International Migration Programme

Labour migration in South Asia: A review of issues, policies and practices[1]

Piyasiri Wickramasekara

INTERNATIONAL LABOUR OFFICE – GENEVA

Contents

Foreword

The ILO working paper series, 'International Migration Papers' aims to disseminate the results of research on relevant and topical labour migration issues among policy makers, administrators, social partners, civil society, the research community and the media. Its main objective is to contribute to an informed debate on how best to address labour migration issues within the overall agenda of decent work, taking into account the shared concerns of countries of origin and destination for ensuring good governance of labour migration, protection of rights of migrant workers and their families, and maximising development benefits of migration for the benefit of all parties involved - origin countries, destination countries and migrant workers themselves.

In this paper on *Labour Migration in South Asia: A Review Of Issues, Policies and Practices*, Mr. Piyasiri Wickramasekara, former Senior Migration Specialist, International Migration Programme of the ILO, reviews migration policy frameworks in South Asia and their implications for governance of migration, protection of migrant workers and maximizing development benefits of migration. He first provides a broad sketch of the South Asian migration profile and its distinctive characteristics and major challenges faced by the countries as a backdrop to the discussion of policy issues. The paper next takes up a comparative review of different aspects of emigration and immigration policies in South Asian countries as reflected in their respective legislative and policy frameworks and practices. It is a matter for concern that migration is being viewed as a national security issue by some countries in South Asia with adverse consequences for the immigrant populations. The paper points out the important role of international instruments and good practices for improving current migration policies. The conclusions identify the crucial role of India as the major emigration-immigration- transit country in the subregion for setting a good practice example in developing comprehensive and transparent migration policies based on international norms. The author also highlights the scope for a sub-regional approach to migration policy in South Asia through the SAARC framework although progress up to now has been quite limited.

An earlier version of the paper was presented at the International Conference on Migration, Remittances & Development Nexus in South Asia, organized by Institute of Policy Studies of Sri Lanka and Friedrich Ebert Stiftung, Colombo, during 4-5 May 2009.

We hope that this paper will contribute to the efforts of constituents to better analyze the implications of the process of labour migration and the scope for subregional cooperation, and support them in the design and implementation of policies and programmes that serve to maximise the development benefits of migration, and protection of migrant workers.

The author is grateful to Ms. Katerina Liakopoulou for valuable research assistance in preparing this paper.

The paper was prepared under the ILO project on "Effective Action for Labour Migration Policies and Practice", supported by the Department for International Development (DFID), United Kingdom.

Gloria de Pascual
Director
International Migration Programme

1. Introduction

Migration has been a long standing feature in South Asia especially between countries sharing common borders. Yet the Gulf boom in the early 1970s triggered a different type of labour movement from South Asia to the Middle East. The objective of this paper is to look at migration policy frameworks in South Asia and their implications for governance of migration, protection of migrant workers and maximizing development benefits of migration. I shall focus on overall policy issues, and provide only a broad sketch of the South Asian migration profile as a backdrop to the discussion of policy issues. The paper next reviews the major features and challenges of labour migration in South Asia. This is followed by a comparative review of different aspects of migration policy in Asia as reflected in the legislative and policy frameworks. The scope for a sub-regional approach to migration policy in South Asia is discussed next. The conclusions identify some priority areas for policy reform.

2. South Asian economic and migration profiles.

South Asia as normally defined in UN Statistics covers the following countries: Afghanistan, Bhutan, Bangladesh, India, the Islamic Republic of Iran, Maldives, Nepal, Pakistan and Sri Lanka. Yet this paper does not include Iran among the South Asian countries. Similarly it will not discuss the situation of Afghanistan, Bhutan and the Maldives due to paucity of data, and their lack of much experience with migration policies. A detailed analysis of the socioeconomic profile of South Asian countries though somewhat dated can be found in Abrar (2005).

2.1 Profile of migration in South Asia

Table 1 tries to capture the migration profile of South Asia as a whole. South Asia holds half the world's poor. The table also provides some indication of the role of migration for the sub region. It must be noted that the inclusion of India may distort the situation given the large size of its population and the economy. It is the largest remittance receiver in the world, and also hosts a large foreign population within its borders as shown later.

Table 1: South Asia: Country Socio-economic profiles

Population (million) 2009	1,568	
Surface area (Sq. km.) 2006	5,140	
Population growth rate - annual average % (2000-2009)	1.6	
GNI per capita US $ 2009	1,644	
Labour force (million)	607	
Poverty headcount ratio 2004 %	30.8	
Stock of emigrants	26.7 million (1.6% of population)	
Stock of immigrants	12.2 million (0.7% of population)	
Emigration rate of tertiary educated – 2000	Sri Lanka	29.7%
	Afghanistan	23.3%
	Pakistan	12.6%
	Bangladesh	4.3%
	India	4.2%
	Nepal	3,0
Inward remittance flows US$ billion 2009	74.9	4.8% of GDP (2009)
Remittances received (estimated): 2009 US$ billion	India	49.3
	Bangladesh	10.5
	Pakistan	8.7
	Sri Lanka	3.4
	Nepal	3.0
Remittances received (percentage of GDP): 2009	Nepal	18.0%
	Bangladesh	8.8%
	Sri Lanka	8.7%
	Pakistan	4.0%
	India	2.8%

Sources: Most data from World Bank, Migration and Remittances Factbook 2011, Migration and Remittances Team, Development Prospects Group, World Bank. http://go.worldbank.org/QGUCPJTOR0

Other data from World Bank remittance inflows database is

http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1110315015165/RemittancesData_Inflows_Apr10(Public).xls

Table 2 provides an economic and demographic profile of South Asian countries. According to this, Sri Lanka has the highest per capita incomes and the best HDI rank at 104 out of 179 countries (without considering the two small countries of Bhutan and Maldives). Nepal has the lowest HDI attainment as well as the lowest per capita income. Bangladesh is next and India and Pakistan seem to be more or less similar in income and HDI achievements. These also indicate some of the factors which may lead to higher migration pressures – low incomes and high population densities.

Table 2: Demographic and economic profile: South Asian countries

	Population Millions (2006)	Population Growth (1997-2006)	Land Area (1,000 sq. km)	GDP Growth rate (2002-2006)	GNI per capita (2006)	Human Development Index*	HDI Ranking among the total 182 countries	Population density per sq. km
Afghanistan			652	10.8		0.352	181	
Bangladesh	144	1.9	144	5.7	480	0.543	146	1000
Bhutan	647**	2.4	47	7.7	1,410	0.619	132	14
India	1,110	1.6	3,287	7.8	820	0.612	134	338
Maldives	337**	2.6	300***	8.3	2,680	0.771	95	1123
Nepal	28	2.2	147	2.2	290	0.553	144	190
Pakistan	159	2.4	796	5.8	770	0.572	141	200
Sri Lanka	20	0.8	66	5,8	1,300	0.759	102	303

** thousands; *** sq. km;

**** Note: Human development Index value is ranked from one (the best rank for the highest HDI) upwards. .

Sources: World Bank, Migration and Remittances Fact Book 2008 (March 2008);

* UNDP, Human Development Report 2009 - HDI rankings

Table 3 tries to summarise the migration situation based on some indicators relating to migration trends. It is impossible to obtain reliable information on inflows of migrants to any of the countries. Migrant outflows are those officially recorded, and may be underestimates because of irregular or undocumented migration. The migrant stocks inside South Asian countries are based on the latest information provided by the UN Population division derived from population census information. India has almost six million migrants while Pakistan hosts 4.3 million. It is Sri Lanka which has the lowest immigrant numbers. These movements may represent historical trends over a long period of time. For example, the free movement of persons and labour between India and Nepal based on the 1950 Friendship treaty may explain part of the immigrant numbers in India. The Afghan conflict has induced millions of Afghanis to flee into Pakistan as refugees. Despite the return of a large number, around three million still remain in Pakistan. Sri Lanka's failure to grant citizenship to some part of Tamil plantation workers and their families despite long periods of stay in the country makes them still migrants.

Table 3: Migration status – selected Asian countries

Country (1)	Outflow (annual) (2) *	Stock inside (3) 2005 **	Stock inside (4) 2010 **	Stock abroad (5) 2005	Remittances US$ million (6) 2009	Remitt. as % of GDP (7) 2009
Bangladesh	696,393	1,031,886	1,085,345	4,885,704	10,523	11.8
India	778,322	5,886,870	5,436,012	9,987,129	49,256	3.9
Nepal	211,760	818,702	945,865	733,662	2,986	22.9
Pakistan	204,655	3,554,009	4,233,592	3,415,952	8,720	6.0
Sri Lanka	218,609	366,390	339,915	1,642,455***	3,363	7.9

Notes: Cols. 2-5: no of migrants: * Column 2 – average of 2006-2008 based on national sources.

Source: ** United Nations, Department of Economic and Social Affairs, Population Division (2009). Trends in International Migrant Stock: The 2008 Revision (United Nations database, POP/DB/MIG/Stock/Rev.2008); Stock abroad (col. 5) World Bank Migration and /remittances Factbook 2008; and remittances (col. 6) and (col. 7): World Bank, Migration and Remittances Factbook 2011, op.cif.; ***SLBFE – for 2007

Based on the above information, one can roughly ascertain the status of South Asian countries in relation to international migration. Table 4 summarises this information. Both India and Pakistan are countries of origin, transit and destination in the subregion while the others are primarily countries of origin.

Table 4: Migration status in South Asia

Country	Origin	Destination	Transit
Bangladesh	X		X
India	X	X	X
Nepal	X		
Pakistan	X	X	X
Sri Lanka	X		X

Table 5 shows the trends in outflow of migrant workers from South Asian countries. As noted in the table, these numbers relate only to officially recorded migrant workers going through regular channels. The extent of irregular and undocumented migration may differ among countries. In the case of Nepal, the figures do not include migration to India which is mostly undocumented although legal. In the case of India, the figures are definitely an underestimate because they cover only those who require emigration clearance – normally low skilled workers and those migrating to certain destinations. The bulk of the skilled workers going abroad will not be captured in these figures.

Nevertheless the figures show large increase in outflow in recent years particularly for Bangladesh and India. It is difficult to find an explanation for the sudden jump from 381,515 to 832,609 from 2006 to 2007 in Bangladesh. Part of this recorded increase may be due to better capture of data through airport checks and computerization. In India, the increase is more gradual spread over several years. It is interesting to note that the annual outflows from Nepal, Pakistan and Sri Lanka have stabilized around 200,000 to 250,000 in recent years.

2.2 Main features of South Asian labour migration

High concentration of flows to the Gulf and Middle East countries

Migration of workers from South-East Asian countries has shifted from a predominantly Middle East-bound flow to an intra-Asian flow within the past two decades. Yet South Asia has continued to rely on the Middle East labour market. (Wickramasekara, 2005). The oil price boom in 1973 initially caused an explosive growth in migration to the Middle East region. The subsequent decline in oil prices, the Gulf war and the completion of many construction projects led to a sharp fall in the demand for migrant labour since the mid-1980s. The only difference in recent years is that Malaysia has emerged as a substantive market for some South Asian countries, particularly Bangladesh and Nepal. There are also small numbers now migrating to the Republic of Korea from these countries under the Employment Permit System introduced by the latter since 2006.

Temporary migration of labour

Most South Asian migration is on fixed term contracts representing temporary migration and migrant workers. The Gulf Cooperation Council member states refer to them

as 'temporary contractual labour' rather than 'migrant workers',[2] but they are indeed migrant workers as defined in ILO and UN international instruments. Gulf migration is a circular migration system which has stood the test of time over more than three decades or more, but it continues to be characterised by serious deficits in migrant rights. Permanent or settler migration from South Asia still takes place on a limited scale to the UK, USA, Australia and New Zealand, among others.

A migration flow dominated by semi-skilled and low-skilled workers

Most migrant workers from South Asia to Middle East and other Asian destinations are low-skilled or semi-skilled such as construction workers and female domestic workers. These workers face numerous problems in protection in both origin and destination countries compared to skilled workers and professionals who work for the public sector and multinational or reputed companies, and enjoy better conditions of work and more bargaining power. In general, skilled workers and professionals are accorded more favourable treatment as they migrate under special schemes or move with foreign direct investments.

---

[2] See the letter dated 28 September 2006 from Mr. Abdulaziz Nasser R. El-Shamsi, UAE Permanent Representative to the United Nations, to the Human Rights Watch: " … workers hosted by the UAE and other GCC countries cannot be considered migrant workers, as they work on a temporary basis according to fixed term employment contracts. Upon expiration of these contracts, they return to their home countries. Therefore the immigration laws applicable in the western countries cannot be applied to these workers." Appendix 2: HRW, 2006.

Table 5: Outflow of migrant workers from South Asian countries (number of migrant workers officially reported)

Years (1)	Bangladesh (2)	India (3)	Nepal (4)	Pakistan (5)	Sri Lanka (6)
1990	103,814	139,861	83,020	113,781	42,625
1991	147,131	191,502	97,851	142,818	64,983
1992	188,124	416,784	124,500	191,506	124,494
1993	244,508	438,338	134,923	154,529	129,076
1994	186,326	425,385	136,052	110,936	130,027*
1995	187,543	415,334	121,595	117,048	172,489
1996	211,714	414,214	64,134	119,629	162,576
1997	381,077	416,424	32,591	149,029	150,283
1998	267,667	355,164	30,745	100,706	159,816
1999	268,182	199,552	27,796	78,093	179,735
2000	222,686	243,182	35,543	107,733	182,188
2001	188,965	278,664	55,025	127,929	184,007
2002	225,256	323,973	104,739	147,422	203,773
2003	254,190	455,456	105,055	214,039	209,846
2004	272,958	474,960	106,660	221,071	214,709
2005	252,702	548,853	183,682	142,135	231,290
2006	381,515	676,912	165,252	183,191	201,948
2007	832,609	809,453	204,533	287,033	217,306
2008	875.005	848.601	265,494	227,075	236,574

Note: The figures relate to only those migrating through regular channels, and therefore may underestimate actual outflows. Due to changing definitions/statistical improvements over time, time series data may not be always consistent.

Sources: Earlier data from Wickramasekara (2002); Column 2 - Bangladesh from South Asia Migration Resource Network (SamRen) webpage – www.samren.org; Column 3 for India – relates to persons granted emigration clearance only (Khadria 2009), Irudaya Rajan 2009); Column 4 – Information supplied by NIDS and NIDS (2008); Column 5 – from 2001 Government of Pakistan 2009, Previous figures from Wickramasekara 2002 ; Col.6 – Sri Lanka Bureau of Foreign Employment – (SLBFE 2009), *1994 adjusted and figure different from SLBFE figure – see explanation in Wickramasekara 2009b.

Large numbers of migrants in informal and irregular status

The most important trend in total migration from the viewpoint of protection of migrant rights in Asia is the high incidence of 'irregular migration' – commonly referred to as 'illegal', 'undocumented' or 'clandestine' migration. There are no proper estimates of incidence which can range from simple border crossings to organised trafficking and smuggling. The incidence of irregular migration is believed to be high in India and Pakistan, largely due to cross border movements from Bangladesh into India and from Afghanistan into Pakistan. In addition there is continuing trafficking of women and children across the border from Bangladesh and Nepal into India.

There is also high incidence of South Asian workers in irregular status in the Gulf and Malaysia as shown by numbers availing of amnesties and those deported. The visa trading system in the Gulf States results in making migrants irregular when sponsors bring in more workers than needed. It is estimated that nearly 100,000 undocumented migrants left the UAE for their homelands during a 2003 amnesty and about another 150,000 in 1996 (Workpermit.com 2007b). Studies by the Centre for Development Studies in Trivandrum

show that many Indians working in the Gulf have reached there on other than regular work visas, suggesting widespread collusion and abuse of the system (Kumar 2010).

Apart from these, there is also some irregular migration of youth to Western countries. In Sri Lanka, 1,658 persons were arrested at the airport prior to departure between 2000-2008 while 16,291 Sri Lankans have been deported by various countries for violation of immigration rules (IPS 2009: 70-71). India experiences inflows of large numbers of migrants across the border from Bangladesh and Nepal while Afghans cross the border into Pakistan. Those migrating from Nepal to India have free movement rights under the Peace and Friendship Treaty of 1950 signed by India and Nepal, and cannot be considered irregular although such movements may be largely undocumented (not registered) in both India and Nepal. Cross border movement from Bangladesh into India is different in the absence of such an agreement. It is a highly sensitive issue with India quoting millions of Bangladeshi migrants in irregular status in India although Bangladesh systematically denies it.

Importance of female migration

Another observed tendency has been the increasing share of female workers migrating on their own for overseas employment. The bulk of them migrate for low wage occupations such as domestic work. In South Asia, the share of female migration is high only in Sri Lanka where currently about 50 per cent of migrants are female. Since women migrants are one of the most vulnerable groups, policy ambiguities concerning their migration have limited such movements from Bangladesh, India, Nepal and Pakistan. Bangladesh had banned the migration of women as domestic workers at certain times while India now permits women only of 30 years and more to migrate for low skilled occupations. Hong Kong (China), Malaysia and Singapore represent the major destinations for domestic workers in Asia. A sizeable number migrate to the Middle East, especially Lebanon, Kuwait, Jordan, Saudi Arabia and UAE. In most South Asian countries, there are now increasing calls for promoting greater opportunities for female migration. This is also reflected in Pakistan's new emigration Policy which has assigned female migration as priority area no. 11 for the policy. It states: "This is the era of "Feminization" of migration. Currently, the share of Pakistani female workers is very low in the overall migration; it has to be substantially increased especially in occupations considered safe. A task force will be appointed to look into the problems and prospects of emigration of women workforce as well as mechanism needed to mainstream them in the overall emigration process" (Government of Pakistan 2009: XIII). One objective of the Nepal foreign Employment Act of 2007 is also promoting safe migration for women.

Trafficking in human beings and smuggling of persons

Another alarming aspect of labour migration from and within South Asia is trafficking of women and children across borders, often for commercial sex work, labour exploitation and other purposes. The working conditions of trafficked persons often amount to slavery, forced labour or debt bondage reflecting serious abuse of their basic human rights. While no firm data exist, an Asian Development Bank study (ADB 2003) noted that Bangladesh and Nepal were the main countries of origin for trafficking, while India and Pakistan were considered countries of destination or transit to other regions, commonly the Gulf States or Southeast Asia. The numbers trafficked are however, an unknown.

> *"There are figures quoted and cross-quoted in the literature and reports, but the most cited are: 300,000 Bangladeshi women trafficked to India over an unspecified period and 200,000 to Pakistan. Over 200,000 Nepal sex workers are reported to work in India cities, fully one fifth of who are supposedly under the age of 16 years." (ADB 2003: 20)*

Commercialization of the recruitment industry

The share of public employment services in overseas placements has fallen drastically in all countries paving the way for a thriving industry of intermediaries in both origin and destination countries. Some are large firms with a good reputation while many are unregistered small enterprises or individual subagents. It is well documented that the recruitment industry has been responsible for various malpractices and growth of irregular migration in the region (Wickramasekara 2002; ILO 2008b). At the same time, the role of the industry in expanding opportunities for employment abroad has to be recognised. Priority Area 8 of the Pakistan National Emigration Policy is 'According due recognition to OEPs' (Overseas Employment Promoters). It states: "The role of OEPs is crucial in greater penetration of Pakistani workers overseas. In an increasingly competitive environment, procurement of demand for the workforce has in fact emerged as a challenge. Thus, efforts of OEPs demand appreciation and recognition."(Government of Pakistan 2009: 50). Similarly the Sri Lanka NLMP stated: "The State recognizes the contribution of Recruitment Agencies (State and Private) as a key stakeholder in the process" (MFEPW 2008: 10).

3. Challenges and opportunities for migration in Asia

The challenges to migration policy in South Asia largely follow from the factors mentioned above, and they can be summarised under four broad headings: governance, protection, development linkages and bilateral and sub regional cooperation. I shall also outline as relevant opportunities and policy approaches to some of the challenges in this section.

The summary of conclusions of the ILO Regional Tripartite Meeting on Challenges to Labour Migration Policy and Management in Asia summed up the Asian situation well which broadly applies to South Asia as well (ILO 2003: 1).

"While market forces are driving labour migration, there are several signs of market failures associated with its related processes. A number of risks have been associated with migration including racism and xenophobia, trafficking and forced labour, recruitment malpractices such as fraudulent job offers and exorbitant placement fees, debt bondage, sexual and physical harassment, employment in hazardous jobs, and under or non-payment of wages. Experience suggests that state intervention by sending and receiving countries through transparent, efficient, and appropriate regulatory institutions and measures are essential to the efficient and equitable working of the labour market."

3.1 Governance challenges in South Asia

There are a number of common governance challenges facing South Asian countries. The main issues relate to fair recruitment practices, high migration costs, corruption, institutional capacities, policy coordination and coherence, among others.

In the case of India, the Minister of Overseas Indian Affairs has pinpointed the issue of governance with the following statement:

"the system that the Government had put in place to regulate and streamline the emigration process itself has resulted in corruption and in the formation of a nexus between government officials and recruitment agencies leading to increasing exploitation of the poor" (cited in: Irudaya Rajan et al, 2008).

This is confirmed by the generalization made by Krishna Kumar when he notes in relation to India "a broader failure of governance across the entire regime of passport, emigration and visa systems. He adds: "The number of fake passports, travel and employment documents in circulation greatly erode the very credibility of the system to such an extent that to the victims, overseas nations and international agencies, the Government appears to be part of the problem rather than of the solution (Kumar 2010). For instance, it has been reported that the Protectorate of Emigrants in Chennai and other places were involved in organized corruption by issuing emigration clearances on forged documents for a fee (Khadria 2009: 65).

In Sri Lanka, the representation of recruitment agencies on the Board of the Sri Lanka Bureau of Foreign Employment – the apex administrative body overseeing foreign employment in the country – in which migrant workers, social partners or NGOs are not represented, has also raised concerns on possible conflict of interest. There have been press recent reports of alleged corruption in Sri Lanka relating to an employer-sponsored compulsory insurance programme for migrant workers to Kuwait[3]. Nepal has created a

---

[3] See Sunday Leader 13 September 2009: http://www.thesundayleader.lk/20090913/investigation-1.HTM

Foreign Employment Promotion Board under the 2007 Foreign Employment Act, but has retained most powers relating to the regulation of overseas employment in the hands of the Foreign Employment Department of the Ministry of Labour and Transport Management (Adhikari 2009b)[4].

I shall highlight selected issues in the following section.

3.1.1 Recruitment practices and high migration costs

While it is not strictly correct to ascribe all the ills of foreign employment to private recruitment agencies, they nonetheless account for some of the serious malpractices committed against migrant workers. Therefore, a major challenge for the migration legislation has been their licensing and regulation, the latest attempt to evolve a regulatory framework being in Afghanistan. The Dhaka Regional Symposium on migration had this to say on their role.

> *"Well-established regulatory mechanisms and recruitment procedures have not proven effective in curbing abuses committed especially by sub-agents. With a view to minimizing the cost of migration to the migrants, current approaches to licensing should be reviewed and assessment made of the financial and market capability of recruitment agents"*(ILO 2008b: 3).

A major issue of governance is the high migration costs experienced by migrant workers. These include open and hidden costs: visa fees, recruitment charges (much above officially sanctioned amounts), interviews (practical tests), medical test, insurance, emigration clearance and air fares. In the early days of Gulf migration, most of these costs were borne by employers, but over time, the migrant workers themselves have to meet these costs on their own. Even state channels require migrants to pay fees which have been found to be quite high as in the case of Indonesia (Wickramasekara 2002). The Sri Lanka Bureau of Foreign Employment also charges an integrated fee from each migrant worker, and hands over 70 per cent of the fees to private recruitment agencies who on their own collect much higher fees from migrants.

A recent World Bank study for Bangladesh found that that the average cost of migration was US$ 2300 – almost five times the Bangladesh's per capita income of $480 (Sharma and Zaman 2009: 10). In the case of Kerala, Irudaya Rajan et al (2008) found that the cost of migration ranged from $1,200 through friends and relatives, and $2,000 for those emigrating through recruitment agencies. This may be contrasted with wages in the Gulf where three out of 5 receives wages equal to $200 or less and one of out of 10 above $500. Therefore, the migration cost may average from two to ten months' wages for those migrating through recruitment agencies. These charges are still on the low side compared to other countries in the sub region. A study on Recruitment of Pakistani Workers by Arif (2008) mentions: *"Working abroad has increasingly become less profitable, due to the high costs of migration. Once abroad, migrants at times ended up accepting poor working conditions, just to recover what they had paid out. A better enforcement of standard migration costs was needed."*

Similarly the Sri Lanka National Labour Migration Policy (MFEPW 2008: 20) pointed out: "The recruitment process involves a number of dangers and risks for migrants. These include overcharging of fees, debt bondage, falsification of documents, the deception of under age (under 18 years of age) persons and sending them abroad for employment, dishonesty with regard to the nature and conditions of employment, contract substitution, etc." Irudaya Rajan et al (2008) have highlighted the common problems with

---

[4] Adhikari(2009b) mentions that the most corrupt at present is the Labour Department in Nepal (slide 31 of the Powerpoint Presentation).

recruitment agencies in Kerala brought out by a field survey: non-transparency, visa trading, collecting service fees from both foreign employers and emigrants, and collusion with sub-agents and state officials dealing with emigration.

3.1.2 Issues relating to the institutional framework for administration of migration for foreign employment.

Sri Lanka has followed the example of the Philippines and established a separate one stop service in the form of the Sri Lanka Bureau of foreign Employment (SLBFE) in 1985. Other countries have overseas labour administration functions scattered over different divisions of the same ministry or across separate ministries. This makes coordination difficult. When overseas employment administrative staff is part of the normal civil service, it is often difficult to build up expertise due to their frequent turnover. Adhikari (2009a: 12) mentions that the Ministry of Labour and Transport Management has 'a trend of transferring its staff every 3 to 4 months within department[s] of the same ministry'. The GCIM (2005) highlighted the lack of capacity of staff as a major problem in good governance of migration policy at the national level as well.

The separation of migration from ministries of labour is also a recent development in the region. Bangladesh, India and Sri Lanka have now established dedicated ministries to deal with foreign employment and labour migration. This has both positive and negative impacts. The advantage is that a dedicated ministry can devote greater attention to migration. The disadvantage is that labour migration is separated from labour, employment and decent work policies in the process. With other ministries taking over this role, there is also limited involvement of social partners and other stakeholders in migration policy issues as recommended in ILO instruments. In the case of India, NGOs have expressed the fear that the Ministry of Overseas Indian Affairs may largely focus on the affluent diaspora communities, and not on vulnerable temporary migrant workers (CEC and MFA 2009).

3.1.3 Formulation and implementation of transparent policies.

Only a few countries have spelled out clear migration policies. Sri Lanka scores well in this respect with its newly formulated National Labour Migration Policy (MFEPW 2008). Pakistan also elaborated a National Emigration Policy in 2008 and adopted it at a national consultation in December 2008. (Government of Pakistan 2009). Bangladesh had issued an *'Overseas Employment Policy'* in 2006 since "manpower is a major export sector for Bangladesh economy and since the government has taken decision to undertake long term program for ensuring the welfare of the Bangladeshi expatriates and to enhance and streamline employment opportunities for Bangladeshis in abroad" (MEWOE 2006).

But other countries in South Asia do not have spelled out a clear or transparent policy statement on migration. For instance, India which is the largest source and destination country in the sub region lacks a consistent policy which addresses both emigration and immigration. Krishna Kumar (former Secretary of MOIA) clarifies: "India has operated hitherto in a policy vacuum in so far as international migration is concerned" (Kumar 2010). The MOIA has however, taken an initiative to formulate a comprehensive policy with the support of the Centre for Development Studies, Trivandrum, but progress seems to be rather slow. Nepal also has been following ambiguous policies in recent years.

3.2 Protection challenges

The characteristics of South Asian migration patterns discussed in Section 2 explain in large part the protection challenges faced. The temporary nature of contracts, concentration of flows in the Middle East, particularly Gulf countries where democratic institutions are lacking, and the low skill profile of bulk of migrant workers lead to more vulnerability. The issues have been documented widely, and I shall highlight selected issues only. I have previously extensively discussed abuse and exploitation suffered by Asian migrant workers both within Asia and the Middle East (Wickramasekara 2002; 2005).

3.2.1 Protection of migrant rights

The ILO has described the situation of South Asian migrant workers as follows: (ILO 2008c).

"[R]ights protection for South Asia's migrant workers is the major concern. By standard definition, South Asian migrants would be classified as highly vulnerable: large numbers take irregular routes; most are low-skilled and young; and for some countries the majority is women. In Sri Lanka, between 60-70 per cent of outgoing workers in recent years were women finding employment mainly as domestic helpers. This is confounded by exorbitant recruitment costs and corrupt recruitment practices widespread in some countries."

The growing competition among countries of origin to send workers abroad, and the proliferation of unscrupulous recruitment agencies have made matters worse. Similarly working conditions and wages in destination countries have hardly seen any improvement, and possibly shown deterioration over the years. The most vulnerable workers are female domestic workers who are confined to private households, workers in irregular status and persons trafficked (Wickramasekara 2002).

"The vast pool of cheap labor from India, Pakistan and other parts of Asia has been pivotal to the Gulf's economic boom in recent years. But labor abuse is frequent. Recruiters often require workers to sign one contract in their home country, then instruct them to sign a new one at a far lower wage once they arrive in the Gulf." (Surk Barbara and Sebastian Abbotarch 2009).

Abuse and exploitation of South Asian migrant workers occurs in both in countries of origin and destination. Misleading information on jobs and destinations, exorbitant fees and high migration costs have already been mentioned. Retention of identity documents by employers is a common practice in many destination countries which severely restricts mobility of workers. For instance the UAE law makes it illegal for employers to withhold their employees' passports. Yet Human Rights Watch found that employers routinely ignore this law and confiscate employee passports (Human Rights Watch 2006). A migrant survey in Kerala has cited the following problems faced by migrant workers in the Gulf (Irudaya Rajan et al. 2008): taking away passport, signing of new contract with low wages, modified work and living conditions and reducing other employment benefits such as overtime and leave salaries and return airfare payment. It found that returns one in three was due to low remuneration and poor working conditions. The common practice is the replacement of workers by other groups with lower working conditions. In the case of Nepal, Adhikary (2009a) has also catalogued the common forms of human rights violation experienced by Nepali migrant workers:

[Long working hours; absence of holidays; Protests not allowed; Forced to return without compensation for the remaining period of work; absence of protection for work-related accidents; Poor working and living conditions; No insurance and rescue during accidents and death; Victimization of labourers without legal recourse; Sexual exploitation and harassment; Contract substitution; Lack of respect for religious and cultural practices of migrant labour.]

In Southeast Asia, Malaysia also has a poor record in terms of respect for migrant worker rights. Their harsh policies towards workers in irregular status, especially use of vigilante groups for their detection and serious human rights violations in detention centres have received wide international attention (Wickramasekara 2005).

In Sri Lanka, between 1994 and 2006, the SLBFE received 101,000 complaints and settled 74,000 of them, paying compensation of about $660,000 (Del Rosario 2008). In 2008, out of 9,964 total complaints, the leading complaints were lack of communication (1,266), non-payment of agreed wages (1,698), and harassment (1,188) (SLBFE 2009). Among South Asian countries, Sri Lanka has a special problem with the largest numbers of workers as housemaids; in 2008, their share was 43 per cent of total outflows for the year. Most research has shown that domestic migrant workers experience conditions similar to forced labour or slavery situations being confined to private households, and where domestic work is outside the scope of labour law in many countries. The majority of domestic workers remain "overworked, underpaid and unprotected."

The ILO has highlighted specific vulnerabilities and abuse of migrant domestic workers (ILO 2009a; ILO 2009b): inequality of treatment between migrant domestic workers (MDW) and nationals (e.g. especially regarding social protection); vulnerability to abuse: tying of workers to specific employers named on the work permit; requirement for MDW to live in their employer's house; withholding of passport by the employer used as a form of control; risk of potential abuse by unaccredited employment agencies; restrictions of personal freedoms, including forced labour; lack of coverage under generalized national healthcare schemes; and, pregnancy or HIV status often resulting in the worker's dismissal.

Several reports by Human Rights Watch have documented the poor conditions of work and exploitation of migrant workers in Gulf countries (Human Rights Watch 2004; Human Rights Watch 2006; Human Rights Watch 2008). In the case of domestic workers in Saudi Arabia, the HRW (2009: 2) study found: "While many domestic workers enjoy decent work conditions, others endure a range of abuses including non-payment of salaries, forced confinement, food deprivation, excessive workload, and instances of severe psychological, physical, and sexual abuse. Human Rights Watch documented dozens of cases where the combination of these conditions amounted to forced labor, trafficking, or slavery-like conditions."

The ILO Committee of Experts on Application of Conventions and Recommendations (CEACR) has drawn attention to the vulnerability of these workers, in particular migrant domestic workers, to multiple forms of discrimination and abuse due to the individual employment relationship, lack of legislative protection, stereotyped thinking about gender roles and undervaluing of domestic work (ILO 2009a).

3.2.2 Few countries have ratified ILO and UN Conventions.

Box 1 lists the three major international legal instruments on migrant workers – two ILO Conventions and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), 1990. It is only Sri Lanka which has ratified at least one international instrument concerning migrant workers – the ICMW – in 1996. Bangladesh signed the ICMW in October 1998 – normally an indication of eventual ratification – but has not ratified it up to now. No country in the subregion has ratified the two ILO Conventions on migrant workers.

> **Box 1. International normative framework for migrant workers**
>
> - **ILO Conventions**
>   - The Migration of Employment Convention (Revised), 1949 (No. 97) – 49 ratifications;
>   - The Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) – 23 ratifications
> - **United Nations**
>   - International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), 1990 – 42 ratifications. (In force since mid-2003)
> - **ILO multilateral framework on labour migration: Principles and guidelines for a rights-based approach to labour migration.**
>   - http://www.ilo.org/migrant/areas/multilateral.htm

The 2008 Dhaka Regional Symposium on migration recommended that countries in the region should develop labour migration policies and programmes that take into account the principles and guidelines contained in ILO's Multilateral Framework on Labour Migration, including considering the ratification of ILO Convention No 97 and 143 and the International Convention on the Protection of All Migrant workers and members of their Families (1990) (ILO 2008b). This was considered particularly important for the promotion of fair recruitment practices, promotion of safe migration of women, development of a supportive migration infrastructure, and effective services to migrants, skills development of migrant workers, and ensuring that migration promotes development. (ILO 2008b).

There are several impediments to ratification of these Conventions in South Asia (Iredale and Piper 2003; Iredale, Piper et al. 2005; Khatri 2007). First the countries lack adequate information on the implications of ratifying the Conventions. There is some flexibility in regard to the two ILO Conventions. For instances, countries may adopt in whole or Part 1 (relating to workers in irregular status) or Part 2 (relating to equality of treatment and opportunity) of the ILO Convention on Migrant Workers, 1975 (No.143). The 1990 Convention allows state parties to make reservations on particular articles. Second the lack of consistency of national laws with the provisions of the instruments may prevent ratification although the logical approach for countries concerned is to change the national law accordingly. Third, several ministries and agencies may be involved in the ratification decision which can impede ratification. For instance, in Bangladesh the Ministry of Expatriate Welfare and Overseas Employment, the Ministry of Foreign Affairs, the Ministry of Labour and the Legal Commission are among those directly concerned, and getting a consensus would be difficult. Fourth it can also be due to the lack of political will on the part of the states or the lack of awareness of the value of the Conventions. Fifth there is a misconception about the 1990 International convention that it accords too many rights to migrant workers including those in irregular status. Finally some origin countries may fear that accession to the Conventions may lead to loss of labour markets in the destination countries (Khatri 2007). Iredale and Piper (2003) have cited this reason in the case of Bangladesh's reluctance to ratify the ICMW even after signing it in 1998.

3.2.3 Involvement of trade unions and NGOs

In South Asia, the trade unions are taking an increasing interest in migration issues given the serious protection issues faced by national workers abroad. In both Nepal an Sri Lanka, trade unions have been active whereas there is not much evidence of their involvement in Bangladesh and India. For the latter, large numbers of migrant workers within the country may offer considerable opportunities for the trade unions to get involved. Abrar (2005) notes that there has been a general reticence on the part of the NGOs to be involved in migrants rights issue, linked to the disinterest of the donors to labour migration issue. In view of the fact that migrants face a whole series of problems at

every stage of migration process, there is a need for involvement of the trade unions on migrant issues. The Sri Lankan trade unions and the NGOs groups however, have been quite active as seen in their involvement in development of the National labour Migration Policy and Sri Lankan trade unions signing bilateral agreements with some Gulf country trade unions for the protection of Sri Lankan workers. In Nepal, GEOFONT also has been actively networking with trade unions in Hong Kong SAR and the Republic of Korea for protection of Nepali workers. The South Asian Migration research Network (SAMREN) and the WARBE Foundation are important NGOs in Bangladesh which have been campaigning for migrant rights and lobbying for the ratification of international Conventions on migrant workers.

The South Asian trade union seminar in 2007 identified the role of trade unions as follows (ILO 2007):

> *"Trade unions have a critical role in ensuring a rights-based approach and a fair deal for all migrant workers. Their prominent, concrete action is needed to organize migrant workers, to monitor unscrupulous recruiting agency practices and increase interactions with recruitment agencies to improve their services, and to promote ratification and implementation of the ILO and UN Conventions 'on migrant workers. Launching wider and systematic organizing campaigns is a primary role trade unions can play. Migrant workers can address their interests and greater protect their own rights if they are unionized and speak with a collective voice"* (ILO 2007: 8).

3.3 Migration and development challenges

Few South Asian countries have made a systematic attempt to integrate migration into development planning instruments such as the national development plans and PRSPs except Nepal. The PRSP for Nepal and the Tenth Plan squarely address the importance of remittances to the country, drawing specific attention to the key role that remittances have played in the economy (ILO 2002; Lucas 2008).

The lack of attention to the issue in other countries may be because it is only in recent years that the potential of migration as a factor in development has been highlighted, and there is still inadequate understanding of the processes through which migration can bring about development benefits. All South Asian countries have been affected by large inflows of remittances as noted previously. In Sri Lanka, the PRSP has focused mainly on internal migration. Balkumar stated: "Any poverty strategy in Nepal is bound to be more successful with a strong component of migration policy integrated with it." (Bal Kumar 2003: 23)

There is also lack of coordination and coherence between development, trade, labour and finance and migration policies, which is common to many developing countries as the Global Commission on International Migration has pointed out (GCIM 2005). Policy coherence is increasingly promoted as an aspect of good governance. Within a country, a number of ministries and agencies deal with migration including security ministries (Home Affairs, Interior, Homeland Security), Ministry of Foreign Affairs as well as ministries concerned with labour market issues (Labour Ministry). Similarly state policies in regard to finance, planning, trade, aid, among others, have a bearing on migration. A good example is the issue of migrant remittances. In many South Asian countries there is little coordination among these institutions. The background report to the UN High Level Dialogue on Migration and Development noted that countries would benefit from "better coordination and coherence between migration and development policies," which would require "closer cooperation among the authorities in charge of migration and those working on development strategies and development cooperation (United Nations 2006: 16)."

3.3.1 Migrant remittances: issues and development impact

The present paper does not intend to discuss the issue of remittances in detail. Remittances are obviously the most tangible aspect of labour migration for all the countries with India receiving the largest volume of remittances within south Asia and also globally, while for other countries it is more important in terms of the contribution to the GDP. For Nepal, it accounts for 22 % of GDP while Bangladesh and Sri Lanka shares are 11 and per cent respectively in 2008 (Table 6). Bangladesh, India, Pakistan, and Sri Lanka have all experienced large increases in remittance flows in recent years.

A World Bank review of remittances to South Asia in 2005 remarked: "The increase in remittance volumes has renewed academic and public policy interest in their potential to reduce poverty and economic vulnerability, improve family welfare, and stimulate local economic development in the face of much lower, and sometimes temperamental FDI flows"(Maimbo, Adams et al. 2005: ii).

In 2008 the five South Asian countries reviewed here received an estimated $73 billion in officially recorded remittances (as defined by the World Bank) from its migrant workers across the globe. It shows a sharp increase from the levels in 2006-07 which ranged between $42-54 billion. This does not include remittances sent through informal channels which are common in South Asia. Thus the total may be much higher (World Bank 2008). The estimated remittances for South Asia are slightly lower in 2009 due to the impact of the global financial and economic crisis.

Table 6: South Asia –remittance inflows (US$ million)

Country	Bangladesh	India	Nepal	Pakistan	Sri Lanka	Total
1980	339	2,757	..	2,048	152	5,296
1985	502	2,469	..	2,537	292	5,800
1990	779	2,384	..	2,006	401	5,570
1995	1,202	6,223	57	1,712	809	10,003
2000	1,968	12,890	111	1,075	1,166	17,210
2001	2,105	14,273	147	1,461	1,185	19,171
2002	2,858	15,736	678	3,554	1,309	24,135
2003	3,192	20,999	771	3,964	1,438	30,364
2004	3,584	18,750	823	3,945	1,590	28,691
2005	4,314	22,125	1,212	4,280	1,991	33,922
2006	5,428	28,334	1,453	5,121	2,185	42,520
2007	6,562	37,217	1,734	5,998	2,527	54,038
2008	8,995	49,941	2,727	7,039	2,947	71,649
2009	10,523	49,256	2,986	8,720	3,363	74,848
As % of GDP 2008	11.8%	3.9%	22.9%	6.0%	7.9%	4,8

Note: Total remittances defined as the sum of compensation of employees, workers' remittances and migrant transfers. 2009e – estimated.
Sources: World Bank Migration and Remittance Factbook 2011, Migration and Remittances Team, Development Prospects Group, World Bank. http://go.worldbank.org/QGUCPJTOR0.
World Bank Migration and Remittance database, Prospects Group, at:
http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1110315015165/RemittancesData_Inflows_Apr10(Public).xls

There is more documentation on the role of remittances in the case of Nepal. The National Living Standards Survey (2004), reported that the percentage of the households receiving remittances had increased from 23 percent in 1995/96 to 32 percent in 2003/04.

Using the NLSS data, the Bank study concluded that poverty would have declined by 4.8 percent instead of the observed 10.9 percentage point if the amount of remittances had remained unchanged between 1995-96 and 2003-04 (cited in (Adhikari 2009a). Adhikari cites estimates of migrant remittances into Nepal which range from Nepali Rs 65.54 billion to Rs 129 billion in a year (Adhikari 2009a).

The main focus in these remittance studies in the sub-region has been on the following:

- Volume of remittances and their trends. India is the largest remittance recipient in the world. But as a share of GDP, their share is much lower.

- Channels and transfer costs. Much concern has been expressed over informal channels, but they offer considerable flexibility in areas outside the formal banking network. Similarly the costs of transfer have led to some concerns because it represents an important leakage. With new technology countries are trying to create more competition which can lower the fees.

- Development impact. Much has been debated on whether remittances are used for consumption or development. This is not a valid concern because many studies reveal that migrant families use remittances intelligently for children' education and health needs – essential for human capital formation.

- Policies. A number of countries have tried to tap these funds through diaspora or NRI bonds. Sri Lanka has also attempted that through non-resident foreign currency accounts with incentives. A World Bank study on remittances in South Asia highlighted the impediments to the remittance industry in the sub region (Maimbo, Adams et al. 2005: vi): *"High transaction costs, long delays in transferring remittances, foreign currency controls, and overly-bureaucratic policies and procedures for simple money transfers have no place in a vibrant and still growing remittance industry."*

The issues which are being debated today about the impact of remittances and their utilization in South Asia are not very different from those debates about 15 years back in various country studies presented at an ILO Sub-Regional seminar on migrant remittances and economic development in South Asia (3-5 August 1993 in Colombo, Sri Lanka) coordinated by the author (ILO-ARTEP 1993)). The studies and discussions there focussed on strategies for improving remittance statistics, merits of informal versus formal channels of remittances, reduction of transfer costs, improving migrant treatment and working conditions and wages in Gulf countries for better remittances, and promoting appropriate macroeconomic policies and banking services to attract remittances. It is interesting that the same issues persist today.

3.3.2 Return migration

There are different types of return applicable to different streams of migration. What is important for development is sustainable return which can be defined as a situation where the migrant has returned with sufficient resources that he/she has no reason to migrate again for a long period. This is the case of highly skilled professionals who have returned to Ireland, Taiwan (China), Republic of Korea, China and India to lead high tech companies or businesses, or start joint ventures. Sustainable return depends on the pattern and timing of return movements. The period of abroad should be long enough to acquire skills and capital (financial and social), and return should be effected well before the end of productive life (not for retirement).

Skilled workers who migrate under permanent migration schemes may return for short periods initially or some may return permanently after a number of years. India is a

success story where skilled migrants with financial, human and social capital have returned and promoted investments and growth as clearly observed in the Bangalore. Some State Governments in India have promoted these returns and investment ventures by providing special incentives. This type of situation highlights the positive contribution of return migration to development

However, most other migrant workers in South Asia, especially low skilled workers, who migrate under fixed term contracts to the Middle East or other Asian destinations. Therefore return migration is an integral part of the migration cycle. These workers usually migrate without their families. Their contribution to development cannot be easily estimated, but they are believed to be the main source of remittances which bolster the balance of payments and foreign exchange reserves of many countries. Some of these returning workers also invest in real estate and other areas which may contribute to national development to some extent. But a good number may not have been able to improve their economic situation on a sustainable basis after meeting migration costs.

In all South Asian countries, there are programmes for reintegration of returning workers, and some limited interventions for promotion of entrepreneurship among them. However such ventures have not shown a high degree of success because the overall economic environment may not be suitable for investments. In Sri Lanka, state commercial banks had limited loan programmes for returnees but the success has been limited.

The UNDP and IOM have implemented limited programmes such as TOKTEN (Transfer of Knowledge Through Expatriate Nationals), and RQAN (Return of Qualified African Nationals) programmes to bring back skilled persons for short periods to developing countries including India and Sri Lanka. To operationalize the TOKTEN programme in India the Government of India established INRIST (Interface for NRI Scientists and Technologists) Centre in 1990. However, neither the TOKTEN nor the INRIST programme was very successful in India (Khadria 2009: 117).

Yet the successful experience of a parallel Silicon Valley in Bangalore in India shows that it is spontaneous returns which have the sustainable impact. Highly skilled Indians have returned with financial, human and social capital and transformed the local IT industry.

3.3.3 Addressing brain drain and human capital development

An important issue in migration and development policies is that of skilled mobility. South Asia, particularly, India, is one of the major sources of skilled workers at the global level. However, the skill outflow as a proportion of the stock of the skilled labour force inside the country is quite low. There are no reliable estimates of the brain drain, and World Bank and OECD estimates are based on the 2000 round of censuses. The initial IT skills migration has subsequently given way to migration of health workers- doctors and nurses. The net impact of brain depends on a number of feedback effects in the forms of remittance flows, returns,, skill transfers and investments (Lowell and Findlay 2002; Wickramasekara 2003). In Indian policy circles, the perception of skilled migration is one of brain circulation and brain banks abroad. The view is that these skills are not permanently lost to the country as seen in recent return migration of the highly skilled and diaspora contributions (Khadria 2002; Khadria 2009).

None of the South Asian countries are among the 15 non-OECD countries with the highest percentage of highly skilled migrants in OECD countries in 2000 according to both World Bank and OECD estimates (Wickramasekara 2008). Sri Lankan policy makers have not considered brain drain as a priority to be addressed, except for health workers. Mr. Nimal Siripala de Silva, Health and Nutrition Minister, Government of Sri Lanka, urged

the WHO World Health Assembly 2005 to collectively develop a charter to reduce the adverse effects of the health sector "brain drain (Wickramasekara 2008). Yet the Government policies now are on promotion of skilled migration as reflected in the National labour Migration Policy, and reduce the share of low skilled workers (MFEPW 2008). The Pakistan National Emigration Policy (2008) also adopts a similar approach. Adhikari (2009) does not refer to brain drain among negative consequences of migration in Nepal while Khatri (2007) also does not mention brain drain in his discussion of South Asian migration. The implicit consensus seems to be that it is important to send skilled workers abroad rather than low skilled workers given the numerous protection problems and low wages associated with the latter. This view is also influenced by the lack of rewarding opportunities for skilled workers inside the countries, and the positive views about the contributions of diaspora communities abroad.

3.3.4 Engaging the diaspora

There is increasing interest globally on the value of communities of nationals abroad. Khadria's pioneering study on the knowledge workers and the second generation effects was a trailblazer in diaspora contributions in the context of India and South Asia (Khadria 1999). A problem commonly faced by many countries is the absence of reliable information on the numbers and profiles of the diaspora (Wickramasekara 2009a). The Indian Ministry of Overseas Indian Affairs has recognized the absence of a reliable dataset and is working on building a database of the diaspora on a priority basis.

The Indian definition of persons of Indian Origin (PIO) captures the wider definition of the disapora. The High Level Committee (HLC) on the Indian Diaspora set up by the Indian Parliament in 2000 recognized the role of the Indian diaspora as follows:

"The Indian Diaspora spans the globe and stretches across all the oceans and continents…… They live in different countries, speak different languages and are engaged in different vocations. What gives them their common identity are their Indian origin, their consciousness of their cultural heritage and their deep attachment to India" (Government of India 2001: v).

Following a recommendation of the HLC, the Government of India established a new ministry in 2004, the Ministry of Non Resident Indians' Affairs, which was later renamed as the Ministry of Overseas Indian Affairs (MOIA), thus giving high priority to engagement of the diaspora.

The High Level Committee on the Indian diaspora estimated the total Indian diaspora globally at about 20 million which included persons of Indian origin (PIOs) and overseas Indians (Government of India 2001). The MOIA has revised this figure to be currently 25 million Indians overseas, spread across 110 countries, and highlights that the Overseas Indian community represents 'a reservoir of knowledge, skills, resources and enterprise' (MOIA 2009). The Indian diaspora also has been influential in promoting major economic reforms in India which facilitated its integration with the global economy.

The Government has launched several initiatives to engage the diaspora in recent years including diaspora youth programmes, annual high level diaspora forums, establishment of the Overseas Indian Facilitation Centre, and setting up of a Global Advisory Council to the Prime Minister comprising eminent persons of the diaspora (Nujoks 2009).

Pakistan has also recognized the diaspora potential in the new emigration policy by defining "Effective Integration of Diaspora Resources" as Priority Area 7 of the Policy (Government of Pakistan 2009). It expects the diasporas in different countries to form together with local academia and businesses "development forums, which will help to 'better projecting Pakistan, seeking greater foreign investment, increasing opportunities of

employment for Pakistanis'. It has converted the Overseas Pakistanis Division - which was part of the Ministry of Labour, Manpower & Overseas Pakistanis – into a separate Ministry of Overseas Pakistanis since 2008 to focus on diaspora activities.[5]

As of 2000, Nepal's diaspora amounted to some 4.4 percent of the domestic population. The bulk of them are estimated to be in India (63 per cent), and another quarter in Pakistan. While only 0.3 per cent of the Nepal adult population were in the OECD countries, almost half of the Nepalese in the OECD had completed a college degree indicating a significant brain drain (Lucas 2008). The Non-Resident Nepali (NRN) Association was formed at the first global conference in 2003 and the network now has 38 national chapters all over the world, and has also brought direct financial investment and charities to Nepal[6].

The Overseas Employment Policy statement of Bangladesh clearly recognised the diaspora as follows (MEWOE 2006: 2):

*"All the Bangladeshis, male and female migrant workers who are presently working abroad on contractual jobs, the permanent and temporary residents who already are foreign citizens or willing to embrace foreign citizenship but keeping close relationship and participating in the socio-economic activities of the home country, commonly termed as **Diaspora**, shall fall under the scope of this policy."*

There are about 1.5 million people in Bangladeshi diaspora in UK and USA, Greece, Italy, Canada, Australia, and other countries according to the Refugee and Migratory Movements Research Unit (RMMRU) of Dhaka University. Long-term or diaspora migrants particularly in the UK and USA, make important contributions, especially in terms of remittances and investments.

Bangladesh, Pakistan and Sri Lanka have introduced dual citizenship for their citizens settled abroad. India has introduced a compromise solution in issuing a Person of Indian Origin (PIO) card (1996) and Overseas Citizenship of India (OCI) – a lifelong visa - since 2005, which provides recognition like Indian citizens, but does not allow government employment, or right to voting or election. Nepal has also not permitted dual citizenship arrangements up to now.

In Sri Lanka, there is not much evidence of the positive contributions of the diaspora community although the response during the time of the Tsunami was very encouraging. The potential of this option has been made much complex by the former conflict situation in Sri Lanka with some ethnic diaspora groups actively providing means to sustain the conflict (Newland and Patrick 2004). Following the successful campaign against the insurgency, the Sri Lankan President has made an appeal for the diaspora to return and make contributions for development of the country (Wickramasekara 2009b). Yet there has been hardly any positive response from the Tamil diasporas up to now.

Table 7 attempts a somewhat crude characterization of the main features of the migration-development nexus in South Asia. While all countries have recognized the role of remittances, activities in other areas are limited.

---

[5] http://www.opf.org.pk/home/opd.html

[6] http://www.nepalitimes.com/issue/373/Nation/14168

Table 7: Development orientation of migration programmes

	Bangladesh	India	Nepal	Pakistan	Sri Lanka
Remittances	X	X	X	X	X
Addressing brain drain					
Brain circulation		X			
Diaspora	X	X			
Return programmes	X	X			X
Migrant rights	X		X		X
Dual citizenship	X	PIO & OCI cards*		X	X

Note: * PIO card – Person of Indian Origin card (since 1999); OCI – Overseas Citizen of India card (since 2005).

3.4 Cooperation with destination countries, especially through bilateral or regional agreements and MOUs

There is general agreement that cooperation among countries of destination and origin would be a good means of addressing perennial problems with governance and protection of migrant workers.

3.4.1 Bilateral agreements and MOUs

One mechanism of such cooperation is through the negotiation of bilateral labour agreements or memorandums of understanding on labour migration. It is also a good practice recommended in international instruments. I have analyzed their role and issues of concern in relation to Asia elsewhere (Wickramasekara 2006).

One encouraging development recently is the increased willingness of Middle East and other destination country governments to enter into bilateral agreements with countries of origin. The norm has been to enter into the more loose memorandums of understanding rather than full-fledged bilateral labour agreements (Wickramasekara 2006).

The Centre for Development Studies (Trivandrum) which coordinated the framework for international migration policy in India recently urged "the Indian government to seek bilateral agreements with countries of destination, which would offer a safer context for temporary migration" (CDS 2009). The Sri Lanka National Labour Migration Policy states: "The State clearly acknowledges the role of bilateral agreements and memoranda of understanding between Sri Lanka and host countries in the protection of migrant workers in the labour migration process." It also called for negotiation of social security agreements which are easier to negotiate. In Pakistan, the National Emigration Policy Priority 2 reads as: "Vigorous pursuit in seeking MOUs with the countries of destinations; it is crucial not only in our quest for retaining and increasing share in the traditional host countries but also in other countries as well. Where the law permits, fixing of a quantitative target for labor from Pakistan will be attempted" (Government of Pakistan 2009: X)

The South Asian trade union consultation also mentioned in their Declaration: "Trade unions shall urge governments to ensure that bilateral agreements, memoranda of understandings, or other agreements contain provisions guaranteeing the fundamental rights of migrant workers" (ILO 2007).

Sri Lanka has managed to enter into bilateral MoUs on migration with Bahrain, Jordan, Libya, Qatar, and UAE. India had signed labour agreements with Jordan and Qatar in the 1980s. The MOIA has revived the process and entered into bilateral Memoranda of Understanding (MoU) with a number of governments to enlist their cooperation in ensuring better protection and welfare of Indian emigrants (MOIA 2009). The Ministry has now signed MOUs with the following countries: UAE (December, 2006); Kuwait (April 2007); Oman (November 2008) and Malaysia (January 2009). An Additional Protocol to the existing Labour Agreement between India and Qatar was signed on 20th November, 2007. The following broad principles have been built into these MoUs according to the MOIA (2009): (i) Declaration of mutual intent to enhance employment opportunities and for bilateral cooperation in protection and welfare of workers; (ii) The host Country to take measures for protection and welfare of the workers in organized sector. (iii) Statement of the broad procedure that the foreign employer shall follow to recruit Indian workers; (iv). The recruitment and terms of employment to be in conformity of the laws of both countries; and, (v) A Joint Working Group (JWG) to be constituted to ensure implementation of the MoU and to meet regularly to find solutions to bilateral labour problems.

While there is not much transparency on these agreements, it is known that other South Asian countries also have entered into MOUs with some destination countries. Under the Employment Permit System of the Republic of Korea, most South Asian countries have entered into MOUs with the Republic of Korea since the Employment Permit System is a bilateral government programme. Malaysia has also signed MOUs with a number of source countries including those of South Asia, but the MOUs have many restrictions on migrant rights including permission for the employers to withhold the passports (Wickramasekara 2006).

3.4.2 Other consultative forums

There are other loose consultative forums such as the IOM-managed Colombo Process. It is a Regional Consultative Processes on the Management of overseas employment and contractual labour for countries of origins in Asia initiated in 2003, and now has been expanded to include important countries of destination as well. The objective is to share experiences, and promote dialogue with destination countries. Achievements have been modest up to now. The most recent forum of this process was the Abu Dhabi Dialogue convened by the UAE during 21-22 January 2008. The Dialogue agreed to use the term 'contractual labour' instead of migrant workers on the insistence of Gulf countries. The final Declaration proposed four partnerships (Abu Dhabi Dialogue 2008).

- Partnership 1: Enhancing knowledge in the areas of: labour market trends, skills profiles, temporary contractual workers and remittances policies and flows and their interplay with development in the region

- Partnership 2: Building capacity for effective matching of labour demand and supply

- Partnership 3: Preventing illegal recruitment practices and promoting welfare and protection measures for contractual workers, supportive of their well being and preventing their exploitation at origin and destination

- Partnership 4: Developing a framework for a comprehensive approach to managing the entire cycle of temporary contractual mobility that fosters the mutual interests of countries of origin and destination

A concrete outcome under Partnership 4 was the launching of a pilot contract labour migration project between UAE on the one hand and India and the Philippines as origin countries on the other, but it is still to make tangible progress.

The ILO also organized the first Gulf Forum on Temporary Contractual Labour jointly with the UAE during 23-24 January 2008 as a back to back meeting with the Abu Dhabi Dialogue. The latter Forum was able to raise issues of protection, importance of collaboration amongst various stakeholders including civil society, international labour standards, and the significance of engaging in international cooperation (ILO 2008a). Further it made the following recommendations which go beyond the Abu Dhabi Dialogue Declaration.

- Provide induction and counselling programmes contractual workers in countries of origin that offer guidelines about the countries of destination, including language, cultural and legal aspects.

- Ensure that recruitment agencies in both countries of origin and destination are held accountable under national laws and regulations.

- Enhance partnerships between countries of origin and destination.

- Ensure that the workers are protected against illegal or unfair recruitment practices and make sure that they make informed decisions.

- Uphold the protection of workers under the national laws of countries of destination during the period of temporary residence, including the areas of health and safety, accommodation, decent work environment and protection of wages, as informed by relevant international labour standards.

- Facilitate the engagement of civil society organizations in countries of destination in addressing and providing solutions to labour related challenges & facilitate the networking between NGO's in countries of origin and destination.

It is yet to be seen to what extent these have been followed up by Gulf countries. Migrant workers in the Gulf States are no longer willing to tolerate substandard working conditions as seen by a recent wave of protests by Indian and Bangladeshi workers in Dubai and Kuwait. Although the response by the Gulf state authorities was harsh involving some deportations, there is little doubt that these countries are concerned about their international image in their attempts to become international hubs for finance, investments, etc.

3.4.3 Sub regional cooperation: role of SAARC

The South Asian Association for Regional Cooperation (SAARC) has made very little progress in including migration and labour mobility issues in its agenda.

In South Asia the legal framework has yet to develop fully to protect the rights and interest of migrant workers. SACEPS has shown the limited nature of the SAARC Social Charter which does not recognize labour as a distinctive group and makes no commitments by SAARC member states to respect the ILO Core Labour standards unlike other regional charters (Khatri 2007).

In this respect, SAARC is way behind ASEAN – the other regional economic entity in Asia, which has now issued a Declaration on the Promotion and Protection of Rights of Migrant Workers in ASEAN (see Section 5.2). There are several differences between SAARC and ASEAN which need to be recognised. First SAARC and ASEAN migration patterns are different. ASEAN has over the years developed an informal sub regional labour market (with Malaysia, Singapore and Thailand as major destination countries) whereas within SAARC this has never been recognised. The only exception is the free movement of persons and labour between India and Nepal. Second there are considerable

security concerns about cross border movements in South Asia than in Southeast Asia given tense relations between India and Pakistan on the one hand, and Bangladesh and India on the other. Third, no SAARC country has openly recognised itself as an immigration country whereas in ASEAN with Malaysia, and Singapore in particular have long admitted themselves as destination countries. Fourth there are not many common concerns among South Asian countries except those relating to abuse and exploitation of workers in the Middle East.

The SAARC adopted the Convention on Preventing and Combating Trafficking in Women and Children for Prostitution in January 2002. Yet the definition provided in the Convention is very narrow and focuses only on prostitution without addressing trafficking from the broader perspective of forced labour. Further, the Convention lacks a strong treaty body and perspective on the rights of victims, and has a number of other limitations as highlighted by researchers (Khatri 2007).

The SACEPS/FES Regional Seminar on Labour Migration, Employment and Poverty Alleviation in South Asia in August 2007 proposed the establishment of a SAARC Task Force on migration which could review patterns of migration, evolution of policies, and its influence on growth and development, existing legislative frameworks with a view to making recommendations on follow up action. (Khatri 2007). While the report rightly identifies the need for subscribing to the 1990 ICMW and ILO instruments on migrant workers, it makes the wrong generalisation that ILO procedures take too long compared to WTO negotiations. This is hardly tenable given the protracted Doha Round negotiations. Moreover, there is a basic contradiction between a rights based approach and promoting movement of natural persons (as short term service providers) through WTO GATS Mode 4 as a traded service because WTO has no protection mandate. The trade union movement and NGOs are firmly against WTO taking a lead role in movements of labour (Gencianos 2005). In my view, the idea of SAARC placing migration as a priority item on its agenda should be actively promoted, but in my view there is very little basis for linking it with GATS Mode 4.

The IPS/FES International Conference on Migration, Remittances & Development Nexus in South Asia (Colombo, May 2009) first launched the idea of a South Asian Commission on Migration. It was later elaborated in a concept note to be discussed at the Regional Brain Storming Session on 27 November 2009 at the Institute of Policy Studies, Colombo (Sobhan 2009). According to this concept paper, the overall objective of the proposed Commission would be to formulate the framework for a coherent and comprehensive response to the issues surrounding migration that is generally applicable to all the countries of South Asia. More specifically, it would seek to: to place the issues facing migration from South Asia on the forefront of the national agenda in all member countries; the advocacy of policies aimed at easing the hardship of migrants from member countries at an international level, particularly in major receiving countries; identify existing gaps in policies adopted by member states towards migration, and also to establish clear linkages between migration from the region and other issues such as economic development, demography, trade, human rights, labour supply and demand, and national and regional security, amongst others; to formulate policies that can harness the benefits of migration in the best way possible for all stakeholders; look into the work being done within key international organizations and regional organizations, with a view to developing a strategy and a plan of action.

There are precedents on such an initiative; the Global commission on International Migration at the international level, and the Independent South Asian Commission on Poverty Alleviation (ISACPA) established by SAARC in 1991. Yet there is a major difference in that both initiatives were taken by states, not by an independent research network. It is also important to have the governments on board from the start if the initiative is to move beyond a research network. There is a need to review the high

incidence of migrant rights violations and hardships within the SAARC region itself. The Commission should address issues of governance, protection, and development, cooperation, among others. There is also need for a firm normative framework based on international instruments to underpin this exercise which seems to be missing in the Concept Paper. What is important for such an initiative is not to take migration issues separately, but also link them to the process of regional economic and social integration. In this sense, the scope for promoting freer circulation and labour mobility at least for skilled workers within the SAARC region, with appropriate protection safeguards needs to be examined. The long term vision should be to look at the prospects for a sub regional labour market.

4. Migration policies in South Asia

Discussions in many Asian countries including South Asia tend to focus on 'safe migration' or 'orderly migration' as the goal of migration policy. The term safe migration grew out of the trafficking discourse, but a national migration policy has to be much broader. I shall argue that 'migration in conditions of freedom, dignity, equity, and security' captures the broader vision of migration, and is consistent with the concept of decent work – initially advanced by the ILO, but now a common vision of the International Community (United Nations 2005). The Global Commission on International Migration (GCIM 2005) argued for 'migration by choice and not by need', but it captures only part of the objectives of migration policy. These concerns also apply to the vision of 'safe, legal, orderly and humane migration' advanced in the IOM World Migration Report 2008 (IOM 2008), which mostly reflects the idea of safe migration. To be fair it should be added that in quite a few places, the term has been qualified by noting the need for due regard to human rights of migrants.

Although it is common in the literature to refer to "migration management" and "managed migration," there are several problems with either term. First, they imply that a state has more or less complete control over migration and can effectively manage it. Yet the overwhelming historical experience is to the contrary. Newland noted that the term "suggests a slightly old-fashioned, pre-globalization assumption of state control over migration processes" (Newland 2005: 17). Policies based on the assumption that migrant workers can be brought in when needed and then sent home when no longer needed, have failed in every region where they have been tried. The main reason for this failure has been summed up by the Swiss writer Max Frisch, "We called for labour power, and human beings came."(ILO 2006b: 23). A second problem with the concept of migration management is that it is linked to a view of unilateral migration control by destination countries. The dividing line between migration "management" and migration "control" is indeed thin. As another commentator noted, the former term "suggests migration control, when in reality the movement of people can only be helped or hindered to a greater or a lesser extent and the nature of migration means that policies can, in many ways, only be reactive (Niessen 2005)." Yet states are only one of a number of important factors as highlighted above. Third, migration management can imply a top-down approach that encourages governments to regulate migration in an isolated way, that is, without consulting other stakeholders, such as social partners, migrant workers, and broader civil society.

An advantage of the term 'governance is it implies that states are not the only actors in determining migration policies. Yet term "governance" does not have a universally accepted definition; often it depends on the context in which it is used. The Commission on Global Governance, defined governance as "the sum of the many ways individuals and institutions, public and private, manage their common affairs. It is a continuing process through which conflicting or diverse interests may be accommodated and cooperative action taken." (Commission on Global Governance 1995: 4). The Report of the Global Commission on International Migration (GCIM) states that "in the domain of international migration, governance assumes a variety of forms, including the migration policies and programmes of individual countries, interstate discussions and agreements, multilateral fora and consultative processes, the activities of international organizations, as well as laws and norms." (GCIM 2005: 65).

The confusion about the term 'governance' is clear in a research report by Hanson on governance of migration policy for the UNDP 2009 Human Development Report (Hanson 2009). The author never defines the term which is used only in the title, and report consists of justifying immigration barriers and controls on migrant workers in destination countries.

While not easily defined and dependent on the context, I shall use the term "migration governance" in the context of the present discussion.

Labour migration policies consist of two components: a) emigration policy relating to national workers migrating for employment; and b) immigration policy relating to foreign workers who come into the country for employment. Most developing Asian countries give priority to foreign or overseas employment policies, related institutions, and remittances, and are hardly concerned about immigration policy. By using terms such as foreign employment or overseas employment, they rule out the other aspect of migration policy – that concerning foreign workers inside the country or immigration policies. In this discussion, I shall first highlight the main features of emigration or foreign employment policies and later take up the issue of immigration policy.

4.1 Emigration policies

Recent policies and legislation in the subregion were introduced following the large labour flows triggered by the Gulf oil boom and consequent demand in the early 1970s. However it took about a decade or more for countries to get their acts together. In most countries the existing legislation were framed after repealing the colonial legacy – the 1922 Emigration Act. The objectives of the new legislation introduced at the time were mainly focused on facilitating outflows of workers, regulating recruitment agencies and also protecting workers, especially those considered to be vulnerable (Abrar 2005). The latter were identified to be low skilled workers and women workers migrating for low skilled occupations, as seen from the Indian policy of emigration clearance requirements for such workers or destinations with serious protection problems. The focus was also on regulation and control of private recruitment agencies which had mushroomed in the wake of the high demand for labour from the Middle East.

The focus of recent policies and legislation has also been mainly on emigration of nationals for foreign employment. This is also made clear by the fact that responsible ministries cover only foreign employment and diaspora communities. Several examples are: Sri Lanka - Ministry of Foreign Employment Promotion and Welfare; Bangladesh - Ministry of Expatriate Welfare and Overseas Employment; India - Ministry of Overseas Indian Affairs; and, Pakistan - Bureau of Emigration and Overseas Employment.

Table 8 summarizes the administrative and legislative framework in regard to overseas employment in South Asia.

The institutional framework for overseas employment administration also varies among countries. Following the Philippines model, Sri Lanka established a central bureau for handling all overseas employment functions – the Sri Lanka Bureau of Foreign Employment. In other countries, there are no dedicated agencies although the Overseas Pakistanis Foundation in Pakistan and the newly established Foreign Employment Promotion Board in Nepal carry out limited functions within the overall jurisdiction of the ministries of labour.

Table 8: Emigration policy and legislative frameworks in South Asia

	Emigration (based on ILO sources)	
Country (1)	Responsible agency (2)	Relevant legislation/Regulations (3)
Afghanistan	Ministry of Labour, Social Affairs, Martyrs and Disabled (MoLSAMD	Labour Code of Afghanistan; Regulation for sending Afghan workers to abroad
		(Directorate of rights and labour law, 2005)
Bangladesh	Ministry of expatriate welfare & Overseas Employment	Emigration Ordinance, 1982 (No. 29 of 1982)
India	Protectorate of Emigrants: Ministry of Indians Overseas	The Emigration Act, 1983.
Nepal	Ministry of Labour and Transport Management	Foreign Employment Act, 2007 (Act No. 26 of the year 2042) (Replacing Foreign Employment Act of 1985)
Pakistan	Bureau of Emigration & Overseas Employment	Emigration Ordinance, No. 18 of 1979 (updated 2004)
		(amended 1994 and 2009)

A major objective of national policy in most countries is expansion of overseas employment. For instance, Pakistan's new migration policy is titled *"National Emigration Policy: **Promoting** Regular Emigration and Protecting Emigrants"*. Several of the 15 priority areas identified in the policy document focus on promotion (Government of Pakistan 2009). The responsible ministry in Sri Lanka is the Ministry is **Foreign Employment Promotion** and Welfare. Under the new Foreign Employment Act, Nepal has established a **Foreign Employment Promotion Board**. Therefore, origin countries in Asia are generally confronted with the dilemma between "promotion" and "protection". As I had highlighted in 2002, given bleak employment prospects at home and the economic gains from foreign exchange remittances, countries would like to see expansion in overseas migration of national workers. At the same time, they cannot turn a blind eye to the rampant abuses of basic human rights suffered by their nationals abroad (Wickramasekara 2002). Most South Asian governments also like to see promotion of overseas employment as a safety valve for domestic unemployment and a major source of foreign exchange through remittances. Thus, they may not like to over-regulate the recruitment industry to prevent abuses. The promotion drives also result in greater protection challenges, especially when workers are abroad. Sri Lanka National labour Migration Policy recognized this dilemma: "Thus, the delicate balance between the promotion of foreign employment and the protection of national workers abroad is a continuous challenge." (MFEPW 2008). The Pakistan National Emigration Policy seems to place more emphasis on promotion than on protection, judging by its rather positive analysis of labour markets in Gulf countries where serious rights violations are commonplace.

Asian source countries are using a number of mechanisms to protect their workers abroad with varying effectiveness. Table 9 attempts a summary of such measures. Bilateral MOUs are a good practice although one cannot assume they will be highly effective in preventing exploitation at the workplace. This is because agreements are loose frameworks signed between governments which are not enforceable in thousands of workplaces operated by private employers, for instance in the Gulf countries. But they do provide a means of intervention when serious developments take place, and may in the final analysis satisfy the criterion of 'something is better than nothing'.

Table 9: Protecting migrant workers abroad: mechanisms adopted in South Asia

Country/ Measure/s	Bangladesh	India	Nepal	Pakistan	Sri Lanka
Pre-departure training	X	X (Kerala)	X		X
Regulation of private recruitment agencies	X	X	X	X	X
Bilateral MOUs on labour migration	X	X	X	X	X
Model employment contracts					X
Labour attaches & consular functions	X	X	X	X	X
Unilateral imposition of minimum wages		X			X
Trade union networking			X		X
Ratification of Conventions					X (1996) ICMW
Welfare Funds	X	X	X (since 2007)	X	X
Insurance scheme	X	Information not available	X	Information not available	X
Restrictions	Occasionally for women migration	X – for low skilled categories (ECR); Women below 30 years for domestic work.		Women- age criterion	Considered banning of women with children below five years, but withdrew the proposal later.

X – Measures are in place. Source: Information collected by ILO; International Labour Migration Survey 2003, ILO, Geneva.

I shall briefly discuss selected measures below.

Minimum wages

These can be more effective when adopted by destination countries in their labour legislation and regulations. However, very few destination countries of South Asian migrant workers adopt minimum wages for migrant workers. In this context, source countries can take unilateral action to fix minimum wages for workers going abroad. In 2007 Philippines and Indonesia fixed the minimum wage for housemaids at $400 which was resented by destination countries such as Malaysia, the GCC countries including Saudi Arabia and Singapore. Sri Lanka also raised minimums wages for housemaids from DH 600 to Dh. 825 from 1 January 2008 for UAE.[7] India also has been pushing for higher minimum wages for its workers in the Gulf (Surk Barbara and Sebastian Abbotarch 2009).

While origin countries can impose a minimum wage for their workers, what is not clear is how they can enforce it in destination countries. It is more effective if MoUs contain minimum wage provisions, but none of the MOUS reviewed had this provision.

---

[7] http://www.thecolombotimes.com/2007/12/sri-lankan-house-maids-to-get-pay-hike.html

Model employment contracts are another form of protection. Some governments have developed model employment contracts that cover minimum labour standards, such as job description, remuneration, working hours and holidays, transportation, compensation for injuries, emergency medical care, and dispute settlement procedures. Private employment agencies should be required to use these model employment contracts as benchmarks and keep records of all issued contracts.

Sri Lanka has adopted a model employment contract for some time following the example of the Philippines. Again the issue is how to enforce these when workers are abroad, and where contract substitution may be common for low skilled workers. An exception is Jordan where a model contract for domestic workers has been developed by the government. Abrar (2005) has argued for 'regional collaboration in devising a model contract with inputs from the government and civil society organizations,' incorporating provisions such as a minimum wage.

Female migration: ambivalent policies

For a number of countries, a major protection issue has been the protection of female domestic workers whose conditions are akin to slavery confined to households as mentioned earlier. Despite many studies and advocacy by various organizations and civil society, the problem continues. The 2008 ILO Regional Symposium in Dhaka on highlighted the problem experienced by women migrant workers in general and argued for a gender sensitive migration management policy (ILO 2008b). It recommended a package of measures: protection and fair treatment of women migrants; lifting the restriction for women migrants; recognition of their economic contribution, especially domestic work; and, gender sensitive data collection; preventing of, and protection against, abuse and exploitation in destination countries: consular facilities to address their needs; and support for the welfare of families left behind – especially children. In 2007, India banned the emigration for women less than 30 years of age going abroad to work as domestic help and caregivers based on a recommendation by the National Commission for Women (Khadria 2009: 81). An NGO report comments on Indian policy on female migration stated as follows: "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" (CEC and MFA 2009).

The SAARC-BATU study expresses a similar view (Abrar 2005): "Instead of enacting laws that restrict the movement of women, adequate information should be made available so that they can make an informed choice."

The Nepal Foreign Employment Law of 2007 - developed with the support of UNIFEM, an agency with limited experience in labour and migration legislation – also attempted to provide a high level of protection to migrating women workers who nevertheless constitute less than five per cent of total migrants in Nepal. However, the strict provisions of the new Act on 'safe migration' for women may actually discourage recruitment agencies from promoting women migration.

In the case of domestic workers, the International labour conference of 2010 has placed 'Decent work for domestic workers' on its agenda with a view to developing an international instrument (ILO 2009b).

4.2 Immigration policies

Most South Asian countries have no clearly defined or coherent policies on immigration of foreign workers since the focus has been on emigration of nationals overseas. Several agencies may decide on policies with limited coordination. Some of the immigration laws in the sub region still seem to rely on outdated legislation derived from colonial laws.

Both India and Pakistan have substantial populations of immigrant origin, but they do not consider themselves as immigration countries.

The responsibility for immigration may range from Ministries of Home Affairs, Foreign Affairs, Justice, Interior, or Immigration Bureaus and Departments. For instance in Sri Lanka, the Department of Immigration under the Ministry of Foreign Affairs is responsible for immigration matters. The Home Ministry looks after the issue in India. Table 10 provides available information on institutional and legislative framework relating to migration.

Given the focus of the paper on labour migration, I shall review admission policies for employment of foreign workers. In short three objectives can be identified :

- Regulate and control the inflow of low skilled/semi-skilled workers and protect national workers in the local labour market

- Regulate and attract skilled workers, often as part of foreign direct investment programmes

- Prevent irregular migration and combat trafficking in persons and smuggling of human beings.

It is a common trend in developing countries to discriminate against the admission of low skilled workers given the large low skilled population at home, and high unemployment rates. Very few developing countries permit the admission of low skilled foreign workers except under special schemes.

It is in the case of foreign investment that countries make concessions on admission of foreign workers – for managerial and high skills and technical grades not available at home. In general foreigners need work permits for employment. Ministries of Labour or the Board of Investment may be involved in work permit issues. Labour Laws and investment promotion laws supplement immigration laws in such cases.

All developing countries want to attract foreign direct investment, and may create special incentives in the form of free trade or special economic zones. Special Boards of Investment are responsible for foreign direct investment schemes and work visas for managers, professionals and technicians. As of May 2009, there were 3,898 foreigners workers for Board of Investment approved projects in Sri Lanka (IPS 2009). Another category of admissions concern business visas for short or long periods with minimum defined investments. There are also residence visa schemes for investors and those contributing to local development. The Resident Guest Scheme in Sri Lanka and Pakistan are examples.

In general, national labour laws generally apply to these admitted regularly. Skilled workers get more rights including family unification.

Table 10: Immigration policies: Legislative and regulatory framework

Country	Responsible agency (2)	Legislation/Regulations (3) (ILO Sources)
Bangladesh	Immigration, Bangladesh Police Board of Investment (work visa9	Foreigners' Act 1946
India	Ministry of Home Affairs Bureau of Immigration	Foreigners' Act 1946 The Passports (Entry into India) Act, 1967
Nepal	Department of Immigration Ministry of Home	Immigration Act, 1992 Immigration Rules 1994 Immigration (First Amendment Act, 2001
Pakistan	Directorate General of Immigration & Passport Ministry of Interior Board of Investment for work/business visa	Registration of Foreigners Rules, 1966
Sri Lanka	Control of Immigration and Emigration Board of Investment	Immigrants and Emigrants Act, 1980

Source: compiled by the author drawing upon country sources

There are several reasons for lack of coherent immigration policies in the subregion, which are common to other Asian countries as well.

- Most movements are informal or irregular in character including forced labour movements such as from Myanmar and Afghanistan to neighbouring countries. There is concern that a clear policy defining rights of migrants may encourage further immigration, and also increase security concerns.

- Inflows in a given year are relatively minor compared to outflows for some countries; Afghanistan, Bangladesh, Nepal and Sri Lanka. Therefore policy focus is on remittances and promotion of overseas employment.

- Local economic conditions determine liberalisation of admission policies. The 1997-98 Asian financial crisis is one example where even economic recovery was not associated with a return to previous levels of immigration.

- There is also lack of coordination among relevant agencies dealing with labour, foreign affairs, immigration, police, and development which prevent the formulation of coherent policies.

- The public and media are more concerned with welfare of national workers, and politicians and bureaucrats are under pressure from these sources. Therefore, foreign workers issues do not come under the limelight.

- The understaffed administrative structures have poor capacity to protect national workers overseas, and this may result in low priority to issues of incoming foreign workers.

Box 2 shows the profile of immigration policies in Sri Lanka as a typical example in south Asia.

All ccountries lack capacity to monitor inflows, stay or working conditions of immigrants. For instance, the Bangladesh Board of Investment reported that 100,000 foreigners were working in Bangladesh but only 10,000 had obtained permits (Workpermit.com 2007a). Small countries are particularly sensitive to presence of foreign workers. It also shows a contradiction when they themselves have large numbers of nationals overseas. For instance, Afghanistan has more than 3 million refugees in Pakistan. Yet a few years back Afghan authorities were highly concerned about the presence of Pakistani workers in Kabul – one estimate put it at 50,000. The government set about enacting a law regulating the entry of foreign workers.[8] Similarly while Nepal has more than one million workers in India; yet there are informal expressions of concern by Nepali persons on the presence of a large number of Indian workers, especially in Kathmandu. Sri Lanka likewise believes that there are some workers from India and other countries in irregular status in Sri Lanka who are working and overstaying their visas.[9]

Another common issue is that of double standards of protection for national workers overseas and foreign workers inside. Immigrant women and children are particularly vulnerable. There are few pathways to citizenship or naturalisation for foreign workers in south Asian countries irrespective of the length of the stay in most countries.

Box 2: Sri Lanka – immigration

- Foreign workers covered by Immigrants Act and responsibility of Department of Immigration under Ministry of Foreign Affairs; there were 3,898 foreign workers in BOI projects in May 2009.

- Skilled foreign workers admitted under Board of Investment (Special Economic Zones) and non-BOI projects,
  - From Japan, Malaysia, Republic of Korea, India, Pakistan, Bangladesh and China.

- Department of Immigration issues residence visas on approval by the concerned agency.

- There are reports of workers in irregular status who enter the country as tourists and opt to work for some companies, mostly foreign-owned (Indian, etc), and a small number of trafficked persons (mostly women) as sex workers.

- Sri Lanka ratified the International Convention on the Protection of the Rights of All Migrant Workers and their Families in 1996, with some restrictions on foreign worker employment, but has not modified national laws accordingly.

India as an immigration country

India is a very interesting case as the largest country in the subregion with the largest immigrant population. Migrants consist of those in regular and irregular status as well as those in transit either to Pakistan or beyond. As noted above, Nepal has a treaty on free movement of persons and labour with India, and it is estimated that labour one million Nepalis may be in India. Most of them are in low skilled occupations such as domestic work, watchman duties, or catering work. One MOIA official described the Indian situation as follows:

"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

---

[8] Information based on UNHCR and ILO sources.

[9] Based on discussion with the Department of Emigration and Immigration, Colombo.

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" (cited in: CEC and MFA 2009: 36).

All these highlight the need for clear immigration policies and programmes for protection of national workers abroad and foreign workers inside India. The MOIA is taking steps to develop a national migration policy. A high level team coordinated by the Centre for Development Studies, Trivandrum, have made a series of recommendations for the new policy to be considered by the government (CDS 2009). Its recommendation to develop the policy as an inclusive policy on international migration covering both Indian migrant workers, and foreign workers in India is to be welcomed. It also proposes full deregulation, and facilitation and migration by choice – which is not possible now with the Emigration Clearance Required passport holders.

It is of course, premature to discuss the appropriateness of these proposals since there is no information whether the MOIA is considering them for serious adoption. Nonetheless, one area of concern from a rights based approach is the proposed deregulation measures, and lack of any reference to international norms including the Multilateral framework on Labour Migration (ILO 2006a) which should guide labour migration policies.

5. Role of international instruments and some good practices

5.1 Role of international instruments in improving migration policy and practice in Asia

There is growing consensus on the role of international instruments on migrant workers as a solid foundation for migration policies and practice in South Asia. Box 3 highlights recent forums where the importance of these Conventions was raised.

Box 3: Relevance of International Conventions on Migrant Workers

- ILO 2007. Trade Union Declaration on the Rights of Migrant Workers from South Asia. The ILO-NTUC Sub-regional Workshop for the Protection of Migrant Workers through Networking Trade Unions, Kathmandu, Nepal on 26-28 September 2007, International Labour Office.

    The participants of the Workshop strongly believe that the management of outmigration should be rooted in a rights-based approach, by ratifying and implementing international instruments, such as ILO Conventions No. 97 on Migration for Employment (revised, 194) and Convention No. 143 on Migrant Workers (Supplementary Provisions, 1975) and the 1990 International Convention on the Rights of All Migrant Workers and Members of Their Families. The ILO Multilateral Framework on Labour Migration (2006), which contains a rights based approach to labour migration based on international conventions, is recommended for policy guidance.

- Regional symposium on deployment of workers overseas: A shared responsibility, Dhaka, Bangladesh, 15-16 July 2008, International Labour Office

    Countries in the region should develop labour migration policies and programmes that take into account the principles and guidelines contained in ILO's Multilateral Framework, including considering the ratification of ILO Conventions No. 97 and No. 143 and the International Convention on the Protection of All Migrant works and members of their Families (1990).

- Towards a Holistic International Migration Policy: Recommendations from Civil Society, Centre for Education and Communication (CEC) and Migrant Forum in Asia (MFA).

    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 South Asia trade Union Declaration has made the strongest case for ratification of international instruments, while the CEC and MFA also have argued for a rights based approach. Sri Lanka is considering ratification of ILO Conventions on migrant workers (MFEPW 2008) while NGOs have carried out a vigorous campaign in Bangladesh for ratification of both the UN and ILO Conventions. Nepal is also considering ratification of ILO migrant worker Conventions once the remaining core conventions have been ratified[10]. However, both India and Pakistan – the most important countries in terms of migrant populations in the sub region – seem to be silent on this issue.

There is considerable emphasis on sharing of good practices at the international and regional levels, and the Global Forum on Migration and Development has been promoting good practices in the area of migration and development. It must however, be emphasised that sound migration policies cannot rely only on good practices. They need to be

---

[10] Information provided by the Kathmandu ILO Office.

strengthened by ratification of relevant international Conventions, and national law and practice must be brought in line with their principles and guidelines. In addition, there should be proper enforcement of laws and regulations.

5.2 How can the Multilateral Framework on Labour Migration be useful to countries in South Asia?

Given the situation of low ratification of international Conventions on migrant workers in South Asia, the non-binding Multilateral Framework on Labour Migration would prove to be a valuable resource in modifying and improving national law and practice on labour migration (ILO 2006a). It has now been translated into Sri Lankan languages (Sinhala and Tamil), Bengali, and Nepalese. Governments, social partners, civil society, and other international agencies can make use of the Framework for a number of purposes as listed below.

- As a checklist on assessment of existing legislation, policies & practices

- In designing or improving migration legislation, policies and migration legislation – as a ready reference source

- In negotiating agreements or MOUs on labour migration with destination countries

- For employers, on hiring workers and their proper treatment

- For the trade union movement and concerned NGOs, a resource to protect workers, and lobby with the government on migrant rights

- In developing a sub regional declaration at SAARC level

- In training relevant stakeholders including migrant workers

- Migrant workers to learn and campaign about their rights

- Once principles and guidelines contained in the Framework are accepted in national law and practice, they can become binding.

5.3 Some good practices

This section briefly reviews some good practices relevant to the subregion.

5.3.1 Sri Lanka national migration policy

The serious challenges of governance of labour migration and protection of migrant workers faced by Sri Lanka provided the backdrop of the elaboration of a national strategy and policy. The National Policy for Decent Work in Sri Lanka highlighted the vulnerability of workers who migrate under risky and unsafe conditions is a major issue despite all safeguards introduced. The Ministry of Foreign Employment Promotion and Welfare (MFEPW) therefore, sought the assistance of the ILO in developing a national policy on labour migration within the framework of the national development strategy and in line with international normative frameworks such as the ratified 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, ILO Conventions on migrant workers, and the 2006 ILO Multilateral Framework on Labour Migration.

A road map was developed on the formulation of the National Policy which focussed on three key areas: good governance of labour migration, protection and empowerment of migrant workers and their families, and linking migration and development processes. A four-pronged process was then adopted: establishment of three thematic tripartite plus

working groups based on the above focus areas; setting up of a National Tripartite Steering Committee, chaired by the Minister of the MFEPW and comprising relevant government ministries and agencies; and development of a draft National Labour Migration Policy; and validation of the draft policy at a national consultation involving all concerned stakeholders.

The Policy was officially launched by the MFEPW on 24 February 2009, and was adopted by the Sri Lankan Cabinet on 30 April 2009 (MFEPW 2008). The Ministry is implementing of the related Action Plan with a follow up project for the MFEPW.

An Advisory Council on foreign employment has been set up consisting of key ministry representatives and tripartite plus partners to improve coordination and policy coherence.

5.3.2 ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers

In January 2007, the Association of South East Asian Nations (ASEAN) – the regional grouping in South East Asia - adopted s declaration on promotion and protection of the rights of migrant workers in ASEAN. Box 4 explains the main features. It identified contributions of migrant workers to both origin and destination countries, and obligation of both groups of countries in protecting their rights. What is also important is ASEAN commitment to *"Promote decent, humane, productive, dignified and remunerative employment for migrant workers"*.

Box 4: ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers

At the 12th ASEAN summit in Cebu, Philippines in January 2007 the ASEAN Heads of State adopted the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers. The ASEAN Declaration calls on origin and destination countries to promote the full potential and dignity of migrant workers; cooperate to resolve cases of migrant workers who become undocumented due to no fault of their own; and take into account the fundamental rights of migrant workers and their families already residing in the destination country. It also outlines a number of obligations of destination and origin countries.

The distinctive features of the Declaration are as follows:

- Emphasis on protection and promotion of rights

- Recognizes obligations on sending states, receiving states and ASEAN

- Recognizes the contributions of migrant workers to the society and economy of both receiving states and sending states

- Urges intensifying efforts to protect the fundamental human rights, promote the welfare and uphold human dignity of migrant workers

- ASEAN: Promote decent, humane, productive, dignified and renumerative employment for migrant workers

- Proposes developing an ASEAN instrument on the protection and promotion of the rights of migrant workers. The ILO Multilateral Framework on labour migration can serve as a model.
  http://www.aseansec.org/19265.htm

This is a good practice which can serve as a model for SAARC for a similar Declaration on migrant workers within the sub region.

5.3.3 Model bilateral agreements between trade unions in Sri Lanka and trade unions of Bahrain, Jordan and Kuwait for the protection of Sri Lankan migrant workers.

Given the significant gaps in protection of migrant workers in Gulf States, it is important to establish partnerships among trade unions, civil society and other non-state actors. The International trade Union Confederation with the support of the ILO developed a model bilateral agreement to be negotiated between trade unions of source and destination countries. In May 2009, a concrete achievement was the signing of model bilateral agreements between three Sri Lankan trade unions and their counterpart unions from Bahrain, Jordan and Kuwait. The agreements follow a rights based approach, and undertake to protect Sri Lankan migrant workers in the three countries through union action aimed at granting Sri Lanka migrant workers "the full panoply of labour rights included in internationally-recognized standards".[11] This practice is fully consistent with Guideline 2.6 of the ILO Multilateral Framework on Labour Migration: "promoting bilateral and multilateral agreements between workers' organizations in origin and destination countries' (ILO 2006a). As part of the follow up process Sri Lankan unions will be visiting the three countries to get first hand information and have consultation with their counterpart unions.

---

[11] See the entry in the ILO online Good Practice Database, *Bilateral trade union agreements on migrant workers' rights between Sri Lanka and Bahrain, Kuwait and Jordan*
http://www.ilo.org/dyn/migpractice/migmain.showPractice?p_lang=en&p_practice_id=32

6. Conclusions

The above review has shown that credible migration policies are still a long way off in South Asia. Most policies are adopted on an ad hoc basis with no longer term vision or strategy.

Watkins and Nurick made a perceptive analysis in 2002 about south Asian migration policies (Watkins and Nurick 2002): "*Government policy, which aims to control migration flows, generally has the effect of making migration more hazardous for individual migrants, and; Policy-making is usually reactive, responding to changes and crises, rather than anticipating them.*"

It is quite important to move away from the narrow goal of 'safe migration', which has come out of the trafficking discourse, and has limited relevance to broader labour migration policies. The policies should address the broader objectives of governance, protection and development. Watkins and Nurick (2002) had also put forward the need for a broader policy approach:

> "*Policy should, therefore, move away from a narrow focus on specific 'problems', such as trafficking, to take a wider perspective on migration as a whole. A better understanding of the reasons for and impacts of migration, can help in developing policy that is effective in supporting and protecting all types of migrants.*"

Credible migration policy frameworks in the subregion should be based on several principles and criteria: policy coherence and coordination, consistency with international norms and good practice, transparency, social dialogue, gender sensitivity, and good information.

As shown above, the normative framework is virtually absent in national migration policy frameworks with only Sri Lanka having ratified one of the international migrant worker Conventions. Transparent policies with full respect for rights and equal treatment of both national and foreign workers in line with international norms (as summed up in the ILO Multilateral Framework on Labour Migration) and with due consideration to gender specific concerns need to be developed. The national laws also have to be modified in line with international norms, and legislation should be enforced. As the country with the largest immigrant population, India has to set an example in this respect. It however, seems unlikely that the new Emigration Act of India will follow a rights based approach with its emphasis on deregulation.

Another key principle is the need to move away from 'emigration' or 'foreign employment' policies, and have an inclusive and transparent migration policy which ensures equal protection for both national and foreign workers in line with international norms. The ILO Multilateral Framework on labour Migration can be a valuable resource in this respect. India and Pakistan have to take the lead in this respect given their status both emigration and immigration countries.

The policies should also recognise that migration is basically a labour market and decent work issue, and therefore be based on proper assessment of short term and long term labour market demand for migrant workers. It was shown above that migration is being viewed as a national security issue by some countries with important consequences for the immigrant populations. The regional integration framework (SAARC) should be deepened to promote freer mobility of persons & labour along with further liberalisation of trade and investment flows. The policy also needs to accept that some long term migrants need policies for settlement and integration. All these need to be underpinned by better data and information to facilitate evidence based policies.

Social partners and civil society up to now have had limited influence on national policies. The movement towards tripartite plus advisory bodies which can act as consultative forums needs to be promoted. The private recruitment industry also needs to be engaged in these processes to ensure good governance and accountability.

The increasing emphasis on promoting migration and development linkages, particularly through remittances and diaspora policies is a step in the right direction.

Migration policies which always involve more than one nation should be based on interstate cooperation and dialogue. It should also involve broad based social dialogue involving employers, workers and civil society, all stakeholders. It is important for SAARC to take some lead role in regard to migration issues – within the sub region and outside. This is because about half of South Asian international migrants are within the SAARC region itself. Therefore, common approaches are needed in dealing within labour mobility within SAARC and with destination countries. An ASEAN type Declaration on promotion and protection of the rights of migrant workers in the SAARC region would be a good step in the right direction. While results up to now have been rather limited, the dialogue and cooperation with major destination countries in the Gulf and Asia should continue to ensure a better deal for South Asian migrant workers.

At the same time, it should be emphasized that labour migration is not a solution to problems of poverty and lack of development at home. Sound development policies would serve to create decent work opportunities at home, thereby facilitating migration by choice, and not by need in the long run, as highlighted by the Global Commission on International Migration.

References

Abella, M. (2008). *Emerging Issues in Governance of Labour Migration in Asia Pacific.* United Nations Expert Group Meeting on International Migration and Development in Asia and the Pacific, 20-21 September 2008, Bangkok, Thailand.

Abrar, C. R. (2005). *Study on labour migration from SAARC countries: reality and dynamics*, A study commissioned by BATU-SAARC, Refugee and Migratory Movement Research Unit, University of Dhaka, December 2005.

Abu Dhabi Dialogue (2008). *Contractual Labour Mobility in Asia: Key Partnerships for Development between Countries of Origin and Destination, Abu Dhabi Declaration of Asian Countries of Origin and Destination,* Ministerial Consultation on Overseas Employment and Contractual Labour for Countries of Origin and Destination in Asia, Abu Dhabi, 21-22 January.

ADB (2003). *Combating trafficking of women and children in South Asia.* Regional synthesis paper for Bangladesh, India and Nepal, Asian Development Bank, Manila, April 2003.

Adhikari, J. (2009a). *Foreign Labour Migration and Remittance Economy of Nepal: Impact on Poverty and Human Development*. International Conference on Migration, Remittances & Development Nexus in South Asia*, 4 - 5 May, 2009.* Organized by Institute of Policy Studies of Sri Lanka and Friedrich Ebert Stiftung, Colombo

Arif, G. M. (2008). *Recruitment of Pakistani workers for overseas employment: Mechanisms, exploitation and vulnerabilities*, Study prepared for the ILO, Geneva, February 2008.

Bal Kumar, K. C. (2003). *Migration, poverty and development in Nepal*. Ad Hoc Expert Group Meeting on Migration and Development, 27-29 August, 2003, Economic and Social Commission for Asia and The Pacific, Bangkok.

CDS (2009). *Policy on International Migration Reforms in India: Summary of Policy Recommendations*, Centre for Development Studies, Trivandrum.

CEC and MFA (2009). *Towards a Holistic International Migration Policy: Recommendations from Civil Society, Centre for Education and Communication (CEC) and Migrant Forum in Asia (MFA) India***, Yamini Atmavilas, New Delhi, May 2009.

Commission on Global Governance (1995). *Our Global Neighborhood: The report of the Commission on Global Governance*, Oxford: Oxford University Press.

Del Rosario, T. (2008). *Best Practices in Social Insurance for Migrant Workers. The Case of Sri Lanka.* Bangkok, ILO Asian Regional Program on Governance of International Labor Migration. WP 12. March 2008.

GCIM (2005). *Migration in an Interconnected World: New Directions for Action*. Geneva, Report of the Global Commission on International Migration

Gencianos, G. (2005). *GATS Mode 4: Critical Observations from the Gender and Rights-based Perspective Public Services International.* Presentation made at the the Public Panel Discussion on GATS-Mode 4 sponsored by Friedrich Ebert Stiftung (FES), Parallel NGO Consultations, 6th WTO Ministerial Conference in Hong Kong, SAR, 13-18 December 2005.

Government of India (2001). *Report of the High Level Committee on the Indian Diaspora*. New Delhi, Ministry of External Affairs, Non-Resident Indian and Persons of Indian Origin Division, Government of India, Dec. 2001.

Government of Pakistan (2009). *National Emigration Policy: Promoting Regular Emigration and Protecting Emigrants*. Islamabad, Policy Planning Cell, Labour and Manpower Division, Ministry of Labour and Manpower.

Hanson, G. H. (2009). *The Governance of Migration Policy*. Human Development Reports, Research Paper 2009/2. New York, United Nations Development Programme, April 2009.

Human Rights Watch (2004). "*Bad Dreams: Exploitation and Abuse of Migrant Workers in Saudi Arabia*", Human Rights Watch July 2004 Vol. 16, No. 5(E)

Human Rights Watch (2006). *Building Towers, Cheating Workers: Exploitation of Migrant Construction Workers in the United Arab Emirates*, Human Rights Watch, New York.

Human Rights Watch (2008). "*As If I Am Not Human*": Abuses against Asian Domestic Workers in Saudi Arabia, Human Rights Watch, New York, July 2008

http://www.hrw.org/en/reports/2008/07/07/if-i-am-not-human

ILO-ARTEP (1993). Summary of Proceedings. ILO Sub-Regional seminar on migrant remittances and economic development in South Asia held during 3-5 1993, August in Colombo.

ILO (2002). *Managing foreign employment in Nepal: issues, challenges and strategies*, Advisory report of the ILO-DFID mission to Nepal on migration, 19-27 September 2002, International Migration Programme, Geneva, December 2002.

ILO (2003). Summary of conclusions, Report of the Regional Tripartite Meeting on Challenges to Labour Migration Policy and Management in Asia, 30 June-2 July, Bangkok.

ILO (2006a). *The ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration*. Geneva, International Labour Office

http://www.ilo.org/public/english/protection/migrant/download/multilat_fwk_en.pdf

ILO (2006b). "*Dispelling the migrant myth*", Special issue on Bringing decent work into focus, in "*World of Work Magazine No. 57,* September 2006, p.23.

ILO (2007). Trade Union Declaration on the Rights of Migrant Workers from South Asia. The ILO-NTUC Subregional Workshop for the Protection of Migrant Workers through Networking Trade Unions, Kathmandu, Nepal on 26-28 September 2007, International Labour Office.

ILO (2008a). *Gulf Forum on Temporary Contractual Labour: Recommendations*, Abu Dhabi, January 23- 24, 2008.

ILO (2008b). Summary and directions for action. Regional symposium on deployment of workers overseas: A shared responsibility, Dhaka, Bangladesh, 15-16 July 2008, International Labour Office.

ILO (2008c). Improved migration infrastructure needed to better protect soaring South Asian labour migrants, Regional symposium on deployment of workers overseas: A shared responsibility, Dhaka, Bangladesh, 15-16 July 2008, Press Release by the International Labour Office dated 14 July 2008

http://www.ilo.org/asia/info/public/pr/lang--en/WCMS_098049/index.htm

ILO (2009a). *Decent work for domestic workers. Report IV(1), International Labour Conference, 99th Session, 2010*, International Labour Office

http://www.ilo.org/public/english/protection/condtrav/pdf/dw_eng.pdf

ILO (2009b). Decent work for domestic workers: Law and Practice Report IV (1): A Powerpoint presentation, International Labour Office

http://www.ilo.org/public/english/protection/condtrav/pdf/dw_ppt_eng.pdf

IOM (2008). World Migration 2008. Geneva, International Organization of Migration.

IPS (2009). International Migration Outlook: Sri Lanka. Colombo, Institute of Policy Studies, and the International organization for Migration.

Iredale, R. and N. Piper (2003). Identification of the Obstacles to the Signing and Ratification of the UN Convention on the Protection of the Rights of All Migrant Workers: The Asia-Pacific Perspective. Paris, UNESCO, October 2003.

Iredale, R., N. Piper, et al. (2005). Impact of ratifying the 1990 UN convention on the rights of all migrant workers and members of their family : case studies of the Philippines and Sri Lanka. Working paper series (Asia-Pacific Migration Research Network) no. 15. Canberra, Asia Pacific Migration Research Network: 55 p.

Irudaya Rajan, S., V. J. Varghese, et al. (2008). Overseas Recruitment Practices In India. Regional symposium on deployment of workers overseas: A shared responsibility, Dhaka, Bangladesh, 15-16 July 2008, International Labour Office

Irudaya Rajan, S. (2009). Migration and development: The Indian Experience. International Conference on Migration, Remittances & Development Nexus in South Asia, 4-5 May, 2009, *Organized by Institute of Policy Studies of Sri Lanka and Friedrich Ebert Stiftung*. Colombo, Sri Lanka.

Khadria, B. (1999). The migration of knowledge workers : second-generation effects of India's brain drain. New Delhi, Sage Publications.

Khadria, B. (2002). Skilled Labour Migration from Developing Countries: Study on India, International Migration Papers No. 49, International Labour Office, Geneva.

Khatri, S. (2007). Labour Migration, Employment and Poverty Alleviation in South Asia: summary of the Proceedings Regional Seminar jointly organized by South Asia Centre for Policy Studies (SACEPS) And Friedrich Ebert Stiftung (FES), Kathmandu, Nepal, August 9-10, 2007.

Khadria, B., Ed. (2009). India Migration Report 2009: Past, Present and the Future Outlook, International Migration and Diaspora Studies Project, Zakir Husain Centre for Educational Studies, School of Social Sciences, Jawaharlal Nehru University, New Delhi, India.

Kumar, S. K. (2010). Policy on International Migration Reforms in India. Governance and labour migration: India Migration Report 2010. ed. By S. Irudaya Rajan. New Delhi, Routledge India,February 2010.

Lowell, B. L. (2002). Policy Responses to the International Mobility of Skilled Labour, International Migration Papers No. 45. Geneva, International Labour Office.

Lucas, R. E. B. (2008). Integrating migration issues into development planning. International Migration Papers No 93. Geneva, International Migration Programme, International Labour Office

http://www.ilo.org/public/english/protection/migrant/download/imp/imp93.pdf

Maimbo, S. M., R. Adams, et al. (2005). Migrant Labor Remittances In the South Asia Region. Policy Research Working Paper No.31577. Washington DC, World Bank, February 2005.

MEWOE (2006). Overseas Employment Policy. Dhaka, Notification Dated, 7 Kartik 1413/22 October 2006, Ministry of Expatriates' Welfare & Overseas Employment , Government of Bangladesh.

MFEPW (2008). National Labour Migration Policy for Sri Lanka. Colombo, Ministry of Foreign Employment Promotion and Welfare, Government of Sri Lanka, Colombo

   http://www.ilo.org/public/english/protection/migrant/download/mpolicy_srilanka_en.pdf

MOIA (2009). Annual report 2008-09, Ministry of Overseas Indian Affairs, Government of Inida, New Delhi

   http://www.moia.gov.in/writereaddata/pdf/Annual_Report_2008-09.pdf

Newland, K. (2005). The governance of international migration: mechanisms, processes and institutions," Paper prepared for the Policy Analysis and Research Programme of the Global Commission on International Migration, GCIM. Geneva. September 2005.

Newland, K. and E. Patrick (2004). Beyond Remittances: The Role of Diaspora in Poverty Reduction in their Countries of Origin, A Scoping Study A report for the Department of International Development, Washington DC, Migration Policy Institute.

NIDS (2008). *Nepal Migration Yearbook 2008*, Nepal Institute of Development Studies (NIDS), Kathmandu.

Niessen, J. (2005) "Migration governance and the Lisbon agenda " Challenge Europe - Issue 14 - Towards a European Area of Freedom, Security and Justice?

Naujoks, Daniel (2009), Emigration, Immigration, and Diaspora Relations in India, Migration Information Source, New York, October 2009.

Sharma , M. and H. Zaman (2009). Who migrates overseas and is it worth their while? An assessment of household survey data from Bangladesh. Policy Research Working Paper - WPS5018. Washington DC, The World Bank

   http://go.worldbank.org/GUUI74JDE0

SLBFE (2009). Annual Statistical Report on Foreign Employment 2008, Sri Lanka Bureau of Foreign Employment, Colombo.

   http://www.slbfe.lk/downloads/Annual%20Statistical%20Report%202008%20-%20SLBFE.pdf

Sobhan, F. (2009). The Need For A South Asia Migration Commission: Concept Paper, Regional Brain Storming Session on the Proposed South Asia Migration Commission, Colombo, Sri Lanka - 27 November 2009.

Surk Barbara and Sebastian Abbotarch (2009). India Steps up Pressure for Minimum Wage for Its Workers in The Gulf, . International Herald Tribune, Dubai , 27 March 2009.

United Nations (2005). Resolution adopted by the General Assembly: 60/1. 2005 World Summit Outcome. Millennium Summit 2005, 14-16 September 2005, A/RES/60/1, 24 October 2005

   http://www.un.org/summit2005/

United Nations (2006). International migration and development: Report of the Secretary-General. New York, Sixtieth session: Agenda item 54 (c)- Globalization and interdependence: international migration and development, A/60/871, United Nations.

Watkins, F. and R. Nurick (2002). Migration in South Asia in Policy and Practice: A Regional Overview, Report prepared for the UK Department for International Development, London, March 2002.

Wickramasekara, P. (2002). Asian Labour Migration: Issues and Challenges in an Era of Globalization, International Migration Papers No 57, Geneva, International Migration Programme, International Labour Office

http://www.ilo.org/public/english/protection/migrant/download/imp/imp57e.pdf

Wickramasekara, P. (2003). Policy responses to skilled migration: Retention, return and circulation, Perspectives on Labour Migration 5E,. Geneva, International Migration Programme, International Labour Office

http://www.ilo.org/public/english/protection/migrant/download/pom/pom5e.pdf

Wickramasekara, P. (2005). Rights of migrant workers in Asia: Any light at the end of the tunnel? Geneva, International Migration Programme, International Labour Office, International Migration Papers No. 75,

http://www.ilo.org/public/english/protection/migrant/download/imp/imp75e.pdf

Wickramasekara, P. (2006). Labour migration in Asia: Role of bilateral agreements and MOUs, Keynote presentation at the JIPLT workshop on International Migration and Labour Market in Asia, Tokyo, 17 February 2006

http://www.ilo.org/public/english/protection/migrant/download/keynotereport1_2006.pdf

Wickramasekara, P. (2008). Skilled labour mobility: the resurgence of the 'brain drain' debate. Development perspectives: Growth and equity in Sri Lanka - A Fetschrift in honour of Professor W.D. Lakshman, Edited by S.M.P. Senanayake, and Amala de Silva. Colombo, Department of Economics, University of Colombo, Sri Lanka**: 125-159.

Wickramasekara, P. (2009a). Diasporas and development: Perspectives on definitions and contributions Perspectives on Labour Migration 9 E, International Labour Offifce, Geneva

http://www.ilo.org/public/english/protection/migrant/download/pom/pom9e.pdf

Wickramasekara, P. (2009b). International Migration and Employment in The Post-Reforms Economy of Sri Lanka. Free Market Economic Regime and the Economic and Social Development of Sri Lanka, A Festschrift in Honour of Professor Buddhadasa Hewavitharana, Institute of Policy Studies, Sri Lanka, Colombo, 2009.

Workpermit.com (2007a) "Bangladesh imposes five-year limit on foreign work permits." Global immigration News, 23 October 2007.

Workpermit.com (2007b) "Time extended for illegal migrants to leave Dubai under "amnesty"." Global immigration News, 30 August 2007.

World Bank (2008). Migration and Remittances Factbook 2008 Washington, D.C., The World Bank.

http://go.worldbank.org/QGUCPJTOR0

World Bank (2010). Migration and Remittances Factbook 2011, Washington, D.C., The World Bank.

http://go.worldbank.org/QGUCPJTOR0