



Temporary labour migration as contribution to development: sharing responsibility between sending and receiving countries and the role of other-than government partners

By Prof. Tasneem Siddiqui
Refugee and Migratory Movement Research Unit
University of Dhaka, Bangladesh

Temporary labour migration now affects most countries of the world and displays several major trends. The international labour market is dominated by unskilled and semi-skilled workers (Wickramasekera, 2002). An increased number of women is participating in this market as principal migrants. Over the last two decades explosive growth of private recruitment agencies has taken place with no matching growth of civil society organisations except in a few countries. Due to malpractice operational in both receiving and sending countries there has been a general growth in situations of irregular migration.

This background paper prepares discussions of session 2 of which the key focus is to explore solutions for minimizing migration related risks (protection of migrants' rights, irregular migration) and maximizing developmental impacts of the temporary migration of low-skilled workers. In this session we will also consider how we can achieve a better balance between on the one hand more openness by destination countries to low-skilled immigration and a better assurance of the protection of the rights of these migrants, and on the other hand greater commitment and ability of countries of origin to ensure more legal and safe migration? And what is needed to help ensure that the private sector and other non-state agencies play a role in facilitating forms of migration that are protective of migrants and beneficial to development?

The first part of this paper looks at how unskilled and semi-skilled migrants contribute to development, this is followed by sections on the working conditions of low skilled workers in countries of destination, on irregular migration and on the particular situation of female migrants. For each, some recommendations are proposed as well as a series of questions at the end to serve as a basis for reflections and help start up the discussions.

Contribution of Unskilled and Semi-skilled Migrants to Development

Migration assists both origin and destination countries in economic growth and development (ILO, 2005). In destination countries, temporary migrants have made possible the continuing growth of developing and developed economies. For example, infrastructural development of Gulf countries would not have been possible without temporary migration of both skilled and unskilled workers. Growing economies of Southeast Asia also rely heavily upon unskilled and semi-skilled workers, mostly from other Asian countries. In order to continue with the current growth rate most of the developed countries of Europe and North America have to depend on continuous flows of migrants. The agricultural sector of many of these economies would not remain viable without such a supply of labour.

It is now generally accepted that all types of migration lead to a transfer of skills, ideas, knowledge, create links and interpersonal networks, contribute to social and economic development of both home and host countries, as well as contributing to workers themselves. Remittance is another important yardstick of migrants' contribution particularly to the development of home countries. In 2006, US\$ 268 billion was transferred globally as remittances and of this US\$199 billion went to the developing countries (World Bank, 2007).

Remittances received through the formal channels by the sending countries are more than the amount received as official development assistance and over half of the total flow of foreign direct investment. They constitute a much larger share of the total international capital flow to low income countries. They are unilateral transfers and do not create liabilities (World Bank, 2005). In Nepal (2004) and in Bangladesh (2005) migrants' remittances have helped reduce poverty by 10 percent and 6 percent respectively.

Migration of unskilled and semi-skilled workers eases the pressure to create employment on the governments of sending countries. Indirectly it also contributes to the creation of employment in those countries. Facilitation of migration creates different kinds of jobs in public and private sectors in the sending countries. Studies further show that in many cases migrants' earnings directly benefit their families by constituting more than 50 percent of their household income (Siddiqui, 2005). The capacity of migrant families to buy consumable items helps sustain local small business and producers.

Role of sending and receiving country governments: some proposals

Sending countries should play a proactive role in retaining their current market of unskilled labour and explore new markets.

Sending countries need to initiate regulatory reforms to incorporate new conduits in quick and low cost remittance transfer.

To increase the developmental outcome of unskilled and semi-skilled migration the sending countries may introduce various kinds of incentives to the remitters.

In order to benefit from the skills and knowledge of returnee migrants the sending countries may consider establishing a web-based employment information system.

Receiving countries should recognise and acknowledge the contribution of migrant workers to their economies

Receiving countries should provide training opportunities for low-skilled migrants so that they can acquire the necessary skills that are required in the country of origin.

Receiving countries should allow temporary migrant workers, regular or irregular, to collectively bargain. This will allow them to claim proper wages and conditions and be less likely to undercut local wages.

Role of civil society organisations (CSOs) of sending countries: some proposals

The CSOs should demand allocation of resources equivalent to the value of at least 5 percent of the annual remittances received by the country concerned in order to organise the services for the migrant workers.

The CSOs should advocate through national and local media not to treat migration only as a current livelihood strategy but also as future income and employment opportunity through proper utilisation of remittances.

The CSOs can make migrants aware about advantages of formal remittance i.e., opportunities for tax exemption, as collateral for future investment and adequate information on available investment schemes.

CSOs in receiving countries could also support migrants by linking them up with their networks, providing advice on regulatory regimes in the host country, advice on financial management and savings, and providing skills training.

NGOs can be of assistance in destination countries, by partnering with immigration departments to ensure that relevant information is available to each immigrant on landing.

Working Conditions of Low Skilled Workers

Temporary workers, particularly those who are unskilled or semi-skilled, are far more vulnerable to exploitation than skilled workers who migrate more permanently. Restrictions on the movement of temporary workers, for example by not allowing or making it unduly difficult to change employers, mean that workers can be trapped in seriously exploitative situations. If they manage to escape, they then become irregular and are immediately deported. Temporary workers may also be underpaid and work excessive hours, but are unlikely to complain because they know that they will be soon replaced. Where the exploitation and control is serious to the point of slavery or forced labour, it can be considered trafficking.

Short term unskilled workers are employed in all kinds of jobs that are mostly country and gender specific. In the Middle eastern countries they mostly work as helpers in different manufacturing factories i.e. garments, plastic and leather processing, welding, tile and glass making, water purification plants. Construction, agriculture, sheep rearing, heavy lifting, domestic work and cleaning, are some other important employment sectors in the Middle East.

In North and Southeast Asia as well there are country specific variations. In South Korea, they mostly work as trainees in all kinds of factories. In Singapore they are mostly engaged in construction, maintenance and domestic work. In Malaysia migrants work in factories, service and plantation sectors. It is a common practice to describe these works in receiving countries as 3D (dirty, dangerous and difficult) jobs. It is true that fast economic growth and rising living standards have made these jobs increasingly unattractive to local labourers, yet the terming them as 3D jobs fails to reflect the dignity of labour involved.

In the Gulf and the Southeast Asia countries the migrants face all kinds of problems starting from confiscation of passports upon arrival, contract substitution, poor living and work conditions, restriction on movements (Abella, 2000). Except in South Korea they also do not have the right to collective bargaining through forming trade unions. The social protection measures including health services are also very poor (Siddiqui, 2005). The agricultural workers of Mexico also experienced inadequate work conditions and ill treatment by the workers (Committee of Migrant Workers, 2007). Many countries in Latin America and Sub-Saharan Africa take a laissez faire to migration: subsequently there is little monitoring of and protection for incoming and outgoing migrant workers (Young People we Care of Ghana, 2007).

The Role of Sending and Receiving Governments: some proposals

The 1990 UN 'International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families' is the most comprehensive document that protects the rights of migrants, both male and female, regular and irregular. Till today only 37 countries have ratified and 51 have signed it. All ratifying states are sending countries. More ratification is needed and particularly receiving countries should be made accountable to such international standard. ILO standards such as the Migration for Employment Convention (Revised) 1949 (No. 97), and the Migrant Workers' (Supplementary Provisions) Convention, 1975 (No. 143) should also be ratified.

In the absence of ratification of UN standards by receiving countries signing of bilateral agreements and memorandum of understanding can be another method of ensuring protection to the migrants.

The sending countries may make a demand to the Global Forum on Migration and Development for the setting up of common migrants' resource centres in major labour receiving countries where migrants from different countries can avail of services.

In their respective countries they can organise nation-wide pre-departure orientation training for the potential migrant workers to inform them on their entitlements and rights under the job contracts, local laws of receiving countries and services available by the embassies of their country of origin.

The governments of sending countries should incorporate information on the contribution of migrants to the national economy, safe migration, hardship of migrants etc. in educational curricula.

Regional fora like ASEAN and SAARC should set up mechanisms to monitor the safety of migrants in their respective regions. The ASEAN Declaration on the Rights of Migrant Workers is a positive step but must be implemented and implementation regularly reviewed.

Justice should be portable. All migrants, including female migrants, should be allowed to enforce their rights in the country of employment after they have returned to their country of origin (GFMD, 2007)

Role of CSOs: some proposals

The national CSOs should engage in an advocacy campaign for the ratification of the 1990 UN Convention on Migrants' Rights and other related instruments in their respective countries.

CSOs can disseminate information on safe migration through the media and community programmes. Following the examples of the Philippines and Sri Lanka they can equip the migrant workers with the understanding of rights and obligations in the countries of destinations through organising pre-departure orientations.

The regional and global level CSOs need to monitor and document country specific exploitations and violations of rights of migrants and organise global campaigns against such exploitations and violations.

The regional and global CSOs need to develop a model Memorandum of Understanding (MoU) or Bilateral Agreement (BLA) and share them with the national level CSOs. The latter in their turn can then engage in advocacy with their respective governments to pursue such MoU or BLA with labour receiving countries.

Irregular Migration

An important area from the point of protection of rights is the plight of irregular migrants (IMs). IMs are those who may have failed to comply with the conditions of their home country regarding exit, stay or employment or those who have not been granted or subsequently lost the authorisation of destination state or territory in respect to entry, stay or employment.

Studies have shown that migrants become irregular in ways over which most of the time they do not have control. These are: contract substitution, regular migrants switching jobs, regular migrants continuing beyond contract period, people smuggled in collusion of immigration officials of sending and receiving countries and private licensed or unlicensed recruiting agencies and their sub-agents, overstay of tourist visa and engaged in work, trainees overstaying visas, students engaged in employment more than stipulated hours and persons trafficked into sex industry. Estimates suggest that 30-40 percent of the 6 m migrants in Asia are irregular (Wickramasekera, 2002).

There are many reasons behind increase in irregular migration flow. Most important among them is the mismatch between labour needs of growing economies and artificial restriction on migration of mostly unskilled workers in the receiving countries. Rigid immigration laws in receiving countries and continued tendency on the part of labour deficit countries to refuse admission to unskilled workers have resulted in flows through irregular channels.

Tighter immigration laws in sending countries may also contribute to an increasing flow of irregular migrants. For example, a number of South Asian countries including Nepal, India and Sri Lanka have restricted the movement of women under a certain age or to certain countries following reports of abuse. These restrictions do not prevent women moving but only leave them with no option but to move through irregular channels. It is notable also that these restrictions are never placed on the movement of men.

Irregular migration usually requires the use of recruitment agents, which can charge extortionate fees, and smugglers. These services can place irregular migrants into situations in which they are vulnerable to being trafficked. Private recruitment agents can also put regular migrants into situations that make them irregular; particularly in the Middle East and Southeast Asian countries. The recruiting agencies establish links with the sponsors (*kafils*) of those countries and legally recruit labour before they have obtained a request for workers from any employer. These visas are popularly known as 'free visas'. The workers then arrive in the destination country to find that the promised job does not exist. If they cannot find a job soon they run the risk of becoming illegal. Such workers have often put themselves into debt to pay the recruitment fees and thus are more likely to take poorly paid or unprotected work in order to stay in the country.

Information through social networks about better wages compared to home also induces workers to move through irregular channels. Trafficking syndicates also give rise to various forms of

irregular migration, although trafficking may also be undertaken through regular migration channels. Women and children are especially vulnerable in this regard.

Role of Sending and Receiving Governments: some proposals

In order to reduce or minimise irregular migration receiving countries should liberalise their immigration policies and increase the scope for migration flows through regular channels to match the market demand.

In the line of the Universal Declaration of Human Rights, the basic human rights of irregular migrants, including their rights to freedom of movement, freedom from inhumane treatment, freedom of religion and expression and the right to a remedy in case of violations should be honoured by both sending and receiving countries.

In order to curb irregularities that are committed to the regular migrants, the sending and receiving countries should cooperate to stop contract substitutions, unholy alliances of the recruiters of both the countries etc.

Both sending and receiving countries should change or enforce their respective laws to take stern punitive action against those recruiting agencies and their sub agents who commit fraud and process irregular migration.

Embassies of sending countries in receiving states should be adequately staffed and the staff trained to provide information, assistance and support to their citizens in accordance with the labour laws of the respective receiving countries. In particular they should advise their citizens who migrated through regular channels but then found themselves to be irregular through no fault of their own, or to migrants who have found themselves in situations of serious exploitation for example through contract substitution. The embassies should play a proactive role in assisting trafficked persons.

Role of the CSOs: some proposals

In sending countries, national CSOs may organise nation wide campaign on highlighting harmful effects of irregular migration and avenues available for safe migration. They can also run awareness campaigns against measures to be followed to avoid contract substitution.

In receiving countries CSO's can play a very effective role in providing advice and support to irregular migrants, trafficked persons and others who have found themselves in exploitative situations.

Regional and global level CSOs can articulate demand for making immigration laws and policies for recipient countries in conformity with their labour market needs.

Recruitment Industry

In recent times migration processing has become extremely complex by involving different parties: governments of sending and receiving countries, recruiting agencies and their sub-agents of sending and receiving countries, employers in receiving countries. Along with these actors, social networks of migrant workers in the destination countries and in the source areas also play an important role in migration processing.

The governments of receiving countries in the Middle East and Southeast Asia have imposed a levy on employers if they engage foreign unskilled workers. Given the competition among the sending countries, the employers have been successful in passing on the cost to the recruiting agents. The recruiting agents in turn have shifted it to the workers. This, along with other issues, has increased the cost of migration for workers manifold.

Most governments of sending countries have introduced new laws to regulate the recruiting industry. Licensing and framing of regulatory law are two major areas. However, recruitment at the grassroots level is usually conducted by agents and sub-agents of these private recruiting agencies. Recruiting agencies commit fraudulence in collusion with the sub agents and it is difficult to bring them under punitive action as most of the subagents are not licensed or registered.

Role of Sending and Receiving Countries: some proposals

Sending and receiving countries should make sure that recruitment and placement services operate in accordance with a standardised system of licensing or certification established in consultation with employers and workers' organisations.

The sending countries should require that migrant workers receive understandable and enforceable employment contracts from the recruiting agents. Governments can provide a model contract for use by all recruiters with an explanatory handbook.

National legislation and policies should contain effective enforcement mechanisms and sanctions to deter unethical practices, including provisions for the prohibition of a private employment agency engaging in unethical practices and suspension or withdrawal of their licenses in case such practices occur. National legislation should provide for stiff and exemplary penal actions against recruiting agencies that commit fraud. Once proven for committing fraud their immediate family members should also not be allowed to open another recruiting agency.

The national legislation and their enforcement should ensure that fees and other charges for recruitment and placement are not borne directly and indirectly by the migrant workers. Private recruiting agencies that meet recognised criteria for good performance should be encouraged through incentives.

Role of the CSOs: some proposals

National CSOs may organise information campaigns on proper procedures for processing migration. They may provide legal aid services to those who have been cheated by recruiting agencies while processing migration.

The regional and global CSOs may engage in advocacy work for implementation of standardised recruitment laws. They can also highlight malpractices conducted in the receiving countries in recruitment processing. These CSOs can inform the policy makers of receiving countries about the consequences of levy system on the processing of migration of unskilled migrant workers.

In sending countries, CSOs can play a very valuable role in providing information on contracts and recruitment processes to prospective migrants. In Sri Lanka, for instance, migrant workers associations were set up by the unions at the grassroots level to undertake advisory, counselling and training activities for prospective migrants and returnee migrants as well as their family members. These associations have enabled members to find alternatives to migration, promote self employment projects, conduct Nutrition and Health Camps, offer pre-departure training programs and post-arrival reintegration programs.¹

Recruitment agencies should ascertain that the correct work conditions are in place before they send people to the country of destination. They should also set up cultural orientation programmes.

Gender dimensions: Women Migrants

Recent restructuring of the global economy has increased demand for female labour in the short-term labour market. More and more women from developing countries have joined the short-term international labour force as principal migrants to the extent that a trend of feminisation has emerged in some major labour sending countries (Indonesia, Philippines and Sri Lanka). Women migrants participate in the manufacturing sector as skilled and semi-skilled labour. In Asia a large number of women migrate both internally and internationally for low-wage occupations such as domestic work. Hong Kong, Taiwan, Malaysia and Singapore represent major destination countries for domestic workers in East Asia. A sizeable number also migrate to the Middle-East, especially to Saudi Arabia and Kuwait in the same profession. Migrants, particularly from Latin America, work as domestic workers in the US and Canada. Entertainers also represent an important group of migrants mostly going to Japan, Malaysia, Singapore, Korea and the Middle East. A significant number of women also migrate to work in personal services and massage in Europe, North America, the Middle East and Australia.

Unlike men, the mobility of women is often seen to be a matter for public concern and so, as mentioned above, the state has frequently curtailed women's movement. The methods for restricting women's mobility are many and varied, such as requiring a woman to receive her

¹ GFMD CSD Online discussions, ACLS/ACTFORM (Sri Lanka)

father or husband's permission to have a passport (as in Nigeria), or prohibiting migration if she is below a certain age (Nepal) or has children (Sri Lanka). The result is that whereas low-skilled male workers migrate through organised channels and travel by air, many women resort to high-risk overland travel through irregular channels to leave their country.

With fewer methods for legal migration and so forced into high-risk irregular channels, and working in sectors outside the remit of labour regulations in most countries (domestic work, caring for the sick and elderly, entertainment and prostitution) women migrants are far more vulnerable to trafficking than male migrants.

Female workers belonging to different categories face different kinds of problems. Female migrants in informal sectors in general are very vulnerable to exploitation, but some sectors have specific characteristics. As we see in almost all sectors – domestic work, hospitality, manufacturing etc. that women work long hours for not much pay and often suffer emotional, physical and sexual abuse. The domestic work context however does make women more isolated and thus vulnerable. Female workers tend to be seen as more pliable and less able to defend themselves than their male counterparts. Their wages tend to be lower than men in similar occupations and they suffer more emotional and sexual abuse.

Women migrant workers have also extended the economy of care internationally. So that middle-class women can work or the elderly can receive care in the home, many thousands of women travel to undertake domestic work or work as carers to the sick and elderly. This valuable role is viewed generally as 'women's work' and not part of the formal economy, thus it is usually not covered by labour laws in receiving countries.

The problems faced by domestic workers are well documented. Confinement within private homes, long working hours and low pay, physical and verbal abuse are some of the problems faced by them. Domestic work does not fall under labour laws of receiving countries. It is not recognised as wage employment and thus the rights enjoyed by other types of workers are not applicable to them. Sexual harassment is common problem faced by all types of workers. 35 percent of South Korean migrant workers are female. They mostly work in factories. 12 percent of them reported some form of sexual harassment (Wickramasekera, 2002). Female unskilled migrants are also routinely deported if they fall pregnant during their contract period (for example in Thailand, Israel), thus losing the benefit of the remainder of the contract.

There are already some laws in place: for instance The South-Korean law prohibiting sexual harassment (the Equal Employment Act). The law, however, is not implemented sufficiently. This is because there are for instance not enough labour inspections in the small-sized enterprises where female migrant workers are usually employed. These migrants are also reluctant to report cases to the police because of the fear of deportation.

The role of receiving and sending states: some proposals

The 1990 UN Convention is the only international standard that recognises women as migrant workers. Therefore, in order to protect women migrants both sending and receiving countries should ratify the treaty (International Platform on the Migrant Workers' Convention, Switzerland 2007).

Domestic work and caring for the sick and elderly should be recognised as wage labour. It should be brought under relevant labour laws. All rights enjoyed by other workers regarding working hours, holidays, overtime, freedom of movement, social protection etc should also be enjoyed by migrant domestic workers.

Sending countries should undertake a gender analysis of their migration laws and without delay amend any provisions that discriminate against women and limit women's mobility.

Most receiving countries have laws regarding sexual harassment. These laws should be rigorously implemented in cases involving female workers, without discrimination against migrants, documented or undocumented.

Embassies of sending countries should have adequate staff and programmes for protecting female migrants in the countries of destination. They should proactively help female migrants through establishing hotlines, and referring women to shelter homes services, including legal aid services.

Governments in both receiving and sending states should work with CSOs to identify patterns of female migration, and patterns and individual cases of exploitation and/or abuse, and to provide assistance services to the workers in such cases. CSOs have information and a specialised understanding of the issues that can greatly complement the work of the state. The Thai Government and the local government in Berlin, Germany, for example have signed memorandums of understanding with NGO partners to maximise the efficiency and the quality of the services provided to trafficked persons.

The role of CSOs: some proposals

National and international CSOs may launch a global campaign on women in migration. Such a campaign should encourage networking between CSOs for raising awareness about the rights of women migrant workers.

National CSOs should campaign for state sponsored services in the destination countries such as shelter homes, legal advice, income support to those who wish to bring cases against exploitative employers, and opportunities for skills development. The services should not just be state-sponsored but also involve CSOs, as we have seen these models to work most effectively and be most responsive to the needs of the migrant.

National CSOs may also run awareness campaigns about labour rights and where to go for help in destination countries, the nature of particular jobs, tools for cultural adjustment, coping mechanisms in case of home sickness, self security measures. CSOs should run communication skill and foreign language training for potential migrants.

Questions that can be addressed on the Civil Society Day

1. There are several forms of temporary labour migration schemes to manage the migration of low skilled workers between sending and receiving countries. These include bilateral recruitment agreements; Memoranda of Understanding; sector based programmes (i.e. the UK Sector Based Scheme (SBS) for the temporary employment of migrant workers in low-skilled occupations in the food manufacturing and hospitality sectors) and special programmes to help fill temporary (including seasonal) labour shortages in receiving countries (such as the Canadian Seasonal Agricultural Worker Programme (CSAWP)) COMPAS 2005. **How do CSOs consider that temporary migration schemes/programmes for low skilled workers work or could better work?** (Look for some examples of good practice). In this respect, discuss also whether and how the regional CSOs along with the national ones can make the receiving countries obliged to a standardised bilateral agreement concerning labour recruitment?

2. **What are the problems encountered by low skilled temporary migrants in receiving countries and how should they be tackled?** (Ex. What can be done to encourage national mechanisms and national legislation to enforce low skilled workers' rights and to deter unethical practices? How can the receiving countries be convinced to promote rights of collective bargaining to the migrants? How can the CSOs organise campaigns for recognition of domestic work as wage labourer and help bring it under labour laws and make similar rights available to them as other workers? How can international and national CSOs articulate their demand to the Global Forum on Migration and Development for the establishment of common resource centres in major labour receiving countries?)

3. **What concrete measures should be taken to tackle the exploitation of migrant workers and in particular eliminate the discrimination and sexual exploitation of women?** How can CSOs attempt to make respective states act in breaking the unholy nexus of government functionaries and the private recruitment industry? How can national, regional and global CSOs cooperate in organising a global campaign on the protection of rights of women migrants in particular and on ratification of the 1990 Convention?

4. **What measures can sending countries take to assist low skilled workers in their migration prospective?** (For instance, how can CSOs organise a global campaign for demanding significant resource allocation (equivalent to at least 5 percent of remittance flow) by the sending countries for providing services particularly to the unskilled workers?)

5. **How can the private sector (i.e. recruitment agencies) and other non-state entities help ensure proper information and protection of migrants from abusive and malevolent**

practices both in their migration and job placements abroad (example orientation courses, proxy parental guidance to children of parents working abroad) and thereby help strengthen the developmental contribution of temporary labour migration? Some suggestions for incentives and for public-private partnerships?

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Paper reviewed by:

Pia Oberoi (Amesty international), Eleanor Taylor Nicholson (Global Alliance Against Traffic in Women), Michele Levoy (PICUM, Platform for International Cooperation on Undocumented Migrants), Jonathan Crush (Southern African Migration Project - South Africa), Hein de Haas (International Migration Institute, Oxford University, UK)

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