



REGIONAL CONFERENCE
REVISITING THE MIGRATION AND TRAFFICKING NEXUS:
THE SOUTH ASIAN SCENARIO

April 4 – 6, 2005
Dhaka, Bangladesh

REPORT

REPORT

**REGIONAL CONFERENCE
ON
REVISITING THE MIGRATION AND TRAFFICKING NEXUS:
THE SOUTH ASIAN SCENARIO**

**Asia Pacific Blossom Hotel, Dhaka, Bangladesh
April 4-6, 2005**

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List of Abbreviations

ACILS	American Centre for International Labour Solidarity
ADB	Asian Development Bank
AED	Academy for Educational Development
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRC	Convention on the Rights of the Child
ERTV	Economic Rehabilitation of Trafficked Victims
IOM	International Organization for Migration
NGO	Non-Governmental Organization
NHRC	National Human Rights Commission
NPA	National Plan of Action
SAARC	South Asian Association for Regional Cooperation
SARI/Equity	South Asia Regional Initiative/ Equity Support Program
UNIFEM	United Nations Development Fund for Women
USAID	United States Agency for International Development

I. INTRODUCTION

Background

The mobility of individuals, particularly of women, across national and international borders has increased considerably in South Asia over the past decade. While migration can empower women with greater economic and social independence, it can also increase their vulnerabilities. Evidence from government and NGO sources indicates that the incidence of trafficking of women and girls in South Asia has escalated considerably during the recent past. Women's decisions to migrate are often taken under conditions of distress and disparity thus heightening their vulnerability to various forms of exploitation, including trafficking. Additionally, lack of information and of opportunities for safe migration, are contributing factors to fall into the trap of trafficking and abuse.

Given the need to explore and address inherent linkages between "unsafe" migration and trafficking, the South Asia Regional Initiative/ Equity Support Program (SARI/Equity), the International Organization for Migration (IOM), and the United Nations Development Fund for Women (UNIFEM) with partial support from USAID Dhaka, jointly organized a Regional Conference on 'Revisiting the Migration and Trafficking Nexus' from April 4-6, 2005 at the Hotel Asia Pacific Blossom, Dhaka, Bangladesh.

Objectives and Expected Outcome

The Conference was held to review various conceptual and programmatic aspects of migration and trafficking in the South Asian context. Its specific objectives were to:

- Understand the magnitude, dimensions, causes and consequences of trafficking and migration within South Asia
- Explore the ambiguities in the migration-trafficking nexus
- Identify the gaps and components of strategies/practices/interventions in the migration and counter-trafficking fields in South Asia
- Create a model for integrating a gender-sensitive and human rights approach in all trafficking and migration issues and develop an action plan for implementation
- Arrive at a Conference Statement and an Action Plan

Profile of the Participants and Chief Guests

Representatives from the government, non-governmental organizations (NGOs) and academic institutions from Afghanistan, Bangladesh, India, Nepal, Pakistan and Sri Lanka, attended the Conference.¹ The Minister for Women and Children Affairs, Government of Bangladesh; the Secretary-in-charge, Ministry of Expatriates' Welfare and Overseas Employment; and other eminent guests from the Bangladesh Government and from donor agencies viz. USAID and Royal Norwegian Embassy, Dhaka, were present at the inaugural and concluding sessions of the conference.

Process

The Conference followed a participatory approach, - individual presentations of papers on key themes, panel presentations, plenary debates on key issues emerging from the papers and panel presentations, and group work. A synopsis of each paper is provided in the report. The full set of papers has been issued as **Annex 5 of this Report.**²

¹ See Annex 2 for the list of participants.

² The papers are also available on the SARI/Equity website (www.sariq.org).

II. PROCEEDINGS AND DELIBERATIONS

Welcome and Inauguration

Session I: Inaugural Session

The session was opened by representatives of the three organizers of the conference - SARI/Equity; IOM and UNIFEM. Ms. Ferdous Ara Begum, Additional Secretary to the Government and Director General, Bangladesh Television; and Mr. Todd M. Sorenson, Director, Office of Democracy, Governance and Education, USAID - Bangladesh, as Chief Guests also made statements.

Some highlights of the Opening Statements:

The Regional Representative for South Asia, IOM³ welcomed participants on behalf of the organizers and emphasized that the key objective of the conference was to address issues and challenges in the trafficking and migration nexus in order to maximize the benefits of migration and minimize its negative impact. **The Chief of Party, SARI/Equity⁴** stressed that the issues of safe migration and prevention of trafficking were at the core of the SARI/Equity Program which, at the same time, supported regional action for more effective remedial measures for women and children who had been subjected to violence (including trafficking). She urged that the deliberations on issues of trafficking and migration be guided by human rights and a gender sensitive perspective and approach. **The Regional Deputy Director for South Asia, UNIFEM⁵** focused on the vulnerability of women and children to trafficking which had three components - movement; coercion; and exploitation/violence. Migration only involved one component, namely movement. She pointed out that migration could turn into trafficking in situations of low wages, low access to information, and especially when migration was illegal and irregular. She concluded her speech by flagging the following issues for debate:

- Link between trafficking, migration and HIV/AIDS
- Inclusion of men as supportive partners
- Recognition of the power of people/community and importance of community vigilance
- Inclusion of the gate keepers of society such as opinion leaders, teachers and parents.

While agreeing with the organizers, the **Director, Office of Democracy, Governance and Education, USAID - Bangladesh⁶** stressed the need for mainstreaming anti-trafficking and safe migration initiatives and for greater clarity in distinguishing between trafficking and migration including the smuggling in persons, in terms of purpose and way of movement. Highlighting the difference between the two, he stated that migration could take place through legal or illegal channels but primarily for economic reasons. In such cases, migrants would sometimes seek the services of smugglers. In most cases trafficking began during the journey and got aggravated at destination. The **Additional Secretary to the Government and Director General, Bangladesh Television⁷** focused on the violations of the rights of victims of trafficking and described the initiatives undertaken by the Government of Bangladesh to combat trafficking. These include the initiatives of the Ministry of Women and Child Affairs in formulating a National Plan of Action and the strengthened role of the Home Ministry in law enforcement. The Ministry of Expatriates' Welfare and Overseas Employment has started providing training to Bangladeshis who wished to go abroad. She emphasized the need for political will and concerted efforts from different stakeholders to effectively tackle the complex issues and nexus between trafficking and migration.

³ Mr. Md. Shahidul Haque

⁴ Ms. Helga Klein

⁵ Ms. Firoza Mehrotra

⁶ Mr. Todd M. Sorenson

⁷ Ms. Ferdous Ara Begum

Regional and Country Situations

Session II: Dynamics of Migration in South Asia

The tenor of the conference was set by a paper presented by IOM on the 'Dynamics of Migration in South Asia'.⁸ The historical background of migration and trafficking and factors that encourage migration viz. global/external factors and push and pull factors were highlighted in the presentation. Various migration trends in South Asia such as internal migration; international; regular and irregular migration including seasonal migration; long-term permanent and short-term labour migration complicated the situation, particularly in the absence of adequate laws, policies or bi-lateral agreements in most of the South Asian countries on this issue. However, some international legal instruments and regional consultative processes such as the Colombo Initiative and national legislation existed to address issues of migration. In conclusion, the need to manage migration in collaboration with destination countries within a regional framework was recommended.

The subsequent discussions explored the understanding of the dynamics of migration in each of the participating countries. Afghanistan informed that it was a party to the International Convention on Organized Crime and its Protocol. Though usually people leave Afghanistan with proper documents, some get into the hands of traffickers. The primary vulnerability to trafficking and to unsafe migration existed in the context of Pakistan. The situation of child migration in India gave rise to the debate whether children were migrating only as part of families or also doing so independently (and whether the latter was to be called "migration" or "trafficking"). Illustrations of the continuous outflow of children in all forms: migration, smuggling and trafficking were provided, especially by participants from India and Nepal. Though poverty was emphasized as the main cause for trafficking and migration, the impact of the media on young people in inducing them to economic and material aspirations and the subsequent desire to migrate was also an important factor. A juxtaposition of the rights of the individual versus the state ensued: though individuals had the right to freedom of movement, in the receiving country the right of the state to allow or restrict entry was paramount.

Both the presentation and the ensuing discussion, clearly pointed to the need for a regional mechanism to address trafficking and migration since these issues could not be handled in "isolation". In regions such as South East Asia, Latin America, and the Caribbean, government and civil society were in the process of discussing collaborative approaches for policy formulation, - such a process was lacking in South Asia.

Session III: The Problem of Trafficking in Persons in South Asia

The magnitude and gravity of trafficking in South Asia was presented in a paper entitled 'The Problem of Trafficking in Persons in South Asia'.⁹ The vulnerabilities of women that encouraged their movement were highlighted, and it was put forward that almost 80% of women had been found to be migrating for marriage or work.¹⁰ Lack of options for 'return' to their communities forced the women to stay in the exploitative situations and stigmatisation became an added vulnerability. Many other factors besides poverty, such as caste and class made them doubly vulnerable. A large numbers of children were on the move due to the lack of a safe environment at home.¹¹ In order to promote safe migration and combat trafficking, a 'harm minimising approach' similar to the approach adopted for AIDS and a need to promote strategies related to both sending and receiving countries/states in making 'spaces' for people was stressed. It was necessary to view migration as a continuum of events and not just as a one-time event, and long-term approaches needed to be adopted, including the interplay between the government and civil society organisations.

⁸ The paper was authored jointly by Mr. Shaidul Haque and Ms. Nahreen Farjana from IOM and was presented by Ms. Farjana. The session was moderated by Ms. Helga Klein.

⁹ The paper was prepared and presented by Ms. Nandita Baruah, UNIFEM; and the session was moderated by Mr. Manabendra Mandal, Social Legal Aid Research and Training Centre, India.

¹⁰ Quoted from "A Report on Trafficking in Women and Children in India; 2002-2003; NHRC-UNIFEM-ISS Project"

¹¹ Quoted from an unpublished report by Sakshi, an NGO based in New Delhi, India that had put forward that about 64% of the children had undergone sexual abuse of some kind.

The presentation led to a discussion on the specific vulnerabilities of women and children including that many times family members were instrumental in sending them away for work. While the traffickers were “external”, intermediaries (‘dalals’) often had links to the family members. Some participants challenged the notion that most trafficking was for the purpose of prostitution. The employment of women and minors in unregulated service industries like massage parlours, and the vulnerability of school dropout children - particularly in Pakistan to camel jockeying - was also pointed out. The vulnerability of women in conflict situations was highlighted (e.g. 85% of the girls in districts of Western Nepal severely affected by conflict were considering options to migrate)¹². The issue of ‘consent’ was examined because it was felt that the victims’ consent was to work and employment and not to being trapped in exploitative situations. Livelihood options, exploitation of boys, the ‘demand’ side of trafficking; and involvement of ‘men’ as allies in a process of change were regarded to be important issues for further exploration. The need to strengthen “services” for the victims/survivors in order to break the cycle of vulnerability and victimization was also stressed.

During the discussion, an Australian “law enforcement” perspective to deal with the problem of people being smuggled into Australia was provided comprising of the following three steps:

- prevention in source countries,
- interception of trafficking groups in countries of transit, and
- prosecution of offenders, identification and return of victims.

While source countries looked at the issues at hand from a human rights focus, transit and destination countries usually had to espouse a law enforcement focus, according to the Australian participant.

Session IV: Ambiguities in the Migration and Trafficking Nexus: A Challenge

A paper on ‘Ambiguities and Challenges in the Migration and Trafficking Nexus’¹³ noted that migration was essential, inevitable and potentially beneficial, and that population movements, globalization and development were linked. Unfortunately the existence of two different international protocols dealing with smuggling and trafficking, added to the already existing confusion. Conceptual ambiguities such as those regarding types of migrants - voluntary migrants - immigrants, labour migrants; and involuntary migrants - refugees, internally displaced persons, and so on, added to the complexities and confusions. The issue of “migration” was a much older one than trafficking and as a result a theoretical framework and literature on the issue existed in abundance, whereas no theory explained trafficking in persons, largely due to the clandestine nature of it. Gender sensitivity and a rights-based approach were often lacking when the issue of trafficking was discussed - being overtaken instead by purely prosecutorial concerns for the perpetrators. A new paradigm, including a regional cooperation strategy were outlined to tackle the issue of unsafe migration and trafficking.

The deliberations subsequent to the presentation confirmed and reiterated the concerns and suggestions provided in the paper.

Thematic Discussions

Session V: New Paradigm for Addressing Trafficking in Persons

A panel consisting of speakers from each of the participating countries explored the various paradigms and strategies being used in each country in respect of counter trafficking in women and children. The members of the Bangladesh Counter Trafficking Thematic Group¹⁴ and the Moderator¹⁵ of the panel discussions described the background and process for the paradigm/framework developed by the Bangladesh Counter Trafficking

¹² A study conducted by Save the Children Norway in Nepal in March 2004 was quoted.

¹³ The paper was prepared and presented by Mr. Shahidul Haque; and the session was moderated by Dr. Aliya Khan Associate Professor, Department of Economics, Quaid-i-Azam University, Islamabad, Pakistan

¹⁴ Mr. A.K.M. Masud Ali, Prof. Ishrat Shamim, Ms. Rina Sen Gupta and Advocate Salma Ali

¹⁵ Mr. Matthew Friedman, USAID, Thailand

Thematic Group to address the trafficking issue. An essential aspect to the matrix/framework was the indication of a 'grey area' - as usually 'normal' trafficking situations were looked at while many other cases falling 'outside' a 'trafficking situation' were ignored. For example, next to persons having been 'trafficked', many instances existed where people were 'close to being trafficked'. This area needed to be addressed. The "child paradigm" based on the UN Convention on the Rights of the Child was discussed briefly.

The panelist from Afghanistan¹⁶ reiterated that the problem of human trafficking was a new phenomenon for the Government of Afghanistan. A recent decree invited all stakeholders to address the problem and a special commission had been set up. A child trafficking committee with the involvement of different ministries, UNHCR, IOM and UNICEF and other stakeholders had also been set up under the leadership of the Ministry of Public Affairs. Awareness raising campaigns had started and a National Action Plan had been adopted. Initiatives also covered shelter care, training and rehabilitation of those rescued from traffickers (e.g. in 2004, 207 persons were rescued including 32 children). The panellist stressed the need for regional collaboration and coordination.

The panelist from Nepal¹⁷ supporting the Afghan point of view proposed that a Regional Strategy include strong regional legal instruments and bilateral and multilateral activities. Regional bodies such as SAARC could play a more proactive role in respect of migration and trafficking issues. The **panelist from Sri Lanka**¹⁸ highlighted that women were the majority of migrants in her country. According to **panelists from Pakistan**¹⁹ their country was a major country of origin, transit as well as destination. IOM was implementing a project in Pakistan with respect of "Developing a Conceptual Framework and Strategies to Combat Trafficking" that would foster government and civil society collaboration. A 47 member group comprising of representatives from government, non-governmental, development agencies and academia had been established in 2004, and sub-groups on prevention and recovery; rehabilitation and reintegration; and prosecution had been formed. **The panelist from India**²⁰ brought attention to gaps in a number of legal instruments, for example, the absence of a repatriation policy.

Responding primarily to the new paradigm/framework during the ensuing discussion, it was said that the framework could be helpful in program design - to be used basically as a checklist. The matrix of the Bangladeshi framework needed to be revised to distinguish between the processes and reasons for migration. The 'pull' and 'push' factors had to be also taken into consideration. Also, though it focused on movement, it should not focus on "how" a person moved but what s/he "moved into".

Session VI: Gender-Sensitive and Rights-Based National and Regional Migration Policies

None of the South Asian countries yet had a policy on Safe Migration. However the significance of such a policy was evident from the earlier presentations on dynamics, magnitude and nexus between migration and trafficking at both - national and regional levels. Thus the paper on 'Gender-Sensitive and Rights-Based National and Regional Migration Policies'²¹ attempted to outline some essential components of a safe migration policy. Women from South Asian countries usually migrated as unskilled labour for garment manufacture, health workers (nurses), domestic workers and in the entertainment sector - demand sectors that were growing, particularly in the Gulf States. Physical and sexual abuse by the employers and male members of the household was common. A policy should focus on both, an active role for the State in identifying employment opportunities, and on the welfare of the migrant. A nodal agency should have the responsibility of promoting, regulating, monitoring, collecting data and coordinating all aspects of migration. Key elements of a gender-sensitive Migration Policy were:-

- Right of the migrants to form associations.

¹⁶ Mr. Mohammad Daud Wadah, Member of UN and International Conference Department, Ministry of Foreign Affairs, Afghanistan

¹⁷ Mr. Shyam Sunder Sharma, Joint Secretary, Ministry of Women, Child and Social Welfare, Nepal

¹⁸ Ms. Kumari Witharana, Program Officer, ACILS

¹⁹ Dr. Aliya Khan and Ms. Shameela Ahmed, Programme Assistant, IOM, Pakistan

²⁰ Mr. Rajib Haldar, Director, Prayas

²¹ This paper was prepared and presented by Dr. Kamala Sankaran, Faculty of Law, Delhi University, on behalf of SARI/Equity. The session was moderated by Prof. Dolores Donovan, USAID, India

- Health and safety standards and social security. Principles of non-discrimination in cases of sexual harassment at the workplace, maternity leave, etc.
- Simplified procedures to access remedies under the laws even when the migrant was overseas.
- In the event of job loss, residence should be authorized within an agreed period.
- Labour laws must cover sectors of women's work such as domestic work, agriculture and informal employment.
- For easy access to justice, hot-lines for women migrants should be installed, permitting NGOs or migrants associations to file complaints on behalf of victims; protection of employment and work status during investigation must be ensured.
- Female migrants need to have "equal" access to educational and vocational facilities.
- Since remittances were an important issue particularly for the migrant women, setting up cost-effective and safe banking channels for them was essential.

A panel consisting of one speaker each from Bangladesh²², Nepal²³, Sri Lanka²⁴, and Pakistan²⁵, apprised participants of the policy situation in their respective countries. In **Nepal**, mainstreaming gender issues and ensuring special provisions for empowering and facilitating the migration of women at all stages from pre-departure to reintegration was an absolute necessity. In 2003, Nepal started a program to formulate a national gender-responsive labour migration policy and a foreign employment act. According to the panelist from **Sri Lanka**, the Sri Lanka Bureau of Foreign Employment (SLBFE) operated as a centralized regulatory body of the overseas employment industry. Steps were taken to decentralize the services of SLBFE which presently extended to three districts with the highest migrant population. A database of migrants and returnees had also been set up. However, NGO participation in government action was minimal. Though there were no laws in **Pakistan** on trafficking and migration, a comprehensive policy (Prevention and Control of Human Trafficking Ordinance 2002) had been formulated which dealt with issues such as compensation and punishment of offenders. A Steering Committee had been set up and Anti-Trafficking Units established both at the central and "zonal" levels with a database on human trafficking and a referral mechanism. In **Bangladesh**, migration management was undertaken on an ad hoc basis.

The ensuing discussion indicated a strong need to protect families, especially children, that were left behind by migrant female workers and the significance of pre-departure briefings for potential migrants, especially women. The role of labour attaches in the receiving countries in reducing unsafe migration needed to be strengthened. Since a safe migration strategy was a "harm reduction" strategy it had to go hand in hand with the provision of livelihood programs and skills training.

Session VII: The Role of Livelihood Options in the Migration and Trafficking Paradigm

The paper on 'The Role of Livelihood Options in the Migration and Trafficking Paradigm'²⁶ explored the availability of various livelihood options, both for potential migrants and survivors. A paradigm shift from charity to livelihoods was underway and corporate alliances for providing long-term market driven options to the potential migrant population and survivors were starting to be formed and worked well in many instances. However, more needed to be done in this respect and one had to "look beyond" the conventional livelihood strategies. Some innovative approaches were described, particularly in the Indian context.

²² Ms. Rina Sen Gupta, Policy Analyst, PLAGÉ

²³ Mr. Pratap Pathak, Director General, Ministry of Labour

²⁴ Mr. Mangala Randeniya, Sri Lanka Bureau of Foreign Employment

²⁵ Mr. Raja Manzoor Elahi, Deputy Director, Federal Investigation Agency, Ministry of Interior, Government of Pakistan

²⁶ The paper was prepared and presented by Dr. Sunitha Krishnan, General Secretary, Prajwala on behalf of SARI/Equity. The session was moderated by Dr. Madhavi Singh, President, Rahat & Professor, Central Department of Economics, Tribhuvan University, Nepal

This session also provided an opportunity for familiarizing the participants with various initiatives on livelihoods in the region through Panel presentations. The panelist from **Bangladesh**²⁷ focused on livelihood options that would induce a person to stay at home - emphasizing community-level sustainable livelihood alternatives that would lead to equitable community development. For example, SHISHUK (Bangladesh) had 96 pilot projects on fisheries management, run in a "community/NGO" partnership, whereby the community had preferential access to the products before they were marketed. Besides providing a viable economic option, these projects led to social development and community bonding. The speaker from **Sri Lanka**²⁸ pointed out that due to the high unemployment rate, domestic work or work in free trade zones was an attractive option. Some small entrepreneurship initiatives existed but only at the individual organisational level, e.g. NGO-led projects, especially around revolving credit schemes, but sustainability was lacking. The Solidarity Centre (Sri Lanka), while working with garment workers was trying to create awareness on trafficking issues because these workers were vulnerable groups liable to be trafficked to the free trade zone. In **Pakistan**²⁹, most of the interventions focused on the supply side. A few interventions underway in Pakistan were: An ILO project addressing trafficking in women and children in South Asia; the TREE project - training for rural and economic empowerment of women; National time-bound programs for skill development of children between 16-18 years of age; NPA for bonded labour and initiatives to rehabilitate and reintegrate victims in the mainstream; poverty reduction strategies of the government including micro-credit schemes and rural development strategies; and skill development through public-private partnerships. The panelist from **India**³⁰ stressed the need for revolving funds in order to increase sustainability. In **Afghanistan**³¹, returnees were given vocational training, however since interventions in the field of migration were fairly recent, not many initiatives were reported on livelihood options.

The deliberations on the paper and the panel presentations clearly brought to the fore the need for region-specific market assessments of livelihood options and for governments to ensure that a given percentage of the remittances should be used for migrant returnees and trafficking survivors. Participants were informed that the SARI/Equity Program had supported and facilitated the compilation of a Regional "Resource Book on Livelihood Options" within the framework of its Regional Action Forum on Strengthening the Care of Survivors.

Strategy Identification and Action Plan

Session VIII: Establishment of Working Groups

Three working groups developed action plans as follows:

- Plan of Action for an Adult Regional Safe Migration and Trafficking Framework
- Plan of Action for an Adult National Safe Migration and Trafficking Framework
- Plan of Action for a National and Regional Safe Migration and Trafficking Framework for Children

The plans of action were then presented in plenary and finalized - incorporating the suggestions and recommendations of participants (see Annex 3 for the Action Plans).

Session IX: Conference Statement

A draft conference statement prepared by the three organizers was shared with participants and finalized based on the discussions and recommendations at the plenary (see Annex 4 for the Conference Statement).

²⁷ Mr. Saikul Millat Morshed, Executive Director, SHISUK

²⁸ Ms. Kumari, ACILS

²⁹ Dr. Aliya Khan

³⁰ Ms. Sudha Gooty, IOM, India

³¹ Mr. Mohammad Daud Wadah

Session X: Concluding Session

The Concluding session was addressed by the representatives of the three organizers who appreciated the importance attributed by participants to the understanding of the nexus between migration and trafficking - which would make migratory movements safer for women and children and reduce the degree of their vulnerabilities to trafficking. The discussions during the three-day conference had been outstanding because they systematically addressed the interface between migration and trafficking - something that rarely happened in other international forums. The meeting had brought together many experts in migration and trafficking from government, NGOs and academic institutions. A participant³² read out the **Conference Statement** and thanked the organizers on behalf of all the participants for providing a platform to revisit the issues of migration and trafficking.

The **Chief Guests** also recognized the relevance of the nexus between migration and trafficking in addressing the vulnerabilities of women and children and thanked the organizers for having provided "the space" for doing so. The **Hon'ble Minister for Women and Children Affairs, Government of Bangladesh**³³ graced the occasion with her presence. Highlighting the Government's initiatives to address the issue, she indicated that Bangladesh was a signatory to relevant international instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography and the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. A Government initiative was underway to formulate a National Strategic Plan of Action to fight trafficking - in cooperation with the ADB and IOM. Referring to trafficking initiatives, she said that the Jagroon Road March (under a Project of the same name implemented by a local NGO Ashaash, the Ministry of Women and Children Affairs, USAID, AED, AusAid and IOM) had covered 38 districts and raised awareness among various strata of the population on violence against women, acid throwing, dowry related crimes and trafficking. The **Secretary-in-charge, Ministry of Expatriates' Welfare and Overseas Employment, Government of Bangladesh**³⁴ said that provisions of the various treaties adhered to by the Government of Bangladesh were reflected in the national plans and policies (e.g. the National Plan of Action for Women's Advancement, National Child Policy, National Plan of Action for Children and the recent National Plan of Action against the commercial exploitation of children). Additionally, the Women and Children Repression Prevention Act of 2000 addressed trafficking; and the Overseas Employment Policy of Bangladesh was in the final stages of being adopted.

The **Mission Director, USAID, Dhaka**³⁵ referred to some of the root causes of migration and trafficking including poverty, unemployment, social and gender discrimination and violations of human rights. An increasing demand for migrant labour was another facilitating factor (for example, European Union countries would require almost 1.5 million workers per year in addition to their own workforce - which would amount to 68 million foreign workers until 2050.) While such increase in demand was positive, the need for coordination and negotiation between sending and receiving countries was emphasized in order to ensure that migration was safe and chances for trafficking in persons were reduced. The Government of the United States of America provided assistance for the promotion of regional and bilateral cooperation in eradicating trafficking which included supporting Governments and NGOs in their initiatives to prevent trafficking, raise awareness and improve victim protection. Reinforcing views of preceding speakers, the **Ambassador, Royal Norwegian Embassy, Dhaka**³⁶ referred to a pilot project entitled, "Coordinated Program to Combat Child Trafficking in Bangladesh" implemented by the Government of Bangladesh. The Counter Trafficking Framework reported by IOM and endorsed by the Government was an important guide for future initiatives to combat trafficking.

³² Ms. Bharti Ali, Centre for Child Rights, New Delhi, India

³³ Begum Kurshid Zahan Haque

³⁴ Mr. A.K.M Shamsuddin

³⁵ Mr. Gene V. George

³⁶ H.E. Ms. Aud Lisa Norhime

All speakers stressed the importance of implementing the Action Plans developed at the conference - at national and regional levels. Advocacy with SAARC was seen as an important step in the right direction.

The Conference concluded with agreement on the Joint Conference Statement and the Action Plans developed during its course, that would be taken up with various stakeholders in the near future in order to inform the existing plans and strategies.

ANNEX 1

Agenda
Regional Conference on
'Revisiting the Migration and Trafficking Nexus: The South Asian Scenario'
April 4 - 6, 2005
Asia Pacific Blossom Hotel, House 27, Park Road, Baridhara
Dhaka, Bangladesh

Day 1: April 4, 2005

08:30h - 09:00h Registration

Inaugural Session (Moderator: Md. Shahidul Haque IOM)

- 09:00h Introductory Statement by Md. Shahidul Haque, Regional Representative for South Asia, IOM
- 09:05h Introductory Statement by Helga Klein, Chief of Party, SARI/Equity
- 09:10h Introductory Statement by Firoza Mehrotra, Regional Deputy Director for South Asia, UNIFEM
- 09:15h Speech by Special Guest, Todd M. Sorenson, Director, Office of Democracy, Governance and Education, USAID
- 09:25h Speech by Chief Guest, Ferdous Ara Begum, Director General, Bangladesh Television and Additional Secretary to the Government of Bangladesh
- 09:35h Tea/Coffee Break

Regional and Country Situations

Session II (Moderator: Helga Klein, SARI/Equity)

- 10:00h The Dynamics of Migration in South Asia (IOM)
Presentation: Nahreen Farjana and Md. Shahidul Haque
- 10:30h Discussion

Session III (Moderator: Manabendra Mandal)

- 11:30h The Trafficking-Migration Nexus: The Gender Paradigm (UNIFEM)
Presentation: Nandita Baruah
- 12:00h Discussion
- 13:00h Lunch

Thematic Discussions

Session IV (Moderator: Matthew Friedman)

- 14:00h Presentation and Panel Discussion on a New Paradigm for Addressing Trafficking in Persons
- Presentation on behalf of BCTTG³⁷ by: A.K.M. Masud Ali, Professor Ishrat Shamim, Rina Sen Gupta, Advocate Salma Ali
- Panelists:
- Afghanistan: Mahamud Daud Wedah, Ministry of Foreign Affairs, Government of Islamic Republic of Afghanistan
- Nepal - Shayama Sunder Sharma, Ministry of Women, Child and Social Welfare
- Sri Lanka - Kumari Witharana, Solidarity Centre
- Pakistan - Shameela Ahmed, IOM and Dr. Aliya H. Khan, Quaid-i-Azam University
- India - Rajib Halder, Director Prauas
- 15:00h Discussion with break for tea/coffee
- 17:15h End of Day 1

Day 2: April 5, 2005

Session V (Moderator: Bal Kumar K. C.)

- 9:00h Ambiguities and Confusions in the Migration and Trafficking Nexus: A Challenge (IOM)
- Presentation: Md. Shahidul Haque
- 9:30h Discussion
- 10:30h Tea/Coffee

Session VI (Moderator: Dolores Donovan)

- 11:00h Presentation and Panel Discussion: Towards a Gender Sensitive Safe Migration Policy: A Rights Based Approach
- Presentation: Kamla Sankaran
- Panelists:
- Bangladesh - Rina Sen Gupta, PLAGÉ
- Nepal - Pratap Pathak, Ministry of Labour
- Sri Lanka - Mangala Randeniya, Sri Lanka Bureau of Foreign Employment
- Pakistan - Raja Manzoor Elahi, Ministry of Interior
- 11:30h Discussion
- 12:30h Lunch

³⁷ Bangladesh Counter-Trafficking Thematic Group

Strategy Identification and Action Plans

Session VII (Madhavi Singh)

- 14:00h The Role of Livelihood Options in the Migration and Trafficking Paradigm
- Presentation Sunitha Krishnan
- Panelists:
- Bangladesh - Sakiul Millat Morshed, SHISUK
- Nepal - Padma Mohini Mathema, National Human Rights Commission
- Sri Lanka - Kumari Witharana, Solidarity Centre
- Pakistan - Aliya H. Khan, Quaid-i-Azam University
- India - Sudha Gooty, IOM
- Afghanistan - Mahamud Daud Wedah, Ministry of Foreign Affairs, Government of Islamic Republic of Afghanistan
- 14:30h Discussion
- 15:30h Tea/Coffee Break

Session VIII

- 15: 45h Working Groups: Identification of possible components of an Action Plan to effectively address issues of migration and trafficking in persons in South Asia based on the preceding deliberations of the conference
18. 00h End of Day 2

Day 3: April 6, 2005

Session IX (Moderator: Nandita Baruah)

- 09:00h Preliminary Presentation by working groups followed by Discussion
- 10:30h Tea/Coffee Break

Session X (Moderator: Nandita Baruah)

- 10:45h Finalization of Action Plans by the working groups
- 12.45h Presentation of a Consolidated Action Plan
- 13:30h Lunch

Session X (Moderator: Dolores Donovan)

- 14:00h Discussion and finalization of the Conference Statement

Concluding Ceremony

Session XI

17:00h

Presentation of the outcome of the Conference

17:30h

Concluding remarks by Mr. Md. Shahidul Haque, Regional Representative for South Asia, IOM

Concluding Remarks by Ms. Helga Klein, Chief of Party, SARI/Equity

Concluding Remarks by Ms. Nandita Baruah, Regional Coordinator, UNIFEM

Speeches by Guests of Honour:

Mr. Gene V. George, Mission Director, USAID, Dhaka

H. E. Ms. Aud Lisa Norhime Ambassador, Royal Norwegian Embassy, Dhaka

Mr. A.K.M. Shamsuddin, Secretary-in-charge, Ministry of Expatriates' Welfare and Overseas Employment, Government of the People's Republic of Bangladesh

Speech by Chief Guest, Begum Khurshid Zahan Haque M.P., Hon'ble Minister for Women and Children Affairs, Government of the People's Republic of Bangladesh

18:30h

Tea/Coffee

ANNEX 2

LIST OF PARTICIPANTS

AFGHANISTAN		
1	Mohammad Daud Wadah	Member of UN & International Conference Ministry of Foreign Affairs
2	Sebghatuallah Sayeq	Chief of the Criminal Investigation Department, Ministry of Interior
3	Noor Ahmad	Head of the Child Protection Department, Ministry of Interior
4	Ashraf Khan Jaleb	Chief Legislation for Criminal Department, Ministry of Justice
5	Taimor Shah Es-haqzai,	Director, Social Volunteers Foundation
BANGLADESH		
6	Razina Islam	Ashaash Mohila Unnayan Sangstha
7	Masud Hassan	NPC, ILO
8	Shakil Millat Morshed	Executive Director, SHISHUK
9	Salima Sarwar	Director, ACD
10	Abdul Alim	Chairman, Standing Committee for Migration Research, BAIRA
11	Ajit Gupte	Counsellor, Indian High Commission
12	Moinul Islam Shuruz	Sr. Investigation Officer
13	Zakir Hossain	Coordinator
14	Ferdousi Sultana	ADB
15	Naheed M. Ahamed	CIDA-PSU
16	Nazrul Haque	Team Leader, HIV/AIDS Communication Programme, BCCP
17	Ehsanul Haque	Manager, Advocacy and Training, Bangladesh Shishu Adhikar Forum,(BSAF)
18	Advocate Tanbir ul Islam Siddiqui	President Change Makers
19	K.M. Masud Ali	Executive Director, INCIDIN
20	Uttam Kumar Das	National Protection Officer, UNHCR
21	Binoy Krishna Mallick	Executive Director, Rights Jessore
22	Khodeza Emdad	Ashaash Mohila Unnayan Sangstha
23	Syed Saiful Haque	Chairperson, WARBE
24	K. A. Reza	UNIC
25	Rakib Ahsan	Asia Foundation
26	Laila Rashid	DPM, BNWLA

27	Paul Kramer	A.L.O., B.H.C.
28	Salma Ali	Executive Director, BNWLA
29	Aminul Islam	SAS, R/OEWZ
30	Md. Anwarul Alam	Asst. Chief, Ministry of Women and Children affairs
31	Sk. Abdur Rauf	DS, Ministry of Home Affairs
32	Victor Mondal	Project Manager, Bangladesh Salvation Army
33	Susan Ward	IOP ACD BHRAP
34	Zakia Hasan	R.N.E
35	Afsana Wahab	Director, CWCD
36	Dr. Tone Bleie	UN ESCAP
37	Nicola Main- Thomson	European Commission
38	Ubaidur Rob	Population Council
INDIA		
39	Manabendra Mandal	Coordinator, ATSEC , Socio-Legal Aid Research & Training Center (SLARTC)
40	Rajib Halder	Director, Prayas
41	Bharti Ali	Centre for Child Rights
42	Prof. Swati Ghosh	Rabindra Bharati University
NEPAL		
43	Madhavi Singh	President And Professor, Central Department of Economics, Tribhuvan University
44	Prof. Bal Kumar K.C	Head of Department, Central Department of Population Studies (CDPS), Tribhuvan University
45	Padma Mohini Mathema	National Rapporteur on Trafficking in Women and Children
46	Anita Manandhar	Nepal Institute of Development Studies
47	Shyama Sunder Sharma	Joint Secretary , Ministry of Women, Child and Social Welfare
48	Pratap Pathak	Director General, Ministry Of Labour
PAKISTAN		
49	Qindeel Shujaat	Program Officer, American Center for International Labor Solidarity (ACILS)
50	Mariam Mehdi	Director, International Catholic Migration Commission
51	Aliya H. Khan	Associate Professor, Department of Economics, Quaid-i-Azam University
SRI LANKA		
52	Nimalka Fernando	President ,International Movement against All Forms of Discrimination and Racism - Asia, Committee (IMADR)
53	Kumari Witharana	American Center for International Labor Solidarity (ACILS)
54	Mangala Randeniya	Sri Lanka Bureau of Foreign Employment

USAID

1. Ashi Kohli Kathuria, India
2. August Von Millard , Nepal
3. Dharampreet J. Singh, India
4. Dolores Donovan, India
5. Fazle Rabbani, Dhaka
6. Lokesh Upadhyaya, India
7. Madhuri Rana Singh, Nepal
8. Shahed Choudhury, Dhaka
9. Shirani Narayana, Sri Lanka
10. Todd Sorenson, Dhaka

SARI / EQUITY

1. Helga Klein
2. Javita Narang
3. Nishat Chowdhry
4. Deepika Naruka

IOM

1. Shahidul Haque, Bangladesh
2. Nurul Islam Molla, Bangladesh
3. Umbareen Kuddus, Bangladesh
4. Nahreen Farjana, Bangladesh
5. Shakil Mansoor, Bangladesh
6. Mohammad Azad , Bangladesh
7. Justin MacDermott, Bangladesh
8. Shameela Ahmed, Pakistan
9. Sudha Gooty, India
10. Abdul Moqtader Noorani, Afghanistan

UNIFEM

1. Nandita Baruah, India
2. Firoza Mehrotra, India
3. Archana Tamang, India
4. Gule Afroze Mahbub, Dhaka

SAP- BANGLADESH

1. Syed Nurul Alam
2. Nadira Mallik
3. Mir Nazmul Hassan

ANNEX 3

Annex 3.1 : Plan of Action for a Regional Safe Migration and Anti Trafficking Framework (Adult)

Goals	Objectives	Implementation Activities	Policy and Advocacy	Capacity Building	Knowledge Management
<p>Facilitation/ Prevention</p> <p>Ensure effective management of migration process and reduce trafficking</p>	<ul style="list-style-type: none"> Regional policies on safe migration and anti trafficking reformed and developed Targeted awareness on safe migration and trafficking Understanding livelihood options for safe migration and prevention of trafficking encouraged 	<ul style="list-style-type: none"> Framework for a regional policy on safe migration and anti trafficking developed Creation of standardized information on safe migration and trafficking Regionally replicable livelihood programs developed/good practices replicated 	<ul style="list-style-type: none"> National and regional migration and anti-trafficking migration policy Mobilization and coordination of policy makers and implementers 	<ul style="list-style-type: none"> Support networks and partnerships of organizations and institutions working on migration and trafficking Regional exchange and sharing of duty-bearers in migration and anti-trafficking 	<ul style="list-style-type: none"> Database (shared) of traffickers and trafficked persons (with due respect for confidentiality) Migrant database especially female migrants
<p>Maximizing Benefits of Migration</p> <p>Promote the rights of migrants and trafficked persons and protect them from exploitation</p>	<ul style="list-style-type: none"> Rights based and engendered responses to irregular migration and trafficking Recognition of migrants' rights to organization 	<ul style="list-style-type: none"> Non-gender-discriminatory management of remittances Establish minimum standards of care and support Establish regional networks to promote international labour standards for migrants (replication of good practices on any of the above) Sensitize diplomatic officials and foreign officials on matters relating to migration and trafficking 	<ul style="list-style-type: none"> Incorporate safe migration and trafficking into national agendas 	<ul style="list-style-type: none"> Strengthen capacity of stakeholders and institutions to integrate mental health concerns into anti trafficking and migration work 	<ul style="list-style-type: none"> Good practice website Qualitative research (legal, social/political/ situation etc.)
<p>Rule of Law</p> <p>Strengthen legislative interventions to address trafficked persons and the rights of migrants including emigrants and immigrants</p>	<ul style="list-style-type: none"> Implementation of international regional conventions on migration and trafficking strengthened and facilitated Regional consultative process to develop legislative solutions to the challenges of migration and trafficking initiated Creation of accountability mechanisms for implementation of international and regional conventions, treaties and protocols relation to migration and trafficking 	<ul style="list-style-type: none"> MOU and Bilateral treaties for voluntary repatriation, return of trafficked persons and other persons in need MOUs and Bilateral Treaties to ensure rights protection of migrants/workers Development of regional victim witness protection protocol Creation of regional mechanisms to effectuate regional information sharing and investigation of traffickers across national boundaries 	<ul style="list-style-type: none"> Gender responsive policy for safe migration and trafficking (pre-employment, information dissemination, predeparture skills training , consular service intervention) 	<ul style="list-style-type: none"> Capacity to address HIV/AIDS* issues by organizations and stakeholders working on trafficking and migration <p>*Query whether resources permitted</p>	<ul style="list-style-type: none"> Baseline survey where necessary Extensive dissemination of existing information data on migration and trafficking.

Annex 3.2 : Plan of Action for a National Safe Migration and Anti Trafficking Framework (Adult)

Goals	Objectives	Implementation Activities	Policy and Advocacy	Capacity Building	Knowledge Management
<p>Facilitation (safe migration)/ Prevention (trafficking)</p> <p>Ensure safe migration and reduce the incidence of trafficking in persons</p>	<ul style="list-style-type: none"> Develop/Reform national and regional policies on safe migration and trafficking Enhance mass awareness on safe migration and human trafficking Expanded access to livelihood opportunities 	<ul style="list-style-type: none"> Draft/review and reform national policy on safe migration and trafficking in persons within a regional framework through a technical committee with representatives from all stakeholders Dissemination of information on safe migration and trafficking through targeted communication strategies Skills training for potential migrants/returnees/survivors of trafficking Gender sensitive pre-departure orientation 	<ul style="list-style-type: none"> Ratification of the UN Convention 1990 "The Protection of the Rights of All Migrant Workers and Members of their Families" Mobilize politicians/communities/opinion leaders/media Incorporate TIP and safe migration into priority national agendas Coordination of development partners (national/global) Remittance management to support resource mobilization Incorporate Gender mainstreaming in Migration and Anti-trafficking policy agenda Promote labour standards according to ILO/UN Conventions Policies focusing on HIV/AIDS issues related to migration and trafficking Observance of the 18th December as "international Migrants Day" for migrants rights advocacy 	<ul style="list-style-type: none"> Migrants/anti-trafficking support networks and partnerships Training for enforcement of human rights and labour standards Capacity building of local governments for facilitation of safe migration and combating trafficking Training of Law Enforcement officials 	<ul style="list-style-type: none"> Development of comprehensive data-base on migration and trafficking Development of labor market information system (LMIS) Support research on dynamics of migration <p>Establish and strengthen national reporting system for status of migration and trafficking</p>
<p>Maximizing benefits of Migration And Reducing Vulnerabilities of Trafficking</p> <p>Protection of migrants and trafficked persons from exploitation</p>	<ul style="list-style-type: none"> Promote Rights Based and Gender sensitive approach to rescue, recovery, repatriation/return and social (re)integration Ensuring labour standards for protecting migrant workers in destination 	<ul style="list-style-type: none"> Regulation of recruiters/agencies/ Middle persons Regulatory framework for the informal/unorganized sector Protocol and standards for rescue, recovery, repatriation/return and social integration. Consular services for protection of rights of migrants 			
<p>Access to Justice</p> <p>Strengthen legislative interventions to address rights of migrants and trafficked persons</p>	<ul style="list-style-type: none"> Improve access to justice through institutional and legislative reform Build capacity for legal redress (migrants and trafficked victims) 	<ul style="list-style-type: none"> Review/ draft appropriate legislation Training for law enforcement agencies/relevant ministry officials/civil society Bi-lateral labour agreements and extradition/repatriation treaties 			

Annex 3.3 : Plan of Action for National and Regional Safe Migration and Anti Trafficking Framework for Children

Goals	Objectives	Implementation Activities	Policy and Advocacy	Capacity Building	Knowledge Management
Prevention Reduce situations/factors that force children to migrate and render them vulnerable to trafficking	Strengthen community action to prevent forced migration and trafficking of children	<ul style="list-style-type: none"> Widespread dissemination of safe migration and anti-trafficking information Functional community action groups Facilitation and support for education for children Focused life skills training for 14-18 years olds Peer support groups for children and youth Establish and strengthen child helpline services 	<ul style="list-style-type: none"> Mobilize political community/opinion leaders Incorporate issues of migration and trafficking in children into national and regional agendas Resource mobilization and optimal utilization Integration of child centered approach in all migration and anti-trafficking policy, law and action. Responsible Media Advocacy Formulation and implementation of National Plan of Action in all SA Countries 	Stakeholders <ul style="list-style-type: none"> Media education, sensitization and training Law Enforcement officials Judiciary Community leaders Functionaries and programme/service providers Trade Unionists Transportation sector (Rail/Road/Air/Sea) Children/youth/student leaders Teachers Other stakeholders Issues <ul style="list-style-type: none"> Increased prosecution and conviction Child sensitive rescue operation, repatriation and redress, repatriation and reintegration Coordination and linkages between stakeholders Monitoring and enabling accountability Reporting and recording of cases Psycho-social and mental health interventions 	<ul style="list-style-type: none"> Impact Assessment Qualitative and quantitative research Monitoring and evaluation system Child database (Birth registration, victim data base, missing children) Community Awareness Research/data collection techniques
Reduction of vulnerability/maximizing benefits of migration 1) Protection and support for trafficked children 2) Needs of children of migrating parents and families are met and their rights protected	Promote child centered rights based approach for protection and support for migrant and trafficked children Provide/facilitate access to care, support and protection services	<ul style="list-style-type: none"> Establish and implement child sensitive standards of care, protection and support services Facilitate community based alternative care Facilitate and strengthen psycho-social support Provide child friendly services – drop-in-centers, children homes, juvenile care institutions, crisis intervention center, helplines 			
Rule of Law Strengthen legislative interventions to address trafficking and migration of children based on the principles of best interest of the child and non-discrimination	Improve legal responses to trafficking and migration issues of children	<ul style="list-style-type: none"> Draft appropriate child sensitive legislation Regional and bilateral protocols for rescue, repatriation and progressive re-integration Effective juvenile justice system in all South Asian Countries Arrest and prosecution of traffickers and recruiters Training for law enforcement officials, judiciary and other stakeholders Victim assistance and witness protection measures 			

ANNEX 4

Conference Statement Regional Conference on 'Revisiting the Migration and Trafficking Nexus: The South Asian Scenario' April 4 – 6, 2005, Dhaka, Bangladesh

1. The movement of people across geographical or political frontiers in South Asia is an age old phenomenon. For centuries, people of this region have moved across various areas for trade, livelihood, education as well as socio-cultural and environmental reasons. Today, the root cause for population movement, may differ to some extent, but the basic motivations have remained more or less the same. The contiguous land mass, long porous borders and development conditions in South Asia have created a 'migratory space' fostering mobility of the people as a natural phenomenon. This has led to opportunities for people to move within South Asia and across South Asia to other regions. Population movements occur both in regular and irregular situations making the phenomenon far more complex and often intractable and challenging the rationale for existing migration management in South Asia. Many inconsistencies and gaps in the migration and trafficking paradigms have emerged, rendering development assistance interventions in some cases ineffective.
2. In view of the lack of conceptual and operational clarity in dealing with links between migration and human trafficking, SARI/Equity, UNIFEM and IOM jointly organized a Regional Conference on "Revisiting the Migration and Trafficking Nexus: The South Asian Scenario". The Conference was held in Dhaka, Bangladesh, from 4 to 6 April 2005 and attended by representatives of governments/ NGO sector/ academicians from Afghanistan, Bangladesh, India, Nepal, Pakistan and Sri Lanka. The aim of the Conference was to bring clarity to those actively engaged in reducing the problem of trafficking and to enhance the benefits of safe migration. To that end, the Conference discussed ways to develop, through consultations, an achievable set of recommendations, advocacy, targeted interventions and policy reform at the national and regional level in South Asia.

Common Understanding on the Migration-Trafficking Nexus:

3. The participants, during the three-day Conference, extensively discussed various aspects of migration and trafficking in South Asia including gender dimensions, interfaces between migration and trafficking, the role of livelihood options in population movement, potentials and challenges of migration, problems of human trafficking, good practices to manage migration and address the trafficking problem, policy options and interventions. The participants, recognized the following issues, concerns and priorities:
 - I. The population movement across borders inside South Asia and out of South Asia is an integral feature of societies and economies of all the countries.
 - II. The developmental benefits, personal and national, of internal and international migration must be maximized and the adverse impacts, e.g. human trafficking and exploitation, must be minimized through a comprehensive, integrated and programmatic management of population movements.
 - III. In the growing global market and economic scenario, migration is inevitable and can be potentially equally beneficial for both origin and destination countries as well as for individuals.
 - IV. A comprehensive national policy towards safe migration can help maximise the benefits and minimise negative impacts/consequences of migration. The policy needs to be based on economic and socio-cultural factors of the individual countries. The policy must in all cases be gender responsive and address the needs of women and children. The policy should clearly address vulnerabilities and the threat of exploitation and unsafe migration. The policy has to be supported by an appropriate administrative infrastructure and adequate resources.

- V. Human trafficking as well as unsafe migration has to be addressed effectively by each country in collaboration with other countries and stakeholders.
- VI. Efforts to address the problem of smuggling in persons have to be enhanced.
- VII. Traffickers and employers of trafficked persons must be penalized and survivors provided with due support and protection.
- VIII. Accurate, objective and adequate information on migration policies and procedures, as well as conditions in destination countries and the dangers of trafficking, enables migrants to make informed decisions and should therefore be disseminated.
- IX. Further research and sharing of existing research findings on all aspects of migration and human trafficking is needed to better understand their causes and consequences and devise appropriate interventions.
- X. The complex migration and trafficking issues have strong regional and global dimensions and should therefore be addressed through collaboration and coordination at a regional and global level.
- XI. A rights based and gender sensitive approach has to be a cross cutting theme in policies and programmes on safe migration and counter trafficking interventions.
- XII. Unsafe mobility and trafficking of children needs to be addressed in collaboration with the stakeholders.
- XIII. Needs of children of migrating individuals/families and protection of their rights should be addressed.
- XIV. Established and strengthened regulatory mechanisms relating to recruitment agencies and agents need to be put in place/adopted.
- XV. The demand dynamics of trafficking in persons should be recognized and action taken to curb the demand of trafficked person
- XVI. Legislation should be developed to deter demand for all forms of trafficked labour and trafficked persons in the sex industry.

Therefore, it is resolved that the participants work to implement the following three plans of action:

A National Plan of Action for Safe Migration and Anti-Trafficking that includes but is not limited to, achievement of the following goals:

- Ensure safe migration and reduce the incidence of trafficking in persons;
- Protect migrants and trafficked persons from exploitation;
- Strengthen legislative interventions to address the rights of migrants and trafficked persons.

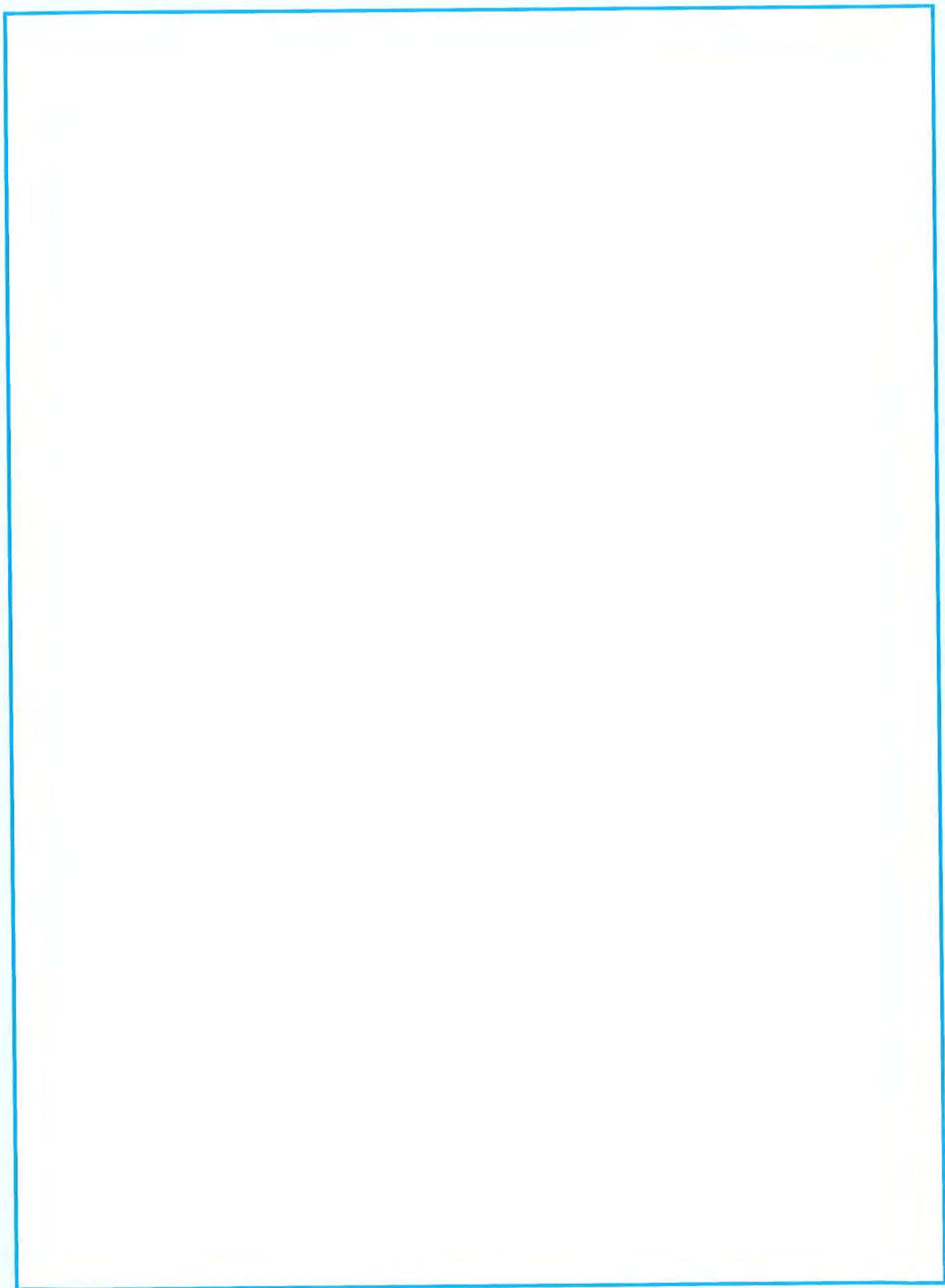
A Regional Plan of Action for Safe Migration and Anti-Trafficking that includes, but is not limited to, achievement of the following goals:

- Ensure effective management of migration processes and thereby reduce trafficking;
- Promote the rights of migrants and trafficked persons and protect them from exploitation;
- Strengthen legislative interventions to address trafficking in persons and the rights of migrants, including immigrants and emigrants.

A Regional and National Plan of Action and Framework Addressing the Needs and Rights of Children in the Context of Safe Migration and Anti-Trafficking Programmes that includes, but is not limited to, achievement of the following goals:

- Reduce situations/factors that force children to migrate and render them vulnerable to trafficking;
- Provide support and protection for trafficked children;
- Address and meet the needs of the children of migrating parents and families and protect their rights;
- Strengthen legislative interventions to address trafficking and migration of children based on the principles of the best interest of the child and non-discrimination.

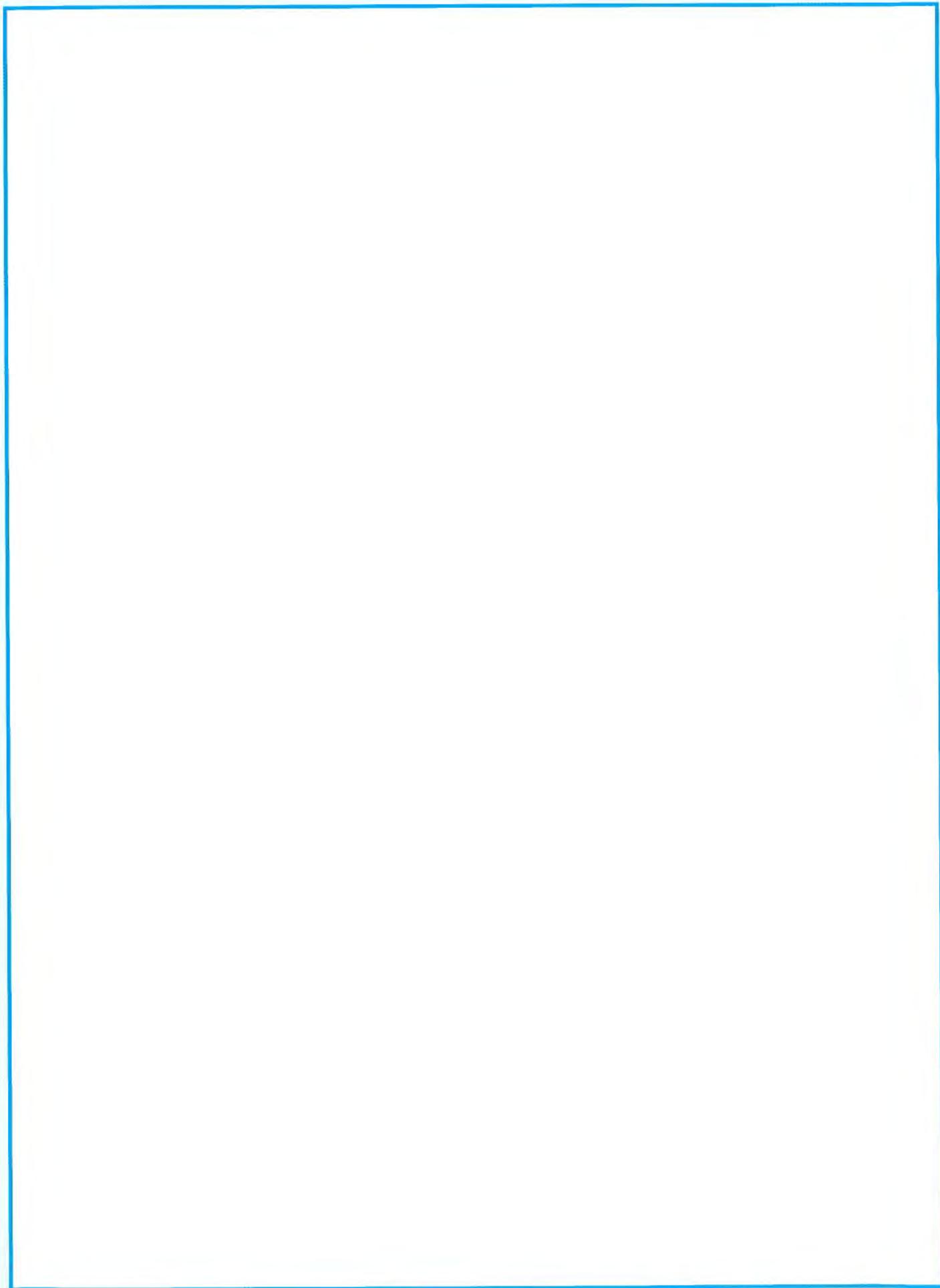
Agreed on the sixth day of April, 2005, at Dhaka, Bangladesh.



ANNEX 5

COMPILATION OF CONFERENCE PAPERS

- 5.1 : The Dynamics of Migration in South Asia : An Overview
- 5.2 : Examining Human Trafficking Within the Context of Migration in South Asia
- 5.3 : Ambiguities and Confusions in the Migration-Trafficking Nexus : A Development Challenge
- 5.4 : Towards a Gender Sensitive Safe Migration Policy with a Right Based Approach
- 5.5 : Role of Livelihood Options in the Migration/Trafficking Paradigm





IOM International Organization for Migration

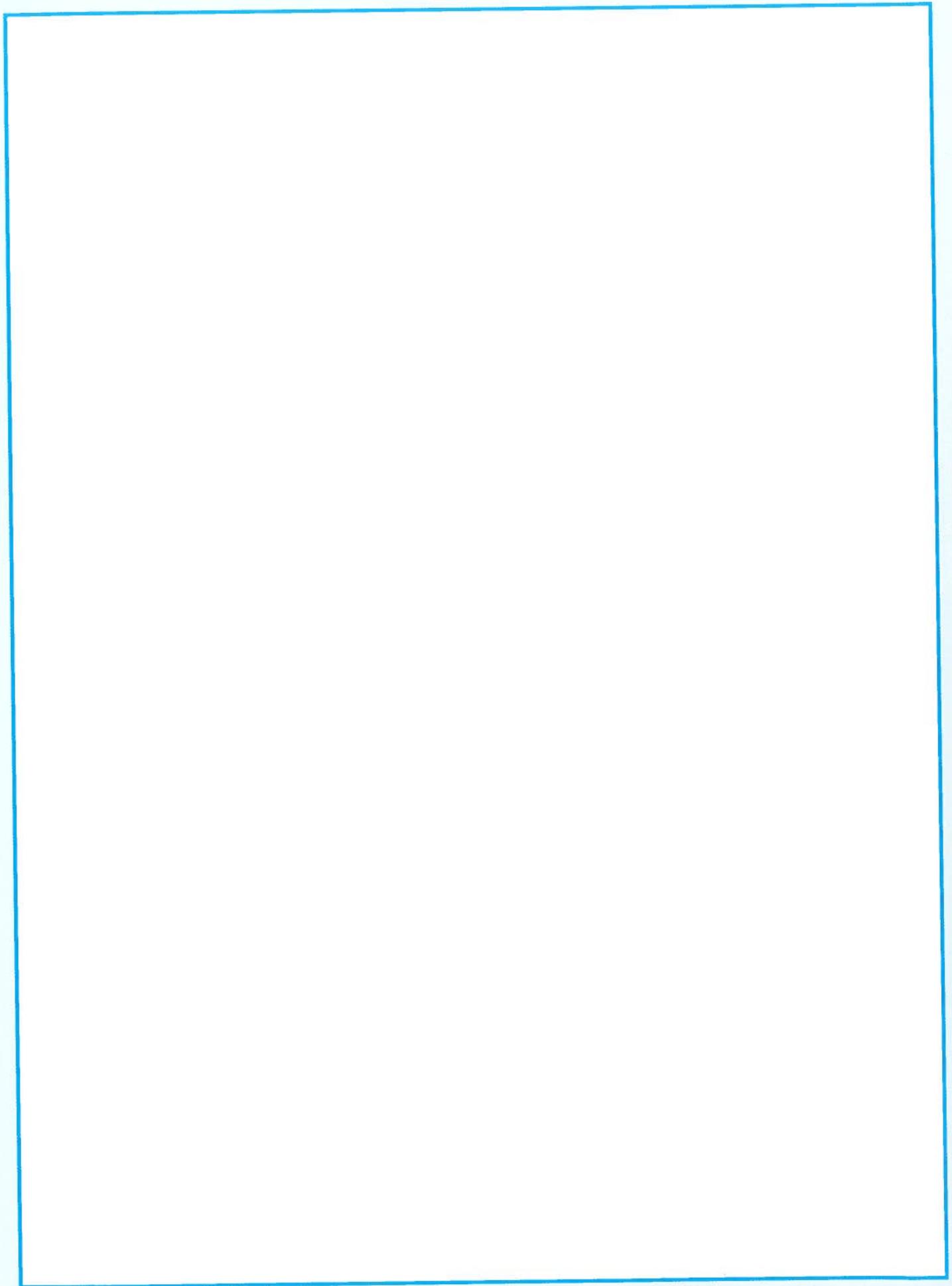
**THE DYNAMICS OF MIGRATION
IN SOUTH ASIA
AN OVERVIEW**

(Draft : Do not quote without prior permission)

Md. Shahidul Haque
*Regional Representative for South Asia
And Regional Migration Management Coordinator for West Asia
International Organization for Migration (IOM)*

and

Nahreen Farjana
*Project Coordinator
International Organization for Migration (IOM)
Dhaka, Bangladesh*



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II. HISTORICAL BACKGROUND

III. PROFILE OF MIGRANTS

IV. MIGRATION PATTERNS AND TRENDS

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International Migration

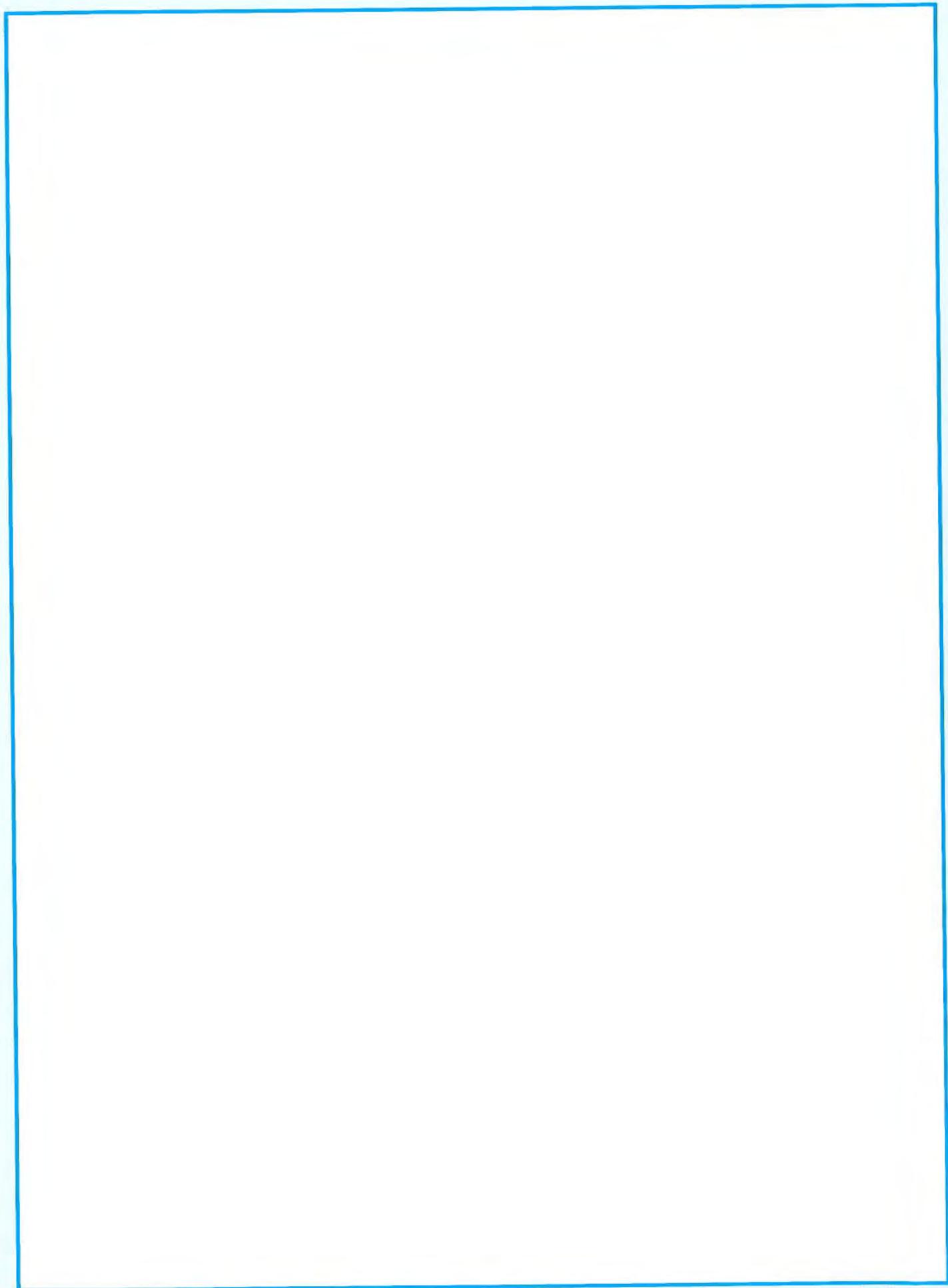
V. IRREGULAR MIGRATION

Trafficking in Persons

Forced Migration/Displacement

VI. POLICIES RELATED TO MIGRATION MANAGEMENT

CONCLUSION



I. INTRODUCTION*

Historically the migration** patterns in South Asia¹ are complex and have always been a significant phenomenon across the region. The South Asian people have moved due to economic difficulties, natural disasters, war, civil unrest, and religious and ethnic conflicts for centuries. In addition, migration in South Asia reflects the historical ties linking various populations across borders.² Economic imbalances, extreme poverty, population growth, economic reasons, land scarcity, environmental degradation, social network, absence or limited implementation of existing legislation, porous international borders, limitations of border management,³ global and regional employment, trade, development and migration policies and lack of awareness contribute to an increase in different types of internal and international migration.

In recent times, globalisation, tremendous growth in information and communication technology and unequal distribution of wealth have become major external factors behind the acceleration in migration as well as development of new migration dynamics. Globalisation has led to development in many areas and has also increased economic inequalities broadening intrastate and interstate disparities. In many cases economic development has come at a cost of employment or livelihood opportunities for poor rural populations. Unregulated market forces, structural economic changes and inefficient government policies have destroyed many livelihoods⁴ forcing people to move from their homelands.

One of the major reasons is widespread poverty. The South Asia remains among the poorest regions of the world. About one third of the populations of India (44.2 per cent), Pakistan (31 per cent), Bangladesh (29.1 per cent) and Nepal (37.7 per cent) are estimated to be living below the national poverty line, living with an income of US\$ 1 a day.⁵ Sri Lanka is closely behind with 25 per cent of its people living with US\$ 1 a day.⁶ Afghanistan, war torn for more than two decades have 56 percent living under the national poverty line.⁷

The South Asian region has many diverse forms of migration making migration management in the region complex and difficult. There are diverse causes behind migration depending on different groups of migrants (Diaspora, labour migrant, forced migrants, etc.). In Sri Lanka and Nepal, poverty is a major driving force behind migration.⁸ Aspiration for economic empowerment is another causal factor as in the case of Bangladesh.¹⁰ Political conflict in Nepal also prompts people to migrate.⁹ Civil unrest in Afghanistan has caused displacement including the world's largest refugee population. Likewise, gender discrimination and low status of women across South Asia results in women and girls desperate for employment. In addition, need for gainful employment, seeking refuge from persecution and conflict, development and social engineering programmes, insecurity, study abroad in higher education institutes, desire for a new life (in the developed countries portrayed by media), social and

* This report is a background paper prepared for the IOM World Migration Report 2005 (forthcoming).

** Migration in this paper refers to voluntary and involuntary movement of people within and across border. However, child "migrants" issue and nomadic ethnic populations has not been reflected. The paper also does not comprehensively reflect any individual outcome of migration - voluntary and involuntary and its diverse impact at an individual level. Finally, the paper has been drafted based on existing literature and is not based on primary data.

¹ South Asia refers to Bangladesh, Bhutan, India, Nepal, Pakistan, Sri Lanka and Afghanistan.

² Migration Initiative 2004, IOM; Page 37

³ IOM, Trafficking in Persons: An Analysis of Afghanistan; January 2004, Page 1

⁴ Upala Devi Banerjee, Globalization, Crisis in Livelihoods, Migration and Trafficking of Women and Girls: the crisis in India, Nepal and Bangladesh

⁵ Source: Skeldon, Ronald; Migration and migration policies in Asia: a synthesis of selected cases, paper presented at the Regional Conference on Migration, Development and Pro-poor Policy in Asia jointly organised by RMMRU, Bangladesh and DFID on 22-24 June 2003, Dhaka, Bangladesh. Page 2 and UNDP; Human Development Report 2001; http://www.undp.org/hdr2001/indicator/indic_31_1_1.html

⁶ UNDP; Human Development Report 2003; http://www.undp.org/hdr2003/indicator/indic_24_1_1.html

⁷ Source: UNDP

⁸ An Overview of Out-Migration from South Asia, Pong-Sul Ahn, in Pong-Sul Ahn edited Migrant Workers and Human Rights: Out --- Migration from South Asia, Page 2

⁹ Ibid

¹⁰ Ibid

gender disparities, governance, and natural disasters are some of the diverse push factors behind migration. Colonial, ethnic and historical ties and family reunification are other major causes behind migration.

In South Asia, a large number of people also migrate because of family reasons. The family relationship, kinship groups, informal social networks and extended family relations are also important in decision to migrate. In the region, migration is not just an individual choice, but a choice taking place within a household and in some case within the community, which intends to minimize the risks of various markets (crop, capital, credit, insurance) and to improve its conditions in relation to other households.¹¹

On the other hand, various pull factors including expanding markets, labour shortfalls and aging of the population¹² in destination countries also motivate people to migrate across borders. Better educational opportunities for migrants' children, access to specialised jobs, better healthcare systems, and wider opportunities for self-actualisation¹³ are other pull factors. Although most people migrate for economic reasons, forced migration is also observed in South Asia.

However, accurate and objective data is limited on migration. There is also no uniform method followed by the regional countries for data collection, which makes it difficult to compare data of different countries. It is also not sufficiently disaggregated by gender or skill type. Estimates apply mostly to the refugee population, which represents only a small part of total mobile populations. Irregular migration and trafficking appear to account for increasing numbers but are not yet included in comprehensive registration or data collection since the patterns are difficult to quantify.¹⁴

II. HISTORICAL BACKGROUND

Population movement has always been a part of life in South Asia. For hundreds of years, circular movement of people has taken place in some regions of South Asia to make sole source of income beyond subsistence agriculture.¹⁵ There are also historical records of large-scale labour movements especially in agricultural sector. People moved from upper Gangetic plain to lower plain seasonally back and forth. There was no barrier on people's mobility in those days in the sub-continent.

During the pre-colonial period people moved freely across India as, the Mughal Empire did not deploy a centralized bureaucratic administration to determine citizenship or membership.¹⁶ The various groups and individuals were allowed to pursue multiple identities and membership with little fear of their membership to the Empire being revoked. Though with the advent of colonial rule, migratory pattern changed, population movement relatively remained unchanged and non-regulated. In fact, till emergence of the nation-states in South Asia in 1947, rulers did not consider people's mobility unwarranted and irregular. People could move freely within the South Asian territory for better livelihood or for protection without any restrictions.

During the British colonisation, some South Asians became bonded or contracted labourers to the British within South Asia. Many workers from India were also transported to work in mines, plantations, and households in the Americas, the Caribbean and the South East Asia. These involuntary migrants from Indian subcontinent subsequently decided to settle in those colonies.

The emergence of nation states in South Asia could not stop the flow of people seeking employment within and outside the sub-continent. The forces of "natural integrated labour market" of South Asia, at one hand and

¹¹ Battistella, Graziano; International Migration in the ESCAP Region; ESCAP; 2001; presented on the Ad Hoc Expert Group Meeting on Migration and Development: Opportunities and Challenges for Poverty Reduction in the ESCAP region; Page: 3

¹² World Migration Report 2005 (draft); Page 104

¹³ de Bruyn, Tom and Kuddus, Umbareen; Dynamics of Remittance Utilization in Bangladesh; IOM; 2005; Page 13

¹⁴ UNDP; Human Development Report 2003; http://www.undp.org/hdr2003/indicator/indic_24_1_1.html

¹⁵ Asian Development Bank; Combating Trafficking of Women and Children in South Asia; 2003; Page 1

¹⁶ Bose, Sugata and Jalal, Ayesha, Modern South Asia; History, Culture and Political Economy, Routledge, N.Y. 1998

limited state capacity to effectively monitor and control borders, on the other, further compounded the situation in South Asia with far-reaching consequences on security, economy and society.

The de-colonization leading to partition of the Indian subcontinent in 1947 ensued bloody ethnic, religious and communal conflicts leading to massive movement of people in the Indian sub-continent ("partition migration"). During the partition, nearly a million people were killed¹⁷ and thousands left their homeland. Since then, approximately, 35 to 40 million people moved across national boundaries in India, Pakistan, Bangladesh, Sri Lanka and Nepal.¹⁸

At the end of the British colonial period, many people migrated to the European countries. A large number of them were from Sylhet, a region of Bangladesh who principally emigrated to the UK. The UK, as many other European countries experienced a labour shortage, especially in low-skilled industries. It attracted labour migrants from its former colonies including the Indian sub-continent to work in heavy industries.¹⁹

In the 1970s, there was a large demand from the oil producing countries in the Middle East mainly in the construction sector, for unskilled workers pulling a large population from all South Asian countries on temporary contract work. The demand was in the peak in the 1980s and unskilled, semi-skilled and skilled labour from this region went to work in the Middle East. By the mid-1980s rapid economic growth and declining fertility in Southeast Asia and Far East led to considerable rise of demand for migrant labour in Japan, Republic of Korea, Hong Kong, Malaysia, Thailand, Taiwan, Singapore and oil-rich Brunei.²⁰

Afghans have a long tradition of economic migration to neighbouring countries. Recently, although refugee flows have ceased, there continue to be significant cross-border flows of migrants moving in circular and/or seasonal fashion between Afghanistan and Pakistan and Iran.²¹ The principal reason is the ethnic ties, traditional linkages and nomadic character of some ethnic groups.

III. PROFILE OF MIGRANTS

People from all socio-economic background irrespective of gender and age can take decisions to migrate. In terms of economic migrants, the traditional picture was a single male member migrating to work. However, more and more women are traveling for employment autonomously as individual agents now, changing the gender dimension of migration. The long-term permanent migrants migrating are mostly family migration, while short-term international migration is of a family member. The decision to migrate also differs on long-term migrants migrating to industrial countries in Europe and the Americas and short-term contract migrants working in the Middle East or South East Asia. While the former travels for better education and healthcare for their children, access to specialised jobs, and wider economic opportunities, the later often migrates in search of employment. Often it is noticed that the international migrants are not the poorest section of the population, as it is difficult to bear the cost of overseas migration. On the other hand, internal migrants are from a poorer section than international migrants as they can not afford the cost of international migration. Involuntary migration or displacement is mostly family displacement. Although men, women and children are trafficked, trafficking in women and children is more widespread than of men as women and children are more vulnerable to being trafficked.

¹⁷ Bose, Tapan k., "The changing Nature of Refugee Crisis" in Tapan K. Bose and Rita Manchanda (ed.), *States, Citizens and Outsiders: The uprooted Peoples of South Asia*, South Asian Forum For Human Rights, Kathmandu, 1997

¹⁸ Weiner, Myon "Rejected Peoples and Unwanted Migrants in South Asia", *Economic and Political Weekly*, August 21, 1993

¹⁹ de Bruyn, Tom and Kuddus, Umbareen; *Dynamics of Remittance Utilization in Bangladesh*; IOm; 2005; Page 12

²⁰ *Labour Migration in Asia: Trends, challenges and policy responses in countries of origin*; International Organization for Migration; Geneva, 2003; Page: 14

²¹ *Ibid*

IV. MIGRATION PATTERNS AND TRENDS

*Internal Migration*²²

Internal migration refers to population mobility and movement within the borders of a nation state.²³ The number of people moving within the country far exceeds the numbers going overseas in the region.²⁴ The internal migration of people within the country's border is of four types, rural to rural migration, rural to urban migration, urban to urban migration and urban to rural migration.

Internal migration has not been a very significant area for the policy makers. Recently rural to urban or urban to urban migration has drawn some attention of policy makers, as it has links with rapid urbanisation in India, Pakistan and Bangladesh. Urban growth rates in India, Pakistan and Bangladesh are 2.8, 4.1 and 4.0 per cent per annum which are more or less double of the overall population growth rates (India 1.5 per cent, Pakistan 2.6 per cent and Bangladesh 2.1 per cent). In **Bangladesh**, the number of internal migrants can be estimated from the rapid growth of urban population. Migration accounts for two-thirds of the urban growth seen in Bangladesh since independence. The proportion of people living in urban areas rose from 6.2 per cent in 1965 to 9.9 per cent in 1975 and reached 25 per cent in 2000.²⁵

The urban growth rate in **Pakistan** is double of its population growth rate. According to a 1998 population census, urban areas accounted for nearly 66 per cent of all immigrants. One major characteristics of internal migration is that according to the 1998 population census, 43 per cent of lifetime migrants gave 'moving with household head' as their reason for migration. So, internal migrants in Pakistan migrate for 'family-related' reasons.²⁶

A recent DFID report on **India** shows that 38 per cent of most recent interstate migrants (duration of residence of less than one year) moved from one rural area to another, compared with 24.5 and 24.4 per cent respectively who moved from rural to urban areas and from urban to urban areas.²⁷ Migration in India is predominantly short distance, with around 60 per cent of migrants changing their residence within the district of enumeration and over 20 per cent within the state of enumeration, while the rest move across the state boundaries.²⁸

In **Nepal**, according to the 2001 census, total number of internal migrants (rural-urban, urban-urban, rural-rural and urban-rural) is 2,929,062. Out of which, rural to rural migration is 68.2 per cent, rural to urban migration 25.5 percent, urban to urban migration 2.8 per cent and urban to rural migration 3.5 per cent.²⁹

In **Sri Lanka**, 14.45 of the population migrated internally in 1994. Female migration in Sri Lanka, both internal and overseas is a major characteristic. According to the 1994 Demographic Survey (excluding the districts of Northern and Eastern provinces), 13.3 per cent are lifetime male migrants out of Sri Lanka born male population of 7,326,678 and 15.6 per cent are lifetime female migrants out of Sri Lanka born female population of 7,523,009.

²² Data on internal migration is not segregated in terms of displacement and economic migration.

²³ Waddington, Clare; International Migration Policies in Asia; paper presented at the Regional Conference on Migration, Development and Pro-poor Policy in Asia jointly organised by RMMRU, Bangladesh and DFID on 22-24 June 2003, Dhaka, Bangladesh. Page 12

²⁴ Skeldon, Ronald; Migration and Migration Policy in Asia; Development and Pro-poor Policy in Asia jointly organised by RMMRU, Bangladesh and DFID on 22-24 June 2003, Dhaka, Bangladesh. Page 1

²⁵ Afsar, Rita; Internal migration and development nexus: the case of Bangladesh; paper presented at the Regional Conference on Migration, Development and Pro-poor Policy in Asia jointly organised by RMMRU, Bangladesh and DFID on 22-24 June 2003, Dhaka, Bangladesh. Page 2

²⁶ Gazdar, Haris; A review of migration issues in Pakistan; paper presented at the Regional Conference on Migration, Development and Pro-poor Policy in Asia jointly organised by RMMRU, Bangladesh and DFID on 22-24 June 2003, Dhaka, Bangladesh. Page 14

²⁷ Skeldon, Ronald; Migration and migration policies in Asia: a synthesis of selected cases, paper presented at the Regional Conference on Migration, Development and Pro-poor Policy in Asia jointly organised by RMMRU, Bangladesh and DFID on 22-24 June 2003, Dhaka, Bangladesh. Page 3

²⁸ Srivastava, Ravi; An overview of migration in India, its impacts and key issues; paper presented at the Regional Conference on Migration, Development and Pro-poor Policy in Asia jointly organised by RMMRU, Bangladesh; Page 3

²⁹ Source: KC, Bal Kumar; Migration, poverty and development in Nepal; ESCAP; paper presented on the Ad Hoc Expert Group Meeting on Migration and Development: Opportunities and Challenges for Poverty Reduction in the ESCAP region on 27-29 August 2003; Page: 10

This highlights the fact that internal migratory movements of female are higher than the male internal migratory movements³⁰ in Sri Lanka.

There is very little data on internal migration in Afghanistan, most data/estimates reflect the Internally Displaced Persons (IDPs), which is later discussed in the Forced Migration/ Displacement section of the paper. However, settlement of Afghan IDPs, refugees and return migrants in Kabul, because of security and economic reasons is increasingly becoming a problem for the city to host a huge number. However, how many are refugees returning from neighbouring countries and how many are IDPs or economic migrants is not segregated.

Although, internal migration in most cases is short distance, it could be long-term or permanent in nature especially in case of poor people. Distance and social network are some important factors in internal migration. But, seasonal and circular migration during harvesting season are also part of rural to rural and urban to rural migration, as well as cross-border movements in South Asia. Remittance send by internal migrants is probably the major impact in the local economy, however, there is no data available on this.

International Migration

There could be three major types of voluntary international migration identified in South Asia, namely the movement of emigrants as settlers to Europe, Australia or North America (long-term permanent migrants); the movement of contract labour migrants to the countries of the Middle East, South East Asia and elsewhere (short-term labour migrants); and the intraregional short-term movement of people within the South Asian region (seasonal economic migrants).³¹

Long term permanent migrants of the region has seen both intra-regional as well as South Asian people started migrating to Europe and Americas in search of better life, education and opportunities in the last century.

Among the **short-term labour migrant**: Among the migrants, a significant portion is low skilled and are mostly employed in the "informal sector" and is temporary in nature. The recent trend of recruitment of temporary labour from South Asia could be traced back to the early 1970s in the wake of the labour intensive construction boom of the Middle East. The labour force of South Asian countries participated in the growing economy of the Middle East and the flow of labour migration reached 800,000 annually by mid 1990s. The destinations for South Asian migrants have overwhelmingly been the Middle East, even if countries have been diversifying towards other Southeast Asian and European countries. Overall numbers from Bangladesh have declined in recent years while those in India have begun to increase again. The migrant workers from the South Asian countries is mostly men except from Sri Lanka.

Short-term seasonal migration involves short-term movement of people intra-regionally during harvesting season is another type of migration that is visible. Generally it is irregular in nature, as people have been migrating this way for years, the emergence of nation states and the introduction of borders were not able to stop the flow of this type of migration.

There is no firm data on permanent migrants, short-term labour migrants or seasonal migrants of the region. Although there are official figures, maintained by some countries, many migrants remain unrecorded. The data is not also desegregated by gender or skill type. Different countries in the region have also different methods of collecting data which makes it difficult to undertake a comparative regional analysis. There are also estimates by different researchers and government bodies. Although the number is difficult to assume, the consensus is that the actual number of migrants far exceed the official sources.

³⁰ Source: Ukwatta, Swarnalatha; Improvement of socio-economic status and internal migration of females in Sri Lanka; ESCAP; paper presented on the Ad Hoc Expert Group Meeting on Migration and Development: Opportunities and Challenges for Poverty Reduction in the ESCAP region on 27-29 August 2003; Page: 11

³¹ Skeldon, Ronald; Migration and migration policies in Asia: a synthesis of selected cases, paper presented at the Regional Conference on Migration, Development and Pro-poor Policy in Asia jointly organised by RMMRU, Bangladesh; Page 4

According to the 2001 census data, 762,181 Nepalese were absent for more than 6 months from their place of origin in Nepal. Most Nepalese migrate to India as they have historical links. However, in the 2001 data, it was noticed that only 77.3 per cent (it was 89.2 per cent in 1991 and 93.1 per cent in 1981) migrated to India, which shows a decline from past data. It was observed that the Nepalese migrants were bound towards new destinations – Saudi Arabia (8.9 per cent), Qatar (3.2 per cent), UAE (1.7 per cent), Hong Kong, China (1.6 per cent) and Anglo America (1.3 per cent). The data also indicated that 53.2 per cent were absent for 1-5 years, which represents the contract labour migrant or emigrants. Around 15 per cent of persons were absent for 5-10 years – this group can be considered as permanent emigrants. Nepal also hosts a large number of immigrants. In 2001, the immigrant population consisted of 2.7 percent of the total population.³²

In India, it is estimated that there are around 20 million Indians throughout the world, comprising the third largest Diaspora community after China and Britain. India also has a large number of its citizen working as short-term contract labourers. In 2002, the number of contractual labour from India was .37 million which is lower than 1993 when it was .44 million. The major destination for Indian contractual labour is the Middle East (75 per cent).³³

Data for Labour migration in Bangladesh suggests that from 1991-2000, on an average, more than 250,000 Bangladeshis left the country each year to take up overseas employment.³⁴ However, it is believed that the actual number is far higher than the official figure. The major destination for Bangladeshi labour migrants is the Middle East, Maldives and Malaysia. According to a rough estimate, 1.05 million Bangladeshis are living abroad permanently either as citizens or with other valid documents³⁵. This Bangladeshi Diaspora is spread mostly in the UK, US, Europe, South Africa, Canada and Australia.

In Sri Lanka, data shows that, 158,287 migrants left Sri Lanka in 1998, of which 66.5 per cent were women. Most of the migrants migrate to the Middle East. The other destinations include Lebanon, Libya, Jordan, Cyprus and a smaller number also migrate to East Asian countries such as Singapore, Hong Kong and Malaysia.³⁶

If Afghanistan, the focus has been mostly on displacement issues and there has been so far, almost no work done on the scope and nature of Afghan migration dynamics. However, most Afghan migration to neighbouring countries is economically motivated.³⁷ Afghan Diaspora worldwide consists of some one million³⁸ persons. Interestingly, Afghanistan also hosts migrants from Pakistan, most of whom are semi-skilled,³⁹ as there is a need of skilled labours. There is also information of Afghans working in the Middle East as labour migrants, however, there is no data on this type of migration.

Like other regions, the most important impact of short-term or long-term international migration in South Asia is in terms of remittances and economic impact. However, it is very difficult to ascertain the full impact of remittances in South Asia due to unavailability of full data. Out of the estimated annual figure for world-wide international remittance US\$ 100 billion, about 20 per cent flows into South Asia, India account for 78 per cent, making her the world's largest remittance recipient country.⁴⁰ Bangladesh accounts for 12 per cent of the remittance

³² Source: KC, Bal Kumar; Migration, poverty and development in Nepal; ESCAP; paper presented on the Ad Hoc Expert Group Meeting on Migration and Development: Opportunities and Challenges for Poverty Reduction in the ESCAP region on 27-29 August 2003; Page: 10, 12, 14

³³ Source: Rajan; S. Irudaya; Dynamics of international migration from India: its economic and social implications; ESCAP; paper presented on the Ad Hoc Expert Group Meeting on Migration and Development: Opportunities and Challenges for Poverty Reduction in the ESCAP region on 27-29 August 2003; Page: 1, 3

³⁴ Source: Bangladesh Bureau of Manpower, Employment and Training (BMET)

³⁵ Siddiqui, Tasneem; Institutionalising Diaspora Linkage: The Emigrant Bangladeshis in UK and USA; IOM; 2004; Page: 1

³⁶ INSTRAW-IOM; Temporary Labour Migration of Women: Case Studies of Bangladesh and Sri Lanka; 2000; Page 104

³⁷ The Kandahar Bus Stand in Kabul: An Assessment of Travel and Migration to Iran and Pakistan, draft, Afghan Research and Evaluation Unit (AREU); June 2004

³⁸ IOM; Migration Management Strategy for Afghanistan, 2005-2007 (draft); January 2004; Page 5

³⁹ Source: Ministries of Refugees and Repatriation; cited in ; Migration Management Strategy for Afghanistan, 2005-2007 (draft); January 2004; Page 6

⁴⁰ Kuddus, Umbareen; Channeling Diaspora Remittance into the Securities Market of Bangladesh; Internship Report, Institute of Business Administration, University of Dhaka, 2003; Page 11

flowing into the South Asian Region; that is a considerable 2 per cent of the global remittance flow. These figures vary according to the sources. According to World Development Indicators 2002, Remittance figures are varied because of the amount that flows in through the unofficial channels, making it very hard to predict.⁴¹ Pakistan and Sri Lanka receive 2.1 and 1.1 per cent of the total global remittance flow. Remittances sent by Afghans working in the neighbouring countries, the Gulf States and also from other countries of the world constitute an important resource for many Afghan families, possibly (as remittances to Afghanistan are transferred through informal channels, outside formal banking system or transferred in kinds or as goods, it is almost impossible to determine the amount) amounting to hundreds of millions of US dollar annually.⁴²

However, these data only reflect the remittances coming through official channels and does not reflect the remittances coming through unofficial channels. It is estimated that a significant amount of remittances flows into South Asia through unofficial channels. A study in Bangladesh, for example suggested that only 46 per cent flowed through official channels, 40% through the informal *hundi* or *hawala* system, 4.6 per cent through friends and family and a further 8% was carried by the migrants themselves when they returned home. In India, estimates of the proportions sent through informal means vary between 25 and 30 per cent.⁴³ However, investment in the origin countries by the non-resident Indians or Bangladeshis may not be included in the remittance data.

The major impact of remittances in the origin areas is the changes in pattern of household expenditure, improved living conditions, social security and improved education and health care in an individual level. The remittance has a tremendous effect on reducing the unemployment rate of the origin area. Some countries use foreign employment as a means of reducing unemployment. It is also an important source of foreign currency for many countries. Enhancing skills of the migrants and investment in the local community are other impacts of migrants. Migration for economic purposes also brings in the question, whether those leaving, for example the highly educated and often wealthy, creates a space where less privileged people of the community can fill up.

There is a debate among the development practitioners as to whether migration **reduces the country's skilled workforce, increase brain drain** and subsequently have negative affect on the development process. However, there are also those who believe in **brain gain** through **brain circulation**. Some argue that migrants bring in new skills to the country of origin, however, whether those skills are applicable in the country is another debate.

For the destination countries in South Asia, migration meets the demand of labour that is not available in the local market, migrant labour are comparatively cheap and easy to control. However, migrants also bring in new culture and changes in the community, which is not accepted by many destination communities.

In general, most migration from South Asia is of **semi-skilled and unskilled workers**. There are also differences in migration trend among the South Asian countries. Over the years, the migration of more skilled workers from Bangladesh to the Middle East seems to have declined, while the movement of the unskilled has increased; the opposite appears to have occurred in case of India.

Another feature of the migration processes in South Asia is the emergence of the **recruiting industry**, in late 1970s and 80s. During the initial phase of the early 70s, the recruitment was mostly dealt by the state. Now, over 90 per cent of the recruitment is carried out by the private agencies in India, Pakistan, Srilanka and Bangladesh. Recruiting agencies normally function with the license from the Government of the labour origin countries and develop employment opportunities for the migrant origin countries and facilitate the placement of workers

⁴¹ Kuddus, Umbareen; Channeling4 Diaspora Remittance into the Securities Market of Bangladesh; Internship Report, Institute of Business Administration, University of Dhaka, 2003; Page 12

⁴² Securing Afghanistan's Future: Accomplishments and Strategic Path Forward; Refugees and Internally Displaced Persons, Technical Annex, January 2004; cited in IOM; Migration Management Strategy for Afghanistan, 2005-2007 (draft); January 2004; Page 6

⁴³ Skeldon, Ronald; Migration and migration policies in Asia: a synthesis of selected cases, paper presented at the Regional Conference on Migration, Development and Pro-poor Policy in Asia jointly organised by RMMRU, Bangladesh and DFID on 22-24 June 2003, Dhaka, Bangladesh. Page

abroad. For their service, agents, initially were paid by the employers for the procurement of labour. However they have eventually been allowed to charge workers a regulated, but often violated, placement fee. Not all countries have adopted a standard labour contract, diversified by occupation and destination country. However, even in countries with such standards, the practice is often disregarded.⁴⁴ Some unscrupulous agents, has been responsible for various human rights and migrant workers rights abuse and the rise in irregular migration.

The **Feminisation of migration** is another major trend of migration in South Asia. Over the decade, more and more women are going abroad independently. The women migrant workers mostly go to work as domestic workers in the Middle East and Europe. During the past three decades, there has been a significant increase in international migration of women from South Asia for employment in the informal sector especially domestic work force of South East Asia, Far East and Middle East. In the industrial economy of Asia, a declining and ageing population, and women participation in the economy has created a global demand for migrant domestic workers.

UAE, Kuwait, Malaysia, Bahrain, Maldives and Oman are the major destinations for female workers. Women workers from Bangladesh are usually contracted as semi-skilled garment workers and unskilled domestic workers, cleaners etc. However actual figure is not known as many women have opted out of the official channels due to the restrictions in place and hence their migration is not recorded. Female migrants from Sri Lanka accounted for 75 per cent of the total migration out-flow from the country in 1997. The majority of these women migrate for low wage occupations such as female domestic work, which accounted for 66 per cent of Sri Lanka's total migrant flow in 1995.⁴⁵

In response to highly publicised cases of abuse, certain categories (semi-skilled and unskilled) female workers were barred from going overseas for employment by the Bangladesh, Nepal and Pakistan Government in 80s. The measures were justified on the ground of protecting the dignity of women abroad. However, as many women continue to migrate illegally, the policy was reviewed and the barrier to migration was relaxed and applications for skilled, semi and un-skilled migrant women were considered on a case-by-case basis. For example, the Bangladesh Government have relaxed the ban letting unskilled women above the age of 35 years and married accompanied by husband to migrate. Nepal has lifted the ban in 2003 after reviewing that the ban is not stopping women from migrating, rather they are falling prey to the hands of the human traffickers more and more. Pakistan does not encourage women migration. Only .04 per cent of total migrant workers are women from Pakistan. Pakistan does not permit the migration of women under 45 as domestic aides.⁴⁶ On the other hand, India and Sri Lanka does not discourage female migration across borders.

The recent trend in feminisation of migration shows the changes in women's traditional role in South Asian countries. However, as most women travel as unskilled workers and are more vulnerable to exploitation. Women migration is changing the traditional social structures in the host economy. With more women migrating in their own right for work these days, their contribution to home economies through remittances is a growing and highly significant force. Women by and large send back home a greater share of their income in remittances and also tend to be better savers. In addition, women are the largest receivers of remittances and when in control of finances, this means better health, nutrition and education for the family, which supports the development of stronger and more productive communities.⁴⁷ Often, they assume the role of sole breadwinner and decision maker of the household⁴⁸.

⁴⁴ Battistella, Craziano; International Migration in the ESCAP Region; ESCAP; 2001; presented on the Ad Hoc Expert Group Meeting on Migration and Development: Opportunities and Challenges for Poverty Reduction in the ESCAP region; Page: 7

⁴⁵ Waddington, Clare; International Migration Policies in Asia; paper presented at the Regional Conference on Migration, Development and Pro-poor Policy in Asia jointly organised by RMMRU, Bangladesh and DFID on 22-24 June 2003, Dhaka, Bangladesh. Page 3

⁴⁶ Labour Migration in Asia: Trends, challenges and policy responses in countries of origin; International Organization for Migration; Geneva, 2003, Page: 21

⁴⁷ IOM

⁴⁸ World Migration Report 2005 (draft); Page 109

For women in South Asia, migration can be empowering through greater independence and can be translated into social and economic development. Migration also offers empowerment opportunities through the prospect of gaining autonomy, self-esteem, confidence, control over assets and voice in decision-making. Therefore migration plays a role in removing inequalities and ensuring well-being; in many ways changing the gender stereotyped relations of a country.

The role of women left behind by the male migrant workers is also changing. On one hand, they need to cope with their changed roles as the decision makers of the household and on the other face loneliness and financial difficulties. On both cases, family allegiances and structures are changing.

V. IRREGULAR MIGRATION

Alongside regular migration, irregular movement of people is also significant and is a grave concern for the countries in South Asia. In the absence of regular means of migration, many people often opt for irregular means. All the countries has long porous land border with two or more countries which was for thousands of years an integrated economy which makes it difficult to absolutely control the cross border irregular migration. Seasonal migration from one country to another, particularly in South Asia during harvesting season and to work in the informal sector has been a long standing practice even before the border was imposed during the middle of last century. The concept of border to people in the bordering area is quite "vague", as they have historical links as well as family or working relationships with the people residing on the other side of the border.

Poverty, unemployment and discrimination are the major driving forces of irregular migration, while ineffective border control system, the increased demand and restrictive policies in labour-demanding areas, and political tension between the labour originating and labour receiving countries are some factors behind increased irregular migration. There is an alarming growth of irregular migration within the South Asian countries during the past two decades. India and Pakistan are often used as a major transit country for the irregular migrants of Bangladesh, Nepal, and to migrate to the Middle Eastern and European countries. Air route is also used to reach the Middle Easter, European and South East Asian countries irregularly.

The main causes of irregular migration, including the ones stated above, are: expensive and complex bureaucratic procedures for migration abroad, absence of migration policy in destination countries, political suppression, persecution and conflict in source countries, malpractice by some unscrupulous recruiting agencies and strong network of human smugglers and human traffickers. Restrictive immigration policies in some destination countries also create irregular migration, making people desperate to opt for irregular means to seek employment abroad. Restrictive migration policy in the origin countries (for example restriction on migration of unskilled women workers in Bangladesh and Nepal) also increases the irregular flow. As long as there is demand in the destination countries for work and as long as there are supply of labour, migration will occur regularly or irregularly. These restrictive policies on both ends along with the absence of a mechanism to manage migration, poverty, gender discrimination, violence and displacement, lack of awareness and the demand of certain professions in the destination countries, fosters irregular migration and trafficking in persons.

High levels of irregular migration, together with intensified smuggling and trafficking in persons and transnational crimes, such as drug trafficking and terrorism, have increased efforts by all Asian governments to crack down on irregular immigration and visa overstayers. Such apprehensions have energised greater regional cooperation, which may become the first step in developing a sustainable regional migration framework⁴⁹.

⁴⁹ Source: World Migration Report 2005 (draft)

Trafficking in Persons⁵⁰

Human trafficking is a major and often unreported problem in South Asia. Social norms of considering women suffering from sexual exploitation as spoiled and dishonour to the family, fear of personal security, absence of official reporting mechanism, lack of understanding often makes trafficking related crime unreported in South Asia. Although it is estimated that there is considerable trafficking activity, exact numbers are not available.⁵¹ Trafficking takes place within the South Asian countries of Afghanistan, Bangladesh, Nepal, India, Pakistan and Sri Lanka and across borders. In South Asia, Afghanistan, Bangladesh and Nepal are the main countries of origin for trafficking, while India and Pakistan are considered countries of destination and transit to other regions, commonly the Gulf States or South East Asia or Europe. Women and children are trafficked to India, Pakistan, Bahrain, Kuwait and the UAE. A small number of women and girls are transited through Bangladesh from Myanmar and Nepal to India and other countries. Mainly women and children are targeted mostly as a vulnerable group. Women and children are trafficked for the purposes of sexual exploitation (including boys), domestic servitude, forced marriage, and bonded labour. Boys are also trafficked to the UAE and Qatar and forced to work as camel jockeys and beggars.

Nepalese women are trafficked to work as commercial sexual worker. The main source is the impoverished regions of Nepal and the street children. An ongoing Maoist insurgency in Nepal has used violence to wrest control of remote areas from the government; many trafficking victims originate from those areas. In **Bangladesh**, the major origin areas are in the impoverished north of the country. It is also reported that Burmese women and children are trafficked through Bangladesh. The general impoverishment of refugees, IDPs communities of all over **Afghanistan** makes it a haven for traffickers. However, because of the conflicts for decades, it is difficult to come by any data. However, reported trafficking trends within Afghanistan include abduction of women and girls for forced marriage, forced marriage for debt release, the exchange of women and girls (for forced marriage) to settle disputes or cease blood feuds, and the abduction of persons, including boys, for sexual and domestic servitude. **Pakistan** is a country of origin, transit, and destination for women and children trafficked for purposes of sexual exploitation and bonded labour. Internal trafficking of women and girls from rural areas to cities for purposes of sexual exploitation and labour is also noticeable. Pakistan is a source country for young boys who are trafficked to the United Arab Emirates, Kuwait, and Qatar as camel jockeys. Pakistani men and women travel to the Middle East in search of work and are put into situations of coerced labour, slave-like conditions, and physical abuse. Pakistan is a destination for women and children trafficked from Bangladesh, Myanmar, Afghanistan, Iran, and Central Asia for purposes of commercial sexual and other labour exploitation. Women trafficked from East Asian countries and Bangladesh to the Middle East transit through Pakistan.

Sri Lanka is a country of origin and destination for trafficked persons. Commercial sexual exploitation of children, especially that of boys, occurs domestically, often in tourist areas. Many of these children, especially girls, are lured by promises of job opportunities or overseas travel, and family members or friends often introduce them into commercial sexual activity. Internal trafficking of persons for purposes of domestic servitude and combat also takes place in Sri Lanka. In many cases, Sri Lankan women go to the Middle East to countries such as Lebanon, Kuwait, Bahrain, United Arab Emirates, or Saudi Arabia in search of work, many are put into situations of coerced labor, slave-like conditions, or sexual exploitation.

India is a country of origin, transit, and destination for thousands of trafficked men, women and children. Internal trafficking of women, men, and children for purposes of sexual exploitation, domestic servitude, bonded labour, and indentured servitude is widespread. Indian men and women also are put into situations of coerced labor and sometimes exploitative conditions in countries in the Middle East and the West. India is a destination

⁵⁰ Source: US Trafficking in Persons Report 2003; Asian Development Bank; Combating Trafficking of Women and Children in South Asia; 2003 and Government of the People's Republic of Bangladesh; Counter Trafficking Framework Report; 2004.

⁵¹ World Migration Report 2005 (draft); Page 112

for sex tourists from Europe and the United States. Bangladeshi women and children are trafficked to India or transited through India en route to Pakistan and the Middle East for purposes of sexual exploitation, domestic servitude, and forced labor. Women and girls from Nepal are trafficked to India for commercial sexual exploitation.

The effects of human trafficking are huge in the region. However, there is little or no research undertaken in this area. But, **Economic losses** to communities and governments are enormous if considered in terms of lost returns on human or social capital investments. The cost of countering the crime, the loss of potential income of trafficked labour lost in hidden sectors (for example, the commercial sex industry), the loss of income from the trafficked labour diverted out of the formal economy and the cost of social integration of trafficked persons are some of the other areas of economic impact. There are conflicting aspects, however, to the **social aspects** of trafficking, since, for many women trafficking episodes, while causing harm, also provide opportunities to remove themselves from otherwise oppressive circumstances.⁵² Integration of trafficked survivors also create a major problem and traditional cultural practices do not accept women who they consider has been spoiled (as the common belief is that "all" women are trafficked into prostitution). Trafficked persons often experience physical and psychological health consequences – psychological stress could lead to trauma, depression and in some cases suicide.⁵³ Many trafficked persons die in the harm situation and many suffer from physical impairment. Women and children trafficked in the commercial sex sector also face higher risk of contracting sexually transmitted diseases (STD), HIV/AIDS, tuberculosis and other diseases.

Forced Migration/Displacement

In South Asia people are also forced to migrate, both internally and cross borders because of conflicts, natural disasters like flood, cyclone, earthquake, riverbank erosion, tornado, deforestation, etc. **Displacement due to development projects** is also observed in many parts of South Asia. Large-scale economic or infrastructural projects such as building of dams, bridges, embankments have caused severe displacements in South Asia, within and outside the state borders. In **Bangladesh**, about 64 thousand are displaced by **riverbank erosion** every year. It is estimated that 70% of the total slum dwellers in Dhaka (the capital of Bangladesh), are riverbank erosion induced IDPs.

Irrigation related migration has a long history particularly in **Pakistan**, and has been associated with significant windfall gains for certain groups of migrants. Lands in many of the newly irrigated areas, for example, were allotted to land-owning outsiders in preference to local landless people on the pretext that land owners would use the new land more productively. The experience of irrigation related migration, therefore, is not simply one of displacement of those directly affected by projects, but has also led to second-round displacement of the landless poor from the beneficiary areas. There is also a history of agricultural migration from arid areas to irrigated regions, particularly in the province of Sindh and in southern Punjab of Pakistan.⁵⁴

More than 1,00,000 **Bhutanese refugees** are living in different camps of eastern **Nepal**. Political crisis in Bhutan is the main cause of refugee crisis, Bhutan exiled Nepalese speaking Bhutanese from its territory since 1990. Nepal also hosts 20,000 Tibetan refugees.⁵⁵ The Maoist insurgence in Nepal has forced many people to move from the affected areas.

Migration due to conflict is another issue in South Asia. The migration after 1947 resulted from political conflict. The migration of Afghan refugees to **Pakistan** was triggered by conflict. Pakistan hosts 2.2 million Afghan refugees at the end of 2002⁵⁶ making Pakistan the host of one of the largest refugee population in the world. By 2000-2001,

⁵² Asian Development Bank; Combating Trafficking of Women and Children in South Asia; Page 70

⁵³ Asian Development Bank; Combating Trafficking of Women and Children in South Asia; Page 71

⁵⁴ Gazdar, Haris; A review of migration issues in Pakistan; paper presented at the Regional Conference on Migration, Development and Pro-poor Policy in Asia jointly organised by RMMRU, Bangladesh and DFID on 22-24 June 2003, Dhaka, Bangladesh; Page 16-17

⁵⁵ UNHCR Country report: Nepal 2002; <http://www.refugees.org/world/countryrpt/scasia/nepal.htm>

⁵⁶ UNHCR Country report: Pakistan 2002; <http://www.refugees.org/world/countryrpt/scasia/pakistan.htm>

the number of Afghan refugees and IDPs has been more than six million.⁵⁷ It is estimated that one in every three Afghans has either been a refugee or IDP.⁵⁸ More than half of the refugee population has returned to **Afghanistan**. However, it is predicted that not all will return. Almost two decades of residing in the neighbouring countries has also developed a social, economic and cultural tie with the host countries.⁵⁹

At the end of 2001, some 345,000 **refugees** and other types of migrants were living in **India**, including as many as 144,000 from Sri Lanka, 110,000 from China (Tibet), 52,000 from Myanmar, 15,000 from Bhutan, 12,000 from Afghanistan, and nearly 300 from other countries. An estimated 40,000 Afghans were living in India in refugee-like conditions. More than 500,000 people were internally displaced in India and estimated 157,000 others in Northeast India.⁶⁰

The main cause of **displacement** in **Sri Lanka** is the **armed conflict** between the LTTE (The Liberation Tigers of Tamil Eelam) and Government forces. Other war-related causes of displacement include forced recruitment by the LTTE, human rights abuse by both sides and inter-communal violence in the east.⁶¹ Since an armed campaign for an independent Tamil state began in 1983 there have been repeated and massive displacements of civilians. Estimates of the total number of IDPs at the end of 1999 ranged from 495,978 to about 800,000 with the latter being the most likely figure.⁶² Recently, due to **tsunami**, tens of thousands of people have been forced to move from their local areas in Sri Lanka and some parts of India. They lost their homes, their assets and livelihoods options.

Women traditionally play a key role in economic, social and family life, yet with displacement they may have to assume more responsibility for what were traditionally male activities, such as heading households or negotiating safe passage. This often puts them at risk of sexual violence, the consequences of which can include disability, leaving them unable to look after children and other family members, and perhaps even death.⁶³ As a vulnerable group, children suffer from abuse during and after displacement.

Asylum seekers is another emerging problem recently. In 2003, 13,820 Afghans, 13,553 Indians, 5183 Sri Lankans and 5083 Bangladeshis claimed asylum outside Asia.⁶⁴ However, the asylum requests from Afghan nationals have decreased almost to half in recent years.⁶⁵

Migration of the Highly Skilled is another type of migration that has increased in recent years along with the increase in investments in products and services related to IT. Indian IT professionals dominate this category of migration. The Indian Government has created the Ministry of Information Technology recognizing the importance and potential of migration of IT professionals. The ministry plays an important part in organisation of this type of emigration.

Return migration is also gaining importance in South Asia, with the vast number of Diaspora living in industrialised developed countries, the emigrant countries (namely India) are developing policies to direct Diaspora investment in the origin communities. Many Afghan Diaspora are living in Europe, North America

⁵⁷ The Migration-Development Nexus: Afghanistan Case Study, Leila Jazayery; International Migration, Quarterly review, Col. 40 No. 5; Special Issue 2/2002, citing to UNHCR data; cited in Migration Management Strategy for Afghanistan (2005-2007); IOM; Page 4

⁵⁸ Securing Afghanistan's Future: Accomplishments and Strategic Path Forward; Refugees and Internally Displaced Persons, Technical Annex, January 2004; cited in IOM; Migration Management Strategy for Afghanistan, 2005-2007 (draft); January 2004; Page 4

⁵⁹ Afghanistan: Challenges to return; UNHCR 2004; cited in IOM; Migration Management Strategy for Afghanistan, 2005-2007 (draft); January 2004; Page 4

⁶⁰ UNHCR Country report: India, 2001; <http://www.refugees.org/world/countryrpt/scasia/india.htm>

⁶¹ Internal displacement in Sri Lanka: updated profile summary; Source: Norwegian Refugee Council, Date: 30 Nov 2000; <http://www.reliefweb.int/w/rwb.nsf/0/434a653524dfc149c12569a80037cd46?OpenDocument>

⁶² Internal displacement in Sri Lanka: updated profile summary; Source: Norwegian Refugee Council, Date: 30 Nov 2000; <http://www.reliefweb.int/w/rwb.nsf/0/434a653524dfc149c12569a80037cd46?OpenDocument>

⁶³ Guy, Samantha; The impact of forced migration on families and sexual health; http://www.kit.nl/frameset.asp?ils/exchange_content/html/2002-4_the_impact_of_forced_mi.asp&frnr=1&

⁶⁴ Source: UNHCR

⁶⁵ Ibid

and Australia. The government of Afghanistan is continuing its efforts to support return of qualified Afghans to fill up the void of human capital created in two decades of conflict. Many Afghan Diaspora have a strong personal motivation to participate in the Afghan reconstruction and development process. The Diaspora community has strong feelings for its origin community and could contribute positively through virtual of physical return migration and other linkages.

VI. POLICIES RELATED TO MIGRATION MANAGEMENT

In South Asia, most policies regarding movement of people are ad hoc in nature and related mostly to the temporary international labour migration. There is no comprehensive policy to manage migration – within the country or on a regional basis. Migration is not an issue of top development priority for most of the South Asian countries, especially in labour migration management and prevention of irregular migration. Most of the policies existing are either ad-hoc or reactive and the issue has been dealt as a national affair or at the most at a bilateral level. In 2003, ten Asian countries namely Bangladesh, India, Nepal, Pakistan and Sri Lanka have jointly launched a consultative process to manage labour migration known as the “Colombo Process”. Afghanistan has attended the last Colombo Ministerial meeting in Manila as observer. Another regional initiative has been the adoption of the South Asia Association for Regional Co-operation (SAARC) of a convention on preventing and combating trafficking in women and children for prostitution in January 2002. However, the convention is yet to come into force.

In addition, the countries of the region has been participating in some regional consultative processes; the inter-governmental Asia-Pacific Consultations on Refugees and Displaced persons (APC), the Bali Process follow-up, Global Commission on International Migration (GCIM), etc. However, the countries have not ratified the international instruments that exist for the protection people on the move. None of the seven countries of South Asia has ratified the 1951 Refugee Convention and there is no regional policy regarding the displaced people who have not crossed the state border. Except for Sri Lanka, none of the countries have ratified the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. In the trafficking and irregular migration field, the countries have also ratified or acceded to a number of human rights treaties that explicitly or implicitly address trafficking in persons.⁶⁶ Some countries are party to the 1949 Trafficking Convention and the 1956 Supplemental Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (the 1956 Slavery Convention). There are also some human rights Convention that contains a number of relevant provisions pertaining to trafficking. These Conventions include Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention on the Rights of the Child (CRC). The CRC has recently been supplemented by an Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, which Bangladesh has ratified and Nepal has signed. The UN Convention Against Transnational Organized Crime and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, are some other important Conventions.⁶⁷

In view of all these, however, there are important differences between the policies of each country within South Asia regarding international migration and trafficking in persons.

In **Bangladesh**, the Government is proactive in negotiating with foreign governments and major employers for their share of foreign labour markets.⁶⁸ The Bangladesh Government has set up a new ministry to deal with the overseas contract labourers and the Diaspora. However, the private recruiting agencies deal with more than 90 per cent of the labour migration. Under the Emigration Ordinance of 1982, registered recruiting agents for overseas employment can lose their licenses and forfeit their security deposit if they are found to have violated the ordinance

⁶⁶ Supplemental Study on Legal Frameworks Relevant to Human Trafficking in South Asia; ADB; July 2002; Page 12

⁶⁷ The Conventions mentioned are not exhaustive in this paper.

⁶⁸ Waddington, Clare; International Migration Policies in Asia; paper presented at the Regional Conference on Migration, Development and Pro-poor Policy in Asia jointly organised by RMMRU, Bangladesh and DFID on 22-24 June 2003, Dhaka, Bangladesh; Page 4

or to have been guilty of other misconduct (including coercion or fraud in inducing someone to migrate).⁶⁹ Nevertheless, the Bangladesh Government is currently drafting an Overseas Employment Policy for both long-term and short-term migrants. Trafficking of persons and related activities can be prosecuted under several national laws including the Penal Code of 1860, the Suppression of Immoral Traffic Act of 1933, the Children (Pledging of Labor) Act of 1933, and the Children's Act of 1974. Recently, the Women and Children Repression Prevention Act of 2000 (the 2000 Act) establishes extremely severe penalties for a number of offenses against women and children, including trafficking. Bangladesh Government is currently drafting a National Anti-Trafficking Strategic Plan of Action to curb trafficking based on a Counter Trafficking Framework Report: Bangladesh Perspective.

In **India**, private recruiting agents operate within the structure of state in labour migration area. There are no specialised institutions at the federal level.⁷⁰ Recently, India has established a new ministry to deal with overseas Indians. Moreover, the demand of Indian IT professionals overseas has led to creation of the Ministry of Information Technology that deals with the emigration of IT professionals. In Trafficking related national legislations, the Indian Penal Code of 1860, the Child Marriage Restraint Act of 1929, the Child Labour (Prohibition and Regulation) Act of 1986, the Bonded Labour System (Abolition) Act of 1976, etc. The main legislative tool for combating trafficking in persons in India is the Immoral Traffic (Prevention) Act of 1956 (ITPA), which was last amended in 1986. India has a National Plan of Action to counter trafficking.

Pakistan's labour migration is managed by the State. It established its Bureau of Emigration and Overseas Employment, under the Ministry of Labour in 1971 which worked through labour attachés in the Middle East and a network of 500 private licensed agents processing state to state labour contracts.⁷¹ The Pakistan constitutional provision also ensure right to life, liberty, dignity, equality and freedom. Slavery is banned and prostitution prohibited and the country is also parties to several international treaties.⁷²

The **Sri Lanka** Bureau of Foreign Employment (SLBFE) was established in 1985. The main objectives of the SLBFE are the promotion of foreign employment, sound management of foreign employment field and ensuring the welfare and security of migrant employees and their families.⁷³ Sri Lanka is the only country in the region that has adopted a gender based migration management approach. The Penal Code of 1996 in Sri Lanka is the main legal instrument to punish trafficking related crimes.

Population movement in **Nepal** is dealt by the Ministry of Population and Development in **Nepal**. Migration is the least researched area in Nepal compared to other demographic dynamics despite the fact that many socio-economic, demographic and political problems are closely associated with the process of both internal and international migration.⁷⁴ Nepal has high rate of internal migration as well as international migration mainly to India. Nepal also hosts a large number of Indians, as the two countries share open borders. Although, no such policy is yet taken by the government to deal with migration, however, in the Ninth Plan, the importance of study on international migration, policy discussion and policy formulation to regulate international migration has been recognised.⁷⁵ Nepal has a Refugee Immigration Law, however, no policy regarding contract labour migration. The *Muluki Ain* (Code of Law) of 1964 provided the original basis for prosecuting human traffickers.⁷⁶ Other laws relevant to trafficking include the *Labour Act of 1992*, the *Children's Act of 1992*, the *Labour Act* and the *Children's Act*, the *Child Labour (Prohibition and Regularisation) Act*, the *Foreign Employment Act of 1985*, etc.

⁶⁹ Supplemental Study on Legal Frameworks Relevant to Human Trafficking in South Asia; ADB; July 2002; Page 21

⁷⁰ Waddington, Clare; International Migration Policies in Asia; paper presented at the Regional Conference on Migration, Development and Pro-poor Policy in Asia jointly organised by RMMRU, Bangladesh and DFID on 22-24 June 2003, Dhaka, Bangladesh; Page 4

⁷¹ Waddington, Clare; International Migration Policies in Asia; paper presented at the Regional Conference on Migration, Development and Pro-poor Policy in Asia jointly organised by RMMRU, Bangladesh and DFID on 22-24 June 2003, Dhaka, Bangladesh; Page 4

⁷² Ghaus, Khalida; Trafficking of Women and Children in South Asia and within Pakistan; LHRLA

⁷³ Labour Migration in Asia: Trends, challenges and policy responses in countries of origin; International Organization for Migration; Geneva, 2003; Page: 21

⁷⁴ KC, Bal Kumar; Migration, poverty and development in Nepal; ESCAP; 2001; presented on the Ad Hoc Expert Group Meeting on Migration and Development: Opportunities and Challenges for Poverty Reduction in the ESCAP region on 28-30 November 2001; Page: 2

⁷⁵ ource: New Era; Migration Policy in Nepal; June 2000

⁷⁶ Supplemental Study on Legal Frameworks Relevant to Human Trafficking in South Asia; ADB; July 2002; Page 37

More than two decades of conflict has prevented **Afghanistan** from establishing governmental structures, policies and framework for management of migration. In the recent past the migration dynamics of Afghanistan have been dominated by the largest and most longstanding refugee displacement crisis in the world.⁷⁷ With the changing scenario of refugees returning and the low opportunities in economic engagement, it is assumed that the Afghans will seek jobs abroad. Their vulnerability considering the current socio-economic situation, lack of information on safe migration and lack of border control regimes will make Afghans target of human traffickers and smugglers. The government of Afghanistan continues to face problems in various areas of migration governance, most critical being that of limited capacity to develop and implement policy, law and regulations.

There are no such policies related to internal migration in any of the countries. The Poverty Reduction Policy, Urbanisation policies, Health and Education policies cover the internal migrants. One major reason behind not adopting a policy concerning internal migrants is not to separate a segment of the population in providing them with special provisions, rather adopting policies that apply to all citizens will prove more effective. However, many provisions are outside the reach of internal migrants, for example, girls' access to education in the cities, where most internal migrants take refuge. Nevertheless, the Inter State Migrant Workmen (Regulation and Conditions of Service) Act, 1979 in India is an attempt to target internal labour migrants.

Conclusion

In today's mobile world, migration has become an increasingly complex area of governance, inextricably interlinked with other key policy areas including economic and social development, national security, respect for human rights, regional stability and interstate cooperation.⁷⁸ Managing migration in the region is a complex issue with political, cultural and social connotations. The internal and international migration at one level and regular, irregular and forced migration on the other pose critical migration management challenges on the South Asian governments and societies. Internal migration can be dealt by a single country, whereas cross border migration can not be dealt by a single country effectively.

The various migratory factors, process and outcome are making interfaces between migrants, refugees, trafficked persons and smuggled migrants difficult and often confusing. All these factors along with the fact that all types of migration take place in a common "migratory space". The internal and international migrants can change their status, either voluntarily or involuntarily, depending on their circumstances (for example, studies have shown that many international migrants has been at first internal migrants, IDPs or refugees). This makes migration management of only one type of movement disregarding the overlapping factor of the other types of migration a half-hearted effort.

Like other regions, migration in South Asia needs to be managed within a broader framework, bringing in all different types of population movements together. Only a comprehensive migration management policy can address the various types of migration and its interfaces effectively. There is also the need to manage migration in collaboration with destination countries within a regional framework. For example, some types of informal labour market in the destination countries are dependent on migrant labour that attracts irregular migration. With demand as the pull factor, the origin country cannot stop irregular migration if pull factors are prevalent. By formalising those markets in the destination countries and by creating a regulated market for labour, migration can be beneficial for all affected – migrants and the countries concerned.

Both for countries of origins and countries of destination migration has acquired a structural role, although of different proportion and significance.⁷⁹ Migration is related to the lives of the urban and rural poor in many

⁷⁷ IOM, Migration Management Strategy for Afghanistan (draft); IOM; January 2004; Page 3

⁷⁸ Ibid

⁷⁹ Battistella, Graziano; International Migration in the ESCAP Region; ESCAP; 2001; presented on the Ad Hoc Expert Group Meeting on Migration and Development: Opportunities and Challenges for Poverty Reduction in the ESCAP region on 28-30 November 2001; Page: 25

countries in the region. Labour migration and the remittances sent by migrant workers are now crucial features – if not determinants – of rural economy and society as a whole.⁸⁰ Remittances do not only increase the individual household income, a part of them can also be channeled into investment and contribute to the growth of local economy.⁸¹ Safe migration and development has a positive bond for both the origin and destination countries. As voluntary migration has positive links, forced migration or trafficking in persons has negative links with development. Policies need to be identified by the South Asian countries to address the “root causes” of forced migration and trafficking and measures need to be undertaken to reduce this type of migration.

Migration is a long standing socio-cultural and political phenomena in South Asia. The complex South Asian migration scenario shows the importance of managing migration to maximise benefits of regular migration, and to ensure the human rights of migrants and minimise adverse consequences. Measures should be taken to regularise the labour migration within and outside the region and reduce the causes behind trafficking in persons or smuggling in migrants. Policies aiming towards limiting migration by one country could lead to increase of irregular migration and trafficking in persons. A naturally occurring integrated labour market cannot be managed by restrictive migration policy or tougher border controls.

As migration is a cross-cutting issue, it requires a comprehensive approach that integrates a migration perspective across the continuum of policy areas that affect, and are affected by migration.⁸² There is also a need to look at the problem from a rights-based program perspective, targeting the countries of South Asia as a whole, rather than targeting clusters of the population. The right of the migrant worker has to be respected and ensured by both the origin and destination countries within and outside South Asia. Unless and until there is an option for regulated movement of people across the borders in South Asia, people will resort to irregular channels and migrants will continue to end up in harm situation as trafficked persons or irregular migrants in the region.

The South Asian countries should adopt an appropriate, balanced and integrated national migration management policy supported by a conducive and productive regional migration framework. The national policy should integrate all types of population movement, regular and irregular in a coherent manner. The policy should be in harmony with the development process of the country.

⁸⁰ Anh, Dang Nguten; Migration and poverty in Asia: with reference to Bangladesh, China, the Philippines and Viet Nam; ; presented on the Ad Hoc Expert Group Meeting on Migration and Development: Opportunities and Challenges for Poverty Reduction in the ESCAP region on 27-29 August 2003; Page: 2

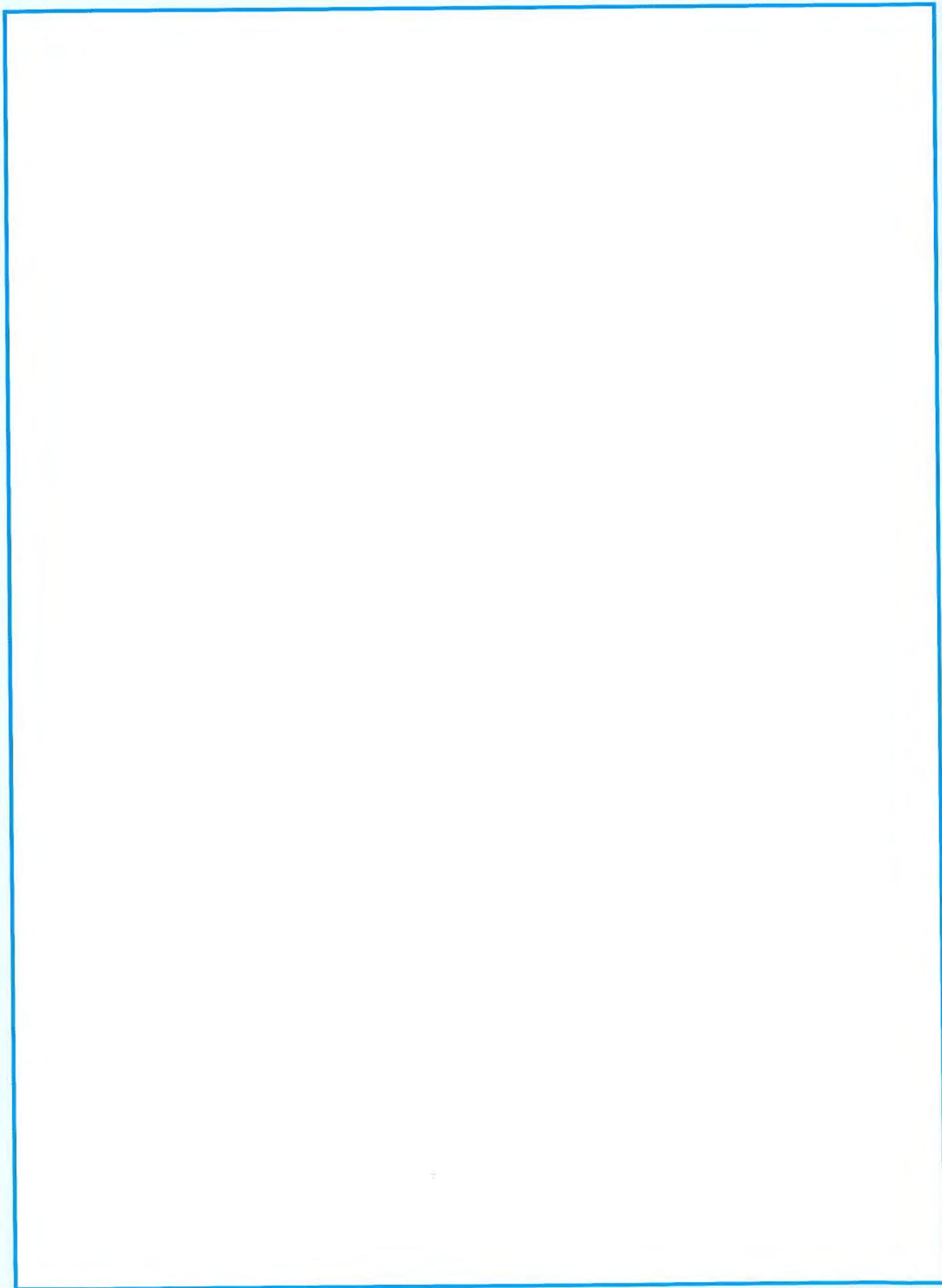
⁸¹ Ibid; Page: 3

⁸² IOM, Migration Management Strategy for Afghanistan (draft); IOM; January 2004; Page 3

ANNEX 5.2

EXAMINING HUMAN TRAFFICKING
WITHIN THE CONTEXT
OF
MIGRATION IN SOUTH ASIA

By
United Nations Development
Fund for Women (UNIFEM)



Contents

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 - II. GENDER DIMENSIONS OF MOVEMENT ARISING OUT OF SOCIAL AND ECONOMIC EXCLUSION AND MARGINALIZATION
 - III. POSSIBLE INTERVENTIONS
- CONCLUSION

To Hell and Back

*She is a living proof of human greed.
She was once a young and innocent girl;
She had flawless skin and teeth like pearl.
However, she could neither write nor read.
She swallowed all the lies that she was told.
She dreamt of a life that she had never seen;
She became an actress, lived like a queen.
Then she woke up. She was already sold.
In dingy corners of an alien place,
Where she did not know a single face,
Men came, men went; they paid her meager price.
Another owned her body. She had no choice.
Years passed before she finally could flee.
I ask myself why her and why not me—————*

By Luna Ranjit, MPA '04

The above poem is based on a true story; unfortunately, it is not merely a story of one girl, or even a few girls. It is the story of many girls who are trafficked under the pretext of migration. But it is a rare story of the one who managed to find the way back from a living hell.

Migration is not a new phenomenon nor is the trafficking in human beings. However, today, newer and more challenging forms of human trafficking and migration are emerging due to the increased demand for human labor and services

Human trafficking is defined as the recruitment, transportation, purchase, sale, transfer, harboring or receipt of persons: by **threat or use of violence, abduction, force, fraud, deception or coercion** (including the abuse of authority), or **debt bondage**, for the purpose of: Placing or holding such person(s), whether for pay or not, in forced labor or slavery-like practices, in a community other than the one in which such person lived at the time of the original act."

Migration like trafficking involves **recruitment, transport, transfer, harboring and receipt** of persons. However, it **does not involve coercion or the use of violence**. The chances of trafficking turning onto migration is much higher for those who happen to be in the bottom level, especially women and children, who are easier to control, intimidate and exploit than other groups and offer a far greater range of services for a very small cost.

I. CONCEPTUALIZING TRAFFICKING VIS-À-VIS MIGRATION

The concept of trafficking is marred with confusion because it is directly linked with migration and smuggling. In South Asia migration has been a common phenomenon throughout which has been accelerated by the economic order that has come along with rapid globalization and liberalization. Movement of migrants of rural and urban poor in search of livelihood to distant unknown cities is capitalized by the traffickers/procurers. Human trafficking is a part of the modernization or development process and traffickers take advantage of vulnerabilities in others, which is an outcome of economic and social poverty, underpinned by gender inequality, poor governance, and social exclusion and so on. The widespread assumption that most trafficking incidents start with only kidnapping and coercion, is far from true. This has aided in keeping most trafficking out of its purview because most trafficking starts as a migration experience which takes a form of coercion and deception. However there is a fundamental difference between migration and trafficking.

Movement is central to both migration and trafficking and this commonality between the two builds a complex relationship. It is a fact that has been validated by many observations, that vast majority of trafficking episodes start after migration movement from one place to another. Radhika Coomaraswamy states that trafficking is distinguished from migration by a coerced transport and coerced end practices.¹ Sometime the element of coerced movement is found to be absent especially in the case of the bonded labor system where men, women and children may be exploited in their own place of origin without having to cross geographical borders. The issue of consent in physical movement, brings to the fore the problem of distinguishing between an exploited migrant and a trafficked person. Trafficked persons do not have the opportunity of informed consent with respect to the experiences they undergo.² Cases of exploited migrants are offences in themselves but they do not become the cases of trafficking. However, the majority of trafficked people will be exploited migrants. The decisive factors in distinguishing between the two will be - the nature of consent; the intention of the agency between the information made available at the start of the journey as compared to the circumstances they find themselves to be in at the end of the journey. A difficult and complex situation arises when migrants agree to work and accept exploitative relations, perceiving themselves "better off than if they had stayed home".

It is imperative that the issue of trafficking in women (men and children) be considered within the larger spectrum of issues within labor migration. Trafficking is not opposed to migration but an aspect of it. Case histories collected by Therese Blanchet in "Beyond Boundaries" "show that the experience of being trafficked often initiates a migrant career. Lured, deceived, cheated, deprived of freedom and/or income, compelled to engage in work against their will, women (and children) who are trafficked painfully learn and acquire skills useful to their survival. In an adverse situation the incentive to learn can be very strong. After being trafficked, life goes on with the need to earn, tackle risks and manage in an environment offering poor protection. There is usually no return to a pre-trafficked situation" and that "the outcome of being trafficked very seldom leads to rehabilitation in a rescue home".³

In this age of globalization, most countries of the world are engaged, to varying degrees, in processes of substantial economic reform. These include the adoption of market economies, trade liberalization, and privatization, new rules of international investment and new labor regimes, as well as new forms of international cooperation and trade agreements.⁴ The move to more competitive markets is likely to increase disparity between and within nations, providing the stimulus for rapidly increased migration. With labor not enjoying similar freedom of movement to capital, much of this migration is "illegal" or irregular, placing migrants in a highly vulnerable position and leading to exploitation and trafficking.⁵

¹ United Nations 2000:9

² United Nations 2000: ESCAP 2003

³ *Beyond Boundaries*, Therese Blanchet, 2002

⁴ *Getting at the Roots - Stopping Exploitation of Migrant Workers by Organized Crime*, ILO, 2002

⁵ Marshal, P: Paper to the Globalization Workshop in Kuala Lumpur, 8-10 May 2001

Radhika Coomaraswamy has rightly said that "traffickers fish in the stream of migration. They prey on the most vulnerable section of the migrants to supply to the most exploitative, hazardous and inhuman forms of work. Traffickers can also create migration situation by capitalizing on the lack of choice for the poor (*especially women and children*). This very powerlessness of the migrants creates a condition in which they can easily be duped, coerced and exploited furthering their susceptibility to continuance of exploitation". A high demand for the services of women and children have been created in the flexible labor markets where women and children are paid much lower wages than men as they are considered a "cheap" labor force and have little or no capacity to negotiate. "Women and children are in greater demand within the trade of human labor as the market is segmented on the basis of gender and age, as they are easier to control, intimidate and exploit than other groups and offer a far greater range of services for a very small cost. The gender discrimination they suffer and exclusion from the economic and political arenas makes them socially vulnerable subjects. It is this socially constructed vulnerability of women and children as marginalized social groups that is the key ingredient in their oppression."⁶ "Trade and finance have become increasingly deregulated and integrated across regions and globally. By contrast, however, migration policies have not been liberalized, nor have they otherwise addressed the gulf between continued demands for cheap labor and the increasing supply of such labor in other countries".⁷ Some countries have responded to the issue of irregular or undocumented migration and human trafficking by putting restrictions on travel -especially on women and children - outside of the countries, and some have responded by severely restricting the recruitment of foreign workers.

However, "tighter border controls have not halted migratory flows nor have they had projected results in reducing the number of workers crossing borders. Instead they have put more pressure on those who migrate."⁸ These pressures are felt more by women and children. They tend to bear the brunt of trafficking and undocumented migration under these circumstances as their problems are further aggravated by several other factors "including greater dependence on the protection of the employer or agent, violation of their basic human rights in the form of debt bondage, extortion, indentured servitude, greater susceptibility to sexual abuse and violence, and the constant fear of being arrested or deported. In short, the powerlessness of women and children in a highly patriarchal society makes their suffering and vulnerability to trafficking intense".

Trafficking is intertwined with the concepts of smuggling and migration making it complicated and subject to manipulation. Besides, because of the clandestine nature of trafficking, 'the trade is secretive, the women are silenced, the traffickers are dangerous and not many agencies are counting'.⁹ By one estimate, it is believed that "in the last thirty years, trafficking in women and children for sexual exploitation in Asia alone has victimized more than thirty million people."¹⁰

If we look beyond the organized crime paradigm to recognizing that the majority of trafficking is a fall-out from irregular migration, we can define 'new alternatives' to prevention and protection of vulnerable people. Such alternatives would however involve several components specific to migration: regularization of labor migration where feasible, providing alternatives to migration, protecting the rights of migrants, strengthening return and repatriation, and monitoring the impact. In many cases where there is supply and demand, some form of orderly managed migration would seem to be feasible. It is necessary to recognize the benefits of migration to both sending and receiving countries as this could help to counter negative consequences for migrants, especially violations of their human rights. Many countries have already taken steps in this area. However, the relationship between immigration policies and labor laws is a dimension that has often been missing from the growing number of discussions on human trafficking within the region.¹¹

⁶ 2003-2004 Annual, Report of Regional Anti-Trafficking Program, UNIFEM

⁷ *Getting at the Roots*, ILO, 2002

⁸ *Getting at the Roots*, ILO, 2002

⁹ Hughes, 2000

¹⁰ Westwood, n.d.

¹¹ Marshal, P. Paper to the Globalization Workshop in Kuala Lumpur, 8-10 May 2001

The promotion of regular and managed migration has the potential to reduce trafficking and smuggling by offering migrants a mechanism by which they can take up jobs abroad, which is safer, cheaper and guarantees their human and labor rights in the country of destination. However, it must be stressed that regular as well as irregular migrants are subjected to trafficking, forced labor and other serious forms of exploitation and discrimination. It is therefore essential that the promotion of regular migration takes place within the framework of a migration system which is transparent, standards-based and is managed for the benefit of migrants themselves as well as both sending and receiving countries. Key to the establishment of such a system is ensuring that all states sign and ratify the United Nations Convention on the Protection of the Rights of All Migrant Workers and their Families, 1990.¹²

II. GENDER DIMENSIONS OF MOVEMENT ARISING OUT OF SOCIAL AND ECONOMIC EXCLUSION AND MARGINALIZATION

It is difficult to understand as to why anybody would want to stay in exploitative situations. To get the fuller picture of the trafficking and migration nexus, one has to visit the victim's situation before trafficking or taking the decision to migrate. Simplistically, it is defined as push and pull factors beyond the individual's choice that impel one into the stream shaped by both macro and micro economics. One's vulnerability is very much shaped by where one stands in relation to macro economic development and social hierarchy. Mostly the trafficking victims are those who are in disadvantaged position in both.

The most commonly identified push factor is poverty. However poverty needs to be unpacked in terms of economic and social exclusion and marginalization based on gender and caste which define the least powerful and the most vulnerable and put them into highly abusive and exploitative situations. People migrate all the time for various reasons from personal and professional development, usually middle class professionals to semi-skilled, unskilled and low-skilled workers. However the chances of migration turning into trafficking are higher for those who are at the bottom level in terms of skills, who also happens to be poor. Women and children form a large group of poor unskilled labor due to systemic gender and social discrimination against them.

Recently, the most composite assessment of poverty called the human poverty angle confirms women are indeed poorer in most societies when it comes to parameters like education and health as a result of biased resource allocation. There are reasons to believe that gender-based inequalities in education, health and nutrition, labor and other markets are likely to increase the overall level of poverty. 70 percent of the world's poor happen to be women not by an accident but by the systematic gender discrimination in all fields. It is truer in the South Asian context because of strong patriarchy, a gender biased superstructure that places women in a deprived position in terms of resources and power. According to the 1991 census of India, a large number of women migrants were agricultural laborers (44.1%) and cultivators (37.6%), only 3.2 % were in household industries and 15.1 % in other activities. The trend holds up for other South Asian countries as well. The gender gap reflects in low literacy rates, estimated earned income, etc. which in turn affect the decision-making power of women, forming a two way cycle of poverty and discrimination. Human Development Reports indicate that there is considerable gender gap resulting in the feminization of poverty. It is supported by the fact that female-headed households (FHH) are poorer than male-headed households. It is true for all the countries in South Asia that a greater percentage of FHH fall below poverty line. It should also be borne in mind that women's poverty is more severe than men's poverty because of low human capital and lack of access to resources at the same time.

Poverty in South Asia is characterized by social exclusion based on gender, ethnicity and caste. These characteristics of social exclusion are reinforced by tradition and are institutionalized in areas such as politics, education, health and access to development resources. Gender-based discrimination is institutionalized in family

¹² Anti Slavery, 2003

and community. The low status of women is perpetuated with the help of these institutions. Women are made to believe that they are helpless without the protection of men and societies not having defined roles of women beyond family put them in a vulnerable situation if they break free from the families, to be easily tapped by the traffickers. Abuse of authority is an even more complicated issue where family members turn into traffickers or become factors propelling trafficking. The South Asian perception of home being the safest haven mirrors the laws that distinguish private from public when it comes to domestic abuses. Moreover, with such a low literacy rate, women generally constitute a mass that is unaware of their rights. All this is aided by harmful social practices like dowry, sex selective abortion, stigmatization of widows, etc. These practices in conjunction help to maintain that girls are liabilities to their families. Their economic contributions become invisible and become grounds for further discrimination, resulting in low school enrolment, access to health care, etc.

The pull factor comes from the fact that there has been an increased demand for trafficked labor coming from a wide range of sectors topped by commercial sex workers. Needless to say that there is a growing demand for trafficked labor in factories where trafficked persons become debt bonded to factory owners or coerced into work under slave-like conditions. South Asia has become a center for low cost, labor intensive, manufacturing operations. This has been further aided by the globalization policies, attracting more factories to come-in resulting in fierce competition among the companies. Cut throat competition has led to cutting down on the production costs, which in turn has decreased labor cost.

Labor migration satisfies demands for labor at all levels of the economic sector, while trafficking supplies mainly to the unorganized and exploitative sectors of the economy. It has been realized that the majority of the 'victims' were trafficked into commercial sexual exploitation, domestic work, rag picking, begging and other unskilled jobs. The nature, terms and conditions of work in these sectors gives them little hope of voluntary and legitimate recruitment in the local labor force. Some might be lucky but many fall into the trap of traffickers. An instance of this may be seen in Nepal, where people move during certain periods of the year, to work in the carpet industry. Conditions of work are exploitative and women fall for false decent work offers by traffickers.¹³

III. POSSIBLE INTERVENTIONS

It is critical to understand that the trafficking problem cannot be solved in isolation and migration cannot be understood without looking at the dynamics of trafficking. A holistic response to the problem needs to also recognize that there are limitations within the enforcement paradigm in responding to issues of trafficking which is propelled by strong forces of demand and supply, arising out of economic and social compulsions and realities. In looking at the relationship between globalization, migration and trafficking, lessons can perhaps be drawn from the harm minimization approach which has been a feature of the global response to HIV. Such an approach would recognize that, under current global conditions, migration (regular or irregular) is usually a rational human response to the situation in which people find themselves. It would recognize that (*women, men, boys and girls*) people will continue to migrate in search of better opportunities, whether they be socio-economic or for reasons of human security. There is need to educate people on the dangers and realities of irregular migration, including information that would allow (*men, women, boys and girls*) migrants to protect themselves from abuse (*and gender-based violence*). The recent response by governments in South Asia to address trafficking by clamping down on peoples legitimate right to migrate and move in search of better economic and social options needs to be revised, as the aim should be promote safe migration and improve law enforcement rather than curtail movement of people. There is a need to promote increased understanding and tolerance among both sending and receiving communities, and finally, give consideration to how might we find a place for a meaningful voice of trafficked people in the discourse.¹⁴ Marshal, P, Paper to the Globalization Workshop in Kuala Lumpur, 8-10 May 2001

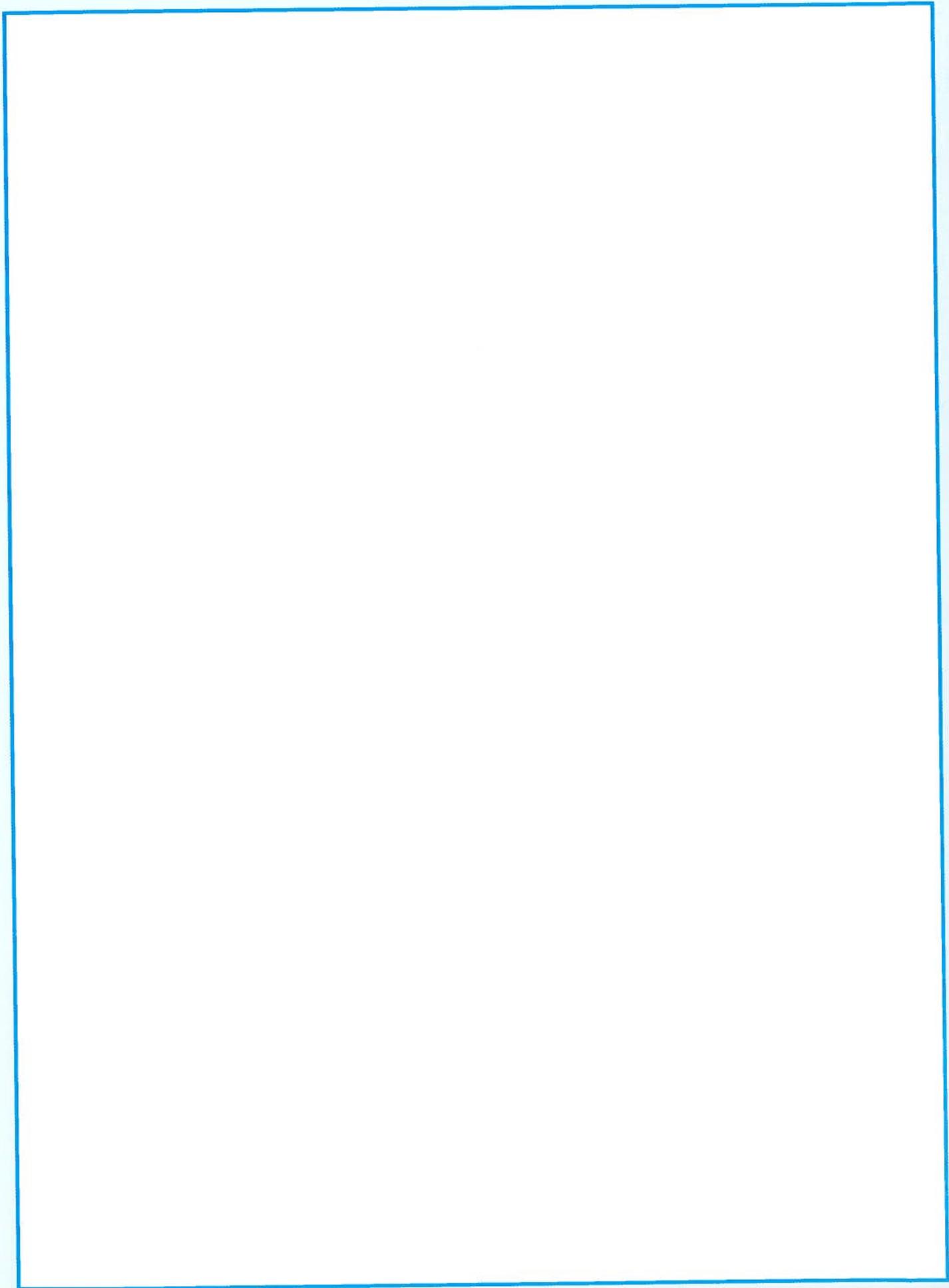
¹³ Human Rights Watch 1995, Sangroula 2001:12

¹⁴ Marshal, P, Paper to the Globalization Workshop in Kuala Lumpur, 8-10 May 2001

Conclusion

Trafficking is today seen and understood more as an exploitative process in a continuum of events and conditions, and not as a one-off, exploitative situation. What this means in programmatic terms is that initiatives aimed at prevention or reduction of trafficking should deal not just with the actual act of trafficking, but recognize and address the causal factors, and more critically, the conditions and circumstances accompanying/preceding the act. It is important to deal with issues of gender, age, class and caste dimensions, which have very clear roles to play in defining vulnerabilities. Economic aspects like poverty, lack of opportunities, break-down of livelihood options are also factors, which need to be addressed, but have to be situated within the contextual reality of harm, which has different impacts on gender, age, caste and class. The line between legal migration for better livelihood options as against illegal migration bordering on trafficking and movement for trafficking per-se, is getting more and more blurred. There have been growing indications by grassroots groups that this concern needs to be addressed by anti- trafficking programs.

Most of the solution would need to look at long-term approaches. The challenge is of moving from the broad picture to the specifics: from the general to the particular. There is a need to adopting a human rights approach, moving away from a service delivery approach: to see that women's rights are not violated but that they are promoted.



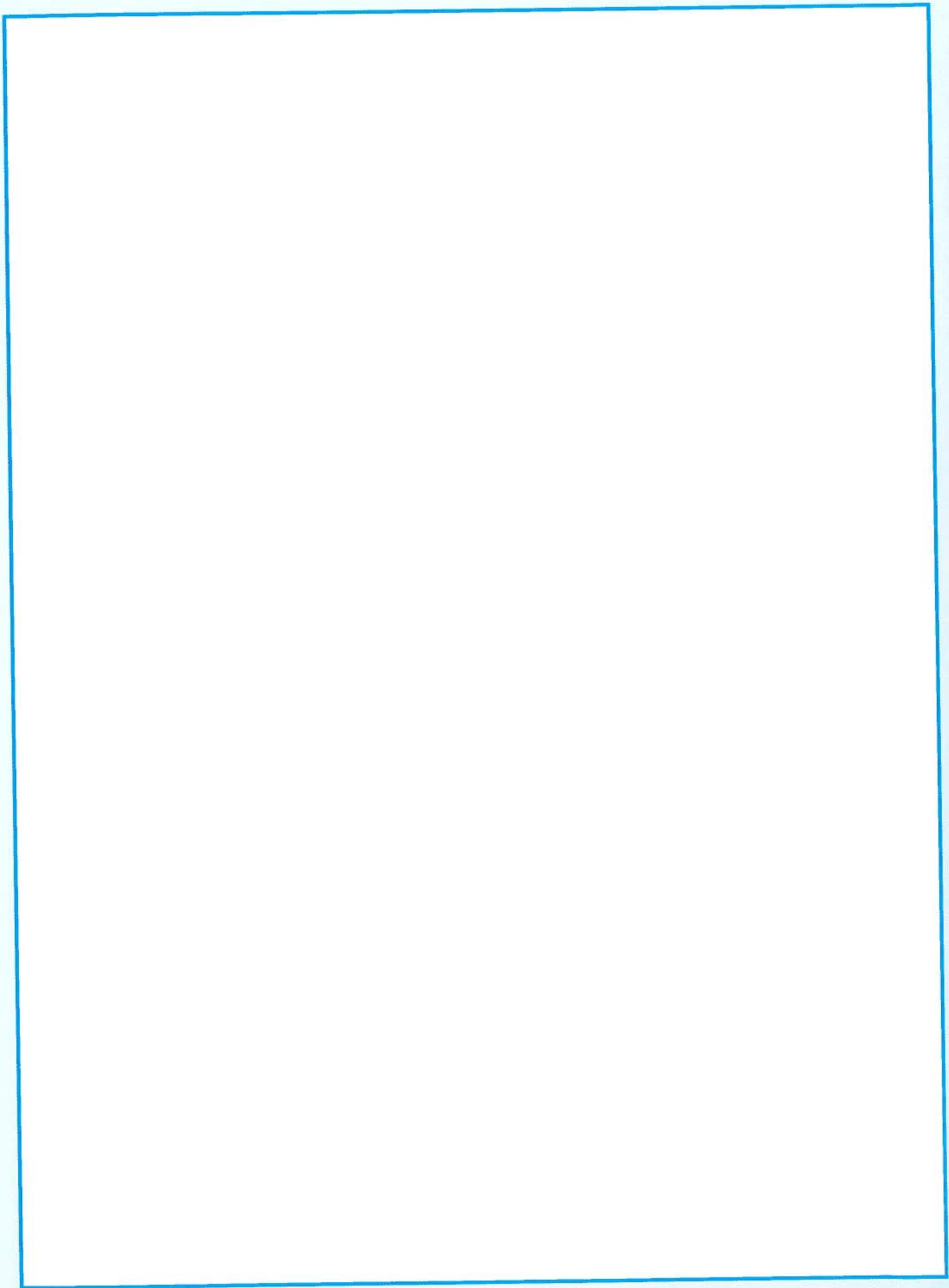
AMBIGUITIES AND CONFUSIONS
IN THE
MIGRATION-TRAFFICKING NEXUS
A DEVELOPMENT CHALLENGE

(Draft : Do not quote without prior permission)

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"The problem of Trafficking and the web of human right violations it embraces present some of the most difficult and pressing issues on the international human rights agenda. Complexities include different political contexts and geographical dimensions of the problem; ideological and conceptual differences of approach ... link between trafficking and migration presents another complexity presenting both political and substantive obstacles to resolutions of the trafficking problem."

UN Secretary General's Report on 'Trafficking in Women and Girls' presented at the 58th Commission on Human Rights (2002), Geneva.



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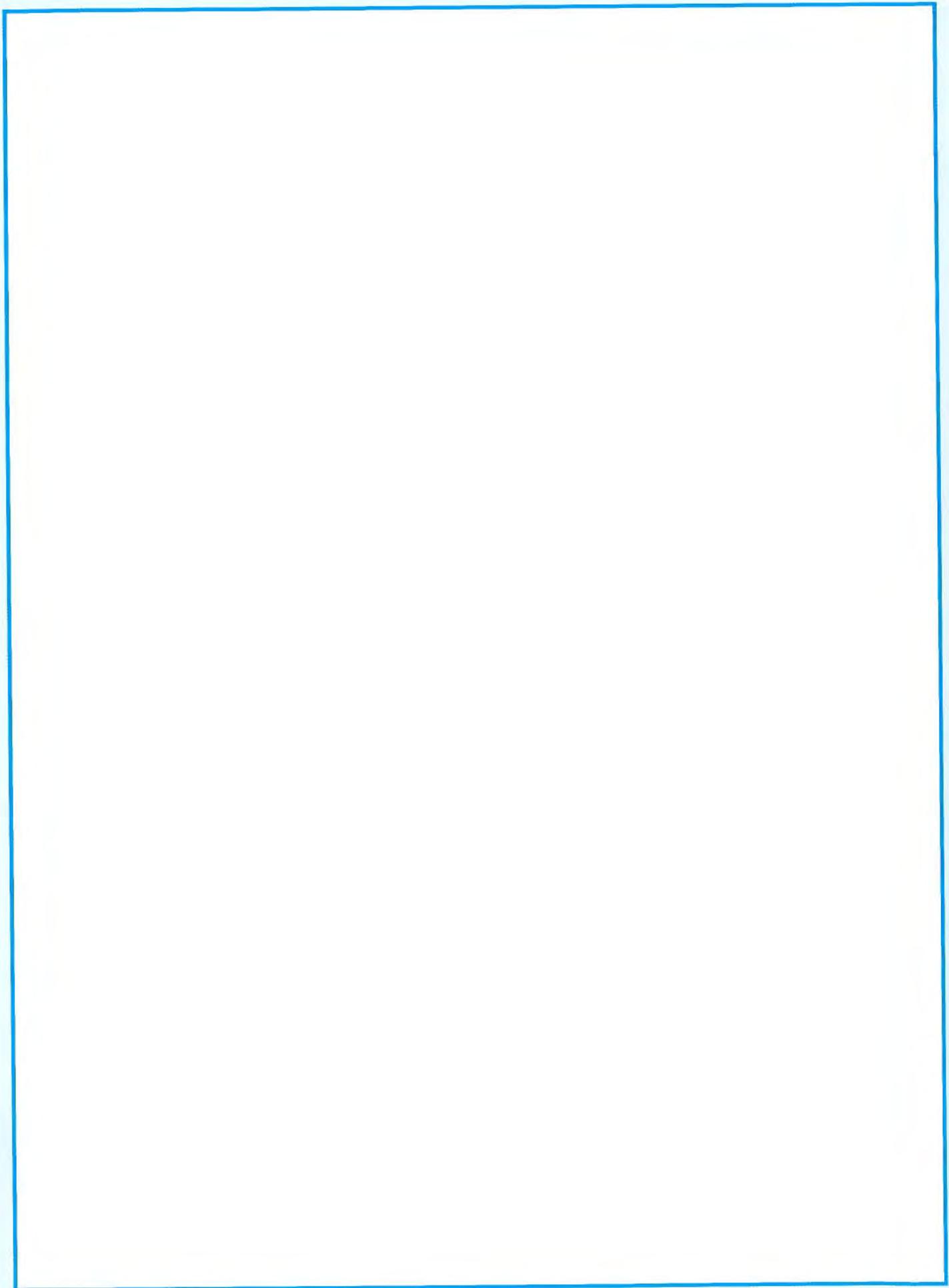
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I. INTRODUCTION*

The dynamics of population movement have undergone fundamental transformations in the 21st century adding new multi-faceted dimensions, complexities and challenges. The age-old migratory nature of human beings, which helped conquer the planet, has substantially been reshaped by formation of nation-states, extreme poverty, economic imbalances, environmental degradation and security challenges. Today, migration does not only imply the “shifting of population” from one place to another across political or geographical frontiers, neither is migration determined by simple human nature or desire; rather it is an outcome of a set of inter-related historical, geographical, economic, social and political factors. These factors, forces and processes create a complex migration picture (shown in Annexure I). Noticeably, in the migration picture developed in mid-90s, trafficking in persons was not widely recognized as a part of the migration phenomenon. It does not mean that trafficking did not exist then. It was perhaps a lack of understanding and knowledge of intricacies of trafficking and migration that led to the absence of recognition of trafficking as a case of population movement “gone wrong”. These gaps or limitations in understanding pose a critical challenge for states and international communities to manage various types of migration effectively.

Trafficking in persons is the “dark side” of population movement, which places people in a “harm” situation, violates fundamental human rights and is a form of modern-day slavery. It is a coercive and violent form of movement which must be prevented¹ contrary to regular migration which could provide an alternative livelihood option for some people. The human trafficking process thrives on individual’s vulnerability and has three core elements; first, movement, second, deception or coercion and finally the “harm”² outcome or exploitation or slavery like practice³. The linkage between regular migration as the “bright side” and human trafficking as the “dark side” of population movement is complex. The complexities often impact the approach taken by development practitioners and policy makers in managing migration.

This paper intends to examine the intricate links between migration and trafficking within the complex continuum of population movement. It also attempts to establish the relationship between “smuggling in migrants” and “trafficking in persons” to bring in further conceptual clarity and identify programmes and projects taking into consideration the complexities of linkages among the three types of population movement. The paper concludes that the best possible option is to take a comprehensive and integrated approach for management of migration both regular and irregular.

II. CONCEPTUAL AMBIGUITIES, LIMITATIONS AND CONFUSIONS ABOUT VARIOUS TYPES OF POPULATION MOVEMENT

Involuntary and Voluntary Migration: There are primarily two generic types of population movement. The first type is “involuntary” or “forced” migration in which people are compelled to move out of their home in large numbers. People flee or are obliged to leave their home or places of habitual residence out of fear of persecution

* I am grateful to Umbareen Kuddus of IOM Dhaka for reviewing the draft paper.

¹ Sanghera, Jyoti, “Enabling and Empowering Mobile Women and Girls”, paper presented at the Seminar on Promoting Gender Equality to Combat Trafficking in Women and Children, Bangkok 7-9 October 2002.

² “Harm” is the undesirable outcome that places a person in a situation whereby, the person finds him/herself in an exploitative and dehumanizing condition. Often beaten up, sexually and psychologically abused, made to work long hours without any remuneration. Freedom of mobility and choice are non-existent. The “harm” results from a situation of forced labour, servitude and slavery-like practices in which a person is trapped/held in place through force, manipulation or coercion for a given period of time.

³ D’Cunha, Jean, “Gender Equality, Human Rights and Trafficking: A Framework of Analysis and Action”, paper presented at the Seminar on Promoting Gender Equality to Combat Trafficking in Women and Children held in Bangkok, 7-9 October 2002.

or events threatening to their lives or safety;⁴ these events could include human rights violations, repression, conflict, military aggression, natural and man-made disasters. Though people leave their home on their own initiative, sometimes, a large number are forced out of their home by "groups", often armed, to fulfill some objective such as "depopulating" an area or "ethnic cleansing". Those forced to leave their home either cross international borders in search of refuge or move to another place within the state-borders. The first group is known in general as "refugee", whereas the second group of people is termed as "internally displaced people" (IDPs). Refugees move under compulsion, not by choice or for better livelihood. Refugees have a special status in international law under the UN Convention and Protocol Relating to the Status of Refugees overseen by the United Nations High Commission for Refugees (UNHCR). By definition, a refugee is a person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his/her nationality and is unable to or owing to such fear, is unwilling to avail himself/herself of the protection of that country or return there for fear of persecution.⁵

The second type of migration known as "voluntary" migration refers to a situation in which people move out in search of better livelihood or for other reasons. Voluntary migration is a part of people's strategies to enhance and/or diversify their livelihood. Such a voluntary decision to migrate is often guided by the available or perceived wider and brighter opportunities abroad. People who migrate voluntarily are known as "migrants", "labour migrants" or "economic migrants". In general, migrants are rational persons who are able to judge opportunities abroad. The term "migrant" covers all cases where the decision to migrate is taken freely by the individual concerned, for reasons of "personal convenience" and without intervention of an external compelling factor.⁶ But people also migrate because of poverty, lack of employment opportunity, and disaster. The forces of globalization, widening and deepening of trade liberalization, economic disparities at home and abroad combined with ageing and declining populations abroad influence both internal and international migration. Historically, migration as an enduring component of human civilization, has contributed to enriching societies and benefiting economies of both origin and destination countries. It is estimated that there are about 185 million people living outside their country of birth, amounting to about 2.9% of the global population.⁷

Migration and Trafficking in Persons: Migration is a broad general concept and trafficking is a sub-set or category of migration. Migration is a process of movement of people from one place to another (in case of international migration one country to another) in order to take up employment or establish residence or change their place of residence for various reasons. It applies to various types of movements guided by diverse causes. International migration in particular is a complex and multidimensional phenomenon. The dynamics of international migration are often explained or measured in relation to (either alone or in combination) factors such as citizenship, residence, time or duration of stay, purpose of stay or place of birth. On the other hand, trafficking in persons as a subset of migration is a movement (either internally or internationally) of a person under a situation of deceit, force, threat, debt bondage or other form of coercion involving exploitation and violation of human rights. Trafficking in persons therefore mostly results in abusive exploitation and human rights violations. A person, by being in the hands of traffickers, loses control of his/her fate and freedom⁸ and ends up in a "harm" situation.

The concept of regular migration is understood as migration occurring through regular and legal channels. Regular migration therefore extends to those covered under the definition of "migrants" as elaborated above and to "migrant workers". According to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, a "migrant worker" is a person who is to be engaged, is engaged or has been engaged, in a remunerated activity, in a State of which, he or she is not a national.⁹ Therefore regular migration implies a voluntary nature of migration.

⁴ Martin, Susan F. "Forced Migration and the Evolving Humanitarian Regime", UNHCR working Paper No.20, Geneva, July 2000.

⁵ 1951 Convention relating to the Status of Refugees.

⁶ IOM, Overview of International Migration, Migration Management Training Programme, April 1997.

⁷ IOM World Migration Report 2005, forthcoming.

⁸ IOM, Migrant Trafficking and Human Smuggling in Europe: A review of the evidence with case studies from Hungary, Poland and Ukraine, Geneva, 2000.

⁹ Article 2 (3a) of International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

As regular migration and trafficking both share the common migratory space, it is difficult to clearly differentiate between regular migration and trafficking. Regular migration and trafficking are two distinct but inter-related phenomena. The demarcation between the two phenomena in practice is often not clear or apparent. Therefore, efforts attempting to draw a clear line between the two concepts is described as working in a “terminological minefield”.¹⁰ In some cases, researchers and practitioners mistakenly use movement, mobility and migration as interchangeable concepts. Though the movement or mobility is a common element of trafficking and regular migration, it is the presence or absence of coercion, exploitation, abuse, loss of control on life options (or agency) could be considered as determining factors. Absence of some or all of these makes a person’s movement regular migration and the presence, trafficking. The presence of exploitation or violations of rights are trafficking outcomes irrespective of the nature of mobility. Sometimes attempts, though wrongly, are made to distinguish migration as a labour issue and trafficking as a human rights issue.¹¹ The two phenomena are further complicated as people continue to move from regular to irregular situations and vice-versa. Therefore any such generalization in identification of the differences between the two concepts can be misleading.

In general, violations of rights of migrants are addressed by a specific set of legal instruments which are different from the legal procedure for addressing trafficking cases. The national, regional and global approach, norms and practices concerning the migrants and the trafficking survivors also reinforce the assumption that the two groups have distinctive causes, purposes and consequences in their experiences and expectations.

In simple terms, the difference could be as follows:

- Trafficked persons are deceived or forced (actual or by threat) to move. Whereas, regular migrants are not usually deceived or forced to leave their place of residence. But, sometimes it could be difficult to draw a line between the two concepts, as there are grey areas in between blurring a clear distinction.
- Both trafficking in persons and migration share the same “migratory space” as both involve movement. Nevertheless, the two phenomena have very different reasons behind movement and outcomes, with trafficked persons being exposed to a “harm” situation and end up in slave like situations. Exploitation, profit and illegality are all central to the idea of trafficking in persons.¹² That is certainly not the case in the regular migration process.
- Trafficking is a development-retarding phenomenon, whereas regular migration is generally a development enhancing process.
- Trafficking is viewed as an anti-social and morally degrading heinous event. However, migration is widely considered as a process that could enhance social progress in both the origin and destination countries, if managed properly; it could also be an empowering process for the migrants.

Trafficking in Persons and Smuggling in Migrants: In order to better understand the migration-trafficking nexus, we need to look at the concept of “smuggling in migrants” and identify interlinks between the concepts of trafficking and smuggling. Smuggling in migrants is a phenomenon in which a person acts to facilitate his/her border crossing in an irregular manner, with the help of an entity and by making a financial or other material payment to another person or entity. There are differences between trafficking in persons and smuggling in migrants, both in their process of movement and in the outcome. The critical factor separating trafficking from smuggling is the presence of force or coercion throughout or at some stage in the process of trafficking – that the force or coercion being the purpose of exploitation.¹³ Another crucial factor that helps distinguish the two phenomena is consent of the individual involved in the movement. In a case where a person was misled about the dangers of the journey, and irrespective of the treatment he/she receives at the hands of smugglers, provided

¹⁰ Skeldon, Ronald, “Trafficking: A perspective from Asia” in Reginald Appleyard and John Salt edited, perspectives on Trafficking of Migrants, 2000, IOM, Geneva.

¹¹ IOM, Migrant Trafficking and Human Smuggling op.cit.

¹² Ibid.

¹³ Advisory Council of Jurists, “Consideration of Issues of Trafficking”, a background paper, New Delhi, November 2002

there is consent to the original transport and provided an exploitative relationship does not develop or was not envisaged between the two parties, it would be considered as smuggling in migrants.¹⁴

However, drawing such distinctions between the two phenomena is not absolute or fool proof. In practice, establishing a clear cut distinction between trafficking and smuggling is a very challenging task. Often it is found that a person leaves the country as a smuggled migrant, but soon becomes a victim of an abusive or exploitative situation while even in transit and eventually ending up in a “harm” situation, thereby falling under the situation of trafficking. Although the main purpose of migrant smuggling might be to facilitate the illegal entry of the migrant into another country, there are many cases in which smuggled migrants are exposed to violation and exploitation either during transportation to the destination country or on arrival and blurring the distinctions between them and trafficking victims.¹⁵

However, the international community has negotiated a Protocol, which draws a distinction between trafficking and smuggling. According to this Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (popularly known as Palermo Protocol), “trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, either by the threat or use of abduction, force, fraud, deception or coercion, or by the giving or receiving of unlawful payments or benefits to achieve the consent of a person having control over another person, with the aim of submitting them to any form of exploitation [...]”. On the other hand, according to the Protocol against the Smuggling of Migrants by Land, Air and Sea (other part of Palermo protocol) “Smuggling of migrants shall mean the procurement of the illegal entry into or illegal residence of a person in (a) (any) State Party of which the person is not a national or a permanent resident in order to obtain, directly or indirectly, a financial or other material benefit”.

The definition used by the International Organization for Migration (IOM) is also based on the above mentioned UN Protocols. According to IOM, trafficking occurs when a migrant is illicitly engaged (recruited, kidnapped, sold, etc.) and/or moved, either within national or across international borders. The intermediaries (traffickers) during any part of this process obtain economic or other profit by means of deception, coercion and/or other forms of exploitation, under conditions that violate the fundamental human rights of migrants.¹⁶ On the other hand, smuggling occurs when there is only illegal facilitation of border crossing.¹⁷

The definitions stated above suggest that the primary difference between trafficking and smuggling appears to be in relation to coercion, exploitation and violation of human rights primarily as the outcome of the migration experience. Smuggling is clearly the manner in which a person enters a country, and with the involvement of third parties that assist him/her to achieve entry. Therefore, a potential migrant requests and pays a third party for assistance to cross into another State where, she/he has no right of residence and the third party (smugglers) involvement goes no further than the facilitation of the illegal border crossing. Whereas, in the case of trafficking, it requires consideration not only of the manner in which a migrant enters a country but also his/her working conditions (outcome). Trafficking involves coercion and exploitation and the main purpose of trafficking is to place persons in a “harm” situation where their labour can be exploited under conditions that involve human rights abuses. Trafficking involves particularly women and children and forces them into commercial sex, work in sweatshops, forced labour, begging and forced labour. Trafficking is not a single event but a process starting from recruitment, continuing on with travel, and ending with exploitation of the person (outcome). In general however, the differences between smuggling and trafficking could be as follows:

- Normally, smuggled migrants “know” to some extent the dangers and ways and means of the travel and voluntarily engage themselves in the process of irregular migration. Trafficked persons are very seldom aware of the entire process. Even if they submit themselves freely to the trafficker, they can not give consent to the abuses or exploitation or human rights violations they are subjected to.

¹⁴ Ibid

¹⁵ Laczko, Frank, “New directions for migration policy in Singapore” in the Royal Society Journal, 2001.

¹⁶ IOM, “The Concepts of Trafficking in Human Beings and Smuggling of Migrants” a discussion Paper, October 2000, Geneva.

¹⁷ Ibid.

- While smuggling of persons indisputably involves international cross-border movements, trafficking could also occur within national borders, although the vast majority happens across international borders.

Experts opine that in practice, a clear distinction between smuggling and trafficking could be difficult to establish particularly in analyzing causes, process and outcomes. Smuggling may contain elements of deception and/or coercion as well. Both smuggled and trafficked persons (and even migrants) incur debts with the intermediaries, and the abuse of human rights may occur during the time of smuggling operations also. There is often a grey area in between the two processes making any assumption to draw a line separating the situations of trafficking with that of smuggling in persons, if not impossible, very difficult and often counter-productive.

Interfaces between Situations of Trafficking, Smuggling and Migration: Ascertaining a clear distinction between regular migration, smuggling and trafficking is an extremely complex undertaking, particularly in terms of developing programmes or projects for addressing the situation. The three types of population movement are inter-twined - both conceptually and operationally. All three phenomena could be conceived as part of a dynamic "population movement scenario". People on the move in practice could be categorized in nine different categories (see Annexure-II) depending on their legal and human rights status. However, movements back and forth along the processes are not only possibilities but often realities in such circumstances as shown in Annex II. In the annexed scenario, migrants in an orderly and humane situation are placed on the left side of the diagram and trafficked/smuggled persons on the right of the diagram in an effort to draw distinctions.

III. THEORETICAL FRAMEWORK FOR ANALYSING MIGRATION AND TRAFFICKING

There are several theories to explain reasons for international and internal migration. The migration theories, over the years, have moved from macro-level structural explanations (e.g. spatial differences in the characteristics of capital and labour market) to individual level behavioural explanations (e.g. beliefs, norms and expectations about consequences of migration behaviour)¹⁸. The process of migration could also be analysed through macro theory (Push-Push factor), micro theory, new economics of migration, dual labour market theory, world system theory, network theory, institutional theory or migration system theory.¹⁹

On the other hand, there is not much theoretical work available on the trafficking or smuggling phenomena. The dynamics of trafficking in persons either in terms of process or outcome is yet to culminate into proposing specific theoretical frameworks to assist in analyzing the phenomenon or for developing more effective programmes and projects. Currently, there are two overlapping approaches to analyse trafficking.²⁰ First, an "economic perspective" considers trafficking as an economic activity. It places trafficking in a broader concept of "business" in which agents/institutions seek to make "profit".²¹ Trafficking has been viewed as a consequence of the "commodification" of women that generates "profit" out of people's mobility. However, placing trafficking only in economic and/or legal bounds makes it difficult to identify elements of movements that are associated with quasi-legal or quasi-economic issues. Second, a "legal perspective" considers trafficking as a criminal activity. It considers trafficking as a violation of legal provisions of State and/or violation of human rights. It assumes that, criminal networks have emerged involved in trafficking in persons, which illegally provide labour to the "hidden economy". The main weakness of the two perspectives is that neither focuses on the outcome of trafficking e.g. abuses, exploitation and human rights violations that the people end up in.

¹⁸ IOM, Moroccan Migration Dynamics, Prospects for the Future, August 2002.

¹⁹ For an analytical work see Massy, S. Douglas et. al. "Theories of International Migration: A Review and Appraisal" in Population and Development Review 19, No.3, September 1993.

²⁰ Discuss based on IOM publication on Migrant Trafficking and Human Smuggling in Europe op.cit.

²¹ Salt, J., and J. Stein, "Migration as a business: the case of trafficking", International Migration, 35(4).

The above mentioned ambiguities in the understanding of the migration-trafficking nexus often lead to unavailability of adequate and reliable statistical data. Researchers face difficulties in choosing appropriate methods of data collection and in identifying data sources. The inadequate data in turn imposes two types of "limitations" on the research; first, over dependence on subjective interpretation which could be biased and marred by individuals' perceptions. Second, adoption of "ad hoc methods" which sometimes could lead to distorted analysis and outcomes and eventually faulty programmes and projects.

IV. IMPLICATIONS OF MIGRATION TRAFFICKING AMBIGUITIES ON PROGRAMMES TO ADDRESS TRAFFICKING IN PERSONS

The challenge in clearly separating the cases of trafficking in persons from these of smuggling in migrants could also jeopardize the possibilities and potentials of regular migration. Over emphasizing on the gravity of trafficking in persons and failure to deal with trafficking within the broader migration framework or "mixing" the issues of trafficking and/or smuggling with regular migration could be counter productive in addressing the problem of trafficking and smuggling in persons. It may also make regular migration difficult especially for the people of developing countries. The argument that "trafficking in migrants" is a criminal act and there is a need for strict crime prevention strategies to tackle the problem, might not be an effective way to address the problem of trafficking or smuggling in migrants. In addressing the trafficking problem, the crime prevention strategies need to be combined with protection for the trafficking victims.

However, efforts to address trafficking and smuggling in persons should not limit options for regular migration. Managed migration remains an option of livelihood for many families and communities. It also provides opportunities for developing countries to enhance socio-economic development, among other, through receiving remittances and skill transfers. The UN High Commissioner for Human Rights has recommended²² that anti-trafficking measures should not adversely affect the common right and dignity of persons, in particular the rights of migrants, internally displaced persons, refugees and asylum-seekers. It further recommended protection of the rights of all persons to move freely and ensure that anti-trafficking measures do not infringe upon that right.²³

V. ALTERNATIVE STRATEGY TO MANAGE IRREGULAR MIGRATION

The ambiguities and confusions in identifying different categories of population movement make management of migration a difficult task, especially in an environment where there is no international regime for regulating migration. Some countries have developed ad hoc and reactive policies to address the various challenges of population movement. Most of these policies are narrowly based, not mainstreamed and project-centric. They are mostly treated outside the framework of development. On the other hand, some countries are realizing the limitations of the narrowly conceived approach for migration management, particularly in the context of addressing the problems of trafficking and smuggling. Those countries are also recognizing the need for an integrated framework to develop larger "programme-based" approaches for managing migration. The "programme approach" is a long-term, coordinated way of developing programmes or projects to manage a particular issue or sector of development. It tries to involve all stake holders, is strategic in perspective, and flexible in setting goals and implementing programmes. It is broader and more comprehensive than the "project

²² Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council, "Principles & Guideline on Human Rights and Human Trafficking", New York, July 2002, E/2002/100.

²³ Ibid.

approach", which narrowly focuses its efforts on achieving immediate, issues-specific objectives through a relatively rigid implementation process. A programmatic strategy to migration management holds possibilities to manage migration and address trafficking in persons in an integrative and comprehensive manner.

For example, in Bangladesh, the Government is considering adopting a programme strategy involving a wide range of partners in developing comprehensive migration programmes and activities for dealing with both regular and irregular migration in an integrated manner. A counter trafficking programme strategy has already been developed in June 2004. The strategy focuses on how programming can be planned, implemented and monitored, who/which agency is responsible for the different programme aspects, and the timeframe needed to measure concrete progress in systematically addressing migration challenges. Based on that programming a National Anti Trafficking Strategic Plan of Action is being formulated linking it to the overall migration management policies of the country.²⁴

Migration cannot be managed in isolation from other development activities. To effectively manage migration, both regular and irregular, in a comprehensive and integrative manner a strategy could be conceived through looking at the 4 box chart of migration management developed by IOM (see Annex III). The chart has four interlinked thematic boxes namely "migration and development", "facilitating migration", "regulating migration" and "forced migration". There are also a number of cross cutting issues. The main areas must have policy, legislations and administrative arrangements both at the national and the regional level to ensure implementation. Therefore, adoption of a comprehensive systematic approach at the national level is a crucial first step, which needs to be linked at the regional level to ensure its effectiveness. It is more manageable when origin, transit and destination countries work together.²⁵

Conclusions

The existing theoretical base for understanding the complexities of linkages among the migration, trafficking and smuggling phenomena is limiting the impacts of programmes and activities in this field. Therefore, there is a need for a new paradigm to understand the issues of migration, trafficking and smuggling. There is also a need for new analytical tools to understand these processes and their impact on societies and economies. Among development practitioners, especially at the field level, there is a felt need for developing a new theoretical framework to address trafficking and smuggling problems.

The existing migration policies in some origin countries show limitations in effectively and comprehensively managing migration. Some of these policies include discriminatory and regressive bans and restrictions on migration of women abroad for employment purposes and the restrictive policies of some destination countries.

Another limitation which often hampers effectiveness of counter trafficking programmes and activities is the lack of gender sensitivity of the strategy. Gender insensitive policy could limit the effectiveness and efficiency of programmes and may lead to disempowerment of the trafficking and smuggling survivors. The core of a meaningful counter-trafficking strategy should be based on the principles of human rights. The programmes may also take into account the wellbeing of the vulnerable groups by expanding their choices. This could be achieved within an integrated and multi-sectoral counter trafficking programme.

On the other hand, in the immigration context, irregular migration including trafficking could be curbed by progressively "regulating" the flow of migrants. The process requires not only adoption of a migration policy, but also a reorientation of basic strategies and the rationale for migration management. A comprehensive, flexible and balanced mechanism to regulate migration, including irregular flows, can reduce incidents of trafficking.

²⁴ for more details, see Counter Trafficking Framework Report: the Bangladesh Perspective, 2004.

²⁵ Managing Migration Challenges and Responses for People on the Move, World Migration Report 2003, International Organization for Migration, 2003.

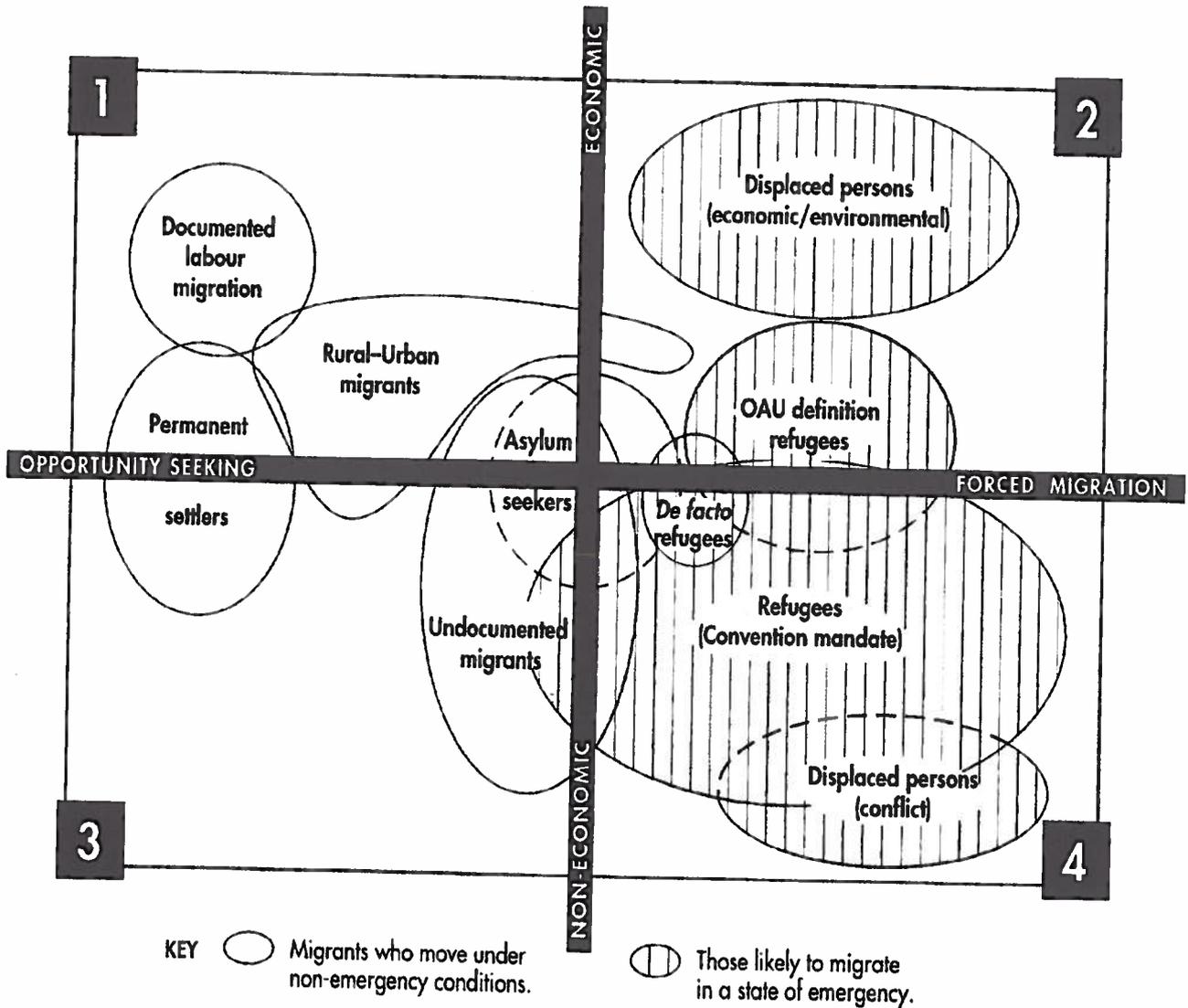
Increasingly, migration is conceived as a “developmental force” as well as an “equalizing force” which could soften the impact of adverse consequences of the globalization process on the developing countries. The development partners may look beyond traditional boundaries of “security”, “criminality” and “sovereignty” in formulating a creative counter trafficking policy and strategy. The new strategy, consistent with the development trends and priorities, could be explored to effectively assist countries in addressing the migration and trafficking ambiguities and designing a clear and deliverable programme.

The programme-based migration management structure discussed in the previous chapters could be one of the options that could be further explored. A programmatic strategy to deal with both migration and trafficking in an integrated manner could help countries to strike a right balance between priorities and concerns of state, society and individuals in the context of population movement. In this regard, IOM’s migration management strategy could help countries in developing policies and programmes. The strategy assists in shaping of clear and comprehensive policies, laws and administrative arrangements to ensure that the population movements occur in a humane and orderly way to the mutual benefit of migrants, societies and governments.

Along with the national level comprehensive and coherent approaches, it is important to integrate the national efforts into a regional framework. A collaborative endeavour among states is a precondition for a successful approach to manage population movement in a globalised world. A widely negotiated and mutually agreed arrangement in the form of a “Framework for Cooperation” to manage population movement, both regular and irregular, may appear to be effective. The framework may reflect concerns and interests of all states and parties and may contain principles to guide individual states to formulate and implement their individual migration and counter trafficking policy. The framework may have a mechanism to reconcile contradictory priorities and interests of the concerned countries. The foundations of such a framework has been initiated through the consultative process under the Berne Initiative, launched in 2001 and taken forward in a framework known as the International Agenda for Migration Management. The success of the Bern Initiative and any other “Framework for Cooperation” formed to address broader migration issues and processes will largely depend on balancing the concerns, priorities and development interests of the trafficked survivors and migrants as well as the origin, transit and destination countries.

ANNEX - 5.3.1

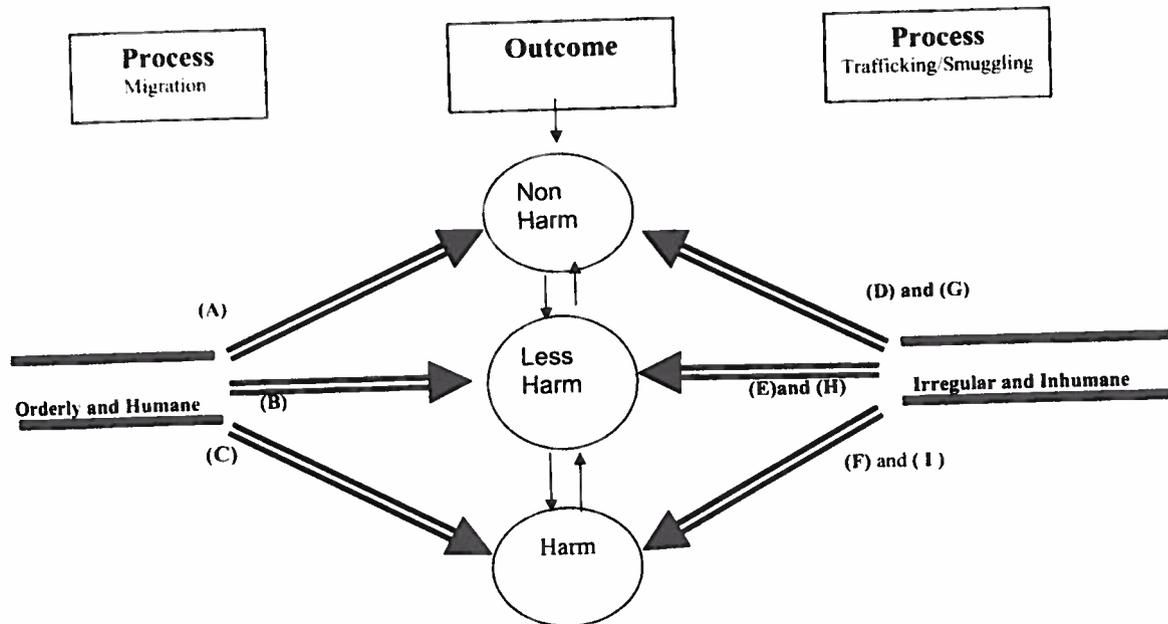
Typologies and interrelated causes of migration



Source: IOM, "Overview of International Migration", Migration Management Training Programme, April 1997, Geneva.

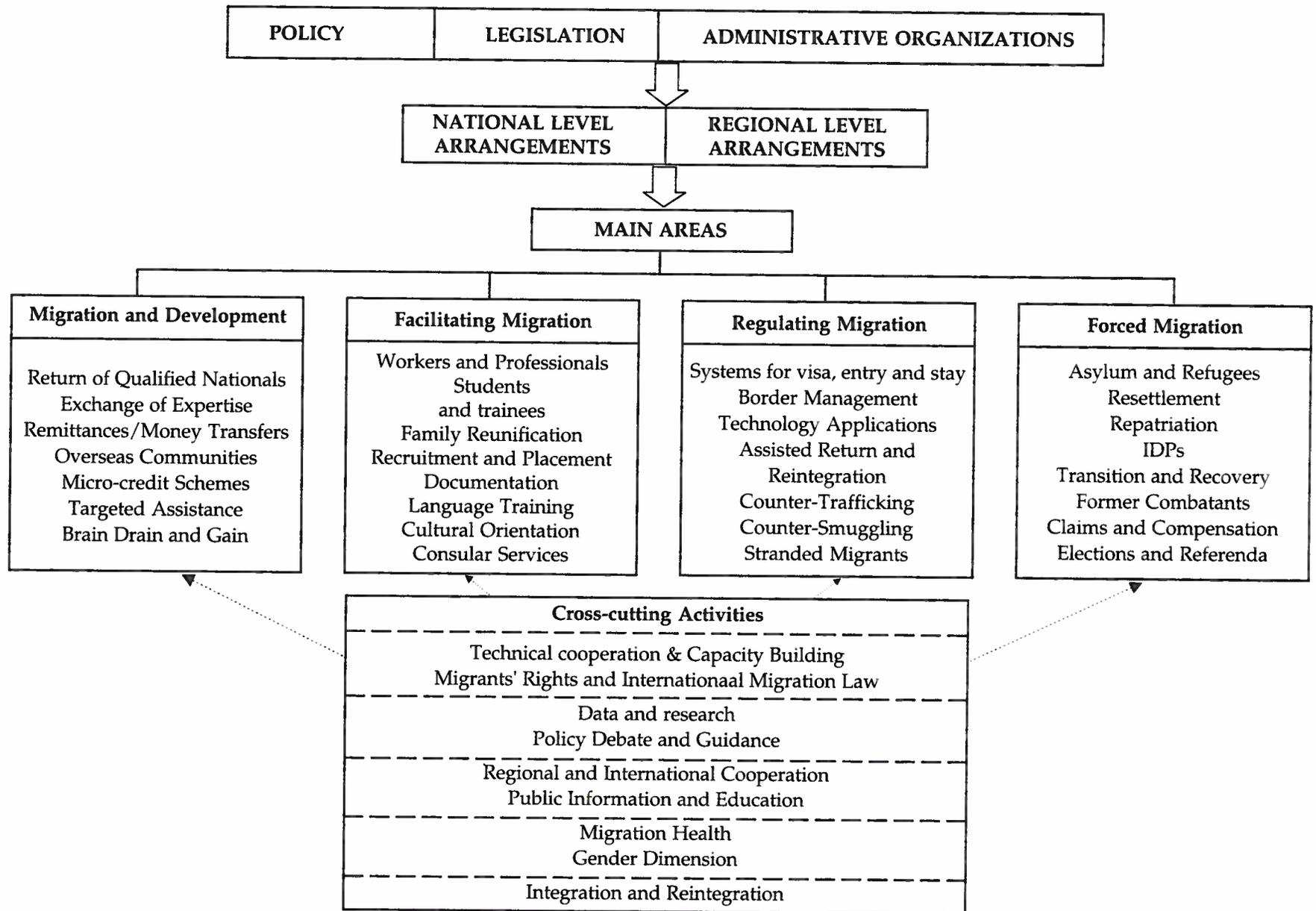
ANNEX - 5.3.2

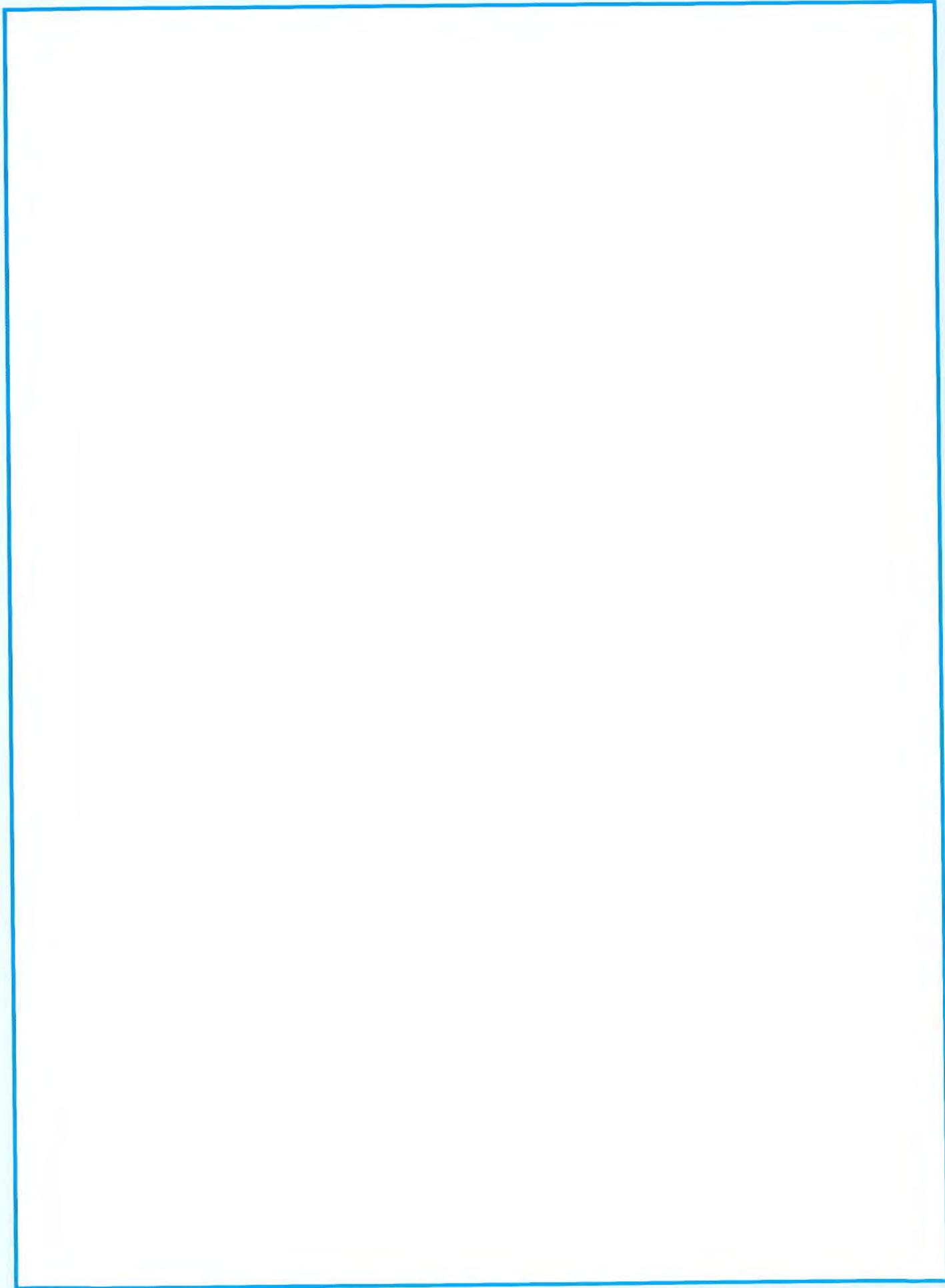
Dynamics of Population Movement in a Process - Outcome Scenario



- (A) A person who has been migrated to another country with legal documents (orderly process) and is in a "non-harm" working situation (humane outcome).
- (B) A person who has been migrated to another country with legal documents (orderly process), but is in a "less-harm" situation (exploitative outcome).
- (C) A person who has been migrated to another country with legal documents (orderly process), but is in a "harm" situation (inhumane outcome).
- (D) A person who has been smuggled into another country (irregular/in orderly process) but is in a "non-harm" working situation (humane outcome).
- (E) A person who has been smuggled into another country (irregular process), and is in a "less-harm" situation ((exploitative outcome).
- (F) A person who has been smuggled into another country (irregular process), and is in a "harm " situation (inhumane outcome).
- (G) A person who has been trafficked either within his or her own country or another country through a forced, deceptive and abusive process (irregular process) but is in a "non-harm" situation (humane outcome).
- (H) A person who has been trafficked either within his or her own country or another country through a forced, deceptive and abusive process (irregular process) and is in a "less-harm" situation (exploitative outcome).
- (I) A person who has been trafficked through a forced, deceptive and abusive process (irregular process) and is in a "harm" situation (inhumane outcome).

CONCEPTUAL FRAMEWORK FOR MIGRATION MANAGEMENT STRATEGY





ANNEX 5.4

*TOWARDS A GENDER SENSITIVE SAFE MIGRATION
POLICY
WITH A
RIGHTS-BASED APPROACH*

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Supported by

SARI♀

South Asia Regional Initiative/ Equity Support Program

The Opinions expressed in this paper are those of the author and do not necessarily reflect the views of SARI/Equity.

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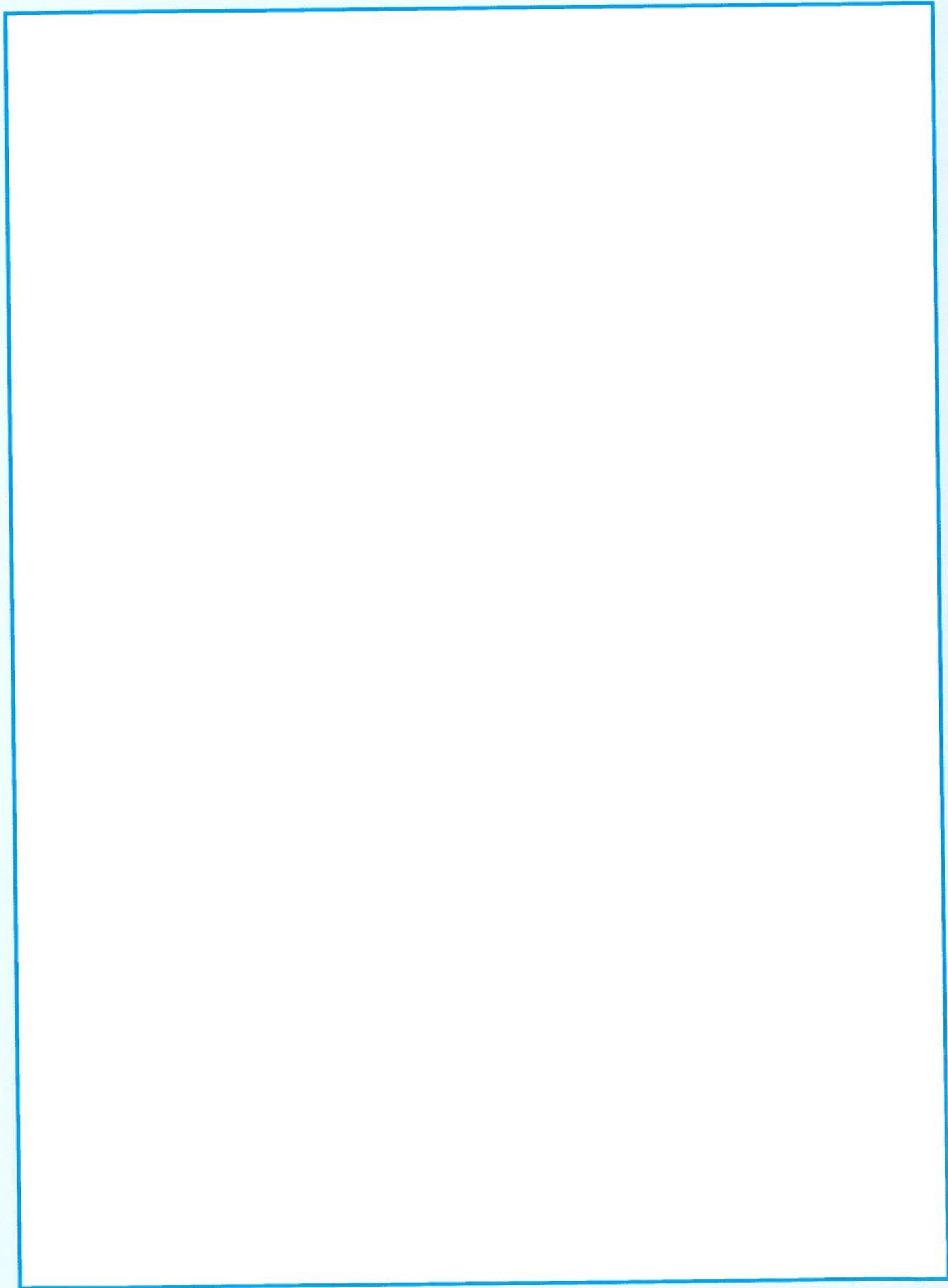
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Effects of Migration on Women

Links Between Migration, Smuggling and Trafficking

III. NEED FOR A GENDER-SENSITIVE POLICY

IV. ENSURING THE RIGHTS OF MIGRANTS



I. INTRODUCTION

People have been on the move from the beginning of humankind. What sets the past couple of decades apart has been the increase in the number of women migrants across regions.¹ These women are not merely migrating as part of 'family unification programmes' but are instead migrating singly as part of the growing force of migrant women workers moving from South and Southeast Asia to other countries in the same region, the Middle East or the West.² There is thus a feminisation of the migrant workforce in certain sectors. This mobility of women workers is also occurring simultaneously with a marked increase in the number of women being trafficked or smuggled illegally across borders. In addition there are a large number of persons who are internal migrants within countries in South Asia. Migration from rural to urban areas has contributed to the growing urbanisation of the population.

Much of these immigration flows have been unilaterally determined by destination countries, leaving source countries to manage the emigration flows. The current period has been characterised by the 'commercialisation of migration' through smuggling and trafficking and the employment of migrant workers in informal employment in destination countries, posing challenges to the managing of migration and the rights of migrant workers.

This paper argues for the urgent need for countries in this region to articulate a comprehensive policy on managing migration in a safe manner that also keeps in mind the rights of the persons migrating. Such a policy needs to deal with both, migration across borders as also internal migration. It is also becoming clear that the migration process is not gender-neutral but can in fact impact women very differently. Women migrants need to become more visible in policies and laws dealing with migration. This paper deals with identifying key components of a policy on gender-sensitive safe migration that countries in the region need to adopt, the framework within which safe migration would be managed, and legislative regime within which the rights of migrants, particularly women could be best protected. Part I of the paper situates the context within which migration - particularly migration by women takes place, in order to understand the special concerns of women migrants. Part II sets out the components of a gender-sensitive safe migration policy and Part III identifies the rights which need to be recognised and protected and the legal and administrative measures needed for this purpose.

II. GREATER MIGRATION OF WOMEN

Women economic migrants from these countries usually work in destination countries as domestic workers, workers in labour intensive manufacturing industries such as garment manufacture, health workers such as nurses, entertainment workers, agricultural workers, in the informal economy and as self employed.³

There is growing demand for domestic services in the more developed countries in the world. The nuclear family with adult working members coupled with lack of adequate child care and other support services for the aged has led to a spurt in demand for such forms of work. The sexual division of labour within the household

¹ The ILO notes that from women constituting 47 percent of international migrants in 1960 they are now 49 percent of international migrants in 2000. See, ILO, *Towards a Fair Deal for Migrant Workers in a Global Economy* (2004).

² It is reported that unlike male migration which is subject to economic upswings and downswings (witness the spurt in the demand for construction workers in the Gulf in the 1970s and later the demand for higher skilled professionals there), the demand for female migrants is relatively constant and not subject to much variation since it is in the area of domestic and care work. See Maruja M.B. Asis, *Asian Women Migrants: Going the Distance, But Not Far Enough*, Migration Policy Institute (2003).

³ For instance, 81% of all women migrant from Sri Lanka are in the domestic work market in Arab States. See ILO, *Gender and Migration: The Case of Domestic Workers* (2004). There is a marked occupational segregation of women in countries in this region and women are typically to be found in certain sectors/occupations that mirror the kind of work women do within the home - domestic work, nursing and care work and sex work. Much of women's work is in the form of unpaid family labour and thus her work is rendered invisible and also under-valued. This has not only contributed to her not being seen by policy makers as a contributor to national income, it has also lowered her status within the family and society. Where women are in wage employment, it has been noted that there are gender differentials in wages that discriminate against to women. Women who migrate across borders are also typically engaged in these same sectors.

now has an added global dimension. Informal activities and domestic and care work in the developed countries is now being performed by immigrant labour from developing countries.⁴ The gendered nature of this work – seen as women’s work and non-remunerative – has meant that it is a sector capable of being filled by migrants. In such a situation any shortfall in the supply of regular economic migrants in the destination countries is filled by irregular migrants. It has often been pointed out that development of new forms of communications technology and means of transport has considerably broadened the means of entering other countries in an irregular manner. The domestic nature of the work that renders it ‘invisible’ also poses challenges to enforcement of rights of migrant in host countries. Domestic work is an area where labour laws scarcely apply. Flexible (read: unprotected) labour contracts, dispersed workplaces under disparate employers and vulnerable workers contribute to informal and potentially exploitative work conditions. Getting labour laws enforced is also another challenge since it typically opens up the private domain of the home of the employer to inspection and scrutiny. In addition, handing over the passport to her employer or the employer sending her wages directly to her family (in instances where the employer and employee are linked through common region or caste) also occur. On the other hand the conflation confluence of the place of work and the place of residence for the domestic workers implies that she can enjoy her ‘own’ private space and time only with great difficulty. The possibilities for sexual and economic abuse are very high. Often if a woman is found to be pregnant she is deported.⁵ Where the woman is an irregular migrant, she may be unable to claim her welfare benefits even if the employer was making the contribution to the social security system.

There is also a great demand for nurses from countries in the South Asian region who are predominantly women. As the populations age in developed countries there is greater demand for migrant health workers. One of the problems faced by health workers who are usually women is the lack of recognition of skills or technical qualifications or previous experience obtained in the home country prior to migration. Some of these services are covered by what is known as Mode 4 under the General Agreement on Trade in Services (GATS) dealing with migration of natural persons for services.⁶

There is also a general feminisation of the workforce in the labour intensive manufacturing sector such as garments in the developed countries, and this demand is often met by migrant women workers. The other areas where women migrant workers are presently employed are newly emerging forms of informal employment in developed countries such as entertainment workers. A large number of irregular migrants crowd these sectors making it difficult for law enforcers to monitor their employment conditions and to intercede where needed.

Migrants are also in self employment in which case many of the international standards of the ILO (which relate in the main to those in employer-employee relationships) would not apply. It is reported that immigrants are over represented in self employment in OECD countries, running shops, news agencies and cafes which would otherwise have closed down.⁷ As has been noted in South Asia, women who are in self employment are often performing unpaid family labour in businesses owned by their husbands. Thus family reunification form of female migration (where women may not have a work permit) may see women in this unpaid form.

Internal Migration

Rural to urban migration is a concern for countries in this region. Much of this migration is poverty driven, and whole families migrate in search of work, becoming part of the growing urban poor, living in precarious conditions. In other cases, contractors or middle-men recruit rural men and women to work as construction labour in different sites. India has a law in place to deal with inter-state migration, however it does not deal with intra-state migration

⁴ Saskia Sassen, *Global Cities and Survival Circuits*, in Barbara Ehrenreich and Arlie Russell Hochschild, *Global Woman*

⁵ Mandatory maternity tests are contrary to the ILO Maternity Protection Convention 2000 (No. 183).

⁶ For further details about GATS, see Rupa Chanda, *GATS: Implications for Social Policy-Making* *Economic and Political Weekly* Volume 38, No. 16 (2003).

⁷ See Nigel Harriss, *Migration of Labour: Constructing Transitional Arrangements*, *Economic and Political Weekly* Volume 38 No. 42 (2003)

which is also a dominant form of internal migration.⁸ There is also the incidence of large-scale internally displaced persons (IDPs) due to deforestation, inundation due to environmental disasters, riots and strife.

Effects of Migration on Women

In the case of female migrants, their image as a breadwinner considerably enhances their 'bargaining position' within the family and society. Amartya Sen has pointed to the links between the wage earning capacity of a woman and her consequent status within the family.⁹ Her position within the family involves both co-operation and conflict and thus her status outside the home considerably increases her fall-back options and hence her bargaining position. On the other hand, there are studies which point to the lack of care available for the family, particularly of the children, left behind, of such women migrants. Incidences of incest and neglect are reported. Unless the policy of sending women abroad is coupled with a conscious policy of the sending country that acknowledges its greater responsibility and role in providing support services for such families left behind, the burden of migration falls squarely on the family of the migrants while the benefits of remittances and foreign exchange are enjoyed by the State. These measures could include support and child care services to be made available, priority given to such children in admission in schools, counseling services, etc.

Remittances sent home by migrants is an important source of foreign exchange for sending countries. Money is sometimes transferred through the *Hawala* or *Hundi* system.¹⁰ The procedures of the formal banking system are seen to be long-winded, costly and offer poorer exchange rates than the informal systems. There is a need to provide cost-effective and safe banking channels through formal routes for money transfer home. Money sent home by women migrants is usually controlled by male members of the family. Her weaker position vis-à-vis property rights under personal/family laws get reinforced with her lack of control over remittances sent home. There is evidence to show that where women hold property in their independent right, their status within the family improves and there is lessening of domestic violence faced by them. There is a need to ensure that assets purchased out of a woman's remittances are registered in her name instead of any other male member of the family.

Links Between Migration, Smuggling and Trafficking

According to the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transitional Organised Crime (2000), the "smuggling of migrants" is the procurement of the illegal entry of a person into a State of which the person is not a national or a permanent resident, in order to obtain directly or indirectly, a financial or other material benefit. Smugglers are thus termed 'extra-legal travel agents' to willing clients. Trafficking on the other hand involves the use of violence, coercion or deception to exploit workers. It need not involve crossing borders. Women here are victims and are not liable to criminal prosecution. There is also evidence to show that trafficked persons often work as bonded or forced labourers in agriculture and domestic service. This leads to excessive power of the employer over migrant workers. In the domestic workers case we have seen this results in limitations placed on movement, withholding of passport along with working long hours and non-payment of wages.

⁸ Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979.

⁹ See for instance A.K. Sen, Gender and Co-operative Conflict in Irene Tinker (ed.) *Persistent Inequalities: Women and World Development* (1990). See also Devaki Jain and Nirmala Banerjee (eds.) *Tyranny of the household: Investigative Essays in Women's Work* (1985) New Delhi, Vikas.

¹⁰ Remittance flows are now the second largest source, behind FDI of external funding for developing countries. In 2001, worker remittance receipts stood at US\$ 72.3 billion. Not only are they large, they seem more immune to economic cycles than FDI flows. In fact remittance flows tend to increase in times of economic hardship because families are dependent on them for their survival. ILO estimates that remittances contribute more to Nepal's foreign exchange than manufacturing exports, tourism, foreign aid and other sources combined. ILO studies reveal that remittances in Bangladesh account for more than half of the household income of families that receive them, with a high multiplier effect on consumption and GNP. See ILO, *Towards a Fair Deal for Migrant Workers in a Global Economy* (2004) at 23-24.

It has also been pointed out that the more 'costly and troublesome' an emigration regime is, the greater the tendency for migrants to seek clandestine routes to go abroad.¹¹ Thus there is a close link between legal migration and irregular migration, linked to the migration procedures in the country of origin, apart from the immigration procedures in the receiving countries. Thus for countries in South Asia which are in the main sending countries or transit countries, a conscious policy of putting in place effective and migrant-friendly emigration policies would be a necessary step. This would also reduce irregular migration and trafficking, since they all form part of one continuum and policies and laws determine where a potential migrant would place himself or herself once a decision to migrate has been taken.

The ILO has noted the links between regular and irregular migration. "The extent of the flows of irregular workers is a strong indication that the demand for regular migrant workers is not being matched by the supply, with migrants serving as buffers between political demands and economic realities."¹² The ILO has also made a link between trafficking and availability of employment. "The recent rise in trafficking may basically be attributed to imbalances between labour supply and the availability of legal work in a place where the jobseeker is legally entitled to reside."¹³ It has also been noted that "The complex web of factors that often underlie migration, especially in south Asia, make determination of voluntarism and coercion not a particularly useful approach".¹⁴ There is therefore a difficulty in clearly demarcating political and economic migrants i.e. refugees, internally displaced persons and migrants. Take for instance the tens of thousands displaced from Nepal in the current round of violence and insurgency; viewing them as economic migrants would disentitle them to humanitarian aid and possible *refoulement* (repatriation of refugees under international humanitarian law).

III. NEED FOR A GENDER-SENSITIVE POLICY

There is a need for an integrated approach to all aspects of mobility. There is also a need for greater efforts at multilateral and bilateral levels rather than unilateral efforts to manage migration.¹⁵

Many countries in the South Asian region have no declared policy on migration. This is unlike countries such as Philippines and Sri Lanka that proactively promoted employment opportunities abroad for their emigrant workers. (There is currently no such requirement to formulate a policy based on the ILO instruments).

There is thus a need to formulate a national/regional policy on migration. This should be done in consultation with employers' and workers' representative and other stakeholders. A central role needs to be played by the States of sending countries to manage migration. The creation of a nodal ministry or agency that regulates, monitors, collects data and co-ordinates all aspects of migration within the government and private agencies is necessary. Such a nodal agency could ideally be set up under a statute and be empowered with powers and finances necessary for this purpose. Such a policy should also have within its scope the enactment of legislation that would protect rights of migrants and empower agencies charged with migration responsibilities.

The International Organisation for Migration (IOM) has called for a 'cluster approach'. This refers to the need for sending, transit and receiving countries to work in a coherent and co-ordinated manner. Some of these could be the 5+5 dialogue¹⁶ or bilateral agreements between countries of origin and transit of asylum seekers or migrants.

¹¹ See Xiang Biao, Towards an Emigration Study: A South Perspective, *Economic and Political Weekly* Volume 39, No. 34 (2004).

¹² ILO, *Towards a Fair Deal for Migrant Workers in a Global Economy* (2004) at 12.

¹³ ILO, *Stopping Forced Labour* (2001).

¹⁴ Rita Manchanda, Gender Conflict and Displacement: Contesting Infantilisation of Forced Migrant Women, *Economic and Political Weekly* Volume 39 No. 37 (2004). She points out that the 1951 Geneva Convention does not provide a separate category for women who suffer gender specific persecution or human rights violation in the form of domestic violence.

¹⁵ ILO reports a surge in bilateral efforts at the current time. Already in 2004 a Global Commission on Migration comprising several countries including India has been set up chaired by Switzerland and Sweden. See for instance the Barcelona Process and Puebla Process dealing with trafficking and migration, the Berne Initiative for migration governance, etc. For details see, ILO, *Towards a Fair Deal for Migrant Workers in a Global Economy* (2004).

Contrary to popular perception, more than half the migration of persons is from one developing country to another, where wage differentials are not large. Many of these are likely to be irregular migrants. ILO reports that Nepalis and Bangladeshis in India are likely to be among the largest numbers of irregular migrants world-wide.¹⁷ There is thus a need for a cluster-based approach for dialogue to take place among affected countries in a region.

The policy should charge the government with a duty to engage in such bilateral and multilateral efforts to manage migration. The rights of migrants (including irregular migrants) and their families should be central in such a policy. There must be a policy to ratify international standards dealing with migration¹⁸ and to seek enforcement of these standards in the receiving countries by the sending States.¹⁹

Bulk of the research on migration world-wide has focused on the concerns of receiving countries and the concerns of the Diaspora. Emigration research has been a relatively less researched subject. In fact it has been noted that much of focus in sending countries has dwelt on the 'brain drain' issues.²⁰ The link between migration and development assumes importance because of the manner in which migration is linked with the pattern of development in sending countries. Domestic policies that have led to ruination of the agriculture and rural livelihoods have contributed to unemployment and poverty and the consequent migration to the cities. This has also triggered the supply driven mobility to seek employment across borders.

The policy should link national economic development with migration and seek to develop alternative employment opportunities without jeopardising the right of those who wish to migrate, recognising this as their basic human right.²¹

Managing migration in a proactive manner requires action at a variety of stages. The position of migrants at all stages - pre-departure, transit and destination should be addressed.

The policy should include NGOs at the stages of pre-departure training, have a commitment to sensitising staff in embassies of destination countries, helping the development of overseas or Diaspora networks as a part of a conscious policy of managing migration. The policy should work towards making migration cost-effective and freeing it from legal and administrative hurdles so as to reduce the amount of irregular migration. The policy could disallow migration of nationals to countries that do not respect standards.

The licensing and regulation regime of recruitment agencies must be clearly established. Documents necessary for travel must be systematised and made public. A system of regular updating of accreditation based on monitoring complaints must be carried out. In addition the sending country needs to have an active policy of monitoring and developing employment opportunities that migrants could utilize.

The impact of returnee migrants also affects the development pattern of a sending country. Newer employment opportunities opened up in the country of origin by returning migrants or created by the remittances of migrants,

¹⁶ Participants include Algeria, France, Italy, Libya, Malta, Mauritania, Morocco, Portugal, Spain and Tunisia that are five immigration and five emigration countries.

¹⁷ ILO, *Towards a Fair Deal for Migrant Workers in a Global Economy* (2004) at 12.

¹⁸ For instance, the UN International Convention on the Elimination of all Forms of Racial Discrimination 1965, is one of the most widely ratified convention, yet this does not deal with discrimination based on nationality and thus leaves migrant workers unprotected in several instances.

¹⁹ The fear of the influx of migrants who may cause unemployment in receiving countries, reduce wages or other social and cultural aspects of migration, have to be balanced together with the rights of emigration.

²⁰ Xiang Biao, *Towards an Emigration Study: A South Perspective*, *Economic and Political Weekly* Volume 39, No.34 (2004). He notes however the colonial history of migration as very concerned with emigration matters.

²¹ Article 13 of the Universal Declaration of Human rights adopted by the General Assembly in 1948 states: 1. Everyone has the right to freedom of movement and residence within the borders of each state. 2. Everyone has the right to leave any country, including his own and to return to his country.

may allow other family members to step out of typical caste-based occupations or enhance their qualifications. The social effects of such migration thus have cascading effects going much beyond the migrant alone.²²

The policy must create a climate for returning migrants to reintegrate and play their role in development. It must address the need for sound and robust investment climate in receiving countries needed to put remittances to best use.

Internal migration must be an integral part of such a comprehensive policy. Reducing the differentials among different parts of the country, and measures for the sustainable development of the country and ensuring livelihood for persons need to be aspects of such a policy.

Given the fact that wage employment abroad seems to be a better option for many women given the lower wage or unpaid options in the country of origin, a policy of assisting migration of women may be a conscious policy option to consider.

Such a policy should in addition, be gender-sensitive and focus on making visible the concerns of women migrants. It should also clearly address the issue of emigration of unskilled single women. This would include a strong pro-active system run by the State of monitoring migration by all person particularly single women, a system of registering details of workers, potential employers, and recruitment agencies, entering into model employment contract as a prerequisite for emigration²³, limiting the fees charged by recruiter, providing skills training, making provision for the welfare of the family of the woman migrant and providing for control by the woman over remittances. Close attention needs to be paid to increasing remunerative employment options for women within sending countries and addressing the question of gender discrimination in employment and wages and ascribing money value to unpaid family labour performed by women wherever possible. A welfare fund could be created out of State funds for the purpose of assisting women migrant workers who require emergency help and that could disburse soft loans.

IV. ENSURING THE RIGHTS OF MIGRANTS

The idea of decent work is central to setting the benchmark for labour standards of migrants. There are several ILO standards dealing with the issues of freedom of association, non-discrimination and freedom from forced labour, conditions of work, social security apart from specific instruments dealing with rights of migrant workers.²⁴ ILO standards relate to minimum standards of protection; the provision of correct information about conditions in the country of employment; measures to facilitate the adaptation of migrants to living and working conditions in the country of employment; special provision on mechanisms for the transfer of migrants' earning; employment opportunities; access to social services; medical services and reasonable housing; adoption of a policy to promote and guarantee equality of treatment and opportunity between regular status migrants and nationals in employment and occupation in the areas of access to employment remuneration, social security, trade union rights, cultural rights and individual freedoms, employment taxes and access to legal proceedings. There is a need for countries concerned to ratify these standards and to effectively implement them.

²² Xiang Biao warns that remittances can also lead to the erosion of 'social capital' when the money is used back home only as a means of entertainment and leads to a culture of dependence. He also notes that the effects of migration may differ according to caste and religion – thus for Muslim migrants to the Gulf, their religious identity is often reinforced, while for Christian migrants from Kerala, international missionary networks worked in their favour.

²³ ILO advocates the development of model contracts to govern the situation of migrant workers. For instance see article 22 of the Model Agreement on Temporary and Permanent Migration for Employment, including Migration of Refugees and Displaced Persons annexed to the Migration for Employment Recommendation (Revised) 1949 (No. 86).

²⁴ The ILO Migration for Employment Convention (Revised) 1949 (No. 97) aimed to regulate migrant flows and coincided with an active role played by the State in organising (see the guest worker programme in West Germany in that period) and closely supervising recruitment, employment and return of migrants. In addition see the Migrant Workers (Supplementary Provisions) Convention 1975 (No. 143) and the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, adopted in 1990 and which entered into force in 2003.

The role played by the governments of sending countries in focusing on the welfare of their migrant workers overseas has greatly enhanced the position of such workers abroad vis-à-vis those countries that do not play such a role.²⁵ Where such a role by the sending and receiving state is not present, women rely on their own community or caste or religious networks and access non-governmental assistance if available.

The rights of migrants at all stages of migration should be incorporated in law which declares the rights of workers. A duty should be cast on governmental agencies and private parties where relevant to uphold the rights of migrants within the country and outside. The rights protected by law should be in keeping with international standards on the subject. These rights must be available to both internal migrants and cross-border migrants.

Migrant workers experience the most unfavourable working conditions and also have the greatest difficulty in accessing their remedies – due to language, discrimination, and barriers to join trade unions among others. The presence of contractors and sub-contractors among migrant workers is another reason for their precarious condition. The increasing informality of employment relationships in the destination countries is an added factor. Migrant workers are usually unable to access health care in the destination for a variety of reasons – lack of information, inability to take time off, and lack of child care or support systems. Other than this, the systems of health care for temporary migrants may not be as broad as those available to citizens or permanent residents, making it relatively costly for the temporary migrant.

There is a need for portability and export of social security benefits when the migrants return. Presently the Equality of Treatment (Social Security) Convention 1962 (No. 118) provides for equality of treatment but this however is based on the principle of reciprocity. There is thus a need to have a system of maintaining 'acquired rights' in place on a universal basis. In fact difficulty in transferring social security benefits or earnings home, may compel the migrant to continue to live longer in the destination country than planned. There is also the need to prevent abuses in the recruitment and placement of migrant workers through private employment agencies.²⁶ There is a need for the sending countries to have effective measures in place dealing with licensing requirements for contractors and monitoring the recruitment process at all stages.

For women workers, who are typically to be found in domestic work, agriculture (usually as seasonal migrant workers) and labour-intensive manufacturing, the specific problems of low or absence of unionisation in these sectors, vulnerability and invisibility add to the woes already faced by other male migrants. Homes and agriculture are usually sectors that are not covered by labour laws in most countries in the world. As a result even if the woman were to seek redress, she may find herself not covered by the labour laws of the destination country. Migrant women workers face gender discrimination in wage payments even as compared to male migrants who perform the same job. This gender segregation of jobs together with lower wages adds to the picture of gender discrimination at the workplace that women face.

The law must ensure the rights of migrants based on the principle of equality and non-discrimination.

Migrants should have the right to proper information and training prior to departure. Women should have the right to access accurate information about conditions in destination countries. A duty must be cast on the sending States for this pre-departure orientation and monitoring of manpower recruiting agencies. A contributory social insurance scheme for migrant workers needs to be developed with the sending country contributing part of the premium and some part contributed by recruiting agents.

²⁵ See for example the comparison of Filipino workers overseas as compared to workers from Indonesia, Thailand and Vietnam. See Ashish Bose, Migrant Women Workers: Victims of Cross-Border Sex Terrorism in Asia, *Economic and Political Weekly*, Volume 38, No. 9 (2003). Philippines has an elaborate regulatory mechanism in place to deal with women migrant workers. See their Labor Code, Migrant Workers Act 1995 and the proactive role played by several government agencies dealing with migration.

²⁶ See Private Employment Agencies Convention 1997 (No. 181) which has important provisions concerning migrant workers. Certain forms of deductions by contractors would make it liable to be considered as forced labour according to the ILO Committee of Experts.

In the area of employment, the law must deal with the right to form associations and trade unions in the State of employment; the right to equality of treatment with nationals in respect of protection against dismissal, unemployment benefits and access to alternative employment; in case of violations of work contracts by the employer, the right to address his/her case to the competent authorities of the State of employment. It should include the right to be temporarily absent from the country for family or other related reasons without impact on their work permits. The health and safety and social security rights of migrants should be protected on the principle of non-discrimination. There is a need for portability and export of social security benefits when the migrants return. As mentioned above, a system of compulsory insurance in the sending country would be an additional right.

- *Simplified procedures to access the remedies provided under law should be provided. Thus the migrant should be allowed to pursue a case against a recruiting agency or other parties even while overseas and strict rules of appearance should be relaxed. In case a returned migrant wishes to pursue a case against an erstwhile employer in the destination country, all possible assistance should be made available.*
- *Where contractors are employed to hire migrant workers, the need to enforce joint liability on the contractor along with the beneficiary (even if the migrant workers cannot be brought into a direct employment relationship with the beneficiary/user enterprise) for payment of wages and ensuring working conditions as per labour law. Any advance paid by the contractor or intermediary to obtain the migration of a worker cannot be deducted from the wages of such a worker and would stand extinguished.*
- *The right to residence in the event of a loss of job within the period of stay should be permitted. Further, the duty of the sending country to help in the pursuit of justice in the form of legal aid must be a part of the law.*
- *The labour law must cover sectors where women work such as domestic work and agriculture and informal employment within the scope of the labour laws. Where possible self-employed persons should also be covered. Wage discrimination and sexual harassment at work must be within the purview of legislative protection.*
- *In order to secure easy access to justice, hot-lines for women migrants, permitting NGOs or migrant associations to file group complaints on behalf of victims, protection of employment and work status during investigation must be ensured. Where a woman migrant has had to return in distress conditions, counseling and rehabilitative facilities should be made available at State expense.*

In terms of general human rights of migrants, it must include (without being exhaustive) the freedom of movement, freedom from discrimination, arbitrary arrest, right to due process, the right to participate in the public affairs of the State of origin, in accordance with its legislation, the right to vote and to be elected in the State of origin, in accordance with its legislation.

In terms of other rights, migrants need to have the equal right to access educational and vocational facilities as other nationals; the right to information of their rights in destination countries and access to remedies.

The families of migrants should enjoy rights to housing, education and other facilities. Children of migrants should have the right to a name and nationality.

The rights of irregular migrants to be treated keeping in mind human rights of the workers and the principle of proportionality must be respected.

ANNEX 5.5

**ROLE OF LIVELIHOOD OPTIONS
IN THE
MIGRATION/TRAFFICKING PARADIGM**

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&
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Supported by

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South Asia Regional Initiative/ Equity Support Program

The Opinions expressed in this paper are those of the author and do not necessarily reflect the views of SARI/Equity.

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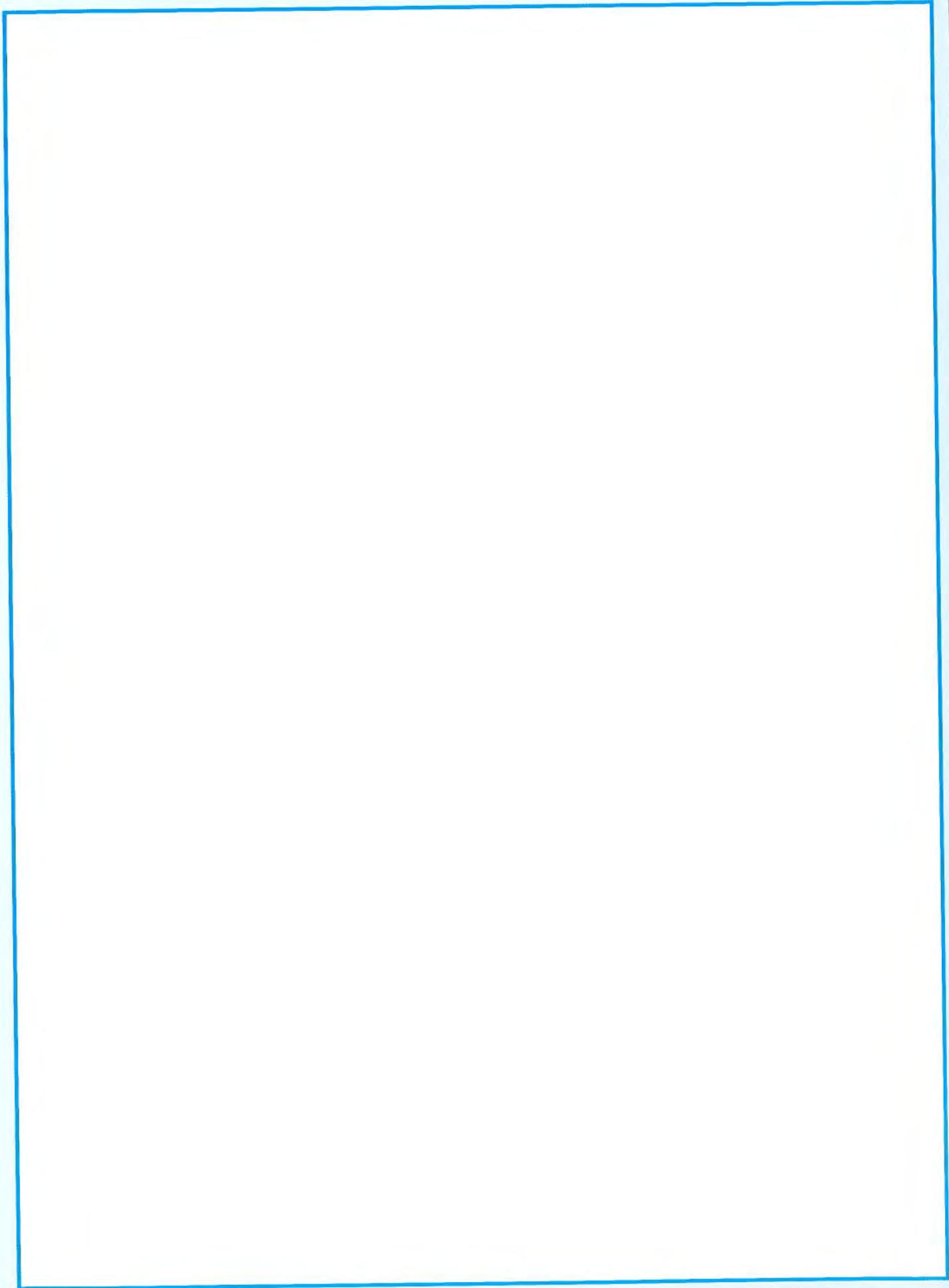
I. INTRODUCTION

II. CYCLE OF VULNERABILITY

III. TRAFFICKING AND UNSAFE MOBILITY

IV. LIVELIHOOD OPTIONS - A PARADIGM SHIFT

CONCLUSION



I. INTRODUCTION

The memory of the super-cyclone is still fresh in Kamla's mind. Everything they owned...the sea washed away...her husband then left her and their four children to get a job in the city...what could she do...illiterate with only the knowledge of drying and selling fish...for two months she worked in the prawn aqua-culture farms.....but it was becoming increasingly difficult to survive...this was not just her case...in her neighborhood most men had migrated in search of livelihood as there was nothing much to do in their fishing village. Her village had large number of women like her who were managing their household singly. After a few months of struggle at least her 12 year old daughter got a good job as domestic help.....the agent even gave a hefty amount as few months salary advancewhat if it is far away in Delhi...at least she will escape poverty....it is four years now since her daughter left...there is no news of her....her husband came back after a year....they were slowly rebuilding their lives....and then the killer wave...tsunami.....everything gained lost in a moment.....how to sustain...how to survive.....should I send my other daughters also to the city.....so that they can survive....Kamala asks herself every moment today.....

The killer tsunami waves that devastated South and Southeast Asia last December left millions of lives socially and economically shattered, rendering hundreds of thousands of women and children homeless, orphaned, economically devastated and without livelihood options. The international community responded quickly to this tragedy in a manner never seen before. Among the many responses of the global community to this tragedy, was also a general global alert against the possibility of trafficking of persons especially women and children. Such a response is unique, in that, this is probably the first time that the international response to a tragedy of this magnitude also included very explicitly a strong response to the possibility of trafficking.

This general alert was followed-up by a concerted effort by the local governments with the help of international agencies to be on the lookout for, interdict and even arrest potential traffickers and pedophiles to counter the possibility of trafficking. Subsequently more stringent norms and regulations have also been put in place in the disaster areas to control the movement or migration of persons specially women and children. This particular response is a clear message that the international community is acutely aware today more than ever before, of the issues involved in and the danger posed by trafficking, and therefore is also willing to act collectively and decisively to counter this crime. This also recognizes the fact that persons without livelihood options and those traumatized and rendered option-less by any kind of tragedy be it natural or man-made are vulnerable, and are at risk of becoming victims of unsafe migration which may result in them being trafficked.

II. CYCLE OF VULNERABILITY

The vulnerability to trafficking, of victims of natural disasters and other tragedies and the traffickers seeking out such victims to prey upon, is not however only unique to the tsunami affected areas nor is it really a new phenomenon. All events that leave women and children vulnerable without livelihood options and force them to become mobile in search of long-term economic sustainability are potentially increasing their risk of falling prey to traffickers. Recent history alone confirms this; the vulnerability of women and children in the conflict areas in Africa or in situations of conflict in South Asia and central Europe; the large-scale trafficking of women and children from Eastern Europe and the Central Asian Republics or the CIS States after the collapse of the Soviet economy at the end of the Cold War; the reported abuse, rape, and torture of women and children in all of the war zones across the globe paint a very grim picture of the reality of trafficking and exploitation of the vulnerability of women and children.

The South Asian region has had its own fair share of wars, militancy, separatist movements, civil strife and serious communal disturbances over the past five decades, placing the affected people under continuous pressure to migrate to safety, and during the escalation of such violence and strife the region has witnessed large-scale

migration in distress in very unsafe conditions. This region also has a long history of natural disasters like cyclones, earthquakes and flooding, requiring people to migrate. The large projects for irrigation, power generation, mining and manufacturing have also witnessed large-scale forced migration of people orchestrated by the State without regard for the safety, security, and rights of the affected masses, denying them the basic rights of alternate land, housing or means of livelihood. Simultaneously the extreme situation of drought experienced in the region quite frequently in the recent past with serious implications on the livelihood options for the rural masses has resulted in depletion of economic viability, creating great pressure to migrate in search of economic sustenance.

The region is also in the grip of accelerated urbanization as the nations here liberalized their economies as a result of globalisation. This has resulted in high rates of economic growth in and around the big urban centers of the region creating the need and opportunity for an even larger work force. With the erosion of livelihoods in the rural areas and the resultant problem of economic survival, the promise of better livelihood in the big cities becomes for the rural masses an inducement to migrate. The prevailing state of distress combined with poverty and illiteracy makes most migrant persons and communities dependent on agents who show them illusions of the 'promised land' with assurances of all kinds of support including financial help. Most of those who migrate are not recorded as migrants and hence any follow-up about what happens to these persons after they leave their native place becomes difficult and often impossible. This becomes a situation conducive for exploitation of these persons both in transit and at destination. With no record of their migration both at source and at the destination, without social and legal protection, these persons become highly vulnerable and at risk of being exploited and trafficked.

Migration which is an unavoidable reality of the present developmental process therefore also becomes the hunting ground for criminal traffickers to perpetrate their crime. And with the present practice of migration in the region taking place without the required safety, the crime of trafficking can be carried out with near impunity. With traffickers on the look-out for safer sources of supply to meet the increasing demand for women and children, the vulnerable migrant can be easily targeted with promises of opportunity and help to access it. There is a direct linkage between unsafe migration and trafficking and this nexus of evil perpetrated on the vulnerable communities can be countered only by addressing simultaneously the dual problem of unsafe migration and the issue of trafficking within that process.

In disaster and war, in deprivation and poverty, women and children bear a disproportionately larger burden of the pain, suffering and cruelty of their context and for them the vulnerability continues much after the events that cause their suffering ceases to be a matter of public concern, and most often it is then that they become much more vulnerable as they would then be without protection and hence more at risk of being exploited. Across the region a common phenomenon that is seen is a large visible presence of women-headed households in the face of distress migration of men. Rendered option-less by the situation and with the challenge of ensuring the survival of the family, women become more and more gullible to be deceived or forced to look at other options for sustenance.

In this context it is an important development from the perspective of combating trafficking that the international community for the first time so explicitly gave expression to the vulnerability of women and children to trafficking in disaster zones. This also is a very clear statement that trafficking in humans especially of women and children has become a matter of very serious national and international concern. For the past five decades the international community had given expression to this concern through various conventions, declarations and even legislations. It is however, in the past one decade that the issue has become the focus of concerted action by the international community. It is perceived no longer as the problem of a few poor countries but as a problem impacting and having serious repercussions and consequences for all nations. Trafficking for sexual exploitation is recognized today as an organized crime and a multibillion-dollar business that has spread its tentacles globally, exploiting

the vulnerability of women and children in difficult circumstances. All nations have become today a playing ground for the perpetrators of this most heinous crime either as a source or as destination and in most cases as both.

III. TRAFFICKING AND UNSAFE MOBILITY

Available data on trafficking which operates under cover of anonymity estimates that over three million persons are trafficked globally each year and that more than one fourth of the victims are children. With nearly a million children becoming victims of trafficking each year what is more alarming is that children are becoming victims at an increasingly younger age and in larger numbers.

There are many possible reasons for trafficking. The primary reason for the increase of trafficking into the global menace it has become, is the breakdown of traditional livelihood options. Industrialization and globalization have destroyed the viability of traditional livelihood especially in the rural areas. Women and children from such deprived contexts are trafficked through false promises and inducements offering economic prosperity, employment, love, marriage and other means leading to freedom from the deprivation and bondage they are victims to in their daily life. With the erosion of sustainable livelihood, large numbers of persons are forced to leave their homes seeking a better income to improve the living condition of their families. The movement of people in search of better livelihood increases the risk of women and children among them to being trafficked and exploited. Trafficking is therefore integrally linked to poverty and subsequent migration in search of sustainable livelihood.

South Asia is home to about one-fifth of the world population and over 500 million of them live in absolute poverty, with women and children bearing a disproportionately larger burden of the deprivation and exploitation resulting from such poverty related issues. At the same time the very small livelihood options that still existed for them have already disappeared or are fast diminishing, leaving them without alternatives to sustain themselves. On the other hand the current globalization trends and processes are creating further livelihood opportunities in the urban areas and in specific sectors. Such trends reflect underlying patterns of poverty, marginalisation and disempowerment. With women bearing the brunt of this situation of poverty, the number of women living in poverty and the number of women-headed households living below the poverty line have increased over the past one decade, impacting significantly the well-being and human security of children, often leading to situations of trafficking. Several of the economic liberalization policies have entailed a progressive feminization of poverty and increasing female underemployment.

The erosion of livelihood in the source areas and the availability of better livelihood opportunities in other areas, initiate the migration of women towards high-income areas. Internal and international movement of women into the labor market has exposed women to the vulnerability of sexual exploitation. Women and children among migrants are coerced and deceived at the place of their origin, during movement and transit and at their destination. Undocumented migrants especially become vulnerable to trafficking. The large number of male migrants at the destination also creates demand for trafficking. In addition to economic or livelihood distress migration, vulnerability of women is exploited by the fast growing tourism industry within which tourists look at destinations as places of sex tourism, with the increase in abuse of male and female children assuming serious proportions with the involvement of criminal pedophile networks. Whatever the form of and manner in which trafficking in women and children happen, underlying these are always reasons related to economic sustenance and livelihood options, the absence of which or in their erosion women and children become highly at risk of being trafficked and exploited.

The paradigm that emerges from this scenario is that the current market economy driven by forces of globalization has further disempowered the already poor masses and more so the women and children among them

necessitating the migration of women for better economic opportunities elsewhere, making women and children vulnerable and easy prey for traffickers and sexual exploitation. This however cannot be considered as the desired paradigm. The economic disparity that supports the crime of trafficking needs to be addressed in a manner that alternate livelihood can be established for the rural economy, which in turn can counter distress migration and the consequent trafficking. It will always be a fact of the globalized economy that however the question of economic equity is addressed, migration will always be a necessary element in the operation of the emerging economic trends. Here again the paradigm that migration can more often than not lead to trafficking and exploitation needs to be addressed by creating modes of safer, documented and monitored mobility ensuring the safety and rights of the migrant person as against the insecure mode of migration prevalent today which makes a person - particularly women and children, easily exploited and vulnerable to trafficking.

What we need today is the creation of a context in which a paradigm shift becomes possible. The new paradigm on the one hand must recognize the inevitability of the process of globalization with its very specific impact on the traditional economy and traditional livelihoods and also the movement of people within this process, and on the other hand must create the possibility of safe migration for those who would have to migrate in participating in the globalized economic process. The new paradigm cannot stop at recognizing trafficking as just a consequence of migration due to poverty and deprivation, but must see it as the worst form of criminality that exploits the vulnerability of women and children, perpetrating the worst form of denial of human rights and human slavery and create the administrative and penal framework within which to counter and eliminate the criminal nexus that perpetrates it. Thirdly and most importantly the erosion of rural or traditional livelihood cannot be seen as a final inevitability, but rather as a challenge to redefine economic sustainability through creation of new skills and new opportunities. The globalized economy can create alternative economic activity in areas where the traditional economy has little to offer today and this potential can recreate sustainable livelihood possibilities for the rural sector, which in turn can partially address the issues and problems related to distress migration and subsequent vulnerability to trafficking.

IV. LIVELIHOOD OPTIONS – A PARADIGM SHIFT

In the South Asian context, because trafficking happens mostly as a result of lack of viable and sustainable livelihood options, combating this crime becomes possible only if such options of livelihood become possible both for vulnerable communities in the source areas and for those who have already been victimised. Economic empowerment is the key in either case as the primary means towards reintegration, rehabilitation, and restoration of victims and also in reducing the vulnerability of communities to resort to unsafe mobility for livelihood. In the region there are many initiatives that have tried to do pioneering work in this path.

The International Organisation for Migration (IOM) initiated “Economic Rehabilitation of Trafficked Victims (ERTV)” project in India for the sustainable rehabilitation of rescued victims of trafficking through micro-credit. This was done by providing business support and creating strategic support base through organizing collaborations with NGOs, corporate houses and the government. The specific objective of the programme was to target about 300 victims of trafficking for economic rehabilitation by developing their entrepreneurial skills, create a sense of dignity and self-confidence in them, to promote ownership of enterprise or institution as their own and to establish mutually benefiting linkages for social development. This was to be achieved through formation of victims into viable groups according to the planned activity, development of a well integrated business plan, providing the credit required, training of the participants in entrepreneurship development, psycho-social skill support, mentoring and monitoring. This programme has already become very successful in most places where it has been initiated, be it Amul Pizza Parlors in South India, Delhi, West Bengal or the Manavi Designer Collective in Mysore. What is unique about these initiatives is the ‘business sense’ for all the stakeholders, be it a rural milieu or the urban, the viability of the initiative for all makes this project sustainable.

In its ERTV project IOM brings in the innovation of the corporate sector, and the survivor as an important partner and stakeholder, an element that is found missing in most other initiatives. Earlier partnership with the corporate sector stopped at roles of either being a donor or a customer. IOM looks at the corporate involvement as a business partnership for mutual profit and gain, which involves each stakeholder as a partner, which is a proposition that would be much more appealing to business and industry than being just a donor. This new approach or paradigm potentially has the greater possibility of creating alternative livelihood options than was possible without such a partnership. Equally important stakeholders are the survivors for whom the program is meant. Their skills, aptitude and core competencies provide the core of sustainability factor to the program. It also defines ownership and support. Further, in defining livelihood options that are viable and sustainable, it is of paramount importance to look at options other than the traditional economic activities women are engaged in.

The fact remains that traditionally economic activity of women was mostly restricted to the so-called softer or feminine skills with needle and thread. Most rehabilitation programmes in the NGO sector tended to continue with the same or similar activities. For a victim of trafficking who is being asked to accept the traditional economic option which she well knows is unviable and unsustainable as a means of her rehabilitation can only make her lose faith in the possibility of a reintegrated life. Such an experience can be much more traumatizing for a victim than the journey of victimization she has already been subjected to and this probably is the reason for many rescued victims becoming disillusioned with rehabilitation and allowing themselves to be re-trafficked.

For over 45 survivors of trafficking who are running their own collective enterprise in South India that specializes in printing and book-binding, welding and fabrication, carpentry and photo lamination, their monthly turnover of two lakh rupees is not only repaying the loan for the machines they have taken but also is providing them a sustainable income to live on their own. What is unique about this intervention is the choice of the trade and sustainability of the venture. The survivors as owners of the program feel confident to relate and deal with the mainstream world at equal footing based on the quality of the services provided.

Therefore another important paradigm shift that is necessary for the creation of viable and sustainable livelihood is in the approach to the market. The players in the market, be they from the manufacturing or the service sector or the consumer, do not any longer buy products just because they are created by victims. Marketing of products today depends on perceived profit or advantage to the buyer. Traditional habit of those involved in rehabilitation was to produce what they had the know-how for and then expect customers to buy such products out of compassion.

Even marketing networks were established for such products in the belief that sale can be accomplished by appealing for sympathy for the victims who produced the products. This strategy is no longer viable and most such marketing networks have closed down. Not that society has become less charitable but rather it requires the recipients of charity to provide value for money, both in terms of quality and economy. From producing what one knows there has to be shift towards producing both goods and services that can be effectively marketed. This simply means that rather than try to sell what is produced, the need is to produce what can be sold. This requires a much closer look at the market trends and constant update of products, value addition or even change of product. Entrepreneurship in the changed market conditions also requires constant upgradation of skills, requiring a person or group to be multi-skilled and adaptable.

The attitude towards victims must change from the old warped concept of persons condemned to helplessness to persons with dignity who are capable of making decisions. It is true that most victims are socially and economically deprived and are very often illiterate or utmost semi-literate. On the other hand as survivors they are also persons with immense potential for hard work, discipline, entrepreneurship, learning ability and courage. With the required and relevant psychosocial support they are capable of sustainable economic activity provided they are given the required skills and resources. They also have high capacity for key competencies like communication, teamwork, commitment and daringness and to adapt to situations and survive against all odds.

These qualities added to their natural tendency to be resilient makes them good entrepreneurs and also good providers of service in many sectors given the required initiation and support.

Another case for change is the perception generally held regarding opportunities. South Asia with a population well in excess of 1500 million people must have at least a billion people earning a livelihood. Discounting over 500 million of the middle-class, there is still a very large population in need of goods and services to sustain their livelihood. The corporate sector realizes the potential of the market in the rural areas. From fast moving consumable goods (FMCG) to telecommunications and Internet technology, the corporate providers of goods and services are targeting the rural masses for market. Corporate projection is that the rural sector will emerge as the more sustainable market place for many sectors when compared with the already saturated urban sector. As the benefits of the global economy slowly spread into the rural sector driven by market compulsions, opportunities also will emerge simultaneously for both employment and self-employment in the rural sector. In this context it would be wrong to assume that there are no opportunities for entrepreneurship and employment in both the rural and urban sectors just because traditional wares do not sell any longer. Very often it is not that opportunities are lacking but rather what lacks is the willingness and courage to change, learn and adapt sufficiently to be empowered to become capable of grasping and responding to emerging new opportunities.

Today, a whole area of opportunities is being opened up as business is moving towards outsourcing much of its needs - other than its core-activity. From housekeeping to gardening, from catering to laundry, from assembly lines to sales and marketing, the list of jobs outsourced is ever growing. Most of these jobs can be accessed by a trained victim or by groups of victims if they are empowered to do so, and in a manner that promotes both business and the interest of the victim. There exists immense potential in the creation of multi-skilled groups that can provide outsourced services for business and industry.

The inescapable reality of rehabilitation programs that rely on entrepreneurial initiatives is that the program must be a viable and sustainable to ensure its own viability and sustainability for the victim for whom it is intended. Any program sustained in the long term by donor charity alone will remain unsustainable both for itself and for the intended beneficiary.

Yet another factor to be contended with is the reality that the current economy - whether public, private or co-operative, has been corporatised and hence functions today as driven by market forces. These realities and their consequences have to be adequately addressed in proposing and promoting alternative, viable and sustainable livelihood options. This requires a very clear paradigm shift in the perception, attitude, skills and practices of both the provider and recipient of such services.

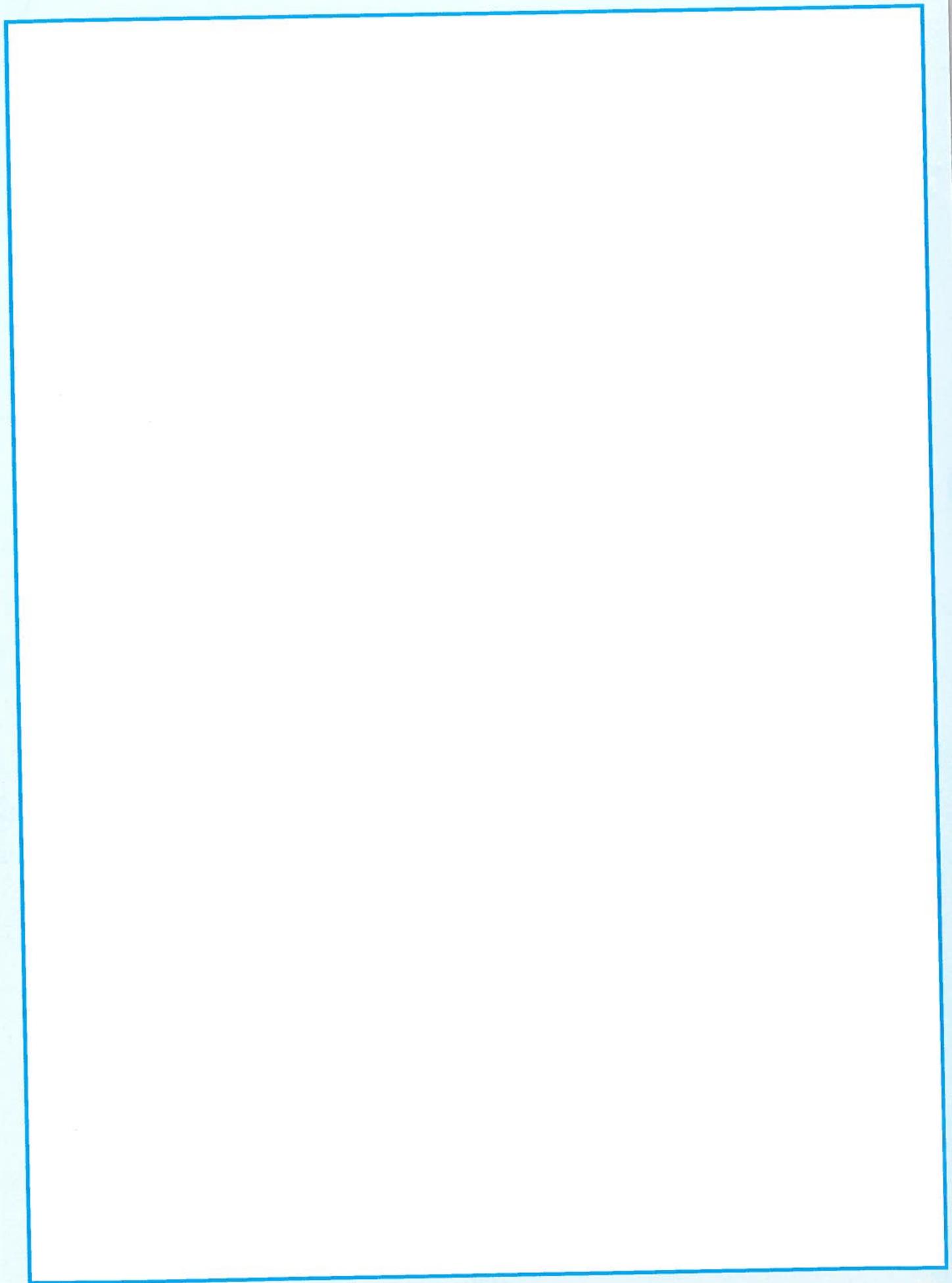
The creation of the proposed and desired alternative and sustainable livelihood options can no longer be achieved in isolation by any particular sector as was thought possible in the past. The need today is to look at concrete sustainable alternatives that can on the one hand be mutually beneficial and on the other continue to add value both to the victims/ vulnerable communities and to the program itself. This cannot be achieved by doling out charity. Dole has never really empowered people nor has it proved a sustainable alternative. This can be achieved only by breaking down old barriers and prejudices between different sectors of society - the NGO, Government and Corporate sectors need to forge an effective alliance to combat trafficking through creation of alternative, viable and sustainable livelihood both for those at risk and those who are already victims of trafficking.

Another lacuna in many of the rehabilitation programmes for victims is that they do not address the primary cause for risk, which is migration that facilitates trafficking. Prevention of distress migration remains a key element in any effort to counter trafficking especially in the South Asian context with its current socio-economic problems. Creation of livelihoods that can provide tangible and long-term sustenance remains the only answer to this problem. South Asia has two major success stories that can best illustrate how this becomes possible even in situations and contexts where seemingly no alternatives exist after the erosion of traditional livelihoods.

Amul India or Anand Pattern, today the largest co-operative programme in the world and the Grameen Bank initiative in Bangladesh which today has become the most successful and the largest micro-credit programme in the world are two enterprises that though not specifically built to counter trafficking, are path-breaking pioneering ventures for the recreation of depleted rural economies as a means of countering both distress migration and trafficking. The millions of households that have been able to gain a viable and sustainable livelihood through these two enterprises is a replicable model of innovative intervention for the creation of sustainable livelihood in the rural areas despite the impact of globalisation and liberalization and to counter the need for distress migration and the risk of trafficking.

Conclusion

The many factors that have created great pressure on the affected people to migrate in distress in ever larger numbers and in very unsafe and vulnerable conditions, is the context in which trafficking of women and children has reached proportions affecting each sector of society and in an ever increasing manner. It can no longer be considered as happening to "someone else's woman or child". There is an urgent need today for all sectors of society to act together and collectively to meet and blunt this challenge and its effects, especially on the victims. The forging of a common agenda and a common partnership is therefore of vital importance to counter trafficking and to restore dignity and justice to the victims. Such an alliance can provide the leadership and impetus in generating the type of effective collaboration and partnership required to arrest distress migration and also create the framework for safe migration. Only in addressing issues regarding safe movement within the current accelerated rate of migration in the region, can there be an effective programme to combat trafficking in women and children for sexual exploitation, the worst form of human slavery. With the nexus between migration and trafficking becoming as great a concern as it is today there seems to be very little as an alternative to providing protection and restoration to the victims and those at risk of victimization than through alternate, sustainable and viable livelihood. Recreation of livelihoods in the source area can mitigate the suffering of the masses that experience extreme vulnerability and distress pushing them to migrate and counter the evil of trafficking at the same time.





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