered semi skilled. Housemaids, cleaners and menial labourers (e.g., cleaners, cart loaders, and carton pickers) are considered unskilled workers. High share of low skilled migration has had high concentration of flows to the Gulf and Middle Eastern countries with high incidence of irregular trafficking.

10. Actually, international labour migration from Bangladesh has a far long history. In the early 1940s work opportunities in British merchant ships paved for Bangladeshis the way for migration. Ever since, the migration route has taken various twists and turns but transcended voyages in search of better life continues. The present form of labour migration genuinely began in the 1970s to cater to the labour needs of the Middle Eastern countries. Gradually, such migration expanded to the newly industrialized countries of Southeast Asia. This type of migration is principally of short duration ranging from 2 years to 5 years.. This migration takes place on the basis of specific job contracts. Almost all of those who participate in this labour market return to Bangladesh on completion of their contracts (Siddiqui,Abrar,2003).

11. From 1976 to 2005 half of the total migrants were unskilled (Bangladesh Economic Review, 2006). In 1995 professionals, skilled and semi-skilled workers were 52.42 percent of total migrants. But in 2005 it increased to 55.46 percent. The composition of worker going abroad for 2004 was: professional 0.77 percent, skilled worker 44.98 percent, semi-skilled 9.71 percent and low skilled 44.54 percent.⁴²

12. The formal "export of manpower" was launched in 1976 with the number at 6,087 workers only. In 2005 the export went up to 252702. From 1976 to April 2006 altogether 42,73000 people have migrated from Bangladesh on overseas employment. Bangladesh exports contract labour mostly to Middle Eastern and Southeast Asian Countries. Saudi Arabia, UAE, Kuwait, Oman, Malaysia and Singapore are some of the major countries of destination. Saudi Arabia was the largest employer of Bangladesh migrant workers. Bahrain, Qatar, Jordan, South Korea, Brunei, Mauritius, Italy, UK, USA, Spain, Japan, France, Australia, Canada are also preferred

⁴² See . Bangladesh Economic Review, 2006.

countries for migration. Saudi Arabia alone accounted for nearly one half of the total number of workers who migrated from Bangladesh since 1976.

13. However, the labour market for Bangladeshi migrant workers is not static. Although during the 1970s, for example, Saudi Arabia, Iraq, Iran and the Libyan Arab Jamahiriya were some of the major destination countries, Saudi Arabia remained the top destination with Malaysia and the UAE also becoming important receivers. Later, Malaysia used to be the second largest employer of Bangladeshi workers. However, since the Asian financial crisis of 1997, the number of Bangladeshis migrating to Malaysia has plummeted and the UAE has taken its place.

14. Meanwhile, new countries of destination have emerged. New destinations include South Korea, Taiwan, Singapore, Japan, The Maldives, Albania, Rumania, African Countries. And while a larger number of professionals and skilled workers used to migrate in the early years of short-term migration, Bangladesh has now created avenues for unskilled and semi-skilled market.

15. Workers, under the skilled migration category are considered to be professionals; they are in great demand and earn high salaries. On the other hand, workers recruited under the unskilled/semi-skilled category are employed on temporary worker schemes to perform a specific job and are employed on work permits. They cannot access the labour market directly and are recruited through private agencies and under specific bilateral agreements (MOUs) between the labour-exporting and labour-importing countries. These workers are employed primarily in the agricultural and fisheries sector and in the tertiary sector in manual (construction) and service employment, with little direct foreign capital involvement. Domestic workers are recruited under a system of sponsorship and the sponsor is normally a national citizen. Unlike other unskilled workers, who are employed in the regulated workplaces and who come under various employment enactments, the sponsors of domestic workers have a monopoly over that worker's activities in the host country.

16. Between 1996 and 2002 about 3.24 million Bangladeshis migrated for overseas employment and remitted 23.7 billion dollars during this period.⁴³ These numbers exclude those who go abroad undocumented and made remittance through un-official channels. It gradually expanded both geographically and numerically. Today labour migrants both male and female are spread and present almost all countries of the world. New avenues are being explored and discovered day by day. Nearly 4.75 lakh workers migrated abroad last year while the figure was about 8.75 lakh in 2008⁴⁴.

17. In the 1970s, the government was responsible for carrying out the functions of recruitment. However, since 1981, this role has been being carried out by private recruiting agents, as part of private sector development. Bangladeshis who migrate for foreign employment are handled by the private sector and monitored by the State Bureau, BMET. Private sector operates amidst excessive competition to secure jobs. Therefore, in the process they charge exorbitant fees

⁴³ Quoted in: Miyan, Prof. Dr. M.A, Dynamics of Labour Migration- Bangladesh Context, International University of Business, Agriculture and Technology, October, 2005.

⁴⁴ The Daily Star, October 30, 2010.

(unlike neighboring Nepal, India Pakistan and Sri Lanka), manipulate the migrants and provide lower standard employment and sometimes expose migrant workers to unanticipated risks.

18. The private agencies work under licenses from the government. On their own initiative, they collect information on demand and orders for foreign employment. After obtaining permission from the BMET, the agencies recruit workers as per the specifications of the foreign employers and then execute the procedures involved in their deployment. Over time, the recruiting agencies became organized under the Bangladesh Association of International Recruiting Agencies (BAIRA). This association was formed in December 1984 with representatives of 23 recruiting agencies. By 2002, the association had a membership of around 700 agencies and by now it has stood at around 1000. Labour recruitment from Bangladesh involves various government ministries and agencies; private recruiting agents, their local and international intermediaries; potential migrants and their families. About 55-60 per cent of recruitment is conducted through individual initiatives and social networks. (Siddiqui, 2002).

19. The recruitment process of migrant workers in Bangladesh is complex. The whole process is characterized by the involvement of a host of intermediaries, some official and legitimate, while others are clandestine and dubious. The recruitment of migrant workers is actually in the hands of the private recruiting agents and individuals. The practice of the recruiting agencies lacks transparency and this leaves room for misappropriation of money. Recruiting agencies normally purchase visas and after maintaining their profit margin sell them to individual migrants who live in the remote rural areas where almost no recruiting agencies has any field offices. They are based in the capital city, Dhaka. In this situation they recruit through a host of agents and sub-agents. These informal intermediary agents, popularly known as dalals perform two most important functions (Siddiqui,2004), i.e., recruitment of workers and financial transactions without money receipt. The dalal system has not been institutionalized. They are not formally registered either with the recruiting agents they serve or with the government, and do not possess any formal identification documents. The dalals are not accountable to the government. This has created a situation where both recruiting agents and their sub-agents can commit fraud and evade responsibility. In this process a good number of those who wish to migrate are cheated and lose much of their assets while processing migration .The migrant workers are made to send their remittances mainly through “hundi” system which is a method that by-passes the banking system and involves risks . This financial irregularity causes financial losses to the government exchequer.

20. When the migrants are on migration process, they do not have access to licensed recruiting agents neither do they realize the importance of keeping papers. They are not even aware of their rights; hence it becomes almost impossible for them to assert their rights. Before embarking on short-term contract migration, it is of immense importance that a migrant worker has at his or her disposal specific information about the destination countries, and his/her rights and duties under the legal regime of the receiving countries, cultural sensitivities and physical environment of the receiving countries. The migrant worker remains unaware of these issues and all information he or she possesses on these issues are derived from verbal interaction with the dalals. (Siddiqui, 2004).Lack of access to information , rights, duties and privileges prior to migration put migrants into vulnerable situations.

21. Moreover, because of unscrupulous recruiting, the population of migration in an irregular situation has grown significantly in a number of destination countries with a variety of issues, from protecting the interests of low skill native workers to protecting migrants from exploitation on account of their status. Migrant workers are still not receiving equal wages as native workers in spite of laws providing for non-discriminatory treatment. They cannot organize trade unions and are often excluded from the coverage of social security.

22. Moreover, there is a sharp competition among the labour sending countries. Such competition is resulting in a continuous lowering of wages and degrading the terms and conditions of work in destination countries. Moreover, to discourage dependence on overseas labour, some of labour receiving countries have introduced a levy to be paid by the employer when they recruit foreign workers. With competition for these jobs among the labour-sending countries, the employers found that they could conveniently shift the government levy to the recruiting agencies of the labour-sending countries. As a result, the recruiting agencies are deprived of commission for supplying labour. Besides; they also have to purchase the visa from the employers by paying the fee that the employers are required to pay to the government, the burnt of which is borne by the migrants. Consequently, migration costs get rise in high proportion.

23. The buying and selling of labour migration visa (visa trading) is a profitable business for a certain group of people in destination countries. It is reported that a nexus of interest has developed among high-level state functionaries in the labour-receiving countries, their recruiting agents, a group of expatriate Bangladeshis and a section of Bangladeshi recruiting agents. As a result, it has become extremely difficult to secure a visa through what were formerly considered to be the regular channels. Now this nexus is involved in visa transaction through irregular practices. The visas are then put into auction to other agents who have less access to visas. The recruiting agents again realize the money from the migrants. The result is the high cost of migration.

24. The migration system or cycle has become extremely complex over the years. The migrants even do not have any knowledge of the job he is being offered. In destination, he is to accept inferior, indecent work, less wages, poor food and unhealthy accommodations. Furthermore, he is denied holidays, payment for overtime works and social protections. True, poor access to health care and unhealthy living and working conditions are reflected in diseases such as jaundice, gastric problems, skin diseases and tuberculosis. Migrants are also employed in hazardous and risky jobs – often resulting in accidents and, in some cases, death. Migrant workers are noticed to make complain about the lack of adequate safety measures on construction sites, in heavy machine operating factories and in factories where chemicals are used. In the event of accidental death, the worker's family is entitled to compensation. But obtaining compensation is reported to be a painstaking process (Siddiqui –Star,2004).For migrant workers, this ensuing complex situations is continuously eroding their enjoyment of rights at work (Siddiqui –Star, 2004).

20. Additionally, ensuring the rights of migrants as stated in the international human rights and labour rights instruments in the country of destination faces major challenges. Migrants are reported to lack the opportunity of social dialogue, a process through which employers and

employees resolve their differences in order to ensure social equity. Migrants in destination countries are denied collective bargaining system, the mechanism through which employees/workers assert their rights. Two types of institutions: trade unions and associations-are supposed to be operational. Trade unions are the institutions through which wage and other work conditions are negotiated and associations are the bodies that are used for fulfilling their cultural and social needs (Siddiqui). But these two institutions for migrants in destination countries are not seen operating. The migrants are mostly deprived of trade unioning.

25. Like other sending countries' migrant workers Bangladeshi migrant workers are often made subject to neglect, harassment and violation of rights, deportation in the destination countries. It gets aggravated as sending countries including Bangladesh are disposed to take up the issue seriously to the host countries or international forums for fear of loss of labour market (Khatri, 2007). Migrants are not given inspection visits to their work places in destination countries by sending countries' (like Bangladesh) competent and relevant government officials, trade unions or NGOs and international organizations' representatives. According to studies, inadequate investment by these states including Bangladesh to develop institutional structures to look after the welfare of migrant workers and establish effective regulatory framework to check corruptions and exploitations is vastly responsible for this type of situations this. States only count foreign remittances by the labour migrants but are not inclined to invest in this sub-sector. It appears that the states are acting like freeloaders at the cost of the migrant workers who invest their own resources to bring in so much financial benefits and their newly acquired skills to the region. In the receiving countries, embassies of the South Asian countries are not proactive enough to deal with the problems faced by migrant labourers and in most cases these embassies are ill equipped to handle complaints due to lack of adequate manpower and resources from their home countries.⁴⁵ Bangladesh is a country of South Asia.

26. The migrants also suffer from lack of good governance. The real issue is the transparency and accountability in the sending country itself. South Asian countries do not rate very high on the governance scale, and where corruption is concerned there is usually a nexus between bureaucracy and politicians since they are often in collusion to exploit the process for their personal benefit (rent seeking). In Nepal, for example government officials these days want to go to the Department of Labour than to the Customs Department as it now a most sought after place of employment as there is money to be made from the innocent laborers waiting to go abroad.⁴⁶ This example may not be an exception, but the general rule in many South Asian countries including Bangladesh

27. The violations of rights of migrant labourers start at home by agents and recruitment agencies in the sending and these continue in the receiving countries. As most of the migrant workers come from rural areas these people have very little access to and knowledge of pre-departure information. They have to rely on informal agents without official designation, who often operate without the best of intentions. The lack of adequate information and inadequate

⁴⁵ In the case of Nepalese migrant workers, see, Ganesh Gurung, "Patterns in Foreign Employment and vulnerability of Migrant Workers," Nepal Institute of Development Studies, November 2000,

⁴⁶ Madhukar Rana, Comments from the floor, on Chowdhury Abrar's presentation on " Patterns of migration of South Asians to the Gulf region: Their main problems and issues."

knowledge of money transaction, customs and culture often leave migrant workers in a quandary in the country of destination. Some of the common problems faced by them include: seizure of personal documents; contract substitution or irregular job placement that leaves them employed in a job they are least suited; deteriorating wage rates and work conditions that may lead to workers facing nonpayment, or irregular payment, or lack of payment for overtime; work without holidays; lack of health care; and poor accommodations. The question of access to justice system of migrant workers is a matter of serious concern for the at home and abroad. This is not the case for Bangladeshi migrants but a common scenario of the South Asian justice system as well.⁴⁷

28. Bangladeshi labour migrant in destination as well as at home experience /see very limited role of trade unions. Surprisingly, in most of the countries in South Asia there is less and less concern over labour rights as trade unions are usually taken as trouble shooters, and receive negligible attention of the concerned authorities. The workers in the region usually have weak social status, which has led the employers and governments to treat unions as less than equal partners in progress, even after economic liberalization in the region. This is due to a number of factors. First is the nature of the trade unions themselves. The basic characteristics are that they are: often are close to political parties (Khatri, 2007); have a narrow membership base; function with obsolete strategies influenced by over-aged leaders on the basis of personalized power oriented leadership; hold confrontationist attitude; have non-existent second tier leadership; demonstrate negligible gender representation; and are faced with declining membership and power base.

Second, although there are laws to protect the workmen in South Asia, they do not cover those unable to prove their status as a workman.

Third, government policies regarding workers' related programmes /activities are directed to workers in the organized sector. This is true of the trade unions as well since it preoccupied in the organized (formal) sector.

And lastly, at the regional level, trade unions have failed to make collective efforts to see that labour issues are included in the SAARC agenda and other regional activities.

The South Asia Regional Trade Union Congress (SARTUC), the only trade union at the regional level, exists more on paper than in practice. South Asian countries would usually be on a weak footing to argue collective bargaining rights in the receiving countries since such practices are weak in the countries of origin.⁴⁸

29. The mindset of governments of both the sending and receiving countries is another source of trouble for the migrants. Sending countries' governments usually see migration as 'manpower export'. They thus treat the issue of sending migrants like any other commodity to

⁴⁷ 28 Sharu Joshi, Comments from the floor on Chandra Bhadra's paper on "Impact of Women's Remittance on Poverty Reduction in Nepal: A Preliminary Report." in . in Khatri ,Sridhar K. , (2007).

⁴⁸ Pravin Sinha, "Security 'Decent' Conditions for Migrant Workers: ...", *op. cit.* Also, Shiva Sharma, Comments from the floor on Chowdhury Abrar's presentation on " Patterns of migration of South Asians to the Gulf region:", *op.cit.* in Khatri ,Sridhar K. , (2007).

be exported. Speaking frankly, migration is driven by 'pull' and 'push' factor, where the 'pull' factor is determined by the needs of the market. On the other, migrants are badly named. There is the misused concept 'illegal migrants'. This is a distortion used by receiving countries to refer to irregular or undocumented laborers. Sincerely speaking, human beings can't be 'exported' as commodities or be called 'illegal'. Rather, the governments - receiving as well as sending - are to see /examine the factors of their becoming undocumented and address the matter accordingly in order to develop appropriate policy formulation.⁴⁹³³

29. In this context, migration friendly policy interventions by the Bangladesh government is desirable, in reality there is an absence of such policy perspective. The remittances do have positive impact on Bangladesh economy. The remittances make substantial contribution to family welfare, social development and macroeconomic growth. Therefore, good governance in the migration system is a must.

30. Protection Measures⁵⁰

To protect the migrant workers the following steps are supposed to get priority

- (i): Bilateral MOUs between origin and destination countries;
- (ii) Joint liability provisions: local recruiter liable for contract violations by foreign employers,
- (iii) High level missions to and consultations with host countries, to look into welfare of migrant workers;
- (iv) Establishment of standard model employment contracts (Sri Lanka for domestic workers, Jordan for domestic workers, Philippines,);
- (v) Selective bans to countries violating workers rights,
- (vi) Strict regulation of private recruitment companies;
- (vii) Unilateral imposition of minimum wages: for example, the Philippines and Indonesia, India, Sri Lanka. - wages of domestic workers have been set by the government.

Migration Governance in Bangladesh

31. Successive governments realized the importance of this sector and took various steps to manage migration. In 1976, the Bureau of manpower, employment and training has been created. In 1982, The Emigration Ordinance was promulgated. In 2001 a separate ministry named Ministry of Expatriates' Welfare and Overseas Employment has been created. In 2002 Rules have been framed under the 1982 Ordinance. Still it has been difficult to effectively manage migration. Management Challenges are faced at all the stages, pre-departure, during or after return. 32. Migration governance begins from recruitment of workers in Bangladesh, departure from Bangladesh, journey for destination country to placement and stay in destination country with decent work, human rights, labour rights and social protection and safe return to Bangladesh and reintegration to the Bangladesh society again. The function of governance in predeparture phase which includes recruitment, selection through various examinations and pre-

⁴⁹ Syed Saiful Haque, Comments from the floor on Chowdhury Abrar's paper, *ibid.* in Khatri, Sridhar K., (2007).

⁵⁰ Piyasin Wiakramasekara, Senior Migration Specialist, International Labour Office, Geneva International Conference on Migration, Remittance and Development Nexus in South Asia, Crystal Room, - Upper Ta, Samura Hotel, Colombo, 4-5 May, 2009 Organized by Policy Studies of Sri Lanka Frederick Ebert Sorbon, Colombo.

embankment preparation and orientation briefing is to ensure fair /transparent recruitment with which the government machinery, private recruiting agents as well as foreign employers are involved. The recruitment is based on genuine demand letter from the foreign employer .The recruitment process also involves other migration service providers, document examinations, health examinations. In other words it needs the active coordination and cooperation among various government, non-government agencies and stakeholders. a good coordination can make the recruitment fair . Predeparture phase also includes the involvement of travel agents, Bangladesh airlines and other national, international and private airlines, police department. A transparent participation of relevant parties is necessary. At briefing sessions various stake holders are to be involved including trade unions representatives. At the departure point there is possibility of entry of undocumented elements. The emigration department is to deter them not only at airports but also at all exit points of the country.

In the journey /transit phase there is the guide who is to lead the workers to the correct directions and destinations. On arrivals at destination the right person / employer or his representatives, embassy people are to receive the workers. All relevant parties are to be informed beforehand.

At destination, the aspects that are associated with migrants is to place the foreign labour to the work as per contract signed beforehand in the sending country appropriate wages/salaries, workplace non –discrimination protection of work. At social context, the migrants are to be ensured proper food ,accommodation /residence, medical treatment, social al mobility , social and cultural gathering, trade unioning, participation in associations , enjoying holidays, receiving due overtime payments, enjoying social protection including job safety, maternity leaves pensions, family reunifications, old age benefits, workplace injury compensations , dead body carrying costs , getting arrears payments at deaths, health care, education for the children., free from forced labour, free from dangerous , demeaning and dirty works, free from deportations.

On safe, dignified, secure and voluntarily return migrants should be reintegrated to the home society, get opportunity for investment; enjoy welfare benefits, social benefits, human rights.

Legal Governance:

33. It identifies three sources of rights at work for short-term migrants from Bangladesh: international instruments; the laws of both the countries of destination and Bangladesh; and bilateral agreements and Memorandum of Understandings (MOUs) between Bangladesh and the labour receiving countries.

Sources of rights

(i)International instruments

34. There are some important International instruments in respect to migration. ILO , the UN specialized agency to dealing with migration of labour. The most important of the ILO instruments relating to migrant workers are : the Migration to Employment Convention (Revised) 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and the Migrant Workers Recommendations (No. 151) of ILO. Convention No. 97 came into force in 1952 and Convention No. 143 in the year 1978. The 1990 UN

International Convention on the Protection of Rights of All Migrant Workers and Their Families (ICMW) is the most comprehensive instruments concerning the migrant workers. It ensures rights to regular and irregular, male and female migrants. It is important to note that none of the labour receiving countries of Bangladesh has ratified the ILO Conventions or the UN Convention on migration. Bangladesh also did not ratify the ILO Conventions. It has signed the UN convention but did not ratify it yet. As a sending country it is in Bangladesh's interest to accede to the Convention immediately and frame necessary enabling national legislation. (Siddiqui-Star,2004)

(ii) National instruments:

31. Sensing the flow of workers, the patterns and trends of the flow, the volume of remittances, employment opportunities, overall, the importance of the phenomenon and in order to manage and provide better protection to the migrants, a number of different measures have been introduced by successive governments in Bangladesh, including new ordinances, statutory regulatory orders and rules for correct regulation and good governance– focusing on the rights that exist for Bangladeshi migrant workers and the extent to which these are enjoyed in practice

The Emigration Ordinance, 1982

32. The 1982 Ordinance empowered the government for effective regulation of the movement of labour migrants from Bangladesh. The Ordinance is the key regulatory instrument in respect to migration. The Ordinance allows persons only with valid travel documents to emigrate. A letter of appointment or work permit from a foreign employer or emigration visa from a foreign government is considered to be a valid document (Sec 7/3/a). A person selected by a foreign employer through an organization or a recruiting agent recognized by the government under an agreement between two governments is allowed to emigrate (Sec 7/3/b). The Ordinance also empowers the government to prevent /preclude emigration of persons of any particular occupation, profession, vocation or qualification in the public interest (Sec 8/1). The government, under the Ordinance, is authorized to grant licenses to individuals and companies that wish to be engaged in recruitment for overseas employment (Sec 10). The Ordinance empowers the government to cancel and suspend licenses and forfeit security deposit if it is satisfied that the licensee's conduct has been improper or is in violation of the law or prescribed Code of Conduct. However, such actions could only be taken after the licensee was given an opportunity to explain his position (Sec.14/1). Illegal emigrations are punishable for a term of up to one-year imprisonment with a fine not exceeding Tk. 5000. It also contains provisions for penalizing unlawful recruitment efforts (Sec 20). Under the Ordinance, the recruiting agencies are prohibited to charge higher than the prescribed amount of fees for their services (Sec 23). The Ordinance has provisions for penalizing individuals who, in breach of contract with foreign employers, abandon their employment (Sec.24).

Shortcomings of the ordinance

33. The ordinance particularly and broadly provides for the procedural as well as regulatory mechanisms of labour migration. But the Ordinance lacked focus on the rights and adequate welfare of the migrants in destination countries. It also fails to focus attention on the changes and complex dynamics of migration, particularly less skilled migrants

34. The Ordinance provides for safeguarding the interests of the emigrants and to protecting

them from vulnerabilities caused by fraudulent and exploitative practices. Section 24 sounds a warning for severe punishment for an emigrant who contravenes the term and conditions. But it does not tell anything about the factors responsible for contraventions. In this sense it is an incomplete provision.

35. The Ordinance makes no provision for emigrants to seek legal aid neither in home country nor in destination country. The Ordinance provides for regulation of unlawful emigrants, prohibit certain type of emigrants in the public interest, prohibition of advertisement for recruitment without prior permission, strict procedure for granting recruiting licenses, observe foolproof measures in processing emigration, fraudulency in inducing to emigrate and false representation of the government authority. But it is silent about the role of the intermediaries popularly known as dalalas (sub-agents). The dalals have no formal appointment although they are integral part of the recruitment process. They help the recruiting agents⁵¹. But they remain out of scene. The dalal network is not only working within the country, but their sophisticated illegal channel has been developed and is at operation in the foreign lands also. This network involves some expatriate Bangladesh and a section of recruiting agencies. This organized network generally manage visa from the potential employers and then auctions them before Bangladeshi recruiting agents. Due to this malpractice the cost of migration goes up and because of this unethical, inhumane competition migration cost not only increases but also gives birth to anomalies and harassment of migrants. Therefore, the recruitment process of migration gets corrupted; good governance suffers resulting in the slow pace of growth of national economy.

36. The 1982 Ordinance provides for no mechanism to resist the fraudulent and malpractices by the dalals. In the absence of any legal provision, it is hardly possible for government to take any legal action against the dalals. Besides, the ordinance does not throw lights on female migration. A robust, legal framework is needed to stop manipulation of labour supply by the recruiting agents.

37. The 1982 Ordinance has major shortcomings in making the recruitment industry accountable. Potential migrants face fraudulent practices at almost every stage of processing migration. Irregularity in the process of migration has resulted in an increase in undocumented migration from Bangladesh (Siddiqui-Decent work). A clear and secure legal status is critical component to the well-being of a migrant.

38. The Ordinance does not shed lights on irregular migrants. It does not include the ILO Convention 143 regarding irregular migration. It should be updated including the provisions of rights of irregular migrants, the human rights of labour migrants and members of their families under the UN 1990 Convention and labour migration governance of ILO Multilateral Framework. The Ordinance does not focus on international cooperation; it is only primarily concerned with control over entry and exit as well as prevention of undocumented emigration. Now migration 'management' needs a framework in the form of state cooperation.

⁵¹ See Appendix -I.

Rules

39. Realizing the importance and contribution made by labour migrants from Bangladesh, the government of Bangladesh has formulated three rules for mainstreaming the migration system in 2002. These are: Emigration Rules, Rules for Conduct and Licensing Recruiting Agencies, and Rules for Wage Earners' Welfare Fund. These instruments are broadly for the effective administration of the migration cycle⁵² and the welfares of the migrants from Bangladesh

39. Emigration Rules, 2002

The Rules 2002 binds the Registrar (the Director General of Bureau of Manpower, Employment and Training, BMET) to enter into register the particulars of emigrants and recruiting agents, to process the demand papers, to issue emigration clearances of a labour, to ensure that the emigrants are fully aware of the terms and conditions of employment, to render assistance to the emigrants about going abroad and returning to Bangladesh, to inspect conveyance carrying emigrants going abroad and returning to Bangladesh.

40. But unfortunately the poor emigrants are not made fully aware of the terms and conditions of employment, to render assistance to the emigrants about going abroad and returning to Bangladesh, to inspect conveyance carrying emigrants abroad and returning to Bangladesh, to inspect offices of recruiting agents and places for selection of candidates for employment

(iii) Bilateral Agreements, Memorandum of Understanding (MOUs) and migration governance in Bangladesh

41. In the absence of the ratification of international instruments by the receiving countries and Bangladesh, bilateral agreements or memoranda of understanding are important instruments through which protection of the rights of migrants can be ensured. Bilateral agreements can enhance the benefit of migration by reducing the incentives for illegal migration and helping to ensure that migration is of equal benefit to both sending and receiving countries.

Successive Bangladesh governments have sent high-level delegations to various labour receiving states to negotiate such agreements. However, there has been a general reluctance among labour-receiving countries to sign bilateral agreements or memoranda of understanding that are legally binding. In response, the Bangladesh government has developed a minimum set of standards for its overseas workers. This includes wage scales, working and living conditions, gratuity, medical facility, and compensation. When an understanding is reached with any country for sending labour, the Bangladesh government then hands over the set of standards with the implicit understanding that the receiving country will honour it. However, this does not place the country concerned under any legal obligation.

42. In the past, Bangladesh has signed agreements with Iraq, Libya, Qatar and Malaysia on sending labour. In these instances, the Government handed over the expected minimum set of standards to the governments of those countries. For the first time, in 2003, the Government of

⁵² See Appendix -II

Bangladesh signed a memorandum of understanding with Malaysia, under which Malaysia would take 50,000 workers over the years 2004 and 2005. In addition to setting out the number of workers to be employed over the stipulated period, the agreement also laid down rights at work (i.e., wage scales, working and living conditions); level of social protection (i.e., provident fund, gratuity, medical care and compensation); and access to instruments of social dialogue (freedom of association). During the Asian financial crisis, the Malaysian government imposed a ban on receiving labour. When the financial crisis ended, the ban was lifted but Malaysia announced that over the next five years it would only be receiving labour from certain countries, excluding Bangladesh. However, Malaysia was an important labour market for Bangladesh, which the Government did not want to lose. As a result of major efforts at various levels, Bangladesh succeeded in reaching agreement on the resumption of migration to Malaysia. New terms were negotiated stipulating higher wages. However, the new agreement imposes tough restrictions on migrant workers, including a ban on changing jobs and marrying local women, and requires the Bangladesh government to repatriate any migrant workers in breach of the contract.

42. The Rules also provides that efforts shall be undertaken to make the employer bear all the necessary travel expenses for going to and returning from the place of work. In case where the employer does not agree to bear the travel expenses of the emigrants, the recruiting agent shall bear the expenses and realize it from those travel expenses from the employer. If the recruiting agent appoints any emigrant and the employer refuses to accept that emigrant, the recruiting agent shall bear the travel expenses of such emigrant. But in practice, it is not done, the recruiting agent; it is alleged, instead of obtaining travel costs from the foreign employers in collision with the employers' charges exorbitant fees from the employees. The government can in no way control the naughty elements.

43. There are about 1000 recruiting agencies in Bangladesh. The agencies have a brisk business. They have an organizational set up named Bangladesh Association for International Recruiting Agencies, BAIRA. To regulate the behavior of the agencies the recruiting Agents' Conduct and License rules was framed in 2002. The recruiting agents Conduct rules provide that every recruiting agent shall keep a regular office and display a sign board; has a display and counseling centre for briefing and counseling; select technically and physically fit candidates; select candidate from data bank bang after it establishment ; get the name of every candidate for the overseas employment written into the data bank of the district Manpower Office; arrange the medical examination properly; comply the provisions of the contract in letter and spirit. At the time of collecting demand, the recruiting Agent shall strictly follow the rules stated below:

44. The recruiting agent shall try to establish communication with the new companies, avoid competition with another recruiting agent, shall not accept such conditions in respect of service charges, conveyance, salary and facilities which are less than those given to the earlier recruiting agents; such conditions regarding service charge, and salary, which are less than those approved by the government and for the emigrants; be sure that the emigrants must not get less salary and enjoy fewer facilities than those stated in that contract; there shall not be any understanding oral or written, between the employers and the recruiting agent for whom the emigrant might face any problems regarding salaries and other facilities; copy of the contract shall have to be given and be read out to every emigrant in presence of the registrar ; shall not accept any demand from

any such employer who has earlier reported to deprive other recruiting agents from his due commission; shall not receive any other fee excepting the service fee; shall not involve himself or abate or help any person in any illegal activities such as visa fabrication, and illegal use of group of visa or of tourist visa, of student visa or of Omron visa for overseas employment.; shall not, knowingly and willfully, recruit less skilled emigrant for any employer; must uphold national interest and ideology at the time of doing business with foreigners; shall refrain from doing or speaking of anything which is detrimental to the image of the nation; no conditions of service, which are less than those stated in the contract, shall be acceptable; at the time of collection of demand, recruiting agent shall not adopt any means which is detrimental to the interest of the emigrant or nation; shall select candidate from data bank at the time of processing demand.

45. At the time of selection of the emigrant, the recruiting agent, shall comply the following instructions strictly; provide information to the emigrant by notification; inform the migrants all the facilities of the service ; claim only the service charges determined by the government ; render all sorts of assistance to the emigrants to stay in foreign country; meet up all claims of the emigrants; ensure the presence of the emigrants before the briefing centre; arrange employment of at least thirty emigrants within five years from the date of the issuance of the license, otherwise, the licence of such recruiting agent shall be deemed to be cancelled soon after the expiry of the validity period of the license.

46. But in real world, they do the different thing. There is any outline of the structure of responsibility of the association. But the association has the potential to ensure the right and welfare of the migrant workers and the members of the association. The association should be more accountable, proactive and dynamic in determining the duty and responsibility of the organization. All money transfers should make on receipt. undocumented acceptance of money by the recruiting agents should be strictly prohibited. The government should promote mass awareness.

46. The government also formulated the Wage Earners Development Rules. It was designed that (after coming this rule into force) , the Government shall, by notification in the official Gazette, constitute a Governing Board for the management of the Bangladesh Wage Earners' Welfare Fund. The Board shall take project for the welfare of the wage earners and may allocate money from the fund for financing the project; invest the money of the fund by purchasing the government saving certificate or in any profitable sector; allocate money from the fund for the welfare of the wage earners or members of the family of the wage earners; allocate money for the management the fund; the money of the fund may be used in the development of any school of ' madrasha, etc. any other action may be taken for the management of the fund; may prepare budget for the fund; members may go abroad for the welfare of the wage earners' the Government may assign any other power other than the powers stated in sub-rule .But little has been done as yet.

Therefore; to cover up these lapses and gaps the government formulated the Overseas Employment Policy, in October, 2004.

Overseas Employment Policy, October 2004: Policies of the State

47. The Policy focused on: Governance of the migration process, protection and empowerment of migrant workers and their families, linking migration and development processes.

48. The salient features of the policy include embracing all types of voluntary migrants for foreign Employment and Bangladeshi Diaspora population., developing human resource, processing recruitment, maintenance of current labour market and exploration of new markets, protecting the rights of migrant workers at home and abroad, remittance flow and investment in official channel, welfare of expatriates : economic and social reintegration of returnees, creating institutions, developing institutional infrastructure for policy implementation ascertaining the responsibility of different ministries and departments related to overseas employment. It also provides for procedures for awarding licences to the private recruiting agencies and regulating the behavior of private recruiting agencies.

49. The policy provides, in principle, that the government will provide assistance to both male and female workers to freely choose quality employment. The government is committed towards ensuring universal human rights and, rights at work place permitted under the labor laws of the receiving countries and social protection of all workers, who are processing overseas employment or are already working abroad. The government will pursue recognition of workers' social identity along his / her economic identity. It will assist the workers to establish their rights to form or become members of associations, both in Bangladesh and in the countries of employment

50. The policy also aims at ensuring the prospect of regular migration both long term and short terms any citizen both men and women from all parts of Bangladesh in a rational cost, ensuring complete abolition of any scope of irregular migration, protecting the rights of, dignity and security of all migrant workers in and outside the country, encouraging participation of new and private institutions in recruitment of workers, rewarding successful recruiting agencies for their achievements (on the basis of discovering new markets , sending skilled workers ,sending female workers collection of demand notes with good wages at lower cost , etc), considering misconduct in the recruitment process as an act against national interest and will make the concerned persons governmental and private organizations accountable, initiating different projects to ensure well-being of the migrant workers through utilization of the Wage Earners Welfare Fund, allocating necessary resources to strengthen the existing institutional infrastructure and personnel with skill for the implementation of the above policies, coordinating among various ministries, government and semi-government organizations including BAIRA and other international and multinational organizations, migrant workers association involved in the labour migration management will be institutionalized. Thus, there are a number of stakeholders involved in the migration system.

51. As per the policy the receiving countries are required to reach bilateral agreements with authorities in Bangladesh to provide protection and welfare to visiting Bangladeshi workers; adopt procedure to address reasonable grievances of the Bangladeshi migrants, compensate victims of abuse and violence. The Bangladesh government in coordination with receiving countries is to regulate the process of recruitment with transparency, ensure quality recruitment, introduce professionalism and maintain accountability in migrant services.

52. For the protection and empowerment of migrant workers and their families the policy it

provides that the government institutes a number of programmes and schemes that cover issues of governance in the entire process of labour migration, particularly the protection and welfare of migrant workers, their families and members of their families left behind.

53. The Diplomatic Missions in receiving countries shall place as priority their duty to protect migrant workers and will ensure safe repatriation for all workers in need. The mission shall ensuring safe and dignified after completion of contract period.

54. In the pre-departure stage, the State will establish minimum requirements to qualify for labour migration pertaining to age, literacy and suitability for selected work categories. Recognizing that migration for employment is a voluntary decision and a right enjoyed by all citizens, the State will undertake measures to assist potential men and women migrants in their decision-making process to migrate for employment and will prevent dissemination of misleading information. Measures will be put in place to prevent exploitation and abuse in recruitment of migrant workers, upgrade training courses to improve competence and capacity, assist in preparation for travel and employment overseas, and conduct all necessary medical tests prior to departure. Migrant workers will be able to avail themselves of pre-departure counseling and psychological preparation for working and living overseas.

55. While in-service, the State will provide mechanisms to protect migrant workers from exploitation and abuse, and will ensure that Diplomatic Missions in host countries have adequate systems and services to assist all migrant workers in each country and work towards their protection and welfare in a proactive manner. A plan for provision of benefits and services for migrant workers, including insurance, pension and welfare, will be developed by the State and made available for all migrant workers and families. Repatriation policy will be handled through the placement of contractual responsibility and liability on recruitment agencies. Embassy officials shall pay inspection visits to work places of the Bangladeshi migrant workers in countries of employment, hold tripartite dialogues and shall, if necessary, raise the issue of welfare to the host government in accordance with the provisions of international human rights and migrants specific instruments.

Finally, the State will formulate a policy framework to protect the children of migrant workers through registration, monitoring and special benefits.

56. Upon return, the State will design and implement a mechanism to facilitate return and social reintegration services for migrant workers. This will include due recognition of migrant workers and enable them to enjoy priority access to services, special services on arrival at the airport, guidance and skills for reintegration, tax concessions and special benefits to children of migrant workers. The State recognizes civil society organizations and trade unions to be another effective means by which migrant workers can avail themselves of an environment for successful reintegration.

57. Under the Immigration Ordinance, 1982 and 2002 rules the BMET has been entrusted with managing overseas employment programme and the welfare of migrant workers and their families.

The Issue of Ratification of ICMR

58. Ratification of international instruments binds ratifying states to comply with the provisions of the instruments. In case of migration, the ratification of the ILO instruments and the UN 1990 conventions obliges the ratifying states to obey the provisions relating to the migrants' right, protections of the rights of the migrants at home and in host countries, their rights-human as well as labour. The ratification is beneficial for the migrants, particularly if it is ratified by the labour migrants receiving country. In the absence of ratification of international instruments by the receiving countries bilateral agreements or memorandum of understanding are important instruments through which some of the problems can be resolved. But there is a general reticence of the labour receiving countries to sign any bilateral agreement and memorandum of understanding that has legal bindings. (Siddiqui, Star, 2004). Bangladesh, though sends huge migrants, has itself not ratified the 1990 UN conventions yet. So, the provision of the above instruments is of no use to the Bangladeshi labour migrants. To enjoy privileges of these instruments Bangladesh is to ratify the instruments and persuade the receiving countries to ratify the conventions. Moreover, Bangladeshi missions abroad should move and maneuver for the enforcement of international migration laws, norms, normative values, human rights declarations by the labour receiving countries. For the welfare of the migrants Bangladesh should seek international cooperation, should make good use of RCPs, global dialogue on migration hosted by international agency and organizations like IOM. It may form SAARC regional consultative forum on labour migration to pursue the migrants receiving countries to ratify the 1990 UN Convention.

59. The Government of Bangladesh signed the ICMR in 1998. But the government has not yet ratified it. The recruitment industry also is not so inclined to ratification of the Convention. (Siddiqui).

60. But for the welfare of the migrant as well as the country there is a strong demand from different quarters for ratification of the 1990 UN Convention. The demand first began to be articulated in 1997 and since then there has been continued pressure on the government. Civil society organizations including NGOs, particularly the human rights ones can be strongly vocal for the fulfillment of the demand for ratification. They can hold seminars, symposiums and workshops with participation with migrant receiving countries resident representatives in Dhaka in a bid to convince them to raise the issue of ratification of the ICMR to their respective governments. Research organizations like RMMRU (Refugee and Migratory Movement Research Unit), NGOs like the Welfare Association of Bangladeshi Repatriated Employees (WARBE) and the Bangladesh Ovivashi Mohila Sramik Association-BOMSA (the Association of Female Migrant Workers of Bangladesh) have become the major lobby groups. RMMRU, WARBE, BOMSA continuing their efforts at regional, national workshops, seminars, discussions, social dialogues on the issue of the ratification of the 1990 Convention.

61. On the other hand, the government should make a realistic examination of its position. It should carefully study the impact of ratification by other labour sending countries like Sri Lanka, the Philippines, and Vietnam. It should hold talks with concerned international organizations like ILO, IOM. It should responsibly, accountably and sincerely hold talks with civil society, trade union representatives, think tanks, research organizations and coordinately

decide what the best to the interest of humble migrants is. With it a number of things are involved, not only remittances, welfare of the state, migrants, their families, stakeholders, internal dimensions, external dimensions. The government is, in a democracy, to ensure welfare –good governance, good enough, governance –development, Hence for governance-cooperation is required

62. There is a need for a more intensive and sustained campaign for ratification. Engaging the members of the parliamentary standing committee on Overseas Employment could be an important form of intervention. A much wider range of human rights, women's groups and trade unions should come forward with more strong voice and carry on continued campaign on the issue. The media, journalists who are interested in migrants' rights issues has a strong role in articulating the demand for ratification, Involvement of the media can help to create public support for the cause and this may influence the Government to ratify the Convention. The government then could influence the receiving countries for ratification. The real benefits the migrants, stakeholders, sending and receiving countries lies in the mutual ratification of the Conventions. Ratifying the convention will help protect the migrants rights through better regulatory framework in the overseas recruitment process.

The Institutional Governance

Labour recruitment from Bangladesh involves various government ministries and agencies; private recruiting agents and their local and international intermediaries; and potential migrants and their families.

Ministries

In Bangladesh five key government ministries deal with international labour migration: the Ministry of Expatriates' Welfare and Overseas Employment; the Ministry of Home Affairs; the Ministry of Foreign Affairs; the Ministry of Finance; and the Ministry of Civil Aviation and Tourism. The Ministry of Labour and Employment was in charge of international labour migration until 2001. Then in December 2001, the then Government established a new ministry in response to demands from expatriate Bangladeshis and migrants to look after their affairs.

This new ministry – the Ministry of Expatriates' Welfare and Overseas Employment implements the rules framed in 2002 under the Emigration Ordinance 1982. The Ministry is assigned to promote, monitor and regulate the migration sector. Therefore, it concentrates on two broad areas: firstly, it explores and creates overseas employment opportunities and secondly addresses problems experienced by expatriates and ensure their welfare, enters bilateral agreement, MOUs, sets principles and policies., hold talks with different stakeholders., national and international organizations including ILO, IOM .

On the other , the foreign missions supervise the welfare of their workers in destination countries to intervene in cases of flagrant labour abuse. Migrant workers also rely on the embassies and consular offices in destination countries to intervene in cases of flagrant labour abuse. The Bangladesh missions abroad perform the following tasks regarding labour migration management: (a) exploring the potential labour market; (b) attestation of documents pertaining to recruitment; (c) providing consular services for Bangladeshi workers; and (d) ensuring the welfare of migrant workers.

Bureau of Manpower, Employment and Training (BMET)

BMET is the executing agency on behalf of the Ministry of Expatriates' Welfare and Overseas Employment. It processes labour migration. Since the promulgation of the Emigration Ordinance of 1982, it has been working as the implementing agency of the Ordinance. BMET conducts a wide range of functions including: control and regulation of recruiting agents; collection and analysis of labour market information; registration of job seekers for local and foreign employment; development and implementation of training programmes in response to specific labour needs both in the national and international labour market; development of apprentice and in-plant programmes within existing industries; organizing pre-departure briefing sessions; and resolving legal disputes.

Private recruiting agencies

In the 1970s, the government alone carried out the functions of recruitment. But, since 1981, this role has been carried out by private recruiting agents, as part of private sector development. The private agencies work under licence from the government. On their own initiative, they collect information on demand and orders for foreign employment. After obtaining permission from the BMET, the agencies recruit workers as per the specifications of the foreign employers and then execute the procedures involved in their deployment. Over time, the recruiting agencies became organized under the Bangladesh Association of International Recruiting Agencies (BAIRA) in December 1984 with representatives of 23 recruiting agencies. By 2010, the association has a membership of around 1000 agencies. Now, recruitment and hiring processes are dominated by private sector in both source and destination countries.

Bangladesh Overseas Employment Services Limited (BOESL)

Established in 1984, the Bangladesh Overseas Employment Services Limited (BOESL) as a limited company takes on a direct recruitment role. BOESL mainly recruits skilled manpower on requisition by foreign governments.

Individual contracts

The government also regulates migration processes arranged on own / individual initiatives. It is estimated that about 55-60 per cent of recruitment is conducted through individual initiatives and social networks. Usually, persons already deployed in the host countries arrange visas for their friends and relatives through their own contacts. Sometimes these visas are sold to interested parties. Those who obtain a visa through this process pay less than those who pass through formal recruiting agents. The risk of fraudulent practices in the former is also considered to be less compared to the latter (Siddiqui, 2002).

Social Governance: Social protection

Labour migration has its social dimension. Social governance refers to the formal and informal rules that are used to monitor and govern social media use. It has four components: laws, rules and regulations, guidelines and ethical codes. Social governance is needed to make sure that social media is not abused by either organizations or members of the public to deceive others. Social media are media (communications) for social interaction, using highly accessible and scalable publishing techniques. Social media is a blending of technology and social interaction for the co-creation of value. It covers the socio- economic aspects of the migrants and the

members of their families at home and abroad. It covers nature of work, working conditions, health and education. ILO provides for decent work for the migrant labours. Decent work provides for certain assurances against vulnerabilities. This includes: protection of income to ensure subsistence during old age or during sudden loss of livelihood due to closure of organizations or retrenchment; and protection against loss of income due to sickness, accidents or death. Assurance of treatment during sickness and following accidents are also part of a decent work package.

Social protection for migrant workers in the country of destination

Protection of income for migrant workers in old age is not a new idea. Professional and skilled workers working in the service sectors, government and banking enjoy various entitlement packages i.e., superannuation, gratuity and provident fund. But such benefits are not equivalent to those enjoyed by nationals of those countries or as those for western migrants. There is a discrimination. Benefit structure for Asian migrants are not as generous. Unskilled and semiskilled workers in the formal sector enjoy benefits that are more structured than those available in the informal sector.

Within this context, three main measures may be identified: MOU agreements, the establishment of labour offices and consular services, and restrictions on workers movements either through pre-employment training or outright bans on travel. The Philippine and Indonesian governments have established overseas Labour offices in destination countries to supervise the welfare of their workers. Migrant workers also rely on their embassies and consular offices in destination countries to intervene in cases of flagrant labour abuse. The Bangladesh government may establish overseas Labour offices in destination countries to supervise the welfare of Bangladeshi workers. Migrants can also play an important role in their home country by strengthening political debate, strengthening the role of civil society, encouraging the education for non-migrants, and emancipating women and minority groups in countries of origin.⁵³

Health care

Access to health care is also part of a social protection system. The level of health care available to migrant workers in the destination countries inevitably varies from one country to another. In Saudi Arabia, for example, under a government policy entitled “Health for All”, primary health care services are available in the major cities, irrespective of the workers’ legal status (Mannan, 2001). In the UAE and Bahrain, migrants can receive health care from the general hospitals. But the costs of medicines and tests have to be borne by the migrants themselves. Migrants are subjected to annual mandatory HIV/AIDS tests in both the Gulf States and South-East Asian countries. If a worker is found to be HIV positive, employers bear no responsibility for treatment and the worker is deported. Women workers are also subjected to pregnancy tests. If found to be pregnant, they are sent back home or have abortions. Poor access to health care and unhealthy living and work conditions are reflected in diseases such as jaundice, gastric problems, skin

⁵³ Hein de Hass, “Engaging Diasporas: How governments and development agencies can support diasporas involvement in the development of origin countries,” International Migration Institute, Oxford University, June 2006, in Khatri, Sridhar K., (2007).

diseases and tuberculosis. However, although some form of social protection mechanisms exist in some of the labour-receiving countries; migrants go through a lot of hardship in obtaining them. The migrants have to pay a lot in terms of money and humanitarian dimensions. Thus, there is the gap in health governance. This is an area where the sending government can pursue the receiving countries to get into a bilateral agreement or develop international cooperation through inter-state consultative mechanisms.

In economic field, in Malaysia, for example, the workers' provident fund often remains with the employer. When their contracts end, time constraints often prevent migrant workers from completing all the paper work needed to withdraw the amount. Migrants are also employed in hazardous and risky jobs – often resulting in accidents and, in some cases, death. Migrant workers complained about the lack of adequate safety measures on construction sites, in heavy machine operating factories and in factories where chemicals are used. Obtaining compensation can also be a painstaking process. Trade union activists and NGOs could be useful means to address the problem.

Social protection for Bangladeshi migrant workers

Social protection of the migrants can be ensured by the ratification of international migrant relevant instruments, on the bilateral agreements or MOUs, or international norms. Receiving countries can give migrants citizenship status based on their reason for entry into a host country. While all migrants can be given residence, employment, and partial social rights during their stay are to be awarded. And those migrants who wish to stay indefinitely in the country could become eligible for full social rights. Eligibility for full social rights could be based on whether the migrant was able to maintain a residence and employment. It can give birth to sustainable partnerships for the effective governance of labour to promote a sustainable, participative and equitable approach to the governance of labour migration. Again, while undocumented migrants are not granted citizenship rights under a civic stratification concept, these workers still need protection, regardless of how they entered the country. All migrants, documented and undocumented, should be protected under an international framework that grants every person “the right to life and freedom from inhuman and degrading treatment.” Migrants, most at risk for being exploited are undocumented migrants, who unlike documented migrants, have no recourse and cannot turn to their host government for support. But the government can not deny their citizens in danger in foreign lands. These undocumented migrants also send remittances that are used in the home economy, reduces unemployment. Therefore, the government should take initiatives to talk with the governments of the receiving countries for redress the plight of the irregular /undocumented migrants in accordance with international migration laws.

At home, the Government of Bangladesh created a fund for ensuring the welfare of wage earners in 1990. On the basis of the Emigration Ordinance of 1982, The Wage Earners' Welfare Fund is funded through subscriptions from migrant workers; the interest earned on the deposit of licenses of recruiting agencies; a surcharge of 10 per cent on the fees collected through Bangladesh missions abroad; and individual and institutional contributions. (Siddiqui, 2005). The government for ensuring the welfare of the migrants created the Fund with eight specific objectives: (a) the establishment of hostel-cum-briefing centre; (b) the organization of an orientation and briefing programme; (c) the establishment of a welfare desk at the airport; (d)

the transfer of the bodies of deceased migrant workers; (e) providing assistance to sick, disabled and stranded migrant workers, (f) providing financial help to the families of deceased migrant workers; (g) providing legal assistance to the migrant workers through the embassies and (h) the establishment of a recreation club and information centre under the auspices of the Bangladesh missions abroad. Through another Circular, the government included two additional elements in the list of objectives: the establishment of hospitals and the reservation of beds in existing hospitals for migrant workers and their families; and the provision of education facilities for the children of migrant workers. The Circular also stated that, if necessary, the Fund could also be disbursed to schools where the children of migrant workers were studying. (Siddiqui ,2005).

The government arranges the two-hour pre-departure briefing sessions from the Wage Earners' Welfare Fund. The Government is also using the Fund to construct a multi-storey building for migrant workers. Meanwhile, at the national airport, two welfare desks have been set up at both the exit and arrival lounges to provide a one-stop service for migrant workers and an airport bus service for migrant workers have also been introduced. In the event of the death of a migrant worker, his/her family currently receives a one-time grant of BDT 20,000 from the Wage Earners' Welfare Fund. These are some of welfare measure undertaken by the governments for the migrants.

Social dialogue for migration governance

The government may, for the welfare of the migrants, encourage social dialogues. Social dialogue is a process through which employers and employees resolve their differences in order to ensure social equity. Collective bargaining is the mechanism through which employees/workers assert their rights. Two types of institutions are operational: trade unions and associations. Trade unions are the institutions through which wage and other work conditions are negotiated and associations are the bodies that are used for fulfilling their cultural and social needs.

Trade unions

Trade unions have been in existence in Bangladesh for a long time. Today at least 20 are active in Bangladesh. They can work for the welfare of the migrants. In the wake of newspaper reports of the plight of Bangladeshi migrant workers in Malaysia following the economic crisis in the Asia region trade unions played crucial roles in resolving the crisis. Moreover, the government through social dialogue can enable trade unions of this country to make inroads to locate outgoing migrant workers and convince them to become members of trade unions and maintain contacts with trade unions of the labour receiving countries to address the human rights, labour rights violations in the destination countries.

Trade unions do not exist in Saudi Arabia. There is trade union in Kuwait, Qatar, Bahrain, Malaysia, and Singapore. But Bangladeshis are not allowed to become members of those organizations. There are some contacts between Bangladeshi trade unions and trade unions in the Republic of Korea and Malaysia. The gradual shrinking of the formal sector worldwide has thrown up new challenges for the trade union movement. An innovative response from the trade union movement would be to increase the scope of its work by widening its membership base to include the informal sector. In this context, migrant workers could be an important focus for the diversification of trade union work (Siddiqui , 2005).

The Bangladeshi trade unions could pursue migrant worker issues at international fora. Within Bangladesh, the trade union movement could play an important role in urging the Government to design and implement national policies for the protection and promotion of migrant workers' rights. By mobilizing their organizational structure, they can disseminate information about the improper practice of the recruiting agencies and about wages and conditions of employment overseas. In this way, potential migrants from the organized sector could be helped to make informed choices about whether to migrate. Similarly, the trade unions could also make migrant workers aware of their rights and obligations under the national and international labour standards of the receiving country. Trade unions could play an innovative role in the reintegration of returning migrants in the labour market. On their return, migrant workers often bring in specialized skills, ideas. But there is no database for returning migrants. The trade unions could take the initiative to help link up the migrant worker with a potential recruiter of his/her expertise. The government can help the initiatives.

A more comprehensive incentive –based approach to human resource development is required to meet the needs of both countries of origin and destination. This is an area where governments of source and destination countries need to work closely not only with each other, but also with businesses and civil society, in order to pool their resources to invest in creating the needed human capital. Enhancing job creation in source countries is another area where increased cooperation is needed.

Unequal distribution of the costs and benefits of migration between countries of origin and destination has the potential for divisiveness, especially in relation to skilled migration. Balancing the interests of migrants and of origin and destination societies is needed. Achieving this goal requires dialogue and cooperation among governments as well as other relevant stakeholders.

Some Good Practices For Migration governance– Trade Unions

Bilateral trade union agreements on migrant workers' rights can be signed between Trade Unions in Bangladesh and receiving countries'. Some activities, processes and steps involved with regional and international Trade Union Federations may be noted as follows:

In December 2008, the Bureau for Workers' Activities (ACTRAV) of the International Labour Organization held a workshop in Amman, Jordan on the "Rights of Migrant Workers", involving trade unions from Jordan, Bahrain, Oman, Saudi Arabia, Yemen, Kuwait, Nepal, Bangladesh, Sri Lanka, India and Indonesia, the International Trade Union Confederation, and representatives from Jordanian Ministries and NGOs. At the conclusion of the workshop, participants adopted the text of a model trade union agreement. Like Sri Lanka Bangladeshi trade unions can sign agreement:

As a follow-up to this workshop, another was held in Colombo, Sri Lanka in May 2009. Thirty-five individuals participated, representing national trade union centres in Sri Lanka (CWC, NWC, and NTUF), leaders from the GFBTU (Bahrain), the GFJTU (Jordan) and the KTUF (Kuwait). Senior officials of the Sri Lanka Bureau for Foreign Employment, the Ministry of Foreign Employment Promotion and Welfare, Representatives of public and private recruitment agencies also participated. The workshop culminated in the signing of three separate bilateral

cooperation agreements on the protection of the rights of migrant workers by leaders of three national trade union centres in Sri Lanka and their counterparts in Bahrain, Jordan and Kuwait, on 7 May 2009.

The agreements signed currently are based on the text of the model trade union cooperation agreement, which was adopted at the Amman workshop. These agreements provide state signatories' agreement to the following key principles in addressing issues related to the rights of Sri Lanka workers;

- Labour is not a commodity.

The model trade union agreement developed in Amman has already demonstrated its potential for adaptability and extension. Though these agreements are the first of their kind in the Arab region. They represent a new initiative aimed at strengthening the role trade unions play in regard to migrant workers and at promoting greater cooperation between trade unions in both origin and destination conditions. The agreements commit signatories to cooperate and coordinate efforts to promote migrant workers' rights. They also include provisions to promote social dialogue; migrant workers' inclusion in trade union actions, and tripartite consultation.

Migrants' associations at destination

Bangladeshi migrants have organized themselves into a wide range of different associations in most of the labour-receiving countries. Most of the associations are established by the Bangladeshi communities residing in a particular geographical location of a receiving country (state, district and city). Associations are also formed on the basis of the district, thana, union or village of origin of the migrants. In some cases, associations are also formed by different professional groups. (Siddiqui, 2005).

Associations organize cultural programmes and observe the various national days of Bangladesh. They also provide various kinds of support services for the community members, such as finding suitable accommodation for newcomers and introducing them to markets that carry Bangladeshi food and other products. The government representatives can make themselves present in these functions to know about their conditions and talk to the destination governments to resolve issues related to the migrants. These services give the migrants a sense of belonging to a larger Bangladeshi entity. Social interaction among Bangladeshis is also helpful in sharing of work experiences and in learning from each other of the countries concerned. The use of these networks may ensure a good governance of migration system. The Siddiqui and Abrar (2001) study found, for example, that the social networks helped the migrants gain access to easy methods for sending remittances.

Associations of returnee migrants in Bangladesh

Returnee migrants can help promote good governance in migration system through their experience sharing, experience dissemination suggestions learned ideas and as pressure groups. Returnee migrants in Bangladesh have established three organizations: the Welfare Association of Bangladeshi Returnee Employees (WARBE); the Bangladesh Migrant Centre (BMC); and the Bangladesh Women Migrants' Association (BWMA). WARBE was formed in 1997. The association strives to become the spokesperson of the migrant workers, particularly with regard to realizing their rights. Since its inception, WARBE has played an important role in raising public awareness of the plight of the migrant workers and of the contribution they make. It has

also consistently called for greater transparency in the use of the Wage Earners' Welfare Fund and for the inclusion of representatives of returnee workers in the management of the Fund.

The BMC, the only organization of Bangladeshi migrant workers, is operational both in Bangladesh and in a receiving country, the Republic of Korea. It was established in the Korean industrial city of Ansan to provide support to Bangladeshi migrant workers in the Republic of Korea. The BMC has a close association with the Joint Committee of Migrant Workers in Korea (JCMK) and with the Ansan Migrant Shelter. The Centre has been successful in facilitating the recruitment of returnee migrants from the Republic of Korea with Korean companies operating in Export Processing Zones in Bangladesh. The BWMA represents the female migrant workers of Tongi, Gazipur and Dhaka city and is involved in a campaign to persuade the Government to lift the restriction on the migration of unskilled women workers below the age of 35. This helps to maintain networking to the interest of the labour migrants as well as the government.

Recommendations

Bangladeshi migrants suffer at home and destination countries because of governance lapses. They are denied rights at destination countries. They become subject to various problems and harassments at country of employment. At home, they at predeparture stage fall victims to recruiting agent and their unintentional sub-agents. Therefore, to streamline the migration process all along the following steps could be undertaken.

1. Sufficient resource allocation for job creation

The government should commit adequate resources to the migration sector. The Ministry of Expatriates' Welfare and Overseas Employment should propose allocation of resources proportionate to remittance in order to organize training services for migrant workers. This would help promote human resource development to build a competitive labour force to meet future overseas demand of job markets. This innovative initiative would also help develop an efficient labour market through mutual recognition agreements and enhance employability and labour mobility; strengthen social protection systems; and address the labour and employment impact of trade liberalization.

2. Bangladesh Missions abroad should be strengthened and geared up

The Bangladesh missions abroad should seek to draw the attention of concerned authorities and urge them to take the necessary steps to halt malpractices including visa manipulations. In order to advance cooperation and coordination on migration issues among the sending and receiving countries a proposal for the establishment of a mechanism for regular dialogue and consultations on many issues raised by migration seems to get priority. Such a mechanism can take the form of a regular Forum on Labour Migration. It would deepen understanding of the role being played by the cross-border movements of workers in enhancing the flexibility and dynamism of the concerned region's economies and societies, build trust and confidence through dialogue on emerging problems and issues, anticipate future challenges by considering current demographic, economic and political developments and the likely impact on migration pressures. The observations would enhance bilateral and multilateral cooperation for effective governance of labour markets and migration. Strong negotiations and monitoring by the missions abroad are imperative.

3. The Ministry of Expatriates' Welfare and Overseas Employment should be proactive

The Ministry should have to be more proactive. As a lead ministry it should actively coordinate the cooperation of relevant ministries and stakeholders. It should hold tripartite dialogue on regular basis. It should declare incentive packages for foreign employers. It should hold regular consultations among ministries, stakeholders, private recruiting agencies, academicians, researchers and practitioners and respect their suggestions and observations. It should take the necessary legal and administrative actions against identified Bangladeshi procurers and middlemen engaged in the visa trading. The ministry should take effective steps to reduce the migration costs and ensure access to credit on low interest for the migrants. A bank could be established by allocating resources from the Wage Earners' Welfare Fund. This bank could give loans to the poor aspirant migrants at reasonable rates of interest and on easy terms and conditions. It should properly monitor the activities of all concerned quarters. Government should include chapters on migration in national curricula and textbooks.

4. Modernizing BMET

The government should modernize **BMET** and upgrade its training institutes in order to increase skilled workers. The BMET also needs to extend its training outreach. It can introduce co-production through public private partnership (PPP) including non-governmental organizations (NGOs) and private training institutes. BMET should collect and disseminate information on the labour market demands to organizations that provide training. BMET may introduce incentive packages to ensure access to such training.

5. Ensuring rights at work

The 1982 Ordinance is a legal regulatory instrument. It should contain provisions regarding treatment of irregular migrants in destination countries. It should be migration promoting: it should be either replaced or complemented by rights-based legislation reflecting the 1990 UN Convention on the Protection of the Rights of all Migrant Workers and Members of their Families and other relevant ILO conventions. Though the Bangladesh government has signed the 1990 Convention, it should, as a labour-sending country, to its own interest to accede to this and other ILO instruments forthwith and to frame the necessary enabling national legislations. Moreover, the government should arrange and strengthen workplace inspections in destination countries. Government should formulate a labour policy for informal workers, allow forming trade unions at all sectors for ensuring workers rights.

6. Controlling the private recruiting industry

In an effort to reduce fraudulent practices experienced by migrants before departure, there should have a government mechanism to regulate the *dalal* system. Systems should be developed to disseminate information even at the grassroots level on safe migration. Mechanisms should be devised to discourage easy proliferation of unscrupulous recruiting agents. Licence renewal system be made transparent, thoroughly examined, performance-based, rightly reviewing the track records of work, audited by responsible government audits. In addition, the renewal of licenses should be contingent on performance. The BMET should renew the licenses of those recruiting agencies that are able to process a standard number of cases, maybe, at least on an average 50 cases over the previous five years. License renewal of an agency having any record of fraud or malpractices should not be considered in any way. Lapse in license renewal for whatever reason should not be leniently taken. The sub-agents or dalal system should either be eliminated or be mainstreaming through recognition and making the

dalals responsible and responsive of their activities. But every thing should be done in a transparent manner. Cheating by the dalas and interest groups should be effectively tackled, structural weaknesses be removed.

7. Introducing co -production

The government should arrange pre-departure orientation training for migrant workers before they get on short-term contract migration. In the training the dissemination of information about the destination country, general job conditions, and the rights and duties of migrant workers both under the legal regime of the country concerned and under international law should be imparted. The government, instead of providing this training itself, it may play a steering role, it may get it done by selected specialized agencies, NGOs and migrant support groups can provide residential, pre-departure orientation training in different migrant-prone areas on a decentralized basis.

6. The government should be considerate

The BMET does many things. It should concentrate on the regulation and monitoring of the international labour migration sector, rather than on implementing other specific programmes. The role of foreign missions in the labour-receiving countries should be redefined. Protection of the rights of migrant workers should be considered a priority concern. The government should consider establishing a migrant workers' resource centre (MWRC) in each of the major receiving countries within the premises of and under the administrative jurisdiction of the Bangladesh missions. Bank officials should be properly guided by regular training so that they properly oriented of the importance of migrant remittances and be motivated to make their services customer- friendly.

7. Government institutions work as source of Information

The government should develop a data base. Bangladeshi migrants should be informed about the need to save. To encourage small savers, proper incentive programmes should be established. This may involve offering bonds, shares and mutual funds at attractive rates. Migrant workers should also be informed about the various forms of saving instruments offered by government, non-governmental and private agencies. In this regard, existing legal requirements may be relaxed so that selected micro-finance institutions can mobilize the migrants' savings without providing credit. NGOs and Civil society organizations may conduct awareness campaigns. The government can play coordinating role. Sustained dissemination of information on safe on safe and dignified migration should be carried on. Awareness raising campaign should be conducted.

8. Promoting Government –NGO partnership

The BMET should encourage NGOs and the private sector to offer special programmes for the economic reintegration of the returnees. This may include helping them gain access to the formal banking sector; credit agencies for soft loans; land allotment on moderate terms; insurance schemes; and access to schemes organized under the Wage Earners' Welfare Fund.

9. Increasing social protection in cooperation with other sending countries.

Social protection measures relating to health, security and accidents should be specified in the job contracts of semi-skilled and unskilled workers. The predeparture orientation training should

explain in detail to the migrants all such entitlements. The Bangladesh missions should inform the authorities of the receiving countries about the difficulties faced by claimants in view of the stringent conditions in place in certain countries in respect to claims for compensation. This issue needs to be pursued in liaison with other labour-sending countries.

10. Simplifying the process of receiving the migrants benefits

The government of Bangladesh should also negotiate with the receiving countries ways of simplifying the procedure for receiving benefits that fall due at the end of the contract period, so that the migrant can begin to process the claim well in advance and collect the amount before his/her departure. Information handouts on the health services available in the receiving countries should be prepared in Bangladesh and disseminated through the missions and various associations of migrant workers in those countries. Arrangement should be made to simplify the process of sending remittances through formal channels. The process should be made safe and transparent.

11. Enhancing the scope of social dialogue

Consultations between expert bodies, research and civil society organizations and local trade union can familiarize them with migrant worker issues – in particular on the exploitation of workers within Bangladesh during the migration processing phase and on the nature of the violation of the human rights and labour rights of migrant workers in the receiving countries. A linkage between trade unions and migrant workers' associations can complement each other. Trade unions in line with international labour instruments (ILO) should use international fora to campaign for the membership of migrants in the trade unions of the receiving countries.

12. Streamlining the Dalals

In order to reduce fraudulent practices experienced by the migrants before departure, recruiting agencies should register their intermediaries. The dalals should have their geographical area of operation specified. Photo identification will be issued to them and their names ought to be displayed in local level government offices, i.e. thana or union parishad. All transactions should be made through banks and the dalals/agencies will be required to issue receipts for any transactions made. Working without registration will be treated as a penal offence. The government can take different policy and actions in making them accountable and protect the migrants (Siddiqui-Star,2004). On the contrary, mechanisms should be devised to hear the grievance of the migrants who are cheated by accounting fraud by dalas . The grievances should be properly addressed and redressed.

13. Enhancing Positive Political activism

Political leadership should be committed to the proper guidance of the migration sector. Parliamentary standing committee should play crucial roles in overseeing the performance of the concerned ministry. It should also see that BAIRA can not deny that the money from the business is not used in politics.

14. Gaining from ratifying the UN Convention 1990

Bangladesh can benefit a lot by ratifying the UN tool ,especially by making laws and practicing good migration habits and increasing regional cooperation.

Conclusion

Neither Bangladesh nor its labour-receiving countries have ratified the relevant UN and ILO conventions. And Bangladesh has no bilateral agreements or memoranda of understanding with most of the migrant receiving countries. Another challenge is the need for institutional capacity-building to enable the foreign missions to provide services to Bangladeshi migrant workers (Siddiqui, 2004).

Often, when temporary contract migrants lose their job, sometimes, in cases of unfair dismissal they are made to return home. They have no channels available for recourse. Transnational networking between NGOs and trade unions and the involvement of lawyers associations would be vital for the protection of migrants' rights. A Transgovernmental initiative could be helpful for migration governance. Globalization along with local factors has made the management of the labor migration a complex and difficult undertaking. The interest of migrant workers has been marginalized due to lack of rules, migration norms and expertise in migration management, both locally and globally. In Bangladesh, there is absence of institutional and policy framework to address the issues of institutional arrangements for skill development, protection of rights of the NRBs as well as evaluation of the measures to minimize the plight of the undocumented workers. Strong negotiations and monitoring by the missions abroad are imperative. Despite institutional limitations Bangladesh, like other laborsending countries, has the goals of maximizing labor migration and ensuring protection and welfare of migrant workers abroad. Migrants workers' welfare should be made central to governance.

Gaps in Migration governance

There are a number of discrepancies and dilemma in migration governance system.

Gaps that exist between international instruments and national laws on migration governance issues. Workers in irregular status are covered by core international labour instruments and most labour standards: but there are serious differences between provisions and practices regarding such rights as international workers freedom of associations: fear of detection and deportation in asserting rights: Migrant workers have lack of access to information and awareness of rights. There are negative attitudes of States towards irregular migration: There are dilemmas between 'promotion of overseas employment' and 'protection of workers' in source countries. There is gap between commitment by developed and migrant receiving countries to the human rights protection and ratification of the 1990 UN Convention and migrant specific instruments and enforcement. Discrepancies are noticed in social dialogues and consultative mechanisms involving all stakeholders. Reference to social dialogue and consultation with social partners—is regrettably absent in many recent policy initiatives. The ultimate consequences of such a trend are very serious. To the extent that an increasingly large and important sector of the working class is managed outside normative protections, outside social dialogue and outside labor market institutions. It affords an opportunity for accelerated deregulation of labor markets.. In the last few years, controlling or managing migration has become an expressed priority for many governments. Intergovernmental dialogues towards policy coordination have been established in virtually all regions. New legislation affecting labor migration has been established or proposed in dozens of countries worldwide. However, increasingly, migration management responsibilities are being shifted from labor ministries to interior or home affairs ministries, thus transforming the framework of policy elaboration and implementation from that of labor market regulation to that of policing and national security. But it is an issue that involves almost all ministries. Migration control agenda may be a useful vehicle to capture political attention and budgetary resources. But when pursued to the

detriment of other considerations, that focus almost inevitably subordinates both fundamental humanitarian and human rights considerations and economic and developmental concerns to a secondary issue. It is rather addressing the constellation of less relevant considerations in a terminology of management of migration. There is relevant international Convention to protect the migrants. But by-passing the treaty provisions recently new national and regional policy frameworks on migration management is giving rise to the emergence of regional set-ups in the Andean region, in the Caribbean, in Europe, in North Africa and elsewhere that make little or no reference to the relevance or application of international norms.

International instruments calls for inspection at work at destination countries but national laws does not provide for such inspections. The ILO Convention 181 prohibits visa trading; but buying and selling visas is very much rampant in the Gulf region countries. International instrument provides for freedom of association and trade unions of the migrants; but national laws of destination countries do not allow freedom of association and trade unioning by migrant workers, though many of the labour receiving countries allow trade unioning by their own nationals. Moreover, they maintain differential wage structure for same work for their own national labours. Thus, the policy of equality and non –discrimination is disregarded. There is also discrimination between regular migrant and migrant in irregular status.;

Difference is also noticed between the provisions of C181 and national laws in terms of the practice of private recruiting agents. The predominance given to migration control in many florars is both root and reflection of fundamental impediments to rationally and effectively addressing international migration. Migration, regular and irregular, has, does and will continue to exist as inexorably as economic forces are at work in a globalized economy. The international community –sometimes reluctantly—acknowledges the need to manage and regulate movements of capital, goods, technology, services, information, etc., whether through formal means or “market mechanisms.” It is evidently contradictory when this logic is not also applied to migration. Ironically, it is see that, even Europe is now suddenly acknowledging both the need for (im) migration and the need for substantial efforts to regulate it.

Certain controls may well be part of migration regimes, but cannot be either the sole or primary determinants. To be effective and viable over time, migration policies must be built based on long term economic and social development considerations in context of international humanitarian and human rights norms. Control measures serve as one of the management mechanisms to implement and achieve long-term goals that States have no other choice but to deal with. But it could be counterproductive. Control measures can not control irregular migrants but lead to its proliferation in clandestine ways giving rise to human costs.

FINDINGS

There is vast policy dilemma among the developed countries in formulation and application of migration policy in their national atmosphere. They fear internal repercussion. The labour receiving countries are not likely to ensure an equal treatment of non –citizen workers. They are likely to give privilege to their own nationals;

1. They are not supposed to protect the human rights of the members of foreign workers;
2. They fear that national security may be jeopardized, sovereignty may be affected. ;
4. They fear an increase of foreign people over their own nationals;
5. They pursue restrictive policies;
6. Sending countries' representatives hardly inspect workers at their work places in host land;
7. Visa trading is a multi- dollar brisk business in the Middle Eastern countries; it causes enhancement of migration costs.
8. The recruiting agents are well known unscrupulous elements in all countries;
9. Poor number of ratifications hampers migration governances;
10. There are gaps between international instruments and national instruments;
11. There are gaps between national and national migration policies;
12. The ratification of international instruments are supposed to be expensive. There is unfounded fear among the non- ratifying labour sending countries of being undercut of the labour by labour sending neighbors.
13. There is sustained campaign for ratification of International instruments;
14. The media is not so pro-active in matters of campaigning for ratification of international instruments;
15. Bangladesh lacks infrastructure as well as consensus among the ministries to ratify the instruments;
16. There is strong opposition in Bangladesh from the Recruiting agents to ratify the instruments,
17. Population growth in developing countries (out of necessity) has led to out flow of migration;
19. Loss of fertility in the developed world created situation to demand for labour from developing countries;
20. Social dialogue is not so much in practice and therefore is not strong in migration governance;
21. NGOs are now conscious but are not so strongly vocal, not up to the mark;
22. Research on migration is on all over the world.
23. There is need for international cooperation in managing migration;
24. The government of Bangladesh should move itself to send manpower abroad alongside private recruiting agencies and when it so occasions, in order to reduce excessive migration costs by private unscrupulous recruiting agents. This will also alleviate cost related plethora of harassment of overseas job seekers by creating a healthy competition between private and public agencies in this sector. The sector which now brings some US \$11 billion annually is the lifeline of the country's economy, yet the successive governments cared the migrants little. Because of

mismanagement the sector has turned into a dumping sector. Nearly 7.0 million Bangladeshis work abroad, but the budget for the expatriates' welfare ministry is only Tk. 40 core (budget of the fiscal 2010-2011).Migrants workers are served little.

25. Putting the sector in discipline requires a major policy shift of the state to ensure migrants rights.

Summary

International migration is not a new phenomenon. People have always been moving. They have done so in order to seek better opportunities, to do business and generally to secure a livelihood for their families. But the scope and circumstances has changed over time. It presents new perspectives on migration, focusing on migration as a development force – not as an obstacle.

Migration is good for development. It can have positive development impacts on all countries, whether they are what we traditionally refer to as countries of origin or countries of destination. Remittances provide relief to poor individuals, families and communities. Also more indirectly, remittances can support a more vibrant economy by expanding job markets. This is an area that needs more coherence. Efforts are needed to reduce the transaction costs and facilitate the flows, as well as enhancing the development effects of remittances. Efficient use of remittances should be part of a development strategy. Governments should consider how to reinforce the development impact of remittances. Remittances irrespective of volume – must never be an excuse for a reduction in development assistance, nor should they be subject to taxation.

‘Migration for development’, but the reverse – development for migration – is also true. The negative side of today’s migration flows; trafficking, human smuggling, abuse and exploitation of labor is driven by lack of development, lack of decent working conditions, lack of respect for human rights and equality between women and men, and the unequal distribution of resources in home country. All these problems cannot be solved by migration. The work must start at home. It is every government’s obligation to create and sustain a society where people, women and men, can secure a livelihood and build a future. There is also an international responsibility to create a more equal world. This is a shared responsibility.

The international mobility of workers is today increasing in the hands of private fee-charging recruitment agencies. Except where bilateral agreements on migration have been concluded between sending and receiving countries, the public services today have minor and shrinking role in the recruitment and placement of migrant workers. This has negative aspects since workers are vulnerable to malpractices. It is difficult to rely on regulation as a means mitigating the impact of market forces on migration processes.

The ILO instruments on migrant workers provide for equality of treatment and call for the adoption of a policy to promote equality of treatment and opportunity between regular status migrants and nationals in employment and occupation. In addition, promoting equality of opportunity and treatment for and elimination of discrimination against nationals as well as migrant workers on the basis of race, colour, sex, religion, national extraction, political opinion and social origin, are the specific objectives of the fundamental Discrimination (Employment and Occupation) Convention, 1958 (No. 111). Simultaneously, the UN instruments, particularly, The UN Convention on the Rights of the Migrants and Members of Their Families, 1990 provides for the protection of the human rights of the migrants as well as the members of their families.

Women, men and children should be able to realize their potential, meet their needs, exercise their human rights and fulfill their aspirations in their country of origin, and hence migrate out of choice, rather than necessity. Those women and men who migrate and enter the global labour market should be able to do so in a safe and authorized manner, and because they and their skills are valued and needed by the states and societies that receive them.

The role that migrants play in promoting development and poverty reduction in countries of origin, as well as the contribution they make towards the prosperity of destination countries, should be recognized and reinforced. International migration should become an integral part of national, regional and global strategies for economic growth, in both the developing and developed world.

States, exercising their sovereign right to determine who enters and remains on their territory, should fulfill their responsibility and obligation to protect the rights of migrants and to re-admit those citizens who wish or who are obliged to return to their country of origin. In stemming irregular migration, states should actively cooperate with one another, ensuring that their efforts do not jeopardize human rights, including the right of refugees to seek asylum. Governments should consult with employers, trade unions and civil society on this issue.

Migrants and citizens of destination countries should respect their legal obligations and benefit from a mutual process of adaptation and integration that accommodates cultural diversity and fosters social cohesion. The integration process should be actively supported by local and national authorities, employers and members of civil society, and should be based on a commitment to non-discrimination and gender equity. It should also be informed by an objective public, political and media discourse on international migration.

The legal and normative framework affecting international migrants should be strengthened, implemented more effectively and applied in a non-discriminatory manner, so as to protect the human rights and labour standards that should be enjoyed by all migrant women and men. Respecting the provisions of this legal and normative framework, states and other stakeholders must address migration issues in a more consistent and coherent manner.

National migration policies should be in line with international laws including the 1990 UN Conventions, eight ILO instruments and migrant specific international instruments ILO Multilateral framework: non binding Principles, ILO. Fundamental principles and existing good practices. The Practice of regularization and safe and dignified return of irregular migrants can appreciable steps for migration governance. International cooperation through inter-state and inter –agency consultations as well as regional consultative processes can be helpful in formulating migrant friendly policies. Bangladesh should follow suit a policy composed of good instances.

The End Conclusion

The governance of international migration should be enhanced by improved coherence and strengthened capacity at the national level; greater consultation and cooperation between states at the regional level, and more effective dialogue and cooperation among governments and between international organizations at the global level. Such efforts must be based on a better appreciation of the close linkages that exist between international migration and development

and other key policy issues, including trade, aid, state security, human security and human rights. For good migration governance in Bangladesh the government visa vis the concerned ministries should be made proactive , more resource is to be allocated in this sector, BMET should be modernized, strengthened and selective in its activities , private recruiting agencies are to be made accountable and responsive , the sub-agents should be institutionalized and made accountable to the government, missions in foreign countries are to be geared up and made proactive and responsible as well as patriotic and. trade unions an NGOs are to be made functional. Government is to be particular to protect the rights of the migrants at home and while in destination countries. Above all, social .governance, social justice and social security of the migrants are to be addressed adequately.

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