

**THE EXISTING INTERNATIONAL LEGAL FRAMEWORK
FOR THE PROTECTION OF MIGRANT WORKERS
FROM A MIGRANTS' PERSPECTIVE AND
THE PROGRAMME OF ACTION OF THE MIGRANT FORUM IN ASIA**

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**WILLIAM GOIS
REGIONAL COORDINATOR
MIGRANT FORUM ASIA**

INTRODUCTION

As we prepare for the UN High Level Discussion on ‘ Migration and Development’ scheduled to be held in September 2006, we recognize that the same happens in a series of global processes that have attempted to look at the multi-faceted and highly complex issue of migration today. The various processes have included inter-governmental institutions at the global and regional level, special agencies of the UN, setting up of the Global Commission on Migration, and other global initiatives supported by specific governments.

From a labour migrants’ perspective the key question at the end of the day will always be on what difference all the above has made in addressing the push and pull factors of labour migration, upheld the human dignity of the migrant worker, and facilitated the emergence of an environment that promotes and protects the rights of all migrant workers and members of their families.

This paper does not in any way claim to be exhaustive in looking at what exists in the international legal framework that protects the rights of migrant workers but focuses on some of the key experiences of the regional network, Migrant Forum Asia (MFA) in trying to ensure the same. It is hoped that in the process of discussion wherein this paper will be presented other possible areas and framework might be expounded upon in order to be able to develop a more comprehensive and integrated framework that would lead to the promotion and protection of the rights of all migrant workers and members of their families.

INTERNATIONAL LEGAL FRAMEWORKS

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

There are a number of international instruments and bodies which comprise the existing international legal framework for the protection of migrant workers. One instrument which has the potential to become a critical tool for protecting migrant workers is the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which came into effect in July 2003.

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families breaks new ground by extending protection for migrant workers and members of their families world-wide. It also goes beyond simply applying existing human rights legislation to a specific category of individuals.

The Convention identifies migrant workers and members of their families as vulnerable persons in a global situation who are in need of the protection of their human rights and are entitled to the enjoyment of such rights regardless of their status.

To date, it is the most comprehensive international instrument on migrant workers as it provides a set of international standards to address:

- (a) the treatment, welfare and rights of migrant workers and members of their families; and,
- (b) the obligations of States involved. (These include sending States, States of transit and host States, all of which benefit from the international migration of workers.)

The Convention also provides, for the first time, an international definition of migrant worker, one which recognizes both men and women as migrants. It also provides definitions of certain categories of migrant workers that are applicable to every region of the world.

Another important aspect of the Convention is its recognition of the migrant worker as more than a laborer or an economic entity, and upholds the rights and dignity of the migrant worker as a social entity with family members whose rights have to be protected, including that of family reunification.

The Convention emphasizes that all migrant workers, whether in a documented or undocumented situation, must be accorded fundamental human rights. It includes all migrant workers regardless of their legal status, but encourages their being in a documented or regular situation. It emphasizes that all workers and employers should respect and comply with the laws and procedures of the States concerned. The Convention also extends the concept of “equality of treatment” by calling for migrant

workers and members of their families who are non-nationals in States of employment to be treated equally to nationals in certain situations.

The Convention establishes minimum standards of protection in legal, political, economic, civil, social and cultural rights for migrant workers and members of their families which are universally acknowledged, while enabling States that desire so to provide additional protection in specific areas. Hence, it also seeks to address those States that lack national standards of human rights protection and encourages them to bring their legislation in closer harmony with universal standards set forth in the Convention. States retain their right to determine who is admitted to their countries and their terms of residency.

Overall, the Convention seeks to play a role in preventing and eliminating the exploitation of all migrant workers and members of their families throughout the entire migration process. In particular, it seeks to put an end to the illegal or clandestine recruitment and trafficking of migrant workers and to discourage the employment of migrant workers in an irregular or undocumented situation.

Finally, the Convention establishes mechanisms for its implementation which provide new opportunities for increased participation from the global community to protect the rights of migrant workers and their families, especially migrants and migrants' rights organizations, both NGOs and individuals (Article 77). It must be noted however that none of the ratifying states have declared recognition of the competence of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families to receive and consider communications from or on behalf of individuals.

One limitation of the Convention as a tool for migrant workers, however, is the limited extent of ratification. To date, only 34 States have ratified the Convention with 15 Signatories. 3 of the ratifying States are from the Asian region, and all 49 States are sending countries. The ratification table as it stands is a major area of concern from the human rights perspective given the increased mobility of people in a globalized economy where contractual labour and an informal economy are on the rise, calling for a stronger need to monitor that application and implementation of labour standards as laid out in the fundamental Conventions of the ILO.

The need for ratification has been identified, and research has been conducted to attempt to determine why host countries aren't ratifying the Convention (See Appendix 1). In addition, many migrants' groups and migrants' rights advocates are campaigning for universal ratification. Despite the limited ratifications, however, the Convention can still be used to pressure governments, as the instrument embodies the core principles of the Universal Declaration of Human Rights applicable to all States.

Committee on Migrant Workers

A treaty monitoring body was also established under the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Committee was elected on December 2003, six months after the entry into force by the

Convention. The Committee will examine the initial and periodic reports submitted by each State party. It will also consider in its deliberations comments and materials provided by the International Labour Office. The Committee will also, under certain circumstance, be able to consider individual complaints or communications from individuals claiming that their rights under the Convention have been violated.

The Committee Members are:

Name	Nationality	Term Expires
Francisco ALBA	Mexico	31.12.2007
José S. BRILLANTES	Philippines	31.12.2009
Francisco CARRION-MENA	Ecuador	31.12.2007
Ana Elizabeth CUBIAS MEDINA	El Salvador	31.12.2007
Anamaría DIEGUEZ ARÉVALO	Guatemala	31.12.2009
Ahmed Hassan EL-BORAI	Egypt	31.12.2007
Abdelhamid EL JAMRI	Morocco	31.12.2007
Prasad KARIYAWASAM	Sri Lanka	31.12.2009
Mehmet SEVIM	Turkey	31.12.2009
Azad TAGHIZADET	Azerbaijan	31.12.2009

In December 2005, the Committee held a Day of General Discussion on “Protecting the rights of all migrant workers as a tool to enhance development”. The topic was chosen to enable the Committee to make a contribution to the UN High Level Dialogue of the General Assembly in 2006 on the relationship between international migration and development (A/RES/58/208) and highlight the human rights approach in this respect.

Government representatives, UN bodies and specialized agencies, intergovernmental agencies, non-governmental organizations and individual experts participated in the discussion. While the Committee can only accept complaints from member States that have ratified the Convention (there is also a clause whereby individual complaints may be accepted if a ratifying State certifies that it agrees to accept such complaint), it has also adopted a practice of inviting NGOs to submit comments and reports. As such, the Committee is a space where NGOs can provide their inputs to the Committee, and is an important tool for migrants’ advocates in the international legal framework. MFA as a network, for example, was able to mobilize for its own contribution to the Committee.

International Labour Organization (ILO) Convention Nos. 97 and 143

In addition to the Migrant Workers’ Convention, there are additional conventions promulgated by the ILO which provide protections for migrant workers, although these are more limited than those enshrined in the Migrant Workers’ Convention. Two main ILO Conventions and Recommendations provide specific protection to migrant workers:

- Migration for Employment Convention (Revised) (No.97) and Recommendation (Revised) (No.86), 1949;

- Migrant Workers (Supplementary Provisions) Convention (No.143) and the Migrant Workers Recommendation (No.151), 1975.

The purpose of these instruments is to regulate the conditions in which the migration process takes place and to provide specific protection for migrant workers.

C.97 aims to protect migrant workers from discrimination and exploitation while employed abroad. The Convention deals with regular migrant workers only, however, and does not govern the right to admit or refuse a foreign citizen, nor the issue of renewal of residence or work permits. As such, it fails to provide protection to the large numbers of undocumented workers or members of migrants' families. It does, however, contain three types of provisions to protect migrants:

- 1) Regulation of conditions in which migration for employment must occur (e.g., information exchange, cooperation between employment services, etc.);
- 2) General protection provisions (e.g., maintenance of appropriate medical services, Art.5, permission for migrants for employment to transfer their earnings and savings, Art.9, prohibits expulsion of migrant workers admitted on a permanent basis in the event of incapacity for work, etc.);
- 3) Equality of treatment of migrant workers and nationals with regard to law and administrative practices on living and working conditions, social security, employment taxes, access to justice, etc.)

C.143 no longer addressed the question of facilitating the movement of surplus labour, but of bringing migration flows under control, and hence eliminating illegal migration and suppressing the activities of organizers of clandestine movements of migrants. While the "migration management" perspective is opposed by many migrants' rights advocates, the provisions expanding equality of treatment can be used to protect migrant workers – particularly undocumented migrant workers. In that respect, C.143 can be an important tool for the protection of migrants' rights. Convention 143 consists of two important parts:

- 1) Articles 1-9 deals with the problems arising out of clandestine migration and illegal employment of migrants;
- 2) Articles 10-14 widen the scope of equality between migrant workers and nationals from *treatment to opportunity*.

Of use to migrants' rights advocates, these two ILO Conventions provide a basic framework for national legislation and practice on labour migration and stipulate that both the sending and receiving countries should actively facilitate fair recruitment practices and transparent consultation with their social partners. It also reaffirms non-discrimination, establishing a principle of equality of treatment between nationals and regular migrant workers in access to social security, conditions of work, remuneration and trade union membership.

ILO Multilateral Framework (For adoption by the ILO)

Migrants and migrants' rights advocates can also engage in the ILC process to further their legal rights. Migrant workers' issues were included in the agenda of the 92nd Session (2004) of the ILC in the general discussion based on an integrated approach organized along three main themes:

- 1) International labour migration in the era of globalization;
- 2) Policies and structures for more orderly migration for employment;
- 3) Improving migrant workers' protection.

Migrant workers and migrants' rights advocates, including MFA, attended the 92nd Session of the ILC to provide their inputs and advise on the situation of migrant workers in their regions. MFA's participation illustrates that migrants' rights advocates, although not official social partners, can liaise with labour unions to engage in strategic interventions in regard to migrant workers' issues at the ILC. A general discussion on the integrated approach on labour migration was held on the basis of the Report VI "Towards a fair deal for migrant workers in a global economy" which culminated in the unanimous adoption by the ILC of a resolution and conclusions directing that the ILO and its constituents, in partnership with other relevant international organizations, carry out a plan of action for migrant workers.

Included in the plan of action recommended by the ILC is the development of a non-binding multi-lateral framework for a rights-based approach to labour migration, which takes into account labour market needs, the sovereign right of all nations to determine their own migration policies, and relevant action for a wider application of international labour standards and other instruments relevant to migrant workers. (See Appendix 3) Migrants' rights groups including MFA provided their inputs on the multi-lateral framework, which has recently been issued.

The multilateral framework aims to enhance cooperation between the ILO and other relevant international organizations in the context of its cooperation with the Geneva Migration Group and regional organizations, for the furtherance of the plan of action and in order to promote coherence in international migration policies. In its program of NGO-Union collaboration on the issue of migrant labour, the network is already using ILO framework as a tool for advocacy, and for mobilizing unions and NGOs to collaborate on migration issues.

Geneva Migration Group

The Geneva Migration Group (GMG) aims to promote good governance of migration, and thus is part of the international legal protection framework for migrants' rights. It achieves its goals by working together for the promotion of the wider application of all relevant international and regional instruments and norms relating to migration, and for the provision of more coherent and stronger leadership to improve the overall effectiveness of the international community's policy and operational response to current and future migration issues.

For these reasons the GMG members have agreed on establishing this informal mechanism for regular consultations. Through these meetings the GMG members plan to:

- Exchange information to improve understanding, inter-agency cooperation and collaboration, and to promote synergies and avoid duplication;
- Identify critical issues, opportunities, challenges, weaknesses, gaps and best practices along the migration "life cycle";
- Work together on conceptual thinking;
- Agree on common positions, responses, actions;
- Provide direction and leadership in a system-wide context;
- Contribute to major initiatives of GMG members and the international community;
- Promote interest, dialogue and debate on migration-related issues;
- Work towards integrating human rights, refugee protection, criminal justice and victim-related dimensions in the general debate on migration.

The value and uniqueness of the GMG lies in the fact that it is comprised by the heads of agencies themselves. Migrants and migrants' rights advocates can engage with the GMG to further their legal protections; MFA, for example, has been doing this through its international partner, MRI.

Global Commission on International Migration

Many migrants' rights groups have engaged with the Global Commission on International Migration (GCIM). The GCIM was launched by the UN Secretary-General and a number of governments in Geneva. Its mandate is to provide the framework for the formulation of a coherent, comprehensive and global response to the issue of international migration. It conducts gaps analysis in regard to migration policy and provides recommendations to the UN Secretary-General, among other functions.

In its Report presented to UN Secretary-General Kofi Annan, UN Members States and other stakeholders on 5 October 2005, the Commission reported stated that the international community has failed to realize the full potential of migration and has not risen to the many opportunities and challenges it presents. The Commission stresses the need for greater coherence, cooperation and capacity to achieve a more effective governance of international migration. The 90-page report provides a comprehensive yet concise analysis of key global policy issues in the field of international migration, and presents six 'Principles for Action' and thirty-three related recommendations that can serve as a guide to the formulation of migration policies at the national, regional and global levels. Migrant advocates need to take up these recommendations when engaging in policy development, lobbying related governments and formulating strategies.

The report is available at <http://www.gcim.org/attachements/gcim-complete-report-2005.pdf>.

WCAR Programme of Action

Migrants can also use the World Conference Against Racism (WCAR) process to protect their rights in regard to racial discrimination; the millions of migrant workers worldwide have long suffered from racial discrimination and xenophobia. The WCAR held from August 31 to September 7, in Durban, South Africa. In an effort to end the persistent discriminations that plague societies around the world, the States participating in the Conference adopted a Declaration and Programme of Action. The Durban Declaration and Programme of Action does not only record a solemn commitment by States to work together but also offers a functional common agenda to the international community for the strengthening of the international human rights framework to combat racism, racial discrimination, xenophobia and related intolerance.

The Durban Declaration and Programme of Action includes at least 40 paragraphs on emphasizing non-discriminatory treatment of migrant workers, refugees and other non-nationals, drawing up a comprehensive and viable Programme of Action to combat xenophobia and discrimination against migrants. (See Appendix 4) The strength of the WCAR process is that it highlighted the discrimination that migrant workers face. Unfortunately, however, in the post-9/11 environment, little of the Programme of Action has been realized. Migrant groups including MFA are now pushing for actualization of the plan, calling for the actions contained in the Programme to be carried out as envisioned in the Durban Declaration.

World Conferences and Summits

World conferences and summits have also become part of the international legal framework for the protection of migrants, as a number of migration, refugees and forced displacement issues are taken up at United Nations World Conferences and Summits. It is important for migrants' rights advocates to note that States have repeatedly made efforts and commitments to protect migrant workers as articulated in a number of the Conferences and Summits held. Specifically, migration-related issues have been addressed in the following UN World Conferences and Summits:

- UN World Conference to Combat Racism and Racial Discrimination, Geneva, 1978;
- UN World Conference to Combat Racism and Racial Discrimination, Geneva, 1983;
- UN World Conference on Environment and Development (“Earth Summit”), Rio de Janeiro, June 1992;
- UN World Conference on Human Rights, Vienna, 1993;
- UN International Conference on Population and Development, Cairo, 1994;
- UN World Conference on Women, Beijing, 1995;
- UN Habitat II, Istanbul, 1996.

During these meetings, declarations, programmes of actions, platforms, and agendas are adopted. Although they are non-binding, they are action-oriented and recommend a

number of objectives and strategic goals. Follow up, measuring and monitoring of those goals and objectives is an integral part of any international conferences and summit processes. As such, the commitments related to migration issues arising out of these conference agendas can be seen as comprising part of the international legal framework for the protection of migrants rights. It should be noted, however, that to date, although commitments have been made, these have not yet been fully realized for the promotion and protection of migrants' rights. Further work needs to be done by migrants' rights advocates to ensure that the promises made in these meetings are carried out.

MIGRANT FORUM IN ASIA

Migrant Forum in Asia (MFA) is a regional network of 260 members, including non-government organizations (NGOs), associations and trade unions of migrant workers and individual advocates coming from 13 Asian countries. Some of the members are themselves national networks representing large number of local organizations. As a membership-based organization, MFA's strength lies with its members, who represent host and home country concerns, issues and perspectives. This allows for greater clarity on the issues raised, ensuring an action agenda formulated after discussion, deliberation and consensus. MFA also has close working relations with more than 50 other migrant-related groups and networks in Asia and other regions of the world, and collaborates with various human rights networks in the region to strengthen the core discourse on the intersectionality of the issues of migrant workers.

MFA engages in various activities to promote the human rights and well-being of migrant workers and members of their families. MFA's actions are carried out on four levels as part of MFA's Multi-level Strategic Framework (discussed further below): these actions include research and training activities, rights violations reporting, and advocacy and capacity building on regional and international campaigns. MFA has also formed task forces to focus on specific migration issues identified by the network, including gender, health, and migrant savings programs.

Multi-level Strategic Framework

MFA's Multi-level Strategic Framework was developed in 2001 as a way to promote migrants' human rights and respond to the issues arising out of labour migration. This framework reflects the complex and multi-faceted nature of migration issues, which often requires responses from a number of actors on various levels. The multi-level strategy response is linear as well as simultaneous, depending on the context in which it is being operationalized. The various strategies are intended to complement and enhance each other at the different levels to better protect migrants' rights.

At the personal level, the strategy response focuses on empowering individual migrant workers. This is undertaken by informing them about their rights and providing assistance whenever necessary and in particular to migrant workers who suffer abuse, exploitation, violations or are illegally terminated.

At the organizational level the strategy involves organizing migrant workers for collective action. Through collective action the migrants gain recognition; allowing them to voice out their issues as a collective body thereby increasing their bargaining power as is the right of workers recognized in ILO standards under ILO Conventions Nos. 87 (Freedom of Association and Protection of Migrant Workers) and 98 (Right to Organize and Collective Bargaining).

At the sectoral level, responses involve advocating for the rights and well being of migrant workers. This includes information education campaign (IEC) activities among various stakeholders on the issues of migration, reporting migrants' rights violations, and producing research reports such as the Asian Migrant Yearbook, discussed further below.

At the societal level, the strategic response targets the community and family members of migrant workers as partners in development in creating an enabling environment that recognizes the right to decent work, home and dignity of every human being.

Research and Training/Information Sharing

As mentioned above, MFA conducts IECs throughout the region. IECs are carried out in various creative ways including street demonstrations, participatory research, representation, trainings and workshops, producing documentaries and publications such as the Asian Migrant Yearbook. The Asian Migrant Yearbook is a compendium of migration facts, issues and analyses of the events collected from MFA members and other migration-concerned organizations; it is intended to be a useful tool for migrant groups and migrants' rights advocates for use in their research and advocacy.

MFA also organizes regional and international forums that delineate strategic actions in response to Asian migration issues. The Regional Conference on Migration (RCM) is a regular regional non-government forum on Asian migration issues, trends, analysis, updates, responses and strategies. It is one of the most authoritative and representative gathering of migrants, advocates, support groups, NGOs, academe and experts on Asian migration, and is an important forum for attendees to develop strategies to promote migrants' rights.

Monitoring and Reporting Migrants' Rights Violations

MFA has also launched the Migrants' Rights Violations Reporting System (MRVRS), a system that was developed to enable MFA members and other migrant advocates to report cases on migrants' rights violations (MRVs) by accessing the MFA website. The reporting of incidents was intended to generate indicative factors whereby a society's / state's health could be measured by the way it treats foreigners in its land. The development of the MRVRS was framed within the over-all context of developing the capacity of MFA member organizations to effectively address the concerns of migrant workers and seek redress for the violations of their rights.

Advocacy and Capacity Building

MFA annually celebrates the Migrant's Month Campaign which runs from November 25 to December 18. The campaign begins on November 25, as that day marks the start of the "16 Days of Activism Against Violence Against Women". December 1st is World AIDS Day, and December 10 is International Human Rights Day; the month culminates on December 18th – International Migrants' Day. MFA also annually observes and/or launches campaigns on International Women's Day (March 8) and Labour Day (May 1). These campaigns work to promote migrants' rights by highlighting migrant workers' issues. Many MFA members also use these annual campaigns to engage in lobbying and advocacy with related governments.

MFA continually engages in the following international and regional processes such as the Commission on Human Rights (CHR), International Labour Conference (ILC), World Social Forum (WSF), World Conference Against Racism, Racial Discrimination, Related Intolerance and Xenophobia (WCAR), Asia-Europe People's Forum, Association of South East Asian Nations (ASEAN), South Asian Association for Regional Cooperation (SAARC), etc. to raise and include migration issues at these forums.

MFA is also a member of Migrants Rights International (MRI). MRI helps the network keep up with emerging issues on migration at the international level, and bring to the discourse perspectives on the issue of migration particular to other regions of the world, thereby creating a global alliance. MFA also tries to mainstream migration as a cross-cutting / intersecting issue in the global social and human rights discourse by linking up with trade unions, gender, trade and human rights networks

MFA Task Forces

Four task forces were created by the MFA General Forum at its last General Assembly held in September 2004 in Seoul, Korea for the purpose of an organized and focused intervention in addressing the various issues related to labour migration in and from Asia. The goal of these task forces is to focus on specific issues to help sharpen the critique and deepen the analysis on the multi-faceted dimensions of labour migration in the region today. The four task forces are:

Migrant Savings for Alternative Investment (MSAI)

The MSAI task force evolved as a reflection of member organizations within the network in recognizing the 'impermanent' and unsustainable nature of labour migration. Through a close working with migrant workers in host countries, and families of migrant workers in home countries the patterns of consumption and 'productive use' of remittances were observed to be challenging to say the least, in trying to offset the push factors that led to migration in the first place. Through a process of discussions, dialogue and networking between host and home country support groups and linkages through membership in the MFA network, a programme that looked at the process of 'sustainable reintegration' was set up in the hope of preparing a migration worker for the journey home even before he/

she set out for the first of a possible series of contracts. In the 2004 General Forum the objectives of the MSAI task force were enumerated as:

- Promotion of MSAI as a strategy for sustainable reintegration in the region;
- Facilitate the organizing of migrant workers into savings groups in the host countries and establishing enterprises in the home countries;
- In-charge of conducting orientations and educational discussions among migrants, members of their families and the immediate community on the role of migrant workers as agents of economic change;
- Organizing of the Regional Conference on Reintegration (RCR) every three years;

In view of furthering the above objectives MFA through the Secretariat is coordinating a project being supported by the Levi Strauss Foundation entitled: "Organizing for Asset-Building: Empowering Migrant Workers in Host Countries Towards Organizing for Their Rights and Security through Migrant Savings for Alternative Investment." The Secretariat together with the MSAI task force is also in the process of conducting 3 MSAI trainings in Indonesia, Philippines and Singapore respectively with support from the International Labour Organization (ILO) under its project on "*Mobilizing Action for the Protection of Domestic Workers from Forced Labor and Trafficking.*"

Gender and Feminization of Migration

In recent years the global economy has witnessed an increasing feminization of the labour migration. This increase is particularly visible within the Asian context where a number of labour sending countries have seen a marked shift in the numbers of women seeking employment abroad. Sri-Lanka, Philippines, and Indonesia stand out in the region in terms of actual numbers and in percentage to the male population, while Bangladesh, Nepal and some countries in the Mekong region are beginning to see a scaling up of the numbers. This evident increase in the numbers is also indicative of the growth in the services economy (domestic work, care-giver, nurse) which has traditionally be seen as the role of women, and the growth of the informal economy. While the increase has been an empowering experience for many women, it has also registered the vulnerability and multiple forms of discrimination that women migrant workers experience in the work place.

In the network's effort to highlight both the empowering and debilitating experience of women migrant workers and to deepen its critique and analysis at the micro and macro level the 2004 General Forum set up the Gender and Feminization of Migration Task force to:

- Identify the different issues brought about by the feminization of migration and highlight the responses and best practices adopted by those working on migration;
- Organize an Asian Women's Forum on "Migration for Development and its Feminization Process" in September 2004 in Seoul, Korea;
- Follow up with the Asian Women's Forum by focusing on four major areas of concern: trafficking, intercultural marriages, health and GATS Mode 4;

The task force is currently in the process of bringing out its report in the form of a programme of action identifying key areas for advocacy and capacity building at national and regional level. It has also called for grass-roots based participatory research to look into the social impact of the feminization of labour migration in the long and short term and how this shapes society both in host and home country from a feminist perspective.

West Asia Networking (Middle East/Arab World)

Labour migration as we know it today within the Asian region traces itself back to the early 70's when there was a big demand for migrant labour in the oil rich producing countries of the Middle East. Despite the shift in the demand of 'skills' the region continues to host the bulk of labour migrants coming from the Asian region. Due to various socio-economic and political reasons in West Asia there are very few civil society organizations (associations) addressing the issues of migrant workers. Recently armed conflict in the region heightened the critical conditions under which migrant workers live and work in the region. There is also a huge number of cases of abuse and migrants rights violations in the region, a significant number of which are related to violence against women. With the lack of support from their own governments and the absence of non-government organizations, migrant workers' lives are at risk.

There is a need for positive intervention and action from civil society. Among the reasons for the creation of MFA's west Asia task force were:

- An effort to extend the network to the West Asia region where the majority of Asian migrant workers are deployed;
- To develop agenda and activities in the region as well as identify and establish links with existing migrant groups (NGOs and support groups);
- Networking with the Gulf Cooperation Council (GCC) trade unions and other trade union-orientated groups in the region;

The network is currently in the phase of beefing up its plans and developing a programme of action together with support groups and organizations met during a series of exploratory visits that were undertaken in the Gulf region.

Migration and Health

The migration and health task force was set up by MFA's General Forum after the 8th RCM in 2002, in Dhaka, Bangladesh. The access and right to health are considered as fundamental to a holistic approach to the labour migration and is a key advocacy agenda of the MFA network. The health areas that MFA members focus on are, psychological and social health, reproductive and sexual health, occupational health and safety, and mobility and HIV/AIDS. Capacity building, information sharing, and advocacy are the key areas of work conceptualization and operations of the migration and health task force with the specific objectives identified as:

- Consolidating the network's existing initiatives on health and migration and also to coordinate programmes with regards to migrants' health and well being;
- Developing resource materials on migrants' health: the *Framework Setting and Information Package in Migrants Right to Health* (2004) and the *Migration Health and Gender: Issues Trends and Responses* (2004);

The network is currently undertaking a health research project with the primary objective of looking into what health facilities are available and accessible to migrant workers in both home and host countries. The research also aims to highlight accessibility in terms of rights irrespective of migration status, and in relation to documented and undocumented status.

CONCLUSION

Despite the vast coverage in terms of human rights migration continues to be a multi-faceted complex, and much contested social issue of our present times. The complexity ranges from the management of the global mobile labour force to issues of protecting local labour against competition, safe guarding labour standards and social protection, and issues of national security.

The paper has highlighted some of the lead institutions and frameworks that the Migrant Forum in Asia has been dealing with in promoting and protecting the rights of all migrant workers and members of their families.

In a world economy that is gradually and purportedly moving towards integration through the free movement of capital and trade the litmus test of 'integration' will be the acceptance of free movement of labour from a rights based perspective. The evidence of the latter happening has thus far been minimal as indicated above in the non-ratification of the one comprehensive instrument that protects the rights of all migrant workers. Ironically while States and economies have continued to benefit and indeed have been built on the labour of migrants there is an increasing constriction in the recognition of the rights of the migrant worker. For sending and host countries the migrant worker in the neo-liberal global economy tends to be perceived as an economic entity devoid of rights that need to be respected and upheld.

As a network advocating for the protection of the rights of all migrant workers and members of their families we believe that the true test of the health and well-being of any society is the way it treats the migrant in its midst. Someone who might be there only for a short period in order to realize a dream which might not have been attainable under conditions that prevailed in the home country at the time they left and sought employment abroad.

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