

Towards a Holistic International Migration Policy

Recommendations from Civil Society



Centre for Education and Communication (CEC)

Migrant Forum in Asia (MFA) India

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Preface

The Emigration Act, 1983, provides for the 'regulation' of the terms and conditions of overseas employment and 'protection' and 'safeguard' of the interests of Indian workers going overseas for employment on contractual basis. The key institutional authorities under this act are the Protector General of Emigrants and the Protectors of Emigrants. The Emigration Act, 1983, replaced the Emigration Act, 1922, an instrument of colonial rule. However, the implementation of the act has been less than satisfactory and gross violations of rights of migrant workers including non-payment of wages, physical violence, confiscation of passports, and deception arising as part of recruitment processes were reported from destination countries, as were mal-practices by the recruiting agencies. The government of India failed to facilitate informed migration, whether in terms of creating institutional arrangements to protect the rights of emigrants in destination countries, their reintegration on return, or reining in unscrupulous recruiting agents. Meanwhile, the government of India moved the position of the Protector General of Immigrants from the ministry of labour to the ministry of external affairs, and then to the ministry of overseas Indian affairs (MOIA) when this was created in 2004. It has also created a dual system of migration in which applications for emigration by those possessing educational qualification below Class X and those going for work to 17 countries are issued emigration check required (ECR) passports. In 2008, MOIA issued an order that denies emigration clearance to women below the age of thirty (30) years if they are seeking employment in ECR countries.

The government first suggested amendments to the Emigration Act, 1983, and then proposed a new act to replace the 1983 Act. It also simultaneously announced its intention to draft an international migration policy for India. The government of India asked Centre for Development Studies (CDS) and Jawaharlal Nehru University to help them in evolving a migration policy.

Considering India does not have a policy on migration and in view of the lackadaisical implementation of the 1983 Act, civil-society organisations received with caution the proposal for an international migration policy for India. They were wary of the perspective with which the government was moving towards a policy on migration, as the discourse on migration had been changing from a perspective of 'rights of migrant workers' to a perspective of the need for '*managing migration*'. For instance, the International

Organisation for Migration (IOM), an intergovernmental organisation, has this to say on migration policy, '...the question is no longer whether to have migration, but rather how to *manage migration* effectively to enhance the positive side of the tally sheet and reduce the negative. The goal for the international community, therefore, is to explore ways in which the value of migration can be maximised. This will require constructive and effective *migration management policies*.'

A similar sentiment was expressed by the ministry of overseas Indian affairs in 2006. A report in the *Pravasi Bharatiya*, the e-journal of the MOIA, said, 'Apart from the pre-departure orientation and skill upgrade programme, MOIA is also pursuing a proactive *migration management policy* for the benefit of Indians planning to go abroad for employment. The idea is to position potential overseas Indian workers as “consumers” of employment services provided by the private recruitment industry. ...The Ministry is also working on comprehensive amendments to the Emigration Act 1983 conforming to the existing scenario.'

At the core of this debate is the linkage between 'migration' and 'development'-- seen here as a state's prerogative--which refers to maximisation of economic benefits by the sending and receiving countries. This linkage is stressed in the context of globalisation, which is further integrating economies and labour markets. The IOM document says that even modest liberalisation of the temporary movement of persons to provide services under Mode 4 of the General Agreement on Trade in Services (GATS) is projected to produce annual global welfare gains of between USD 150 billion and USD 200 billion, outstripping gains anticipated in further liberalisation of trade in goods. 'Remittances' by migrants have also become a justification that establishes the link between migration and development. World Bank puts India among the largest recipients of workers' remittances along with China and Mexico. Incidentally, India received as remittances US\$ 24.1 billion in 2005-06, and nearly US\$ 28 billion in 2007-08 according to the ministry of finance. In response to the growing demand for skilled labour in the global labour market and India's demographic dividend (in 2020, the average Indian will be only 29 years old, compared with 37 in China and the United States, 45 in Western Europe, and 48 in Japan), the government of India proposes a new regime of management of migrants who are encouraged to 'move up the value chain'. It is also important to observe that with the creation of MOIA, the emphasis has shifted from 'migrant workers' to non-resident Indians (NRIs) and persons of Indian origin (POI), keeping an eye on investments.

Centre for Education and Communication (CEC) and members of Migrant Forum in Asia (MFA) India, with the support of DanChurchAid, decided to facilitate a consultative process to consolidate a civil-society perspective on migration and to engage with the MOIA so as to influence the content of the policy.

Subsequently, a series of consultations were held in Delhi (November 8, 2008), Chennai (November 30, 2008), Kozhikode (December 6, 2008), Kolkata (December 11, 2008), and

Chandigarh (December 14, 2008). A second national consultation was held in Chennai (January 8, 2009) to coincide with the Pravasi Bharatiya Divas observations. These consultations brought together a range of civil-society actors including migrants' groups, trade unions, women's groups, academics, researchers, lawyers, human-rights groups and activists, and others involved and interested in the issue of international migration. The report reflects the concerns and perspectives expressed by the partners and co-travellers.

The document urges MOIA and the government of India to frame a policy that has, at its core, a rights-based framework that provides for the security and protection of all migrants, including skilled and unskilled, male and female, documented and undocumented, out- and in-migrants. All migrants, regardless of their status vis-à-vis national laws in their own countries and in India, must be treated as individuals with fundamental civil, political, social, cultural, and economic rights enshrined in the Constitution of India, the UN Declaration of Human Rights, and the ILO conventions. The document points out that female migration is often automatically associated with trafficking, and trafficking with prostitution, ignoring the diversity of women's migration on the one side, and the distinctness of each of these movements on the other. It cautions against government putting in place protectionist policies that are patriarchal and do more harm than help. It also calls for a regional framework comprising the SAARC region, which might constitute a stronger bargaining bloc for migrants' rights.

Dr Yamini Atmavilas, consultant, in collaboration with Dr Christian Wolff, put in commendable effort to harness the perspectives of a wide spectrum of people and organisations on migration, rights of migrants, and the key concerns that should be considered while formulating a policy on migration. Ms. Seeta Sharma of DanChurchAid has been a keen and active participant in consultations and deliberations. Ms Pallavi Mansingh conceived and guided the publication; Ms Sarita Bhoi finalised the document; and Ms Sindhu Menon of The Information and Feature Trust (TIFT) and Ms. Alet Mathew helped us with the production of the publication. As mentioned earlier, the report is the result of a collaborative exercise. Migrant Forum India (MFI), Migrant Rights Council (MRC), National Centre for Labour (NCL), Peace Trust and Centre for Indian Migrant Studies (CIMS) all members of MFA, India have been active partners in the project. Moreover, a number of other organizations and individuals have been participants in this exercise. The final report, hence, incorporates regional and organizational diversities. We hope the government of India will consider this report with the seriousness it deserves.

J John

Executive Director, CEC

May 01, 2009

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Several organizations and individuals came together to make this a truly consultative and collaborative effort. Various organizations helped arrange the consultations in different parts of the country. CEC would like to thank Migrant Forum India for being the local organizing partners for the southern regional consultation in Chennai (November 30, 2008). We would like to thank Pravasi Lokam, Kairali TV, for partnering in the organization of the Kerala state consultation in Kozhikode (December 6, 2008). Thanks are due to Comrade Ashok Ghosh, Secretary, UTUC, for partnering with us to convene the eastern regional consultation in Kolkata (December 11, 2008). We express our gratitude to the northwestern centre of the Indian Council for Social Science Research (ICSSR) for helping us organize and host the Punjab state consultation in Chandigarh (December 14, 2008). We would also like to thank Migrant Forum India, Arunodaya Migrant Initiatives, and Manitham for helping us put together the national consultation and events in Chennai (January 8-9, 2009). Finally, we are grateful to all the participating individuals and organizations from various parts of India, including trade unions, migrant workers' organizations, NGOs, and academic institutions for providing insights and information, sharing experiences, and enriching the discussions at all the consultations.

I. Introduction

About the Report

When the ministry of overseas Indian affairs (MOIA) announced its intention to draft an international migration policy for India, civil society organizations, including the Indian members of Migrant Forum in Asia (MFA) and its allies, became active in consultative and advocacy efforts to influence the content of the policy. The Centre for Education and Communication (CEC), Delhi, a member of MFA India, convened one such national effort to ensure that the voices of all migrants and migrant rights groups, and the complexity of the migration experience, would be fully realized in the policy document. The effort was motivated by the impetus to ensure that the policy document reflects the interests of their members, and by a public invitation from the ministry (MOIA) to provide civil-society inputs into its new policy initiative.

This report is based on a series of consultations that brought together a range of civil-society actors including migrants' groups, trade unions, women's groups, academics, researchers, lawyers, human-rights groups and activists, and others involved and interested in the issue of international migration. The consultations were facilitated by CEC and partner organizations around the country between November and December 2008, and were held in Delhi (November 8, 2008), Chennai (November 30, 2008), Kozhikode (December, 6, 2008), Kolkata (December 11, 2008), and Chandigarh (December 14, 2008). A second national consultation was held to coincide with the Pravasi Bharatiya Divas observations in Chennai (January 8-9, 2009).

This report is being submitted to the ministry of overseas Indian affairs in order to provide (and ensure) civil society inputs into the drafting of India's international migration policy. We hope that MOIA will seriously consider the discussions presented in the following pages and the set of recommendations for administrative and legal reforms. We also believe that the submission of this report should be seen as the beginning of the ministry's engagement with civil society, a collaboration that should persist through further discussion of official drafts, and the planning, programming, and implementation stages of the process.

It should be noted here that the proposed policy paper as it has been shared with the public and discussions with officials have focused exclusively on labour migration. The

consultations and this report replicate this focus in order to meaningfully engage with policymakers in this area. Admittedly, the document does not cover the entire gamut of concerns related to migration. Many migrants both in India and abroad are forced migrants (including refugees), and include those fleeing political upheaval and natural disasters, as well as economic hardships that touch upon issues of livelihoods and survival. These groups have protection needs that are more fundamental and broader than the concerns of labour migration addressed here, and India has a responsibility under international human rights law to ensure the protection of those forcibly displaced. We urge the government and the relevant departments to address the wider and complex concerns of migration that fall outside the purview of our document in its current form and scope.

Overview of Concerns

The intention of the ministry of overseas Indian affairs to draft India's first-ever international migration policy is a welcome, and a much needed, move. Migration appears to have become an important policy issue for the Indian government given the widespread dispersal of the Indian diaspora, and the state's desire to increase NRI economic and cultural contributions to the nation. Globally, migration has come into its own, and over the last few years, there have been several key international reports and commissions on the issue of migration and its relationship to national and global economies, and to the pursuit of development and well-being.¹ In practically every region of the globe, the increasing mobility of people in the quest for decent work and human security has required the attention of policymakers and incited dialogues for multilateral cooperation on better management, protection of human rights, maximization of migration's contribution to development, and prevention of clandestine flows and trafficking.

The initiative for the policy in India has emerged in the wake of (a) the growing recognition of international migration as a key, yet unique and distinctive, form of global exchange and revenue generator on par with the mobility of capital and goods; (b) major labour-market openings over the last decade or so in western economies and the Indian state's preference that Indian workers take advantage of these opportunities; (c) the ongoing governance reform and deregulation process in India, and an overall shift from the principle of protection of workers to that of safeguarding the interests of business and investors, including under India's increasing efforts to comply with WTO standards, which is likely to have a profound impact on migration issues in the wake of the ongoing Mode 4 negotiations; (d) the recognition of the absence of a comprehensive policy framework and the many dysfunctional features of the current emigration system that perpetuate corruption and exploitation of aspiring migrants; and (e) the persistence of the fundamental contradiction of globalization whereby capital and goods are exchanged under increasingly borderless

1. For instance, the UN Secretary General in 2004 commissioned a Global Commission on International Migration (GCIM). There have been two Global Forums on Migration and Development (GFMD) in 2007 and 2008, and the forthcoming Human Development Report (2009) will be focused on migration as its key theme.

conditions, but the mobility of people is increasingly restricted under strict border controls and national security interests.

Civil-society organizations welcome MOIA's initiative to draft an international migration policy. In this effort, we urge MOIA and the government of India firstly to frame a policy that has, at its core, a **rights-based framework** that provides for the *security and protection of all migrants*, including skilled and unskilled, male and female, documented and undocumented, and out- and in-migrants. All migrants, regardless of their status vis-à-vis national laws in their own and in other countries, must be treated as individuals with fundamental civil, political, social, cultural, and economic rights enshrined in the UN Declaration of Human Rights.

The **UN Convention on the Rights of Migrant Workers and their Families** provides a comprehensive framework outlining several important rights of migrants and their families. We urge MOIA to **examine** the convention for its usefulness in drafting the policy and programmatic provisions for migrants, and also to urge the government of India to **ratify** the convention.

The **aim, scope, and objectives of the policy** should be made clear to civil society and migrants themselves at regular intervals.

Migration is not a new phenomenon; but admittedly, the processes of contemporary globalization have intensified various types of migration by different groups of individuals and groups. The policy should take cognizance of **all types of migration** skilled/unskilled, documented/undocumented, forced/voluntary, or labour/conflict/disaster/development-driven, and **support migrants' aspirations for safe migration, decent work, and security**.

Migrants' rights to safe migration, decent work, and security should be ensured for Indian migrants across the globe, and extended to in-migrants on Indian soil regardless of nationality. Considerations of national security in the current context should not supersede this rights framework.

The policy-drafting process should be **transparent and open** to inputs from workers, employers, trade unions, and civil society.

While we recognize that the ministry of overseas Indian affairs, whose purview is limited to Indians abroad, is initiating this policy, the scope of the policy should be led not by the scope of the initiating authority, but by the **scope of the issue**. Migration is a complex, multi-dimensional phenomenon for India. India is an important origin (migrant-sending), destination (migrant-receiving), and transit country. The policy should be **wide-ranging**, taking full cognizance of India's enmeshment within global migrant flows. In order to achieve this, **the meaningful and unbiased cooperation and involvement of other ministries**, in particular the labour ministry, the ministry of external affairs, and the home ministry, would seem crucial and necessary.

The policy should **view emigration, transit, overseas stay, and return (or permanent settlement) as a continuum** rather than disjointed processes; concomitantly, policy and

programmatically interventions should be comprehensive rather than piecemeal.

Migration is an economic, social, and political process that affects those who move, those who stay behind, and the places where they go. The policy should **encompass the rights and concerns of migrants and their families in places of origin and destination.**

The policy framework should be **gender-sensitive and encompass women's rights**, viewing female migrants as legitimate actors in their right and not mere victims notwithstanding concrete steps to address gender-specific rights violations.

The issues of **human smuggling, human trafficking (particularly affecting women and children), and undocumented migration** must be addressed as **distinctive** and important concerns.

The policy should address the **vulnerabilities** that shape women's, men's, and children's experiences of the migration process, including poverty and lack of employment opportunities; gender disparities, and violence against women; caste, ethnicity, and social marginalization; conflict and development-induced distress and displacement; customary practices; environmental factors; and long and porous borders with our neighbours allowing in- and out-migration.



Regional Consultation Chennai, November 30, 2008



Regional Consultation Kozhikode, December 6, 2008

II. India and International Migration

Importance of India as Origin, Destination, and Transit Country

The international migration policy must reflect the extent of India's engagement with international migration. Unlike the Philippines or China, which are predominantly migrant-sending countries, India is uniquely positioned as an important origin (migrant-sending), transit, and destination (migrant-receiving) country.

Among origin countries in the world, according to *World Migration 2005: Costs and Benefits of International Migration*, India is second to China (35 million) at 20 million (this figure includes both Indian citizens abroad [NRIs] and foreign persons of Indian origin [PIOs]). Historically, skilled, semi-skilled, and unskilled Indian men and women have migrated to a variety of locations across the globe – from low-wage manual labourers working as indentured labour in plantations and mines of British colonies in the 19th century, in the Caribbean, the Pacific, the Indian Ocean, and Southeast Asia, to highly skilled professionals like doctors, engineers, scientists, teachers, and entrepreneurs headed to developed countries in the 20th century, and more recently to Australia, New Zealand, and European countries in addition to the United States, the United Kingdom, and Canada. In addition, in the wake of the 1970s' oil boom, a largely semi-skilled and unskilled (and some skilled) group of migrants began heading to work in the Persian Gulf, and still continue to do so.

Among countries hosting migrants from other nations, India was placed eighth in the world in 2005, according to the *United Nations Trends in Migrant Stock: A 2005 Revision*. The top eight include the United States (38.4 million), Russian Federation (12.1 million), Germany (10.1 million), Ukraine (6.8 million), France (6.5), Saudi Arabia (6.4), Canada (6.1), and India (5.7). Nepalese and Bangladeshi nationals are most likely the largest groups of in-migrants to India. However, given the porousness of India's borders and the preponderance of undocumented modes of entry into (and through) the country (particularly from neighbouring countries), this figure is likely to constitute a poor approximation of the real numbers.

Finally, while it would be incredibly difficult to assess how many citizens of other countries come to India before migrating elsewhere (i.e., for whom India serves as a transit country), reports from trade unions and labour and human rights organizations that participated in civil-society consultations suggest that these are not insignificant. Individuals from

Bangladesh, Nepal, Bhutan, and Myanmar arrive in India en route to the Middle East, Europe, and North America, on their own or through Indian agents.

Recommendations: While we recognize that the policy has been an initiative of MOIA, whose constituency is non-resident Indians (NRIs) and persons of Indian origin (PIOs) living abroad, we urge MOIA to recognize the wide-ranging scope of the issue of international migration for India, and involve other ministries concerned including home, external affairs, and labour in the policy conceptualization, drafting, and implementation processes.

India's unique status necessitates the adoption of intersecting/synergistic policy standpoints wherein advocacy for greater rights for Indians abroad must be matched by the provision of similar rights and protections for foreign migrants within India. With regard to the migration of Nepalis and Bangladeshis into India, labour concerns must be separated from national security concerns. If we recognize that compelling individual and structural 'push' and 'pull' factors related to labour, conflict, security, and disasters underpin Indian citizens' migration overseas, then we must see that equally compelling concerns draw others to India, including India's strong and stable political economy that stands out in the region.

The policy should adopt a more comprehensive framework of mobility. Further, through adopting a rights-based approach, the policy should seek to mitigate some of the harsher consequences of the contradiction between emigration as a fundamental right (Article 13-2 of the Universal Declaration of Human Rights) and immigration as a matter of national sovereignty.

An international migration policy, by definition, will try to coordinate governmental initiatives with those of other nations. Whereas in the case of India such coordination will primarily involve receiving countries of its nationals further afield, issues concerning sending countries should also be addressed. Caution must be exercised to avoid the contradictions between border-free economies to enable the free movement of goods and services, and controlled borders to contain the movement of persons of other regional immigration policies, most notably in the European Union (EU).

Diversity of Migration Paths, Destinations, and Experiences

Migration is not a new phenomenon; nor is it a failure of or substitute for development. Historically, economic growth has enabled and required the increased mobility of people, alongside the mobility of capital, goods, and services. This is true in international and national contexts where particular global and national urban settings such as London, Paris, New York, Mumbai, Delhi, and Bangalore attract migrant labour from varied locales across intra-state and international borders.

By 2010, the economically active population in the developing world is projected to increase by 733 million, while that in developed regions is expected to increase by only 50 million. This suggests that the ongoing need for labour in developed and faster-growing economies that is being met by migrants is only going to escalate. Already, both skilled and unskilled

workers from developing countries are meeting labour gaps in more developed economies. Regardless of the distances they cover, their modes of travel, the legality of their movement, and the extent of risks they take, it must be recognized at the outset that migration is undertaken by energetic and resourceful individuals who move as part of their effort to improve their lives and the lives of their families, to learn new skills, to gain new experiences, to find a job, or to flee insecurity, disaster, or famine. It has been well-documented that many migrants, regardless of their skill level, will take the lower-skilled and lower-paid jobs that nationals are reluctant to do.

As industrialised and middle-income economies need labour, some developing countries are seen as having an abundance of labour that can meet this need. From the perspective of aspiring migrants from developing countries like India, areas where growth and development are occurring offer important economic opportunities for men and women looking to improve their way of life. Indeed, Indians, along with their Chinese, Filipino, Egyptian, Turkish, and other counterparts, have long provided valuable labour in the West (the old the UK, the USA, Canada, and, to a limited extent, continental Europe and the new, including Australia and New Zealand) and the Middle East across the skill spectrum, responding to labour-market demands and filling gaps in supply. India is seen to have a demographic advantage over Europe and other western countries. While Europe is greying, with many European countries recording negative population growth rates, India, with a large, young population, is seen as a rich source for labour. Men and women from developing countries like India and the Philippines have already begun to help meet the demand for skilled and semi-skilled, or low-skilled, labour in more developed economies.

The growing 'feminisation' of migration—more women moving independently—has come about in response to a growing demand for female labour around the globe, particularly for domestic and care work. The increase in female labour-force participation in the West has occurred alongside cutbacks in social services, including daycare arrangements. As a result, working women have to rely on the market for domestic and care services; migrant women from poorer countries have been filling this demand. While these opportunities can also lead to extreme forms of abuse and exploitation, women find that they can improve their position in their families and communities, and have the opportunity to be independent and make decisions in a way they were previously unable to do. However, they may also become vulnerable to abuse and risks of trafficking.

Indeed, the experience of semi-skilled and unskilled Indians in the Middle East has shown that their sojourn there has been governed by stringent working conditions. Their journeys have tended to be strictly temporary, with severely restricted opportunities for family reunion in countries like Saudi Arabia, and compulsory return to India. Often combined with harsh working conditions and severe restrictions on movement and career mobility within the respective host country, this has resulted in the absence of, or limited, social security and security of employment and job tenure for many. Such conditions have also created deep and

long-lasting emotional and psychological burdens on the migrant workers and their families. Stringent conditions of work and limited access to healthcare also impact many migrants adversely.

The types and routes of migration are varied and uneven in parts, as an outcome of the immigration policies of destination countries. The presence of formal, legal immigration architecture (albeit predominantly temporary), for instance, allows many skilled Indian migrants to migrate to the West. However, the absence of such mechanisms on the lower rungs of the skill hierarchy despite the need and opportunity in the labour market for low- and semi-skilled work allows for undocumented modes of movement and labour, such as that of the “kabootars” or undocumented migrants from Punjab.

Migrants are considered to be undocumented or in an irregular situation when they are not allowed to enter, stay, or work following the law of the country. Thirty to forty million people in the world live and work in countries without such permission. Approximately 10.3 million live in the USA, and between 7 and 8 million live in the European Union. Asia is thought to have several million irregular migrants. The largest numbers are likely to be Nepalese and Bangladeshis in India, Afghans in Pakistan and the Islamic Republic of Iran, Indonesians and Filipinos in Malaysia, and Burmese in Thailand.

While there is inadequate critical assessment of how migrants become irregular, blame is readily assigned to them. A significant proportion of those considered irregular are refugees, and those escaping war (including civil war), authoritarian governments, economic destitution, and repression in the country of origin. Many are trafficked or smuggled into the countries on fake documentation provided by the traffickers themselves. Irregular status can also result from administrative reasons: for example, non-renewal of visa, or as in the case of many Indians in the Gulf, the separation of the migrant from the primary employer who s/he is legally and contractually bound to owing to reasons of conflict and possible abuse. Irregular migrants (especially people who have been trafficked or smuggled) rarely appear in official statistics. Often stripped of identity documents and fearful of contact with the authorities, irregular migrants are difficult to identify or trace. One of the greatest challenges faced by undocumented migrants is the risk of exploitation and abuse by employers; by members of their own communities who often take advantage of other migrants' vulnerability; and by traffickers and irregular migration networks that often exploit or deceive them.

People smuggling and human trafficking are also a growing part of the migration picture. It is difficult to establish the numbers of people who are smuggled or trafficked. It is understood that the prevalence of trafficking is far less than that of smuggling. The ILO report on the Global Alliance Against Forced Labour (2005) estimates the number of persons in forced labour at a given time as a result of trafficking as 2.45 million. People smuggling involves migrants who often actively seek the help of a smuggler who will help them to illegally enter a country for a fee.

Those who are trafficked are deceived or coerced by their facilitators. Traffickers intend to exploit the men, women, and children when they reach their destination. The majority of trafficked people are women and girls, and the trafficking of people occurs both within and between countries. Trafficked victims can be sexually exploited, but can also be forced to work off a bond or pay off a debt through other illegal forms of labour. To prevent trafficking, its root causes such as poverty, discrimination against women and girls, and inequality need to be addressed.

Recommendations: Given the wide range of migrant routes, motivations, destinations, and experiences, the policy should ensure that migration is a voluntary and an informed choice for all, through providing for public education and awareness programmes at various levels, including district and panchayat levels in well-known origin areas.

The content of bilateral negotiations with destination and sending countries and in multilateral arenas should be based on the idea that well-planned migration and provision of social security and minimum labour standards benefit sending countries and countries of destination, as well as delineate clear and accessible avenues for family reunification. India has ratified ILO Convention 118 on Equality of Treatment (Social Security) covering medical care, sickness, and maternity benefits. This assures equality of treatment in these branches of social security for migrant workers in countries having ratified the same convention. The content of the convention should be part of the negotiations while negotiating with destination countries that have not ratified the convention.

Many migrants who move through irregular channels find themselves in vulnerable positions before, during, and after their journey. This may result in migrants facing harassment, and imprisonment. In these situations, an emphasis on the human rights that migrants are entitled to can help mitigate some of the worst outcomes. The policy should, therefore, include minimum protection mechanisms for those finding themselves in vulnerable situations, whether as victims of displacement, smuggling, trafficking, or other forms of exploitation linked to migration. These mechanisms should operate under the direct purview of the Indian government, either through its offices in-country or its missions abroad.

Importance of Migration for India

In terms of the 'push' factors, it has been argued that migration results (at least in part) from the absence of opportunities for labour, security (in the case of conflict and disasters, particularly), and viable safety nets for vulnerable populations. At the same time, the variety of individual motivations to migrate for new experiences and opportunities cannot be denied. Regardless of whether it is motivated by distress or desire, adversity or adventure, migration has proven important to India's society and political economy in a number of ways. It provides the opportunity for cultural and economic exchanges and experiences of travel. Earnings in destination countries also facilitate the transfer of remittances important to India's economy.

India has been trading places with China over the last few years as the largest recipient of workers' remittances at US\$ 24.1 billion in 2005-06, and nearly US\$ 28 billion in 2007-08 (government of India, ministry of finance). Accruing from an Indian diaspora estimated at 25 million spread across nearly 130 countries, remittances have become consistently higher than net foreign direct investment and official financial flows. The bulk of the remittances are made not, as anticipated, by highly skilled NRIs in the West earning high salaries, but by unskilled and semi-skilled migrants in the Middle East and East Asia employed largely in work often described as characterized by the '3 Ds' dirty, dangerous, and difficult. Until recently, these remittances were made through *havala* (risky, undocumented channels) or expensive remittance transfers, with banks and financial institutions charging high commissions. Indian banks have begun to provide cheaper and easier transfer options, but have a long way to go.

Despite the high value of remittances they send, this group of migrants and their concerns have remained largely invisible to the central government. Some initiatives have been undertaken by individual governments of Indian states that are home to large numbers of Gulf migrants, such as Kerala; yet, they do not address the gamut of concerns. Greater discussion and recognition are needed of the potential of remittances, if effectively managed, to generate important gains for India in terms of growth, investment, human-capital formation, and poverty reduction.

The linkages between remittances and development can be seen at different levels: at the macro level, remittances represent a source of foreign exchange, injecting capital into the economy of the source country, thus potentially helping to reduce balance-of-payments deficits. At the micro level, for aspiring migrants from the lower classes, opportunities to migrate into low-skilled jobs can and do offer a rapid route out of poverty. Indeed, economic analysis suggests that if global trends over the last thirty years continue, temporary migration to industrialised countries may lead to gains of as much as US\$ 300 billion a year in 2025, shared equally between people in developing and developed countries.² Much of the gain would come from the migration of unskilled workers to meet labour-market needs. Migration can benefit families and communities through an increase in their income, the learning of new skills, improvement of social status, and the building up of assets and improvement in quality of life. Individual families gain in resources for education, house-building, entrepreneurial ventures, and other forms of social mobility.³ At the same time, visiting and returnee migrants also contribute by spending their earnings on local services and commercial transactions. Remittances may also include gifts, information, commodities, new skill sets acquired in destination countries and

2. World Bank (2006). *Global Economic Prospects*, page 41.

3. See Osella F. & Katy Gardner (eds.) 2004, *Migration, Modernity, and Social Transformation in South Asia*, Sage Publications, for several articles that detail the contributions of migrants to improvement of family status, education, and consumption activities. Even conspicuous consumption by migrants and their families contribute to the market and, thereby, the economy. Admittedly, the gains made by migration do not negate the psychological and economic burdens and risk factors; for most, the migration experience and outcomes are characterized by the opportunities and constraints of the process.

shared with others at home, and other non-monetary remittances. At the community level, migration can lead to support from migrant communities (diaspora) in terms of technology transfer, tourism, and charitable activities.

Migration does not just add value to India's economy and society through the contributions of citizens from abroad. In-migrants to India, such as Bangladeshis and Nepalis, provide labour (documented or otherwise) in several sectors of the economy including agriculture, urban wage work, industry, and services, and contribute to the economic output. Even those who are here as refugees and have escaped conflict or disaster in their own countries, take up opportunities to work in India. This must be seen as a positive value-addition of migration within the purview of the policy. In popular rhetoric, however, they are often cast as burdensome, as intruders, and as suspected terrorists. It must be kept in mind that Indians abroad particularly since the World Trade Center attacks on September 11, 2001 have themselves been targets of such rhetoric and xenophobic attacks. The policy must demonstrate a strong position on these issues both abroad and within our territory.

Recommendations: We urge MOIA that the policy take cognizance of the contributions of *all* migrants to India's economy and society skilled and unskilled, men and women, out-migrants and in-migrants and make provisions to provide adequate and transparent mechanisms for related concerns: provide safe, easy, and inexpensive remittance transfer systems, and facilitate the creation of safe, legal, and rights-protected mechanisms for in-migrants living and working in India.

Sending money to their families and communities becomes difficult and costly for migrants as a result of weak financial infrastructure, poor payments systems, lack of accessible financial institutions, weak accountability, and a weak regulatory environment. The policy must address the remittance transfer system to facilitate easy, safe, and inexpensive transfers for migrants.

In addition, the policy would benefit from extensive labour-sector assessments, which could lead to the formulation of well-defined admission categories for labour from neighbouring countries.

Governance of Migration

International migration, as the term suggests, is a phenomenon that affects countries across national borders, as has been pointed out in previous sections. Nonetheless, most of today's legal and administrative frameworks governing the rights and conditions of those who migrate remain premised on the primacy of the concept of the nation-state and state sovereignty, which often leads to difficulties in accessing rights and protection across borders and in foreign states.

While being citizens and rights bearers in their countries of origin, migrants live and work abroad and are subject to the laws of destination countries. The destination country may lack specific instruments to ensure migrants' rights despite being bound by basic international human-rights treaties (such as the UN Human Rights Convention, the ICESR, and the

ICCPR). To address this lacuna, three international agreements have been adopted – two by the International Labour Office (ILO) and one by the United Nations (UN).

The ILO has developed standards specifically regarding migrant workers. In 1949, in the aftermath of the Second World War, it created the Migration for Employment Convention (Revised), 1949 (No. 97), setting certain standards for the recruitment of migrants for employment and their conditions of work, including their equal treatment with nationals of the receiving state. In 1975, in the wake of the 1973 oil crisis, it adopted the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), which underscored signatories' obligations to respect the basic human rights of all migrant workers, in addition to guaranteeing equal opportunity in access to employment, trade-union rights, cultural rights, and individual and collective freedoms.

In 1990, the UN adopted the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The convention is comprehensive and regulates most aspects of international migration, including non-discrimination, human rights of all migrant workers regardless of their legal situation, and additional rights of those in documented status. It also addresses the need to establish 'sound, equitable, humane and lawful conditions' for migrant workers.

Unfortunately, ratification of these instruments to date has not been very widespread: as in January 2009, only 48 states have ratified ILO Convention 97; 23 states have ratified Convention 143; and 55 states have ratified the UN 1990 Convention. Many potential signatories hold reservations on the non-conformity between national legislation and the conventions – i.e., states either feel that they would have to provide rights to migrant workers not currently afforded to their own nationals, or balk at any infringements on their currently near-unrestricted authority over the admission and expulsion of non-nationals.

Neither the government of India nor the governments of major destination countries for Indian migrant workers have ratified either the ILO conventions or the 1990 UN Convention. Their provisions are currently not applicable to migration policy in this area. This fact should not, however, prevent India from reconsidering its position on the conventions in the course of the adoption of its first international migration policy, as many of the hallmarks of a modern policy on migration which respects both the needs of states and migrants are reflected in these documents.

Apart from these global instruments governing international migration, regional and sub-regional bodies can provide for the management of international migratory flows. Examples of regional bodies with some provisions for migration include the European Union (EU), the Andean Community, the Mercosur countries, the East African Community, and several other political entities on the African continent. In Asia, where regional policy cooperation has remained relatively limited by comparison, multilateral agreements regarding migration have largely focused on specific sub-issues such as smuggling and trafficking (addressed in

the Bali Process) or irregular migration (as taken up by the Bangkok Declaration).

Another international body seeking to regulate international migration is the World Trade Organization (WTO). Its General Agreement on Trades and Services (GATS) has sought to facilitate the free and deregulated movement of services. Mode 4 of GATS seeks to regulate the movement of natural persons, which currently accounts for just over one per cent of world services trade. There is expected to be a great deal of negotiating and advocacy at the international level for all states to become party to, and adhere to, the terms of GATS in the future. In the current format, its provisions leave unaddressed the bulk of the migrant workers around the globe who work at lower levels of the global economy. It represents a version of temporary labour migration largely under the oversight of entities quite autonomous from government.

In the absence of entering into either global or regional migration agreements, many states have continued to rely on bilateral agreements (BAs) and memoranda of understanding (MOUs) between particular sending and receiving countries of migrant labour. BAs specify sending and receiving countries' responsibilities for managing particular migration flows, sometimes setting annual target quotas. Receiving countries benefit by achieving a guaranteed influx of labour (sometimes in specific sectors), while sending countries use BAs to ensure continued access to particular labour markets abroad, tap into remittances, and ensure the welfare of their nationals.

Many such agreements require the prior permission of authorized agencies, the submission of a list of available jobs in the destination country, to be matched with a list of pre-selected applicants from the country of origin, and mutual supervision to ensure issuance of appropriate visas and work permits, valid employment contracts, workers' compliance with requirements for health insurance and other welfare funds, and payment of taxes. However, these agreements tend to be concentrated more around recruitment procedures than welfare and protection, and the monitoring and enforcement mechanisms tend to be weak.

A memorandum of understanding is usually less formal than a bilateral agreement and preferred by many countries of destination, presumably as its provisions are non-binding and, thus, easier to negotiate and implement and to modify according to changing economic and labour-market conditions.

India has entered into several such BAs and MOUs in recent years, including with Qatar, Lebanon, Malaysia, France, and Belgium.

Recommendations: As a framework for guiding its international migration policy, and for negotiating future treaties with sending and receiving countries in particular, the Indian government should consider ratifying and implementing ILO conventions 97 and 143, and the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Doing so would provide successive governments a stable frame of reference for setting, implementing, and monitoring standards for migrant workers. It

would also maintain a labour and human rights focus in bilateral negotiations.

In general, the government must make the human and labour rights of its nationals working abroad a central component of any agreement. It is important to stress that an equal rights-based treatment of foreign nationals entering India as migrant workers must be ensured as part of a comprehensive international migration policy.

Of equal importance is an emphasis on meaningful implementation. This would pertain to transposition of policy provisions into applicable laws, and extensive capacity building among officials involved in their administration. Employers' organizations should take action to make their members aware about trafficking and similar practices, and educate them on measures to reduce and avoid wanted and unwanted complicity in trafficking practices, in compliance with the Palermo Protocol on Trafficking. In the case of foreign nationals entering India for work, the ministry of external affairs personnel should receive training in administering an applicable system of work permits and other schemes for lawful entry and work in India. In the case of serving the needs of Indian nationals working abroad, the consular staff of Indian missions needs to be capacitated to provide more effective and comprehensive assistance in ensuring rights under existing and future treaties.

For India, negotiations around Mode 4 should represent an opportunity to truly influence, rather than simply coordinate with, its processes and provisions to ensure that they are comprehensive in addressing migration in its fullest span; the inclusion of all migrant labour, semi-skilled and unskilled, who are currently excluded from its ambit; and attention to labour in its myriad forms and complexity, and not merely services as tradable commodities. India's negotiations around the processes in the future must include a non-negotiating stance on the question of rights and protection concerns of migrants.



Regional Consultation Kolkata, December 11, 2008

III. Policy Framework

This section sets forth the core defining principles around which the international migration policy should be crafted. We believe that the policy should be based on certain defining features: it should be rights-based; it should recognise gender as a framing principle; it should be framed in a regional, South Asian perspective; it should have provisions for intra-national, state-level variations and mechanisms for policy coherence; and finally, it should aim to address migration internationally, not only on a bilateral level, but also on a multilateral and regional level.

Rights-based Framework

Basic rights of migrants are being violated on a regular basis throughout sending, transit, and receiving countries today. As our consultations showed, this affects Indian workers going abroad as well as nationals from neighbouring countries coming to find work in India, or those passing through—sometimes unknowingly—en route to a third country.

Therefore, any international migration policy must, at its heart, have a commitment to the existing international rights framework protecting migrants. This will help it to go beyond the mere economic objectives of states. Indeed, in order to achieve and sustain economic prosperity as an outcome of migration and ensure the social prosperity and welfare of the states concerned in the long term, the rights of those migrating have to be safeguarded. This issue also affects questions of national security, where rights violations by states against migrants easily feed into a climate of insecurity that can affect both migrants and host societies.

International Rights Instruments: The foundations for a rights-based framework for migration can be found in the Universal Declaration of Human Rights and the International Covenants on Economic, Social and Cultural Rights and on Political and Civil Rights, which guarantee certain universal, indivisible, and inalienable rights to all human beings. The Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Elimination of All Forms of Racial Discrimination, and the Convention on the Rights of the Child are additional instruments in this pantheon of basic UN human-rights treaties applicable to non-citizen migrant workers, all of which India has signed.

In addition, three specific instruments have been drawn up explicitly addressing the rights of migrants: ILO conventions 97 and 143 on migration for employment, and the 1990

International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families, none of which has been signed by India. Accession to these instruments would form a solid basis for developing a truly comprehensive international migration policy, which respects and protects the rights of migrant workers in India in the same spirit that it seeks to uphold these rights for its own citizens abroad.

National Laws: Globally, international migration policy is still largely determined by destination countries that exercise ultimate authority over the conditions and length of admission. In addition, states also remain the guarantors of rights both for their own nationals and for foreigners staying on their territory. Therefore, national laws are important for safeguarding migrants' rights regardless of (or in addition to) the ratification of specific instruments.

In the Indian context, the International Covenant on Civil and Political Rights, 1966 (ICCPR), is of particular relevance. It defines rights applicable to both citizens and non-citizens, including migrants (in Article 2, para 1). However, its provisions remain unrealized to date, since India has not enacted the requisite domestic legislation needed to implement its obligations under the ICCPR. It has also entered a reservation against Article 13, which requires that an alien has to be given the opportunity to submit reasons against his or her expulsion, and may be expelled from a state party's territory only in accordance with due process. Instead, the Indian government has claimed its right to apply its own laws relating to foreigners.

Nonetheless, foreigners, including migrants, do possess specific rights under articles 14, 21, and 25 of the Indian Constitution. Article 14 provides the right to equality before the law to any person within the territory of India. Article 21 ensures that no person is deprived of his life or personal liberty except according to procedure established by law, and Article 25 guarantees the right to freedom of religion to all persons, regardless of whether or not they are citizens.

Currently, many of these rights are not being safeguarded in effective ways, either because migrant workers are being forced into a system of 'illegality' owing to the absence of regular avenues for seeking employment in India, or because even immigrants staying and working lawfully in India are facing administrative and legal discrimination. These concerns could be meaningfully addressed in the context of a comprehensive work-permit programme covering legality and length of stay as well as working conditions and social security.

Enforcement of Rights: In addition to a formal commitment to international and national legal norms, an important cornerstone of a rights-based framework is the institutional willingness and capacity to enforce these norms in practice. It is in this area that the discourse on rights has recently come into conflict with governments' increasing desire to engage in various forms of 'migration management', which are predominantly based on the principle of deregulation and the primacy of the market.

Developed in regional and global fora outside the United Nations system, 'migration management' makes little or no reference to international instruments on human rights or migration. It threatens to undermine human rights by focusing on lowering so-called 'barriers' to economic integration that often include regulatory frameworks set up to protect domestic and foreign workers. In addition, 'migration management' is premised on the ideal of a privatized migration industry, which is ostensibly better equipped to cater to the fast-changing needs of the economy (read: investors) *as well as* of migrants, in terms of providing information and services.

A fundamental flaw in this approach, however, is that the *rights* of individuals cannot be guaranteed by private migration service providers. In fact, as our consultations have shown, the private migration industry in its current state already facilitates a myriad of basic rights abuses of migrants. Thus, stricter regulation and enforcement of applicable laws seem to be called for, rather than rapid and unchecked deregulation of this sector. The state must continue to maintain its responsibility for the protection of the rights of its citizens.

Deregulation and the subsequent softening of protection standards at home is also likely to lead to increased vulnerability for Indian workers abroad, where the exploitability of migrant labour often makes it an attractive instrument for maintaining competitiveness. We should avoid the circumstance where private service providers and recruiting and employment agencies set their own standards that will ignore 'inconvenient' migrant-labour concerns such as workplace safety, health, minimum wage, and other standards. Already, such protection often proves difficult in the face of state sovereignty issues, as well as capacity deficits of many missions, as our recommendations section shows. The government should create specific and strict inspection of the functioning and roles of employment agencies. Government should follow the provisions of ILO Convention 181 on Private Employment Agencies to make their functioning transparent and effective.

Recognition of Female Migrants as Legitimate Economic Actors and Gender-Sensitivity

More than half the world's current migrants are women. In some regions like Asia and Latin America, women make up more than 60 per cent of migrants. Government data for Indian women migrants is woefully inadequate; according to official estimates, women make up two per cent of emigrants at the national level and 16 per cent for Kerala. However, the data gathering only takes into account those who apply for emigration clearance, and leaves out the vast majority who do not apply for it and emigrate in undocumented ways.

Official and popular discourse tends to view women's migration in static, uni-dimensional ways: women are seen as victims of trafficking, as victim-criminals migrating to engage in prostitution/sex work abroad (and in India from Nepal, Myanmar, and Bangladesh), as victims of labour exploitation, or as victims of family separation due to male migration. In reality, women, like men, migrate for a variety of motivations and compulsions, in response

to labour-market opportunities as well as family betterment or need, for marriage, for employment, for education, for trade, owing to displacement induced by environmental disasters or development projects, and for adventure and travel, as the case may be.

The types of migration different women are able to undertake, and the access they obtain to labour markets and networks vary by class, education, caste/religion/region, and access to resources. Experiences of individual women may also vary over time to include both positive and negative experiences. Women migrate across the skill spectrum, experiencing a number of livelihood options and enhancement of economic and social status at the same time as many experience isolation, alienation, and abuse including forced labour and sexual exploitation. Low-skill, poorly educated women also end up in informal sectors of the economy in destination countries, such as domestic service and care work, which are outside the purview of labour protection and, hence, open them up to exploitation in the form of long hours of work, poor conditions, low wages, separation from identity and labour documents, and isolation. Women engaged in domestic service are particularly vulnerable in this manner, given that the site of their labour is the private sphere, and the labour context, intimate and isolated. Many domestic maids are physically, verbally, and sexually abused as well.

Laws and policies addressing women's migration more often than not undermine their interests rather than supporting their efforts. Female migration is often automatically associated with trafficking, and trafficking with prostitution, ignoring the diversity of women's migration on the one side, and the distinctness of each of these movements on the other. Such conflation has resulted in governments putting in place protectionist policies that are patriarchal and do more harm than help. For instance, India, Nepal, Bangladesh, Myanmar, Sri Lanka, and other countries have policies aimed at protecting female migrants against trafficking through imposing a minimum age on women seeking emigration clearance for work (in the case of India, 30 years), or restricting migration to married women, or requiring the permission of male members of the household. What such provisions achieve in reality, rather than providing protection, is an undermining of women's interests and security. Women who want to, and need to, emigrate take clandestine routes that intensify their vulnerability to harm and exploitation by unscrupulous agents and traffickers.

Another distinction that needs to be made is that not all female illegal or undocumented or irregular migration is trafficking. Trafficking is characterized by force, coercion, deception, and subsequent exploitation. National and international governmental and non-governmental responses to trafficking have also been complex and produced mixed results, replete as they have been with patriarchal assumptions about sexual morality and the rightful place of women. Provisions such as sending trafficked women back to their points of origin may not address the core issues underlying their vulnerability, viz. poverty, family pressure, livelihood crises, or other reasons. Poverty and socio-cultural vulnerability have been found to make certain individuals and groups more likely to be trafficked for labour and sexual exploitation. The UN Special Rapporteur on Violence against Women examined the

conditions that facilitate trafficking in South Asia, and found that gender discrimination, in law and in practice, was a root cause. She underscored the need to improve the socio-cultural and economic status of women in the region through access to education, employment, and inheritance and land, noting that many of those who are trafficked belong to lower-caste groups or ethnic minorities, both groups that face discrimination.

From a state perspective, the imposition of greater controls on borders or provisions restricting the mobility of groups considered vulnerable (e.g., women under 30, according to the Indian government) simply does not work. Globally, as governments have tightened regulations, activities of traffickers have only expanded and routes become more hazardous, and migrants rendered more vulnerable in the process.

In addition to the migration of women, the migration of men also affects women and families. The 'Gulf wife syndrome', a term used to refer to the psychological and social distress of separation experienced by women in Kerala who are separated from husbands working in the Persian Gulf, has been well documented.

Recommendations: The policy should have a mechanism for better gender-disaggregated data gathering that will help in understanding the range of women's migration experiences and extension of suitable services. Restrictive protectionist policies such as the 30-year age limit on emigrating women should be lifted and replaced with those that truly protect women migrants' rights. The policy should, therefore, conceive of female migrants as individuals in their own right, and address the breadth of their migrant experiences utilizing the entire range of international rights instruments, including—but not limited to—the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW).

The policy should also recognize gender as a framing principle for its mechanisms. What this means is that the policy should, in all its forms and phases, attend to the differences between men and women (and differences of region, religion, class, and ethnicity, as they intersect with gender) in migration motivations, access, opportunities, and experiences.

Need to Negotiate a South Asian Perspective

One of the barriers to raising wages and social-security standards in the Gulf countries is the perception (based on some experience) that if the Indian government asks for higher wages and better standards for Indian workers, they will simply be replaced by Bangladeshi or Pakistani workers who will work at the lower rate. For instance, Indian workers work for as little as 500 dinars/month in Qatar; however, Nepali and Sri Lankan workers will work for 200 dinars, which makes advocacy for higher wages for Indian workers counterproductive to their own interests.

In other words, migrants from these countries in the subcontinent (and others like the Filipinos, in the case of female domestic workers, for instance) are engaged in a 'race to the bottom', or a competition to work for the lowest wage in order to corner a particular labour-

market niche that ultimately disadvantages them as a group, and benefits employers. Thus, there was some discussion that a regional framework comprising the SAARC region, or a broader area, might constitute a stronger bargaining bloc for migrants' rights.

Further, as many migrants enter India from its neighbours in undocumented and unsafe ways, a regional approach will be an important step towards legalizing unregulated and, thus, insecure movement of persons. A dialogue with SAARC governments should be initiated on ways to harmonize working conditions, health, social security, and other benefits across borders. The feasibility of a work-permit system for the region should be explored.

Need for an Intra-Nation, State-level Framework

Experiences of both out-migration and in-migration are not uniform throughout the Indian nation-state. Some states like Punjab, Kerala, and Tamil Nadu are significant sending states, while the northern and northeastern states receive greater proportions of in-migrants than some of the southern states. Further, even between states, migration has a different profile: for instance, emigration from Kerala is predominantly to the Persian Gulf and cyclical, producing a high number of return migrants, while that from Punjab is predominantly West-bound and permanent in nature. The scope, impact, and significance of migration necessarily vary by state. The concomitant evolution of policy mechanisms and allocation of resources must be customized to the needs of each context as well.

Recommendations: Convene state-level consultations with key stakeholders to understand salient local migration-related issues. Create a regional/state-level (intra-nation) framework to deal with intra-national state and region-specific concerns. Create a mechanism that aligns state-level activities with national policy.



Regional Consultation Chandigarh, December 14, 2008

IV. Recommendations for Administrative and Legal Reform

On the Issue of Out-Migration: The government of India must ensure that safe migration based on legal norms and rules, and informed choice, non-exploitative in nature and safeguarding an individual's rights, is the norm for in-migration into India as well as out-migration from India. To this end, we demand that the government:

- (a) Ratify and implement all international legal instruments that promote human, labour, and gender-related rights of migrants, particularly ILO conventions 97 and 143, and the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- (b) Create bilateral work agreements with governments of destination countries based on these and other human-rights standards
- (c) Involve trade unions, civil-society organizations, and migrants themselves in the creation, implementation, and monitoring of policy and programmatic interventions for migrants in India and abroad

In the **Pre-Departure context** within India, we demand:

- (1) That any change in the legal instruments should have provisions for comprehensive regulation of recruiting agents, with strong punitive measures such as bans and imprisonment for agents who engage in illegal, unsafe, fraudulent, and other practices, and such measures supported by stronger enforcement. The government should continue to play its role in the licensing and monitoring of recruiting agencies and regulating the fees, wherever possible involving stakeholders, and desist from deregulation
- (2) Single-window system of administrative services for migrants
- (3) The age bar of 30 years on women intending to migrate be removed so that women's right to mobility is protected. There should not be any age bar for adult women to migrate
- (4) The visa system be reviewed to examine the constraints and dysfunctions of the current ECR/ECNR system. A robust visa system that best ensures the rights and protection concerns of all migrants must be created
- (5) A gender-, region-, occupation-, and destination-based disaggregated registration system be created for migrants and immigrants, aimed at organizing a database on emigrants out of India and immigrants into India. Such information must be utilized for future policy development, conducting analyses, and to ensure provision of social-security services. Migrants and their families should have access to these records

- (6) Pre-departure orientation and training be provided to all migrants. The training should cover risks and dangers, skills training, financial training, language training, and orientation to the culture, society, polity, and legal system of the destination country (in the case of in-migrants, India)
- (7) Financial assistance for migrants be made available for initial expenses
- (8) Setting up of information centres at Indian airports and in prominent destination countries addressing a range of migrant concerns
- (9) Legislation and stronger enforcement mechanisms be put in place to prevent abusive practices, smuggling, trafficking, and irregular migration. Monitoring systems should be established with the involvement of stakeholders
- (10) Involving the district- and panchayat-level administrations to provide information, services, and assistance to migrants, including legal aid
- (11) Mutually agreed medical testing be conducted using standards that are bilaterally acceptable

In the **Destination Country**, we demand that the Indian government:

- (1) Play an active role in the protection and promotion of economic, social, political, and cultural rights of Indians
- (2) Invest in capacity building of embassies around protection of the rights of Indian citizens abroad. In addition to existing services, consulate staff should be equipped to address a range of migrant needs including:
 - i. Labour, human rights, and sexual-harassment monitoring, aid, counseling, and intervention services to actively monitor and redress violations
 - ii. Orientation and support services for new migrants including access to social services, safe housing, and language training
 - iii. Emergency and transit services
 - iv. Legal, psychological, and social counseling and aid for all migrants abroad, including the incarcerated
 - v. Language services
 - vi. Domestic, sexual, and physical violence-related support services for female migrants
 - vii. Referral services
 - viii. Health services
 - ix. Repatriation of dead bodies
- (3) Intervene to protect Indians overseas where abuse and rights violations occur
- (4) Verify the terms of all labour contracts migrants enter into, and monitor labour conditions and take necessary steps in the event of abuse
- (5) Enter into agreements with destination countries, and these must emphasize the

payment of minimum wages, the extension of social security, health and safety, and decent conditions of work in accordance with ILO provisions

- (6) Initiate a regional dialogue on a SAARC-focused minimum wage and labour standard, which must be used for negotiating labour contracts by all SAARC nations within and outside the region
- (7) Work to ensure the elimination of all forms of discrimination against migrant workers in employment and occupation including on the basis of gender, skill level, health status (particularly HIV), nationality/region/religion, and age
- (8) Devise and negotiate for a system of portable social security such that benefits accrued abroad can be transferred back to India
- (9) Work with Indian and overseas banks and financial institutions in facilitating easier and low-cost transfer of remittances
- (10) Negotiate to ensure that foreign employers cover migrants' health insurance in the destination country, and have it reflected in the contract
- (11) Take all necessary action ensuring that migrants continue to enjoy their constitutional right to vote
- (12) Establish migrant helplines in destination countries

In the **Return/Re-Integration** Context, we demand:

- (1) Migrants upon their return must be offered need-based opportunities for new skills training for better rehabilitation and re-integration
- (2) The integration of returnee Indian migrants through creating a system of easier access to social services, and to all privileges and rights including provident fund and voting rights, if applicable; and ease of access to their remittances and loans for entrepreneurial and educational opportunities, etc., must be facilitated

For **in-migrants in India**, we demand that the government should:

- (1) Ensure that all Indian labour laws are applicable to in-migrants working in India
- (2) Ensure the basic human rights for all in-migrants on Indian soil, regardless of their legal status
- (3) Create Standard Operating Procedures (SOPs) as part of creating a regional/South Asian framework on migration that will provide safeguards for labour protection
- (4) Create a work-permit system for in-migrants from South Asian neighbours
- (5) Create a registration system for in-migrants to reduce instances of trafficking and to improve their safety
- (6) Evolve regional/state-level (intra-nation) framework to deal with region-specific in-migration issues

Annexure I: First National Consultation on India's International Migration Policy

New Delhi, November 8, 2008

The first national preliminary consultation on India's international migration policy was held on November 8, 2008, at the India Islamic Cultural Centre. A programme and a list of participants are included in the appendix. Nearly 40 participants and resource persons representing trade unions, academia, migrant organizations, NGOs, and activists attended the consultation.

This report will present the following:

1. Summary of presentations
2. Key discussion areas
3. Key recommendations for policy and action
4. List of participants

1. Summary of Presentations

● **Need for Civil-Society Intervention on India's Migration Policy** (*Mr J. John, CEC*)

Migration, trade, and globalization are interlinked. Governments have said 'yes' to globalization on the one hand, but 'no' to labour migration on the other. GATS Mode 4 is the current set of international negotiations that concern migration, taking place under the framework of the WTO. Labour's interests are excluded in these negotiations, while the interests of service providers and their desire for temporary employees is primary. GATS Mode 4 language refers to the 'temporary movement of natural persons'. The Indian Emigration Act is now being reviewed to be subsequently changed, and part of the pressure to change it comes from these international negotiations. In this context, it is imperative for civil society to influence and engage with the drafting of this new migration policy. We will work with Indian members of Migrant Forum in Asia to carry out regional consultations (in Punjab, Kerala, Chennai, and eastern India) subsequent to today's preliminary national consultation. This will culminate in submitting our comments to the government by the time of the Pravasi Bharatiya Divas during which the government plans to unveil its policy on January 9-11, 2009, in Chennai.

● **The Second GFMD: Reflections on the Civil Society Meetings** (*Dr Ramanath Nayak, CEC*)

The Global Forum on Migration and Development is a culmination of international

processes to discuss international migration. This year's GFMD took place on October 27-30, 2008, in Manila, Philippines. This second GFMD attracted 220 delegates and 163 governments. The official Civil Society Day took place on October 27-28. Migrants' rights were included in the discussion this year, where they had not been before. But the key focus of the discussion remained migrants' contribution to their economies and development. The delegates to the Civil Society Day submitted a statement to the official GFMD, making the following key recommendations:

- All governments are urged to consider the benefits of migration and resist the temptation to cut migrant numbers in the current economic circumstances.
- Governments are asked to recognize the need for the development of global architecture to ensure a rights-based approach to migration. Further, we ask that they urge the UN to bring the GFMD back within its formal mandate.
- Governments should re-affirm their commitment to development through realizing the Millennium Development Goals (MDGs,) full employment, and decent work as the priorities for development.
- **The 2nd GFMD and People's Global Action (*Ms Debayani Kar, MFA*)**

A parallel civil society event to the GFMD, the People's Global Action on Migration, Development and Human Rights was organized on October 22-30, 2008 in Manila, Philippines. A parallel event was necessary given especially the limited space for civil society input to the structure or content of the official GFMD. Multiple activities took place during the parallel event including meetings of global unions, women's groups, and domestic worker associations, and a regional conference on migration for migrant advocates. The PGA organizers submitted a statement to the official GFMD, making the following key recommendations:

- Governments should ratify the UN and ILO conventions on migration.
- Governments should uphold the right to development.
- Governments must ensure migrants' genuine participation in relevant international policymaking on migration.
- Governments must not differentiate between 'regular' and 'irregular' migrant workers.
- Governments must ensure that migrants enjoy equality of rights and non-discrimination in the places where they live.
- Governments must protect and uphold the human rights of women migrants as subjects within a gendered history and the context of migration.
- Governments must cease its implementation of state migration policies that constitute or cause violations of human rights.

- Governments must institute a functioning international system with migration and development policies that guarantee the human rights of migrants, workers, and all peoples, and promote sustainable, rights-based development.

The MOIA Workshop on Migration Policy: A Report (*Dr Yamini Atmavilas*)

The MOIA workshop on migration policy took place on October 22, 2008. Participants included MOIA, the labour ministry, and the ministry of external affairs officials, as well as Punjab and Kerala state governments. Members of the drafting committee for the policy were also present, comprising primarily academics in the field of migration. Recruiting agents participated along with consulting agencies, who are involved in the scheduled transformation of the emigration architecture such as the National Institute of Smart Government based in Hyderabad. Only a few civil-society representatives were present.

MOIA gave the following reasons for drafting a new policy:

- Need to reduce barriers to out-mobility
- Want to take advantage of demographic changes in the western world since labour market opening up due to their ageing population
- Improving conditions of Indian workers

They outlined their current programmes:

- A national ad campaign to raise awareness about illegal recruiters, ECR, and the migration process
- Trainings and education to assist migrants in the process
- Overseas workers' welfare fund, though it has limited resources
- Bilateral agreements with 5 out of 6 Gulf Cooperation Council (GCC) countries
- Negotiations for elimination of sponsorship-based visas, in particular in the Gulf, to increase labour mobility
- Drafting of a model contract for labour to replace the current fixed-contract system

The goals of the new proposed policy include:

- Choice-based migration that follows market principles of demand and supply, with no forced migration
- Rights-based migration framework respecting labour rights and human rights
- Non-discriminatory in terms of gender, education, skill set, etc.
- Promotion of safe and non-exploitative migration
- Ensuring benefits for both home and host countries

- Establish a more effective system that should include abolition of the ECR regime
- Develop capacity of missions abroad
- E-governance that should include developing an online registry of migrants

The role and challenges posed by recruiting agents were extensively discussed at the workshop, but RAs will not be regulated in the proposed policy. The Indian government stepped away from advocacy of a minimum wage, arguing instead in favour of the market wage and preferring model contracts as the way to uphold decent labour conditions. Concerns about economic reintegration and the role of the government were also raised.

Input Session

Chairs: Smitu Kothari, P. Narayana Swami

- **Current Indian Migration: Trends and Challenges** (*Dr Sabu Aliyar, Centre for Development Studies [CDS], Kerala*)

As overseas labour migration has been growing, the current regulatory system is unable to manage it well. Recruitment processes are complicated, and filled with corruption and exploitation, presenting a formidable challenge to government and regulatory efforts. The recruiting industry poses a particular challenge given its burgeoning and informal nature. Numerous cases of cheating have been reported by recruiting agents. Some of the problems include:

1. Recruitments made for non-existing jobs and fictitious employers
2. Miserable living and working conditions contravening work contracts
3. Confiscation of passports by employers
4. Spurious work contracts that have not been properly scrutinized

There is an urgent need for pre-departure orientation for all aspiring migrants, but especially for the unskilled and semi-skilled workers who have little education and no language skills. CDS has brought out some pre-departure training manuals aimed at Kerala migrants headed for the Gulf.

Another hurdle to proper regulation is the absence of a basic database on migration which would provide a full picture of the extent and nature of international migration in India. Out-migrants and return migrants should fill departure and arrival cards with full information on migration including destination, employer, and recruiting agent.

To address the lacuna in available data, CDS, Kerala, has begun to undertake studies on migration. Some important dimensions of the Kerala experience gleaned from household-level surveys include the fact that most non-resident Keralites (NRKs) are in the UAE: 41.9 per cent in 2007; nearly 56.1 per cent male migrants are unmarried, while 85.7 per cent females are married; a majority of migrants hail from Malappuram, Kozhikode, Wayanad,

and Kannur districts; and more Hindus are involved in internal migration, while Muslims are predominant among international migrants. The remittances made by migrants are 1.28 times more than government revenue receipts. The average age of migrants is 28 years, and the average age of return is 44 years. Future studies are planned in Goa.

Regulatory Framework for Migration in India: Laws, Policies, and Administrative Systems (*Shantanu, Rashmi, and Praveen, JNU*)

Praveen Kumar, JNU: The Emigration Act and Implications for India

Indian out-migration can be understood in terms of four phases: from the 19th century to the colonies that included indentured labour; a second wave consisting of unskilled as well as skilled professionals like doctors emigrating to the West (the 'brain drain' thesis); migration to the Gulf countries of unskilled, semi-skilled, and some skilled workers; and the contemporary phase of migration consisting of people with generic skills and a diversity of destination.

The regulatory framework for migration has evolved over time. Initially, there was little protection for workers only a magistrate appointed by the colonial government oversaw conditions. Subsequently, the Emigration Act of 1922 was drafted, and later amended to the Emigration Act of 1983, which sought to regulate and protect unskilled and semi-skilled workers through regulating recruiting agents. Subsequent moves to reform the emigration system included the constitution of the High-Level Committee on Indian Diaspora (2001), which was mandated to identify mechanisms to utilize diaspora resources for national development, and did not really use a rights framework.

The emigration regulation machinery consists of four divisions:

MOIA, which oversees diaspora services, the Overseas Citizen of India or OCI scheme, and administers socio-cultural and economic services including organizing Pravasi Bharatiya Divas observations

Emigration Services, which is responsible for reforming the emigration system; e-governance; regulating recruiting agents (now more than 1,800 agents in the country); managing complaints of emigrants; determining minimum wages for Indian workers; and so on

Financial Services, which runs the Overseas Indian Facilitation Centre, and takes up training and awareness programmes

Social Services, which also runs awareness programmes, registers overseas marriages, and so on

Some areas of concern that must be addressed by emigration reform are:

1. Recruiting Agents: registration, regulation, penalty and rewarding mechanisms
2. Safety and security of emigrants
3. Exploitation of women migrants

4. Regulation of remittances (low-skilled GCC migrants contribute more than the skilled in the West)
5. Protecting migrants during crises: crises-management mechanisms

- **Shantanu: GATS Mode 4 and Migration**

GATS Mode 4 is an agreement under the WTO. It came into force during the Uruguay Round, 1994. It resulted from lobbying from the service sector to have their demands met in the WTO. Mode 4 in the General Agreement on Trade in Services (GATS) negotiations refers to the 'temporary movement of natural persons'. The emphasis is on 'temporary'; there are no provisions in the discussion for citizenship of migrants. The negotiations focus on the rights of service providers (the employers) rather than the rights of employees. The notion is that Mode 4 can be beneficial for developing countries since they have a pool of workers who can migrate. Developed countries are said to benefit due to their shrinking labour force in ageing economies. But the emphasis is on skilled, not low or unskilled, migrants. There are not real benefits coming from Mode 4. Migration has led to remittances, but it is unclear what the contribution of remittances has been to the economy and unemployment.

- **Rashmi: Education Migration**

Education is included under GATS, but not like other commodities. There has been a globalization of higher education, and India is very much part of this phenomenon. Indian students migrate abroad; Indian teachers work abroad; and India is a destination for foreign students and PIOs. Education also represents remittance backflow wherein Indian students spend nearly four billion dollars annually on education abroad.

- **India's Draft Migration Policy: A Briefing on the Rationale, Scope, and Components of the Policy (Mr G. Gurucharan, Joint Secretary, Ministry of Overseas Indian Affairs)**

In India, CSO's engagement with government to address international migration issues is in its infancy; the government is looking forward to a stronger partnership. People are moving across borders very rapidly; migration will be the dominant mode of economic engagement and will shape globalization. Yet, there are real barriers such as the restrictions on entry into what might be called 'Fortress Europe'.

India is a major country of origin, transit, and destination; yet, we have no migration policy. About 90 per cent of overseas workers are in the Gulf and work under contractual temporary conditions, and will perforce return at the end of contract. Highly skilled migrants are largely bound for the USA, Asia-Pacific, and Europe. Some 20 million foreign workers are in India, and many are undocumented.

Indian migrants, too, face exploitation in foreign workplaces, as victims of trans-national crime and so on. We need more than current modes of policing and ad hoc policies; there is a

need for a coherent policy that includes all stakeholders in migration. The government is currently in the middle of the drafting process.

The approach of the policy is based on the following:

- Migration is currently not a matter of free choice; it is also not entirely safe. The bulk of migrants are pushed, i.e., they seek opportunity outside that they do not find in their home countries.
- Migration must be simplified, and the excessive bureaucracy reduced.
- Policy must facilitate legal migration and take strong measures to prevent illegal migration.
- Indian migrant workers must be able to move up the 'value chain' with inputs in skills training. To this end, the government has identified labour supply gaps in different parts of the world. For instance, Canada and Europe have older populations, and need nursing and geriatric services. Sweden has revised its immigration policy to attract good workers. Denmark and Germany will too, but we do not have the capacity to meet these demands. Skill improvement is required.
- Situating the role of multilateralism and bilateralism: Since migration is a question of state sovereignty, strong bilateral effort is needed. The Indian government is engaged in these efforts to protect the 90 per cent of Indian migrant workers in the Gulf, and has entered into agreements with the UAE and Qatar. A negotiation with Oman and Bahrain are forthcoming. Only Saudi Arabia has not yet come to the table. Labour-mobility partnership agreements are being negotiated with European states, too. India needs to be more proactive with multilateralism and engage in processes like the Colombo Process; GFMD often amounts to a 'fashionable talk shop', but brings all states and civil society together. The GOI is interested in bringing a more specific agenda before the next forum, in order to present the significant progress on government-civil society partnership.
- The government is also negotiating social-security agreements that are based on the principles of avoiding double taxation, promoting portability of benefits, and totalisation of contributing periods.
- Female migrants are not only seen as dependents. About 30 per cent of Indian migrants to the Gulf are women, who work in the informal sector as domestic workers and are not covered by labour laws there. They face exploitation and gender bias in the workplace. They are kept at home and do not have outside interaction. Civil society needs to advocate better living and working conditions for them. The government is making efforts in this direction.
- The problem begins in the country of origin the policy needs to address the problem

of migration from a migration-cycle perspective, whereby a 'vicious cycle' of exploitation ensues. The government is identifying different roles for different stakeholders to intervene. They are also planning a diagnostic study of the migration process to identify what is wrong with it and apply correctives.

- The government is migrating to an e-governance platform, and welcomes civil society to participate in managing this process (to be ready in the next two months). Partnerships/workshops will start in January 2009.
 - Regarding the charge that MOIA appears to deal only with the problem of NRI marriages, Mr Gurucharan clarified that MOIA has been expanding its role and is also revamping its website. The problem of NRI marriages is quite rampant and needs addressing, albeit along with other pressing gender concerns. MOIA had put together an information booklet for migrants aspiring to marry.
 - Regarding the question of a holistic policy approach and the criticism that the scope of the policy appears necessarily limited because it has been initiated by MOIA, which exclusively focuses on out-migration, Mr Gurucharan explained that while the initial focus of the policy was on out-migration, they are making efforts to bring in other government stakeholders like the ministries of home affairs (that deals with immigration), external affairs (that deals with visas, consular policy), and labour (that deals with labour standards). An inter-ministerial group has been constituted; more documents will be in public domain by January. He agreed that the policy should address international migration at its fullest: in-migration, out-migration, and transit issues. The policy will also deal with all aspects including development, gender, and rights. He added that the policy would not be cast in stone – it is a dynamic area that will be open to amendment with changes such as episodic events, including economic crises. Migration Policy '09 would be the first version – to be updated annually or so.
 - Regarding the criticism that the protection for deserted NRI wives was focused solely on Punjab and migrants in the United Kingdom or the United States, and not really addressing migrants in the Gulf, Mr Gurucharan clarified that this was not so; and that there was space for NGOs to take up the cause of the wronged woman and apply to MOIA for support to fight the case on her behalf. Money would be released to the NGOs to take up the case in foreign courts and Indian courts. But there have not been many takers for this.
 - Regarding cheating husbands seeking shelter abroad, Mr Gurucharan said that there were legal hurdles to taking solid action such as impounding passports because it is a question of private international law. But now that India is signatory to the Hague Conference, it may be hoped that there will be better

interventions in future.

- There was a conference of Gulf heads of consulates on November 27-28. He said he would try to get an invitation for civil-society representatives to attend the meeting.
- Regarding the query on social security, Mr Gurucharan said it was a provision limited to western destination countries where Indian migrants pay up to 50 per cent of their paycheques in social-security contributions. But because of circular migration policies, they do not stay there long enough to reap the fruit of their contributions. The government was trying to negotiate a totalisation of social-security contributions and to ensure that (a) short-term migrants (<5 yrs) are not required to contribute to social security, and (b) the contributions made are accessible from abroad. He added that countries that do not have any social-security provisions, like those in the Gulf, should be convinced to institute some. A pilot project is being worked on with the UAE.
- MOIA policy will be: I want Indian workers abroad to be treated with respect, and the same should apply to immigrant workers in India. This is important for India's moral authority in multilateral fora.
- The question of minimum wages is a difficult one to negotiate, he admitted. The more illegal workers there are in a country, the easier it becomes for employers to undercut wages. We have to address 'illegals'. The current approach is to negotiate for a model contract for 'honourable and dignified working and living conditions'. There is a need to have a forum to discuss specifics with the host country.

Timeline of Policy Drafting:

- Mr Gurucharan clarified that the drafting group was meeting in Bangalore, and a draft would be prepared which he hoped to see within a month. The first draft would be released by the first week of December, and inputs would be solicited for redrafting.
- In January a revised draft would be released, and a workshop held to go over it line by line. He said the policy may or may not be ready for release on Pravasi Bharatiya Divas.

He added that the government wants to work closely with the European Commission to establish a migration observatory, such as in Mali.

● Gender Labour, Human Rights, and Migration (Dr Ratna Kapur)

The government of India (GoI) must take into account what it may view as competing policy interests in drafting its migration policy: specifically, interests of the market, national security, and migrants' rights. But these three concerns should not be seen as competing, but compatible. Migrants whose economic and labour rights are respected can be better

employees, thus contributing to the market. Migrants whose labour and human rights are respected can ensure the security of the nation-state.

A key concern about the draft migration policy is that because it has originated with the ministry of overseas Indian affairs, the focus is almost exclusively on external migrants. The issues of India as a transit and a destination country must be simultaneously addressed. The policy must be multidimensional and multi-layered. For instance, migrants into India cannot simply be viewed as a law-and-order problem. The MOIA must work with the ministry of home affairs and the labour ministry to ensure the policy takes up these broad concerns. The policy should mandate equal treatment of out-migrants and in-migrants.

The background of the MOIA has likely influenced this draft policy – it was set up primarily to address external migration, in particular the wealthier elements of the Indian diaspora. Migrants are, therefore, treated as a human cash crop in the policy rather than as humans with rights.

Migration policy should be made in the context of recognizing the 'right to mobility'. While the language of rights should be included, civil society has to be careful in bringing in the United Nations. The policy should, instead, be situated within a regional context, utilizing SAARC. The UN migrant workers' convention can be reviewed, with certain provisions being highlighted for possible inclusion in an Indian national or South Asian regional migration policy. But time should not be wasted trying to get India to ratify the convention.

Migration policy needs to incorporate women, and not only in looking at trafficking, since women do move by choice, and their rights need to be protected in that context. Trafficking often happens because no safe legal options for women's migration exist. Women need to be seen as independent economic actors. The exclusive focus on trafficking sometimes has the effect of pushing aside the rights-based approach.

Open Forum: Issues and Challenges from the Ground

Chair: Dr Ratna Kapur

Response from the Central Trade Unions: HMS, AITUC, INTUC, BMS, CITU, UTUC, AIUTUC, NTUI, AICCTU

- **N.M. Sukumaran, Bharatiya Mazdoor Sangh (BMS)**

Labour should not be treated as a commodity. The Indian government has yet to ratify ILO Convention 97. From the practical reports we receive from workers in the Gulf, the Indian government's legal frameworks currently in place are not helping them due to lack of implementation. This is a major hurdle. Aside from the economic costs of migration, there are also the psycho-social impacts. We need to recognize that these labour issues are beyond being simply economic or legislative, but these are holistic issues faced by migrants. The main thing we are pushing for right now is ratification of the ILO convention. This would provide a framework for Indian workers to make complaints as they arise.

- **Ashim Roy, New Trade Union Initiative (NTUI)**

From labour perspective, the problem of recruitment agencies is a crucial aspect of migration. RAs must be regulated. Migrants often do not know anything about what they will face when they arrive in the Gulf countries just this morning, I was speaking with Bangladeshi migrants on their way to the Gulf. The experience of the Indian Workers Congress in the United States provides an example of the fraudulent contracts workers are forced to sign. In their case, their contract said the workers could become US citizens which were clearly false. Laws barring false contracts should be enforced to prevent such situations. There must be a mechanism for regulating these RAs who are forcing workers into fraudulent contracts. There must also be a punitive consequence to the 'blacklisting' of Ras.

In-migration into India must also be addressed, especially with respect to Nepalis and Bangladeshis. NTUI has dealt with the range of problems faced by Nepalis. A key issue is the lack of enforcement mechanisms for labour rights. We cannot ignore this problem just because it is politically sensitive. Both in- and out-migrants must be protected and given rights and dignity.

Response from the MFA-India Members- Rafeek, P. Narayan Swami, Jeevanand, Somen Roy

- **P. Narayan Swami, Migrants Rights Council, Andhra Pradesh**

A major issue is that existing laws such as the Emigration Act or the Inter-State Labour Act have not been implemented. For example, the rights of Bengali migrants in Delhi making very low wages should be protected under the Inter-State Act. The Social Security for the Unorganised Workers bill has been pending for three years, but not moving towards passage. An ILO report points out that 87 per cent of migrant workers' wages are spent in the host country, and only 13 per cent is sent back as remittances to family. There is no coordination between Indian missions in the Gulf countries and the government ministries such as MOIA or MEA. In August, 10 labourers from Andhra Pradesh died in the Gulf due to occupational accident, but the government did not respond to the complaints by their families or by migrant unions. The imposition of the death penalty in the Gulf is another area of concern, with lack of action by the government. The labour ministry said they would issue a smart card to migrant labourers. In Qatar, 500 dinars is the wage of Indian workers, while Nepalis and Sri Lankans are willing to work for 200 dinars so, the competition is driving wages down. International conventions should be ratified, while at the same time existing laws within India should be implemented.

- **Rafeek Ravuther, Centre for Indian Migrant Studies, Kerala**

The current moment provides an opportunity to engage with government to establish a real migration policy. A key thing is to strengthen protocol for RAs. The protector of emigrants is highly corrupt, and needs to be held accountable. He is currently collaborating with RAs and benefiting financially from them. Pre-departure training and documentation must be

provided to migrants. Legal aid for migrants, including for deserted women and those who are not paid or cheated with visas, should be provided. Further, there should be compensation for family members for their losses when migrants return to India. On remittances, the government should take action against money-exchange companies, which are making so much profit off migrants but not contributing anything for migrants' welfare.

- **S. Jeevanand, National Centre for Labour (North and South India convener)**

Internal migrants are also facing problems within India. In the construction sector, migrants into Bangalore who have been in the state for years still do not have simple documentation like a ration card. The same is true in Delhi for workers from Bangladesh. In NCL's experience, the Bangladeshi workers could not be organized properly because they could not legally avail of any protection measure. Tamils going to the Gulf also face various problems. The government has tried to solve the problems of women going to the Gulf by prohibiting women aged below 30 years to go abroad. This is not the solution—the perpetrators of the system should be pursued and brought to justice. These gatherings of civil society are very important to articulate what is really happening—rather than accept what government is willing to admit is happening.

How do we push the government to actually implement its existing programmes? For the new policy, a crucial first step would be the establishment of a migrants' help desk in every state. Recruitment agencies must be regulated. The costs of migration should be mitigated. Currently, people sell their land to pay for the cost of migrating. Then, when they arrive at their host country they suffer exploitation and non-payment of wages. There should be the establishment of a single-window agency to deal with the range of migrant issues. Right now, there is a confusing set of agencies and programmes.

Needs-based living wages should also be advocated. Social security should exist for workers, including migrant workers, and it should be portable, no matter what country or state the person is working in. Universal health-system provisions should exist for labour as well. The government should support NGOs and community-based organisations in facilitating the registration of migrants. Language and skills training should be provided to migrants by the government. There should be public hearings to provide a platform for migrants to testify as to what problems they are facing. RAs should face real punishments and not just the current fine of Rs 1,000. The names of those who are blacklisted should be publicized so that there is awareness. Migrants should be protected from police harassment.

- **Soumen Ray, National Centre for Labour (Eastern India convener)**

Migrants in eastern India are not recognized as workers anywhere. Most are not even properly paid. There may be a group leader who will get the voucher to be paid, and then he is expected to distribute the payment to the others, but this does not happen. From Delhi, many migrants, both Indians and the in-migrants from Bangladesh and Nepal, go overseas for

work. They are often called for jobs without being provided with any information about the employment. They often also do not know about what documentation or other things they will require in order to go abroad. They may receive payment for a couple of months without proper documentation. When these workers return, they are not paid the rest of what they are owed and ultimately make less than what they would have made, had they stayed in India. Even within India, inter-state migration is problematic for workers. They often do not know their rights under the Inter-State Labour Act.

2. Key Discussion Areas

● Migration as a Fundamental Right and Freedom

The participants concurred that migration needs to be seen as a basic human freedom deriving from the right to mobility. The right to mobility is enshrined in the Indian Constitution and many documents that the Indian government has signed and ratified. This right has become particularly relevant in the current era of globalization, where barriers to mobility of capital have been lowered while those to mobility of people have been raised. Questions of national security supersede others in the treatment of foreigners be it workers, undocumented workers, asylum seekers, or others; this convergence has resulted in sanctioned forms of discrimination against certain groups considered to be a security risk. There is an urgent need to separate migration from questions of national security, and re-focus on development issues and fundamental rights.

Existing migration policies and priorities tend not to treat migrants as persons with rights persons led by certain motivations making thoughtful decisions. Rather, they are either seen as victims or remittance-earning heroes. Sending governments tend to treat them as human cash crops who will earn remittances, while destination countries view them as guest workers or as security threats. None of these approaches truly reflects migrants as subjects with rights. Any migration policy must be framed around labour and human rights of migrants.

● Wider Context of Migration

A migration policy must be framed in the larger context of the socio-political, economic, and historic forces that have shaped it in the past and in the present. Migration has always been a part of economic movements across borders in any political-economic system from colonialism to the current era of late capitalism or globalization.

The relationship between migration and development must also always be in sharp view: at one level, migration is the product of particular failed models of development that maintains rather than reduce inequality, and that spread wealth and opportunity in uneven ways. One of the motivations for migration is the impetus to move to a place of greater opportunity from one where the same appear to not exist. At the same time, migration can impact development in both sending and destination countries through migrants' efforts, remittances, and so on.

Migration also occurs in a fundamentally unequal set of relationships as northern countries emphasize circular migration and temporary migration to deny southern migrants settlement rights, setting up a clear system of labour extraction. These questions also become intertwined with concerns of security and immigration, as countries reserve the right to keep out citizens of certain countries or ethnic groups. While the Indian government is concerned for its citizens abroad under these conditions, it must also take the opportunity for introspection and examine how foreign labour is treated here.

Policy efforts must truly address these imbalances in the distribution of resources and opportunities, and not simply be palliative and managerial. They must address exploitation and vulnerability.

For civil society, too, migrants' issues and groups working on migrants' rights must form issue-based and broad-based coalitions with groups working on issues of equity, poverty, and development.

- **Emphasizing the 'International' in International Migration**

Any discussion on international migration in the Indian context must include an examination of India as a migrant sending, transit, and receiving country. Participants concurred that it is critical that we look at in-bound migration for a number of reasons including:

- a. We have 20 million foreign workers in India, the bulk of them being undocumented workers from other countries in our subcontinent. The numbers of those who come into India are greater than those going out, and poses a multifaceted challenge that must be addressed in terms of protection and rights rather than a security or law-and-order issue (which it currently is seen as, given that foreign nationals, including labour migrants, fall under the purview of the home ministry rather than the labour ministry). Besides, as studies are increasingly showing, southsouth migration (such as migration of Bangladeshis and Nepalis to India) is at least on par with, if not greater than, southnorth migration.
- b. India's moral authority in negotiating for rights for Indian workers abroad can only be strengthened if we also ensure the protection and rights of foreign workers on Indian soil.
- c. In terms of India's labour force needs as well, it would be prudent to maintain a simultaneous focus on out- and in-migration. The migration of Indian workers abroad would surely create a lacuna in certain sectors, for which India could benefit from having foreign workers come in.

- **Need for a Regional Policy**

There was discussion on the merits of bilateral negotiations versus cross-regional

negotiations. One of the barriers to raising wage and social-security standards in the Gulf countries is the perception (based on some experience) that if the Indian government asks for higher wages and better standards for Indian workers, they will simply be replaced by Bangladeshi or Pakistani workers who will work at the lower rate.

- **Focus on Women's Rights as Labour Migrants**

Participants pointed out that women migrants were hardly seen as migrants in their own right. Rather, they were seen in the context of either trafficking or family reunification. While both issues are important and need greater scrutiny and policy attention, paying attention only to these renders other dimensions of women's migration, including labour, invisible. Of the 10 lakh migrants that there will be by the end of 2008 to the Gulf, nearly 30 per cent are women workers. Yet, strong advocacy on labour issues pertaining to women migrant workers is largely absent. Further, advocating anti-trafficking interventions (that view women as victims, and tend to use a criminal-law framework) has hurt women's interests as rights-bearing subjects. There is a great need to look at women as economic actors.

Women workers in the Gulf, in particular, are vulnerable as the bulk of them work as domestic workers outside the purview of labour laws. Their issues fall under the purview of the ministry of interior rather than labour. Household workers (women), numbering about 80,000 in Kuwait and a total of 200,000 in the entire Gulf area, face considerable exploitation.

- **Inadequacy of Current Regulatory System**

Most participants and resource persons, including the MOIA Joint Secretary Mr Gurucharan, agreed that the current regulatory framework for migration, including the ECR/ECNR distinction, the penalties for fraudulent recruiting agents, and the bureaucratic wrangling, did not truly protect or serve the interests of aspiring migrants. There was some concern that the police was the ultimate regulating agency in a number of instances despite the fact that they had little or no exposure to the migration issue.

Participants also noted the near absence of coordination between various ministries and governmental agencies involved in different aspects of migration. There needed to be a greater coordination and policy coherence between these departments, and the labour ministry needed to be involved more centrally in the negotiation of standards both for in-migrants within India, and out-migrants.

The system as it currently exists allows for a great deal of corruption and cheating of vulnerable migrants on the one hand, and the neglect of those abroad in vulnerable situations on the other. For instance, between January 2006 and November 2006, 830 Indian migrants died in the UAE, 70 of these cases being determined as suicides; however, little additional information is forthcoming regarding their deaths and general conditions of existence. In another instance, 250 migrant workers from Andhra Pradesh were awaiting out-passports in Muscat for over two months. These delays are attributable to the lack of coordination and

efficient management on the part of government agencies.

- **Violations of Migrants' Rights in the Migration Process**

Migrants face several violations of their rights at every stage of the migration process. In particular, they are made to work under conditions that violate labour laws at the location of their employment. These include:

- Recruitments made for non-existing jobs and fictitious employers
- Miserable living and working conditions contravening work contracts
- Passports, visas, and other travel and employment documents withheld by employers
- Non-payment, or reduced or late payment of wages
- Poor or exploitative work agreements
- Extraction of labour in excess of internationally agreed standards. For instance, the standard workweek in India is the 48-hour workweek; in the United States it is the five-day workweek. Many well-known Indian companies are making their employees work six days a week in the United States
- Foreign workers in India are made to work under conditions contravening Indian labour laws. For instance, Bangladeshi workers in Delhi work 12 hours a day for Rs 1,500 a month without overtime wages, and at far lower than minimum wages

- **Preparation for Migration**

Many migrants are entirely unprepared for the demands of the migration experience, and life and work in the destination context. This need is felt not only by Indian out-migrants, but by in-migrants to India as well. In the unskilled group particularly, migrants are often unaware of their ultimate destination for instance, some Bangladeshi migrants are brought to India and then routed to the Middle East. Some are unaware of the cultural, socio-economic, and political climate of their destination; they do not know the language; and they do not have any information on how to prepare for emergencies or who to contact in times of need.

Migrants have received much attention recently following the World Bank report on the importance of migrant remittances to national economies. However, this celebratory discourse must be approached with caution, given the fact that migrants bear heavy costs in order to obtain foreign jobs and these costs remain invisible. Participants representing migrants' groups reported that the initial financial expenditures made by migrants to obtain passports, jobs, and clearances can be heavy and increase their debt burden. Further, the remittances made are only a small proportion of their total earnings, given that many migrant workers spend up to 87 per cent of their income in the host country, according to an ILO report.

The Kerala government and CDS have brought out some pre-departure training materials.

Some other states like Punjab are involved in such training, including financial training. There needs to be standardization and a move to make such training comprehensive.

- **Role of Trade Unions**

Although the focus on labour has been a less visible dimension of labour out- and in-migration, representatives of a few prominent trade unions attended the Delhi preliminary consultation. Trade unions in India have not distinguished between Indian and foreign workers in their unions. For instance, NTUI has been working on a few thousand cases of PF problems; these include the issue of Nepali workers being able to take their PFs to Nepal after working in India.

Trade unions face limitations of jurisdiction as they cannot work for Indian workers abroad. Still, there are some potentially fruitful directions that trade-union activity and organizing could take, such as transnational partnerships with unions abroad, issue-based coalitions, and so on.

- **Ratification of ILO and UN Conventions**

Participants felt it was ironic that while India was one of the founders of the ILO, it had not yet ratified many of its key conventions. The Migrant Workers' Convention is not widely ratified; according to the participants, even if we did not ratify it, the convention had several provisions that could be part of our recommendations to the Indian government and our advocacy efforts.

- **Lack of Adequate Data**

There is a continuing lack of comprehensive data on out-migration and in-migration. There is a need for governments to not only create a registry and a database of in- and out-migrants, but to also maintain a database of migrants' issues as they arise in different contexts, and to provide information on follow-up action taken.

- **Problems of Return Migrants**

There was some discussion on the problems faced by return migrants in places like Kerala, where the bulk of migrants go to the Gulf countries, which offer no scope for settlement. Return migrants face problems of isolation, depression, lack of transferable skills, and other issues that prove a barrier to effective social or economic reintegration.

3. Key Recommendations for Policy and Action

National Level

Migration policy should be made in the context of recognizing the 'right to mobility'.

There should be no distinction in protection of documented versus undocumented migrants. Equal rights for out-migrants, in-migrants, and internal migrants must be recognized and protected.

Establish a comprehensive legal framework for international migration.

The GoI migration policy needs to incorporate women, not only in looking at trafficking, since women do move by choice, and their rights need to be protected in that context. Trafficking often happens because no safe legal options for women's migration exist. Women need to be seen as independent economic actors. The exclusive focus on trafficking sometimes has the effect of pushing aside the rights-based approach.

Ratify ILO convention 97. This would provide a framework for Indian workers to make complaints as they arise.

Improve and enact implementation of existing laws and frameworks, including the Emigration Act and the Inter-State Labour Act.

Migrants should not be treated as tradable commodities.

Improve and strengthen regulation of recruitment agencies. The present law allows RAs to abdicate responsibility for a worker after just 60 days, but this is too short a period. RAs must be held accountable for their actions that put workers at risk. A written document from the RA with a signature from a witness within the worker's family should be required stipulating employment conditions. Any violation should result in an enforceable penalty including substantial fines and jail time rather than the current 'blacklisting'. Blacklisting is not adequate punishment for these companies; many a times, the same people will close down and open up with a new name, continuing their practices of cheating workers. The names of those who are blacklisted including the people affiliated with the companies should be publicised so that there is awareness. The practice of RAs taking passports should be made a criminal offence. RAs should be more transparent in the fees they charge.

Laws barring false employment contracts should be enforced to prevent worker exploitation. There must be a mechanism for regulating RAs who are forcing workers into fraudulent contracts. All work agreements entered upon by prospective emigrants with foreign employers or their agencies should be properly scrutinized and endorsed by officials authorized for the purposes by MOIA. The government should regulate the content of contracts such that workers are not cheated, while also enforcing punishments for contract violations. Contracts should be standardized, and there should be a legal guarantee that the terms of that contract will be upheld.

In-migration into India must be adequately addressed, especially with respect to Nepalis and Bangladeshis. A key issue is the lack of enforcement mechanisms for in-migrants' labour rights.

Stronger coordination must exist between Indian missions in the Gulf countries and GoI ministries such as ministry of overseas Indian affairs or ministry of external affairs.

GoI must be more responsive to the complaints of distressed migrants, both at central government level within India and at the offices of Indian missions abroad.

The protector of emigrants must be held accountable such that he is responsive to the migrants he is intended to serve. The protector of emigrants currently tends to serve RAs over the interests of migrants.

Comprehensive pre-departure training and documentation must be provided to migrants. The policy should also include information dissemination and awareness raising, such that migrants know what they will really face when they reach the host country. This is the role of pre-departure trainings.

Legal aid for migrants, including for deserted women and for those who are not paid their wages or are cheated by visas, should be provided. There should be compensation for family members of their losses when migrants return to India.

Harness remittances for investment, economy, and employment, with full participation and needs of migrants taken into account. GoI should take action against money-exchange companies that are making so much profit off migrants but not contributing anything for migrants' welfare. Safe and reliable remittance channels should be set up, especially for in-migrants at the border areas.

The financial costs of migration should be mitigated.

Establish a single-window agency to deal with the range of migrant issues. Otherwise, the new policy should at least outline the roles of officials and agencies very clearly such as missions, labour attachés, the various ministries, etc. There should also be provisions for capacity building of these government officials and agencies. Corruption existing in government ministries that deal with migration should be addressed.

Needs-based living wages should also be advocated. Otherwise, GoI should at least push for a minimum wage. ILO has criteria for working out minimum and living wages, which can be used as a reference point.

Social security should exist for workers, including migrant workers, and it should be portable, no matter what country or state the person is working in. The provident fund and the social-security contributions a worker has made while abroad should be reimbursed back to the worker when he returns to India.

Universal health-system provisions should exist for (migrant) labour as well.

The government should support NGOs and community-based organisations in the registration of migrants.

Language and skills training should be provided for migrants by the government.

There should be public hearings to provide a platform for migrants to testify regarding their problems.

Migrants should be protected from police harassment.

The government should also ensure, through bilateral agreements with destination countries, that on no account the foreign employers or their henchmen take away the travel and employment documents of Indian overseas workers. But bilateral agreements must be negotiated in recognition of the power dynamics that may hinder effective negotiations between India and the host country. Pushing for multilateral frameworks may therefore be better, to ensure that there is a universal standard being upheld without concern of such power equations.

Ensure safe migration, including safety of migrants against physical threats, robbery and kidnapping, racial prejudices, etc.

Indian nationals' harmful labour practices abroad should be monitored, whether they are recruiting agents or employers.

Create a registration system for Nepali (and other) migrants into India.

Establish a system of work permits for in-migrants from the subcontinent, rather than the current visa regime.

Create provisions for migrant workers in the unorganised sector.

Uphold labour protections for (migrant) domestic workers.

Do not allow new migration policy to be dictated by requirements of non-Indian international actors, such as the negotiations around GATS Mode 4. In the context of Mode 4 negotiations, its terms should be broadened to include all migrations and should not be restricted to service contracts alone.

Undocumented migrants should not be treated from the perspective of law-and-order problem, but from the perspective of human rights. National security should not be the framework in which migration or undocumented workers are dealt with.

The underlying issues of economics and inequality should be addressed within the new migration policy.

There should be active participation of civil society in all stages of the process of the drafting of the policy.

The return and economic reintegration of migrant workers need to be addressed, and programmes should be strengthened. Returned migrants face health problems including lower life expectancies, and this should be addressed.

Establish monitoring and/or implementation mechanisms to ensure migration policies and laws are being upheld. This could take the form of a review board that would review cases of exploitation or other illegal activities brought by migrants or a tri-partite commission.

Migrants with health problems such as TB/HIV should not be discriminated against

when they return to India, and their rights should be protected while abroad.

The sponsorship-based visa system in West Asia and other host countries should be eliminated.

Shelters for migrant workers in destination countries, coordinated by the respective Indian mission abroad, should be established.

Partner with civil society in host countries, to support our advocacy efforts.

Review the Philippine government's migration policy, which contains several provisions on migrant protection and welfare.

Regional Level

The Indian government's migration policy should be situated within a regional context, utilizing SAARC.

The UN migrant workers' convention can be reviewed, with certain provisions being highlighted for possible inclusion in an Indian national or South Asian regional migration policy.

In South Asia, mobility of people should be based on a work permit and not exclusively on passport holding and as per the visa regime. In the context of work permits, labour rights should be universally applicable in every country.

GoI should advocate for South Asian migrant workers a minimum wage at a regional level.

Local Level

Establish a migrants' help desk in every state.

4. List of Participants

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Annexure II: Second National Consultation on India's International Migration Policy

Chennai, January 8-9, 2009

The second national consultation on India's international migration policy was held on January 8 and 9, 2009, at the Inter Church Services Association in Chennai. A programme and a list of participants are included in the appendix. The consultation was attended by nearly 150 participants and resource persons representing trade unions, academia, migrant organizations, women's groups, NGOs, academics, and activists.

This report will present the following:

1. Summary of presentations
2. Key discussion areas
3. Key recommendations for policy and action
4. List of participants

1. Summary of Presentations

After a welcome address by **Dr Yamini Atmavilas**, coordinator of the civil-society consultation, **Mr J. John (CEC)** noted that *Pravasi Bharatiya Divas (PBD)* was being held under tight security across town. He thought it important to keep in mind the political clout of the *pravasis* who had come to attend the high-profile gathering, which was largely different from the numerically larger crowd of migrants who go abroad for temporary employment and return; the *pravasi* Indians targeted by this event were a historically grown group of permanent migrants who had settled abroad, in other countries. Secondly, PBD points to the economic clout of Indians abroad, those who are outside and are being courted by the Indian government to invest in India. In this context, J. John stressed that it is important to make a distinction between investments (such as these) and remittances (often made on a smaller scale, and to support livelihoods and personal consumption). Thirdly, PBD has a wider significance in highlighting cultural links, from art to religion.

J. John observed that the gathering included those who migrate to work. He recounted that the process of consultations was initiated after the government announced it would be coming out with a policy on international migration. He welcomed Dr Irudaya Rajan from CDS, Kerala, who is a member of the official drafting committee and had agreed to share an

inside view of the process with us. J. John noted that the process of formulating the policy so far has not been transparent; it has not involved all stakeholders (particularly migrants' groups), and while an independent institution such as CDS has been centrally involved, there should have been more avenues for participation.

Due to this lack of transparency, J. John said, the range of substantive issues to be addressed in the policy has not become very clear. The government insists that the document that has been circulated (the first draft version) does not reflect the policy this then raises the question why it was circulated in the first place.

J. John laid out CECMFA's main areas of concern, criticising the government's view of migration primarily as an investment, an issue of trade, within which India is seen as having the potential to diversify its range of destination countries, an approach that he described as very opportunistic. He recapped that MOIA has been saying that migration and its context are changing, with regard to both demand and supply (of labour), which have become multi-layered, as well as the rules that govern the movement (of workers). There has been an attempt (internationally) to have these rules changed; these attempts, however, favour temporary migration, and are driven primarily by the concerns of OECD countries despite the fact that Indian temporary migration takes place mainly into Gulf countries, not OECD countries, and that remittances from OECD countries have been decreasing, whereas remittances from the Gulf are on the rise.

Further, the government draft clearly shows a change of focus from protection of migrants towards facilitation and management of migration. Consequently, there is, in the government's eyes, a need for deregulation, involving a change in the government's position from that of protector to one of a mere advisor to migrants. One sign of this is that the welfare of migrants is to be left to insurance companies (with no involvement of the state). This issue is complicated by the fact that the labour laws of destination countries (rather than of the Indian government) largely determine welfare provisions for migrant workers.

There is, thus, a visible disjuncture between the economic objectives of the state and the political responsibilities of the state, between the economic objectives of the state (remittances for development) and economic objectives of migrants (remittances for livelihoods).

Therefore, CECMFA felt it was necessary to look at an international migration policy for India from a rights perspective, which emphasizes human rights (and conceives of their protection as) a responsibility of the state to its citizens, not only when they are present in the country, but also when they go abroad. In order to enhance this perspective (and gain insights from migrants' groups themselves), we have been conducting a stakeholder-driven process around the issue of the proposed international Indian migration policy.

Ambassador Sahai expressed his appreciation for having been involved in the consultation

process, and said he was happy to see the involvement of civil society on this important issue. He noted that India does not currently have a migration policy as such, not even a white paper in short, nothing that clearly spells out the state's position on migration. The only piece of legislation governing any aspect of migration is the Emigration Act of 1983, which he was himself involved in drafting, as the joint secretary in charge at the time. Ambassador Sahai explained that the main focus of the act was the protection of Indian migrants in stark contrast to the 1922 Act, which had emphasized the element of emigration control. The 1983 Act defines who is eligible to emigrate (and sets certain parameters), but is premised on the idea that anybody who wants to emigrate would be a temporary worker. Within this framework, Ambassador Sahai stated, the main emphasis of the act was to protect those people who could not look after themselves (in the migration process), rather than comprehensively addressing workers' rights.

He acknowledged that the face of migration in today's world had changed, and that it was now a very complex issue, involving sending, receiving, and transit countries, as well as legal and illegal migrant workers for the latter, he said the term 'undocumented workers' would be preferable in order to indicate that they also have rights.

The ambassador highlighted the significance of the UN Convention on the Rights of Migrant Workers and Members of Their Families (a document that he also helped to draft) by saying it included the concerns of families (thus going beyond the purview of many existing policies). Further, he pointed out the usefulness of ILO Conventions 97 and 143 as international instruments that can provide sound guidance on states' migration policy.

He noted that with regard to immigration policy, governments retain the sole say on who can enter the country (and this most often includes family members of those lawfully present already, to further family reunion). In order to diversify its population and workforce, governments should be proactive on immigration policy, taking a clear stand on who can enter the country and for what purposes.

One major problem in framing an international migration policy, Sahai noted, was the diverging interests of sending and receiving countries. As examples of these different motives, he mentioned Malaysia's desire to control the flow of all immigration, Japan's efforts to attract young labour due to demographic changes in the country, and the often very intricate regulations on numbers, age restrictions, etc., on immigration to the Gulf states. He also touched upon the problem of preventing illegal marriages abroad.

The ambassador admitted that there were still many unresolved issues with regard to a migration policy, including data collection, the necessary involvement of the labour ministry, welfare provisions for migrants, and the question of how to help returning migrants readjust to society. Some of these, he pointed out, had begun to be addressed as far back as 2002, but then a new ministry MOIA was created; whether it will be able to meet all these challenges remained to be seen, but the need for a more holistic policy was clear.

While the ambassador generally endorsed liberalization and a reduced role of government as the path to better services for migrants and a way to minimize the impact of exploitative recruitment practices, he also stressed the increasing role of different Indian states that have made efforts to reintegrate returning migrants; however, implementation of such policies would take time, he said.

The same issue implementation has been hampering policy in other areas as well, according to Sahai, and this is most notably in the field of regulating recruitment agencies, as well as protecting Indian workers abroad. He pointed out that today's concerns remain very similar to those in 1983, with missions being asked to secure minimum wages, but often fighting a losing battle when persons who go to work abroad unwittingly submit to various forms of exploitation, including insufficient wages.

Sahai briefly reviewed a few other issues including illegal migration (which he saw more as an immigration problem for India, rather than one of emigration) and property disputes between the Indian diaspora and the local population in Punjab. He then went on to outline what he described as the three main areas of engagement for NGOs with regard to migration issues:

1. Raising awareness of the risks involved among potential migrants
2. Sensitisation of migrants at various levels pre-migration, post-migration, awareness campaigns on processes and procedures
3. Social ostracisation of companies who violate the rules; also, work on up gradation of skills and facilitating reintegration of returning migrants

Sahai emphasized that in any migration process, it was important for the government and civil society to be partners; there were things that government could do and should do for instance, with regard to rules and regulations but there are also areas where it should not intervene.

The ambassador said the policy should be transparent, and it should take the forum's suggestions into consideration; but he also warned that government always deals with various actors clamouring for attention. Nonetheless, he said the Indian government should be willing to see civil society as partners; only then would better results be possible. The common objective for all stakeholders should be the protection of the rights of migrant workers.

Prof. Irudaya Rajan (CDS; involved in drafting process of the report on *International Migration*)

He explained that CDS has been working on migration issues since 1978, and that Kerala was one of the better-researched states on this issue, though overall not much work had been done. A key problem for researchers was the absence of reliable data on migration. There are

supposedly 10 million Indian migrants worldwide, out of whom two million are said to hail from Kerala, with other states closing in, including Rajasthan, but data was hard to come by.

Describing the nature of the cooperation between CDS and MOIA, Dr Ira said the two sides signed a letter of understanding about 18 months ago, which included the task of providing a background paper on migration policy to MOIA. In conjunction with this piece of commissioned work, CDS set up its Migration Policy Group and began research for the paper, which included fieldwork with migrant workers in the Gulf, particularly in Qatar.

He said the MOIA drafting committee now includes five members: Dr Rajan, Dr Binod Khadria, and three MOIA representatives, including Mr Gurucharan. He pointed out that CDS's Migration Policy Group also includes an economist and a gender expert. He explained how the first draft of the background paper was rejected by MOIA the ministry's response was to form a committee, which in turn produced the paper that has been circulated. The said paper, however, does not represent the policy. Nonetheless, he expects the government to rely on certain key passages from the document.

He explained his agreeing to attend the civil-society forum by saying that the CDS and its Migration Policy Group are interested in 'orderly and safe migration', for which capacity building among authorities and other stakeholders would be necessary. He portrayed himself and CDS as watchdogs for the rights of migrants in this endeavour.

Dr Rajan went on to criticise the current recruitment system including the use of the ECR/ECNR categories for emigration, which he said should be abolished, as these were not in compliance with human rights. The government deciding who needs protection and who does not, according to Dr Rajan, only leads to more exploitation, mainly in the form of rampant corruption. Furthermore, he said that he told the Protector of Emigrants it was 'useless' for him to have offices in Chennai, Hyderabad, etc., and that he needed to have a presence in the countries where Indian migrants go to work; the protector's reply, apparently, was that he cannot protect them there.

This brought into focus once again the issue of national sovereignty of destination countries over their own labour laws and regulations affecting working conditions. As Dr Rajan mentioned, he had discussions with the government of Qatar about instituting certain minimum-wage rules, to which they replied that they did not have minimum-wage standards even for their own citizens.

There has also been, according to Dr Rajan, a move among Gulf States to restrict the access of foreigners to their territory for work. The UAE, for instance, following what they call 'the theory of demographic imbalance' (based on the assumption that its workforce is currently constituted of 80 per cent foreigners and 20 per cent nationals), has recently begun to remove foreigners working in phone companies.

He emphasized the importance of providing equal protection to immigrants coming to India,

raising the issue of inhuman treatment of Bangladeshi migrants, and summed up by reiterating the need to abolish the ECR/ECNR regime, and to ensure that the policy is dynamic, rather than static, and able to change with the international context. Dr Rajan shared that the policy was not ready yet, and was thus not being released.

During the **Q&A**, when asked about the timeline for the release of the policy which originally was supposed to be made public during PBD in the form of a booklet Dr Rajan was not able to provide any clear indication on a potential date. He initially said 'it may be ready next month, or next year,' and later speculated it may take another 3 to 6 months before MOIA releases the policy.

On the state of the drafting process, he said he had last met with MOIA officials some 3 or 4 weeks previously (i.e., in early December 2008), and that the existing draft would now have to go to the inter-ministerial committee, and would enter the public domain only after the committee's approval. He announced that the policy would be published on the CDS website.

When asked about the level of involvement of other ministries, including labour, external affairs, and home, Dr Rajan said there had been several inter-ministerial meetings also, while no one from the health ministry had been represented thus far, he expected the cooperation level to continue to improve. He asserted that there was a willingness to change the approach to the migration issue (throughout government), and a realization that it needs a multi-pronged approach.

He briefly addressed a question on the potential GATS Mode 4 compatibility of the new policy by saying the issue had not been considered much, and would likely be reflected in just a paragraph. He noted, however, that if the Indian economy keeps growing at a rate near 8 per cent, there would be a shift of focus, since labour demands within India would continue to increase.

Dr Bernard D'Sami (professor, Loyola College, and director, Arunodhaya Migrant Initiatives) opined that the PBD had a specific audience, and was deliberately closing certain numbers (of migrants) out. This was regrettable, he said, since in terms of their economic significance as measured by the value of annual remittances to India migrants to the Gulf eclipsed contributions from the PIO contingent. He went on to talk about human-rights violations of Indian migrants, including the increase in deportations and insurmountable debts for those wanting to go abroad, which has led to high suicide rates in the last couple of years. He touched upon new destination countries having come to the fore recently in the Gulf region, including Israel and Jordan mostly catering to the need for domestic workers.

Dr D'Sami criticised the circulated government paper on international migration for focusing on skilled workers, thus falling in line with many recent policy developments in the international migration policy arena, including the United Nations' High-Level Dialogue (HLD) on Migration and Development, started in 2006, and largely omitting any reference to

health, human rights, gender issues, trafficking, or HIV/AIDS.

He outlined the economic background of the government's focus on remittances, pointing out that although its economy has been growing at 8 per cent annually, India is still a debtor country, and needs remittances to repay debts; foreign-exchange reserves are necessary to attract FDI, and this impetus is being strengthened, according to Dr D'Sami, by the government's desire to avoid another balance-of-payment crisis like the one seen in 1991/92.

Addressing other components of the migration policy, he said certain social-security agreements had been signed (with the Netherlands and Germany, among others), but so far only for skilled workers. He called for more inclusive agreements, especially on the regional and multilateral level, including the SAARC region, where model contracts should be used.

Dr D'Sami drew attention to two recent Human Rights Watch (HRW) reports on the situation of migrant workers in the Gulf, one dealing with construction workers (*Building Towers, Cheating Workers*; accessible at <http://www.hrw.org/en/reports/2006/11/11/building-towers-cheating-workers>), and the other with domestic workers (*As If I Am Not Human*; accessible at <http://www.hrw.org/en/reports/2008/07/07/if-i-am-not-human-0>).

He summarised the lessons that could be drawn from these reports in terms of:

1. The need for minimum wages in the region
2. The need for free trade unions
3. The need to increase the number of labour inspectors in Gulf countries

In closing, Dr D'Sami offered his personal opinion on migration and globalisation, saying he did not think these phenomena could be controlled, that people would always be on the move, regardless of policy. Nonetheless, a framework to protect migrants was needed, and he criticised the government for not having been transparent in drafting this policy.

Mr J. John responded to both speakers by expressing his disappointment at the government perspective outlined by Dr Rajan. He stressed that although the circulated document is not the government policy, it does shed light on the direction the government wants to take. He appreciated Dr D'Sami's statement that migration is a reality, which is why the forum had chosen to address it.

2. Discussion on Policy Recommendations

A discussion on policy recommendations to be included in the report to the ministry ensued. It was chaired by Mr Ashok Ghosh, general secretary, UTUC, India.

The discussion was introduced by a summary of previous consultations and main points contained in the draft recommendations presented to the group, by **Yamini Atmavilas, Christian Wolff, and Dr Tiwari.**

There was broad agreement among the participants that MOIA so far seems to only have focused on emigration from India, whereas there was an urgent need for a comprehensive policy that also addresses immigration, refugees, and return migrants. Whether such a policy would be launched before the upcoming elections was regarded as doubtful.

Some participants noted that the government seems to be pursuing a completely different agenda from the one discussed in this forum (in focusing mainly on remittances and FDI from the diaspora), and stressed the broad-based social, economic, psychological, and legal aspects of migration that seem to have been neglected by MOIA in the drafting process. It was suggested that civil society impress upon the government the importance of including all these aspects in its policy, and thus going beyond its immediate concerns.

The issue of how far MOIA's ambit with regard to drafting a comprehensive policy would go was raised, given that some lines of ministerial responsibility would have to be crossed, particularly the home ministry and the external affairs ministry. However, it was pointed out that it was not unusual for one ministry (in this case, MOIA) to take the coordinating lead on a policy that affects the portfolios of other ministries, and the majority of participants agreed that the forum should not allow the perceived boundaries of MOIA's authority to limit the scope and nature of its recommendations for the migration policy.

In general, the draft document presented to the group was lauded as very good and comprehensive, containing useful benchmarks of a rights-based approach, which the participants endorsed. In view of the fact that the prospective policy itself was seen as subject to constant changes in the future (a fact that had also been emphasized by MOIA in its previous communications), a set of core non-negotiables was seen as crucial to the architecture of the recommendations.

There was concern about the widespread use of the phrase 'safe and orderly migration'—even by academic members of the drafting committee—which was seen as an over-emphasis on the management aspect of migration policy, which may have the effect of overlooking exploitative practices and the varied root causes that trigger migratory movements, blurring the line between 'forced' and 'voluntary' migration. Thus, a proactive definition of the meaning of 'safe'—from a migrant's perspective, rather than a national-security perspective—was desired. In addition, it was deemed important not to lose sight of the special circumstances faced by refugees in any migration policy.

There was an appreciation of the importance of problems faced by return migrants, and recognition of the important role NGOs should play in this area. Useful ways of contacting and involving other ministries in the deliberative process with civil society should be sought out.

Participants reiterated the importance of the policy addressing inhuman working conditions of workers including migrant workers inside India, stressing that those forced into 'illegality' often face the harshest forms of exploitation. This includes Indian workers going

to the Gulf for over 20 years as well as, for instance, Nepali domestic workers coming to India today.

The group stressed the importance of addressing, not 'celebrating', workers' vulnerabilities, and pushing for equal treatment for Indians abroad and immigrants in India, including refugees. A necessary element of a policy acknowledging this framework would have to be a functioning work-permit regime, making labour migration safe and legal. Participants agreed that the forum should not be constrained by institutional limitations on the government's side, and instead press for a comprehensive policy.

There was a reminder about the importance of also engaging in a region-wide discussion of labour laws across South Asia, as a way to bring about lasting changes in the protection of workers' social security, health, and related issues, regardless of the country in which they work. This issue was recognized to be of particular importance in specific border regions such as the northeast, where cross-border protection of labour would be a big step forward. In this context, the importance of a state-specific framework for migration was also stressed.

Other components of a policy framework for international migration which MOIA should engage in, as mentioned by participants, included reference to the pertinent ILO conventions as well as the UN Convention on the Protection of the Rights of Migrant Workers and Their Families, the importance of addressing trafficking as a separate, but related, issue in the policy, and the emphasis on the government's responsibility to extend consular protection to its nationals abroad, with China having provided good examples of how to translate this responsibility into policy guidelines.

The group then went on to examine the recommendations for legal and administrative reform on a line-by-line basis, and suggestions were incorporated into the Chennai Declaration made public the following day (see separate document).

Apres conference was also organized to release the Chennai Statement.

Public Meeting on Migrant Labour

On January 9, 2009, a public meeting was held attended by nearly 200 migrant workers to discuss problems and challenges to migrant rights.

3. Recommendations for Action

The following next steps were agreed upon following the consultation:

A delegation of MFA India members will submit the final report based on civil-society consultations to the ministry of overseas Indian affairs.

MFA members will meet in Delhi to discuss how best to present the report to other related ministries.

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Annexure III:

Regional Consultations

Chennai, Kozhikode, Kolkata, Chandigarh

Chennai, November 30, 2008

The southern consultation, held at Chennai on November 30, 2008, saw representatives from Tamil Nadu, Karnataka, Andhra Pradesh, and Kerala presenting issues specific to their states. CEC, MFA and Domestic Workers' Union organised the event.

1. Participants reaffirmed that the policy should be guided by the following principles:
 1. It should be rights-based.
 2. It should be worker-centric.
 3. It should be gender-sensitive.
 4. It should have a regional framework SAARC framework, for instance.
2. The policy document should be in line with the **ILO Convention** on the rights of migrant workers.
3. Interests of the diverse range of migrants groups emigrating from India should be represented:
 - Remove the age bar of women to migrate so that **women's right to mobility** is fully acknowledged.
 - A **monitoring committee should be set up** in airports **to provide pre-departure information**. This will help ensure that domestic workers and other unskilled labour migrants are protected from illegal migration.
 - The current basis of classification into **ECR and ECNR** should be removed. A **new classification based on the skills** should be introduced. This will help the skilled fisher people from the southern coast who migrate to Gulf countries and are forced to work as unskilled labour because their passports are classified as unskilled.
4. The social, economic, and psychological rights of migrant workers need to be addressed.
 - **Health services** mechanisms for mutually agreed **medical** testing should be set up. Blood tests for migrant workers are mandatory; the testing centres should be

recognised and should have standards that are bilaterally acceptable. Otherwise, workers are subjected to additional tests in the receiving countries and are discriminated against as a group.

- Address increasing incidents of **suicides** (abroad as well as after return).
5. **Remittances:** Fees currently being charged for money transfers are forbidding. Indian national banking systems abroad should set up mechanisms for sending money without high fees.
 6. **Embassies** should be more active in safeguarding rights of Indians abroad, especially with regard to incarceration; labour violations including non-payment of wages, second contracts, violence against female domestic workers, etc.; repatriation of bodies; and translation services.
 7. Since the bulk of south Indian migrants are bound to the Gulf as temporary migrants, the government should be more proactive in planning for, and supporting, their return and reintegration in all realms – social, political, and economic. **Social security** benefits of Indian workers who go abroad should be protected until their return. Procedures to enrol into **insurance schemes** and to obtain benefits should also be simplified. Their **voting rights** should be safeguarded.
 8. Protection should be extended to immigrants in India **reciprocal agreements** could be entered into with our neighbours.

Kozhikode, December 6, 2008

The Kerala state consultation was held on December 6, 2008 at Hotel Alakapuri, in Kozhikode. It was organized by MFA member Rafeek Ravuthar under the banner of his media activist show, *Pravasilokam*, Kairali TV. This was our most formal consultation with a press meet preceding the consultation and a subsequent press release. Several returnee *pravasi sanghams* were represented; in addition, members of NGOs, trade unions, women's groups, lawyers, elected representatives (many of them returnee migrants), and activists contributed to the discussion.

1. Migration is extremely important to Kerala state's economy. About one-third of the state's population goes abroad, mostly to the Middle East, as temporary migrants. Other destinations include Europe and East Asia. Kerala's economy and social life have historically been heavily supported by migrant culture and remittances.
2. It is insufficient to simply revamp the regulatory system for migration; protection of migrants should be explicitly covered in the policy. In particular, the role and capacity of consular services abroad, which are woefully inadequate, must be reviewed and revised. Embassies should serve as a clearinghouse for information and key services for migrants. They should know how many migrants are abroad, how many are in jail, and

how many are in mortuary. In most situations of difficulty encountered by Kerala migrants in the Gulf or other parts of the world, Indian embassy personnel have not intervened effectively. Lessons should be learned from the Chinese and American (and other) consulates. The American Consulate provides a range of services to protect the interests of Americans abroad; for instance, two US citizens lost their passports in Chennai and were arrested. The Chennai Collector learned of this and contacted the US Consulate. The Consulate immediately issued temporary travel documents. Typically, upon arrest, the US embassy will notify the US citizen's family and relay any requests to family for money and legal aid.

Similarly, Chinese consular protection and services aim to intervene when their overseas citizens are in trouble. The website of the Chinese consulate states: 'When the legitimate rights and interests of a Chinese citizen are violated in a receiving state, the Chinese diplomatic mission will reflect his/her interest and handle the issue in a fair, lawful and friendly way in accordance with bilateral treaties, laws...' Chinese consulate provides protection in such eventualities as traffic or industrial accident; or family member dies abroad, is kidnapped, or goes missing.

If the Indian consulate also extends such rights, then when an Indian is in jail, for instance, we can make the consulate extend legal aid and intervene. Indian embassies tend to largely limit their role to providing services like passport attestations, power of attorneys, registration of births, marriages, etc. They might intervene in isolated incidents, but as a whole remain detached from more critical issues relating to labour rights, human rights, law-and-order situations, and so on. While emigration rules provide for a number of things including social security, transportation of dead bodies, etc., they are not universally applied. Article 36(a) of the Vienna Convention on Consular Relations, 1963, says that each state's citizens should have consular access. India is a signatory to this, and is obligated to provide consular services to its citizens abroad. Public opinion should force the government to raise issues in parliament and legislatures so basic rights of Indians abroad are ensured. The Vienna Convention also suggests that a signatory government should aim to create bilateral agreements with non-signatory governments (like Saudi Arabia) to ensure protection of its citizens in the latter countries.

3. The difficulties experienced by Kerala's temporary, unskilled migrants abroad in bringing remittances for our country go unnoticed. Only NRIs in the West are recognized.
4. Women domestic workers from Kerala face a range of concerns – fraudulent agencies, labour exploitation, and even sexual exploitation in the name of domestic service. Women's organizations like Anveshi intervene on behalf of affected women migrants, but do so based on information from the women's cell of the district police HQ. The

women's cell is not equipped to handle the issues of migrants in all their complexity. Sometimes, these women are used to carry drugs; they are jailed when caught. Many women do not know whether they will get jobs or not. They are cheated and trapped in rings and sex rackets by Malayalis themselves. Many women get shelter at embassies, and are sometimes sent back home. However, this is not the appropriate solution. A systemic intervention has to be made.

5. Given the context of globalization, a new approach to migration has to be adopted the very meaning of 'migration' is subject to change. Today, it stands increasingly for temporary, circular movement rather than an open-ended term that describes any type of movement, temporary or permanent. After 1994, GATS covering the trade and services sectors came into effect; the movement of natural people is now being regulated by GATS Mode 4. In this context, Indian policies are being amended to be in sync with the WTO and GATS provisions. Now, this policy and its emphasis on safe, temporary migration is an example of this kind of coordinated syncing up rather than a genuine representation of people's interests. Emigration has not mentioned protection; what appears to be happening is the creation of a suitable atmosphere for temporary migration.
6. While there is recognition of the importance of migration to Kerala's economy, it is seldom mentioned that Keralites have contributed a great deal to the development of Gulf countries. In the 1950s, one could count the high-rise buildings in Dubai on the fingers of one hand. Migrants who went as skilled and unskilled construction labour, technicians, mechanics, and others sweated to build the wealth of Dubai.
7. In Kerala legislative assembly, the Pravas Kshema Nidhi bill will be presented this month; and for the first time, such a programme will be announced.
8. Indian workers' passports are impounded or withheld by employers. However, article 21 of the Indian Constitution that deals with protection of life and personal liberty covers the right to hold one's passport. The confiscation of passports is against Indian law.
9. Banks used for remittances Oman Bank, First Citi National Bank, Chemical Bank, etc. have high fees and complicated procedures. Indian banks should operate in the Gulf and facilitate remittances at low rates.
10. The present policy document says Indians are going abroad because they do not have jobs here this is too simplistic. It should look at the global labour market and clarify India's position.
11. Local *pravasi* associations have been active in providing assistance. The government should liaise with them.
12. The UN Treaty on Protection of Migrant Workers and Their Families should be the foundation for the policy.

13. We disagree fundamentally with the deregulation question; the government should control emigration.

Kolkata, December 11, 2008

The Eastern Regional Consultation on India's proposed migration policy was held in Kolkata on December 11, 2008. It was hosted locally by UTUC, and attended by a mix of trade-union representatives, women's groups, academics, and NGOs from Bihar, Jharkhand, West Bengal, Assam, and Tripura.

Several key issues related to India's status as a sending, transit, and destination country were raised; indeed, the consultation discussed some highly sensitive, demographic, and politically contentious issues that the northeast has been grappling with in this regard. The consultation also discussed the problem of trafficking for male and female labour, including sexual trafficking, from the northeast to other parts of India and the world.

Issues

The policy must be holistic, not piecemeal, in addressing not only the range of migration-related concerns, but also the range of international migrations that occur in India. The current draft circulated by MOIA is geared more towards sending migrants, and leaves untouched the issue of receiving migrants. It is, therefore, important to discuss the issue of in-migrants, especially from the border regions to the east and the northeast. There is a debate in this region on how to talk about these workers in terms of documented versus undocumented, or skilled versus unskilled, since there is a relationship between documented and skilled, and undocumented and unskilled. It is impossible to make simple distinctions. Labour migration is intertwined with many other issues — migration is always a 'mixed and messy flow'. For instance, conflicts and natural disasters compel people to migrate, and they then seek jobs and livelihoods — are they refugees or labour migrants? The policy cannot address only their labour issues without also saying something about the other factors in their migration.

Vulnerabilities that shape migration in the northeast (and elsewhere) include poverty and lack of employment opportunities; unsafe migration; gender disparities and violence against women; caste, ethnicity and social marginalization; conflict/military and political oppression; customary practices; large-scale displacement from development projects and conflict situations within the country and into neighbouring countries; long and porous borders allowing in and out migration; and environmental factors such as droughts and floods.

In-migration from Bangladesh, Nepal, and Myanmar, and to a smaller extent, Bhutan — our neighbours to the east — is a major issue in the east/northeast. According to some estimates, more than 200 Bangladeshis are detained in Jogigopa detention centre in Chirang and Dhubri districts of Assam on a daily basis. There are porous borders between Meghalaya and Bangladesh, Tripura and Bangladesh (856 km), and Mizoram and Bangladesh (318 km). We

also have an open border between Champai district of Mizoram (848 km) and Burma. The northeast also has an open border between Morey (Manipur) and Myanmar. All these produce a number of challenges and opportunities for India and local states. Open porous border areas are difficult to police.

About one lakh Bangladeshi migrants disappeared from the northeast: There are many detained people in the border areas, but there is a lack of process in dealing with undocumented migrants from across the border. There is a great deal of policy oscillation towards sub continental in-migrants, especially Bangladeshis. During the Partition, India accommodated Bangladeshi refugees; subsequently, while there is no mechanism to deal with them, official rhetoric views Bangladeshi migrants today through the framework of either illegal migration or national security, and maintains that they must be sent back. This is despite the reality that undocumented/unskilled workers are playing a useful role in this border region, and filling necessary jobs. It is hard to identify these workers since some of them are able to assimilate with the region, through name changes, ration cards, etc.

The influx of Bangladeshis has had an impact on local cultural, social, and political equations, particularly in the northeast. There is no policy or provision to safeguard the rights of the various impacted populations on both sides of the border. In Tripura, for instance, the indigenous population has become a minority, while Bangladeshi migrants have become the demographic and political majority, even managing to obtain citizenship and form political parties. The demographic pressure intensifies other concerns critical to indigenous survival and rights, including the right to land where the indigenous people are easily displaced (from land acquisition for development projects, and population movements) due to lack of official titles to land. So, indigenous peoples are often mistreated and are just as vulnerable as undocumented migrants. There is real fear in local populations about their own future, thanks to displacement and diminishing access to land and resources; these anxieties find voice in discussions about the nature and extent of demographic changes brought about by migrants. Laws safeguarding rights/protections/land rights of indigenous peoples have not been implemented, and no compensation provided. Thus, neither are migrants' rights being protected, nor are indigenous peoples' rights.

Recommendations

Create a system of work permits that would allow in-migrants to have legal ways to work, stay on, and renew the permits and/or go back once permit has expired. In Italy, the government issues work permits to South Asian workers. In the Indian context, it is hard to differentiate West Bengalis and Bangladeshis. One way to do it is to issue work permit to a group, rather than to individuals. This would make it easier to monitor the group than individuals, and put a timeframe on the permit, allowing for both expiry and renewal. That way, locals can be assured that migrants may go back once demand for labour subsides. This would address concerns of both migrants and locals of the border region.

Distinction between voluntary migration and forced migration has become irrelevant. It would be hard to imagine that migrants will be applying for work permits before they enter the country. There should be a single-window system at the border, where a group of Bangladeshi migrants apply for permit and are issued them as a group. The permit can restrict their operation to a particular district. Migrants must be educated about what the work permit process is and allows for, and which authority can answer their questions/concerns.

This, of course, does create a situation of competition between locals and migrants, and there is also the question of how these workers can really be absorbed into the economy, since many a times they are just absorbed into the unemployed population. How can government address that aspect, and push for their gainful employment? Perhaps, work permits can be based on needs in specific labour-market segments.

The work permits can basically serve as ID cards and be used to ensure rights. Maybe, once they have permits, they can organize their own trade unions (TUs) without relying on existing TUs for locals.

There needs to be a regional/state-level (intra-nation, north-eastern) framework to deal with region-specific issues, including in-migration from neighbouring countries to India. The current draft government policy only concerns itself with out-migration to the Gulf and western countries.

There is a need to create standard operating procedures (SOPs) as part of creating a regional/South Asian framework on migration. NGOs in Assam have worked with the government of Bhutan to develop standard operating procedures to provide a framework for the border area. This provides safeguards for labour protection, and perhaps could be expanded to cover other migrants/border areas. The issue with Bangladesh is harder to approach due to the political nature of relations between India and Bangladesh.

De-emphasise National Security: The question of rights-based migration must be separated from the question of national security. The idea of national security has often been used as an excuse to violate rights of migrants and other vulnerable groups. There is an inherent conflict within the national-security discourse vis-à-vis migrants. If local people are not supposed to be displaced by migrants in the labour market or in geographical regions, then how does the idea of the nation accommodate the displacement of locals by dams or other development projects? For instance, one could conceive of Bangladeshi migrants coming to work at a paper mill in the northeast, which in the first place displaced locals to establish the mill.

On militarisation of borders, we must redefine 'security' to mean human and social security. We must identify what kinds of ID cards or some such documents would provide for human and social security for workers.

Rights-based approach: A rights-based approach must take into account the concerns of all impacted by migration. H2B visas, for instance, put workers in a vulnerable situation since they do not have labour mobility they become 'indentured' to their particular employer.

Lower skilled workers in the Middle East, such as those in construction, are supposed to make some more money than they would in India, but when they finally get paid, they are cheated they end up making the same amount as they would had they stayed in India. When they suffer occupational hazards, the most protection they receive is assistance in moving the body from the Gulf back to India.

Thus, policy must take into account rights and protection issues for these workers.

Trafficking is a major issue in the region. Nearly 20,000 women and children have been lured from Assam for various purposes. Forty-two Naga girls from Manipur were lured to Malaysia for better job opportunities. An estimated 407 women and girls from the northeast were lured elsewhere (2004-07).

An estimated 110 women and girls are missing from relief camps of Kokrajhar and Chirang districts of BTC, Assam, from 1996 till date.

There is a real lack of conceptual clarity on issues related to HT and its linkages with migration. While trafficked women (and children and men) are typically discussed as women, there really is a fine line between deception and coercion. It is, thus, important to look at the economic compulsions that lead workers into being trafficked. A combination of patriarchy and unequal development is what compels women into vulnerable situations. Women, in that sense, reflect the underbelly of development.

Recommendations for safe migration:

- Process as well as an outcome of an internal or international movement
- Based on legal norms and rules
- The decision to move is guided by informed choice
- Made without any compulsion (mandatory HIV testing)
- Leading to a non-exploitative situation
- Safeguards an individual's rights and respects gender equality
- Protects the right to return to one's own country

Chandigarh, December 14, 2008

The final regional consultation concluded in Chandigarh on December 14, 2008, to discuss issues pertinent to international migration in the northern region, and Punjab in particular. Held in collaboration with ICSSR-North Western Regional Centre on their premises at

Punjab University, Chandigarh, the consultation was attended by a small but key group of academics (GNDU, PU, PCMS-Khalsa), NGOs (CRIID), trade unions (NTUI), and individuals, including a former ambassador closely associated with the creation of the Indian emigration architecture, Mr Sahai.

Ambassador Sahai made the opening remarks and described the intent behind India's Emigration Act, 1983, and the conceptual shifts it made from the 1922 focus on protection to the 1983 emphasis on welfare. He spoke in favour of deregulation, given how the current system was ridden with corruption and red tapism. Among others who spoke was **Prof. Paramjit Judge** from GNDU, Amritsar. He spoke on the issue of illegal migration from Punjab, the question of caste in migration, the role of NRIs in philanthropic work in Punjab, and the nature of public and private institutions involved in migration as well as NRI services in the state; he also spoke about the importance of NRI contributions to the state culturally, socially, and economically. **Prof. Manjit Singh** spoke about the 'push' and 'pull' factors in migration, the high value and status accorded to migration to the West, and the issue of in-migration and the need for the government to have an open border policy given the common history of the subcontinent; **Mr Chandrashekhar** from NTUI spoke on the failure of trade unions to take up the issue of migration seriously, their analytical shortcomings in seeing migration as a class issue, and a working-class issue at that, the difficulty of organizing across national/ethnic identity, and the need for trade unions to recognize their role in organizing migrants; **Dr Krishan Chand** spoke of the need for the policy to really address the root causes of illegal migration; and **Prof. Darshan Tatla** of Punjab Centre for Migration Studies spoke of the need for the policy to truly account for the range of issues related to Punjabi migrants and the Punjabi diaspora including illegal migration, racial discrimination, and NRI marriages, and take up economic, social, cultural, and political issues such as the question of dual citizenship, and the overall weakness of civil society in Punjab to represent these issues. **Ms Harpreet Mongat** discussed the intricacies of illegal migration and the issues of NRIs in India and abroad, including racial bias and the ethnicisation of civil and criminal issues.

Discussions and Recommendations

1. Migration in Punjab is largely rural, oriented towards the West, and marked by permanent settlement rather than temporary or education- and job-based, as it is in Kerala or other parts of the country.
2. Policy should address illegal migration or 'kabootarbazi', which is a major issue in Punjab. Participants felt it was near impossible to regulate it as it was supported by a very organized, underground, and ironically, easily accessible (to the poor and aspiring migrants) framework of agents. Facilitating illegal migration is a highly lucrative enterprise, and sees the involvement of a range of actors at all levels. Agents do not act alone; rather, they have strong political linkages. Thus, well-placed and powerful

figures are involved in facilitating illegal migration.

While 'kabootarbazi' is often described as trafficking, it is distinct from human trafficking, which may be described as forcible/coercive. However, those who migrate through the illegal route as 'kabootars' may be victims of fraud and deception, but are clear about the illegality of their movement, and for the most part, go on a voluntary basis. There is, understandably, very little data on the numbers who go this way, but rough estimates put it at 12,000 Punjabis per year in a 12,000-crore strong industry. They are also shifting to new transit zones; Italy, a former transit zone, has become a destination. Transit zones today include Belgium and Ukraine as well. The trucking business is also a part of illegal migration.

Another dimension of illegality that pertains to Punjab is the instance of 'proclaimed offenders'. Nearly 2,000 Punjabis are deemed proclaimed offenders, i.e., those who have not appeared in court on a prescribed date; they face imprisonment and prosecution upon their return to India and tend to stay away.

Recommendations: (a) The state must involve civil society and academics in the running of awareness camps and fairs with reference to the dangers of illegal migration; and establish an information-collection system and a database to track people. P. Judge is not in favour of more laws to arm the state, but that the tracking system be used to extend services. (b) Participants also recommended that government offices be established at district level to record/register migrants as part of district administration areas where out-migration is strong. (c) Regulation of recruiting agencies is a must. (d) Participants also cautioned against a singular focus on illegal migration so as to avoid playing into the hands of other countries under the umbrella of 'safe migration' and migration management. (d) Punjab government is now drafting a new trafficking bill that civil society must become more involved in looking at.

3. Paradigm shift in government approach: In 1922 the emphasis was on *control*, with the emigration process overseen by the controller general of emigration. The amendment made in 1983 shifted the emphasis from control to *protection*, and the chief officer was re-designated as protector-general. They looked at returnees and how to integrate them back into India; and also at Indians abroad, and how to create awareness as well as how to integrate into the host society. Now, MOIA's emphasis is on migration *management*. Ambassador Sahai asked, '*How is the government seeking to manage a phenomenon over which it has no control?*' The government of India has no control or say over how many people should go where and when. This is really controlled by receiving countries. The question is, *how do we adjust the demand factor to the 'human factor'*? Secondly, even within our own country, we do not have migration data; how are we going to collect this?

4. Recognize the limitations of legal solutions to social issues: The premium placed

on international migration and the anxieties and inequalities it produces have resulted in a number of social problems in Punjab, such as dubious NRI marriages and abandoned wives; marriages of convenience between relatives/siblings to obtain visas; property disputes and grabbing of land belonging to NRIs by resident relatives; and neglect of elders. Ramu Walia is taking up these concerns through his organization Lok Bhalai.

The real issue is that the value system of the Punjabi/Sikh society places high value on migration abroad; people attempt to go abroad at any cost and through any means including marriage (boys and girls can come back and trade their unmarried status, trade marriage for economic gain and status). Parents are also involved in pushing daughters into brothersister marriages to obtain visas for sons to go abroad.

5. Migration within the subcontinent (into India, particularly) must be viewed against the backdrop of the Partition. India should keep its borders because those coming to India are, in a way, coming home.

Recommendation: There should be a mechanism for maintaining this open flow.

6. **Recommendation:** Involve district- and panchayat-level administration in migration management and regulation.
7. **Recommendation:** December 18 is International Migration Day. We should observe it with national and local events.
8. Remittances and development have a strong link in Punjab. Punjabi NRIs invest in socio-religious activities in their native villages through building gurdwaras and community halls, organizing social meets and kabaddi contests, and sponsoring schools and cancer hospitals. In addition, it must be recognized that they contribute in other ways by spending money commercially, and engaging services such as taxis, construction labour, agricultural labour, etc., during their visits to India.

Recommendation: The government is hoping to attract more NRI investments through the 5050 scheme, wherein it matches the investment made by NRIs for development projects. The government should make it easier for visiting NRIs to obtain clearance for their activities. However, corruption is a major obstacle. How can we circumvent this? At the same time, we need a framework that views the entirety of migrant investments and remittances. Can we come up with a framework for this?

9. We had some discussion on the representation of the diversity of intra-national state/regional patterns and concerns in international migration.

Recommendation: Participants felt that the policy should account for and accommodate significant regional divergences, perhaps through the creation of

incentives and guidelines to align state strategies and policies with the centre's own; the centre should lay out what it proposes to do, and what it requires states to do.

10. **Recommendation:** The policy should also take up issues of NRIs abroad domestic violence is an important issue, but it is also politicised and made into an ethnic issue.
11. **Recommendation:** Government and NRI organizations should take the cue from Chinese diaspora well organized, with interest groups and pressure groups looking into the interests of Chinese migrants, training of new migrants, etc.

How can India's diversity of resident and non-resident members be realigned to a flexible Indian nationality an overarching Indian nationality that brings the diaspora into its fold?

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For those living in Chennai, Poojitha Nambargal is one of the many who have turned to growing their own food. She has started a group of 100 modified crops. I have posted a copy of more details on my blog. Sign up here: <http://mashochina.wordpress.com/>



CHENNAI: P4 BIHARI DIASPORA URGED TO INVEST IN BIHAR



ANNI STRIKES WITH VOTERS A CHORD P3



City | 5 pages

While the annual conclave discussed various issues of international significance, the main focus was on terrorism and global recession. *Also on the agenda was a discussion on the state of women in the diaspora

India slow in providing justice: Singapore official

Chennai: "Indian laws are very good, but it should necessarily be practised outside India to see quick results," said a senior Singapore government official on Wednesday. Copyright Plus, Ambrose was a panelist on the Trade and Investment session at the Pravasi Bharatiya Dives here. "Normally, to see results in legal proceedings one need to spend half-a-lifetime. In some cases, it takes a whole life," he said. Referring to the implementation of the law governing intellectual property rights, he said the Singapore government had taken many steps to trim the court's law and initiatives have been taken to reduce the litigation time. D. Pando, Chairman of the Board, Delta Wilmar OS Limited, Ukraine, told *Express* that the government should do more homework before organising such international gatherings. "There was a big space for the government to do more work in the field of intellectual property rights. The government should focus on investments," he said.

Overseas workers to get smart cards from June 1

Chennai: Following the announcement of Prime Minister Manmohan Singh that smart cards would be issued to overseas workers, Minister for Overseas Indian Affairs, Prakash Jadhav, said the issue of cards would commence on June 1. Addressing a press conference at the Pravasi Bharatiya Dives venue here, Jadhav said the cards would be initially issued only to new workers. A decision on issuing similar cards to others would be taken in the due course. The smart card would contain information on the worker's name, date of birth, and insurance. The smart card project aims to make emigration a simple, transparent, orderly and humane process. On the PM's announcement that the Overseas Indian Card (OIC) holders could practice in India, the Minister said a Government Order in this regard had already been issued. "The cardholders could practice with a dialogue office," he said. So far, there were 35 lakh OIC holders in various countries, Jadhav said. In response to a question,

Conferring voting rights not practical, says Pranab

Chennai: Union Minister for External Affairs Pranab Mukherjee said on Thursday that conferring voting rights to overseas Indians was unlikely, as it was a "complex issue". Answering questions from the delegates at the end of a plenary on "India as an Emerging Power: The Diaspora Factor", at the Pravasi Bharatiya Dives here, Mukherjee said the technicalities of giving voting rights was not an issue, but it would be a huge task. "We already have 60 million voters in related laws. We already have 100 million voters in Europe and the USA. To add around 100 million will be a huge task," he said. The Union Minister sought to assuage the feelings of the Non-Resident Indians and overseas Indians by saying that the identity of being an Indian mattered more than the right to vote. Later, speaking to journalists, the Union Minister referred to the "strong ties" between India and the diaspora. He said the government would take steps to strengthen the ties on the future course of action to end the current impasse.

Management guru lauds MK's colour TV freebie

Chennai: The DMK Government's free colour TV scheme may have faced severe criticism on home turf, but management guru and professor, School of Business, Anna University, Chennai, Dr. M. K. Prasad, lauded the Chief Minister M. Karunanidhi's net project. Addressing a session titled "Reflections on current economic crisis - diaspora concerns", as part of the Pravasi Bharatiya Dives here, he said the scheme enabled the poor to stay connected and informed. Noting that the cell phone connections had grown by leaps and bounds, he said the scheme would help the poor to connect to their families and friends. "The scheme would promote cell phone culture to connect the poor to their families and friends. It would help the poor to get involved in these aspects," Prasad called for providing world class education to make the youth more employable. "The existing system cannot work. We need a fundamentally new system, curriculum and a 21st century education model," he said. He termed the impact of the scheme as a "game changer" for the country's development. "A country afflicted with corruption could never become rich," he said.

Annual jamboree has lost its original direction: expert

Chennai: Pravasi Bharatiya Dives, which was actually conceptualised to honour the efforts of toiling emigrant workers, whose remittance feeds the country's growth, has lost its original direction, an expert has said. He said the annual jamboree has now become a mere platform for NGOs to promote their political and business aspirations in the country, said John of Delhi-based Centre for Education and Communication (CEC). He was speaking at the inaugural function of the second national consultation on India's proposed International Migration Policy here, in which 18 organisations from all over India participated. "The annual jamboree has lost its original direction. NGOs and PIBs are participating in the grand gala function, but there is literally no one to represent the issue of emigrant workers, who remit the much needed and hard earned money back to the country, hence fuelling consistent growth of our economy." He added that the consultation meet was aimed at formulating a comprehensive migration policy, parallel to Pravasi Bharatiya Dives.

Annexure IV: In the Media

THE HINDU

<http://www.thehindu.com/2009/01/10/stories/2009011054930400.htm>

Chennai Statement on India's International Migration Policy released

Special Correspondent

Saturday, Jan 10, 2009, Chennai

Centre urged to include migrant workers' rights perspective in policy

Seeks creation of single window system of administrative services for migrants

Demands removal of age bar of 30 years on women intending to migrate

CHENNAI: Members of 14 civil society organisations on Friday released the Chennai Statement on India's International Migration Policy, urging the Centre to include migrant workers' rights perspective in the proposed International Migration Policy.

A meeting parallel to that of the Pravasi Bharatiya Divas was held in Chennai by members of various civil society groups, trade unions and migrant organisations, which decided to send a comprehensive report to the Centre in the next two weeks detailing their demands.

Work agreements

The Chennai Statement demanded creation of single window system of administrative services for migrants; creation of work agreements with governments of destination countries; revamp of the visa system; and setting up of information centres at Indian airports and in prominent destination countries to address the concerns of migrants. They also demanded removal of age bar of 30 years on women intending to migrate; government should continue to play its regulatory role by involving all stakeholders; it should invest in capacity building of embassies around protection of labour, human and gender rights of Indian citizens abroad among other issues.

Lack of transparency

Addressing newsmen, Centre for Education and Communication Executive Director J. John said the National Migration Policy was marked by a lack of transparency, public debate, democratic process and non-involvement of migrant workers, migrant rights organisations and trade bodies.

“The Centre should ratify and implement all international legal instruments that promote human, labour and gender related rights of migrants, particularly ILO Conventions and the UN Convention on the Protection of Rights of all migrant workers and members of their families,” said United Trades Union Congress Secretary Ashok Ghosh.

Mr. John said: “Though these migrant workers contributed significantly to the India's economy, they are yet to be recognised in their homeland. We request the Ministry of Overseas Indian Affairs to give them enough recognition just as for NRIs and Persons of Indian Origin.”

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THE HINDU

<http://www.thehindu.com/2008/12/07/stories/2008120752690300.htm>

‘Draft for migration Act regressive’

Staff Reporter
Sunday, Dec 07, 2008

Kozhikode: The new draft for the proposed Migration Act, which is claimed by the authorities to be a revised and modernised form of the migration policy for the country was in fact an “unrealistic” and a “regressive,” one, opined executive director of the Centre for Education and Communication (CEC), New Delhi, J. John here on Saturday.

He was delivering the keynote address at a seminar on ‘The New Migration Act’ at the Alakapuri Auditorium here.

Mr. John said that the government was concerned neither about the interest nor about the need of involvement of the people in this issue. “Instead, the government is only concerned about pleasing the rich and affluent in the country,” he said.

Former Member of Parliament A.K. Premajam, who inaugurated the seminar, said that the Migration Act of the country was long outdated and the concerned ministry was dealing with the migration issues in a “slack and casual” way.

P.T Kunhumammed, former MLA, presided over the function.

MLAs Abdul Khadar, P.M.A. Salam and INTUC State general secretary C.K. Ramachandran, among others, spoke on the occasion. Representatives of different pravasi organisations and trade unions also attended the seminar.

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MAJILUBHUMI, DEC 07, 2008

കുടിയേറ്റ നിയമത്തിന് സമഗ്ര നയരേഖ തയ്യാറാക്കണം

കോഴിക്കോട്: കേന്ദ്രസർക്കാർ പുറപ്പെടുവിച്ച സമഗ്രമായ നയരേഖ ഉണ്ടാക്കണമെന്ന് പുതിയ മൈഗ്രേഷൻ ആക്ടിനെക്കുറിച്ച് നടന്ന സെമിനാർ ആവശ്യപ്പെട്ടു. നിലവിലുള്ള കുടിയേറ്റ നിയമം പ്രവാസികളുടെ ജീവിതത്തിന് സംരക്ഷണം തൽക്ഷണമല്ല. വിദേശ രാജ്യങ്ങളിൽ തൊഴിൽ ചെയ്യുന്നവരുടെ ക്ഷേമവും സംരക്ഷണവും ഉറപ്പുവരുത്തുന്ന തരത്തിലുള്ളതായിരിക്കണം പുതിയ നിയമമെന്നും സെമിനാർ ആവശ്യപ്പെട്ടു. അളകാപ്പുരി ഓഡിറ്റോറിയത്തിൽ നടന്ന ചടങ്ങിൽ ഡൽഹിയിലെ സെൻറർ ഫോർ എജ്യൂക്കേഷൻ ആൻഡ് കമ്മ്യൂണിക്കേഷൻ എക്സിക്യൂട്ടീവ് ഡയറക്ടർ ജെ.ജോൺ മുഖ്യപ്രഭാഷണം നടത്തി. മുൻ എം.പി. പ്രൊഫ. എ.കെ.പ്രേമജം സെമിനാർ ഉദ്ഘാടനം ചെയ്തു. പി.ടി. കുഞ്ഞുമൂഹമ്മദ് അധ്യക്ഷതവഹിച്ചു. കെ.വി. അബ്ദുൾ ഖാദർ എം.എൽ.എ, പി.എം.എ സലാം എം.എൽ.എ, എ.എ.എൽ.ടി.യു.സി. സംസ്ഥാന ജനറൽ സെക്രട്ടറി സി.കെ. രാമചന്ദ്രൻ, അന്വേഷി പ്രസിഡൻ്റ് കെ. അജിത, ഹൈക്കോടതിയിലെ മുതിർന്ന അഭിഭാഷകൻ അഡ്വ. സി.കെ. കരുണാകരൻ, യാമിനി ആത്മവിലാസ്, ക്രിസ്റ്റൻ വോറാൻ എന്നിവർ സംസാരിച്ചു. റഫീഖ് റാവുത്തർ സ്വാഗതവും പ്രോഗ്രാം കോ-ഓർഡിനേറ്റർ എം. ശിവശങ്കരൻ നന്ദിയും പറഞ്ഞു.

തുടർന്ന് ഓം കേരള ഗവൺമെന്റിന്റേയും പ്രവാസി ഫെഡറേഷൻ, പ്രവാസി മേഖലയിലെ വെൻ ഫെയർ അസോസിയേഷൻ, കേരള പ്രവാസി സംഘം, സൊസൈറ്റി ഫോർ ലേബർ ആൻഡ് ഡവലപ്മെൻ്റ്, പ്രവാസി മേഖലയിലെ കൗൺസിൽ തുടങ്ങിയ സംഘടനാ പ്രതിനിധികൾ ചർച്ചയിൽ പങ്കെടുത്തു. ചർച്ചയിൽ മുന്നോട്ടുവെച്ച നിർദ്ദേശങ്ങൾ കേന്ദ്രസർക്കാരിന് സമർപ്പിക്കും.



കുടിയേറ്റ നിയമത്തെക്കുറിച്ചുള്ള സെമിനാർ
എ.കെ.പ്രേമജം ഉദ്ഘാടനം ചെയ്യുന്നു

Deccan Chronicle, January 10, 2009

Forum calls for migration policy

BY OUR CORRESPONDENT

CHENNAI

Jan. 9: Even as the annual Pravasi Bharatiya Divas drew top dignitaries and hogged the limelight here, criticism has surfaced about the exclusion of problems faced by millions of Indian migrants.

As many as 20 organisations from around India organised an alternative forum in the city on Friday, parallel to the Pravasi Bharatiya Divas, demanding a fair, just, and comprehensive migration policy. The forum also issued a Chennai Statement on India's International Migration policy. According to the Chennai Statement, the proposed migration policy lacked transparency, public debate, democratic process and involvement of migrant workers and migrant rights organisa-

More than 10 million Indian migrant labourers are working abroad

tion.

"We demand that the Central government implement a policy with all international legal instruments that promote human, labour and gender related rights of migrants," said Mr J John, senior member of Asian Migrant Forum. "Also the government should take immediate action for the release of hundreds of migrants who have detained in foreign prisons," he added.

More than 10 million Indian migrant labourers were working abroad and their annual remittance was more than \$28 billion, it was pointed out.

"We demand an effective

helpline for migrant labourers in the destination countries. Also we need to enforce a work permit system for immigrants from South Asian neighbours," said Ali, a migrant worker from Kalpakkam.

"In the pre-departure stage, we need a single-window system for services and information about the destination country. Also language centres in the airports will be helpful for us," says Satish, another migrant worker. Several migrant labourers and delegates from the United Trade Union Congress, Centre for Education and Communication, New Delhi, National Centre for Labour, New Delhi, Arunodaya Migrant Initiative, Chennai and several other civil rights organisations attended the alternative forum that started on Thursday.

Deccan Herald, January 8, 2009

Alternative forum today

BY ARUN JANARDHANAN

CHENNAI

Jan. 7: Even as the ministry of overseas Indian affairs is all set to release India's first-ever policy on migration at the annual Pravasi Bharatiya Divas 2009, there are allegations that the government has not considered the real problems of millions of Indians abroad.

The major point of concern in the policy is said to be limited to the facilitation of remittances, money

transfers and increasing the quotas for entry of skilled professionals into developed countries, especially the US. "Without discussing the real issues of the migrant labour's conditions and rights, human rights, social security provisions for female domestic workers and regional labour migration including foreign migrants in India, this policy is incomplete," said Dr Bernard Samy, director, Arunodaya Migrants Initiative.

"In the background of increased number of suicides of Indian migrants abroad, the policy should be concerned about the social, economic and psychological rights of migrant workers," said Yamini, coordinator of the alternative migrants' forum. Former ambassador P.S. Sahai will inaugurate the alternative migrants' forum and a demonstration parallel to the Pravasi Bharatiya Divas 2009 at the ICSA conference hall in Egmore on January 8.

List of Abbreviations

AICCTU	All India Central Council of Trade Unions
AITUC	All India Trade Union Congress
AIUTUC	All India United Trade Union Centre
AMI	Arunodaya Migrant Initiatives
BMS	Bharatiya Mazdoor Sangh
CDS	Centre for Development Studies
CEC	Centre for Education and Communication
CEDAW	Convention on the Elimination of All forms of Discrimination Against Women
CITU	Centre of Indian Trade Unions
ECNR	Emigration Check Not Required
ECR	Emigration Check Required
EU	European Union
GATS	General Agreement of Trade and Services
GCIM	Global Commission on International Migration
GFMD	Global Forum on Migration and Development
HIV	Human Immunodeficiency Virus
HMS	Hind Mazdoor Sabha
ICCPR	International Covenant on Civil and Political Rights
ICESR	International Covenant on Economic, Social and Cultural Rights
ICSSR	Indian Council of Social Science Research
ILO	International Labour Organisation
INTUC	Indian National Trade Union Congress
JNU	Jawaharlal Nehru University
MEA	Ministry of External Affairs
MDG	Millennium Development Goal
MFA	Migrant Forum in Asia
MOIA	Ministry of Overseas Indian Affairs
NGO	Non Governmental Organisation
NRI	Non Resident Indian
NTUI	New Trade Union Initiative
OCI	Overseas Citizens of India
PIO	People of Indian Origin
SAARC	South Asian Association for Regional Cooperation
UAE	United Arab Emirates
UN	United Nations
UTUC	United Trades Union Congress
WTO	World Trade Organisation



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