



HIV/AIDS and Mobility in South Asia



International
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HIV/AIDS and Mobility in South Asia

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The production of this report has been a particularly collaborative process, driven throughout by a desire to strengthen HIV/AIDS programming at a regional level, and define strong and relevant responses and recommendations that can best address the needs of vulnerable mobile populations in South Asia. We would like to acknowledge the colleagues and partners across the region whose substantive contributions have made this report possible.

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FOREWORD

For the millions who seek greater employment and economic opportunities migration is an increasingly attractive option. Migrants not only comprise an essential component of the workforce in more economically developed countries, but also provide significant contributions to the national economies of their home countries.

Migrants, however, are often exploited, marginalized, and stigmatized throughout the migration process. As mobility within South Asian countries and migration within the region and abroad continues to grow, care must be made to ensure that migrants' rights are protected; from rights to movement, rights to access health and HIV services; and, rights to work with dignity that benefits the lives of their communities and families. Governments of the SAARC member states, as well as international and local NGOs throughout the region, have all expressed concerns on these issue.

Vulnerability to HIV is often not the result of any individual choices or actions, but rather the outcome of multiple external factors, including: language barriers; prejudice; discrimination; exploitation; lack of access to health-care facilities, information, social networks, and support mechanisms. While this study highlights many such challenges faced by migrants with regards to HIV, it also illustrates a number of opportunities and examples of best practice from the region.

In this regard, there are a number of initiatives already working to reduce the health vulnerabilities of migrants and mobile populations: from the Royal Government of Bhutan's policy of providing "Health for All" – not just Bhutanese residents but also migrants; the decision by the Government of Sri Lanka to include HIV prevention and protection issues in pre-departure sessions for female migrants; and, the initiation of regional and intersectoral consultative processes such as the SAARC conventions and the Colombo process.

This study provides a synthesis of current migration trends and the HIV situation in seven countries of South Asia, examining the HIV situation of migrants within the context of gender, national and international migration patterns, policies and legislation. It is our hope that it provides a comprehensive reference tool for future policy, programmes and advocacy, and ultimately, contributes to the protection of migrants' rights throughout the whole migration cycle.



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Photo by Pattanoot Pongpanit

OVERVIEW





OVERVIEW

Acronyms & Abbreviations

ART	Anti-Retroviral Therapy
CARAM Asia	Coordination of Action Research on AIDS and Mobility
CSW	Commercial Sex Worker
CWA	Community Welfare Attaché
FCA	Federal Committee on AIDS
FIA	Federal Investigation Agency
FSW	Female Sex Worker/s
GAMCA	Gulf Cooperation Council Approved Medical Centres Association
GATS	General Agreement on Trade in Services
GDP	Gross Domestic Product
HSS	HIV Sentinel Surveillance
IDU	Injecting Drug User/s
ILO	International Labour Organization
IOM	International Organization for Migration
MoU	Memorandum/Memoranda of Understanding
MSM	Men who have Sex with Men
MSW	Male Sex Worker/s
NACP	National AIDS Control Programme (Pakistan)
NGO	Non-governmental Organization
PLHIV	People Living with HIV
RCP	Regional Consultative Process
SAARC	South Asian Association for Regional Cooperation
STI/STD	Sexually Transmitted Infection/Disease
UNGASS	United Nations General Assembly Special Session on HIV/AIDS
VCT	Voluntary Counselling and Testing

Introduction

South Asia is home to 23 percent of the world's population and is the most densely populated region in the world, accounting for about 40 percent of the population of Asia – as well as 40 percent of the global poor.¹ The eight countries of the region (Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka) are members of the South Asian Association for Regional Cooperation (SAARC), established in 1985.

Mobility within each country and migration within the region and abroad continues to grow. Migration is an increasingly attractive option for the millions who seek greater employment and economic opportunities. Migrants are an essential component of the workforce in more economically developed countries and are significant contributors to the national economies of their home countries.

In a highly 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, human rights, public health, regional stability, and interstate cooperation. Whether national, regional, or international, migration is a multifaceted process. Regular or irregular, forced or voluntary, migration poses critical management challenges to the countries of South Asia.

Migrants are often exploited, marginalized, and stigmatized throughout the migration process, and face discrimination, racism, and harassment at home and abroad. Often poor and powerless, migrants frequently have little or no right to legal or social protection while working in foreign countries. Further, while migration

¹ World Bank, *World Development Indicators 2005*; available at iresearch.worldbank.org/PovcalNet/povDuplic.html

Table 1: South Asia Key Features

Population	1,493 million
Surface Area	5,140 square kilometres
Average Population Growth Rate	1.7% annual average (1997-2006)
Average GNI Per Capita	US\$766
Labour Force	597 million
Poverty Head Count Ratio 2004	30.8%
Stock of Emigrants	22.1 million; 1.5% of population
Stock of Immigrants	11.2 million; 0.8% of population
Emigration rate of tertiary educated populations	Sri Lanka: 27.5%; Pakistan: 9.2%; Bangladesh: 4.7%; India: 4.2%; Nepal 2.7%; Maldives 2.2%; Bhutan 1.2%
Inward remittances flow 2008 in US\$ billions; percentage of total GDP	US\$73.3B; 3.7% of GDP
Top 5 remittance recipient countries: Annual Remittances 2008/09 in US\$ billions	India US\$51.5B; Bangladesh US\$8.9B; Pakistan US\$7.0B; Sri Lanka US\$2.9B; Nepal US\$2.7B
Top 5 remittance recipient countries: Remittances as percentage of GDP 2008/09	Nepal 21.6%; Bangladesh 11.4%; Sri Lanka 7.2%; India 4.2%; Pakistan 4.2%

Source: *Migration and Remittance Factbook 2008*, World Bank, 2008; "Migration and Development Brief 11: A better-than-expected outcome for migration and remittance flows in 2009, but significant risks ahead," World Bank, November 3, 2009.

itself is not considered a risk factor for HIV infection, the conditions under which people migrate have been shown to expose them to a greater vulnerability of such infection.

A comprehensive response to reducing the HIV vulnerability of migrant and mobile populations in South Asia requires an appropriate, balanced, and integrated regional migration management system that effectively links policy with enforcement to ensure that the rights of migrants are protected throughout the migration cycle. Operationalizing bilateral, regional, and multilateral agreements as well as regional work plans, strategies, and declarations into coherent and appropriately funded implementation plans at the national level is essential to effective migration management.

This document provides a synthesis of current migration trends and the HIV situation in seven countries of South Asia. It includes migration patterns, gender implications, the nexus between migration and human trafficking, international and national policy frameworks, and the HIV situation of migrants, both regionally and for each of the seven countries.

A migrant worker is defined as 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.²

Migration Patterns

Economic imbalances, extreme poverty, population growth, environmental degradation, social networks, long and porous international borders, global and regional employment opportunities, and trade and migration policies all continue to contribute to the increasing magnitude and varied forms of internal and international migration in the region. Unregulated market forces, structural economic changes, slower growth, and rising unemployment have destroyed many livelihoods in South Asia and, consequently, have compelled many of the rural poor to leave their homelands. Armed conflicts have also forced people to migrate, with large numbers fleeing Afghanistan for Pakistan and from Sri Lanka and Nepal to India.

In the following discussion of migration patterns, nations are designated as *source*, *transit*, or *destination*

² *The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*, 1990.

Table 2: Migration in South Asia 2008

Country	Population (millions)	GDP est. (US\$ Billions)	Inward Migrant Remittances (US\$ millions)	Documented Migrants	Cumulative Documented Migrants to 2008	Estimated Irregular or Undocumented Migrants
Source Countries						
Bangladesh	161.3	226	8,995	875,055	6,265,909	Undocumented migrants in Bangladesh are estimated to be almost equal to documented migrants. About 55-60% of migrants seek overseas employment through individual initiatives and social networks.
India	1,028	3,304	51,581	849,000	25,000,000	Specific data on undocumented migrant workers is not available. However, by March 2007, 6,277 Indian prisoners were reportedly in foreign jails due to their undocumented status.
Nepal	28	3,139	2,727	266,666	2,270,000	Reportedly, only 10% of unskilled workers, which represents 60% of total Nepalese migrants, travel through proper channels. One million Nepalis currently employed in foreign countries are undocumented according to 2007 estimates.
Pakistan	176	431	67,039	431,842	4,200,000	An estimated 3.5 to 4 million Pakistanis migrate without authorization every year.
Sri Lanka	21	92	2,947	252,000	1,792,368	The actual number of migrant workers is assumed to be much more than the recorded number due to workers leaving through unauthorized sources and personal contacts. In 2008, 64% of Sri Lankan migrant workers migrated through licensed foreign employment agencies, while the other 36% left through direct (personal) sources. However, there are huge data gaps since there is no single authority or methodology for recording the flow of undocumented workers living in foreign countries.
Destination Countries						
Bhutan	0.6	4	2	N/A	18,220	There is considerable movement of undocumented migrants from bordering countries into Bhutan.
India	1,028	3,304	51,581	N/A	N/A	Indian government authorities confirm that of the estimated 20 million immigrants living in India, a large number are undocumented.
Maldives	0.3	1.723	3	N/A	80,839	Undocumented foreign workers in the Maldives are estimated at a minimum of 10,000, with the Immigration Department estimating that as many as 30,000 migrants work in the Maldives without permits.

Source: *The World Factbook*, US State Department, 2009; "Migration and Development Brief 11: A better-than-expected outcome for migration and remittance flows in 2009, but significant risks ahead," World Bank, November 3, 2009; *Annual Statistical Report of Foreign Employment*, Sri Lankan Bureau of Foreign Employment, 2008

countries. Within the region, India and Pakistan are considered to be all three. Nepal, Bangladesh, and Sri Lanka are primarily source countries, while the Maldives and Bhutan are mostly destination countries, hosting more migrants than they send abroad.

Significant financial opportunities motivate both skilled and unskilled workers from South Asia to undertake great risks to migrate for employment, most often in neighbouring countries within South Asia, but also to the Middle East and South-East Asia. The four main international markets for South Asian service-providers are: (1) the Gulf and Middle East, primarily Saudi Arabia, Kuwait, and the United Arab Emirates (UAE); (2) South-East Asia, mainly Malaysia, Singapore, and Brunei Darussalam; (3) North-East Asia, both Republic of Korea and Japan; and (4) the English-speaking industrialized countries, in particular the United Kingdom, United States, Canada, and Australia.

Major mobility also exists within the region. Workers from Bangladesh go to Pakistan and India, and there is movement in both directions between India and Nepal, as well as between Sri Lanka and the southern states of India. The Maldives receives large numbers of migrant workers from the sub-continent, especially workers from Bangladesh, India, and Sri Lanka working in construction and tourism. Bhutan receives large numbers of migrants from India and Nepal, primarily in the construction industry.

Irregular Migration

The last twenty years has seen alarming growth in irregular migration. India and Pakistan are frequently used as transit countries for undocumented migrants from Bangladesh and Nepal en route to the Middle East and South-East Asia. Given the informal nature of undocumented migration, no definitive source of irregular or undocumented migrant workers is available. Estimates vary widely, from equal to the number of documented migrants (Bangladesh and India) to five times that number (Nepal). The irregular movement of people is often the result of inadequate regular means of migration and imposed restrictions on segments of society, particularly women. This reality is posing increased challenges for Asian governments, inducing greater regional cooperation in the effort to develop a sustainable regional migration framework.

Social networks, with their strong cultural ties and trust,

play a vital role in facilitating migration of South Asians to Arab States. In Pakistan and India, Azad visas, known as “free” or “open” visas, are arranged by acquaintances and relatives who are currently in the Arab States. The cost of overseas employment depends on the type of visa and the nature of work. For example, a company-sponsored visa to Saudi Arabia could cost as much as US\$2,900, whereas an Azad visa costs about US\$1,450.³ However, the questionable legality of an Azad visa puts the migrant at risk of deportation or harassment by law enforcement agencies. Migrants are generally unaware that Azad visas are not work visas and that their status changes to “undocumented” upon arrival in the host country. According to sources in the labour market and social organizations, there has been a sharp increase in the number of foreign workers arriving on Azad visas.

Other practices have a similar impact on the vulnerability of migrants. For example, migration to many Middle Eastern countries is governed by a sponsorship programme, whereby foreigners can be employed only if they are sponsored by a citizen of the respective country. Many citizens sell sponsorships to agents, who charge exorbitant fees, sometimes thousands of dollars, for a work permit. In addition, many migrant workers are sent abroad by agents on either a tourist visa or social visit visa and become undocumented workers when these visas expire.

Recruiting Agents

An important feature of the South Asia migration process is the emergence of the recruiting industry. Over 90 percent of all recruitment in India, Pakistan, Sri Lanka, and Bangladesh is carried out by recruitment agencies, which develop employment opportunities and facilitate the placement of migrant workers abroad. Initially, agents were paid by potential employers in the destination countries, but more recently they have been allowed to charge workers directly. The dependency of prospective migrants on middlemen and recruiting agencies for information regarding procedures frequently leads to financial exploitation through high processing fees, handling costs, and demands for bribes. Workers seeking employment opportunities abroad are seldom aware of the fee ceiling placed by respective governments on recruitment processes and visa charges, and so are subject to abuse.

³ UNDP Regional Centre in Colombo, “HIV Vulnerabilities of Migrant Women: From Asia to the Arab States,” 2009

Table 3: Occupational Profile of South Asian Migrants

Country	Occupational Profile
Bangladesh	Since 1976, migrant workers from Bangladesh are about 50% unskilled, 16% semi-skilled, 31% skilled, and only about 3% professional workers.
India	A 'new Diaspora' led by high-skilled professionals moving to Europe and North America and semi-skilled contract workers moving to the Gulf and West and South-East Asia has emerged. About 60% of Indian migrant workers are employed within the construction industry, healthcare, and domestic service. Most Indian migrants to the Middle East are unskilled and semi-skilled temporary migrant labourers who return to India after expiry of their contracts.
Nepal	During the first eleven months of the fiscal year 2007-2008, of the total 215,639 migrant workers, most were unskilled. The Nepal Government recorded 201,507 workers headed to four countries (Qatar, Malaysia, the UAE, and Saudi Arabia) to assume blue-collar jobs in construction, manufacturing, and the service sectors.
Pakistan	Unskilled or semi-skilled workers account for 66% of total documented Pakistani migrant workers employed abroad and registered in the period 1971 to 2007. Most are manual labourers in the agriculture or construction sector. Migration of professionals remained relatively stable at 2%, with skilled workers decreasing from a high of 36% in 2003 to 29% in 2007.
Sri Lanka	Of the total cumulative migrant workers from Sri Lanka up to 2008, 22% were unskilled workers and 45% were housemaids. The remaining 33% were semi-skilled, skilled, and professionals.

Source: Bureau of Manpower, Employment and Training (BMET) Bangladesh, 2008; *Annual Report 2007-2008 and 2008-09*, Ministry of Overseas Indian Affairs, Government of India; Prasai, Surya B., "Sustaining Nepal's Foreign Labor Exports," *American Chronicle*, July 30, 2009; Bureau of Emigration and Overseas Employment (BEOE) Pakistan, 2008; *Annual Statistical Report*, Sri Lanka Bureau of Foreign Employment, 2008.

Most migrant recruitment in sending countries is licensed and regulated by source country governments. However, given the fragmented nature of the recruitment process and the number of recruiters involved, governments face a major challenge in regulating recruitment agents and halting the operations of unregistered individual agents (*dalals*), middlemen, or sub-agents who engage in fraudulent practices. Indeed, unregistered agents proliferate in areas affected by poverty, economic disparities, conflict, and other factors that cause people to migrate.

Occupational Profile

Labour flows to the Arab States are dominated by the lower-skilled occupational categories, in particular construction work, transport operations, and domestic service. The estimated percentage of temporary contractual workers from South Asian countries currently in the Arab States is 36 percent from India, 21 percent from Bangladesh, 11 percent from Pakistan, and 10 percent from Sri Lanka.

India and Pakistan continue to supply workers to support infrastructure projects in the Gulf States. Both men and women from India work as domestic workers

and nurses, construction workers, and technicians in various countries of the Middle East. Female domestic workers from Sri Lanka are now the largest segment of that labour market, spurring the feminization of migration in the Gulf region.⁴ There is some movement of professionals to the Arab States from South Asia, especially doctors, nurses, and accountants. In 1975, India and Pakistan contributed 97 percent of Asian workers to West Asia, but this is now less than 35 percent, with the South-East Asian share growing from 2 percent to more than 50 percent.⁵

Growing insecurity at home, lack of economic opportunities, and the prosperity stories of recruiting agents and returnee migrants encourage large migration flows from Nepal to India. Most Nepalese migrants, both men and women, are engaged in low-paying manual labour in manufacturing, construction, agriculture, or the service sector, including domestic work. Thriving construction and tourism industries coupled with a short supply of labourers in the Maldives and Bhutan attract external migrants from the sub-

4 International Organization for Migration (IOM), *World Migration Report – Regional Overviews – Asia*, 2005; available at www.iom.org.

5 Hugo, G. J. and Young, S. (eds.), *Labour Mobility in the Asia-Pacific Region*, Institute of Southeast Asian Studies, 2008.

continent to these host countries.

Gender and Migration

The feminization of migration is a major trend in South Asia, with increasing numbers of women going abroad to work in foreign labour markets, to marry, and to accompany their families. Women migrate through regular and irregular channels and face social inequality both in host countries and in their home states. Their employment is largely confined to low-skilled, unrecognized, care-centred jobs in the service sector, such as domestic work or entertainment, where vulnerability to verbal, physical, and sexual abuse is high given the isolated nature of their work environment. Under current policies and structures, these sectors offer no appropriate legal or labour protection. For example, domestic work is often excluded from legislation and enforcement governing the scope of work, working hours, minimum wages, leave, and other worker entitlements. Reliable and gender disaggregated data on female migration is not available in most countries.

Documented migrant workers from the major sending countries in the region – Bangladesh, India, Nepal, and Pakistan – are predominantly male. The majority of migrants from Sri Lanka were female until 2008, when for the first time in a decade men migrating for work outnumbered women. The single most important reason for Sri Lankan women to migrate is the inability of their spouses to find employment, either domestically or as migrant workers.⁶ Independent estimates report that women accounted for 69.1 percent of migrants from Nepal in 2005, although government statistics reported women migrants as 10.8 percent for the same year.

A review of migrant remittances to Bangladesh indicates a far greater contribution to gross domestic product (GDP) than official statistics on the number of migrants would suggest. It follows that the actual number of Bangladeshi migrants, both male and female, are significantly understated. Studies show the proportion of undocumented female migrant workers is considerably higher than undocumented male migrants, a fact confirmed by human trafficking estimates within the region.

Vulnerability to exploitation, various forms of violence,

⁶ UNDP Regional Centre in Colombo, "HIV Vulnerabilities of Migrant Women: From Asia to the Arab States," 2009

and rights violations, including human trafficking, are much higher for undocumented migrant workers, especially women. Though restrictive measures on the migration of women in many countries are aimed at protecting them, the number of women migrating under irregular conditions due to these restrictions has increased, putting them at an even greater risk.

Human Trafficking

Due to its criminal and clandestine nature, human trafficking is difficult to quantify. Within Asia, an estimated 300,000 to 450,000 people are trafficked each year.⁷ South Asia, with the second largest number of internationally trafficked persons globally, reports an estimated 150,000 trafficking victims each year and has emerged as a source, destination, and transit area for trafficking in persons for both in-country and cross-border trafficking.⁸ Bangladesh, Nepal, and Sri Lanka are the major centres of origin, while India and Pakistan are destinations or transit countries to other regions, particularly the Middle East.⁹

Commercial sexual exploitation is the most virulent form of trafficking in South Asia, followed by trafficking for the purpose of forced labour. Other forms of human trafficking include forced marriage, domestic service, organized begging, camel racing, circus work, illicit adoption, pornography production, and organ trafficking. Most of those trafficked are women and girls, but men and boys are also trafficked, with boys as camel jockeys, for forced labour, for adoption, and in some areas as sex workers, and men for forced labour.

Within South Asia, a large number of Nepali and Bangladeshi women are trafficked into India and Pakistan, most often as sex workers in the entertainment industry. In Bangladesh, Nepal, and Pakistan, adult women and children of both sexes are more frequently identified as trafficking victims. Trafficking in Nepal is primarily for sexual exploitation. Adult male trafficking victims were reported in Bangladesh, but often for

⁷ UNDP Regional Centre in Colombo, "Human Trafficking and HIV: Exploring vulnerabilities and responses in South Asia," 2007

⁸ The highest numbers are estimated to be 225,000 and come from South-East Asia according to the United Nations Population Fund, *State of World Population 2006: A Passage to Hope – Women and International Migration*, 2006.

⁹ Masud Ali, A. K. M., "Treading along a Treacherous Trail: Research on Trafficking in Persons in South Asia," in *Data and Research on Human Trafficking: A Global Survey*, IOM, 2005.

Table 4: Inward Remittance Flows 2000 to 2008 (US\$ Millions)

Country	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009 (e)
SOUTH ASIA	17,212	19,173	24,137	30,366	28,694	33,924	42,523	54,041	73,293	71,955
Bangladesh	1,968	2,105	2,858	3,192	3,584	4,314	5,428	6,562	8,995	10,431
Bhutan	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
India	12,890	14,273	15,736	20,999	18,750	22,125	28,334	37,217	51,581	47,000
Maldives	2	2	2	2	3	2	3	3	3	3
Nepal	111	147	678	771	823	1,212	1,453	1,734	2,727	3,010
Pakistan	1,075	1,461	3,554	3,964	3,945	4,280	5,121	5,998	7,039	8,619
Sri Lanka	1,166	1,185	1,309	1,438	1,590	1,991	2,185	2,527	2,947	2,892

Table 5: Snapshot of 2008 GDP with Inward Remittances (US\$ Billions)

Country	Inward Remittances	GDP est.	% GDP
SOUTH ASIA	73.2	4,090.3	3.7
Bangladesh	8.9	226.4	11.4
Bhutan	N/A	4	N/A
India	51.5	3,304.0	4.2
Maldives	0.003	1.7	0.2
Nepal	2.7	31.4	21.6
Pakistan	7.0	431.2	4.2
Sri Lanka	2.9	92.1	7.2

Source: "Migration and Development Brief 11: A better-than-expected outcome for migration and remittance flows in 2009, but significant risks ahead," World Bank, November 3, 2009.

forced labour rather than sexual exploitation. A significant number of forced labour cases were reported in India from 2003 to 2006, with labour trafficking more frequent than trafficking for sexual exploitation.

Migrants have been illegally smuggled into Europe and other countries from South Asia, often under hazardous conditions and under various guises.¹⁰ The common route to the Middle East and Europe from Bangladesh or Nepal is to transit through India or Pakistan, often utilizing Indian air routes. Trafficking from Bangladesh to India and Pakistan is via the main trafficking route: Dhaka-Mumbai-Karachi-Dubai.

Conflict zones are known to be a haven for traffickers, as internal displacement and adverse human security conditions often lead to forced migration from these areas. In times of hardship, mobility may start out as undocumented migration for employment

opportunities and end up as trafficking. Many migrant workers, both men and women, from all sending countries of South Asia have been subjected to coercive conditions overseas, particularly in the Gulf States.

Remittances

Source or sending countries encourage migration and agree to the terms and conditions of destination countries in order to facilitate employment of their nationals and to boost future financial inflows via migrant remittances. Too often countries of origin take little responsibility for the welfare of their citizens once they are abroad. This reluctance to intercede on behalf of their citizens is primarily due to the competitive nature of the labour market and the importance of migrant remittances to national balance of payment accounts.

Highly organised and structured, migration has resulted in significant inward remittances that have increased substantially over the past 10 years. Source countries in

¹⁰ United Nations Office on Drugs and Crime, "Responding to Trafficking for Sexual Exploitation in South Asia," Regional Conference Report, October 2007; available at www.ungift.org/docs/ungift/pdf/world/INDIA.pdf.

South Asia are recipients of ever increasing remittances that contribute to foreign currency earnings, exchange, and GDP. Remittances help to alleviate current account deficits and foreign indebtedness.

Remittance flows to developing countries reached US\$328 billion in 2008, a 15 percent increase from US\$285 billion in 2007. South Asia registered a 33 percent growth in remittance flows in 2008, with India reporting US\$51.5 billion, retaining its position as one of the top recipients of migrant remittances among developing countries. Bangladesh was among the top 10 recipients.¹¹

Official statistics do not fully reflect the actual inflow of remittances, as remittances through unofficial channels are very popular, accounting for an estimated 54 percent of total remittances. For example, more than half of total remittances to Bangladesh are sent through *hundi/hawala* systems,¹² or are transferred via friends and relatives or carried by hand by migrants when they return. In Pakistan, the real flow of remittances is estimated to be eight to ten times the US\$7 billion going through official channels.

The World Bank observes that although remittance flows to South Asia grew significantly in 2008 despite the global economic crisis, the risks of a slowdown in a lagged response to a weak global economy are significant.¹³

HIV/AIDS Situation

Of the 33.4 million adults and children living with HIV and AIDS worldwide, an estimated 2 to 3.5 million people living with HIV (PLHIV) are in South Asia.¹⁴ Given its large population, the South Asia region is second

only to sub-Saharan Africa in terms of the number of people infected with HIV. In South Asia, as in the rest of Asia, the HIV epidemic is concentrated among highly vulnerable groups engaging in risky behaviour, notably injecting drug users (IDU) and their partners, men who have sex with men (MSM), and sex workers and their clients. According to the Commission on AIDS in Asia the number of vulnerable populations in Asia is estimated at over 100 million.¹⁵

South Asia is characterized by relatively rapid economic growth, averaging about 6 percent a year, and low HIV prevalence at less than 1 percent. However, a diverse range of structural factors make each country in the region vulnerable to the spread of HIV, including stigma and cultural impediments to sexual discussion; high rates of sexually transmitted infections (STIs); limited condom use; a large, structured sex-work industry; low social status of women; trafficking of women into commercial sex; porous borders; poverty, inequality, and illiteracy; and high levels of mobility, including widespread rural-urban, interstate, and cross border migration.¹⁶

As the Commission on AIDS in Asia points out, the largest threat to the spread of the HIV epidemic in Asia is from men who buy sex, who constitute the largest infected population group. Since migrant male workers tend to buy sex when they are away from home, several million of them will be at risk of infection during the migration cycle.

All countries in South Asia have established official national AIDS coordinating bodies and national strategic frameworks in response to the HIV epidemic. However, the political status, authority, and capacity of these bodies vary greatly; and the development of appropriate national policies, plans, and programmes are often hindered by limited human and financial resources and leaders who lack the mandate to effectively guide a coordinated response to the epidemic.

India alone accounts for 2.4 million people living with HIV, approximately 93 percent of those infected in South Asia. **Nepal**, with the highest prevalence at 0.5 percent, accounts for only 2.7 percent of infections regionally. And **Pakistan**, with an estimated 96,000 PLHIV, accounts

11 World Bank, "Migration and Development Brief 10" and "Migration and Development Brief 11," Migration and Remittances Team Development Prospects Group, July 13, 2009.

12 *Hundi* refers to financial instruments evolved on the Indian sub-continent and used in trade and credit transactions as remittance instruments (to transfer funds from one place to another). Technically, a *hundi* is an unconditional order in writing made by a person directing another to pay a certain sum of money to a person named in the order. Hundis are part of the informal system, so have no legal status. Although normally regarded as bills of exchange, *hundis* are more often used as equivalents of cheques issued by indigenous bankers.

13 World Bank, "Migration and Remittance Trends," November 15, 2009.

14 UNAIDS, "AIDS Epidemic Update," 2009.

15 *Redefining AIDS in Asia: Crafting an Effective Response*, Oxford University Press, 2008

16 Markus Haacker and Mariam Claeson, (eds.), *HIV and AIDS in South Asia – an Economic Development Risk*, World Bank, 2009.

Table 6: National HIV/AIDS Coordinating Bodies in South Asia

Country	Official Coordinating Body for HIV Policy & Services
Bangladesh	National AIDS Committee (NAC), consisting of a Technical Advisory Committee and a National AIDS/STD Programme (NASP) unit in the Ministry of Health and Family Welfare
Bhutan	National HIV/AIDS Commission (NHAC), a multisectoral body functioning at the highest level and chaired by the Minister of Health
India	National AIDS Control Organization (NACO)
Maldives	National AIDS Committee with representatives from State and private sectors
Nepal	National Centre for AIDS and STD Control (NACSC) along with the semi-autonomous HIV/AIDS and Sexual Disease Control Board
Pakistan	National AIDS Control Programme (NACP)
Sri Lanka	National STD AIDS Control Programme (NSACP)

Table 7: Comparison of PLHIV, HIV Prevalence, and Migrants 2008

Country	Estimated PLHIV 1990–2008	HIV Prevalence (ages 15–49)	HIV+ Migrants as Percentage of PLHIV
Bangladesh	12,000	<0.1	67%
Bhutan	160 ⁽¹⁾	<0.1	Unavailable
India	2,450,000	0.36	5–10%
Maldives	182 ⁽²⁾	<0.1	92.8% ⁽³⁾
Nepal	70,000 ⁽⁴⁾	0.49	46%
Pakistan	96,000	0.1	61–86% ⁽⁵⁾
Sri Lanka	3,800	<0.1	52%
South Asia	2,581,974	<0.1 to 0.49	

Source: “2008 Report on the Global AIDS Epidemic,” UNAIDS, 2008, unless specified: (1) *Annual Health Bulletin*, Ministry of Health, Bhutan, 2009; (2) “Biological and Behavioural Survey,” Government of Maldives, 2008; (3) This percentage refers to foreign migrants in Maldives, not Maldivians; (4) National HIV and AIDS Action Plan 2008–2011, Government of Nepal, HIV, AIDS, and STI Control Board, 2009; (5) This is based on figures available only for the period 1996–1998, as stated in the report “HIV Vulnerabilities Faced by Women Migrants: from Asia to the Arab States,” UNDP Regional Centre in Colombo, 2008.

for 3.7 percent. Within the region, the most severe epidemics occur in parts of India and Nepal, where the epidemic is driven by sex work, injecting drug use, and unprotected sex between men.

Both **Bangladesh** and **Pakistan** face growing epidemics, particularly among injecting drug users, but HIV rates remain relatively low among sex workers in those countries, providing an opportunity to avert a major heterosexual epidemic. HIV prevalence in **Sri Lanka** remains low, even among vulnerable groups. In all of these countries, MSM represent an important vulnerable population. Although there is little data in **Bhutan** and the **Maldives**, what data is available suggests that both countries have low-prevalence epidemics.

Drawing comparisons on PLHIV and HIV prevalence

in adult populations of the countries of South Asia is hazardous given the varying parameters in epidemiological data collection in each country. In many cases the information is just not available, and what is available lacks sufficient analysis to allow for realistic comparisons across countries.

Discussions about the numbers of PLHIV, HIV prevalence, and migrants as a percentage of estimated PLHIV in the countries in South Asia must be prefaced with a caution about interpreting estimates based on minimal data and the scale of testing versus the relative absence of testing among the general population. Migrant workers are tested frequently, undergoing mandatory testing before leaving as required by employers abroad, and they are often tested again on site. The finding that a

large percentage of identified cases of HIV are returning migrants and their spouses or that prevalence among migrants is significantly higher than among the general population is biased, since the general population is not routinely tested.

Despite the bias of HIV testing of migrants, large proportions of people living with HIV in South Asia became infected while working abroad, showing a large gap in the HIV response that needs to be addressed.

In Bangladesh: According to the National AIDS STI Programme Report (2006), approximately 67 percent of identified HIV-positive cases in the country are returnee migrant workers and their spouses.

Bhutan: The National Strategic Plan for the Prevention and Control of STIs and HIV/AIDS reports an estimated 160 cases of HIV in Bhutan, 80 males and 80 females. No data is available about the number of migrants or expatriates who have tested positive for HIV.

India: By 2007, 2.4 million people in India were estimated to be HIV-positive. In spite of a high level of mobility, both external and within the country, and of reports of trafficking of women and children, migrants are not included among the most-at-risk populations. In the National AIDS Control Programme Phase III (NACP-III), the focus is on three most-at-risk population groups (female sex workers, IDU, and MSM) and one bridge population, internal migrants.

In 1998 the National AIDS Control Organization in India formalized an annual HIV Sentinel Surveillance (HSS) across the country, with the number of sites for the HSS increasing from 176 in 1998 to 1,215 in 2008. Prior to 2005 sentinel surveys did not include migrants as a vulnerable population, so data related to migrants was limited. From 2005 onward sentinel surveys have collected data on migrants (focussing on high-risk migrants/single male migrants), and the overall number of sentinel sites for migrants has increased over the past three years, from one site in 2005 to eight in 2008.

Maldives: The total number of HIV cases in the Maldives is estimated at 182, of which 93 percent (168) are expatriates and 14 are Maldivians.

Nepal: According to estimates in the UNGASS 2007 Nepal Report, 41 percent of people living with HIV in Nepal are migrant workers. According to the UNAIDS 2006 Report, 46 percent of HIV cases in Nepal were among seasonal labour migrants. HIV prevalence

among returnee migrants in Nepal is estimated to be above 1.5 percent. A study conducted in 2006 among Nepali migrants travelling to Indian cities for work found that 27 percent of the men engaged in high-risk sexual behaviour while in India. Another study indicates that between 22 and 38 percent of young Nepalese women trafficked to India and returning to Nepal were found to be HIV positive.

Pakistan: According to UNAIDS estimates, about 96,000 people were living with HIV in Pakistan at the end of 2007, about 0.1 percent of the adult population.¹⁷ The National AIDS Programme's latest figures show over 4,000 HIV cases reported to date. Recent evidence indicates that the situation is changing rapidly, shifting to a concentrated epidemic. At present, the overall seroprevalence of HIV among IDUs is 15.8 percent and among MSW 1.5-1.8 percent.¹⁸ The National HIV and AIDS Strategic Framework includes migrant workers among the groups vulnerable to HIV transmission within the country. Many of the reported HIV-positive cases are found among low-skilled Pakistani workers deported from the Gulf States. NACP officials claim that the country lacks a proper database of information about migrants who travel abroad and return home. During the period 1996-1998, 58 returned migrant workers with HIV represented more than half of all reported cases, with the wives of five returning workers also testing positive for HIV.¹⁹

Sri Lanka: Statistics vary widely on the number of PLHIV in Sri Lanka. A conservative estimate is 3,800 (58 percent male, 42 percent female), of which about 1,990 (52 percent) are migrants and almost half are women migrants. The high prevalence rate among migrant women is an indicator of the increasing number of migrant workers in the Arab States who are testing HIV positive.

Migration and HIV/AIDS

Many migrants are unaware of AIDS and continue to remain so even after testing HIV positive. A general

17 World Bank, "HIV/AIDS in Pakistan," August 2008; "UNAIDS/WHO/UNICEF update on HIV and AIDS," 2007.

18 "UNGASS Progress Report on the Declaration of Commitment on HIV/AIDS," National AIDS Control Program, Ministry of Health, Government of Pakistan, 2007.

19 UNDP Regional Centre in Colombo, "HIV Vulnerabilities of Migrant Women: From Asia to the Arab States," 2009

absence of support services and treatment for sexually transmitted infections, including HIV, throughout the migration cycle is evident in all countries of South Asia. Consequently, the development, implementation, and enforcement of a comprehensive migration policy at the national and regional level represent a vital first step toward effective protection of South Asian migrant workers.²⁰

The migration process for both documented and undocumented migrants increases vulnerability to physical and economic exploitation. Vulnerability to HIV is not so much the result of individual free choice, but rather the outcome of multiple external factors, including: language barriers; prejudice; discrimination; exploitation; lack of access to information, social networks, and health-care facilities; limited support mechanisms; and changes in lifestyle due to being away from home.²¹ Moreover, given their illegal status, undocumented migrants face even greater challenges accessing health information and services prior to departure, in-transit, and at destination.

Access to Health Services and HIV Prevention

Lack of access to health care is a persistent problem among migrant populations as host countries and employers often don't provide health care free of charge. Moreover, given their limited financial means, restricted access to information, discrimination and language barriers, seeking health care when they need it makes it a real challenge. Undocumented migrants are even less likely to access medical services offered by the government as they live in fear of detention and deportation. Lack of referral systems and support services in most destination countries is a major impediment in addressing HIV among mobile populations.

One reason that governments are reluctant to make anti-retroviral therapy (ART) available to migrant workers is that they fear it will lead to an increasing number of HIV-infected migrants trying to enter the country, thus burdening public health programmes. The reality, however, is that economic opportunity remains the driving force behind migration, not the

search for therapies. For example, in countries such as Thailand where ART is provided to migrants, no major increase in migration has been reported. In South Asia, only in Bhutan is primary health care provided free to everyone who accesses the health care system irrespective of nationality, although ART is not available for non-citizens.

Mandatory Testing

Countries of origin, such as **Bangladesh, India, and Nepal**, have clear national policies against mandatory HIV testing of their citizens, but no South Asian nation has the comprehensive monitoring and enforcement to ensure HIV-testing standards are met by either private or government-approved testing centres. The reality is that prospective migrant workers will agree to the testing in order to meet the requirements for an employment opportunity abroad. At the very least, such HIV testing standards as pre- and post-test counselling, informed consent, and confidentiality need to be applied in these situations. Unfortunately, these standards are rarely met.

There have been several reported cases of migrants who tested positive for HIV and were prohibited from migrating and, further, who were not informed of their HIV test result or given counselling or referral. As a result, these prospective migrants remained unaware of their status and were likely to infect their partner or spouse unknowingly. In **Sri Lanka**, mandatory medical testing for departing migrant workers is practiced with the approval of the government, which permits the Gulf Cooperation Council Approved Medical Centres Association (GAMCA) to conduct mandatory testing without ensuring that HIV testing standards are applied.

Migrants are also required to undergo mandatory HIV testing in most host countries, especially in South-East Asia and the Gulf, upon arrival, despite pre-departure tests in the country of origin. After integrating in the host country as regular migrants, these individuals are required to submit to periodic mandatory testing in order to maintain their eligibility to stay and work in the country. In the **Maldives**, there is compulsory HIV screening of all persons who seek employment; and all Maldivians who spend more than a year outside the country are required to be screened upon return to their home country. In **Bhutan**, there is no mandatory testing except for blood donor screening.

²⁰ CARAM Asia, "State of Health of Migrants," Coordination of Action Research on AIDS and Mobility Asia, 2007.

²¹ CARAM Asia, "The Forgotten Space," 2004.

Worldwide, there are 30 countries that force HIV-positive foreigners to leave.²² When as a consequence of HIV-positive status migrants are taken into custody and detained, adequate systems are not in place in most of the countries to ensure appropriate HIV treatment. Moreover, there are reports of cases where migrants have been jailed upon discovery of their HIV status and subsequently deported without any explanation or discussion of their condition.²³

Imposition of compulsory health testing in destination countries may drive migrant workers who are aware of personal health conditions or HIV status to shun healthcare systems out of fear of being deported or because of their undocumented status. This exclusionary policy defeats any public health goals as those in need of health services will not access them, potentially resulting in the worsening of the individual's health condition, and perhaps negatively affecting public health. The spread of tuberculosis is a good example of the unfortunate outcome of this approach.²⁴

South Asian nations have no process for reintegrating HIV-positive migrants who have been deported or return home on their own. HIV-infected returnees often prefer to hide their deported status, as well as their HIV status, for fear of exclusion and humiliation. A strong support system that facilitates migrant reintegration is an important component of migrant health programming.

Migration Policies and Legislation

International, Regional, and Bilateral Agreements

There is no exclusive regional framework or regionally-funded initiatives for migration management in South Asia. There are, however, agreements on the steps that need to be taken to address the primary issues, as well as ongoing efforts to engage key stakeholders at regional and national levels.

²² Republic of Korea, Singapore, Malaysia, Brunei Darussalam, and all countries in the Gulf. The United States was also part of this list, but although it implemented this policy for over 20 years, the policy was discontinued as of January 2010.

²³ Human Rights Watch, "Discrimination, Denial and Deportation – Human Rights Abuses Affecting Migrants Living with HIV", 2009.

²⁴ Gilmore, N., "Human Rights Issues and Migration," presentation at the 12th World AIDS Conference, Geneva, Switzerland, July 1998.

International Conventions

International conventions and regional agreements concerning the rights of migrant workers are the result of governments working to tackle the legal grey areas regarding the cross-border movement of populations. The complex migration process creates ambiguity in terms of accountability for the welfare of migrants throughout the migration cycle. Broader governmental and legislative support coupled with adjustments and ratification of domestic legal norms is necessary to secure the rights for noncitizens.

The General Agreement on Trade in Services (GATS) is applicable to all member states of the World Trade Organization (WTO), regardless of their national policies. The aim is to achieve highly progressive levels of liberalization of *trade in services* among WTO members. Labour migration is particularly affected by Mode 4 of GATS, which targets Temporary Movement of Natural Persons (TMNP). The GATS does not take a rights-based approach to labour migration, and it provides leeway for states to exclude migrant workers from domestic legislation and basic human rights. The rights of migrants are often compromised by the policies and regulations of the source and destination countries from pre-departure to integration in the host country to reintegration upon their return home. Destination countries are free to impose restrictive policies that curb a migrant's liberty of movement and right to work, and to disregard a migrant's right to public health services. GATS allows labour-importing countries to ignore socio-economic public expenditures, such as health and social services, cultural issues, and the integration mechanisms associated with large-scale permanent migration.

In South Asian countries constitutional rights generally apply only to citizens, leaving migrant workers extremely vulnerable to discriminatory practices. To address this reality, the 1990 *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* was adopted by the UN General Assembly and came into force July 1, 2003. The convention requires States to provide migrant workers with the same access to education, housing, and health services that is available to nationals. In South Asia the response to the convention has been limited, as it has been ratified by Sri Lanka and signed by Bangladesh, only.

Table 8: Ratification / Accession / Succession of Regional and International Instruments

Law / Treaty	Bangladesh	Bhutan	India	Maldives	Nepal	Pakistan	Sri Lanka
International Convention on the Elimination of All Forms of Racial Discrimination	✓	S	✓	✓	✓	✓	✓
International Covenant on Civil and Political Rights	✓		✓	✓	✓	S	✓
Optional Protocol to the International Covenant on Civil and Political Rights				✓	✓		✓
International Covenant on Economic, Social and Cultural Rights	✓		✓	✓	✓	✓	✓
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	✓	✓	✓	✓	✓	✓	✓
Optional Protocol to the Convention on the Elimination of Discrimination against Women	✓			✓	✓		✓
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	✓		S	✓	✓	S	✓
Convention on the Rights of the Child	✓	✓	✓	✓	✓	✓	✓
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families	S						✓
International Convention for the Protection of All Persons from Enforced Disappearance			S	S			
South Asian Association for Regional Cooperation Convention on Preventing and Combating Trafficking in Women and Children for Prostitution	✓	✓	✓	✓	✓	✓	✓
Colombo Process	✓		✓		✓	✓	✓
United Nations General Assembly Special Session on HIV/AIDS (UNGASS)	✓	✓	✓	✓		✓	✓
SAARC – HIV/AIDS and Mobility	✓	✓	✓	✓	✓	✓	✓
Protocol to Prevent, Suppress and Punish Trafficking in Persons (Palermo Convention)			✓				✓

✓ = Signed and ratified S = Signed only Blank = Neither signed nor ratified

Regional and Bilateral Agreements

Very few bilateral, multilateral, or regional agreements exist to protect the rights of migrants. Moreover within those, the rights to health and access to health services are low priorities. In 2004 the South Asian Association for Regional Cooperation (SAARC) signed Memoranda of Understanding (MoU) with the UNAIDS Secretariat and its co-sponsors to help Member States work toward the goals of HIV prevention and the appropriate care and support for people living with HIV and AIDS. The *SAARC Regional Strategy on HIV and AIDS (2006–2010)*

was endorsed in August 2006 at the 27th Session of the Council of Ministers, held in Dhaka, where leadership mobilization and promotion of a regional dialogue on cross-border issues relevant to HIV/AIDS were stressed. At the initiative of the Labour Minister of India, a meeting of Labour Ministers of SAARC countries, *HIV/AIDS in the World of Work*, was held in Geneva on the sidelines of the 96th Session of the International Labour Conference of the International Labour Organization (ILO) in June 2007. The following year, the United Nations Development Programme (UNDP) and the ILO,

in partnership with SAARC, conducted a workshop on *Leadership and Development Challenges to address HIV/AIDS and Mobility*. The meeting defined basic rights and principles for tackling the challenge of HIV in the context of migration as rights to:

- Safe mobility and migration in accordance with international labour standards/conventions;
- Non-discrimination and protection against abuse and other human rights violations;
- Minimum wage and gender equity;
- Health and equal access to HIV services, welfare, security, and safety;
- Access information, form associations, access legal aid, exercise their voting rights;
- Counselling facilities for migrant workers; and
- Stay, work, and not be deported on the grounds of HIV status.

The *SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (2002)* represents significant and substantial progress in the fight against trafficking. Efforts to draft a convention to combat trafficking began at the Ninth SAARC Summit in 1997. The convention was adopted by SAARC during the 11th Summit in 2002. By 2005 all SAARC Member States had ratified it and it entered into force.

Regional Consultative Processes

Regional consultative processes (RCPs) on migration bring together representatives of states, international organizations, and, in some cases, non-governmental organizations (NGOs) for informal and non-binding dialogue and information exchange on migration-related issues of common interest and concern. RCPs involve participating states from multiple geographical regions, drawn together by common interest in a specific migration topic or topics.

The Colombo Process, which began in 2003, is officially known as the *Ministerial Consultation on Overseas Employment and Contractual Labour for Countries of Origin in Asia*. The governments of five South Asian countries of origin – Bangladesh, India, Nepal, Pakistan, and Sri Lanka – along with six other Asian labour-exporting countries are participants in the Colombo Process, and the International Organization for

Migration (IOM) acts as secretariat. The core priorities of the process include:

- Protection of and provision of services to migrant workers;
- Optimizing benefits of organized labour migration;
- Capacity building, data collection, and inter-state cooperation.

As a follow-up to the third ministerial consultation under the Colombo Process, held in Bali in 2005, activities in two broad areas were undertaken:

- Working with governments and private institutions to enhance national capacity – for instance, introducing a labour market research unit in each Colombo Process country to monitor manpower requirements in major countries of destination in order to meet demand with matching skills and to establish linkages among countries to better facilitate labour migration.
- Disseminating information to potential migrants regarding legal labour migration opportunities and procedures and the risks of irregular migration in order to ensure that migrants make informed decisions.

After three ministerial meetings in Colombo (2003), Manila (2004), and Bali (2005), the Colombo Process was expanded to include labour-receiving countries in the EU, the Gulf, and Asia at the Abu Dhabi Dialogue in January 2008. In 2011 the 4th ministerial meeting of the Colombo Process is expected to take place in Dhaka, Bangladesh.

The first *Ministerial Consultation on Overseas Employment and Contractual Labour for Countries of Origin and Destination in Asia*, known as the **Abu Dhabi Dialogue, was held in January 2008**. The United Arab Emirates took the groundbreaking step of hosting the inaugural Ministerial Consultation between Asian sending countries and host countries in the Gulf Cooperation Council (GCC) states. Yemen and two other Asian countries of destination, Malaysia and Singapore, also participated. The Abu Dhabi Dialogue constitutes a milestone in regional cooperation on contractual labour mobility based on a new collaborative approach that is forward-looking and action-oriented. At the end of this Ministerial Consultation, ministers of the participating countries adopted the Abu Dhabi Declaration.

The Abu Dhabi Declaration aims to better address issues

surrounding temporary contractual labour mobility by developing key partnerships between source and destination countries and by optimizing the benefits of migration to countries and migrant workers. Priorities include:

- Developing and sharing knowledge on labour market trends, skills profiles, workers, and remittances policies and flows, and on their relationship to development.
- Building capacity for the more effective matching of labour supply and demand.
- Preventing illegal recruitment and promoting welfare and protection measures for contractual workers.
- Developing a framework for a comprehensive approach to managing the cycle of temporary contractual work that fosters the mutual interest of countries of source and destination.

The Bali Process is officially known as the *Bali Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime* among 42 participating governments, including six South Asian nations: Bangladesh, Bhutan, India, Nepal, Pakistan, and Sri Lanka. The current thematic priorities remain strengthening regional policy and law enforcement cooperation to combat trafficking and smuggling. These ministerial consultations have balanced the agenda to evenly address trafficking issues with an increasing focus on victim protection. Child sex tourism, particularly greater law enforcement cooperation in combating the crime, has been added as a priority area.

The *Inter-Governmental Asia-Pacific Consultations on Refugees, Displaced Persons and Migrants*, referred to as *the APC*, involves 33 governments, including Bangladesh, Bhutan, India, Nepal, Pakistan, and Sri Lanka from South Asia. APC was established in 1996 to provide a forum for discussion and greater regional cooperation regarding issues of population movements, including refugees, displaced or trafficked persons, and migrants.

Bilateral and Multilateral Agreements

A limited number of bilateral or multilateral agreements aimed at protecting the rights of migrants have been signed and implemented in South Asia.

Bangladesh has signed agreements with Iraq, Libya, Qatar, and Malaysia. Its MoU with Malaysia addresses

workers' rights on wage scales, working and living conditions, and levels of social protection, e.g., provident funds, gratuities, medical care and compensation, and access to instruments of social dialogue, such as freedom of association.

India has bilateral agreements with Jordan, Qatar, UAE, Oman, Kuwait, and Malaysia. In addition, it has signed an Indo-German agreement on Social Insurance and an India-France Social Security Agreement. India is negotiating and concluding bilateral social security agreements and labour mobility agreements with major destination countries.

Nepal has signed MoU with the governments of Qatar, UAE, and Republic of Korea. The UAE agreement specifies compliance with labour contracts signed between recruiting agencies and workers according to the rights and obligations of workers and employers in both countries. The Qatar agreement assures Nepali workers remuneration and facilities according to Qatar's labour law, with wages to be paid at par with migrant workers from other countries. Nepal's MoU with Republic of Korea fixes the minimum monthly salary at 780,000 Korean won (US\$844).

Pakistan has signed agreements with Kuwait, Malaysia, Republic of Korea, Qatar, and UAE, and two MoU have also been signed between Pakistan and Libya.

Sri Lanka has signed MoU on migration with Lebanon, Bahrain, and Malaysia. In May 2009 leaders of the Sri Lanka trade unions and their counterparts from Bahrain, Jordan, and Kuwait signed major cooperation agreements to protect the rights of Sri Lankan migrant workers in the Arab States.

National Policies and Legislation

All South Asian countries follow national legal frameworks to manage migration, although most have yet to develop streamlined policies. Apart from India and Bangladesh, there are no specific policies on internal migration in countries in the region. Poverty reduction and urbanization policies marginally cover internal migration.

India's Emigration Act (1983) governs overseas migration, including the recruitment agencies that must register with the Ministry of Overseas Indian Affairs. The office of the Protector General of Emigrants is assigned responsibility for protecting, advising, and

Table 9: Institutional and Legislative Frameworks

Country	Relevant Regulations & Legislations	Responsible Agency
Source Countries		
Bangladesh	Emigration Ordinance (1982)	Ministry of Expatriate Welfare and Overseas Employment – Bureau of Manpower, Employment & Training
India	The Emigration Act (1983)	Ministry of Overseas Indian Affairs – Protector of Emigrants
Nepal	Foreign Employment Act 2064 (2007)	Ministry of Labor and Transport Management
Pakistan	Emigration Ordinance (1979) and the Emigration Rules (1979)	Ministry of Labour, Manpower, and Overseas Pakistanis - Bureau of Emigration and Overseas Employment
Sri Lanka	Sri Lanka Bureau of Foreign Employment Act No. 21 (1985, amended 2009)	Ministry, Foreign Employment Promotion and Welfare – Bureau of Foreign Employment
Destination Countries		
Bhutan	Immigration Act of the Kingdom of Bhutan (2007)	Ministry of Labour and Human Resources
India	Foreigners Act (1946) and the Passport (Entry into India) Act (1920)	Ministry of Home Affairs – Bureau of Immigration
Maldives	The Employment Act (2008) and the Expatriate Employment Regulations (2008)	Ministry of Employment and Social Security

aiding migrants throughout the migration cycle.

Nepal has a new *Foreign Employment Act (2007)*, which provides policy guidelines for ensuring overseas migration is safe. The act supports coordinated management of the migration process, and protects the rights and welfare of migrant workers.

Migration in **Pakistan** is regulated and controlled under its *Emigration Ordinance (1979)* and *Emigration Rules (1979)*, both of which are undergoing amendments. These policy documents empower the office of the Protector of Emigrants to act as the guardian of migrants in Pakistan, advising on legal issues, such as assessing the legitimacy of the overseas employment contract. Pakistan as a host country has established the *National Alien Registration Authority* to issue work permits to those seeking employment or operating a business.

Sri Lanka has a National Labour Migration policy developed by the Ministry of Foreign Employment Promotion and Welfare, with ILO support.

As a host country, **Bhutan** has strict policies on immigration governed by the *Immigration Act of the Kingdom of Bhutan (2007)*. The goal is to ensure the Kingdom remains free from illegal immigrants and retains control of the immigration of foreigners.

The entry, exit, and stay of foreigners in **India** are

governed by the *Foreigners Act (1946)* and the *Passport (Entry into India) Act (1920)*. All foreigners who stay in India for longer than 180 days are required to register with the local police. However, citizens of India and Nepal can travel and work freely across the border under the bilateral friendship treaty signed in 1950.

Similarly, the Government of the **Maldives** has a legal framework for regulating entry of expatriate workers. All expatriate employment is controlled by the Ministry of Higher Education, Employment, and Social Security, which requires a security deposit from employers to be used to facilitate the repatriation of employees, if necessary. Work permits are required before employment.

Opportunities and Best Practices from the Region

Access to Healthcare for Migrants in Bhutan

The Royal Decree on HIV and AIDS, issued in May 2004, serves as the guiding principle in the fight against HIV and AIDS in Bhutan. The decree calls for all members of society to help prevent HIV and AIDS and to provide care and compassion to those infected. The

Royal Government has always maintained a policy of providing “Health for All.” Basic primary health care is provided free to everyone who accesses the health care system. In line with the Alma Ata Declaration, Bhutan committed to establishing a relevant and cost-effective health-care delivery system based on the primary health care approach. This has been informally taken to apply to all residents of Bhutan, including non-nationals.

Labour Attaché Position in Bangladesh Missions Overseas

The post of Labour Attaché was created in the Bangladesh missions in labour receiving countries to register migrants and to protect their rights. The provisions for signed contracts and measures regarding breach of contract by employers ensure more accountability from the agents and sub-agents of recruiters, and they allow the Labour Attaches to take action when breaches occur.

Pre-departure Training for Migrants in Sri Lanka

A significant number of migrants employed abroad are not reached by existing national sexual and reproductive health programmes at departure, in transit, on arrival at their host country, or on return to their home country. However, pre-departure seminars recently launched by the Government of Sri Lanka offered to female migrants usually run for 13 days (72 hours) and have started to include a two-hour session on HIV prevention and protection issues.

Regional Consultative Processes

Initiatives such as the SAARC Conventions and the Colombo process are examples of positive regional cooperation on issues of migration and trafficking. Such forums are helpful in strengthening strategies, action, and networking for addressing issues in an integrated manner, including establishing the nexus among migration, trafficking, and HIV – within each country, between countries of origin and countries of destination, and between different sectors, such as health and labour.

Challenges

Policies and Enforcement

While migrant workers are considered a vulnerable group in terms of HIV, most South Asian countries do not have an effective programme to provide them with HIV and AIDS prevention, treatment, care, and support at any point in the migration cycle.

No South Asian nation has comprehensive migration policies that address all stages of migration; enforcement regulations to protect migrants from mandatory HIV testing; or monitored adherence to generally accepted testing standards. **India** and **Pakistan** are in the process of formulating these migration policies.

Pre-departure Orientation Programmes

South Asian migrants lack basic information and awareness about their universal human rights and legal rights. Although some nation states have initiated pre-departure orientation programmes to address this issue, participation is not compulsory and content is limited. Significant efforts will be required before measurable outputs are achieved.

While pre-departure orientation programmes exist in South Asia, they often do not include an effective health component. Migrants remain unaware of their health rights. Despite the inclusion of an HIV component in the orientation programmes in Nepal and Sri Lanka, their training programmes need close follow up to ensure they met minimum requirements of basic HIV awareness and information.

Migrant Rights

No pro-active system exists in South Asia, either at the national or regional level, to address the violation of migrants’ labour rights or human rights at any stage of the migration cycle.

Most South Asian nations remain passive when it comes to enforcing the rights of international migrants. Most labour exporting countries in South Asia allow themselves to be dictated to by destination countries in their efforts to find employment for their citizens, while doing too little to encourage employment and income generation at home.

Recruitment Procedures

Dependency of prospective migrants on middlemen and recruiting agencies for overseas employment assistance creates a fragmented recruitment process and increases fees. Moreover, the large number of recruiters makes it difficult for governments to monitor recruitment standards and migration trends .

Reintegration

Reintegration programmes for returnee migrants are almost non-existent, especially for those HIV-positive migrants who are deported from host countries.

Gender Inequality

Overly protective and restrictive gender policies lead to illegal migration, which is evident from the unofficial statistics of female migrants.

Intra-regional trafficking within South Asia is more prevalent than trans-regional trafficking. India and Pakistan are the main destinations of trafficking, while victims are sourced primarily from Nepal and Bangladesh.

Information Quality

Regularly updated databases of migrant labourers are unavailable in South Asia, making it difficult to develop targeted services and programmes for migrants in the country of origin, as well as in the host country.

Recommendations

Multi-faceted cooperation among SAARC Member Countries is vital to ensuring an effective response to HIV and migration in South Asia, and to guaranteeing safe migration and reduced HIV vulnerability among migrants throughout the migration cycle – pre-departure, transit, post-arrival and return. To reach this, it will be necessary to take action in a range of key areas, such as:

1. Improve coordination efforts within national policy frameworks

- Harmonize the various national policies that exist on HIV and on migration
- Establish mechanisms to promote collaboration between Ministry of Health, National AIDS Programmes, Ministry of Labour, Foreign Affairs, trade unions, and civil society organizations.

2. Develop a regional framework to protect the health and reduce the HIV vulnerability of migrant and mobile populations in South Asia

- Establish an Inter-ministerial Task Force of SAARC Member States mandated to address the issues of HIV and mobility.
- Draft a realistic blueprint for implementing HIV prevention programming and care services for migrant labourers that is congruent with the health policies and HIV interventions for migrants as stipulated in the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*.

3. Establish minimum labor standards and health rights for migrant workers

- Institutionalise migrant protection in bilateral and multi-lateral memoranda of understanding and agreements.
- Develop a South Asia strategy and plan to protect the health rights, including access to HIV prevention, care and treatment services, of migrant populations.

4. Enforce regulations to protect migrants from mandatory HIV testing and adhere to generally accepted testing standards.

- Ensure the human rights of migrants are not violated and the process is governed by consent,

confidentiality, and pre- and post-test counselling.

- Concurrently, work with destination countries to ensure migrant friendly testing is adopted and monitored for post-arrival and subsequent testing of migrant workers.

5. Standardize pre-departure training

- Ensure migrants are aware of their health rights and conscious of their vulnerability to HIV
- Empower migrants to make informed choices about HIV prevention by strengthening pre-departure training and orientation programming that includes comprehensive HIV/AIDS information.

6. Regulate recruitment agencies and sub-agents involved in migration

- Regulate recruitment agencies and monitor their performance in guaranteeing minimum labor standards and health rights of the migrant workers they contract.
- Share this information with all migrants, hiring agents, embassies, and both origin and host country governments so that fraudulent recruiters can be isolated.

7. Strengthen protection and support systems for migrants in destination countries

- Initiate bilateral agreements which protect migrant rights, enable access to health service and insurance schemes and ensure a continuum of care.
- Ensure all destination countries mobilize overseas missions, including the labour attaché, to monitor and act where needed to secure the welfare of migrants in host countries.

8. Build the capacity of South Asian source countries to effectively reintegrate returning migrants

- Establish effective reintegration programs that are responsive to migrant health, social and economic needs.
- Involve returned migrant workers in the design and delivery of relevant public health programs.
- Link migrants to referral systems and support services upon return destination.

9. Ratify important international conventions related to migration, trafficking and HIV/AIDS

- Ratify the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* and the *Protocol to Prevent, Suppress and Punish Trafficking in Persons*.
- Adopt the ILO Multilateral Framework for Migration, and the ILO Code of Practice on HIV/AIDS and the World of Work.
- Implement programmes aimed at achieving national targets on HIV prevention and treatment for Universal Access and MDG 6 for migrant and mobile populations.

10. Mobilize human and financial resources for work on HIV and migration

- Conduct rights-based research and epidemiological assessments to assess HIV vulnerability, risks, trends and patterns along major migratory routes for documented and undocumented migrants and build a consistent evidence base for the design and delivery of results oriented HIV programs for migrants at source and destination.
- Promote programming needs of migrants and prepare proposals with National Aids Programmes and of the Global Fund and other international donors.

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COUNTRY PROFILES

BANGLADESH



Acronyms & Abbreviations

BMET	Bureau of Manpower, Employment & Training
BOESL	Bangladesh Overseas Employment Services Limited
CSO	Civil Society Organization
DEMO	District Employment and Manpower Offices
FSW	Female Sex Worker
GFATM	Global Fund to Fight AIDS, Tuberculosis, and Malaria
HAPP	HIV/AIDS Prevention Program
HATI	HIV/AIDS Targeted Intervention
IDU	Injecting Drug User
ILO	International Labour Organization
IOM	International Organization for Migration
IMF	International Monetary Fund
M&E	Monitoring and Evaluation
MEWOE	Ministry of Expatriates Welfare and Overseas Employment
MHA	Ministry of Home Affairs
MoU	Memorandum/Memoranda of Understanding
MSM	Men who have Sex with Men
NAC	National AIDS Committee
NASP	National AIDS and STD Program
NGO	Non-governmental Organization
RCC	Regional Center in Colombo
SAARC	South Asian Association for Regional Cooperation
SHISUK	Shikkha Shastha Unnayan Karzakam
STI/STD	Sexually Transmitted Infection/Disease
SW	Sex Worker
UAE	United Arab Emirates
UNDP	United Nations Development Programme

Introduction

Bangladesh shares its border with India on all sides, except for a small border with Myanmar in the far southeast and with the Bay of Bengal. With over 160 million people in 2008, Bangladesh is the eighth most populous country in the world and is among the most densely populated countries globally.¹ According to the World Bank the 2008 gross national income per capita was US\$520.² Bangladesh has a high poverty rate, although the poverty rate has fallen significantly over the past several decades: from an estimated 70 percent in 1971 to 58 percent in 1992 and to 40 percent in 2005.³ The World Bank also notes that the country has made significant progress in human development in the areas of literacy, gender parity in schooling, and reduction in population growth.⁴

Migration Patterns

Migration is widely accepted as a livelihood and development option in Bangladesh. According to estimates from the state-run Bureau of Manpower, Employment & Training (BMET), the number of documented migrants travelling abroad for employment in 2008 was 875,055, an increase of 5.1 percent over 2007. Despite global economic recession, in 2009 alone a total of 475,278 migrants left the country for overseas employment. The cumulative number of migrants from 1976 to 2009 is 6,741,187. Among these, 2,573,129

1 UN Population Fund (UNFPA), "Global Population Report," 2008.

2 World Bank, World Development Indicators Online, 2010; available at <http://data.worldbank.org/indicator>

3 Sandeep Mahajan, "Bangladesh: Strategy for Sustained Growth, Poverty Reduction, and Economic Management Network," World Bank, July 26, 2007.

4 World Bank, "Bangladesh - Country Brief," July 2005.

migrant workers went to Saudi Arabia, 1,587,483 to the United Arab Emirates, 479,571 to Kuwait, 698,736 to Malaysia and 360,524 to Oman.⁵

Table 1: Cumulative Statistics 1976 to 2009

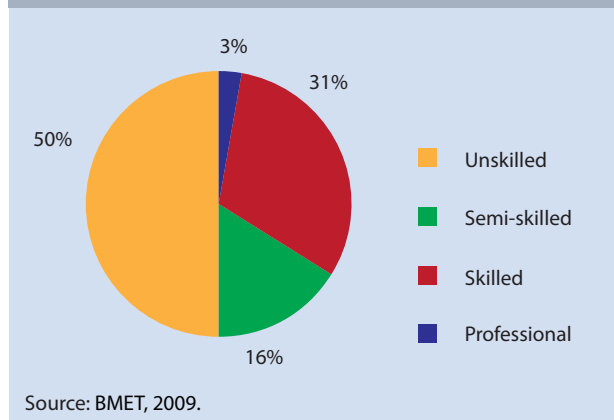
Overseas Workers, 1976-2009	6,741,187
Remittances	US\$67.72 billion
Overseas Workers by Profession, 1976-2009	
Professional	181,336
Skilled	2,079,228
Semi-skilled	1,091,766
Unskilled	3,388,857
Net Migration Rate	0.5 migrant / 1,000 population

Source: Information is collated by the International Organization for Migration (IOM) from BMET

Occupational Profile of Migrants

BMET classifies short-term migrants to the Middle East and South-East Asia into four categories: professional, skilled, semi-skilled, and unskilled. *Professional workers* include doctors, engineers, teachers, and nurses; *skilled workers* include manufacturing or garment workers, drivers, computer operators, and electricians; *semi-skilled workers* include tailors and masons; and *unskilled workers* include housemaids, agricultural workers, hotel workers, and such basic labourers as cleaners, cart loaders, and cotton pickers.

Figure 1: Overseas Employment by Category from 1976 to 2009



⁵ Bureau of Manpower, Employment & Training (BMET), "Flow of Migration by Country of Employment," 2009.

For the period 1976 to 2009, 50 percent (3.4 million) of all migrant workers going abroad were classified as unskilled, 31 percent (2.1 million) were skilled, 16 percent (1.1 million) were semi-skilled, and only about 3 percent (0.2 million) fell into the professional category.

Although there are about 800 formal recruitment agencies in Bangladesh, a large number of migrant workers receive work permits through unofficial channels, such as relatives and private recruiting agents, and migrate without the knowledge of BMET. According to available estimates, 55-60 percent of migrants seeking overseas employment do so in this manner. A migrant leaving the country with false documents or without the clearance of BMET will be categorized as "undocumented".⁶

In a study undertaken by the UNDP Regional Centre in Colombo (UNDP RCC)⁷ 60 percent of respondents interviewed onsite and in Bangladesh migrated through private channels, that is, through *individual contracts* facilitated by their relatives and other middlemen. In these cases, hiring agents are usually involved only for paper processing, including BMET clearance, and ticketing. There is no mechanism to identify and regulate the middlemen who are recruiting domestic workers.

Migration of children is also reported. In Bangladesh child migrants constitute two broad groups: those who choose to migrate in recognition of the gaps in opportunities between home and the cities; and those who are victims of economic deprivation, social discrimination, or environmental degradation.⁸

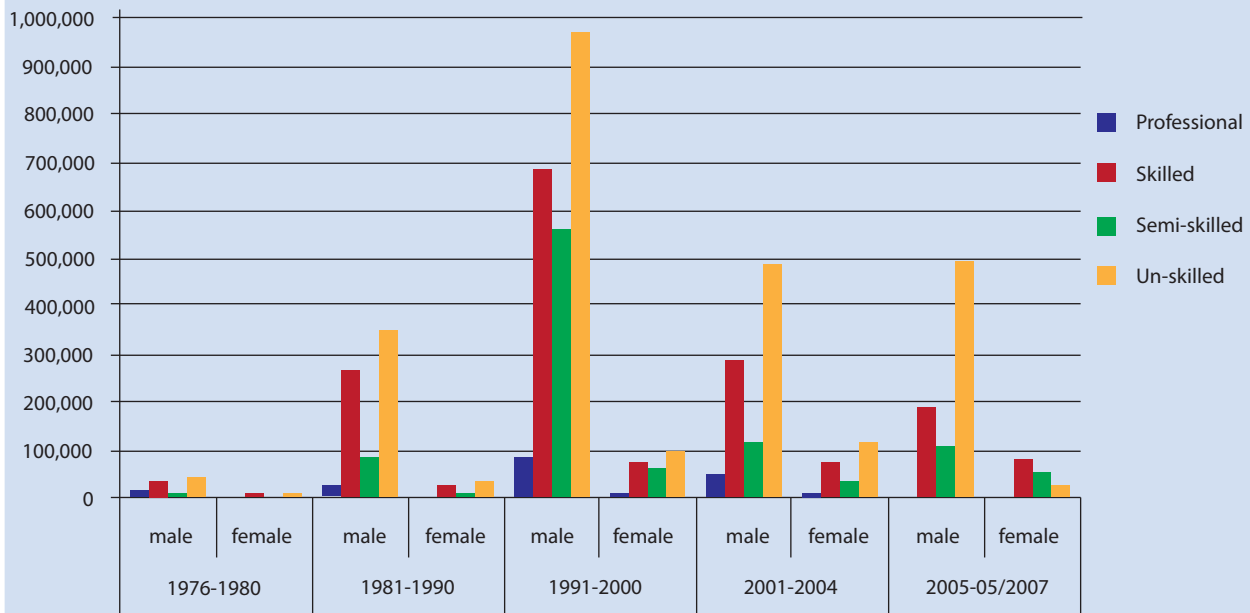
Irregular migration via informal recruitment practices, large migration costs, informal and unregulated channels for remittances, and human trafficking all contribute to abuse and violations of the rights of migrants. There is also a lack of data and follow-up with returnee migrants. An increasing trend among Bangladeshi migrants returning from different countries indicates the need for reintegration assistance by various stakeholders to prevent irregular migration.

⁶ International Labour Organization (ILO), "International labour migration from Bangladesh: A decent work perspective," 2005; Therese Blanchet, et al., "Documenting the undocumented: Female migrant workers from Bangladesh," July 2005.

⁷ UNDP Regional Centre in Colombo, "HIV Vulnerabilities of Migrant Women: From Asia to the Arab States," 2009.

⁸ Development Research Centre on Migration, Globalization, and Poverty, 2009.

Figure 2: Overseas Employment by Category and Gender from 1976 to May 2007



Source: BMET, 2009.

Gender and Migration

According to official data, Bangladeshi migrants are predominantly male. Prior to 1991, 98 percent of all migrants were men. During the period 1991 to 2003, less than 1 percent of total migrants were women.

Significantly lower migration among women is largely due to government restrictions on overseas employment of female workers. In 1981 the government banned the migration of all categories of female workers other than professionals. In 1987 the ban was replaced by restrictions on the migration of unskilled and semi-skilled women. In 1988 and again in 1997 the government eased these restrictions; and since 2003 restrictions apply only to women under 35, who are still not allowed to migrate on their own.⁹ As is often the case, restrictions on the mobility of female workers have only encouraged clandestine migration. Currently, women officially account for 4 percent (nearly 21,000) of registered Bangladeshi migrant workers abroad, although many more undocumented female migrants are believed to be working in Asia and the Middle East.¹⁰

9 ILO, "International labour migration from Bangladesh."

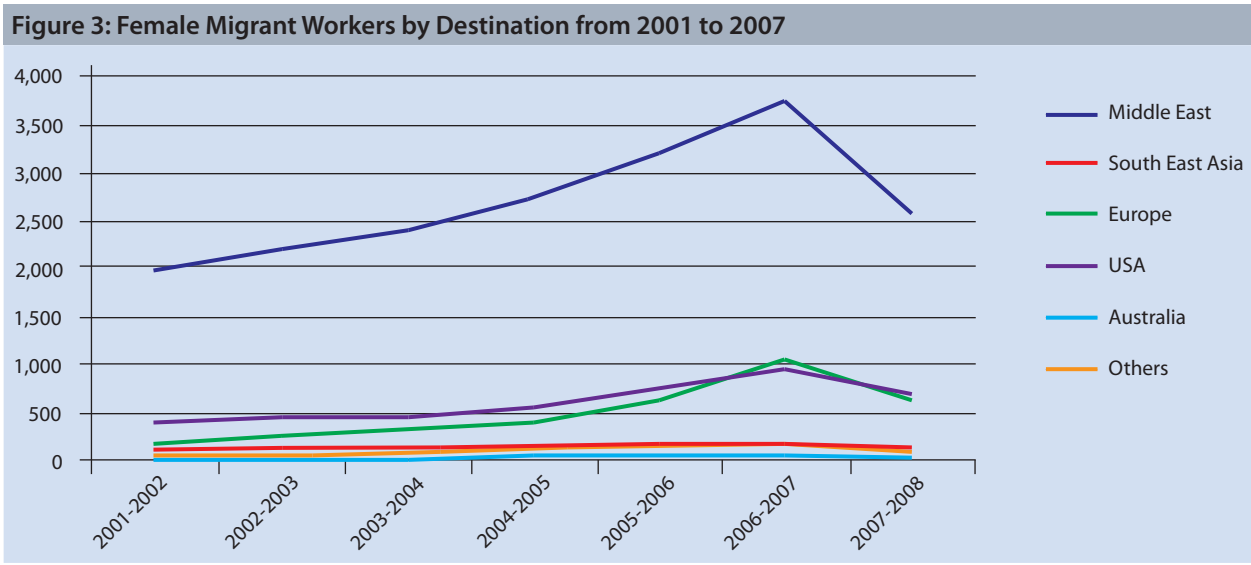
10 IOM Press Briefing: IOM Backs Training for Bangladesh's Women Migrant Workers, July 8, 2009; available at www.iom.int/jahia/Jahia/media/press-briefing

More recently, in September 2007 a Gazette Notification was issued by the Government of Bangladesh on female domestic workers bound for Saudi Arabia and other countries in the Arab States. It provided for particular rules regarding the issuance of a work permit, visa processing, and mandatory training and briefing at the pre-departure stage. The notification also stated that a database is to be maintained and controlled by recruiting agencies, embassies, and the Bangladesh Missions. It further sets the minimum age for women going abroad as domestic workers at 25.¹¹

Contrary to official statistics, a large number of women migrate from Bangladesh to work abroad. Determining how many is challenging, and estimates vary from at least 10-times official figures to as high as 50 times.¹² It is also reported that most Bangladeshi women migrants are either illiterate or have only elementary schooling and lower-level skills.

11 UNDP, "HIV Vulnerabilities of Migrant Women: From Asia to the Arab States."

12 IOM; Tasneem Siddiqui, *International Labour Migration from Bangladesh: a decent work perspective*, ILO Working Paper, 2005; and CARAM-SHISUK study, "A Quest for a Better Tomorrow," 2003.



Human Trafficking

Bangladesh is a major source country for women, young women, and children trafficked for commercial sexual exploitation, bonded labour, and other forms of involuntary servitude. According to the *Bangladesh Country Report on Combating Trafficking in Women and Children 2007*, 543 trafficked persons were recovered between June 2004 and February 2007: 257 women and 261 children.¹³ Exact figures on the scope of the problem vary widely. Based on estimates available from unofficial sources, over the past 10 years 200,000 Bangladeshi women and children have been taken out of the country.¹⁴

Reportedly, 50,000 Bangladeshi girls are trafficked to or through India every year, as porous borders between both countries are one of the major factors that benefit traffickers. Checkpoints and security personnel are very few and widely dispersed. Bangladeshi women and girls are also trafficked to Pakistan, Bahrain, Kuwait, and the United Arab Emirates for purposes of sexual exploitation, involuntary domestic servitude, and debt bondage. UNICEF reports that 40,000 children from Bangladesh are involved in sex work in Pakistan.¹⁵ Street children living in Dhaka are among the prime targets for organized child-traffickers. Pakistan and the oil-rich

Arab states are the principal destinations of Bangladeshi children. Boys are mostly taken to the Persian Gulf, particularly the United Arab Emirates, to work as camel jockeys or farm workers. The girls end up in brothels in India (mostly in Kolkata or Mumbai), Pakistan, and in Middle-Eastern or South Asian countries. The main trafficking route is *Dhaka-Mumbai-Karachi-Dubai*.¹⁶

The lucrative market for irregular migration and trafficking is fuelled by restrictive immigration policies that deter regular migration, such as poor regulation of recruitment agencies or sanctions for traffickers, and long-standing economic and political trade-offs between traffickers and regulators. Internal trafficking in Bangladesh is also rampant, as women and children (both girls and boys) from rural areas are trafficked to urban centres for commercial sexual exploitation and forced labour.

Source, Transit, and Destination

Source

The most concentrated source areas for migrants in Bangladesh are Dhaka, Chittagong, Comilla, Tangail, Sylhet, and Noakhali.¹⁷ The trends in migration from Sylhet, Chittagong, and Noakhali differ from other regions. Since the British era, the *Sylheties* have migrated to Europe, particularly to the United Kingdom, without

13 Ministry of Home Affairs (MHA), "Bangladesh Country Report on Combating Trafficking in Women and Children," Government of Bangladesh, 2007.

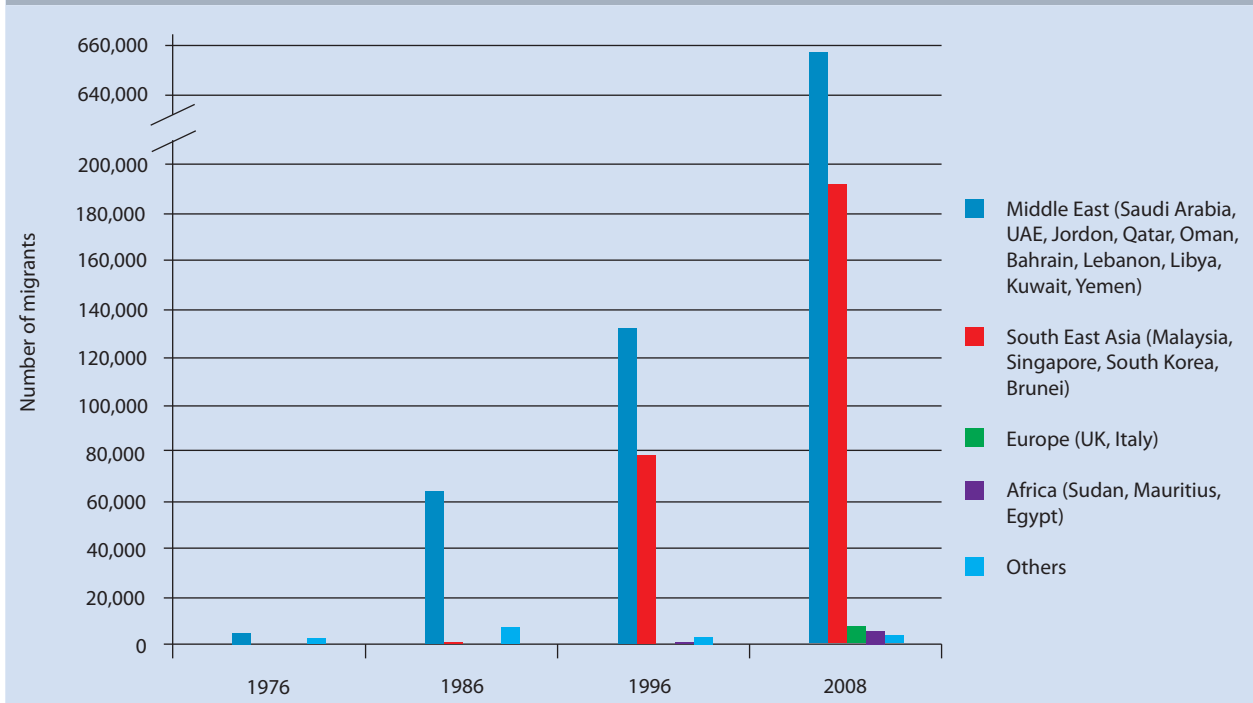
14 "Human Trafficking Is Going Unabated along the Borders," Business Recorder, Global News Wire, June 4, 2001.

15 UNDP, "Human Trafficking and HIV."

16 "When Victims Become Accused," *Times of India*, October 13, 2003.

17 BMET, "Flow of Migration by Country of Employment," 2008.

Figure 4: Destination Countries and Migration 1976 to 2008



assistance from recruiting agencies or middlemen. Eventually, after living there for generations, many have become citizens of the UK. The *London Sylheties* (*Sylheties* who are now citizens of the UK) prefer to marry their children to young men or women from the Sylhet district, subsequently taking their spouses to the UK.

Migrants from Noakhali and Chittagong generally have not become citizens of destination countries. However, they help others to migrate, intensifying temporary migration from their home district.

Managers of recruiting agencies favour people of their home district, and this leads to higher migration from selected regions. For example, a large number of workers have been recruited from Shirajgonje and Tangail to different countries of the Middle East and Malaysia.

Destination

Asia is by far the major continent of destination for Bangladeshi emigrants, accounting for 92.4 percent of all emigrants from the country.¹⁸ The major destination regions for Bangladeshi workers are the Middle East

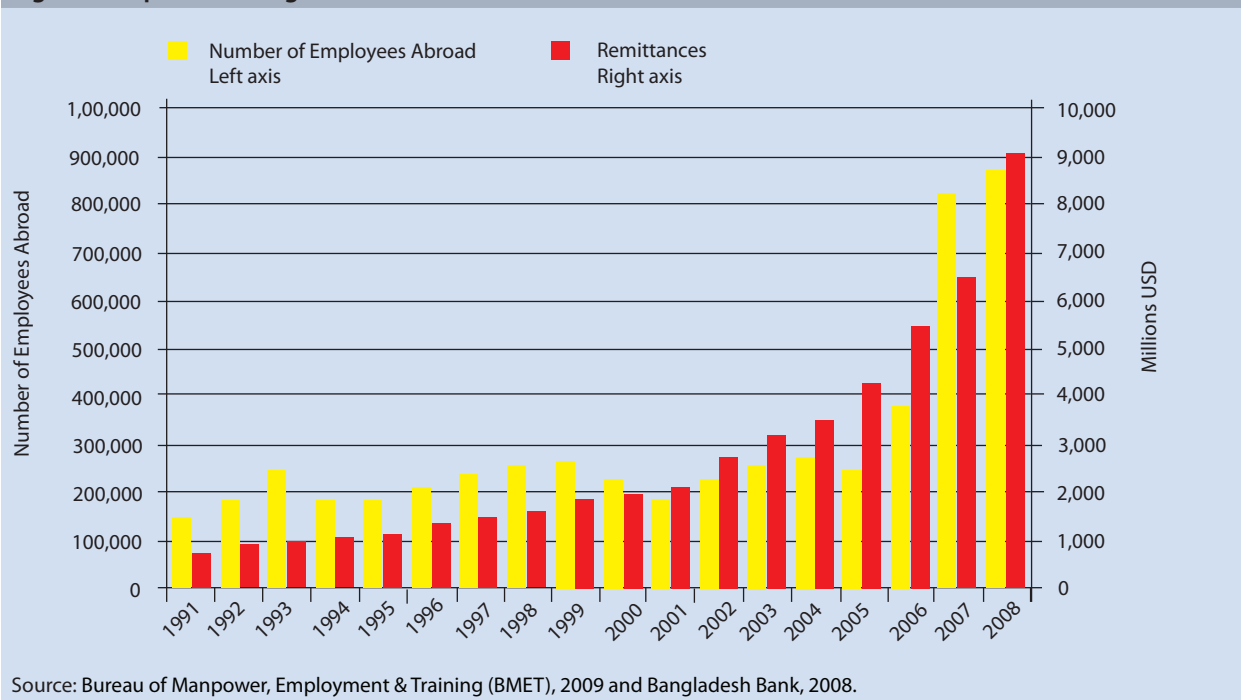
(Saudi Arabia, United Arab Emirates, Jordan, Qatar, Oman, Bahrain, Lebanon, Libya, Kuwait), South-East Asia (Malaysia, Singapore, and Brunei), Europe (UK, Italy, and Ireland), and Mauritius. From 1991 to 2009, the majority of Bangladeshi women migrated to UAE (35,630), Saudi Arabia (31,263) and Lebanon (25,371).¹⁹

The employment market for Bangladeshi workers is not static. During the 1970s, Saudi Arabia, Iraq, Iran, and Libya were major destination countries. Today, Saudi Arabia remains a primary destination, with Malaysia and UAE being important receiving countries as well. In the mid-1990s, Malaysia became the second largest employer of Bangladeshi workers; and despite a dramatic decline after the Asian financial crisis, Malaysia remains the most sought after destination in the Asian region, followed by Singapore and Republic of Korea.

A large number of Bangladeshi migrants travel to various states in India and Pakistan for work. However, some use these countries as a transit point for migration to the Middle East, often crossing borders by land. Irregular migrants from Bangladesh are also reported to enter these countries as tourists travelling by air.

¹⁸ The UNDP *Human Development Report 2009* considers Gulf countries as part of Asia.

¹⁹ UNDP, "HIV Vulnerabilities of Migrant Women: From Asia to the Arab States."

Figure 5: Expatriate Bangladeshis and their Remittances 1991 to 2008

Remittances

The flow of migrant remittances to Bangladesh has consistently increased over the last 30 years. While total remittances to Bangladesh were only US\$24 million in 1976, remittances sent by migrants through official channels in fiscal year 2007 reached a record high level of US\$6.568 billion, according to the Central Bank of Bangladesh. In fiscal year 2009 migrant remittances leaped to US\$10.72 billion, far exceeding all projections.²⁰

At the end of fiscal year 2007 the remittance-GDP ratio in Bangladesh jumped to 9.4 percent from 7.7 percent in the previous year. Bangladesh was the 10th largest recipient of remittances among the developing countries in terms of average per migrant for the period 1990 to 2005, and it ranked 14th among all of the remittance-recipient countries in terms of the total amount of remittances received in 2005.²¹ A summary of the remittances of Bangladeshi workers each year from 1991 to 2008 is provided in Figure 5.

Official channels for transfer of remittances include demand drafts issued by a bank or an exchange house,

travellers' cheques, postal money orders, account-to-account transfers, automated teller machine transactions, electronic funds transfers, and in-kind transfers such as gold purchases. Remittances are sometimes transferred directly from the foreign account of a migrant worker to his own account at home.

Government and several private financial institutions offer competitive interest rates and tax exemptions to attract remittances through official channels. These instruments include the Non-resident Foreign Currency Deposit (NFCD), Wage Earners' Development Bond, and the Non-resident Investor's Taka Account (NITA).

Official channels and schemes are utilized mostly by migrants with professional backgrounds and high wages, whereas semi-skilled and unskilled migrants often use unofficial channels, which are less expensive and more easily accessible. *Hundi*, or money couriers, are the most common unofficial channels of transfer. *Hundi* refers to the transfer of resources outside the international or national legal foreign currency transfer framework. Other unofficial methods include asking friends and relatives who are returning to Bangladesh to personally *carry home* funds earned abroad. According to a study conducted by the International Monetary Fund (IMF) for the period 1981-2000, the total recorded and unrecorded private transfers to Bangladesh amounted

²⁰ World Bank, *Migration and Remittances Factbook 2008*; and Central Bank of Bangladesh, 2009.

²¹ US State Department, *The World Factbook 2009*; available at www.cia.gov/library/publications.

to US\$34.5 billion and US\$49.6 billion respectively, indicating that unrecorded remittances represented 59 percent of total remittances to Bangladesh.²² This is similar to the World Bank estimate of 54 percent.²³

In order for the financial system to use remittances more efficiently to accelerate the country's economic development, funds remitted informally would need to be channelled through smooth, easy and quick formal arrangements. This approach would also help migrant workers to make better and safer choices. Orientation programs that include financial information on the safest methods for transferring earnings to their home country are essential for migrants.

HIV/AIDS Situation

According to the Bangladesh National AIDS and STD (Sexually Transmitted Disease) Program (NASP), the number of HIV cases in the country is estimated at 7,500, although the number of cases officially reported is significantly lower.²⁴ By December 2009 there were 1,745 reported cases of HIV and 619 cases of AIDS, as well as 205 AIDS-related deaths. UNAIDS estimates that the number of people living with HIV in the country may be around 12,000.²⁵

Table 2: HIV/AIDS in Bangladesh 1989 to 2009

Identified Cases	2009	Total 1989 - 2009
HIV Cases	250	1,745
AIDS Cases	143	619
AIDS Deaths	40	205

Source: NASP 2009, Government of Bangladesh.

The first case of HIV in Bangladesh was detected in 1989; and the last surveillance conducted in 2007 found the national HIV prevalence at less than 1 percent, making Bangladesh a low-prevalence country. However, significant levels of risk behaviour, such as the formal and informal commercial sex trade, low levels of condom use, and rising HIV-prevalence levels among

22 Barua Shubhashish Majumder, "Determinants of Workers' Remittances in Bangladesh: An Empirical Study," Policy Analysis Unit Bangladesh Bank, June 2007.

23 World Bank, "Global Economic Prospects 2006: Economic Implications of Remittances and Migration", 2006

24 NASP, Government of Bangladesh, 2009.

25 UNAIDS, "Epidemiological Fact Sheet on HIV and AIDS," 2008.

injecting drug users are of increasing concern.

An estimated 2.2 to 3.9 million Bangladesh nationals are considered to be at higher risk of acquiring HIV, including drug users, female sex workers and their clients, men who have sex with men (MSM), and internal and cross border migrants.²⁶ From 1999 to 2008, HIV prevalence in central Dhaka showed a rapid increase, and the 8th Serological Surveillance indicates HIV among injecting drug users (IDUs) has reached a concentrated epidemic of 7 percent in one neighbourhood in Dhaka.²⁷ Moreover, passive case reporting suggests that Bangladesh nationals returning from regions of high HIV prevalence, whether victims of cross-border trafficking or migrants returning from jobs overseas, may also be at higher risk.²⁸

National Response to HIV/AIDS

The Directorate General of Health Services in the Ministry of Health and Family Welfare produced a National Policy on HIV/AIDS in 1997. A high-level National AIDS Committee (NAC) was formed, with a Technical Advisory Committee and a National AIDS/STD Program (NASP) unit in the Ministry. NAC comprises national experts from various disciplines, including parliamentarians, representatives from key ministries, and NGOs. NASP is responsible for coordinating with all stakeholders and development partners involved in HIV and AIDS programming.

Based on the National Policy on HIV/AIDS, the five year (1997-2002) *Strategic Plan for the National AIDS Program of Bangladesh* focused on issues related to HIV/AIDS and sexually transmitted infections (STI), with emphasis on safe blood transfusion protocols. The implementation of the *2nd Strategic Plan for the National HIV/AIDS Program (2004-2010)* is currently underway.

In 2007 the government agreed on a National AIDS Monitoring and Evaluation framework, and developed the Operational Plan 2006-2010, which includes ongoing national programs funded by international and national donors.

The Government of Bangladesh developed the National Advocacy and Communication Strategy (2005-2010) in

26 World Bank and UNAIDS, "20 Years of HIV in Bangladesh: Experiences and Way Forward", December 2009,

27 Ibid.

28 Global Fund to Fight AIDS, Tuberculosis, and Malaria, Bangladesh HIV Surveillance, 7th Round, Annex – III, 2007.

Table 3: HIV Programmes in Bangladesh

Programme Name	Financed by	Funding	Focus Areas
HIV/AIDS Targeted Intervention (HATI)	Credit of the International Development Association (IDA) and a grant from DFID	US\$ 20M 2008 under Health, Nutrition and Population Strategic Plan (HNPS)	High-risk group interventions: IDUs, sex workers, clients of sex workers, MSM, Hijra*
HAPP HIV/AIDS Prevention Project	DFID and World Bank	US\$ 26M	Harm reduction to prevent HIV transmission amongst high risk group: IDUs, sex workers and their clients, MSM, and Hijra
Global Fund to Fight AIDS, Tuberculosis, and Malaria (GFATM)	GFATM Round 2 (2004-2009) Round 6 (2007-2012) Rolling Continuation Channel (RCC), Round 2 (2010-2015)	US\$ 80M	Youth HIV prevention targeting interventions among high-risk groups: sex workers, IDUs, workplace programs
Bangladesh AIDS Program (BAP)	United States Agency for International Development (USAID) (2009-2013)	US\$ 12.7M	Targeting the most-at-risk groups: IDUs, female sex workers, clients of sex workers, MSM, transgender and their sexual partners
--	United Nations and other donors	US\$ 20M	Technical support, capacity building, and policy development

* Transgender Sex Workers

Source: "20 Years of HIV in Bangladesh: Experiences and Way Forward", UNAIDS and World Bank, 2009.

collaboration with all relevant government ministries, NGOs, the UN, and other development agencies. The policy identified priority groups for HIV intervention as sex workers, IDUs, MSM, mobile populations (emigrants, people regularly crossing borders, transport workers, factory and other mobile workers), prisoners, uniformed forces, and street children.

The multi-sector response to HIV/AIDS in Bangladesh has broadened beyond the Health Ministry to include all sectors of government. Efforts have yielded a variety of strategic action plans for NASP, defined fundamental principles, and provided the framework for a national response. The national response is supported by specific guidelines on a range of issues, including testing, care, blood safety, and HIV prevention among youth, women, migrant workers, and commercial sex workers. The Ministry of Health, through the National AIDS Committee, conducts general mass HIV prevention campaigns using electronic and print media.

Bangladesh is well positioned to avert an HIV epidemic through strategic, effective, and quick interventions among vulnerable groups engaging in high-risk behaviours as well as among the general population, including women and youth. Without strategic

interventions, it is estimated that prevalence in the general adult population could be as high as 2 percent in 2012 and 8 percent by 2025.²⁹

Migration and HIV/AIDS

The linkage between migration and HIV for migrant workers and their families is now of growing concern in Bangladesh. According to the International Centre for Diarrhoeal Disease Research, 47 of the 259 new HIV cases reported during the period 2002-2004 were migrants. Of these, 29 were returning males from abroad, 7 were wives of migrant workers, and 4 were children of HIV-positive migrant workers. Data from the NASP in 2004 showed 57 of 102 newly reported HIV cases were among returning migrants,³⁰ and the National AIDS STI Programme Report of 2006 states that approximately 67 percent of identified HIV-positive cases in the country are returnee migrant workers and their spouses. However, many migrant workers receive their HIV diagnosis from mandatory job-related testing,

29 "World AIDS Day Report," Government of Bangladesh, 2008.

30 UNDP, "HIV Vulnerabilities Faced by Women Migrants."

while the general population is not tested. Therefore, the finding that HIV is more prevalent among returning migrants and their spouses than among the general population is a misinterpretation of current data.

The Bangladesh government does not include migrant workers as a high-risk group in the national HIV surveillance program, and the national program also does not satisfactorily address significant HIV vulnerabilities due to porous borders with India and Myanmar. Although overseas migration and MSM were included in the overall *HIV/AIDS Prevention Program (HAPP)*, overseas migrants were dropped from the program in the final stage.³¹ However, the *HIV/AIDS Targeted Intervention (HATI)* programme includes a package of targeted interventions for external migrants, and migrant workers have been identified as a priority in the *Bangladesh National Strategic Plan for HIV and AIDS, 2005-2010*.

BMET is the only agency that offers pre-departure briefings to migrants on a regular basis incorporating general information on health, including STIs. However, BMET does not raise any awareness on HIV and AIDS issues, and no linkages between STIs and HIV are established. Private recruiting agencies and the medical centres do not conduct pre-departure briefings on HIV, and consequently migrants go abroad for employment without the necessary information to protect themselves from HIV infection.

To reduce the vulnerability of migrants and their families throughout the migration cycle, a reliable evidence base is needed that better informs the national response on targeted interventions.³² Currently, integration of migration and HIV in national policies and programming is limited.

Mandatory Testing

The newly formalized External Migration Policy and National Policy on Health do not mention any specific rules for mandatory medical testing of migrants. Although the National Policy on HIV/AIDS and STD bans mandatory HIV testing and has directive guidelines to protect the rights of all those who undergo testing,

migrant workers undergo mandatory testing within Bangladesh as per the requirements of the destination countries.³³ Agreements with countries such as Malaysia clearly state that testing and other health requirements of the destination country will apply to all migrants from Bangladesh. There is no pre-test or post-test counseling, no consent is required from the migrant, and breach of confidentiality appears to be the norm rather than the exception. If a migrant tests positive for HIV, travel documents are stamped *permanently unfit* to enter and work in the destination country.

In general, migrants are not informed about their HIV status, and there exists no comprehensive system of referrals or access to treatment facilities. Migrants tested as HIV positive in destination countries in the Middle East and Malaysia, Singapore, and Brunei Darussalam are immediately deported, often without any information about their health status. Support systems for HIV-positive migrants are not available in either the destination country or in Bangladesh. Unaware of their health status, returning migrants are at greater risk of infecting others.

Policies, Legislation, and International Conventions

International Conventions

Bangladesh signed the 1990 *UN Convention on the Protection of the Rights of Migrant Workers and Their Families* on October 7, 1998, but it has not yet ratified it. However, the government has ratified the following International conventions:

- *Conventions on the Rights of the Child*
- *Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)*
- *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*
- *International Labour Organization Convention on the Worst Forms of Child Labour, No.182*
- *International Covenant on Civil and Political Rights*
- *International Covenant on Economic, Social and Cultural Rights*

31 HIV/AIDS Prevention Project, UNAIDS, 2008; available at data.unaids.org/pub/report/2008/bangladesh_2008_country_progress_report_en.pdf.

32 "Bangladesh HIV-AIDS Follow-on Activity," USAID-Bangladesh. Grants.gov. 388-09-001-RFA. Dhaka, 2009.

33 CARAM Asia, "State of the Health of Migrants – 2007."

Although not yet ratified, the Government of Bangladesh is in the process of reviewing the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organised Crime 2000.

Regional and Bilateral Agreements

Bangladesh has ratified the South Asian Association for Regional Cooperation (SAARC) *Convention on Preventing and Combating Trafficking of Women and Children for Prostitution*. Despite many high-level delegations to destination countries to negotiate bilateral and multilateral agreements, there remains a general reticence among receiving countries to sign legally binding agreements or Memoranda of Understanding (MoU) on migration.

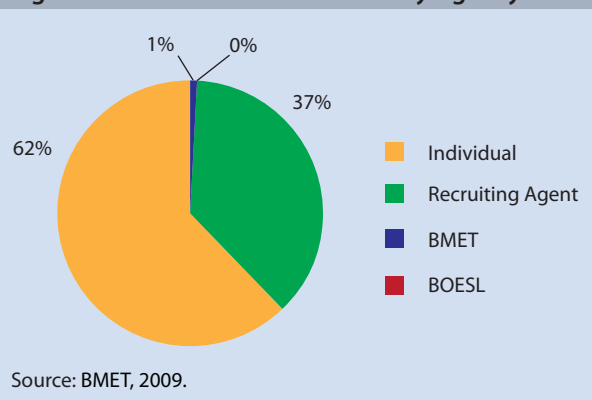
In response, the Bangladesh Government has developed a minimum set of standards for migrant workers, which includes wage scales, working and living conditions, gratuity, medical facility, and compensation. These standards are provided to the receiving country by the government and are expected to be honoured once an understanding for sending labour is reached. To date, agreements have been signed with Iraq, Libya, Qatar, and Malaysia. Unfortunately, these standards are not legally binding. The MoU with Malaysia (2003) set out the number of workers to be employed over a stipulated period, i.e., 50,000 workers over 2004 and 2005, and also addressed worker rights in terms of wage scales, working and living conditions, levels of social protection (for example, medical care and compensation), and access to instruments of social dialogue, such as freedom of association.³⁴

National Policies and Legislation

After independence, migration from Bangladesh was regulated under the 1922 *Immigration Act*, which was a legacy of British colonization. In 1976 formal migration of Bangladeshi workers was initiated under the direct supervision of a specialized agency, the *Bureau of Manpower, Employment and Training (BMET)*, created to facilitate migration. Currently, BMET is developing resource centres to train women seeking employment abroad.

³⁴ ILO, "International labour migration from Bangladesh."

Figure 6: Recruitment Breakdown by Agency 2008



Migration from Bangladesh involves various government ministries and agencies, private recruiting agents, and other local and international intermediaries. It is regulated by the *Emigration Ordinance of 1982*, which deals with the process of recruitment, licensing of recruiting agencies, emigration procedures, prevention of malpractices, minimum standards for wages and service conditions, along with provisions to penalize unlawful practices of unofficial recruitment channels. The ordinance also holds migrants accountable for abiding by the employment contract.

Overseas recruitment was solely the responsibility of government until 1981, when licensed private recruiting agents were allowed. In 1984 the government established a limited company, the *Bangladesh Overseas Employment Services Limited (BOESL)*, to undertake direct recruitment. By December 1984, 23 recruiting agencies had organized themselves under the *Bangladesh Association of International Recruiting Agencies (BAIRA)*. Today BAIRA membership has increased to over 700 government-approved recruiting agencies.

In December 2002 the government revised and clarified the rules to address ambiguities and to facilitate legal enforcement of the ordinance, stating the roles and functions of concerned stakeholders (government, employment agencies, foreign employers and migrant workers). The revised rules included the *Emigration Rules*, the *Recruiting Agent's Conduct and License Rules*, and the *Wage Earners' Welfare Fund Rules*. Specifically, the post of Labour Attaché was created in Bangladesh missions in all labour-receiving countries to register migrants and to protect their rights. In addition, the *Recruiting Agent's Conduct and License Rules* allows for improved monitoring and control of the activities of agents and sub-agents, and provides them with clear

guidelines, including provisions for signed contracts and measures regarding an employer's breach of contract. The rules also require recruiting agents to ensure migrant workers attend pre-departure briefings and undergo medical examinations. The *Wage Earners' Welfare Fund Rules* aim to ensure the long-term welfare of migrant workers and to help them reap the benefits of overseas employment.

A National Migration Policy was approved by the Cabinet in 2006, but the laws and regulations that would adequately safeguard the interests of migrant workers, especially female migrants, have yet to be framed.

Gaps in National Policies on Migration

Bangladesh has a formal policy on migration, but has yet to define and operationalize policies on the rights and welfare of migrant workers. Lack of clarity in language often makes policy enforcement difficult: the national policy emphasizes the quantitative, not the qualitative, aspects of the 1990 *UN Convention on the Protection of the Rights of Migrant Workers and Their Families*. The policy also lacks gender sensitivity, and female migration is not addressed.

Although the remittances of migrant workers are recognized as an important contributor to the economy of Bangladesh, implementation of welfare measures for migrant workers continues to be a challenge. One problem here is the absence of space for civil society to contribute to policy formulation, hindering a holistic perspective. In addition, gaps in policy exacerbate issues around illegal migration. For example, undocumented migrant workers are generally willing to accept positions refused by native workers, often exposing themselves to a range of occupational risks. Given their status, however, health services and facilities are frequently unavailable.

The absence of clarity on the implementation of policies has encouraged a nexus between middlemen and government officials. When immigration procedures are manipulated, less informed migrant workers become more vulnerable to exploitation. No initiatives are currently underway to address these issues. Implementation of development policies and programs rarely trickle down to the grass-roots level where migrants can be reached. To be effective, the process for putting national policies into practice must be clear, focused, and funded, with well-documented guidelines for enforcement.

National Legislation and Policies on Human Trafficking

In order to address trafficking, exploitation, and violence against women and children, Bangladesh has made significant changes in their legal provisions. The *Suppression of Immoral Traffic Act (1933)* was enacted for the suppression of brothels and of trafficking in women and girls. Currently, all offences relating to trafficking in women and children are tried under the *Women and Children Repression Prevention Act (2000)*, as amended up to 2003. The 2000 act contains specific penalties for trafficking in women and children with a provision for the death sentence or life imprisonment; and in the 2003 amendment a child has been defined as a person under the age of 16.³⁵ In addition, the *Children Act (1974)* deals with the safe custody, protection, and treatment of children.

A national policy was formulated and launched in 2005 with the aim of creating mass awareness for combating trafficking in women and children. Government and non-government organizations (NGOs) are implementing programs under the aegis of this national policy and are expected to send monthly reports to the Ministry of Home Affairs.³⁶

Key Stakeholders

Those dealing with migrant workers and HIV in Bangladesh include both licensed government agencies and networks, and non-government and civil society organizations (CSOs). The following is a summary of the roles and responsibilities of these agencies and organizations.

Government Agencies and Networks

Ministry of Expatriates Welfare and Overseas Employment (MEWOE)

Established in December 2001, this ministry is responsible for promoting, monitoring, and regulating migration. The Bangladesh foreign missions play an extremely important role in migration by exploring potential labour markets, providing consular services for Bangladeshi workers, and ensuring the protection

35 MHA, "Bangladesh Country Report."

36 Ibid.

and welfare of migrant workers. Setting up 26 expatriate welfare centres in Deputy Commissioner Offices across the country is a positive step forward.

Bureau of Manpower, Employment and Training (BMET)

BMET, the implementing body of MEWOE, is responsible for the control and regulation of recruiting agents, collection and analysis of labour market information, and registration of job-seekers for foreign employment. It also develops and implements training programs, organizes pre-departure briefing sessions, and acts on behalf of migrant workers.

Bangladesh Overseas Employment Services Limited (BOESL)

BOESL was established in 1984 as a limited company to facilitate the recruitment of Bangladeshi workers abroad. The key mandate of BOESL is to ensure better employment of workers within the shortest time and with minimum migration cost.

District Employment and Manpower Offices (DEMO)

The district offices support overseas job seekers, with activities supervised by the head office in Dhaka.

Technical Training Centres (TTC)

Technical Training Centres conduct technical training of migrant workers to improve their skills and prepare them more effectively for jobs overseas. Expanding the TTC curriculum to include health considerations and HIV prevention as part of pre-departure programming would better prepare prospective migrants. Improved cooperation and integration of programming between TTC with DEMO would increase the number of skilled workers prepared to work abroad.

Bangladesh Association of International Recruiting Agencies (BAIRA)

Licensed recruiting agencies formed their own association in December 1984 to promote their common interests. The association interacts with the government, foreign missions, and employers to explore job opportunities abroad and facilitate the migration of Bangladeshi workers.

Medical Diagnosis Centres (Associates of Recruiting Agencies)

Government-registered medical centres issue medical

clearance certificates for prospective migrant workers, and some of them are recognized by the receiving countries in the Gulf region. These centres seem to be working in close association with recruiting agents.

National Anti-Trafficking Committee

An Inter-Ministerial/Inter-Organizational committee led by the Secretary of the Ministry of Home Affairs has been formed. This committee is reported to hold meetings once a month and to monitor the progress of the activities undertaken by the various ministries and departments to combat trafficking in Bangladesh.

GO-NGO National Co-ordination Committee for Trafficking in Women and Children

This committee consists of representatives from the Ministry of Home Affairs, Ministry of Foreign Affairs, the Ministry of Women and Children Affairs, the Attorney General's Office, and various NGOs involved in monitoring and implementing programmes to combat trafficking. The Secretary of the Ministry of Home Affairs leads the committee, which is expected to meet at least once every month.

Police Monitoring Cell

A Police Monitoring Cell was established at Police Headquarters in 2004, which maintains the database of cases related to trafficking. Its functions include: collection of information and intelligence regarding human trafficking, particularly trafficking in women and children; monitoring the movement of criminals involved in human trafficking; arrest of criminals; rescue/recovery of trafficked persons; assisting in prosecuting relevant cases; rehabilitation of trafficked persons and subsequent follow-up; and monitoring the progress of such cases. A monitoring unit has been formed in each of the 64 district headquarters, each of which sends updated statistics to central headquarters.

Non-government Organisations

Bangladesh Madrasa Teacher's Training Institute (BMTTI) involves inter-faith leaders in reducing the vulnerability of women and children to trafficking and violence. BMTTI is a programme aimed at raising awareness of the role that religious leaders can play in curbing trafficking and violence against women and children.

Shikkha Shastha Unnayan Karzakram (SHISUK) promotes leadership from within to create a sustainable response for safe migration by facilitating migrant workers' access to correct information, services, and institutions for collective self-reliance and sustainable support to vulnerable groups.

Rupantar People's Awareness for Counter Trafficking Interventions uses folk songs, folk drama, as well as Alternative Living Theatre (a third-generation theatre group) for awareness building on trafficking.

Daywalka Foundation (Community Mobilization for Combating Human Trafficking) works to build awareness using cultural programmes, and it supports goodwill ambassadors and law enforcement agencies.

DHARA, Jessore focuses its community mobilization efforts on supporting NGOs such as Counter Trafficking Women's Forum, cultural programmes, and emergency hot-lines to combat trafficking.

Ovibashi Karmi Unnayan Program (OKUP) works to promote the health rights of Bangladeshi labour migrants through providing HIV education to the prospective and departing migrant workers through trained peer educators in 10 districts and three destination countries i.e. Lebanon, Dubai and Bahrain.

BRAC, Bangladesh facilitates safe migration through its Safe Migration Facilitation Centre project using the PIM (Participation, Interaction, and Mobilization) process to spread migration rights awareness.

SHISUK Jamuna Nari Unnayan Shangstha empowers spouses of migrants to participate in decision making and to respond holistically to successful migration through its Spouse Program.

The Bangladesh National Woman Lawyers' Association (BNWLA) aims to unlock opportunities for community-based work by developing sustainable reintegration mechanisms. BNWLA's unique model addresses alternate care mechanisms and ensures a quality standard of care for survivors of trafficking, restoring their dignity and addressing issues of stigma and discrimination in society.

Dhaka Ahsania Mission (DAM) sponsors programming for the prevention of cross-border trafficking in women and children between Bangladesh and West Bengal through the C-BAT project, which combats human trafficking within South Asia by reinforcing the roles of community, local government, and families in

prevention and recovery.

Sirajgonj Community Enterprise, Ltd., aims to promote productive utilization of remittances to regenerate the local economy by facilitating the investment of remittances in community enterprises that provide livelihood options, capacity building, and economic empowerment of spouses of male migrants.

Association for Community Development (ACD) supports the Promotion of Safe Migration and Anti-trafficking Intervention in the Northern Region of Bangladesh, by advocating to ensure effective community management in addressing safe migration.

Integrated Community & Industrial Development Initiative (INCIDIN) is a research and advocacy organization focusing on child labour and trafficking of children, and believes sustainable development is achieved through the empowerment and emancipation of people economically and politically.

Action against Trafficking and Sexual Exploitation of Children (ATSEC) Bangladesh Chapter is a coalition of NGOs working to prevent the sexual exploitation and trafficking in children and women between Bangladesh and West Bengal, India, by creating a knowledge base from which policy change can be developed and implemented. Members of the coalition include Save the Children Denmark - Red Barnet Partners Coordination Body (RBPCB) and various experts on the issues.

Networking for Advocacy on Migrants' Rights (BDMF) provides a platform where organizations, academicians, and individuals working on migration issues can come together with migrant workers to share information and for policy advocacy.

Asian People's Alliance for Combating HIV&AIDS (APACHA) Regional Initiatives for Peoples' Movement works on pan-Asian initiatives and promotes coordinated regional networks to protect the rights of migrant workers and those living with HIV/AIDS.

Research Institutes

- Power and Participation Research Centre
- Refugee and Migratory Movements Research Unit
- Bangladesh Enterprise Institute
- Bangladesh Institute of Development Studies

Self-help Groups

- Bangladesh Ovibashi Mohila Sromik Association
- WARBE Development Foundation
- IMA Foundation
- Sirajgonj Migrant Forum

Recommendations

The following recommendations are made within the context of the foregoing analysis of Bangladesh's migration patterns and policies and HIV situation. In order to reduce the HIV vulnerability of current and future migrant and mobile populations it will be necessary to take action in a range of key areas, as detailed below.

1. Ratify the 1990 *UN Convention on the Protection of Rights of Migrant Workers and their Families* and the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons.
2. Strengthen understanding and competencies of linkages between and among mobility, human trafficking, and HIV through evidence-based research and analysis of statistical data, informing policies and programs accordingly in order to mainstream HIV issues into migration and human trafficking sectors.
3. Ensure effective operationalization of the National Policy on Migration 2006, including the cessation of mandatory testing as required by some overseas employers or at a minimum ensure that HIV tests include counselling and are confidential.
4. Develop mechanisms for registration of all migrant workers, including those from rural areas and cross-border points, in order to check undocumented migration and combat human trafficking.
5. Develop an effective financial mechanism to ensure that remittances are channelled through smooth, easy, and quick formal arrangements that benefit returnee migrant workers, their families, and the Bangladesh economy.
6. Develop bilateral agreements with host countries for the protection of migrant workers, including protection of domestic workers, removal of mandatory HIV testing and deportation, and adequate access to health services.
7. Make provisions for pre-departure and post-arrival orientation and training programmes for migrants, their families, and other key stakeholders that integrate information on migration issues, unsafe mobility, human trafficking, and HIV.
8. Develop effective reintegration programmes for returnee migrants that can no longer migrate overseas due to their positive status.
9. Monitor and regulate recruiting agencies in meeting the needs of the migrant workers they contract.

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Photo by Doungjun Roongruang

BHUTAN



Acronyms & Abbreviations

ART	Anti-Retroviral Therapy
BHU	Basic Health Unit
CSW	Commercial Sex Worker/s
DoPH	Department of Public Health
GNI	Gross National Income
JDWNRH	Jigme Dorji Wangchuck National Referral Hospital
MoH	Ministry of Health
MoHCA	Ministry of Home and Cultural Affairs
MoLHR	Ministry of Labour and Human Resources
NACP	National HIV/AIDS and STI Prevention and Control Programme
NCWC	National Commission for Women and Children
NGO	Non-governmental Organization
NHAC	National HIV/AIDS Commission
NPAG	National Plan of Action for Gender
NSP	National Strategic Plan for the Prevention and Control of STIs and HIV and AIDS
ORC	Outreach Clinic
PLHIV	People Living with HIV
RENEW	Respect, Educate, Nurture and Empower Women
STI/STD	Sexually Transmitted Infection/Disease
VCT	Voluntary Counselling and Testing

Introduction

The Kingdom of Bhutan is a landlocked nation in South Asia, with an estimated population of 634,982 living in scattered rural settlements along a characteristically rugged terrain.¹ Bhutan is located at the eastern end of the Himalaya Mountains. To the south, east, and west the country borders the Indian states of Assam and West Bengal, and to the north it borders China. In the west, Bhutan is separated from nearby Nepal by the Indian state of Sikkim, and in the south, it is separated from Bangladesh by West Bengal. The country's borders are porous, with thriving commerce and trade.²

Bhutan's per capita gross national income (GNI) is one of the highest in South Asia, and has consistently risen from US\$730 in 2000 to US\$1,900 in 2008.³ However, despite rapid economic growth and the significant development efforts of the Royal Government of Bhutan, about 25 percent of the population, mostly from rural areas, continue to live below the poverty line. Accordingly, the country's Tenth Five Year Plan (2008-2013) has adopted poverty reduction as its overarching theme and primary goal.⁴

Migration Patterns

Bhutan is largely a migrant-receiving country, reported in 2007 as hosting approximately 18,000 foreign workers.⁵ Outward migration in Bhutan is minimal,

1 National Statistical Bureau, Royal Government of Bhutan, 2005; available at www.bhutan.gov.bt/government/aboutbhutan.php.

2 *National Strategic Plan for the Prevention and Control of STIs and HIV and AIDS* (NSP), Royal Government of Bhutan, 2008.

3 World Bank, "Bhutan - Country Overview," October 2009.

4 Gross National Happiness Commission, "Tenth Five Year Plan," Volume 1: Main Document, 2008-2013, Royal Government of Bhutan.

5 *Labour Market Information Bulletin*, Issue #2, Department of Employment, Ministry of Labour & Human Resources, 2007

and limited data is available on documented migrants. Bhutanese leaving the country in search of work abroad are usually undocumented, but the number is still very small. The Labour Market Information Division under the Department of Employment has sole responsibility for conducting surveys and research on labour. Once their surveys are completed, Bhutan hopes to have detailed information on the different categories of migrant workers.

The Ministry of Labour and Human Resources (MoLHR) reported a national labour force of 249,030 individuals (158,073 male and 90,957 female) in 2005, of which 108,617 worked in the agricultural sector, with the next largest number working in the construction sector.⁶ Many who are classified as “employed” do not necessarily have a year-round job, but work seasonally, with little or no remuneration.

The National Labour Force Survey 2006 shows labour force participation in urban areas at 57.2 percent, and is highest (73.3 percent) among the 45-49 age group. Labour force participation in rural areas is 63.5 percent, with the highest rate (82.8 percent) in the 35-39 age group. There is active internal mobility, with the government reporting that, as of 2005, more than a sixth of the population had moved from rural villages to urban centres since birth.⁷ Approximately 20,000 people working as drivers and in private and public transport services have significantly added to this rural-to-urban group.

With a booming construction industry adding nearly 30,000 skilled and unskilled workers every year, Bhutan is heavily dependent on a workforce imported largely from neighbouring India and Nepal.⁸ Approximately 3,000 local workers or expatriates are recruited to work as temporary daily labourers in the construction and production sectors.

Migrant workers are engaged in various jobs within the services sector, and include professionals such as doctors, teachers/lecturers, as well as skilled workers and unskilled workers. However, many occupations have been closed to foreign workers since June 1, 2004.

Table 1: List of occupations closed to foreign workers

Accountant	Typist/Clerk
Computer Operator	Driver
Tour/Travel Guide	Childcare Worker/ Housekeeper
Messenger	Tailor
Gardener	Office Assistant
Receptionist/Dispatcher	Telephone Operator
Administrative & Personnel Messenger	Shop Salesperson
Waiter/Waitress	Security Guard/Watchman/ Caretaker
Fitter/Plumber (except industrial fitter)	Hairdresser

Source: Ministry of Labour and Human Resources, Royal Government of Bhutan.

Gender and Migration

In Bhutan, overall the participation rate of men in the labour force is higher (74.4 percent) than that of women (60.6 percent). Although the participation of women in the labour force has increased over the past five years, household responsibilities, care of children, and work on the farm, together with their relative lack of education, have hampered women from accessing employment opportunities outside the home.⁹

Table 2: Gender Profile of Mobile Populations 2007

Labour and Unemployment Rates	Male	Female
Labour Force Participation Rate - Overall	74.4%	60.6%
Labour Force Mobility – Rural to Urban	60.0%	40.0%
Labour Force Participation Rate - Urban Areas	76.8%	41.5%
Urban Unemployment Rate	3.6%	7.4%

Source: Bhutan Living Standard Survey 2007

Analysis of mobility data reveals that 60 percent of internally mobile populations are men. Women moving to urban areas often find employment as domestic helpers for the urban elite, particularly in childcare. Young girls engaged in this type of work often drop

6 Ministry of Labour and Human Resources, 2007.

7 National Population and Housing Census, 2005.

8 NSP, 2008.

9 “Bhutan Living Standard Survey 2007,” National Statistics Bureau.

out of school, further limiting their future employment opportunities.¹⁰ Urbanization has led to increased financial pressures and unemployment, which has affected women more than men. According to census reports the urban unemployment rate is much higher for women (7.6 percent) than for men (3.6 percent).¹¹

The linkages between migration and unemployment, poverty, and financial burdens are well established, and often lead to the increased labour migration of women – most often undocumented and unsafe. Reports on the status of women and children in Bhutan, particularly in rural areas, indicate that some women are abandoned by husbands who set off to find work elsewhere and never return.¹²

Lack of data makes it difficult to analyse the gender profile of migrants from Bhutan. An in-depth study focusing on the various factors and linkages associated with migration, including an assessment of the impact of male migration on the women and families left behind, would be useful in understanding the role of gender in migration patterns and trends.

Human Trafficking

Although official data regarding trafficking in women and young girls within or outside Bhutan is not available, there have been anecdotal reports of Bhutanese women and children in the sex market outside Bhutan, and fairly frequent reports of missing persons.¹³ Due to socio-economic progress and rapid modernization, the economic disparities between groups, regions, and sexes is widening, leading to increasing financial pressure on women and girls. As a result, many young girls from rural areas move to affluent urban areas in search of better opportunities and, once there, suffer from various forms of exploitation and human rights violations, including domestic violence, sexual exploitation, and forced sex work.¹⁴

Evidence of increasing commercial sex work in towns such as Phuentsholing and Thimpu has been reported.

10 National Commission for Women and Children, Royal Government of Bhutan, May 2007; National Plan of Action for Gender, 2008-2013, Gross National Happiness Commission, National Commission of Women and Children, Royal Government of Bhutan.

11 National Plan of Action for Gender, 2008-2013.

12 UNICEF, "Situation Analysis of Children and Women in Bhutan," 2008.

13 National Plan of Action for Gender.

14 Ibid.

The Health Ministry conducted a situational assessment in Phuentsholing in 2005, which revealed that about 50 sex workers were operating on both sides of the border, the majority from bordering Indian states and Nepal. The study indicated that most sex workers were teenagers, some as young as 14 years.¹⁵ While exact data is not available, various sources in Bhutan, including the MoLHR, National Commission for Women and Children (NCWC) and non-governmental organizations (NGOs) suggest that a number of girls from bordering states who work illegally as domestic workers in Bhutan may face exploitation and violence in the workplace.

The Bhutan Penal Code of 2004 recognizes human trafficking as a fourth-degree felony and child trafficking as a third-degree felony.¹⁶ The Constitution includes provisions to eliminate all forms of discrimination and exploitation toward women, including trafficking, prostitution, abuse, violence, harassment, and intimidation at work, in private, and in public spheres.¹⁷ Similar protection is provided for children.

The NCWC organized its first *National Consultation on Human Trafficking and HIV/AIDS and Promoting Cross-Border Cooperation* in October 2009. The consultation, which was held in collaboration with other national partners, including the Ministry of Home and Cultural Affairs (MoHCA), Ministry of Labor and Human Resources (MoLHR), the Royal Court of Justice, and the Royal Bhutan Police, emphasized the need for a multisectoral approach to address the issue of trafficking in women and children and its nexus with HIV.

The understanding on human trafficking in Bhutan points toward existing vulnerability factors, such as unemployment, poverty, and gender-based violence, and recognizes the linkages between human trafficking, unsafe mobility, and undocumented migration. However, research and in-depth studies are required

15 "Low condom use, high incidence of AIDS," Kuensel Newspaper, May 7, 2008; available at www.kuenselonline.com/modules.php?name=News&file=article&sid=10348.

16 A fourth-degree felony is punishable by a minimum prison term of three years and a maximum of less than five years, and a third-degree felony by a minimum prison term of five years and a maximum term of less than nine years.

17 The Constitution of the Kingdom of Bhutan states in Article 9 (17) that the State "shall endeavour to take appropriate measures to eliminate all forms of discrimination and exploitation against women, including trafficking, prostitution, abuse, violence, harassment and intimidation at work, both in public and private sphere." Similar provisions are made with regard to protection of children against all forms of discrimination and exploitation in Article 9(18).

to establish these linkages clearly, based on scientific evidence. Bhutan's entry into Interpol has also opened up a platform to improve cooperation in the area of trans-border human trafficking with neighbouring countries.¹⁸

Source, Transit, and Destination

Bhutan has constructed several major hydropower plants and expanded road networks, boosting migration flows into the country. The country also receives foreign workers under different categories for various donor-funded projects. The majority of migrant workers in Bhutan are from India and Nepal, although no official records are kept on incoming migrants who work on development projects.

There is evidence of an increasing number of Bhutanese leaving the country to work abroad. Countries of destination include the United States, Australia, India, and the Gulf States. Types of work range from the unskilled to the professional, and include domestic help, baby sitters, construction, security guards, call centres, airline pilots and flight attendants, engineers, and doctors.

Remittances

There are no official records on the amount of remittances received by Bhutan from migrant workers as most funds are sent through informal channels. Formal financial channels include money transfer service companies, such as Western Union, which is operated by Bhutan Post, or direct transfer through either of the two banks in the country, the Bank of Bhutan or the Bhutan National Bank.

Examination of the Current Account Transfers documentation of the Royal Monetary Authority of Bhutan reveals that inward remittances from non-resident Bhutanese working in countries other than India, and channelled through the banking system, increased from US\$1.20 Million in 2005-2006 to US\$1.54 million in 2006-2007.¹⁹ Outward remittances to select countries by migrants working in Bhutan can

also be determined. For example, remittances from Indian migrants working in Bhutan are calculated on the basis of average wages of workers less estimated expenditures. The estimate for Balance of Payments with India in 2006-2007 is US\$23.09 million.²⁰

Significant components of the current transfers account are official grant aid from countries other than India, as well as migrant worker outward remittances. The net surplus in the current transfers account fell in 2006-2007 from US\$102.44 million to US\$29.05 million,²¹ mainly due to the fall in official grant aid. Such aid-related transfers were provisioned at US\$29.05 million in 2006-2007, a little over a third of the official aid inflows.

HIV/AIDS Situation

The first HIV case in the country was reported in 1993. According to the National HIV/AIDS and STI Prevention and Control Programme (NACP), Bhutan recorded a cumulative total of 144 HIV-infected cases as of February 2008.²² From February to November 2008, a total of 16 new cases were reported: 9 females, including 1 minor, and 7 males, for a total of 160 HIV cases diagnosed (80 females and 80 males).²³ The infected population cuts across all sectors of society, including government, corporate and business personnel, farmers, uniformed personnel, members of religious bodies, housewives, and sex workers. Young people (15-29) are one of the most highly vulnerable groups, and currently account for 46.25 percent of the infections. To date, 31 deaths (20 males and 11 females) have been reported.²⁴ The *National Strategic Plan for the Prevention and Control of STIs and HIV and AIDS (NSP), 2008* reports that cases of HIV are spread across 15 of Bhutan's 20 districts, and the number is steadily increasing.

The most common route of transmission is unprotected heterosexual sex (90 percent), which includes unsafe sexual practices such as multiple partners, casual sex, and low condom use, followed by mother-to-child

18 Bhutan became the 183rd member of Interpol (International Police) on September 19, 2005.

19 For countries other than India, remittances are currently estimated against the official foreign aid (concessional loans and grants) received by Bhutan to fund various projects and development activities.

20 Bhutan Ngultrum (BTN) is the official currency of Bhutan. US\$ exchange rate: 45.75BTN.

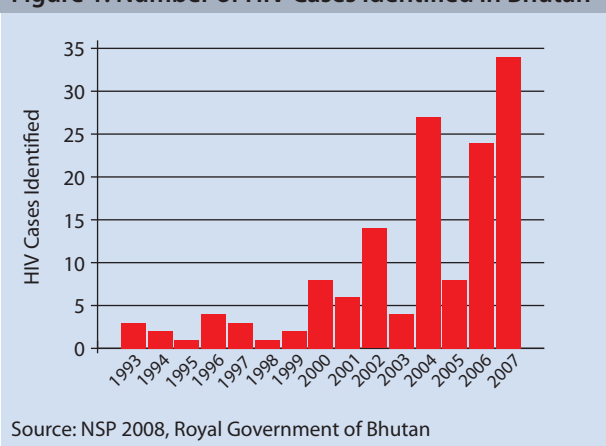
21 "Royal Monetary Authority of Bhutan Annual Report, 2006-2007."

22 *National Strategic Plan for the Prevention and Control of STIs and HIV and AIDS (NSP)*, Royal Government of Bhutan, 2008.

23 Ministry of Health, *Annual Health Bulletin* 2009.

24 NACP, DoPH, MOH, Bhutan, 2008; available at www.health.gov.bt/hivStatistics.php

Figure 1: Number of HIV Cases Identified in Bhutan



transmission (9 percent). Due to social and cultural taboos, not much is known about men who have sex with men (MSM) sexual transmission, which makes it difficult to assess HIV transmission as a result of homosexual/bi-sexual encounters. The first mother-to-child transmission was reported in 2001, while the first case of HIV infection through intravenous drug use was detected in January 2006.²⁵

Table 3: Modes of Transmission

Mode	Reported Cases
Sexual Route	143
Mother-to-Child	14
Intravenous Drug Use (Probable)	2
Blood Transfusion	1
Total	160

Source: National HIV/AIDS and STI Prevention and Control Programme (NACP), Department of Public Health/Ministry of Health (DoPH/MoH), Bhutan, November 2008.

According to the Third Biennial HIV Sentinel Surveillance Survey of 2006, the prevalence rate in the surveyed population was 0.05 percent (or 6 HIV-positive cases among 11,775 adults). Prevalence among women attending antenatal clinics was estimated at 0.02 percent. Over the last few years, the number of infected women has progressively increased. Women now represent 50 percent of all cases detected to date. The majority of infected women are below the age of 25, with most infected men between the ages of 25 and 39.

²⁵ NSP.

Table 4: Distribution of HIV cases by age and gender

Age groups	Number of Males	Number of Females	Total
< 5 years	2	10	12
5-14 years	1	1	2
15-19 years	0	6	6
20-24 years	5	22	27
25-29 years	26	15	41
30-39 years	35	18	53
40-49 years	11	8	19
50+	0	0	0
Total	80	80	160

Source: NACP, DoPH/MoH, Bhutan, November 2008.

The distribution of HIV cases by age group shows that almost 91 percent of infections occur within the age range of 15-49 years, and about 30 percent of cases occur among young people below the age of 25. Increasing awareness of HIV among young people has not reduced the incidence of infection, perhaps due to an increase in sexual activity among youth. A survey conducted among school leavers in 2005 by Ministry of Health (MoH) officials showed that the mean age of first sexual encounter was 16 years for men and 18 years for women. Some men and women reported having had their first sexual encounter as early as 10 years, and of having between one and eight sex partners over the previous three months. Condom use during the last sexual encounter was 60 percent.²⁶

The government reported in 2008 that 10 sex workers are among the persons infected with HIV in the country and are now receiving anti-retroviral (ARV) treatment. As sex work is illegal, determining the number of sex workers in Bhutan and those infected with HIV is difficult. In 2005 the MoH conducted an assessment in Phuentsholing, a border town with India, noting 50 sex workers when referring to human trafficking. The assessment also revealed that in spite of an increasing supply of condoms, condom use in commercial sex transactions is low or non-existent. This is attributed to the limited capacity of sex workers to effectively negotiate condom use with clients - businessmen, civil servants, military personnel, and tourists.²⁷

²⁶ Kuensel Newspaper, "Low condom use, high incidence of AIDS," May 7, 2008.

²⁷ Ibid.

While HIV prevalence in Bhutan is still very low, a number of high-risk factors point to significant vulnerability to HIV infection, including high rates of casual sex, low condom use, limited awareness of the risks, rising drug use, porous borders, increasing migration, and international travel. However, by taking appropriate action, Bhutan has the opportunity to avert a full-scale epidemic.

National Response to HIV/AIDS

The Royal Decree on HIV and AIDS issued in May 2004 serves as the guiding principle in the fight against the virus in Bhutan. The Royal Decree calls for all members of the society to help prevent HIV and AIDS and to provide care and compassion to those infected. The Royal Government has always maintained a policy of providing *Health for All*.

In line with the Alma Ata Declaration, Bhutan is committed to establishing a relevant and cost-effective health-care delivery system based on the primary healthcare approach. This has been informally taken to apply to all residents of Bhutan, including non-nationals. Basic primary health care is provided free to everyone who accesses the health-care system.

The National HIV/AIDS Commission (NHAC), a multisectoral body functioning at the highest level and chaired by the Minister of Health, is the official coordinating body responsible for the nation's response to HIV. The objective of NHAC is to ensure a well coordinated, effective, and efficient response from the Ministry of Health through its National HIV/AIDS and STI Prevention and Control Programme, in collaboration with other ministries, organizations, and stakeholders.

The NHAC prevention programmes focus on the segments of society most vulnerable to HIV, including youth, while ensuring that key prevention messages and interventions reach the broader population and take into consideration the social, cultural, and economic factors affecting individuals, families, societies, and the nation as a whole. These initiatives bring together the cumulative effort of various stakeholders beyond the Ministry of Health. NHAC recognizes the need to increase prevention activities. However, lack of baseline information in relation to location, actual numbers at risk, and their behavioural practices have resulted in limited effective interventions among the most vulnerable populations.

While the NSP 2008 provides the overarching framework for HIV programming, there are a range of other HIV, AIDS, and STI policies and guidelines that guide implementation of programmes and services in Bhutan. These include:

- Technical Strategy for Prevention and Control of STIs;
- Manual for the Dzongkhag Multisector Task Force for HIV/AIDS and STI Prevention and Control;
- Behaviour Change Communication Strategy;
- National HIV/AIDS and STI Prevention and Control Project: Operational Manual; and,
- Condom Social Marketing Plan.

The Tenth Five Year Plan, 2008-2013, is based on achieving the Millennium Development Goals and the long-term goals articulated in the Vision 2020 document – an ambitious poverty-alleviation plan – that includes *Gross National Happiness*. HIV and AIDS have been identified as one of the important cross-cutting development themes. The *National Strategic Plan for the Prevention and Control of STIs and HIV and AIDS, 2008* was developed in collaboration with government and non-government agencies and development partners, and was overseen by the NHAC. The National HIV/AIDS and STI Prevention and Control Programme led the implementation process. NHAC, NACP, Dzongkhag (district level) multisectoral taskforces, and Gewog (subdistrict level) multisectoral taskforces were established as coordinating bodies. The NSP builds on past achievements, learns from experience, identifies gaps, and focuses on scaling-up existing cost-effective prevention interventions to ensure appropriate reach.

The current focus of the NSP is on strengthening institutions and building the capacity of service providers; improving the quality of care, support, and treatment of sexually transmitted infections (STIs), HIV, and AIDS; providing voluntary counselling and testing (VCT); improving strategic information through research and surveillance; and effectively monitoring and evaluating progress. In addition to the focus on HIV prevention, the NSP identifies the importance of providing for the health care needs of people living with HIV and AIDS; and the government is committed to providing antiretroviral treatment. Involvement of individuals, families, and communities in the care and support of people with HIV is considered crucial.

The NSP places HIV and STI on the agenda of multiple sectors by clearly defining the roles and responsibilities of all partners, including non-government and community-based organizations, in an effort to reach people within all sectors of society, particularly those groups considered most at risk.

Approximately 2,000 STI cases are reported annually in Bhutan, the most prevalent being syphilis and gonorrhoea. Given the weaknesses in national reporting systems, it can realistically be assumed that STI cases are grossly under-reported. Given the stigma attached to STI infection, people resort to self-treatment or cross the border to Indian Military Training Team hospitals and bordering towns in India to seek treatment.

The country's Basic Health Units (BHUs) and Outreach Clinics (ORCs) provide HIV information and education, syndromic treatment of STIs, counselling, and referral for HIV testing. In 2008, with support from the Global Fund, voluntary counselling and testing competencies in strategically selected BHUs were initiated. At the district hospital level, screening for syphilis, HIV testing and antiretroviral treatment (ART), monitoring, counselling, and follow-up activities are conducted. While the Jigme Dorji Wangchuck National Referral Hospital (JDWRH) and the regional hospitals are responsible for the initiation of ART, follow-up actions are carried out at the district level. Treatment for STIs is available free of charge from every health care setting, from district hospitals to BHUs.

Bhutan has 171 national medical doctors (doctor: population ratio of 2.6:10,000), 567 nursing staff, and about 1,250 other health workers. Today, 90 percent of the population has access to basic health-care services, delivered through a network of 30 hospitals, 178 BHUs, and 519 ORCs. Health-care costs have increased and disease dynamics have changed with the advent of HIV and increases in non-communicable diseases.²⁸

Bhutan plans to establish a relevant and cost-effective health-care delivery system to deliver health-care services to all people who reside in the country. The Public Health Division has launched a three-year program to encourage the use of condoms and voluntary testing.²⁹

HIV testing is voluntary and free in Bhutan. Facilities for

pre- and post-test counselling were created in 2001. Strict confidentiality is maintained during the testing process. The rapid test for HIV detection is conducted in all district hospitals, and all positive cases are referred to designated hospitals. With decentralization of STI, HIV, and AIDS services to the districts, training and posting of more counsellors are needed in all 20 district hospitals. Due to an increased number of infections diagnosed among housewives, in 2005 the NHAC mandated spouse/partner testing and reporting of results. The health-care system provides treatment, care, and support for people living with HIV (PLHIV). In an effort to combat stigma and discrimination, the identity of infected persons is kept in strict confidence.

ART based on results of the CD4 count has been available for all infected pregnant mothers since 2001 and for all PLHIV since 2004. It is unclear whether migrant workers will be covered under this policy, as no migrant workers are currently on ART. The NSP reports that facilities for CD4 count analysis are available at the JDWRH in Thimphu and the Mongar Regional Referral Hospital in the East. The total number of individuals on ART by November 2008 was 28, with 5 deaths reported after ART commenced. Treatment of Opportunistic Infections and counselling services are continuously provided.

A Health Information and Service Centre, located in Phuentsholing, provides free voluntary counselling services and rapid HIV tests for all. Clients include sex workers, students, businessmen, and migrant workers. A similar centre is located in Thimphu. These centres are managed by the National Referral Hospital.

Implementation of primary health care with regard to HIV depends on high levels of awareness and behavioural change support systems. Intersectoral collaboration is essential to meeting the demands of emerging health problems such as HIV/AIDS. This collaboration has resulted in the formation of a multisector task force in each district, though their success has yet to be evaluated.³⁰

Migration and HIV/AIDS

According to the World Bank, some of the probable factors that contribute to the prevalence and spread of

28 Ministry of Health, *Annual Health Bulletin*, 2009.

29 "HIV/AIDS Epidemic Scare in Bhutan," 2006; available at IndiaNews.com.

30 Ministry of Health, *Annual Health Bulletin*, 2009.

HIV in Bhutan are the presence of sexually transmitted infections; rising trends in commercial sex; increasing use of amphetamines; and increased mobility. There is also evidence of unprotected sexual practices with multiple partners among mobile populations. A 2003 study of mobile groups, such as long-distance drivers and traders, migrant workers, and the armed forces, found migrant workers had up to 12 sexual partners, soldiers up to 20, and truck drivers up to 280.³¹ Porous borders are cited as a contributing factor, with Bhutanese citizens mingling with foreigners in Nepal and the north-eastern Indian states of Manipur, Nagaland, and Mizoram, all of which are areas with concentrated HIV epidemics.³² Of the 160 reported HIV cases, 3 are non-national migrant labourers, 21 are businessmen, 10 are sex workers, and 42 are housewives, presumably infected by their husbands.

The NSP prioritizes programs on at-risk populations, those who are already infected, and those most vulnerable to infection. Mobile and migrant populations are among the most vulnerable. Given the absence of information on migrant workers from Bhutan, little has been done to inform programming for this high vulnerable group.

Migrants to Bhutan are subject to the restrictions of the *Immigration Act*. In Section 8, *Inadmissibility and Refusal of Entry*, a foreigner can be refused entry to Bhutan on medical grounds. Health based refusal of entry is justified in the interest of public welfare and national security. Article 63 of the Act states:

A foreigner shall be inadmissible into the Kingdom on health grounds if his health condition as stated by the Sub-articles (a) is likely to be a danger to public health or safety; or (b) might reasonably be expected to cause excessive demand on health or social services.

Migrant workers are required to undergo a medical check-up at the point of entry into Bhutan. They are checked for tuberculosis (TB) and other infectious diseases, but HIV tests are not required.

Access to Health Services and HIV Prevention

Access to basic health care services in general are provided free of cost to all. Migrant workers in Bhutan

have access to free voluntary counselling and testing. Non-nationals are not entitled to free ART, although they are able to access it at cost.³³

The National Plan of Action for Gender criminalizes prostitution, which hampers commercial sex workers (CSW) in accessing health services, especially HIV prevention. CSWs avoid police on both sides of the border (Phuentsholing, Bhutan-Jaigaon, West Bengal, India) and are reluctant to visit hospitals to seek treatment, collect condoms, or use testing services.

Mandatory Testing

Although migrant workers are required to undergo a medical check-up and are tested for TB and malaria, mandatory testing for HIV is not practiced in Bhutan except in terms of blood-donor screening. However, students applying to study abroad or individuals going to other countries for short-term training are sometimes required to undergo testing by their respective academic institutions.

Policies, Legislation, and International Conventions

International Conventions

Bhutan has ratified several international human rights conventions, including the *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)* and *Convention on the Rights of the Child*. In addition, articles of CEDAW have been incorporated to a large extent into national laws. Bhutan is a signatory to the *International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)*, but it has yet to ratify it.

Bhutan has not yet ratified the 1990 *UN Convention on the Protection of Rights of Migrant Workers and their Families* and the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons. Bhutan is not currently a member of the International Labour Organization (ILO), but the Ministry of Labour and Human Resources is exploring the possibility of membership. The *Labour and Employment Act of Bhutan 2007* allows local workers to form their own associations, facilitating protection of labour rights.

31 UNICEF, "Situation Analysis of Children and Women in Bhutan," 2006.

32 World Bank, HIV/AIDS in Bhutan, 2006

33 Sub Article (f) of the Immigration Act.

Regional and Bilateral Agreements

Bhutan ratified the South Asian Association for Regional Cooperation convention on the *Prevention and Combating of Trafficking of Women and Children for Prostitution* in January 2002, and the instrument of ratification was deposited in September 2003. However, Bhutan has not yet engaged in bilateral agreements on labour migration.

National Policies and Legislation

As a host country, Bhutan has strict policies on immigration. In 2007 the National Assembly of Bhutan passed the Immigration Act of the Kingdom of Bhutan. The preamble states that the Act would ensure that the Kingdom remains free from illegal immigrants and that it would retain control over the immigration of foreigners for the security and prosperity of the nation.

The Handbook on the Recruitment and Employment of Foreign Workers, published by the **Ministry of Labour and Human Resources**, compiles all the procedures laid down in the Chathrim Law/Rules Act with respect to wage rate, recruitment agencies, workers compensation, and other directives received from the Royal Government. It states that only skilled persons and technicians not available among Bhutanese will be approved for recruitment and employment by the Labour Recruitment Committee. The normal duration of contracts for highly skilled, professional, and technical experts should not exceed three years, while the maximum period for skilled and technical workers is one year.³⁴

Only those who are physically and mentally fit, confirmed by a medical fitness certificate issued by a professional medical practitioner from a hospital in Bhutan, can be recruited and employed as a foreign worker. A foreign worker is allowed to work only at the specific work site and in the specific occupation stated in the work permit, and a special permit is required for restricted areas. An entry permit cannot be used for

³⁴ The *Immigration Act of the Kingdom of Bhutan, 2007* differentiates between 'highly skilled, professional, and technical experts' and 'skilled and technical workers', with the former being defined as foreigners who have 'extraordinary ability in the field of science, art, education, business, or sports, which has been demonstrated by sustained national or international acclaim and whose achievements have been recognised in the field through extensive documentation'.

employment purposes.³⁵

The section in the Immigration Act referencing Inspection, Suspension, Cancellation, and Revocation gives provisions for spot-checking in public places, as well as regular field inspections in all residential, commercial, private, and official premises, to identify illegal immigrants and unauthorized foreign workers in the Kingdom.³⁶

There is no official workplace policy in Bhutan at present. Even so, all organizations are required to have internal service rules outlining salary range, benefits, and entitlements. The *Labour and Employment Act of Bhutan 2007* also addresses issues specific to certain sectors.

Key Stakeholders

The primary stakeholders in addressing migration and HIV are the Royal Government of Bhutan and the United Nations Development Programme in Bhutan. During the implementation of the National Strategic Plan, ministries, agencies and organizations were identified as valuable contributors to the national response to HIV/AIDS. The NSP includes suggested interventions for such key government ministries as the Ministry of Labour and Human Resources, Royal Civil Service Commission, Ministry of Works and Human Settlements, and Ministry of Information and Communications, and for such autonomous agencies as the Gross National Happiness Commission, National Commission of Women and Children, the National Statistical Bureau, civil society organizations, and the private sector. Each ministry appoints a focal person to coordinate the HIV/AIDS efforts according to the roles and responsibilities outlined in the NSP. There are no NGOs working specifically on issues of mobility and HIV/AIDS in Bhutan.

The United Nations Development Fund for Women (UNIFEM) is supporting the NCWC in exploring the nexus between human trafficking and HIV, co-sponsoring the National Consultation on Human Trafficking and HIV and Promoting Cross Border Cooperation. The issue of human trafficking and violence against women is

³⁵ Ministry of Labour and Human Resources, *Handbook on the Recruitment of Foreign Workers in Bhutan, 2005*.

³⁶ Immigration Act of the Kingdom of Bhutan, 2007, Chapter 10, Article 100.

gaining attention due to the efforts of the NCWC and members of the local NGO community, such as Respect, Educate, Nurture and Empower Women (RENEW), who are exploring the linkages between gender-based violence and HIV.

Recommendations

The following recommendations are made within the context of the foregoing analysis of Bhutan's migration patterns and policies and HIV situation. In order to reduce the HIV vulnerability of current and future migrant and mobile populations, it will be necessary to take action in a range of key areas, as detailed below.

1. Ratify the 1990 *UN Convention on the Protection of Rights of Migrant Workers and their Families* and the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons.
2. Develop a mechanism to register/document the Bhutanese migrants, both inter- and intra-country, and to address the problem of undocumented migrants. Undocumented migrants include Bhutanese seeking employment outside the country and foreigners entering Bhutan without work permits or other documentation, such as domestic workers from the neighbouring states of India.
3. Design and implement systems for the collection, analysis, and broad dissemination of gender-disaggregated data on vulnerable populations and the linkages between unsafe mobility, human trafficking, HIV, and violence against women.
4. Enhance understanding of HIV issues and build capacity of all stakeholders in government ministries and departments, police, judiciary, media, health-care providers, multisector task forces, civil society, NGOs, and the private sector in addressing HIV, mobility, human trafficking, and their linkages.
5. Develop a better surveillance system to identify PLHIV in the country, and take action to reduce the stigma and discrimination associated with STIs, HIV, and AIDS.
6. Develop strategies and programming for reducing the vulnerabilities of populations at risk, with specific attention to women, young people, migrants, uniformed officers, business people, sex workers, and MSM.
7. Develop strategies for ensuring education, skills training, and income generation/employment opportunities for youth and, in particular, for women and girls, to reduce vulnerability and the risks associated with unsafe mobility, human trafficking, and HIV.

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Acronyms & Abbreviations

ANC	Anti-Natal Care
ART	Anti-Retroviral Therapy
BCC	Behaviour Change Communication
BOI	Bureau of Immigration
CATW	Coalition against Trafficking in Women
CHRG	Core High Risk Group
CSW	Commercial Sex Worker
ECNR	Emigration Check Not Required
ECR	Emigration Check Required
FSW	Female Sex Worker
GAMCA	Gulf Cooperation Council Approved Medical Centres Association
GCC	Gulf Cooperation Council
ICTC	Integrated Counselling and Testing Centres
IDU	Injecting Drug User
ILO	International Labour Organization
ITPA	The Immoral Trafficking (Prevention) Act
MEA	Ministry of External Affairs
MHA	Ministry of Home Affairs
MHFW	Ministry of Health and Family Welfare
MOLE	Ministry of Labour and Employment
MOIA	Ministry of Overseas Indian Affairs
MoU	Memorandum/Memoranda of Understanding
MSM	Men who have Sex with Men
MSW	Male Sex Worker
MWCD	Ministry of Women and Child Development
NACO	National AIDS Control Organization
NACP III	National AIDS Control Programme – Phase III
NAPCP	National AIDS Prevention and Control Policy
NFHS III	National Family Health Survey–III
NGO	Non-governmental Organization
NHRC	National Human Rights Commission
OCI	Overseas Citizen of India
OWRC	Overseas Workers Resource Centre
PGE	Protector General of Emigrants
PLHIV	People Living with HIV
POE	Protector of Emigrants
RBI	Reserve Bank of India

SACS	State AIDS Control Societies
STI/STD	Sexually Transmitted Infection/Disease
TG	Trans-Gender
TI	Targeted Intervention
VCT	Voluntary Counselling and Testing

Introduction

India is the seventh-largest country in the world by geographical area and the second-most populous country, with more than one billion people. It is also the world's largest democracy. Bounded by the Indian Ocean on the south, the Arabian Sea on the west, and the Bay of Bengal on the east, India has a coastline of 7,517 kilometres. India also shares borders with Bangladesh, China, Nepal, and Pakistan, Myanmar and Bhutan.

As a growing economy, India's gross domestic product is over US\$1 trillion, with an average annual growth rate of 9 percent. Despite such pressing problems as significant overpopulation and extensive poverty, rapid economic development is fuelling the country's rise on the world stage. India's diverse economy includes traditional village farming, modern agriculture, handicrafts and textiles, and a wide range of modern industries and services, particularly in the technology sector. India is also capitalizing on its large pool of well-educated and english speaking labour to become a major exporter of software services and workers skilled in information technology. Since 1997, the Indian economy has grown by an average of more than 7 percent annually; poverty has been reduced by about 10 percent and absolute poverty by more than 50 percent.¹

¹ World Bank, *The World Factbook*, "India Country Sheet," available at www.cia.gov/library/publications/the-world-factbook/geos/in.html; India Country Overview; available at www.worldbank.org.in.

Migration Patterns

India is the region's major country of both origin and destination for migrant workers, and is one of the largest sending countries in Asia, with an emigration rate of 0.8 percent. Asia is the major continent of destination for migrants from India, with 72 percent of Indian migrants living there.² India also has the second largest diaspora in the world, estimated at 25 million, living in 110 countries.³ In some parts of India, three out of four households include a migrant.

Inadequate employment opportunities, poor living conditions, little or no education, conflict, environmental disasters, structural adjustment policies, violation of fundamental and human rights, family breakdown, and discrimination based on caste, religion, and gender are all motives for workers to leave their home country and seek employment abroad. Student migration from India is also high. According to the UNESCO Institute for Statistics, the number of Indian students abroad tripled from about 51,000 in 1999 to over 153,000 in 2007, ranking India second after China among the world's largest sending countries for tertiary students.⁴

Despite the large-scale of migration in absolute numbers, India's long history of labour mobility has rarely been reliably studied. Statistics on migration are collected by various government organizations:

- Bureau of Immigration
- Protector General of Emigrants (PGE)
- Ministry of External Affairs (MEA), High Level Committee on the Indian Diaspora
- Office of the Registrar General & Census Commissioner
- National Sample Survey Organization (NSSO)

The two main secondary sources of data on population mobility in India are the decennial Population Census, the most recent in 2001, and the National Sample Survey, most recently conducted in 1993.

² UNDP, *Human Development Report, 2009*.

³ The term "Indian Diaspora" refers to all persons of Indian descent living outside India, as long as they preserve some major Indian ethno-cultural characteristics.

⁴ Daniel Naujoks, "Emigration, Immigration, and Diaspora Relations in India," Migration Information Source, October 2009; available at www.migrationinformation.org/Profiles/display.cfm?ID=745.

Despite these varied data sources, there remains a lack of reliable official data on migration. Data available from the PGE is largely based on the number of emigration clearance documents, which are required by low-skilled migrants with limited education. However, there is limited coordination with the recruiting agencies handling the processing of these documents. The NSSO conducts surveys on internal mobility, and the Census information includes all mobile populations, internal and external. The NSSO uses the concept of native place and usual place of residence as criteria for defining a migrant worker, and ignores the movement of labour from India to other countries. The Census defines a migrant as a person whose last residence is different from the place where he or she is enumerated.⁵

Table 1: Reasons for Migration 2001

Reason for Migration	Inter-state Migrants	International Migrants
Work employment	5,360,016	173,282
Business	310,515	10,239
Education	442,206	23,405
Marriage	3,754,844	130,051
Moved after birth	639,570	7,099
Moved with household	4,899,938	238,515
Other	1,419,790	158,276
Total Migrants	16,826,879	740,867

Source: Population Census 2001.

According to the 1993 National Sample Survey, 24.68 percent of the population, approximately 200 million people, were mobile within India or migrated to neighbouring countries or further overseas. The number increased substantially according to the Census in 2001, when about 307 million Indians had moved from their place of birth and about 315 million were enumerated at a place outside their place of birth. Of these, 221 million were female, with the majority assumed to have moved due to marriage.⁶

The vast majority of migrants who go from India to the Middle East, primarily the Gulf States, are semi-skilled and unskilled workers, and most are temporary migrants who return to India after expiry of their

⁵ A return migrant is identified as a person who has returned to his or her place of origin.

⁶ Ministry of Overseas Indian Affairs (MOIA), *Annual Report 2008-2009*.

contractual employment. Both men and women work as domestic workers and nurses, construction workers and technicians. No separate data is collected from the Indian missions on skilled and unskilled workers. However, the missions do provide rough estimates on the percentages of unskilled and semi-skilled workers in the Gulf. In Saudi Arabia, 80 percent of total Indian workers are low-skilled labourers; for the United Arab Emirates (UAE) it is 65 percent; and in Qatar it is 65 to 70 percent. An estimated 800,000 to one million Indian workers in the UAE are working mostly in the construction industry. In Kuwait, 48 percent of Indian migrants work in the unorganized sector; in Saudi Arabia it is 43 percent.

The number of unskilled Indian migrants flowing to the Gulf States doubled between 2004 and 2008, but preliminary evidence suggests that fewer low-skilled workers are currently leaving for work abroad. In the first three months of 2009, about 171,000 low-skilled workers left to work abroad, a significantly slower pace of departures than was seen in the previous year. Data from the Gulf governments is scarce, but the anecdotal evidence indicates that there has not been a large-scale return of migrants to India as a result of the global economic downturn.

The *Emigration Act of 1983* requires low-skilled Indians seeking work abroad to obtain *emigration clearances*. Those who completed the Secondary School Leaving Certificate (SSLC) will get the Emigration Clearance Not Required (ECNR) Passports. They can go anywhere in the world and do not need any clearance from the Indian Government. Persons who do not possess an SSLC have to obtain Emigration Clearance Required (ECR) passports. However, if an ECR passport holder wants to work in a Western country as a construction worker, this worker does not need a clearance from the Indian Government. The Indian government has certified 17 countries as Emigration Clearance Required Countries, meaning that anyone with an ECR passport is free to travel to them.⁷ The number of emigration clearances granted by the eight offices of the Protector of Emigrants increased from 475,000 in 2004 to 849,000 in 2008. Of the 849,000 low-skilled workers who went abroad for work in 2008, 41 percent went to the United Arab Emirates and another 27 percent went to Saudi

Arabia. Altogether, 96 percent of Indian low-skilled overseas workers leaving the country in 2008 went to Gulf Cooperation Council Countries (GCCC): the United Arab Emirates, Saudi Arabia, Qatar, Oman, Kuwait, and Bahrain.

According to the Emigration Act of 1983 (Section 16), recruitment for overseas employment can be done either by a recruiting agent obtaining a Registration Certificate from the registering authority or by an employer directly obtaining a permit from a competent authority. The registration of Recruiting Agents under the Emigration Act came into effect in January 1984, and as of March 31, 2009, there were 1,954 recruiting agents operating throughout India. Recruiting agents are concentrated in Mumbai, Delhi, Chennai and Kerala.

Table 2: Annual Outflow of Low-Skilled Migrants, 2004 to 2009

Year	Number of Low-Skilled Migrant Workers
2004	475,000
2005	549,000
2006	677,000
2007	809,000
2008	849,000
2009 Projected*	683,000

*Estimate based on the 171,000 workers who left India for employment abroad in the first three months of 2009.

Source: Annual Report 2008-2009, Ministry of Overseas Indian Affairs.

Indian migrants use both official and unofficial channels to migrate. Migrant workers, primarily those with ECNR passports and those who are undocumented, are often exploited by recruitment agencies and subject to discriminatory procedural requirements by receiving countries. In many Middle Eastern countries, employment of foreigners requires sponsorship by a citizen of that country. Citizens sell sponsorships to agents, who then charge migrants very high fees for a work permit. In addition, many Indian migrant workers are sent abroad by agents using either a tourist visa or social visit visa and become undocumented workers when these visas expire. Once undocumented, a worker is even more vulnerable to extortion by contractors, employers, and agents who threaten with arrest and deportation if the wages and working conditions offered are not accepted.

7 The 17 ECR countries are Afghanistan, Bahrain, Indonesia, Iraq (emigration presently banned), Jordan, Kuwait, Lebanon, Libya, Malaysia, Qatar, Oman, Saudi Arabia, Sudan, Syria, Thailand, UAE, Yemen.

When an undocumented migrant is reported, criminal charges and detention in the host country prisons are immediate, pending deportation to countries of origin. There were 6,277 Indian prisoners in foreign jails as of March 7, 2007, as stated by Indian missions abroad, of which 57.6 percent were imprisoned in the Arab States, Singapore, and Malaysia.

Occupational Profile of Migrants

Since the 1950s overseas labour migration from India has consisted of two distinct groups. The first is composed of persons with technical skills or professional expertise who have principally migrated to industrialized countries in the West, a process that started in the early 1950s and accelerated in the 1990s.⁸ By 2000 an estimated 1.25 million Indians, most of them skilled, had emigrated to the industrialized West. Of these, a large number of well-educated Indian migrants categorized as professionals (including engineers, information technology specialists, and doctors) are currently working in the United States, the United Kingdom, and Canada. Of the 409,600 skilled foreign-worker admissions to the United States in 2008 under the high-tech H-1B visa,⁹ 38 percent were from India. Indian students accounted for 15 percent of the 623,805 international students enrolled in US universities in 2007-2008.¹⁰ Indians also accounted for more than 40 percent of the estimated 22,000 entries under the UK Highly Skilled Migrant Program.¹¹

Highly skilled migration has traditionally been through education. Indian students go abroad for higher studies and remain in the host country after graduation, taking up employment.¹² In some cases, the increased flow of Indians was triggered by attempts of European governments' to tap India's highly skilled labour force. For example, Germany's temporary migration

scheme, Green Card, in place between 2000 and 2005, deliberately targeted Indian international technology professionals.

The second, and far larger, group of Indian migrants is comprised primarily of unskilled or low-skilled workers whose principal destination is the oil-rich Gulf region. It is estimated that by 2000 the Gulf Region countries had become home to more than three million Indian migrant labourers.¹³ The Indian community in Italy consists largely of formerly illegal migrants, now being regularized. Most of them are from Punjab and tend to work on dairy farms and in agriculture.¹⁴

The High Level Committee on the Indian Diaspora, set up by the Ministry of External Affairs in 2001, provides information on Indians living abroad in various countries, including their occupational profile.¹⁵

Gender and Migration

The Ministry of Home Affairs (MHA) reports that, while men are mobile for employment, women are mobile for marriage. However, given the limited gender disaggregated data on both migration and mobility, it is difficult to assess the trends and patterns of female migrants from India. It is generally accepted that female migration is grossly understated, with a reported 24,313 female migrants out of 809,000 migrants going abroad for employment in 2008.

In recent years a steep rise in female migration has been reported in Kerala, the largest sending states in India. Data on migration from Kerala shows a steady increase of women migrants between 1999 and 2004, from 9 percent to 17 percent. During the same period an increase of 150 percent in the number of female migrants was reported, as compared to a 23 percent increase in the number of male migrants. This growth in numbers is also reflected in women who obtain emigration clearances and migrate as domestic workers.¹⁶ This could be attributed to a rise in demand in the Gulf States for domestic workers, with women

8 R. S. Irudaya, V. J. Varghese, and M. S. Jayakumar, "Beyond the Existing Structures: Revamping Overseas Recruitment System in India," 2009.

9 Here admissions refer to the number of entries to the United States made by H-1B visa holders, not the number of individuals on the H-1B visas.

10 Institute for International Education, "Open Doors 2008"; available at opendoors.iienetwork.org/?p=131531.

11 Organization for Economic Co-Operation and Development, "International Migration Outlook 2008."

12 "Background Report for National Policy on International Migration, 2009," Research Unit on International Migration, Centre for Development Studies, Trivandrum, Kerala, India

13 Irudaya, et al., "Beyond the Existing Structures."

14 Naujoks, «Emigration, Immigration, and Diaspora Relations in India," 2009.

15 Table compiled from the Report of the High Level Committee on the Indian Diaspora, Ministry of External Affairs, Government of India, December 2001; available at moia.gov.in/pdf/Executive_Summary.pdf.

16 "Background Report for National Policy on International Migration."

Table 3: Occupational Profile of Indian Diaspora, 2001

Country	Occupational Profile and Sector
Gulf Region	About 70% skilled, semiskilled, and unskilled workers and 20%-30% Indian professionals (doctors, engineers, architects, chartered accountants, bankers). Most women migrants to the Gulf are employed as domestic workers.
Maldives	Doctors, teachers, engineers, accountants, managers, and highly qualified professionals.
Central Asia (Kazakhstan, Uzbekistan, Turkmenistan, Tajikistan, and Kyrgyzstan)	Entrepreneurs, traders, managers, representatives/employees of Indian/multinational corporations, banks, and hotels, and manual labourers.
South-East Asia	Ranging from labourers in construction and hospitality sectors to employment with Indian companies, international organizations, multinationals, banks, consultancy and financial institutions, and (recently) the information technology sector.
Hong Kong (SAR)	Ranging from wealthy businessmen to those in menial jobs.
Australia and New Zealand	Doctors, engineers, computer software experts, and accountants.
United Kingdom	Indian community one of the highest earning and best educated groups in UK, prominent in business, IT, health sector, media and entertainment industry, with strong political presence.
United States	Doctors, nurses, engineers, lawyers, IT specialists, international finance, management, mainstream and ethnic journalism, films, music, real estate, retailing and agriculture, as well as taxi operators, factory workers, and newsstand workers.

Source: "Report of the High Level Committee on the Indian Diaspora."

employed as housemaids, cleaners, baby sitters, and home nurses.

Gender disaggregated estimates from Indian missions in the Gulf Cooperation Council Countries are provided in Table 4.

Of all migrant workers, unskilled workers – particularly domestic workers – are the most vulnerable. To address the risk of exploitation of these migrant workers, the Ministry of Overseas Indian Affairs (MOIA) has mandated that all women migrants on ECR passports to ECR countries must be at least 30 years of age, regardless of the type of work or category of employment; employers recruiting the worker directly should deposit a security deposit of \$2,500; and embassy attestation is mandatory regarding all women and unskilled category workers to all ECR countries.

Table 4: Estimated Migrants in Gulf States, 2004

Country	Male	Female	Total	% Female
Kuwait	416,500	94,661	511,161	18.52%
Bahrain	216,839	17,116	233,955	7.32%
Oman	396,500	35,500	432,000	8.22%
Saudi Arabia	1,314,847	35,805	1,350,652	2.65%
Qatar	239,000	11,000	250,000	4.40%
Sub-Total	2,583,686	194,082	2,777,768	6.99%
UAE	NA	NA	1,400,000	NA
Total	2,583,686	194,082	4,177,768	4.65%

Source: Ministry of External Affairs, Missions in the Gulf.

As with all restrictive measures applied to a sector of society, the age restriction on women is having an adverse effect on women workers seeking employment overseas. Women migrant workers below the age of 30 are resorting to undocumented migration through unofficial channels. This response makes it even more difficult to assess data on women migrants and increases their vulnerability to various forms of exploitation, including human trafficking.

Human Trafficking

India is a source, transit, and destination country for a large number of men, women, and children trafficked, both internally and externally, for the purposes of sexual and labour exploitation. Most studies and reports on trafficking in India focus on commercial sexual exploitation, but internal forced labour may constitute India's largest trafficking problem. Men, women, and children are held in debt bondage and face forced labour working in brick kilns, rice mills, agriculture, and embroidery factories; women and girls are trafficked within the country for the purposes of commercial sexual exploitation and forced marriage; children are subjected to forced labour as factory workers, domestic servants, beggars, and agriculture workers, and have been used as armed combatants by some terrorist and insurgent groups.¹⁷

India serves as a major destination country for women trafficked in South Asia and is a transit country for women trafficked to the Middle East, with an increase in sex trafficking to smaller cities in recent years.¹⁸ Specifically, India is a destination for women and girls from Nepal and Bangladesh for the purpose of commercial sexual exploitation. Over 30,000 women and girls are estimated to have been trafficked to India from Bangladesh alone between 1990 and 2000.¹⁹ The Coalition against Trafficking in Women (CATW) estimates that 200,000 to 250,000 Nepalese girls are believed to be working in the sex industry in India, with 5,000 to 7,000 Nepalese women and girls, between the ages of 10 and 20, trafficked into the red light districts in Indian cities each year.²⁰ According to Human Rights Watch, the average age of girls trafficked from Nepal to India was 14-16 years in the 1980s and dropped to 10-14 years in 1994.

The Ministry of Women and Child Development reports that large numbers of children are trafficked within the country for marriage; sexual exploitation; adoption; work in entertainment and sports venues,

such as circuses, acrobatics, dance troupes, beer bars, and camel racing; begging; drug peddling; smuggling; and the organ trade, although only anecdotal evidence of this latter is available.²¹ Trafficking of women and children from the North-Eastern states of India and the bordering countries in the north-east is a very serious issue.

Ethnic conflict in many parts of the North East, displacement coupled with poverty, and porous borders with neighbouring countries all contribute to human trafficking, and to the potential for hastening the spread of HIV.²² The widely prevalent patriarchal culture creates unequal gender relations, leaving women and girls with little choice or decision-making power regarding education, occupation, and marriage. It also means that they have no power to negotiate safer sex practices, which increases their risk of HIV infection. As in many societies, ignorance leads prospective clients of sex workers to believe that young girls are virginal, less sexually experienced, and, hence, disease-free and safe.²³

Source, Transit, and Destination

Source

Most Indian migrants are from the states of Kerala, Tamil Nadu, Andhra Pradesh, and Punjab, with Kerala accounting for the largest share of migrants abroad. In 2006, 676,952 people emigrated from India to work in foreign countries. The majority, 75 percent, were from four southern Indian states: Kerala, Tamil Nadu, Karnataka, and Andhra Pradesh. These are relatively more prosperous states compared to other parts of India. In 2008, Tamil Nadu, Kerala, Andhra Pradesh, and Uttar Pradesh were the leading source states. The latest data shows that the flow of migrants from Tamil Nadu, Kerala, and Andhra Pradesh may be levelling off. However, in 2008 the number of migrants from Uttar Pradesh (139,254), Rajasthan (64,601), and Bihar (60,642) was increasing. Rajasthan and Bihar in particular are experiencing significant increases in migration to the

17 World Bank, *The World Factbook 2009*, India; UNDP Regional Centre in Colombo, "Human Trafficking and HIV: Exploring vulnerabilities and responses in South Asia," 2007.

18 US State Department, "Trafficking in Persons Report," 2009; available at www.state.gov/g/tip/rls/tiprpt/2009.

19 F. K. Firoze, "Trafficking in Globalised Situation: A South Asian Perspective," *From Challenges to Opportunities: Responses to Trafficking and HIV/AIDS in South Asia* (New Delhi: UNDP, 2002), p. 48.

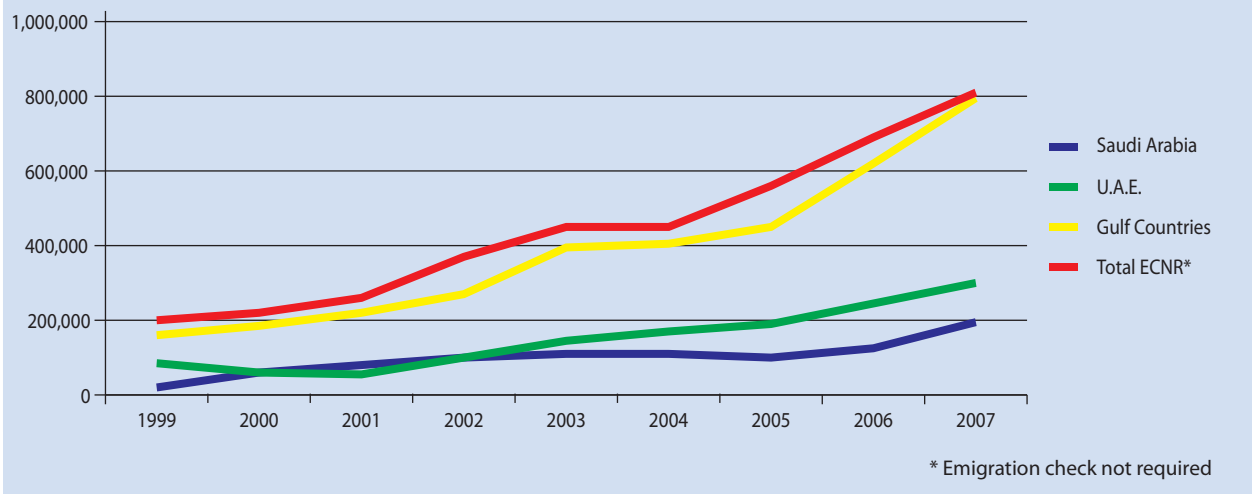
20 CATW – Asia Pacific, "Trafficking in Women and Prostitution in the Asia Pacific."

21 Web report by Save the Children Fund, 2009; available at www.savethechildren.in/india/key_sectors/child_trafficking.html.

22 NEDAN Foundation, "Human Trafficking and HIV, North East, India," Assam, India, 2006.

23 Firoze, "Trafficking in Globalised Situation," page 6.

Figure 1: Indian Migrant Flows by Destination 1999 to 2007



Gulf States.²⁴ Increased migration from Punjab, often undocumented, is also reported.

Transit

The alarming growth of irregular migration from Bangladesh and Nepal over the past two decades has made India and Pakistan major transit countries for undocumented migrants who use Indian air routes to reach countries in the Middle East, Europe, and South-East Asia.

Destination

According to the Ministry of Overseas Indian Affairs (MOIA), the Indian Diaspora is geographically spread in as many as 110 countries. The characteristics of this diversified group vary according to what the MOIA calls “old Diaspora” countries and “new Diaspora” countries. The prominent countries that figure in the old Indian Diaspora are Malaysia, Mauritius, Trinidad and Tobago, Fiji, Guyana, and Suriname. The prominent countries in the new Indian Diaspora are developed countries, specifically the US, UK, Canada, Australia, and New Zealand, which are attracting skilled and highly-skilled labour migrants. Lower-skilled, semi-skilled and unskilled labour migrants, many from Kerala, go to Gulf countries.²⁵

²⁴ For details on State figures on workers granted emigration clearance/ECNR endorsement during the years 2004-2008, see additional information at the end of this report.

²⁵ Ministry of Overseas Indian Affairs, Country Specific Indian Diaspora, 2009; available at moia.gov.in/accessories.aspx?aid=11

According to the US Department of Homeland Security, the influx of Indian immigrants more than tripled from 27,000 in 1986 to 85,000 in 2005, with India’s share of total immigration flows to the United States rising from 4.4 to 7.4 percent. Indian citizens accounted for 5.7 percent of all persons obtaining lawful US permanent resident status in 2008.²⁶

The major outflow of migrant workers from India in the last few years has been to the Gulf countries, where an estimated four million Indian migrant workers, the largest group of migrants in the Gulf, are employed. The UAE is the main destination for Indian workers, followed by Saudi Arabia. Of the 849,000 workers emigrating in 2008, more than 90 percent are in the Gulf (350,000 to UAE; 228,000 to Saudi Arabia; 83,000 to Qatar) and South-East Asia.²⁷

Outside the Gulf region, the intake of Indian manpower by Malaysia showed significant and consistent increases until 2005, with considerable decline noted since 2006. Currently, there are approximately 150,000 Indian workers in Malaysia. During 2007, about 30,916 workers migrated to Malaysia on ECNR passports after obtaining clearance from the Protector General of Emigrants, although the number of migrant workers decreased to 21,123 in 2008.

In addition, ethnic Indians in countries such as Kenya and Suriname migrate to other countries, a movement

²⁶ Naujoks, «Emigration, Immigration, and Diaspora Relations in India», 2009.

²⁷ MOIA, *Annual Report 2007-2008 and Annual Report 2008-2009*.

called secondary migration. Regarding student migration, five countries account for 90 percent of all Indian tertiary students abroad. The United States is by far the most important destination country, receiving more than half of worldwide expatriate Indian students in 2006-2007, followed by Australia at 16 percent, and the United Kingdom at 15 percent.²⁸

Migrants to India

According to the United Nations, India placed 8th in the world among countries hosting migrants from other nations in 2005.²⁹ Neighbouring countries are the main source of international migrants in India, and this cross-border migration includes documented as well as undocumented migrants.

Data on the number of migrants in India is difficult to obtain, with different organizations and government departments quoting differing figures.

The 2001 Census of India captured the number of international migrants by last residence and by source country, indicating that of the 5.1 million total international migrants living in India, 4.6 million were from Bangladesh, Pakistan, and Nepal. These nationals continue to be the largest groups of migrants to India (see Table 5). According to the *Human Development Report 2009*, there are 5.89 million international migrants in India, representing 0.5 percent of the total population.³⁰

While India's skilled construction workers have moved to the Gulf States for higher wages, India's growing construction industry is attracting workers from other countries. The Ministry of Home Affairs (MHA) reports that 352,000 foreigners were registered in India as of December 31, 2007, about 0.03 percent of the population. The MOIA reports that India is home to an estimated 20 million immigrants, many of them irregular or undocumented migrants.³¹

Entry, exit, and stay of foreigners in India are governed by the *Foreigners Act (1946)* and the *Passport (Entry into India) Act (1920)*. All foreigners who stay in India for longer than 180 days are required to register with the local police. Migrants are often exposed to various

hardships, including discrimination, abuse, and difficult working conditions.

Table 5: Immigrants to India from Neighbouring Countries

Countries	Number of Immigrants	% Total Immigrants
Total international migration	5,155,423	100%
Migration from neighbouring countries	4,918,266	99.5%
Afghanistan	9,194	0.2%
Bangladesh	3,048,826	59.8%
Bhutan	8,337	0.2%
China (Tibet)	23,721	0.5%
Myanmar	49,086	1.0%
Nepal	596,696	11.6%
Pakistan	997,300	19.3%
Sri Lanka	149,300	2.9%

Source: India Population Census, 2001.

High population density on both sides of the long porous borders between India and its neighbours, endemic poverty, and natural disasters are major contributing factors for illegal migration to India.

For many decades, the trend in large numbers of irregular migrants from Bangladesh has been a serious concern in India. For many Bangladeshis living near the Assamese border (North East India), Guwahati is the largest day-labour market. Labourers congregate daily at railway and bus stations to find work on Indian construction sites or farms.³²

In 2003, 20,768 foreigners were deported, as compared to 6,394 in 2002, and more than 90 percent (18,801) were Bangladeshi nationals. Similarly, during the year 2004, 39,189 foreigners were deported, an increase of 88 percent over the previous year.³³

Migrants from Nepal are the third largest group of foreign nationals in India. Citizens of both countries travel and work freely across the border under the bilateral friendship treaty signed in 1950. Nepali migration to India dates back to the 19th century, when many

28 Naujoks, "Emigration, Immigration, and Diaspora Relations in India," 2009.

29 UN Department of Social and Economic Affairs, *Trends in Total Migrant Stock: A 2005 Revision*.

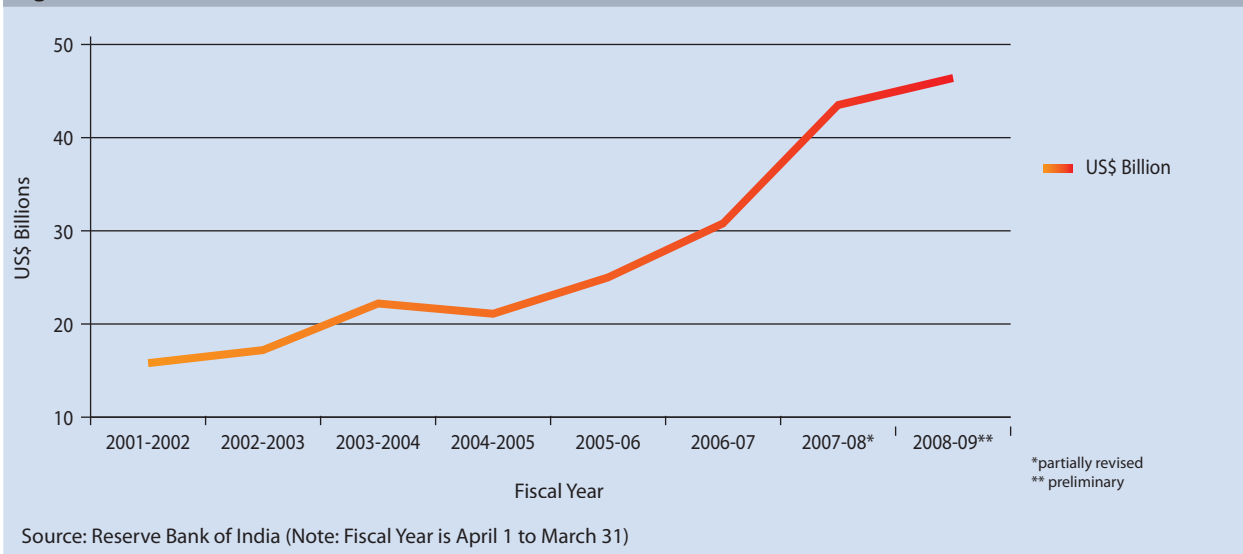
30 UNDP, "Country Fact Sheet: India."

31 MOIA, *Annual Report 2007-2008 and Annual Report 2008-2009*.

32 International Organization for Migration, *Migration, Development and Poverty Reduction in Asia, International Organization for Migration*, 2005.

33 Ministry of Home Affairs, *Annual Report 2004-2005 and Annual Report 2005-2006*.

Figure 2: Inward Remittances 2001 to 2008



Nepalis migrated to Punjab and joined the British army in India or came to work on tea plantations in Assam and Darjeeling. The Nepal Institute for Development Studies, which took the first systematic look at Nepali foreign labour migration in 1997, reported that as many as 750,000 Nepalese men and women were working in India's private sector, most of them engaged in low-paying manual labour in manufacturing, construction, agriculture, or the service sector, including domestic work. Some 100,000 to 150,000 Nepali women were estimated to be employed in the sex industry across India.

Internal strife and civil war in Nepal caused a massive increase in the number of Nepalese migrants in 2001. Nepal's 2001 census reported 584,000 persons born in India, of which only 100,000 were registered as Indian citizens. More recently, in January 2003, Indian embassy officials in Nepal claimed that up to 120,000 Nepalese migrants were arriving in India on a monthly basis.

India also hosts a number of refugees and asylum seekers from Afghanistan, Burma, and Sri Lanka (primarily ethnic South Indians/Tamils) as well as Iraqi and Palestinian refugees from Baghdad. The MHA reported that about 110,095 Tibetans were living in India by end of February 2008, citing the Bureau of His Holiness the Dalai Lama.³⁴ In 2005, the United Nations High Commissioner for Refugees (UNHCR) reported that India had 139,283 refugees and 303 asylum seekers.

34 Ibid.

Remittances

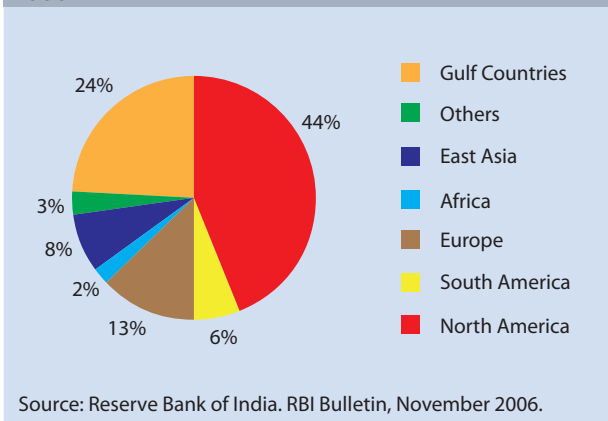
Over the past 30 years remittances have financed much of India's balance of trade deficit, reducing the current account deficit. Remittances to India are consistently higher than net foreign direct investment and official financial flows. Overseas migration has played an important role in changing India's economy since the Gulf oil boom in the mid-1970s. As many as six million Indian expatriates send home approximately US\$20 billion a year from the Gulf States.³⁵ India's extensive economic reforms of the early 1990s facilitated a boost in remittances. If effectively managed, remittances from migrants and the Indian Diaspora of 25 million people in 110 countries worldwide could generate important gains for India in terms of growth, investment, human capital formation, and poverty reduction.

The most striking impact of remittances on an individual state is the case of Kerala, where remittances made up 21 percent of state income in the 1990s. Although the average per capita consumption in Kerala was below the national average until 1978–1979, it exceeded the national average by around 41 percent by 1999–2000.

According to MOIA and the Reserve Bank of India (RBI), the increase in annual remittances from 2005

35 Remittances from foreign workers, mainly from India and Pakistan, account for nearly 9 percent of the GDP of the Gulf Cooperation Council member nations each year. The largest transfers originate from Saudi Arabia, which account for 63 percent of all remittances, followed by the United Arab Emirates at 15 percent.

Figure 3: Global Remittance Flows to India 2005 to 2006



(US\$25.8 billion) to 2008 (US\$43.5 billion) is a reflection of the relative stability of the Indian economy during the recent global financial crisis. Again in 2008, India maintained its position as the leading remittance-receiving country in the world.³⁶

About 40 percent of the US\$43.5 billion in remittances received by India in 2008 is contributed by the increasing number of unskilled and semi-skilled Indian workers employed in the Gulf States and Malaysia. The RBI reported that 44 percent of the remittance flows to India came from North America, followed by 24 percent from Gulf Countries, and 13 percent from Europe (see Figure 3).³⁷

HIV/AIDS Situation

The first case of HIV was diagnosed in Chennai, India, in 1986 and the number of cases has grown steadily since, with an estimated 2.31 million (1.8-2.9 million) HIV-positive persons in 2007, in the average adult (15-49) age group. HIV prevalence of 0.34 percent (0.25-0.43 percent) was reported by the National AIDS Organization (NACO), Ministry of Health and Family Welfare, in its 2008-2009 annual report.³⁸ Although earlier estimates placed the number of people living with HIV (PLHIV) at

5 million, this was revised by NACO to an estimated 2.5 million in July 2007³⁹ and supported by UNAIDS, WHO, and UNICEF in their revised prevalence estimates for India.⁴⁰

According to the HIV Sentinel Surveillance 2007, conducted at 1,134 sentinel sites – 646 sites among general populations and 488 sites among high-risk populations (female sex workers (FSW), men who have sex with men (MSM), injecting drug users (IDU), migrants, and truckers) – the overall HIV prevalence among different population groups in 2007 continues to portray a concentrated epidemic among high-risk groups: IDU (7.2 percent); MSM (7.4 percent); FSW (5.1 percent); migrants (3.61 percent); truckers (2.51 percent); sexually transmitted infections (STI) clinic attendees (3.61 percent); and a low prevalence among anti-natal care clinic attendees (0.48 percent).⁴¹

The major mode of infection continues to be heterosexual transmission, followed by injecting drug use in some states. The epidemic is greater in urban areas than rural areas; the prevalence rate is higher among males than females and decreases as education level increases; prevalence among women is highest among spouses of men working in the transport industry.⁴² Of the estimated number of PLHIV, 39 percent are females and 3.5 percent are children.

Expanded surveillance among MSM has revealed a concentrated epidemic (more than 5 percent HIV prevalence) in Karnataka (17.6 percent), Andhra Pradesh (17 percent), Manipur (16.4 percent), Maharashtra (11.8 percent), Delhi (11.7 percent), Gujarat (8.4 percent), Goa (7.9 percent), Orissa (7.4 percent), Tamil Nadu (6.6 percent), and West Bengal (5.6 percent). Trends among IDUs are on a decline in Manipur (17.9 percent), Nagaland, and Chennai, while there is a steady rise in Meghalaya, Mizoram (7.5 percent), West Bengal (7.8

36 Reserve Bank of India, "Balance of Payment Statistics," *RBI Bulletin* 2008.

37 Reserve Bank of India, "Invisibles in India's Balance of Payments," *RBI Bulletin*, November 2006.

38 National AIDS Control Organization (NACO), *Annual Report, 2008-2009*; available at: www.nacoonline.org/upload/Publication/Annual_Report_NACO_2008-09.pdf

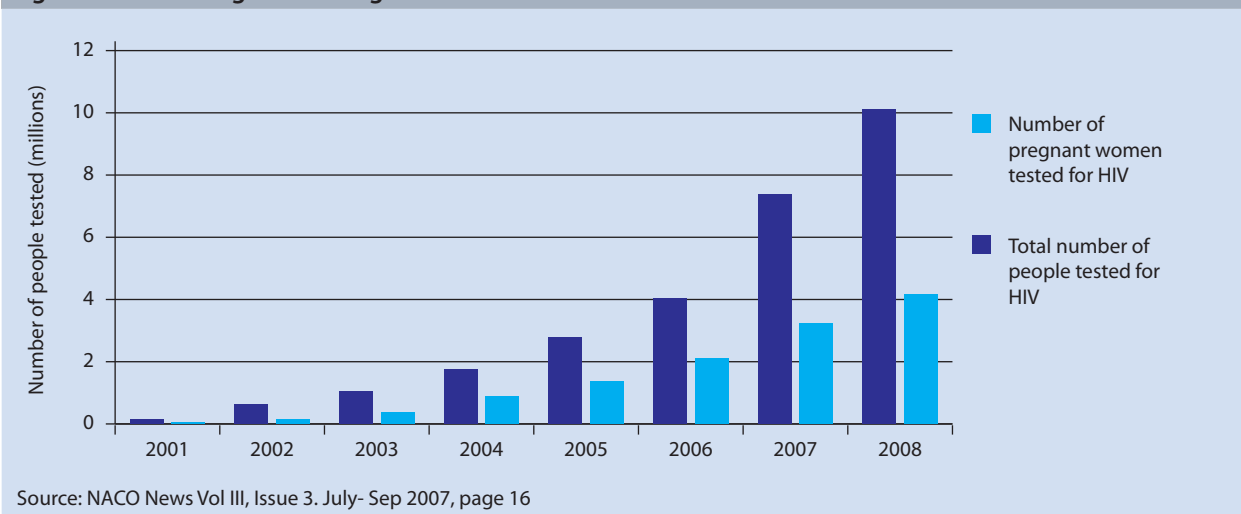
39 The revision was based on an expanded surveillance system and a revised and enhanced methodology, which also included the results of a National Family Health Survey III, conducted in 2005-2006.

40 UNDP, *Law, Ethics, and HIV/AIDS in South Asia: A study of the legal and social environment of the epidemic in Bangladesh, India, Nepal, and Sri Lanka*, 2004; available at www.hivpolicy.org/Library/HPP000261.pdf, p.15.

41 NACO, "HIV Sentinel Surveillance and HIV Estimation in India 2007: A Technical Brief," October 2008; available at nacoonline.org/upload/Publication/M&E%20Surveillance,%20Research/HIV%20Sentinel%20Surveillance%20and%20HIV%20Estimation%202007_A%20Technical%20Brief.pdf.

42 NACO, *Annual Report, 2008-2009*.

Figure 4: Counseling and Testing Services between 2001 to 2008



percent), Mumbai, Kerala (7.9 percent), and Delhi (10.1 percent). In addition, the states of Maharashtra (24.4 percent), Manipur (17.9 percent), Tamil Nadu (16.8 percent), Punjab (13.8 percent), Chandigarh (8.6 percent), and Orissa (7.3 percent) remain high with HIV prevalence of more than 5 percent. Data on the number of people living with AIDS and AIDS deaths have not been provided by NACO for some time. The most recent estimates at the end of 2005 suggested that 116,905 people were living with AIDS, about a third were 30-years old or younger, and 34,177 were women.⁴³ These figures under-represent the actual number of people living with AIDS in the country, since many cases of AIDS and AIDS deaths go unreported due to stigma and discrimination and the lack of access to health services.

National Responses to HIV/AIDS

The National AIDS Control Organization is the body that coordinates and directs HIV programming in India. The National AIDS Control Programme – Phase III (2007-2012) (NACP III) was launched in June 2007 with the overall goal to halt and reverse the epidemic in India over the next five years. According to the framework proposed by NACP III, prevention strategies will take a three-pronged approach:

1. **Core High Risk Groups (HRGs):** There are four divisions in HRGs: female sex workers; high-risk men who have sex with men; trans-genders (TGs);

and injecting drug users. Through the targeted interventions under NACP III, these populations receive a comprehensive package of preventive services. State AIDS Control Societies are expected to saturate coverage of these groups before moving on to cover other groups.

2. **Bridge Populations:** Clients of sex workers are the major focus. They receive a combination of services, including condom promotion, referrals to clinical services for STI management, and behaviour change communication. Two other major populations within the bridge population are truckers and high-risk internal migrants.
3. **Other Vulnerable Populations:** Risk groups in rural areas, HIV-affected children, youth (15-19 years), and women receive a package of services delivered through an expanded mechanism.

Targeted interventions are organised for persons most at risk for HIV, such as FSWs, MSM, TGs, and IDUs, as well as bridge populations such as truckers and internal migrants.⁴⁴ NACO is silent on the specific segments of cross-border migrant populations that programming needs to address.

NACO delivers prevention and treatment services through a network of Integrated Counselling and Testing Centres (ICTC)⁴⁵ across India that offer a good standard of service, although at relatively high cost. Public hospitals

⁴³ WHO, "India: Summary country profile for HIV/AIDS treatment scale-up," December 2005.

⁴⁴ Prepared by NACO, Ministry of Health & Family Welfare, "Targeted Interventions under NACP III Operational Guidelines," Volume I, *Core High Risk Groups*, October 2007.

⁴⁵ NACO News, Vol III, Issue 4, Oct-Dec 2007.

are governed by law to follow the code of conduct on pre-test and post-test counselling, ensuring consent is given and confidentiality in disclosure of test results is maintained. NACO has banned mandatory testing.

NACO provides free anti-retroviral therapy (ART) to HIV patients. The free ART programme, launched in 2004 in eight government hospitals in six high-prevalence states, has since been scaled-up to include 211 centres. According to NACO estimates, 2.31 million people were infected with HIV by 2007, and about 6.1 percent were receiving ART through NACO by March 2008. As of November 2009, a total of 282,526 patients were receiving free ART from the government (see Figure 6).⁴⁶

In India more people rely on private medical care than on the public health service. As private health service providers are largely unregulated, many instances of PLHIV being denied treatment are reported. Despite the guidelines provided by NACO, many blood banks and testing centres conducting HIV tests do not follow standardized procedures for counselling, consent, or confidentiality. The absence of a monitoring system for ensuring compliance with regulations allows abuses to continue largely unchecked.⁴⁷ The recently debated HIV Bill pending before Parliament does not address appropriate regulation of medical care in India.

The number of people accessing the ICTCs and ARTs is increasing, but expansion of both services and the number of ART centres and CD4 testing sites is less than required. Although services are free, many HIV-infected people from remote rural areas, especially women, stop treatment because they cannot afford the cost of travel to the centres. The recent announcement by the Ministry of Rail to subsidize the cost of rail travel for PLHIV by 50 percent is a very positive step, although it raises issues about increased stigma.⁴⁸

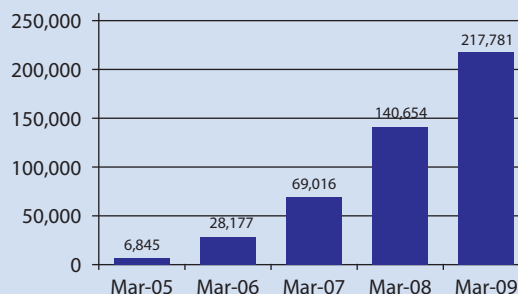
NACO's communication strategy on prevention for the general population involves a paradigm shift away from public awareness to positive behaviour change. NACO also focuses on reducing stigma and discrimination and promoting services, with special emphasis on prevention of HIV among youth and women, using multimedia, mid-media, and mass-media campaigns in

46 NACO News, Vol V, Issue 4, Oct-Dec 2009.

47 Ibid.

48 A Coalition Report of ActionAid in Partnership with 152 NGOs in India, "SHADOW REPORT: On Government of India's II, III, IV & V Combined Report on ICESCR," submitted to the United Nations Committee on Economic, Social, and Cultural Rights, April 2008.

Figure 5: Patients on ART at Fiscal Year End 2004 to 2008



Source: NACO News Vol III, Issue 3. March 2008.

high-priority districts. The Red Ribbon Express Project was the world's largest mass mobilization campaign on HIV and AIDS. For this project a train was flagged off from Delhi on December 1, 2007 (World AIDS Day), and completed its journey on December 1, 2008, after travelling over 27,000 kilometres and covering 180 district stations and 41,334 villages, and reaching out to 6.2 million people. As a result, 68,244 people were trained on HIV and AIDS issues and 116,183 persons were provided counselling. Given the success of this project, a second train was flagged off from Delhi on December 1, 2009.

National AIDS Policies

The Indian Constitution recognizes broader application of the right of all individuals to life, liberty, and equality before the law and equal protection under the law when addressing issues in the context of the HIV epidemic. On a number of occasions the Supreme Court of India has interpreted the right to health and medical assistance, the right to life with dignity, and the right to protection from sexual harassment as constitutional rights. Where there is no specific legislation, the Supreme Court of India has determined that international treaties to which India is a signatory have the force of law. The Indian Supreme Court holds that failure on the part of a government to provide timely medical treatment to a patient who is in need of such treatment is a violation of the right to life.⁴⁹ However, these constitutional rights have been applied only rarely to protect those affected by HIV.⁵⁰

49 Paschim Bengal Khet Mazdoor Society vs. State of West Bengal, AIR 1996, SC 2426; UNDP, "Law, Ethics and HIV/AIDS in South Asia."

50 Ibid., UNDP.

The Ministry of Labour and Employment (MOLE) adopted a *National Policy on HIV/AIDS and the World of Work* in 2009. This policy, drafted in consultation with all stakeholders, aims to create a healthy work environment and reduce discrimination and stigma associated with HIV and AIDS. The MOLE is working toward inclusion of HIV prevention and AIDS care programmes for workers in the informal sector by making suitable provisions in labour laws and social security measures, including insurance.

Indian law criminalizes injecting drug use, and sex work, both of which have an immediate and harmful impact on the spread of HIV. At the same time the Indian Government places a high priority on containing the spread of the epidemic, protecting the rights of those affected, and providing HIV services to those on the margins of society. These priorities are reflected in the HIV Bill (2006) currently pending before Parliament (at the time this publication went to print), which was drafted in a series of consultations with various stakeholders.

Migration and HIV/AIDS

Mandatory Testing

NACO policy bans mandatory HIV testing in India. Section 5.6 of the National AIDS Prevention and Control Policy (NAPCP) states: *No individual should be made to undergo a mandatory testing for HIV. Further, no mandatory HIV testing should be imposed as a precondition for employment or for providing health care facilities during employment.*⁵¹ The NAPCP does not have any clause or section specifically mentioning HIV and migrants, either documented or undocumented.

In spite of this policy, all international migrant workers are required to undergo the mandatory HIV testing required by destination countries. Many destination countries have established their own authorized medical clinics within India to conduct medical testing for prospective migrants prior to their departure. The Gulf Cooperation Council Approved Medical Centres Association (GAMCA) is the most prominent of these. Most private health practices, including diagnostics, do not have to follow standardized practices and

are generally unaware of pre-test and post-test counselling, confidentiality rights, and the requirement for consent prior to testing. Violations are the norm. Neither the Government of India nor the governments of destination countries monitor the activities of these medical centres, and no reports are required.

Once a migrant reaches the destination country, s/he is often required to take another mandatory HIV test to secure a work permit and other documentation. Testing may also be required on an annual basis to retain the work permit. In the event that a migrant tests HIV positive, s/he is immediately deported, often without notification of their HIV-positive status.

The interventions of NACO focus on the 8.64 million temporary, short-duration migrants in India, and NACO coordinates programs with community volunteers, employers, and employees. The draft HIV Bill focuses on people who are displaced due to infrastructure development projects. Moreover, in special sessions on people on the move at recent international forums (such as the 17th International AIDS Conference in Mexico City in August 2008 and the 24th Programme Coordination Board of UNAIDS in June 2009) NACO emphasized the need to focus on migrant workers in India and to launch special initiatives addressing their needs in order to avert an increase in HIV infections among migrant populations.

Policies, Legislation, and International Conventions

International Conventions

India has ratified several international conventions including the *UN Convention on Transnational Organised Crime*, the *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*, and the *Convention on the Rights of the Child*. Although India is a major source country, the nation is not yet a signatory to the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Family*. India has signed but not yet ratified the *Protocol to Prevent, Suppress and Punish Trafficking in Persons*. Similarly, though India has ratified various ILO conventions, including Convention No.111 concerning Discrimination (Employment and Occupation), it has not ratified conventions 97 and 143, concerning migrants and the welfare of their families. ILO developed a new

⁵¹ In the case of Armed Forces recruitment, HIV screening before employment may be carried out voluntarily with pre-test and post-test counselling and results may be kept confidential.

international standard on HIV/AIDS, which was adopted in June at the 2010 International Labour Conference.

Regional and Bilateral Agreements

India has ratified the South Asian Association for Regional Cooperation (SAARC) *Convention on Preventing and Combating Trafficking of Women and Children for Prostitution* as well as the *SAARC Convention on Regional Arrangements for Promotion of Child Welfare in South Asia*. At the initiative of the Labour Minister of India, a meeting of Labour Ministers of SAARC countries on “HIV/AIDS in the World of Work” was held in June 2007 in Geneva, on the sidelines of the 96th Session of the International Labour Conference of the ILO. However, little progress was made, and the Ministry of External Affairs for the Government of India is currently pursuing bilateral cooperation with SAARC countries on this issue.

India signed labour agreements with Jordan and Qatar in the 1980s, but no further progress was made for many years. Since its creation in 2004, the Ministry of Overseas Indian Affairs has made a concerted effort to enter into bilateral Memoranda of Understanding (MoU) with all major destination countries in order to ensure better protection and welfare of Indian migrants. Within the span of the past few years (2006-2009), the MOIA has signed a number of MoU and social security agreements with receiving countries. The MoU with the UAE was signed in December 2006, with Kuwait in April 2007, with Oman in November 2008, and with Malaysia in January 2009. The MoU with Malaysia also provides for the constitution of a joint working group. An additional Protocol to the existing Labour Agreement between India and Qatar was signed in November 2007.

MoU have been proposed with Bahrain, Yemen and Libya, and efforts are underway to explore the possibility of a similar MoU with Saudi Arabia. For migrants working in Gulf countries, minimum wages are not prescribed by local laws, but are governed by the contracts between employer and worker. To protect women migrants, the Government of India initiated a process for ensuring minimum wages for women. A minimum wage in the range of US\$300-350 per month is fixed by the Indian Mission after taking into account the prevailing market wage in that country.

In addition to concluding Labour Welfare and Protection Agreements with Gulf countries and Malaysia for the

benefit of skilled and semi-skilled workers, the MOIA is negotiating and concluding bilateral social security agreements with countries in Europe, North America, and Asia Pacific for the benefit of Indian professionals. The Ministry is also taking steps to build labour mobility partnerships with key countries of destination in the European Union and select member states of the EU. The Ministry has initiated the process for negotiating labour mobility agreements with Poland, the Czech Republic, Norway, Switzerland, Hungary, and Romania. In addition, the Ministry of Overseas Indian Affairs has signed bilateral social security agreements with Belgium, France, and Germany. The Indo-German agreement on social insurance was signed at the Ministerial level in New Delhi and provides for exemption from payment of social security contributions for posted workers and professionals of both countries on a reciprocal basis. The India-France Social Security Agreement was signed in Paris in September 2008.

National Policies and Legislation

The Government of India has a number of policies in place within the legislative framework to address the issues surrounding mobility and migration both at home and abroad.⁵² In October 2009 the Ministry of Labour and Employment in India launched the National Policy on HIV/AIDS and the world of work.

Emigration Act, 1983

In India, the *Emigration Act of 1983* governs and regulates overseas migration. The operational matters relating to emigration, the provision of emigration services to emigrants, and the enforcement of the act are under the Protector General of Emigrants. The PGE is the statutory authority under the Emigration Act and also oversees the eight Protector of Emigrants (POE) field offices located in various states of India. Under the Act, migrants can seek emigration clearance from POE by processing the case by themselves, through a recruiting agent, or through an employer, who, in turn, can process the documentation independently or use a recruiting agent.

⁵² This information has been collated from MOIA annual reports and relevant websites, such as: migration.ucdavis.edu/mn/more.php?id=3404_0_3_0; www.igovernment.in/site/india-launches-global-advisory-council-sets-resource-center-for-overseas-workers/; migration.ucdavis.edu/mn/more.php?id=3496; and migration.ucdavis.edu/mn/more.php?id=3513.

The Emigration Act also regulates the functioning of the recruitment agencies. Detailed provisions in both the act and the Emigration Rules registration, recognition, and removal of recruiting agents. The PGE is authorized to grant certification to a recruitment agency after obtaining a security deposit in the form of bank guarantee.⁵³ A recruiting agent works under the permit for an initial period of three years, which can subsequently be renewed. In order to recruit workers and obtain emigration clearance for their departure, agents must obtain originals of the Demand Letter, Power of Attorney, and Specimen Employment Contract from the foreign employer. The Specimen Employment Contract must contain the basic terms and conditions of employment, including salary, accommodation, medical coverage, and transport. When dealing with vulnerable migrants, i.e., women and unskilled workers, employment documents must be attested by the Indian Mission in the destination country. In addition, a scale of fees is prescribed limiting what migrants are required to pay.⁵⁴

In spring 2008 the government amended the Emigration Rules to require foreign employers who do not use authorized recruitment agents to post a \$2,500 bond for each Indian migrant recruited, refunding the bond to the employer upon the migrant's return to India. This requirement is aimed at encouraging foreign employers to use authorized recruitment agents. The MOIA considers amendments to the Emigration Act essential to ensuring it is an effective instrument for facilitating legal migration, preventing irregular migration, and empowering migrants.

The Indian Constitution

The Indian Constitution contains basic provisions on conditions of employment, non-discrimination, and the right to work, which are applicable for all workers in India.⁵⁵ Although Constitutional Rights apply only to citizens, migrant workers are covered under almost all

labour laws and policies.⁵⁶

Relevant Ministries and Mechanisms for Indian Migrants

The **Ministry of Labour and Employment** and the **Ministry of Overseas Indian Affairs** are responsible for migration issues.

The **Ministry of Overseas Indian Affairs** oversees the welfare of Indian citizens abroad. Recently, the Government of India, through the POE offices in each country, began offering basic information for those leaving the country to take up jobs in the Gulf and South-East Asian countries.⁵⁷ An amendment to the Emigration Bill (2002) proposes establishing a charged with improving the lives of migrants by promoting employment opportunities, creating an employment and communications database, establishing standards and guidelines for migration, and administering the Overseas Workers' Welfare Fund.

Some of the initiatives implemented and proposed by the MOIA for the welfare of the migrants are:

- **Overseas Workers Resource Centres (OWRC):** Established in January 2008, OWRC assist Indian workers planning to go abroad and those already abroad by providing relevant information and assistance, including a multilingual help-line for grievance redress and interventions for overseas workers in distress.
- **Overseas Citizen of India (OCI):** Beginning in 2006, persons born in India who became naturalized citizens of other countries can obtain OCI cards that allow visa-free entry to India and simplify the process of obtaining work and residence visas. By July 2008, some 280,000 overseas Indians had obtained cards.
- **Smart Cards:** MOIA has proposed that all first-time migrant workers leaving the country receive

53 The amount varies based on the number of persons authorized to be recruited. Present scale is Rs. 300,000 (up to 300 workers), Rs. 500,000 (301-1000 workers), and Rs. 1,000,000 (1,001 workers and above).

54 Recruiting agents are authorized to charge each worker a service fee at the following rates: Unskilled Workers - Rs.2000; Semi-skilled Workers - Rs.3000; Skilled Workers - Rs.5000; Professionals - Rs.10,000.

55 Articles 23 (1); 39; 42; and 43.

56 These laws include the Minimum Wages Act, 1948; the Contract Labour (Regulation and Abolition) Act, 1970; the Equal Remuneration Act, 1976; the Building and Other Construction Workers Regulation of Employment and Conditions of Service Act, 1996; the Workmen's Compensation Act, 1923; the Payment of Wages Act, 1936; the Child Labour (Prohibition & Regulation) Act, 1986; the Bonded Labour Act, 1976; the Employees State Insurance Act, 1952; and the Maternity Benefits Act, 1961. The last two acts, however, cover only organized sector workers and exclude temporary migrants.

57 The information comprises the contact information of Indian embassies and consulates and basic orientation information regarding the history of the host country.

Smart Cards that include passport information, work-contract data (such as the name of the employer), and insurance details. However, this had not been executed at the time of this writing.

- **Pre-Departure Training:** First-time migrants will undergo training about the laws of the country to which they are going, and recruiting agents will be jointly liable with foreign employers for violations of worker contracts, as is the practice in the Philippines. Feedback from migrants would be used to rate recruiters, and this information would be made available to potential migrants.

An Emigration Policy Division was created in MOIA in March 2006 to articulate and implement policy reforms in all areas related to Indian migrant workers. Priorities and responsibilities include: formulating policies for improving migration management; guiding reforms to legislation and migration procedures, including institutional changes; implementing e-Governance; developing welfare schemes for migrants; and strengthening bilateral and multilateral cooperation in International migration. An International Migration Policy for India has been drafted, which needs to be finalized and declared.

A compulsory insurance system for Indian workers moving overseas, the Pravasi Bharatiya Bima Yojana, was launched in 2003. A Welfare Fund for overseas workers that covers boarding and lodging for distressed overseas Indians in the domestic sector and unskilled labourers is operational, and the transferability of migrant social security contributions have been negotiated in bilateral agreements.

Human Trafficking Legislation

The national legal framework to deal with human trafficking includes:

- *Immoral Traffic (Prevention) Act (ITPA), 1956*
- Provisions under the Indian Penal Code, such as selling and buying minor girls for prostitution or procuring a minor girl, and importation of a girl below 22-years of age.
- *Juvenile Justice (Care and Protection of Children) Act, 2000*
- *Child Marriage Prohibition Act, 2006*

The ITPA clearly defines trafficking for the purposes of prostitution and provides comprehensive protection for children. *The Immoral Traffic (Prevention) Amendment Bill, 2006*, drafted and introduced in Lok Sabha, makes trafficking and sexual exploitation of persons for commercial purposes a punishable offence and aims to ensure stringent punishment of traffickers.

The **Ministry of Women and Child Development (MWCD)** is the lead ministry dealing with the prevention of trafficking in women and children for commercial sexual exploitation. In its efforts, MWCD works very closely with the Ministry of Home Affairs, Ministry of Overseas Indian Affairs, Ministry of External Affairs and the Ministry of Labour and Employment. Some of the initiatives undertaken by the MWCD to combat trafficking⁵⁸ are:

- National Plan of Action (1998), developed to combat trafficking and commercial sexual exploitation of women and children, with the objective of mainstreaming and re-integrating women and child victims of commercial sexual exploitation into the community.
- National Plan of Action for children (2005) to ensure that the rights of all children (defined as up to the age of 18 years) are protected.
- Integrated National Plan of Action to Prevent and Combat Trafficking of Human Beings, with Special Focus on Women and Children has been formulated in collaboration with the Ministry of Home Affairs, Ministry of Labour and Employment, National Human Rights Commission, and National Commission for Women, and in consultation with various stakeholders. The plan is currently under review by relevant ministries for their feedback. The goal of the plan is to develop holistic policy and programming for addressing trafficking in persons that incorporates all forms of trafficking (sexual exploitation, child labour, bonded labour, organ trade, etc.) and facilitates an integrated approach.
- Protocol for Pre-rescue, Rescue, and Post-rescue Operations of Child Victims of Trafficking for the Purpose of Commercial Sexual Exploitation provides guidelines for enforcement agencies and

58 Government of India, "India Country Report; To Prevent and Combat Trafficking and Commercial Sexual Exploitation of Children and Women," World Congress III Against Sexual Exploitation of Children and Adolescents (Rio de Janeiro), November 2008.

NGOs involved in the rescue of victims. Similarly, in 2008 the Ministry of Labour and Employment developed a protocol for prevention, rescue, repatriation, and rehabilitation of trafficked and migrant children that provides guidelines for concerned stakeholders in order to ensure safe procedures for rescuing children forced into child labour.

Key Stakeholders

Government Agencies and Networks

Ministry of Labour and Employment (MOLE) is primarily responsible for protecting and safeguarding the interests of organized and unorganized sector workers in India in matters of wages, terms and conditions of service, training and skill development, safety and health, and social security and welfare, with special emphasis on women and child labour.

Ministry of Home Affairs (MHA) is responsible for immigration, visa, foreign contribution, and citizenship related matters. Entry, exit, and stay of foreigners in India is regulated by the Bureau of Immigration (BoI) and the State governments.

Ministry of Overseas Indian Affairs (MOIA), created in 2004, is mandated to oversee the welfare of Indian citizens abroad.

Ministry of Health (MOH) is responsible for HIV prevention services and AIDS care and treatment.

National AIDS Control Organization (NACO) is responsible for controlling the spread of HIV in India and, under NACP III, NACO is working toward reversing the epidemic over the next five years by integrating programmes for prevention, care, support, and treatment.

Ministry of Labour and Employment (MOLE) and International Labour Organization, in close collaboration with NACO, UNAIDS and network of People Living with HIV, are implementing a project, "Prevention of HIV/AIDS in the world of work: A Tripartite Response". The project is supported by the US Department of Labor/PEPFAR.

Non-resident Keralites' Affairs (NORKA) is a government department in the state of Kerala, launched in December 1996 to redress the grievances of non-resident Keralites (NRK). NORKA is the first department of its kind in India and is a single-window agency, working to fulfil

an assurance given by the Government of Kerala to its expatriate community. NORKA aims to strengthen relations between the NRK and the Government of Kerala; find solutions to the problems faced by the NRK community; and institutionalize an administrative framework. NORKA has established NORKA Roots to act as counsel for non-resident Keralites. Many other state governments have approached NORKA for guidelines regarding non-resident Indian affairs.

Non-government Organizations

In India, there are many civil society and non-governmental organizations dealing with the issues of migration, human trafficking, and HIV, primarily focused on protecting migrants and mobile populations within and outside India. Very few have adopted an integrated approach. Some of these organizations are listed below:

Trade Unions are slowly taking note of the reality of migrant workers in India. The apex trade unions Indian National Trade Union Congress, Bharatiya Mazdoor Sangh, Hindu Mazdoor Sabha, All India Trade Union Congress, and Centre for Indian Trade Unions have signed a Joint Statement of Commitment on HIV/AIDS. There is a need for building capacity of trade unions for developing interventions for reaching migrants. ILO is supporting some trade union intervention in the construction sector, which attracts a large number of migrants in India.

Central Board of Workers Education (CBWE) focuses on workers' education about rights and various other issues. CBWE has integrated HIV/AIDS as part of the regular syllabus for education programmes and developed communication packages. Some 283 trained Education Officers assist about 300,000 workers per year, mainly in the informal sector.

Employees State Insurance Corporation (ESIC) implements a scheme to protect the interests of workers in contingencies, such as sickness, maternity relief, physical disablement, or death due to employment injury. ESIC, through its network of 144 hospitals and 1,422 dispensaries, is engaged in the HIV/AIDS programme as an intersectoral partner of NACO.

Indian Personnel Export Promotion Council, established by both private and public labour recruitment agencies in the Middle East, arranges overseas worker placements for Indian workers in various destination countries in the Middle East.

Arunodhaya Migrant Initiative (AMI), formerly Migrant Forum, addresses the issues of labour, migration, and trafficking, and specialises in the issues of domestic workers, particularly health and the vulnerability of migrant workers to HIV. AMI along with Peace Trust have begun to lobby members of parliament to include special attachés in embassies and consulates abroad to deal specifically with migrant workers' rights. Apart from regular work such as research, consultancy services on travel, job opportunities, visa formalities, and recruitment agencies, the Migrant Forum and Peace Trust also provide assistance with legal documentation, information dissemination, and, to a lesser extent, educational classes. AMI along with the All India Trade Union Congress, with its construction workers union, launched a pre-departure programme in Kalpakkam (100 km from Chennai) on May 1, 2008.

Catholic Workers Movement (CWM) is part of the Catholic Bishops Conference of India's Labour and Justice Wing. Both the Young Christian Workers movement and CWM address the issues of migrants as a priority. The Kerala CWM has taken the lead by establishing a Migrants Desk at Trichur, with a person assigned to deal exclusively with returnee issues. There are some programmes for migrant families, and CWM lobbies the government to provide insurance for the families of migrants and welfare schemes for returnees.

Migrant Forum (MF), established in 1998, addresses the issues and problems of Indian workers migrating abroad, with a special focus on unskilled workers in Asian destinations. MF addresses trafficking, the growing feminization of migration, and issues faced by domestic workers. It also addresses health issues, including the HIV vulnerability of migrant workers. Migrant Forum has a central office in Mumbai and a regional office in Chennai.

Peace Trust, working with migrants since 1999, focuses on both construction and domestic workers who leave for countries in the Middle East and South-East Asia. The Trust has published the Tamil version of The Emigration Act as a guide for Tamil migrants to India.

V.V. Giri National Institute of Labour for India (VVGNI) is the premier organization involved in research, training, education, publication, and consultancy on labour related issues. The Institute has a capsule course on HIV/AIDS basic issues, such as modes of infection, prevention, and the facilities provided by government for testing, counselling, and treatment. In 2007-2008 the Institute conducted 130 programmes on different

labour related issues, reaching out to more than 4,000 participants.

Young Christian Workers (YCW) – India organizes young workers of all faiths and races, and works to maintain the dignity of workers and to fight for their rights while promoting interreligious dialogue aimed at creating an intercultural society where solidarity prevails. YCW is particularly active in Kanyakumari in Tamil Nadu. In recent years, campaigns and educational activities have centred on workers in the informal sector and capacity building for women workers. From 1999 onward, YCW-India has focused on issues relating to migrants, taking up the case of 19 migrant fishermen arrested by the Iranian police and imprisoned in Pakistan. The ordeal of these fishermen ended on April 24, 2000, as a result of the active campaigns of YCW and other civil and trade union groups in Tamil Nadu.

Recommendations

The following recommendations are made within the context of the foregoing analysis of India's migration patterns and policies and HIV situation. In order to reduce the HIV vulnerability of current and future migrant and mobile populations, it will be necessary to take action in a range of key areas, as detailed below.

1. Ratify and implement the International Convention on the Protection of the Rights of Migrant Workers and Their Families as a host (destination) country and a sending (source) country.
2. Ratify the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, to which India is currently a signatory.
3. Regulate labour migration by establishing a Central Manpower Corporation to protect the interests of migrant workers. The structure could be similar to that of the Overseas Manpower Corporation currently operating to regulate skilled migration in some states.
4. Ensure bilateral treaties and MoU with receiving countries, focusing on safeguarding the interests of India and those of Indian labourers working abroad. Highlight migrant issues in all negotiations with the Gulf States, specifically ending the Kafhala sponsorship system and stopping the practice of employers withholding employee passports.
5. Establish the position of Labour Attaché or appoint an official from the MOIA in Indian missions to take responsibility for the welfare and rights protection of Indian migrant workers. At the same time, instruct Overseas Missions to provide consular services to detained workers and assist with their repatriation.
6. Replicate the model of Kerala's Non-Resident Keralites' Affairs in other States to protect the interests of migrant workers.
7. Amend existing laws and initiate new laws to ensure penal sanctions for those who engage in human trafficking or who violate the human rights of migrants.
8. Acknowledge the feminization of migration and allow women to travel abroad for employment by signing separate MoU with countries employing domestic workers, and by introducing Standard Labour Contracts for foreign domestic workers that defines the rights and responsibilities of workers and employers, using the format developed by the United Nations Development Fund for Women (UNIFEM) and following the example of the Jordanian Ministry of Labour.
9. Design and implement, with the support of the Ministry of Internal Affairs, MLE, MOIA, trade unions, and civil society organizations, a well-structured pre-departure programme that is a prerequisite for all migrants. Content should include: information on HIV/AIDS; host country laws and customs; the rights of migrant workers; and the health services available to migrants.
10. Ensure policies and legislation are based on gender-sensitive, rights-based, and multisectoral approaches; and integrate migration issues with issues of HIV and AIDS while acknowledging the nexus between migration and human trafficking by passing the pending International Migration Policy, the HIV Bill, and amendments to the ITPA.
11. Ensure comprehensive migrant-friendly voluntary HIV testing that protects the rights of both Indian migrants abroad and migrants in India in a process governed by best practices, i.e. informed consent, confidentiality, and pre- and post-test counselling.
12. Protection of migrants from mandatory testing and deportation due to HIV status needs to be stated in existing and future bilateral agreements and MoU with labour receiving countries. This applies for Indian migrants going abroad as well as for migrants in India.
13. Ensure returning migrant workers, as well as migrants in India, have access to HIV and AIDS care, treatment, and support, including free ART.

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MALDIVES



Acronyms & Abbreviations

BBS	Biological and Behavioural Survey
DIE	Department of Immigration and Emigration
GDP	Gross Domestic Product
HRCM	Human Rights Commission of the Maldives
IDU	Injecting Drug User
IFAD	International Fund for Agricultural Development
ILO	International Labour Organization
MHF	Ministry of Health and Family
NAC	National AIDS Council
NGO	Non-governmental Organization
STI	Sexually Transmitted Infection

Introduction

Maldives is a country in the Indian Ocean formed by a double chain of twenty-six atolls stretching in a north-south direction off India's Lakshadweep Islands, between Minicoy Island and Chagos Archipelago in the Laccadive Sea, about seven hundred kilometres south-west of Sri Lanka. According to the 2006 census, the population of Maldives was 298,968, making Maldives the smallest Asian country in both population and area.¹

Maldives gross domestic product (GDP) was US\$1.7 billion in 2008, and real GDP growth has averaged over 7.5 percent per year for more than a decade. In late December 2004 a major tsunami left more than 100 dead, 12,000 displaced, and property damage exceeding \$300 million. As a result of the tsunami, the GDP contracted by about 4.6 percent in 2005, but rebounded with a growth of 18 percent in 2006 largely due to increasing tourism and reconstruction. A slowdown in growth since 2006 is attributed to the global recession.²

Although poverty has decreased overall in Maldives, some vulnerability persists, with an estimated 16 percent of the population below the poverty line. Poverty remains particularly high on many farming and fishing islands that do not have the benefit of the tourist trade.

Migration Patterns

External and international migration from Maldives is very small, but mobility within the country is significant.

¹ Ministry of Planning and National Development, Statistical Year Book of Maldives 2008.

² US State Department, *The World Factbook 2009*; available at www.cia.gov/library/publications/the-world-factbook/geos/mv.html.

Table 1: Source Countries of Expatriates in Maldives 2004 to 2008

Year	Major Countries					Number of Expatriates
	Sri Lanka	India	Bangladesh	Nepal	Indonesia	
2004	8,320	16,657	9,337	802	544	38,413
2005	7,430	19,430	13,537	934	563	44,845
2006	7,517	20,582	20,414	1,450	572	53,901
2007	8,728	23,496	29,409	2,514	1,116	70,075
2008	9,575	23,032	38,952	2,879	1,412	80,839

Source: Ministry of Human Resources, Youth and Sports

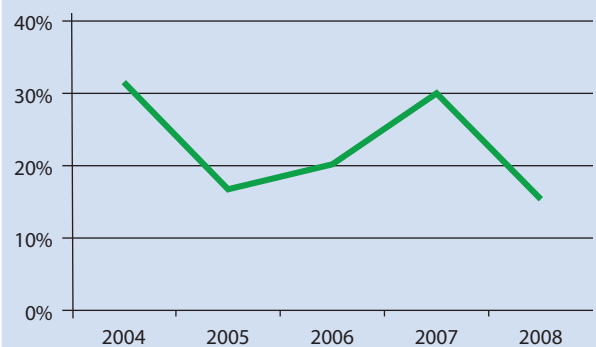
The capital, Male', is the centre of commerce and attracts those seeking employment, better education, and advanced healthcare facilities. Some islanders from the atolls relocate to Male' permanently, while others are seasonal migrants. In the rural areas of these widely dispersed islands, particularly in the northern part of the country, incomes, production, and population density are low and the cost of living is high. Islanders in the northern part of the country have particularly low incomes, and migration of at least one member of a household is a common coping strategy.³ About 44 percent of the Male' population originated from elsewhere in this island nation, and this high concentration of mobile and migrant populations has made this small city of more than 103,000 inhabitants one of the most densely populated in the world.⁴

A small percentage of the population of Maldives goes abroad for education or work and is away from the support of family for long periods of time.⁵ In 2005 the stock of emigrants in Maldives was 1,618, about 0.5 percent of the total population.⁶ In 2008 the emigration rate was 0.4 percent, and 3,200 returned migrants were living in Maldives, about 1.1 percent of the total population.⁷

Maldives is primarily a destination country for the migrants of South Asia. Surrounded by South Asian countries with lower standards of living and lower

per capita income, the job prospects in construction and tourism in Maldives encourage a constant flow of documented and undocumented migrants from border countries. These migrant workers are commonly referred to as "expatriates". An estimated 80,800 expatriate workers, more than a quarter of the population, were working in Maldives in 2008 (see Table 1 and Figure 1).⁸

Figure 1: Expatriate Employment Annual Growth Rate 2004 to 2008



Source: Ministry of Human Resources, Youth and Sports

The number continues to grow and is becoming a larger part of the workforce; and growth remains strong at 15.36 percent in 2008, despite the global economic downturn. Employment agencies have exclusive rights on processing work permits of foreign workers and are aggressive in hiring both documented and undocumented workers.⁹ Of the total population of

³ International Fund for Agricultural Development (IFAD), "Rural Poverty in the Republic of Maldives"; available at www.ruralpovertyportal.org/web/guest/country/home/tags/maldives.

⁴ Ali Rasheed, *Labour Migration: Is it an Issue for Small Island Economies?*, School of Social Sciences, University of Technology, Auckland, 2000.

⁵ World Bank, *HIV/AIDS in South Asia: Maldives*; available at web.worldbank.org.

⁶ World Bank, *Emigration 2005*, "Migration Fact Sheet: Maldives."

⁷ UNDP, *Human Development Report*, 2008. "Country Fact Sheet, Maldives."

⁸ Ministry of Employment and Social Security; available at www.employment.gov.mv/Resources/Statistics/2009/5%20years/Table4.pdf.

⁹ Human Rights Commission of the Maldives (HRCM), "Rapid Assessment of the Employment Situation in the Maldives," 2009.

Table 2: Expatriate Employment by Sector 2004 to 2008

Sector	2004	2005	2006	2007	2008	Average Annual Growth
Agriculture, Forestry & Fishing	1,295	1,626	968	2,175	2,419	24.2%
Manufacturing	1,613	978	1,065	1,406	2,477	15.5%
Construction, Electricity, Gas & Water	9,230	11,364	16,530	28,180	34,770	32.5%
Transport, Storage & Communication	575	1,238	1,077	1,273	1,821	32.7%
Wholesale & Retail Trade	1,159	1,589	1,744	2,074	4,144	33.1%
Tourism, Hotels & Restaurants	12,235	13,433	14,131	15,814	15,096	4.5%
Education	2,501	2,491	2,424	2,712	2,615	1.0%
Finance, Insurance, Business & Real Estate	4,780	5,524	6,613	7,104	7,065	8.4%
Other Services	5,025	6,602	8,302	9,337	10,432	16.3%
TOTAL	38,413	44,845	52,854	70,075	80,839	16.5%

Source: Ministry of Human Resources, Youth, and Sports. (Note: All data are aggregate figures for each year.)

expatriate migrant workers in Maldives, only 8 percent are women.¹⁰

By some accounts, the number of migrant workers in Maldives is much higher than the official figure, perhaps having tripled in the past five years, and surpassing the number of Maldivians in the work force. Although difficult to estimate, the number of undocumented workers is believed to be between 10,000 and 30,000.¹¹

Occupational Profile of Migrants

According to sector data reported by the Ministry of Employment and Social Security, the construction industry, including electricity, gas, and water, employed the majority of non-nationals, estimated at 34,770 workers in 2008, followed by the tourism and hospitality sector at 15,096 expatriate workers (see Table 2).

Expatriate workers are engaged in professional, middle-level, clerical, and skilled work. By far the largest occupation category is elementary or unskilled labour, accounting for almost half of the total documented expatriate workers employed in Maldives. Although details on undocumented workers are not available, it can realistically be assumed that the majority are employed as unskilled workers.

¹⁰ Ministry of Employment and Social Security.

¹¹ The Immigration Department estimates that as many as 30,000 illegal migrant workers may be in the country. This estimate is included in the "Rapid Assessment of the Employment Situation in the Maldives," Human Rights Commission of the Maldives, and was also reported by the Maldives Dissent; available at maldivesdissent.blogspot.com/ and maldivesdissent.blogspot.com/.

Gender and Migration

Participation of women in the labour market in Maldives is very low compared to other South Asian nations.¹² Rural women, particularly those who are heads of households, rarely travel beyond their atoll; are more vulnerable to poverty than men, owning few, if any, assets; and are unable to obtain credit. However, women make a significant contribution to household income and food security by carrying out practically all fish processing and agricultural activity as unpaid labour for the family.¹³ As primary caregivers, they are responsible for cooking, farming, fish processing, collecting firewood, and other priorities around the home. The role of women in fishing and marketing of fish is negligible and Inter-island trading by women is virtually non-existent. Income-generating activities are limited to rudimentary and small-scale enterprises.

Human Trafficking

Foreign workers in Maldives, the majority in low-skilled jobs in the construction and service sectors, face fraudulent recruitment practices, debt bondage, confinement, and confiscation of travel and identity documents. Both documented and undocumented migrant workers are vulnerable to conditions of forced labour.

¹² HRCM, "Rapid Assessment"

¹³ IFAD, "Rural poverty in the Republic of Maldives."

A small number of women from Sri Lanka, Thailand, India, and China are reportedly trafficked to Male' as commercial sex workers, and underage Maldivian girls are trafficked from the islands to Male' as domestic workers.¹⁴ Some domestic workers, especially migrant and mobile female domestic workers, are at times trapped in situations of forced labour, and are in some cases restrained from leaving their employers' home through threats and other means.¹⁵

The Human Rights Commission of the Maldives confirms that migrant workers in Maldives have little social protection and are vulnerable to exploitation. Rising concerns over the mistreatment of migrants, including the practice of bringing a person for one job and forcing them to work on another and/or not providing the conditions of work promised at the time of recruitment, can be considered as human trafficking as defined in Article 3 of the Protocol on Trafficking in Persons.¹⁶

The Human Rights Commission has called for urgent action with respect to migrant workers in Maldives, and recommends establishing a separate bureau for expatriate workers with responsibility for issuing quotas on their employment, granting of work permits, collecting and maintaining statistics, dealing with complaints, and other related matters.

Source, Transit, and Destination

The emigration rate in Maldives is less than 0.4 percent of the total population with a small number of Maldivians migrating abroad for employment and educational opportunities. The top 10 destination countries for the people of Maldives are Nepal, United Kingdom, India, Australia, Germany, United States, Switzerland, New Zealand, Japan, and Italy.

Maldives is a destination country for expatriate migrant workers from South Asia, mainly Bangladesh, India, and Sri Lanka, but also Nepal and Indonesia (see Table 1).

14 US State Department, *Trafficking in Persons Report 2009 - The Maldives*; available at www.state.gov/g/tip/rls/tiprpt/2009/.

15 HRCM, "Rapid Assessment."

16 Protocol on Trafficking in Persons to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime.

Remittances

The *Human Development Report 2009* indicates that US\$3 million in remittances were sent to Maldives in 2007, about 0.2 percent of GDP. Average remittances per person were US\$10, compared with the average for South Asia of US\$33. Outward remittances exceeded 9.1 percent of GDP in 2009, largely due to the number of expatriates employed in the country.

HIV/AIDS Situation

Maldives is categorized as a "low prevalence country," with an HIV prevalence of less than 0.1 percent in the 15-49 age group.¹⁷ Seafarers and injecting drug users (IDU) are considered the highest risk groups, but legal, cultural, and social issues have impeded working with these vulnerable groups.

Given that the rural population is spread out on 200 of the country's 1,200 islands, there are real barriers to educating people on HIV and AIDS, distributing condoms, and treating people for sexually transmitted infections (STI). The mission of the Centre for Community Health and Disease Control, within the Ministry of Health and Family, is to improve the health and well-being of the people through prevention and control of communicable diseases, provide essential health care, and promote health awareness. Specific programs are available on health education, health promotion, and the prevention and control of STI and HIV.

The first case of HIV in the Maldives was reported in 1991. According to World Bank data, by mid-2006, 13 HIV-positive cases were reported among Maldivians (11 male, 2 female) and 168 cases among expatriates. All infections were reportedly acquired through heterosexual transmission. Eleven of the thirteen HIV-positive Maldivians developed AIDS; of those, ten have died. Of the thirteen, ten were seafarers, two were spouses of the seafarers, and one was a resort worker.¹⁸

The first Biological and Behavioural Survey (BBS) in Maldives was conducted in 2008 by the Ministry of Health and Family jointly with the United Nations and the Global Fund to Fight HIV/AIDS Tuberculosis and Malaria. Among the vulnerable populations

17 WHO, UNAIDS, and UNICEF, "Epidemiological fact sheet on HIV and AIDS: Maldives," July & September 2008.

18 World Bank, *HIV/AIDS South Asia: Maldives*.

surveyed - female sex workers, men who have sex with men, injecting drug users, seafarers, resort workers, construction workers, and youth – HIV was detected only among male resort workers, at 0.2 percent. The 2008 BBS is the most comprehensive and recent data available on HIV in the Maldives.¹⁹

Other vulnerability and risk factors that may contribute to the spread of HIV are high mobility from the islands to the capital and high rates of divorce and remarriage, both creating exposure to large sexual networks; the prevalence of sexually transmitted infections; increasing drug use; and the influx of foreign tourists, estimated at 600,000 per year.²⁰

Increasing intravenous drug use is a matter of concern to health authorities, and continuous vigilance is maintained. The 2008 BBS confirmed findings of rising use of intravenous drugs, needle sharing, and high-risk behaviours amongst drug users, such as early sexual activity and risky sexual behaviour. IDUs in Male' (31 percent) and Addu (23 percent) reported injecting with a used needle or syringe the last time they injected drugs. In addition, 59 percent had unprotected sex in the past 12 months.²¹

National Response to HIV/AIDS

The AIDS Control Program in Maldives started in 1987, before the first case of HIV was reported in 1991. The National AIDS Council (NAC), a multisectoral body with representatives from the government, NGOs, and private sector, was established to coordinate this program and provide policy direction.

The country's first National Strategic Plan on HIV/AIDS was developed and implemented from 2002 to 2006, and the National Strategic Plan 2007-2011, approved in 2007, aims to limit HIV transmission, provide care for infected people, and mitigate the impact of the epidemic through seven strategic directions. An advanced Media Committee for HIV and AIDS helps to provide the public with reliable information and overcome the stigmatization of People Living with HIV. A National AIDS Control Unit within the Department of Public Health was set up to track infections.

19 Republic of Maldives, "Biological and Behavioural Survey, 2008"; Evidence to Action, HIV and AIDS Data Hub for Asia Pacific; available www.aidsdatahub.org.

20 World Bank, HIV & AIDS South Asia: Maldives.

21 Republic of Maldives, "Biological and Behavioural Survey, 2008."

Migration and HIV/AIDS

By 1995, 9 cases of HIV were detected among Maldivians, all of them seafarers. Consequently, special programmes for HIV and STI prevention are included in the training curriculum for Maldivian seafarers. There were 168 HIV-positive cases among expatriates living in the Maldives in 2006, though none of them received treatment there, nor do they continue to reside in the Maldives. Mandatory HIV testing is required of all Maldivians who spend more than a year outside the country, and they are screened upon their return.²²

Mandatory Testing

All migrants engaged to work in Maldives are expected to undergo a medical check-up prior to leaving their home country and must submit to another examination upon arrival in order to secure a work permit. Both these medical examinations include HIV testing. By law migrants are not denied entry if found to be HIV positive. In practice, however, if they test positive for HIV, their contracts are immediately terminated and they are deported back to their home country.

Policies, Legislation, and International Conventions

International Conventions

Maldives has ratified several international human rights conventions, including:

- *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD);
- *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW);
- *Convention on the Rights of the Child* (CRC); and
- *International Covenant on Civil and Political Rights*.

Maldives is not a signatory to the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* and the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons.

Maldives recently became a member of the International

22 World Bank, HIV/AIDS in South Asia: Maldives.

Labour Organization (ILO), and initial steps are being taken to conform to ILO requirements.

Regional Conventions

Maldives has ratified the South Asian Agreement for Regional Cooperation (SAARC) *Convention on the Prevention and Combating of Trafficking of Women and Children for Prostitution*. There seems to be no particular regional or bilateral agreements to which Maldives is a party, which needs to be considered given the country's huge influx of migrant workers. This is a growing area of concern for the Government of Maldives.

National Policies and Legislation

The Employment Act, 2008, and Expatriate Employment Regulations

The *Employment Act of 2008* and the accompanying Expatriate Employment Regulations provide the overall legal framework for expatriate workers in the Maldives. The recently enforced Employment Act requires an employment agreement between the employer and the employee before the employee is recruited. Under the act, workers are required to work no more than 48 hours a week, excluding overtime; employees are eligible for 30 days paid annual leave, 30 days paid sick leave (with medical certificate), and must be paid at least on a monthly basis. No health or social security benefits are mandated. In the event that these rights are violated, a foreign worker can lodge a legal complaint against an employer at the Labour Tribunal of the Maldives. The Human Rights Commission reports that little has been done to implement the act, as the institutions provided for in the act have not begun to function appropriately.

Employment agencies in Maldives, with their counterpart agents abroad, supply migrant labour. Normally, agents who recruit for jobs in the Maldives advertise vacancies in smaller foreign newspapers, specifying the job and outlining compensation for what is usually a one-year renewable contract. Once hired, the contract generally states that if accommodation, food, transport, and medical care are not supplied by the employer, the worker will be reimbursed actual expenses.

According to interviews conducted with migrant workers who have either worked or are working in Maldives, recruiting agents charge fees that are

sometimes excessive. Monthly wages vary from US\$100 to \$150, well below the recommended wages set by countries of origin, and many workers live crammed into make-shift homes. From time to time, the local media features stories about the physical and verbal abuse faced by migrants, particularly those from Bangladesh.

Nursing Personnel Convention, 1977

Many nurses migrating to Maldives for work faced challenges that were addressed by the Nursing Personnel Convention. The convention requires states to adopt measures to provide, recruit, and train Maldivians as nurses, providing them with the education, training, working conditions, career prospects, and remuneration necessary to attract and retain Maldivians to the profession.

Home Work Convention, 1996

The Home Work Convention aims to promote equality of treatment between home/domestic workers and other wage earners, particularly in relation to freedom of association, protection against discrimination, occupational safety and health, remuneration, social security, access to training, minimum age for admission to work, and maternity protection. In the Maldives, female mobile and migrant workers are employed as domestic workers and live in the homes of their employers. Their accommodation is often cramped or overcrowded, their wages are low, and most are expected to work more than eight hours per day. Domestic workers are particularly vulnerable as they are isolated, seldom have employment contracts, lack legal protection, and are generally in a weak bargaining position.

Key Stakeholders

As part of the Ministry of Home Affairs, the Department of Immigration and Emigration (DIE) is responsible for immigration control throughout the Maldives. DIE recently announced the inauguration of the all-purpose visa sticker coming into effect at the start of 2010. The current stickers used for work visas, marriage visas, foreign widow visas, student visas, and dependant visas, would be replaced by this all-purpose visa sticker and its added security features, providing a more secure

and simplified authorization process.²³

In the early 1990s the mandate for labour administration was given to the Ministry of Trade, Industries, and Labour. It was later transferred to the Ministry for National Planning and Development, and then to the ministry responsible for higher education and human resources. In November 2008 the newly created Ministry of Human Resources, Youth, and Sports was given responsibility for labour administration in Maldives. The ministry has so far confined itself to issuing work permits to foreign workers and to dealing with related issues; it does not currently have the resources or policies in place to effectively address the wider labour and employment issues and challenges facing the nation. The ministry collects and compiles statistics on the employment of foreign workers, but does not collect or publish national labour statistics, and has recently stated that the statistics collected with respect to the employment of foreigners and the relevant databases are neither adequate nor accurate.²⁴

The Ministry of Health and Family is responsible for the delivery of health services. Despite government efforts since the early 1990s, a major constraint facing the health sector is a shortage of skilled personnel and health facilities. The Maldives medical establishment consists of the Male' Central Hospital (Indhira Ghandi Memorial Hospital), four regional hospitals (two in the north and two in the south), and twenty-one primary health-care centres.

Each administrative atoll has at least one health centre, staffed by community health workers. Most of the inhabited islands also have traditional medical practitioners. However, the atoll hospitals and health centres treat only minor medical problems; more complex medical needs are addressed at the Male' Central Hospital. Participation of interested NGOs in health education and promotion programmes is encouraged. On a voluntary basis, doctors from the Maldives Medical Association conduct awareness programmes for communities, hold an annual Doctors Day, participate in Blood Donor Camps, and circulate statements on drug use. Additionally, regulation of the nursing sector is undertaken by the Maldives Nursing Council. Health education programmes are

conducted regularly by the Department of Public Health for Maldivian citizens and focus on healthy lifestyles, safe motherhood, child survival, prevention of communicable and non-communicable diseases, family planning and reproductive health, prevention and control of HIV and STI, and treatment for AIDS.

23 Department of Immigration and Emigration, Republic of Maldives; available at www.immigration.gov.mv/index.php/public-announcement.html.

24 HRCM, "Rapid Assessment."

Recommendations

The following recommendations are made within the context of the foregoing analysis of Maldives' migration patterns and policies and HIV situation. In order to reduce the HIV vulnerability of current and future migrant and mobile populations it will be necessary to take action in a range of key areas, as detailed below.

1. Sign/ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and the UN Protocol on Trafficking in Persons.
2. Strengthen understanding about, and collect and analyse data on, the migration-trafficking nexus and the vulnerability of migrants to HIV.
3. Ensure comprehensive migrant-friendly HIV testing that includes voluntary counselling and testing and protects the rights of migrants in a process governed by best practices, including consent, confidentiality, and pre-test and post-test counselling.
4. Highlight the issue of HIV and Mobility in Maldives as part of the SAARC Regional Strategy on HIV/AIDS, drawing the attention of the Technical Committee on Health and Population and the SAARC Expert Group on HIV and AIDS, and mobilizing the leadership of SAARC Member States.
5. Support the Interministerial Group of SAARC Member States representing health, labour, and other relevant ministries in discussion of HIV and mobility issues; recommend actions for improved collaboration between labour sending and receiving countries; strengthen labour policies and laws, based on ILO conventions and such other relevant UN instruments as *CEDAW*, the *ILO Multilateral Framework for Migration*, and the *ILO Code of Practice of HIV/AIDS*.
6. Consider engaging in bilateral agreements with countries that send large numbers of migrants to the Maldives and ensure comprehensive migrant-friendly voluntary HIV testing that protects the rights of migrant workers.

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Photo by Doungjun Roongruang



NEPAL

Acronyms & Abbreviations

ARV	Anti-Retroviral
ART	Anti-Retroviral Therapy
CPCTWCP	Convention on Preventing and Combating Trafficking in Women and Children for Prostitution
CSW	Commercial Sex Worker
DLEP	Department of Labour and Employment Promotion
FNCCI	Nepalese Chambers of Commerce and Industry
GAMCA	Gulf Cooperation Council Approved Medical Centres Association
GCC	Gulf Cooperation Council
ILO	International Labour Organization
MoU	Memorandum/Memoranda of Understanding
MCT	Mother to Child Transmission
MLTM	Ministry of Labour and Transport Management
NAC	National AIDS Council
NACC	National AIDS Coordination Committee
NACSC	National Centre for AIDS and STD Control
NAP	National Action Plan
NGO	Non-governmental Organization
NIDS	Nepal Institute of Development Studies
NPR	Nepalese Rupee
NSACP	National STD and AIDS Control Program
NSP	National Strategic Plan 2007-2011
PLHIV	People Living with HIV
PPTCT	Prevention of Parent to Child Transmission
STI/STD	Sexually Transmitted Infection/Disease
UNGASS	United Nations General Assembly Special Session on HIV/AIDS
VCT	Voluntary Counselling and Testing

Introduction

Nepal is a landlocked country in South Asia and the world's youngest republic. It is bordered to the north by China and to the south, east, and west by India. The population of Nepal is 28.5 million, with almost a third of its population living in poverty and a labour force of 14.6 million.¹ Poverty declined from 42 percent to 31 percent between 1995 and 2004, and the per capita expenditure grew 40 percent in real terms. It is said in Nepal that people are poor not only because of low income, but also because of their low access to opportunities or participation.²

Migration Patterns

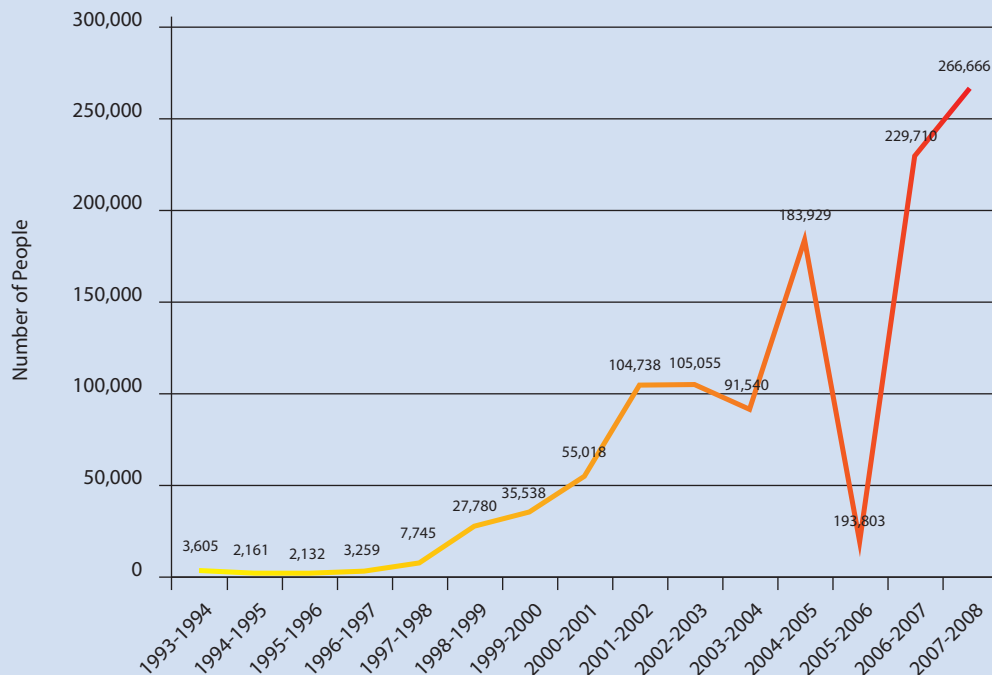
Nepal is considered to be primarily a country of origin for labour migrants, with an emigration rate of 3.9 percent. The major continent of destination for Nepalese migrants is Asia, with 95 percent of emigrants living there. Remittances from labour migrants are a major contributor to Nepal's economy. The country's decade-long internal conflict, limited industrialization, inadequate domestic employment opportunities, and an estimated 300,000 new workers joining the labour market annually, have increased unemployment rates and forced the Nepalese to migrate in search of alternative livelihoods. Widespread poverty, the low status of women and girls, and other social inequities are other major reasons for women to migrate.

The Ministry of Labour and Transport Management (MLTM) estimates that there are 2.27 million Nepali people currently under foreign employment. Approximately 650 migrant workers leave the country

1 US State Department, *The World Factbook*, 2009.

2 UNDP, "Nepal Human Development Report 2009: State Transformation and Human Development."

Figure 1: Annual Migration for Foreign Employment 1993 to 2008



Source: Nepal Migration Year Book, 2008, Nepal Institute of Development Studies (NIDS)

for overseas employment every day.³ During the Tenth Five Year Plan period (2002-2007), about 800,000 youths left for foreign employment using formal government channels. It is estimated that the number of youth going abroad without going through non-government procedures is also notable.⁴ Nepalese migrants working overseas are mainly in the Middle East, East Asia, and South-East Asia. The 2001 Indian Census reported that there were 596,696 Nepali immigrants in India, representing 11.6 percent of the total immigrants received by India.

Official statistics on the annual number of registered migrants from 1993 to 2008 confirm rising trends in migration for foreign employment.⁵ According to figures from the Department of Foreign Employment, 266,666 Nepalis received final approval from the

government to travel for work abroad through private licensed recruiting agencies and on an individual basis. The number of people seeking permission from the government largely remained strong throughout 2008, with more than 17,500 people leaving every month.⁶

Over 229,000 people left Nepal as documented migrant workers in 2007, bringing the total estimate of Nepali workers abroad to about 2.6 million, of which 1.6 million had obtained official permission to migrate for employment. An estimated one million were undocumented.

Nepal is also a destination country, with an estimated 818,700 migrants working in Nepal, representing 3 percent of the total population.⁷

Occupational Profile of Migrants

There are no official statistics to show the number

3 Ministry of Labour and Transport Management, Nepal, 2009; and International Organization for Migration, August 2009; available at www.iom.int/Jahia/activities/asia-and-oceania/sout-and-south-west-asia/nepal.

4 National Planning Commission (NPC), Nepal, Plan Document (three year interim plan), Chapter 17, "Labour Management and Employment Promotion," 2008.

5 Department of Labour and Employment Promotion, Nepal.

6 NPC, *Plan Document*.

7 UNDP, Human Development Report 2009, "Nepal Country Fact Sheet"; available at hdrstats.undp.org/en/countries/country_fact_sheets/cty_fs_NPL.html.

of migrant workers engaged in each type of work, but informal sources, such as recruitment agencies, estimate 60-70 percent of Nepalese migrants are unskilled labourers, 20-30 percent are skilled, and 3-4 percent are highly skilled workers.

The Department of Labour and Employment Promotion (DLEP) reported that during the first eleven months of the fiscal year 2007-2008, most of the 215,639 migrant workers were unskilled, with 201,507 workers taking on blue-collar jobs in construction, manufacturing, and service sectors of Qatar, Japan, Republic of Korea, and Malaysia. Nepal has requested revisions to air route contracts and labour agreements with traditional labour receiving countries in the hope of promoting export of better skilled workers, while boosting Nepal's tourism revenue.⁸

The DLEP 2008 report on overseas employment promotion states that the number of countries seeking Nepali workers doubled over the previous year, although the level of the workers, both in terms of education and skills, remained stagnant. Foreign labour markets are slowly transforming to a higher technological absorption base. At the same time, migration costs have continued to grow, particularly to East Asia and the Middle-East labour destinations.⁹

Significant numbers of Nepali men were employed in the Indian Army through the 1950s and 1960s, and recruitment to the Indian police and other services, including the civil service, augmented the total of those employed in the public sector in India. Toward the end of the 1990s some 250,000 Nepalis were employed in India's public sector, of which an estimated 50,000 were in the army.¹⁰

Gender and Migration

There are major differences in the participation of women (48.9 percent) and men (67.6 percent) in the labour force in Nepal. Most women are engaged in informal, subsistence, and domestic labour, without pay or with low wages.¹¹ Grinding poverty, gender-based

discrimination and inequity, and situations of conflict are pushing women to look for work in international markets.

The number of female Nepali migrant workers officially reported in 2008 was 11,007 women out of a total of 266,666 migrants, a vast increase compared to the 316 women migrants reported in 2007.¹² For every documented female migrant leaving Nepal, an equal number of undocumented female migrants are likely travelling on cheap flights to foreign countries through irregular channels via major cities in India or through Bangladesh. Circumventing the undeclared ban of the Government of Nepal on female migration, especially to Gulf countries and Malaysia, is the likely reason for this significant increase in undocumented female migration.¹³

Table 1: Key Events on Travel Ban on Nepali Female Migrants

Events	Date
Ban on female migrant workers going to Gulf	May 16, 1997
Ban lifted on female migrant workers and conditions imposed	January 17, 2007
Ban completely lifted	September 5, 2007
Second ban imposed for embarking to Gulf countries and Malaysia	September 5, 2008

Source: *Nepal Migration Year Book, 2008*, Nepal Institute of Development Studies.

As in the case of Bangladesh and India, gender-based bans increase the vulnerability and risks of women to exploitation and trafficking. When regular and formal channels of migration are closed, women turn to irregular and unofficial channels. For example, three Nepali females were apprehended by Nepal police in Bagey District in December 2008 as they were heading for the Gulf countries from Nepalgunj via India with two sub-agents.¹⁴

8 Surya B. Prasia, "Sustaining Nepal's Foreign Labour Exports," *American Chronicle*, July 30, 2009.

9 Ibid.

10 David Seddon, *Nepal's Dependence on Exporting Labor*, University of East Anglia, January 2005.

11 NPC, Plan Document, Chapter 8, "Gender Mainstreaming and Inclusion."

12 Nepal Institute of Development Studies (NIDS), *Nepal Migration Year Book, 2007*. Regarding the very low number of women migrants, the 2007 report further states that "this could mean either a decline in the number of females eager to seek foreign employment, or women preferring to fly overseas via India without seeking permission to avoid hassles and possibly pay bribes. Therefore data on female migration have remained invisible" (p. 21).

13 NIDS, *Nepal Migration Year Book, 2008*.

14 *Nepal Samachar Patra*, December, 25, 2008, p. 6; and NIDS, *Nepal Migration Year Book, 2008*.

Various reports estimate that about 70,000 female migrant workers from Nepal are working in international labour markets. According to the 2008-2009 internal statistical data from a local non-governmental organization (NGO), the number of women travelling to the Gulf States in search of job opportunities – particularly Saudi Arabia, Dubai, Oman, Lebanon and Kuwait – is rising.¹⁵ Reports from NGOs and the planning document of the National Planning Commission of Nepal confirm that although overseas employment opportunities for women are increasing, women remain vulnerable to the hardships of human trafficking, forced labour, sexual exploitation, and HIV. Many undocumented migrant workers are believed to end up in the commercial sex trade and entertainment businesses in Indian cities.

According to research undertaken by the Population Council's Horizons Program in conjunction with the Asia Foundation, about 40 percent of the adolescent girls surveyed said they did not want to live permanently in their villages, and 85 percent of these girls expressed a desire to travel to urban areas.¹⁶ A general lack of awareness of international labour markets and avenues for safe migration was apparent, creating an enabling environment for trafficking.

The migration of Nepali women to foreign countries for work, and the consequences of their migration in terms of the impact on themselves and on the society and economy of Nepal, are inadequately understood, despite the fact that women's migration abroad is not a recent phenomenon. Indeed, women have been migrating from Nepal on a seasonal, temporary, and permanent basis for more than two centuries.

Human Trafficking

Nepal is a source country for girls and women trafficked for sex work, domestic servitude, forced labour, and work in circuses. With low literacy levels and extreme poverty, human trafficking is a significant problem in Nepal. Young girls are sold by poor parents, tricked into fraudulent marriages, or promised employment in towns only to find themselves in brothels. Many women

15 "Migration of Nepalese Women to Gulf Countries: Exploitation and implication on health," MAITI Nepal, August 14, 2009; available at www.maitinepal.org/rdetails.php?option=Reports&cid=115.

16 Asia Foundation and Horizons, "Trafficking and Human Rights in Nepal: Community Perceptions and Policy and Program Responses", 2001.

and girls are also internally trafficked from rural areas across Nepal to be sexually exploited in so-called cabin restaurants, massage parlours, or in street prostitution.¹⁷

The strategic source areas used by traffickers to procure women and girls are the isolated districts of Sindhupalchowk, Makwanpur, Dhading, and Kavre. Nepal is similar to Bhutan in that it is also a transit point for Tibetan women who enter Nepal illegally seeking asylum at refugee camps, but become easy prey for traffickers. Government reports in 2007 indicated that 26 out of 75 districts in Nepal were vulnerable to human trafficking, where women and girls have disappeared or have returned after being trafficked.¹⁸

Approximately 5,000 to 7,000 Nepalese women and girls between the ages of 10 and 20 trafficked into the red-light districts in Indian cities each year.¹⁹ The open border agreement between India and Nepal allows traffickers to easily transport victims, especially teenage girls, between the two nations on their way to brothels in Mumbai and other cities that are eager to buy them.

Apart from brothels, about 200 girls aged 6 to 14 are in Indian circuses. Studies on human trafficking by various Indian and Nepali NGOs estimate that while about 7-11 percent of trafficked victims are involved in domestic work and about 8 percent are married to Indian men, the balance are directly sold into the commercial sex trade in Indian cities.

Hong Kong (SAR) is the second biggest market for trafficked Nepalese women; and Malaysia, the United Arab Emirates (UAE), and other Gulf countries are also reported to be destinations. Internal trafficking is also on the rise due to the insurgency and high rates of internal displacement, as rural women and children leave their homes and seek employment and security in urban centres.²⁰

17 A. Ambekar, G. Lewis, S. Rao, and H. Sethi, South Asia Regional Profile, 2005, United Nations Office on Drugs and Crime, New Delhi; available at www.unodc.org.

18 Government of Nepal, 2007.

19 The Coalition Against Trafficking in Women (CATW), "Trafficking in Women and Prostitution in the Asia Pacific", 2009, available at http://www.catwinternational.org/factbook/Asia_Pacific.php

20 UNDP, Human Trafficking and HIV: Exploring Vulnerabilities and Responses, 2007.

Table 2: Nepali Migration by Region and Destination Countries

Region	Countries	Remarks
Eastern Development Region	Maldives, Singapore, Kuwait, and Bahrain	16.0% of migrants
Central Development Region	Pakistan, Bangladesh, Sri Lanka, China, Russia and its former republics, Australia, Germany, France, other European countries, US, Canada, Mexico, and other countries	14.1%, with a significant number going for study and training.
Western Development Region	India, Republic of Korea, Japan, Hong Kong (SAR), Malaysia, Saudi Arabia, Qatar, other Asian countries, and UK	43.5% of migrants
Mid-Western and Far-Western Development Regions	India	12.4% and 13.9% respectively.

Source: Population Census of Nepal, 2001.

Source, Transit, and Destination

Source

In the Nepal Government Census of 2001 migrants moving abroad are reported by district. The Western Development Region of Nepal accounts for the majority of Nepalese migrants (43.5 percent) followed by the Eastern Development Region (16.0 percent), Central Development Region (14.1 percent), and Mid-Western Development Region (12.4 percent) where migrants come from the districts of Baglung, Gulmi, Arghakhanchi, Syangja, and Parbat. Most migrants (77.3 percent) from the Baitadi, Bajhang, Doti, Dadeldhura, Achham, Bajura, Darchula, Kailali, and Kanchanpur districts in the Far-Western Development region (13.9 percent) go to India (see Table 2).²¹

Transit

The major transit points in Nepal are Gadda Chauki (Mahendra Nagar), Jamunaha (Nepalgunj), Mohana (Dhangadhi), Belahia (Bhairahawa), Kodari (Sindhupalchowk), and Kakarvitta (Jhapa). Indian nationals are exclusively permitted to enter Nepal freely through Birganj (Parsa). Although *The Foreign Employment Act and Regulations 2007* directs all Nepalese migrant workers to fly abroad from the international airport within the country, many undocumented migrant workers reportedly fly to the Gulf countries from New Delhi, Mumbai city, and Kerala state, with some flying from Dhaka, Bangladesh. Recruiting agencies blame ticketing agents for the shortage of tickets for people flying overseas from

Nepal for various purposes.²²

Destination

Two centuries ago the major international destination of Nepalese migrants was India, mainly due to recruitment into the British Army. The current international destinations of Nepalese migrants are based on the high demand for labour in the Gulf States and Malaysia. The Nepalese Government has listed 107 countries where Nepalese migrant workers can apply for official permission to work.

Nepal today is well recognized as the country of origin for labour migrants to the Gulf Cooperation Council and Malaysia. The 2001 Nepal Census shows that 762,181 (3.29 percent) of the total population of 23,151,423 were out of the country in 2001, with 77.3 percent of those abroad in India, 14.5 percent in Gulf States, 4.9 percent in Asian countries other than India, and 3.3 percent in other countries. By 2007 there was a steep increase in migration, showing how critical migration is for the Nepalese economy.

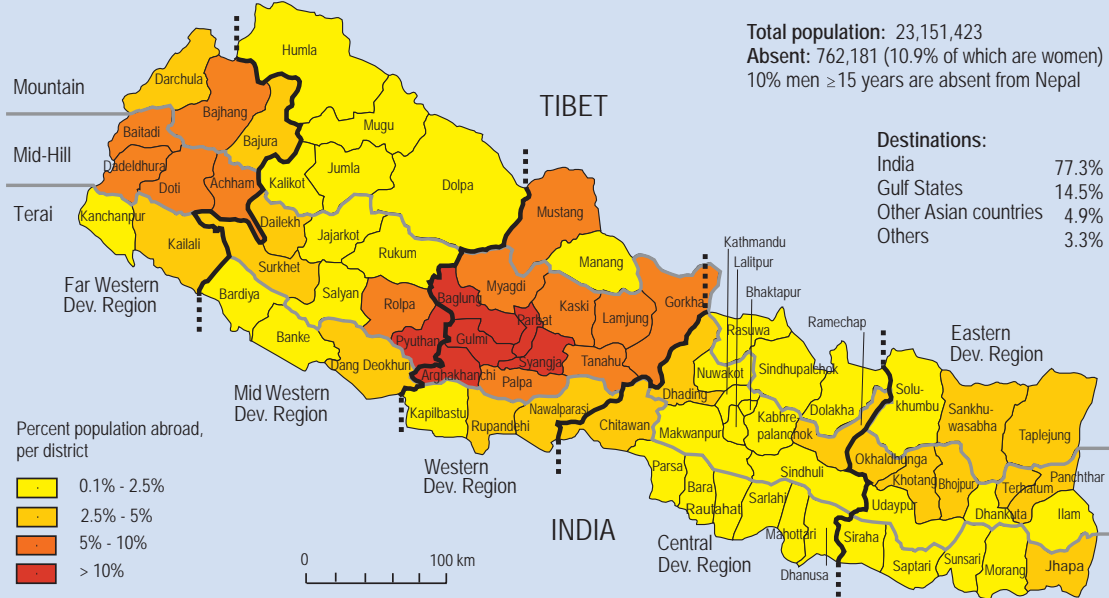
According to the Department of Labour and Employment Promotion, excluding documented and undocumented migrants to India, 243,180 Nepalis were engaged by recruiting agencies for foreign employment, out of which 69.13 percent went to the Gulf States and 26.54 percent to Malaysia.

Nepal and India share a 1,778 kilometre border that is very porous, making it difficult to accurately capture

²² Focus Group discussion with representatives of recruiting agencies held for the study on Overseas Recruitment Industry in South Asia, a case study of Nepal by NIDS, with support from SAMReN, 2006.

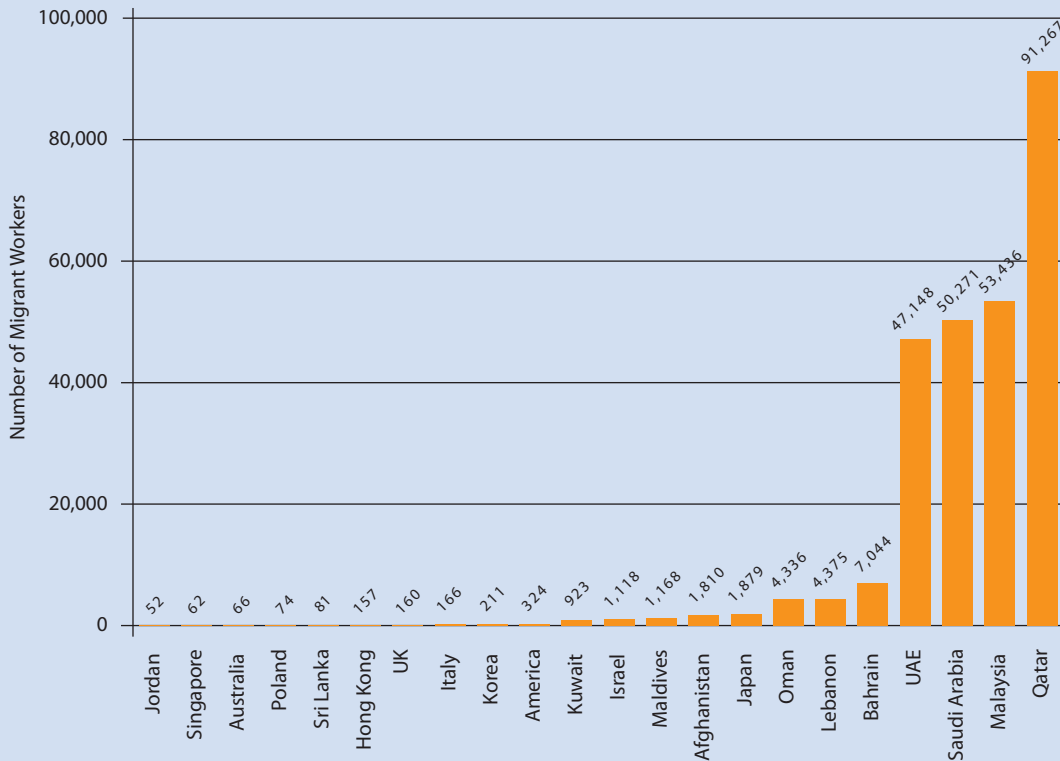
²¹ Population Census of Nepal, 2001.

Figure 2: Migration Abroad by District



Source: Addressing the Needs of Nepalese Migrant Workers in Nepal and in Dehli, India, Mountain and Research Development, 2005

Figure 3: Destination Countries 2008 (Excluding India*)



Source: Nepal Institute of Development Studies, Nepal Migration Yearbook 2008, 2008

* Also excludes a number of countries that are host to less than 50 migrants from Nepal. The total number of migrants working in these countries in 2008 was 538.

Figure 4: Remittances 2000 to 2007

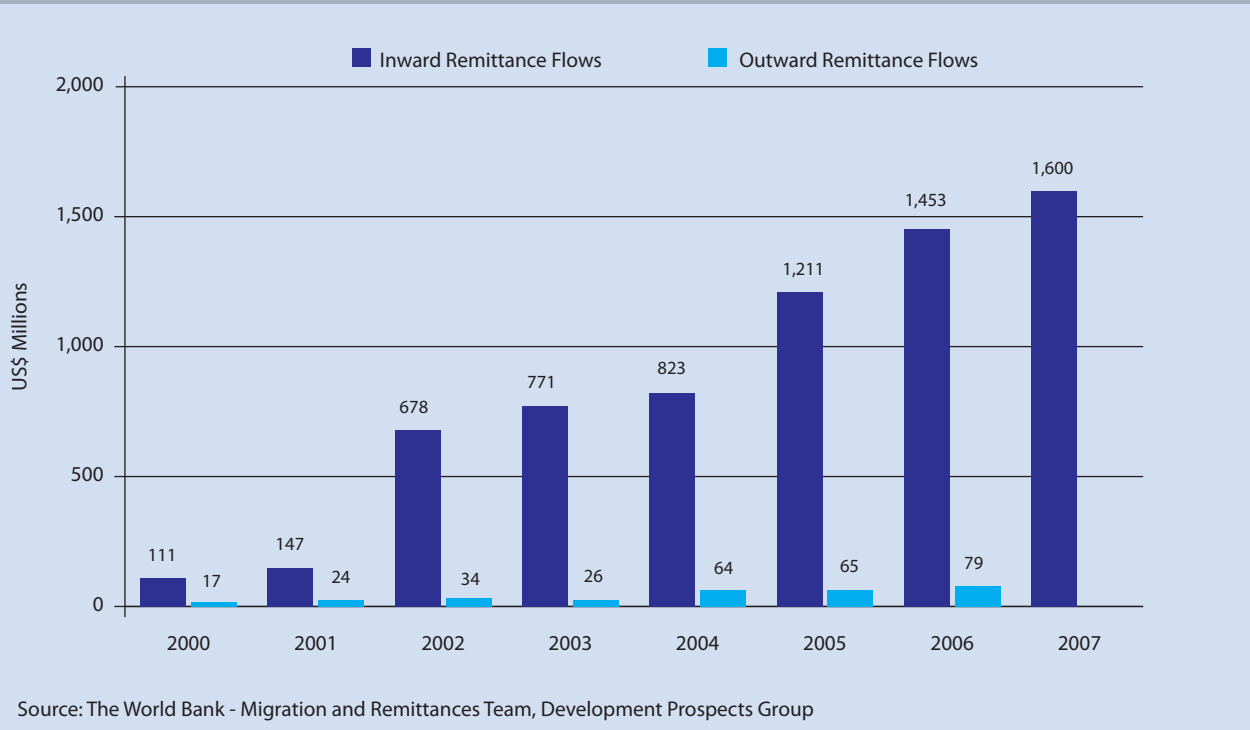


Table 3: Comparison of Remittances Data by Household 1995 and 2003 (NPR)

Description	1995/96	2003/04
Percent of all households receiving remittances	23.4%	31.9 %
Average amount per household (nominal NPR)	15,160	34,698
Per capita remittances for all Nepal (nominal NPR.)	625	2,100
Total remittances received by household (nominal NPRs)	12.9 Billion	46.3 Billion

Source: Nepal Living Standard Survey, 2004.

data on cross-border movement and undocumented migration. No information is available on the number of documented migrants going to India to work in 2007. Based on historical records, approximately 75 percent of all documented Nepali migrants go to India to work.

In 2008 the Gulf countries remained very popular destinations for numerous Nepali migrant workers throughout the year. DLEP estimates that workers leaving for the Gulf States (Qatar, UAE, and Saudi Arabia) and Malaysia accounted for more than 93 percent of total departures during the first 11 months of fiscal year 2007-2008. Statistics show an increase in migrant workers going to Qatar from 83,699 in 2007 to 91,267 in 2008. Continuing construction work, higher salaries, and the labour agreement between Nepal and Qatar are considered the major reasons for this increase.

Saudi Arabia, with 50,271 Nepali migrant workers, and UAE with 47,148, remain attractive destinations for job seekers from Nepal.²³

Developed nations such as the United States, the United Kingdom, Germany, and Japan attract family-based migration for those Nepalese who have relatives in these countries. The concentration of female migrant workers in Hong Kong (SAR) and the UK is linked to British Government recruitment of Nepalis into their army in colonial times. The ID system established in Hong Kong (SAR) provides permanent resident passes for the Nepalese children of parents recruited by the British Army. These Nepalese permanent residents are permitted to sponsor the immigration of family

²³ NIDS, Nepal Migration Year Book 2008.

members and prospective spouses, contributing to this pattern of migration.²⁴

Remittances

Until 1997 about 80 percent of remittances were through informal channels, such as *hundi*.²⁵ Today, a much larger share of remittances is transferred through expanded formal channels, the banks, and about 46 registered remittance transfer companies operating in this highly competitive industry. Nepal Rastra Bank, the central bank of Nepal, estimates that in 2005-2006, 22 percent of remittances entered Nepal through banks, 44 percent through remittance transfer companies, an average of 29 percent (32 percent rural and 25 percent urban) through *hundi*, and 5 percent through other media.²⁶

It is still difficult to bring remittances from India to Nepal through formal channels, although attempts have been made to ease this problem. Consequently, most remittances from India to Nepal are hand carried.²⁷ No reliable data is available on remittances to Nepal that flow through informal, non-banking channels.

There are different estimates on the volume of remittances sent to Nepal by Nepali migrant workers. The DLEP reports remittances from December 2006 to January 2008 as US\$67,549,669 (5.1 Billion NPR).²⁸ Remittance income as a percentage of gross domestic product in 2005-2006 was 16.7 percent, adding Nepal to the list of the 20 countries receiving the most remittances worldwide. According to the Nepal Rastra Bank, remittances from India that year were 2.1 percent of the total incoming remittances, and remittances from women were 11 percent.²⁹

Data from the *Nepal Migration Yearbook* states remittances were US\$1.51 billion for 2007 and US\$1.3

billion for 2006, approximately twice what was reported by the DLEP. The UNDP *Human Development Report 2009* estimates inward remittances for 2007 at US\$1.73 billion, with average remittances per person US\$61

A National Living Standards Survey conducted in 2004 shows that the poorest people benefit from the indirect spin-off effects of remittances. The number of rural households receiving remittances has increased from 23.4 percent in 1995-1996 to 31.9 percent in 2003-2004.³⁰

For example, in villages receiving substantial remittances, jobs are created and labour shortages provide opportunities for poorer people. Often, wage rates also increase. Employment opportunities are also created in towns, cities, and road heads.³¹ Remittances are invested in housing, industries, and services; and this economic development contributes positively to the internal movement and employment of the poor.

HIV/AIDS Situation

According to 2007 national estimates, approximately 70,000 adults and children in Nepal are estimated to be infected with HIV, most of whom are unaware of their infection. The estimated national adult prevalence in 2007 was 0.49 percent. As of December 2009 a total of only 14,320 HIV cases had been reported. Among HIV-positive people, the male-to-female ratio is 2.9:1. While all modes of transmission have been reported, unprotected sex and sharing of unclean needles by injecting drug users are the most common drivers.³²

There is a concentrated epidemic among injecting drug users (IDU). While prevalence has declined over the past decade, it remains above 5 percent nationally (20.7 percent in Kathmandu). Among female sex workers (FSW) and their clients, male sex workers, and men who have sex with men, prevalence remains above 1.5 percent.³³

24 UNIFEM, *Nepali Women and Foreign Labour Migration – Summary*, p. 5, June 2006.

25 *Hundi* refers to financial instruments evolved on the Indian sub-continent and used in trade and credit transactions as remittance instruments for transferring funds from one place to another. Technically, *hundi* are unconditional, written payment orders, most often used as equivalents to cheques and normally regarded as bills of exchange. As part of the informal system, *hundi*s have no legal status.

26 National Rastra Bank, 2006 Household Budget Survey 4, 2005; available at www.red.nrb.org.np/publications.

27 NIDS, *Nepal Migration Year Book*, 2008.

28 Foreign Exchange rate for Nepalese rupee: US\$1 = 75.5 NPR.

29 NIDS, *Nepal Migration Year Book* 2006.

30 National Living Standards Survey, 2004.

31 Places on the highways that connect to towns and villages.

32 UNGASS, *Country Progress Report*, Nepal, 2010.

33 *Ibid.*

National Response to HIV/AIDS

In 1992 the Government of Nepal founded the National AIDS Coordination Committee (NACC) to lead the multisectoral response to HIV/AIDS, and it followed with the establishment of the National AIDS Council (NAC) to oversee the NACC's efforts. However, both the NACC and the NAC have been ineffective, in part because of civil strife.

The National Centre for AIDS and STD Control (NCASC) was established in 1993 under the Ministry of Health and Population and designated as the main government agency responsible for AIDS and sexually transmitted infection (STI) prevention. In 2007 a semi-autonomous body, HIV/AIDS and STI Control Board, was set up to improve multisectoral engagement, decentralization, donor coordination, and resource channelling to support the multisectoral responses of the NCASC.

A National Policy on AIDS and STD Control, formulated in 1995, focuses mainly on multisectoral involvement, decentralized implementation, and partnerships between the public and private sectors. It underlines the promotion of safe sexual behaviour, counselling, confidentiality, and screening of blood for transfusion without any discrimination in terms of age, sex, or infection.

NCASC developed a National Strategy on HIV/AIDS which was subsequently translated into the five year National HIV/AIDS Operational Plan for 2003-07. Currently, HIV/AIDS activities are programmed by the second National HIV/AIDS Strategic Plan 2006–2011, and implementation has been coordinated under the 2006–2008 National HIV/AIDS Action Plan (NAP), which has the following objectives:

- Prevent the spread of sexually transmitted infections and HIV infection among at-risk groups.
- Ensure universal access to quality treatment, diagnostics, care, and support services for infected, affected, and vulnerable groups.
- Ensure a comprehensive and well-implemented legal framework on HIV/AIDS promoting human rights and establishing HIV/AIDS as a development agenda.
- Enhance leadership and management at national and local levels for an effective response to HIV/AIDS.

- Use strategic information to guide planning and implementation for an improved effective response.
- Achieve sustainable financing and effectively utilize funds.

The second National Action Plan, for 2008-2011, was formulated in continuation of the framework developed under the National HIV/AIDS Strategic Plan 2006-2011. The NAP 2008-2011 is expected to serve as a blueprint for articulating the necessary actions to achieve universal access to prevention, treatment, care, and support.³⁴

NCASC has developed National Guidelines for Voluntary HIV/AIDS Counselling and Testing (VCT) and Anti-Retroviral Therapy (ART). These Guidelines lay out the ground rules for HIV testing and ARV therapy until the proposed *HIV/AIDS Prevention, Treatment, and Rights Protection Bill 2007* comes into effect.

HIV prevention and treatment services in Nepal include voluntary counselling and testing, anti-retroviral therapy, and the prevention of mother-to-child transmission (PMTCT). VCT services are available at 23 sites, 3 offered by the government and 20 sites operated by NGOs. Services target high-risk groups, and include youth-friendly services and sexual and reproductive health services and information, in addition to treatment for those infected. By 2006 there were an estimated 83 VCT sites in the country; PMTCT is a national programme launched in three government hospital sites; ART programming is available in government hospitals and clinics. According to the 2010 report of the United Nations General Assembly Special Session on HIV/AIDS (UNGASS), while an estimated 16,000 adults and 950 children in Nepal are in need of ART, 19.03 percent of this total (3,048 adults and 178 children) are accessing ART from 23 ART sites throughout the country.

Nepal's *National Policy on HIV/AIDS in the Workplace 2007* serves as a platform to advocate for the rights of people living with HIV (PLHIV) in the workplace. The policy follows the guidelines set out in the ILO code for addressing discrimination, gender equality, a healthy work environment, and encouragement of social interaction. The policy states that HIV tests are not to be conducted for the purpose of separation from work or employment. Confidentiality of PLHIV is to be

³⁴ National HIV and AIDS Action Plan 2008-2011.

respected, and PLHIV are to be allowed to continue to work as long as they can perform as required. The policy also provides for continued treatment, care, and support of PLHIV. The long-term goal of this policy is to recognize HIV/AIDS as a major challenge and to increase activities to minimize its effects in the workplace, with a specific focus on women. A Directorate, headed by the Ministry of Labour, implements, manages, and monitors the activities outlined in the policy, with the support of Transport Management acting as Secretary.

An initiative of the Federation of Nepalese Chambers of Commerce and Industry offers to assist with developing HIV/AIDS workplace policy for employees of member firms and to seriously advocate and encourage member companies to adopt the policy. The policy recognizes HIV/AIDS as a workplace issue and includes clauses that follow ILO guidelines and the National Policy.

Migration and HIV/AIDS

According to the UNAIDS 2006 report, 46 percent of HIV cases in Nepal are among seasonal labour migrants, 19 percent among clients of sex workers, and 20.2 percent among wives or partners of HIV-positive men. According to the 2007 UNGASS Nepal report, a study conducted in 2006 among Nepali migrants travelling to Indian cities for work, 27 percent of migrant men engaged in high-risk sexual behaviours while in India. Another study indicated that 22-38 percent of young Nepalese women trafficked to India and returning to Nepal were HIV positive.³⁵

National estimates for 2008 also confirm that the highest burden of HIV is among labour migrants (38.8 percent), and indicates that 1.8 percent of the HIV cases (798) were among returned trafficking victims.³⁶ A 2008 IBBS study conducted among male labour migrants to India, measured an HIV prevalence of 1.4 percent in the Western regions of Nepal and 0.8 percent in the Mid to Far-Western regions of Nepal. The study found that sex with FSWs is present among labour migrants and while awareness of HIV/AIDS was high, proper knowledge about HIV/AIDS transmission was low and the level of exposure of labour migrants to HIV/AIDS/

STI programs was also low.³⁷ Recent data also shows that approximately 20 percent of migrants engaged in unprotected sex in India. This group now accounts for 40 percent of all HIV infections in Nepal, with numbers of HIV cases also increasing among wives and partners.³⁸

Research shows that migrant workers engage in risky sexual behaviour because of peer pressure, work stress, and homesickness. Although HIV/AIDS awareness is currently included in the pre-departure orientation curriculum, ill-informed trainers with little knowledge of HIV or AIDS can make the programmes ineffective in empowering migrants to protect themselves from HIV during their time abroad.

Mandatory Testing

Mandatory testing for HIV is prohibited in Nepal, with the exception of recruitment for both the army and police. However, most host countries demand medically fit migrants and require that potential employees undergo mandatory testing prior to departure. Migrant workers also undergo medical tests once they reach their destination countries. The Gulf Approved Medical Centre Association has five medical centres in Kathmandu and conducts medical testing for migrant workers who wish to go to the Gulf countries. Although VCT guidelines state informed consent prior to an HIV test is required, migrant workers reveal that consent is rarely requested.

The recent *HIV and AIDS Prevention, Treatment and Rights Protection Bill (2007)* assigns the government responsibility for providing migrant workers with correct information about HIV and AIDS before and after migration. Nepal's *Labour Migration Policy* has a provision for including HIV/AIDS awareness and STI prevention and control measures in mandatory pre-departure training. Whether conducted by the government or private companies, the quality of this training is an issue and one of the weaknesses of current policy implementation.

Recruitment agencies encourage migrant workers to contact them rather than middlemen, who make them pay more for foreign employment assistance. These agencies claim to provide pre-departure orientation to

35 Jay Silverman, *Assessing the Public Health Consequences of Sex Trafficking in India, Nepal and Bangladesh*, Harvard School of Public Health, 2007.

36 National HIV and AIDS Action Plan 2008-2011.

37 NCASC, "IBBS Survey among Male Labor Migrants in 11 Districts in Western and Mid to Far-Western Regions of Nepal Round II, June-September 2008".

38 UNGASS, *Country Progress Report, Nepal, 2010*.

migrant workers as stated in the law and appear to be sensitive to HIV/AIDS issues. Those licensed to conduct medical tests for migrant workers say they provide pre-test and post-test counselling. Many recruiting agencies report visiting workers at their work place to ensure they are receiving fair treatment. The accuracy of these statements of compliance needs to be verified and confirmed. Some agencies also have offices in destination countries that workers can contact in the event of difficulties.

Policies, Legislation, and International Conventions

International Conventions

Although Nepal has provisions in its Labour Migration Policy 2006 that are congruent with the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, Nepal has not yet ratified this convention. Nepal has also not ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons. However, various other international human rights conventions affecting migrants and International Labour Organization (ILO) conventions have been ratified:

- *International Covenant on Economic, Social and Cultural Rights*, 1996
- *International Covenant on Civil and Political Rights*, 1966
- *Convention on the Elimination of Racial Discrimination, Discrimination Against Women*, 1979
- *The Convention on the Rights of the Child*, 1989
- *Right to Organize and Collective Bargaining Convention*, 1949
- *Forced Labor Convention*, 1930
- *Minimum Age Convention*, 1973
- *Worst Forms of Child Labour Convention*, 1999
- *Equal Remuneration Convention*, 1951
- *Discrimination (Employment and Occupation) Convention*, 1958
- *Weekly Rest (Industry) Convention*, 1921

- *Minimum Wage Fixing Convention*, 1970
- *Tripartite Consultation (ILS) Convention*, 1976
- *Indigenous and Tribal Peoples Convention*, 1989

Nepal has not ratified the two ILO conventions specific to migration: *Migration for Employment Convention (Revised)*, 1949; and *Migrant Workers (Supplementary Provisions)*, 1975.

Regional and Bilateral Agreements

The South Asian Association for Regional Cooperation (SAARC) adopted the *Regional Convention on Preventing and Combating Trafficking of Women and Children for Prostitution* on January 6, 2002. All seven SAARC states, including Nepal, have signed and ratified this convention. Although Nepal is a signatory to regional and international anti-trafficking conventions, it has yet to initiate bilateral discussions with India, which is also a signatory of these conventions. Follow-up on the implementation of the conventions is pending.

Nepal has signed Memoranda of Understanding with the governments of Qatar, UAE, and Republic of Korea that include labour agreements (see Table 4).³⁹

National Policies and Legislation

Foreign Employment Act 2064 (2007)

The objectives of the new *Foreign Employment Act 2064* (2007), which replaced the *Foreign Employment Act 2042* (1985), are to ensure the safety of overseas employment, manage the migration process, and protect the rights and welfare of migrant workers. This new legislation also has provisions to eliminate gender discrimination in contrast to the previous law, which banned Nepali women from working in the Gulf States unless in the organized sector. In Nepal, pre-departure orientation programs are mandatory for all outgoing migrants.

Labor Migration Policy 2063 (2006)

This policy is aimed at developing a joint perspective and strategy to control human trafficking and preserve and protect the rights of Nepalese migrants in cooperation with destination countries, SAARC member states,

39 NIDS, Migration Year Book, 2007.

Table: 4: Synopsis of Bilateral Agreements

Countries	Date of Signing	Synopsis
Nepal and UAE	July 3, 2007	Provides a legal framework and stipulates requirements for both job seekers and recruiting agents. Requires employing companies to comply with labour contract agreements signed by recruiting agencies and workers, providing details on rights and obligations of both workers and employers as per rules of both the countries. Creates a bilateral mechanism for semi-annual exchange visits and agreement status reviews. Sets expectations regarding alleged practices of private recruiting agencies, such as: demanding exorbitant fees, providing false information about working conditions, and misleading workers about required qualifications and experience, regulations, and wages. UAE will establish an office in Kathmandu to oversee labour issues, equipped with direct electronic networking to verify misleading documents.
Nepal and Republic of Korea	July 23, 2007	Provides Korean language training courses for Nepali migrant workers. Stipulates only government-approved organizations to manage selection process. Limits fees incurred by prospective job seekers. Aims to ensure transparency in pay (minimum monthly salary fixed at 780,000 Korean won (US\$844)) and benefits, selection processes, remittance repatriation procedures, minimum qualifications, and criteria of Republic of Korea companies for recruiting Nepalese workers, among others. Both countries to set up offices in each others' capital to deal with labour issues.
Nepal and Qatar	January 20, 2008	Aims to protect the interests of Nepali workers in Qatar, ensures remuneration and facilities according to Qatar labour laws, and sets wages at par with migrant workers from other countries. Establishes joint committee to monitor and implement agreement.

and other countries in Asia. It provides for effective supervision and management at international borders and points of departure in order to control human trafficking and informal migration. The policy also enables the Nepalese labour sector to organize and streamline its plans according to the basic guidelines provided by the ILO.

The Human Trafficking (Control) Act (2008)

The *Human Trafficking (Control) Act* passed in July 2008 significantly strengthens measures against trafficking by broadening the definition of trafficking, increasing penalties, enhancing victim protection, and defining child victims as persons up to the age of 18. It also places the burden of proof of innocence on the accused. It is too soon to assess the impact of the new act.

Key Stakeholders

Government Agencies and Networks

The National Centre for AIDS and STD Control, was established in 1993 and sits under the **Ministry of Health**. It has been the main government agency responsible for AIDS and STI prevention.

The HIV/AIDS and STD Control Development Board, also sitting within the **Ministry of Health**, was established in 2007 as the national AIDS coordinating authority, improving multi-sectoral engagement, decentralization, donor coordination and resource channelling.

The ILO is closely involved in the institutional capacity building of the **Ministry of Labour and Transport Management** to improve effective labour migration management in Nepal.

Non-governmental Organizations

National Network for Safe Migration includes 35 organizations and is supported by UNIFEM. Its mission is to ensure migrants are safe and that their human rights are protected.

POURAKHI is an NGO formed by women who are returned migrants themselves. It has helped raise awareness, and advocates for necessary policy changes.

MAITI Nepal is an NGO working in the field of trafficking, organizing rallies and working with Indian NGOs and law enforcement agencies to rescue women trapped in brothels in India.

Shelters is run by various Kathmandu-based NGOs

Table 5: Review of Policies and Laws on Labour Migration and HIV/AIDS

Policies & Laws	Objective(s)	Review
Foreign Employment Act and Regulation	Develop overseas employment as safe, manage the migration process, and protect the rights and welfare of migrant workers.	Positive step in protecting the rights of migrants.
Nepal's HIV/AIDS Strategic Plan	Recognize migration can create vulnerabilities to HIV.	Calls for interventions to address the spread of HIV without compromising rights to freedom of movement, and seeks a better standard of living.
National HIV and AIDS Strategic Plan (2006-2011)	Establish Nepal National Workplace Policy, the National Policy on Drug Control (2006), Nepal Policy Advocacy Panel on HIV/AIDS, Nepal Leadership Forums on HIV/AIDS (youth, women and media), and Human Rights	Forums produce "policy champions," i.e., socially influential and recognized leaders in their respective fields who support policy advocacy and action on HIV and related issues.
Labour Migration Policy 2063	Develop a joint perspective and strategy to control human trafficking and preserve and protect the rights of Nepalese migrants in cooperation with destination countries	Revised curriculum to include HIV and AIDS, safe sex, and sex work, as well as other improvements to preliminary training.
HIV and AIDS (Prevention, Treatment and Rights Protection) Bill 2007	Provide correct information to migrant workers before and after their migration period. Section 15: Provide control through counselling, testing, medical treatment, and facilities for sustaining health. Section 16: Provide health-sustaining tools and facilities together with counselling, treatment, care, and support to those vulnerable to HIV.	Formation of HIV/AIDS and Sexual Disease Control Board at highest level of government.
Free ARV treatment.	Provide ARV treatment services at government hospitals and 20 ARV treatment centres, and reach 21,000 people with HIV/AIDS in 2008.	Increased prevention and treatment services: VCT, ART, PMTCT, STI, and Opportunistic Infections Free ARV from 17 different sites provided to over 1,100 PLHIV, compared to 160 reported in last UNGASS report.
Mandatory 2-day pre-departure orientation delivered by private organizations in Kathmandu.	Protect migrant workers from fraud and increase awareness of HIV/AIDS and STI prevention and control measures.	Perfunctory delivery too close to departure dates, and migrants pay training expenses. Attendance certificates readily purchased cheaply from unofficial agents.

that are working to fight trafficking and provide rehabilitation of girls who manage to escape or are rescued from Indian brothels.

Federation of Women Living with HIV/AIDS is a recently registered network for HIV-positive women.

Blue Diamond Society provides HIV/AIDS information and education, condoms, STI diagnosis and treatment, HIV counselling and testing, support for HIV-positive individuals, anti-retroviral treatment support, and a hospice for those in need.

National Network Against Girl Trafficking and Alliance

Against Trafficking and Sexual Exploitation of Children are NGOs that equate trafficking with sex work and migration, and take a welfare approach, including advocating for tighter restrictions on women's travel.

National Network Group Against Trafficking is a 98-member NGO pressure group, formed to lobby against trafficking.

Alliance Against Trafficking in Women and Children in Nepal de-links trafficking from sex work, migration, and HIV, and is beginning to develop a safe migration emphasis.

The Global Fund to Fight AIDS, Tuberculosis and Malaria is an international financing institution whose primary objective is to halt three of the world's most devastating diseases. GFATM is supporting a large programme on HIV and migration in Nepal.

Recommendations

The following recommendations are made within the context of the foregoing analysis of Nepal's migration patterns and policies and HIV situation. In order to reduce the HIV vulnerability of current and future migrant and mobile populations it will be necessary to take action in a range of key areas, as detailed below.

1. Ratify the 1990 UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families as well as the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons. Accordingly, add a provision for protection of family members of migrant workers in the Foreign Employment Act 2007.
2. Organize and amend the migration process for migrant workers going to and/or coming from India, given the large number of Nepali migrant workers migrating seasonally to India through the long open border. Effective management and better organization of the migration process between Nepal and India, and between Nepal and other countries, needs to include systematic data collection and analysis that informs programming.
3. Include representation from the migrant worker community in the HIV/AIDS and STI Control Board to better inform the promotion of a safe, organized, and dignified foreign employment process that protects the rights of migrant workers and other stakeholders. The goal is to strengthen linkages between unsafe mobility and HIV, and promote an integrated response to migration and HIV issues.
4. Ensure comprehensive migrant-friendly HIV testing that protects the rights of migrants in a process governed by best practices – informed consent, confidentiality, pre-test and post-test counselling, and a decentralized referral system for HIV-positive migrants seeking treatment, care, and support.
5. Organize a repatriation process for migrant workers wishing to return home. Evaluate and improve support services for returnee migrant workers and trafficked women and girls, including those HIV infected and affected. Develop a system for registering returnees that protects their rights and confidentiality in the process of providing needed support.
6. Organize and ensure proper implementation of pre-departure awareness programs, accessible at the district and rural level, to adequately prepare prospective migrants in human rights and health issues, including HIV/AIDS.

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PAKISTAN



Acronyms & Abbreviations

BEOE	Bureau of Emigration and Overseas Employment
CSW	Commercial Sex Worker
CWA	Community Welfare Attaché
EHACP	Enhanced HIV and AIDS Control Programme
FCA	Federal Committee on AIDS
FIA	Federal Investigation Agency
GCC	Gulf Co-operation Council
GDP	Gross Domestic Product
IDU	Injecting Drug User
ILO	International Labour Organization
MoU	Memorandum/Memoranda of Understanding
MLMOP	Ministry of Labour, Manpower, and Overseas Pakistanis
MSM	Men who have Sex with Men
MSW	Male Sex Worker/s
NAC	National AIDS Council
NACC	National AIDS Coordination Committee
NACP	National AIDS Control Program
NACSC	National Centre for AIDS and STD Control
NAP	National Action Plan
NAPCHT	National Action Plan for Combating Human Trafficking
NARA	National Alien Registration Authority
NMP	Draft National Migration Policy
NSF-II	National HIV and AIDS Strategic Framework 2007–2011
OEP	Overseas Employment Promoters
PLHIV	People Living with HIV
STI/STD	Sexually Transmitted Infection/Disease

Introduction

Pakistan borders the Arabian Sea, between India on the east, Iran and Afghanistan on the west, and China in the north. With 176 million people, Pakistan is the seventh most populous country in the world. Although poverty levels have decreased since 2001,¹ Pakistan suffers from decades of internal political disputes, low levels of foreign investment, and declining exports. Between 2004 and 2007, as a result of political and economic instability, the Pakistani rupee depreciated significantly.² Gross domestic product (GDP) growth in the 6-8 percent range was spurred by gains in the industrial and service sectors, despite severe electricity shortfalls.³ Pakistan has a labour force of 51.78 million, of which an estimated 2.69 million (5.2 percent) are unemployed.⁴

Migration Patterns

Due to limited resources, poverty, and high unemployment, migration is considered the road to prosperity by many Pakistanis. According to the Pakistan Bureau of Emigration and Overseas Employment, 4.2 million Pakistani workers have registered for overseas employment since 1971, travelling to more than 50 countries. In 2007, 287,033 migrants left Pakistan through formal channels, and in 2008 this number rose to 431,842, as a result of active steps taken by the government to export manpower.

1 US State Department, *The World Factbook 2009*; available at www.cia.gov/library/publications/the-world-factbook.

2 Pakistani rupees (PKR) per US dollar (US\$)= 70.64 (2008 est.), 60.63 (2007), 60.35 (2006), 59.52 (2005), 58.26 (2004).

3 GDP (Purchasing Power Parity) estimate for 2008 is US\$427.3 billion.

4 *Labour Force Survey 2007-2008*, Pakistan.

According to the United Nations Development Programme (UNDP) *Human Development Report 2009*, Pakistan has an emigration rate of 2.2 percent, and within Pakistan there are over 3.5 million migrants, representing 2.1 percent of the total population.⁵

Pakistanis go abroad for employment through licensed recruiting agents or through informal channels. It is difficult to assess the actual flow of migrants from Pakistan due to the large number of undocumented migrant workers leaving the country through informal channels, but it is estimated that 3.5-4.0 million manage to migrate without authorization each year.⁶ Many Pakistani migrants are male agricultural workers from rural areas, where educational levels are lower than the national average of seven years. Migration patterns in Pakistan, similar to most labour-sending countries, are characterized by a two-step process: first rural to urban mobility and then urban to overseas migration.⁷

The Government of Pakistan encourages overseas employment, and has licensed Overseas Employment Promoters (OEP) to identify demand for Pakistani workers abroad according to the instructions of foreign employers. Although it is a criminal offence for recruitment agents to work without a valid license, there are many unauthorized recruitment agencies assisting workers to migrate. In addition, Pakistanis seek overseas employment through social networks that the migrants themselves have facilitated during their travel overseas, relying on the assistance of friends, relatives, and fellow tribesmen. Once employed, migrants may register directly with a regional office or bureau of the Protector of Emigrants and would be included in the national statistics. However, the majority of migrants travel on visitor visas and work without proper documentation, remaining irregular migrants in the host countries until they are discovered and deported.

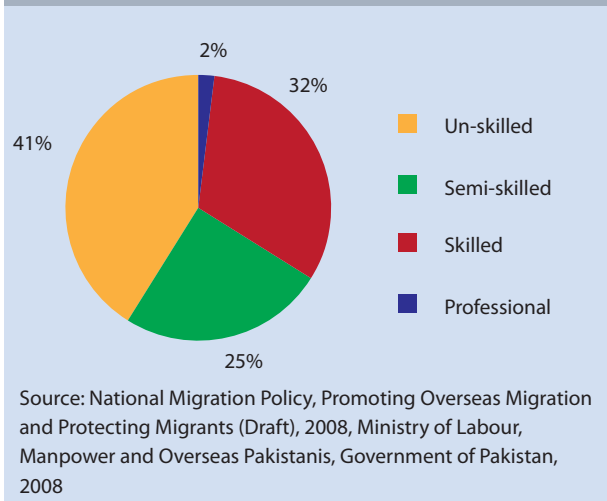
Many receiving countries have passed stringent laws and deport large numbers of undocumented Pakistanis each day for illegal border crossing and overstaying visas. In addition, documented migrants who test positive for HIV in the semi-annual HIV testing conducted in many destination countries are deported, often without any information on the reason for this action.

⁵ UNDP, *Human Development Report 2009*, Country Fact Sheet, Pakistan.

⁶ Sattar Adnan, "Migration Trafficking Nexus: The Case of Pakistan," April 2008.

⁷ UNDP Regional Centre in Colombo, "HIV Vulnerabilities of Migrant Women: from Asia to the Arab States," 2009.

Figure 1: Total Overseas Employment by Category 1971 to 2007



Occupational Profile of Migrants

Pakistan provides migrant workers to more than 50 countries in more than 40 occupations, classified by the Bureau of Emigration and Overseas Employment (BEOE) into four categories: professional, skilled, semi-skilled, and unskilled.⁸

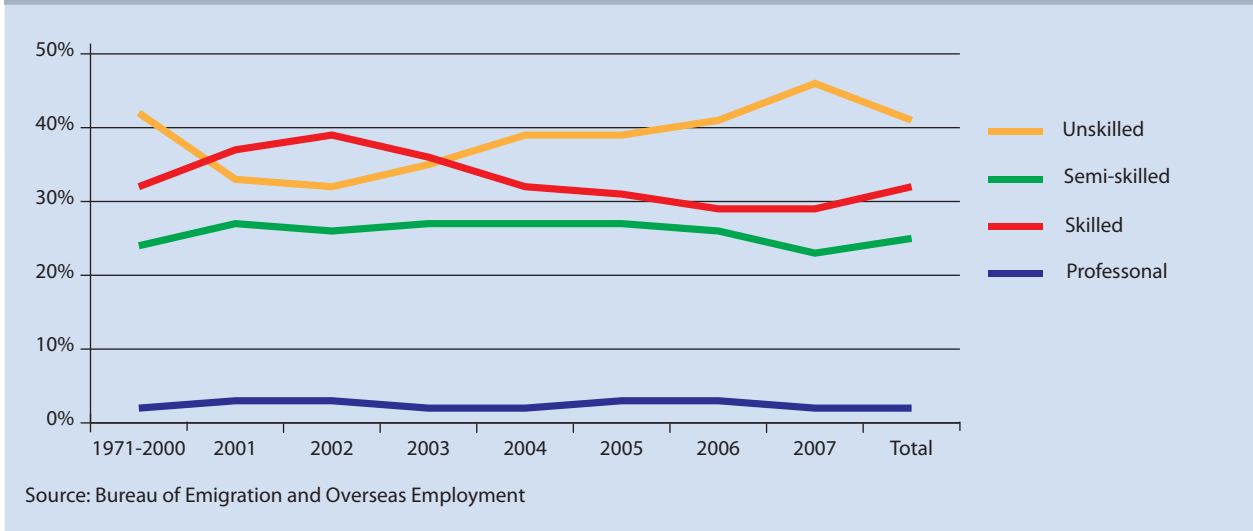
Doctors, nurses, engineers, teachers, and managers are considered professional workers. Skilled workers include trades people, such as carpenters, electricians, plumbers, surveyors, machine operators, accountants, computer programmers and analysts, drivers, draftsmen, and designers. Semi-skilled workers include tailors, masons, painters, pipe fitters, and clerical/administrative staff. Unskilled workers include general labourers and agricultural workers.

Of the 4.2 million identified documented Pakistani migrant workers who have gone abroad since 1971, 41 percent have been unskilled labourers, many of whom work in the agricultural sector or are engaged as manual labourers in the construction industry. Over this period, the migration of professionals remained relatively stable at 2 percent, with skilled workers decreasing from a high of 36 percent in 2003 to 29 percent in 2007.

Unskilled and semi-skilled workers account for 66 percent of the total documented migrant workers employed abroad and registered in the period 1971 to

⁸ Bureau of Emigration & Overseas Employment, Ministry of Labour, Manpower & Overseas Pakistanis (MLMOP), Government of Pakistan, 2008.

Figure 2: Annual Overseas Employment by Category 1971 to 2007



2007. The large unskilled segment has been increasing since 2003, and together with semi-skilled workers accounted for 69 percent of all migrant workers going abroad in 2007.

Gender and Migration

The majority of mobile workers from Pakistan are working-class men who travel alone internally and internationally, leaving their wives and children behind. Rural-urban mobility in Pakistan is almost invariably male. There is very little data on the migration flows of Pakistani women; official statistics on the number of Pakistani women employed abroad indicate very small numbers compared to male migrants. According to the BEOE, of the more than 700,000 Pakistanis migrating overseas during the last five years, only 1,200 were women.⁹

Only artists and qualified professional women are reportedly going abroad to work. Women younger than 35-years of age cannot legally seek employment abroad as domestic workers. There is, however, no age limit for women working in other professional positions, such as teachers, doctors, and nurses. For both groups, the terms and conditions of service are prescribed in the standard Foreign Service Agreement and are the same as for their male counterparts.

Within Pakistan, labour market indicators highlight the gender gap. Women continue to be underutilized

⁹ UNDP, "HIV Vulnerabilities of Women Migrants," 2009.

in the economy, and this is reflected in their overall participation in the labour market and representation in the economic sector and status groups. This correlates with the review of human resource development in Pakistan, which identified a huge gender gap and low educational attainment of the labour force.¹⁰ The low status of women, characterized by lower levels of education and lack of opportunities for skill development, is directly linked to their lower level of participation in the labour force, both at home and abroad. Restrictions on their mobility limit their opportunities, as the departure of women is seen as a concern for the stability of the family and the welfare of children left behind.

Human Trafficking

Pakistan is a source, transit, and destination country for men, women, and children trafficked for the purposes of forced labour and sexual exploitation.¹¹ In the Middle East in particular, women and young girls are trafficked for sexual exploitation, bonded labour, and domestic work. Boys between the ages of 7 and 15 are trafficked to Gulf States to work as camel jockeys. Pakistan is also a transit point for trafficking to East Asian countries and Bangladesh, and it is a destination for women from

¹⁰ MLMOP, "Pakistan Employment Trends: Skills," No. 2, Labour Market Information and Analysis Unit, December 2007.

¹¹ UNDP, "Human Trafficking and HIV: Exploring Vulnerabilities and Responses in South Asia," 2007; US State Department, Trafficking in Persons Report 2009.

Table 1: Human Trafficking in Media Reports, by Age and Gender 2001 to 2007

Human Trafficking by Age and Gender 2001 to 2007								
	2001	2002	2003	2004	2005	2006	2007	Total
Boys	20	45	37	43	24	36	172	377
Girls	30	31	30	30	40	50	152	363
Male	0	0	0	121	230	315	384	1,050
Female	36	28	84	67	72	119	182	588
Total	86	104	151	261	366	520	890	2,378

Source: Lawyers for Human Rights and Legal Aid.

Table 2: Human Trafficking in Media Reports, by Province 2001 to 2007

Provincial Data 2000 to 2007								
	2001	2002	2003	2004	2005	2006	2007	Total
Baluchistan	0	2	10	5	12	17	24	70
NWFP	12	12	21	14	37	31	112	239
Punjab	51	52	56	123	210	345	650	1487
Sindh	23	38	64	119	107	127	104	582
Total	86	104	151	261	366	520	890	2,378

Source: Lawyers for Human Rights and Legal Aid.

Bangladesh, Myanmar, Afghanistan, and Central Asia.¹²

Although no official trafficking data is currently available from the Government of Pakistan, Lawyers for Human Rights and Legal Aid (LHRLA) has a comprehensive database on media reported cases, profiles, and case studies of trafficking victims and perpetrators. The database team monitors 26 newspapers daily from all over the country. According to the database, 2,378 cases have been reported between 2001 and 2007, but it is widely believed that the actual number of cases is much higher than what is reported by the media (see Tables 1 and 2).

While national and international policies and laws exist to prevent trafficking, these instruments are not implemented consistently, and trafficking continues unabated in Pakistan, particularly internal trafficking, both intra-city and inter-provincial. With respect to sex trafficking, primarily prosecuted as a transnational crime under the Prevention and Control of Human Trafficking Ordinance, in 2008 the government secured the convictions of 28 trafficking offenders – 24 fewer than in 2007. However, neither the Federal Investigation

Agency nor the provincial governments provide evidence of criminal prosecutions, convictions, or punishments for perpetrators of human trafficking. The country's largest internal human trafficking problem is that of bonded labour, which is concentrated in Sindh and Punjab provinces, particularly work in brick kilns, carpet-making, agriculture, fishing, mining, leather tanning, and production of glass bangles. Women are also trafficked within the country for forced marriages and are traded between tribal groups to settle disputes or as payment. Parents sell their daughters into domestic servitude or prostitution in order to pay debts. Estimates of Pakistani victims of bonded labour – including men, women, and children – vary widely, but the number is likely over one million.

LHRLA indicates significant trafficking from Punjab Province. Similarly, the data available from BEOE reports the highest percentage of migrant labour from Punjab. This linkage needs to be further examined and documented.

Pakistani women and men migrate voluntarily to Gulf States, Iran, and Greece for low-skilled work as domestic servants or in the construction industry. As a result of

¹² Ibid., UNDP.

fraudulent job offers and high fees during recruitment, some migrants find themselves in conditions of involuntary servitude or debt bondage once abroad, subjected to restrictions on movement, non-payment of wages, threats, and physical or sexual abuse.

The links between migration and human trafficking in Pakistan are apparent, but have not been scientifically established with an evidence base of relevant data/statistics. There are many anecdotal accounts of maltreatment of migrant workers, primarily men, in the work place, such as poor working conditions, reductions in the wages promised at the time of recruitment, and lack of proper medical, nutritional, and recreational facilities. Data on the migration of girls and women from Pakistan is limited, but trafficking is evident. The government ban on women below 35-years of age seeking employment abroad as domestic maids has driven female migration underground, and has thereby increased the likelihood of unsafe, undocumented migration of women and their vulnerability to trafficking.

Source, Transit, and Destination

Source

Pakistan is comprised of four provinces: Sindh, Punjab, Baluchistan, and North-West Frontier Province (NWFP). People from all provinces migrate for employment abroad, but the distribution is not uniform across them. As shown in Table 3, an estimated 52 percent of Pakistani migrant workers are from the Punjab province, while 25 percent come from the NWFP, 9.4 percent come from Sindh, and only 1.3 percent from Balochistan. In addition, the figure is 5.4 percent from the Tribal and Northern Areas, and 6.5 percent from Kashmir (Azad Jammu and Kashmir). Government figures for the period 2001–2006 also indicate that more than 60 percent of Pakistanis in the Middle East migrated from only 20 districts, with heavy concentration in North Punjab, NWFP, only Karachi in Sindh, and a few of the districts in Southern Punjab.

A sizeable number of undocumented migrants from Bangladesh and Afghanistan live in Pakistan and carry Pakistani passports, and many of them will eventually migrate from Pakistan.

Table 3: Pakistani Migrant Labour Force 1981 to 2006, by Province

Regions	Migrants	% Labour Force
Punjab	1,841,487	52%
NWFP	903,051	25%
Sindh	337,178	9.4%
Balochistan	230,749	6.5%
Tribal Areas (and Northern Areas) NWFP	192,747	5.4%
Balochistan	47,285	1.3%

Source: Bureau of Emigration, Government of Pakistan.

Destination

The early 1980s saw waves of migration to the oil-rich Persian Gulf region. The Middle East and the Arab Gulf Co-operation Council (GCC) countries are still by far the most popular destinations for Pakistani workers. A regional recap of the number of Pakistani workers employed overseas from 1971 to 2007 is provided in the Table 4.

Statistics show that about 96 percent of all Pakistani migrant labourers work in the Gulf States of Saudi Arabia, United Arab Emirates (UAE), Oman, Kuwait, Bahrain, and Qatar. A staggering 2.2 million migrant workers from Pakistan are legally working in Saudi Arabia, with another 1.1 million in the UAE. In addition to the Gulf, significant destinations for Pakistani workers are Malaysia and Republic of Korea as well as countries in East Asia, the European Union, and North America.

Remittances

Remittances sent by Pakistanis working abroad constitute the country's largest single source of foreign exchange earnings, and are a major source of income to bridge huge trade deficits. For example, total migrant worker remittance was US\$3.87 billion for the year 2003-2004, equivalent to 4.46 percent of Gross National Product (GNP).¹³

Remittances for fiscal year (July 1-June 30) 2007-2008 increased to US\$6.45 billion from US\$5.49 billion the previous fiscal year. According to the *Human Development Report 2009*, inward remittances to

¹³ State Bank of Pakistan website, www.sbp.org.pk/ecodata/index2.asp#monetary.

Table 4: Summary of Overseas Migrants Registered by Country 1971 to 2007

Region	1971-2000	2001	2002	2003	2004	2005	2006	2007	Total
Middle East	2,799,305	122,969	143,812	208,058	167,714	128,007	173,094	278,873	4,021,832
Saudi Arabia	1,648,279	97,262	104,783	126,397	70,896	35,177	45,594	84,587	2,212,975
UAE	626,705	18,421	34,113	61,329	65,786	73,642	100,207	139,405	1,119,608
Oman	212,131	3,802	95	6,911	8,982	8,019	12,614	32,474	285,028
South-East Asia	6,257	556	703	2,367	2,670	9,925	6,428	2,040	30,946
Republic of Korea	3634	271	564	2144	2474	1970	1082	434	12,573
Malaysia	1,993	64	59	114	65	7690	4,757	1190	15,932
Europe	2,525	2,039	1,184	1,266	2,320	2,533	2,519	4,288	18,674
UK	1059	800	703	858	1419	1611	1741	1111	9,302
Italy	405	824	48	128	581	551	431	2765	5,733
Africa	69,639	797	955	1,593	586	799	451	821	75,641
Libya	63,701	713	781	1374	375	261	67	450	67,722
Nigeria	2,019	16	21	66	14	25	55	57	2,273
US	802	788	310	140	130	238	202	297	2,907
Other	3,489	780	458	615	404	673	537	714	7,590
Total	2,882,017	127,929	147,422	214,039	173,824	142,175	183,231	287,033	4,157,590

Source: Bureau of Emigration and Overseas Employment, 2008.

Pakistan in 2007 were nearly US\$6 billion, with average remittances per person of US\$37.

The remittances through *hundi* are not documented by the State Bank of Pakistan.¹⁴ *Hundi* costs less than transfers through normal banking channels and may be faster in some instances. In general, Pakistani migrant workers prefer to send their savings through informal channels rather than the banking system. As a result, actual remittances are substantially higher than what is reported by the Banks.

HIV/AIDS Situation

The first HIV-positive Pakistani was identified in 1987.

¹⁴ *Hundi* refers to financial instruments evolved on the Indian sub-continent and used in trade and credit transactions as remittance instruments for transferring funds from one place to another. Technically, *hundi* are unconditional, written payment orders, most often used as equivalents to cheques and normally regarded as bills of exchange. As part of the informal system, *hundi*s have no legal status.

According to UNAIDS estimates, about 96,000 people were living with HIV in Pakistan at the end of 2007, about 0.1 percent of the adult population.¹⁵ Official statistics show much lower figures than these estimates; the National AIDS Programme's latest figures show over 4,000 HIV cases reported so far. Until recently, Pakistan was classified as a low-prevalence country, though with many risk factors that could lead to the fast development of an epidemic. Recent evidence indicates that the situation is changing rapidly, shifting to a concentrated epidemic. At present, the overall seroprevalence of HIV among injecting drug users (IDU) is 15.8 percent, and among male sex workers (MSW) it is 1.5-1.8 percent.¹⁶

The HIV epidemic in Pakistan is presently concentrated among IDUs, reaching up to 51 percent in certain urban areas. According to UNAIDS, Pakistan has one of the highest rates of drug use in the world, with about

¹⁵ World Bank, "HIV/AIDS in Pakistan," August 2008; and UNAIDS/WHO/ UNICEF, "Update on HIV and AIDS," 2007.

¹⁶ National AIDS Control Program, Ministry of Health, UNGASS Progress Report on the Declaration of Commitment on HIV/AIDS, 2007

Table 5: Summary Migrant Remittances through Pakistan Banks 2001 to 2008 (US\$ Millions)

Country	2000/01	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08	July 2008 - April 2009
Cash	1,021.59	2,340.79	4,190.73	3,826.16	4,152.29	4,588.03	5,490.97	6,448.84	6,355.13
US	134.81	778.98	1,237.52	1,225.09	1,294.08	1,242.49	1,459.64	1,762.03	1,435.65
UK	81.39	151.93	273.83	333.94	371.86	438.65	430.04	458.87	467.98
Saudi Arabia	304.43	376.34	580.76	565.29	627.19	750.44	1,023.56	1,251.32	1,264.07
UAE	190.04	469.49	837.87	597.48	712.61	716.30	866.49	1,090.30	1,366.79
Other GCC Countries	198.75	224.29	474.02	451.54	512.14	596.46	757.33	983.39	996.02
EU Countries	21.50	28.80	53.53	74.51	101.51	119.62	149.00	176.64	196.53
Norway	5.74	6.55	8.89	10.22	18.30	16.82	22.04	28.78	19.58
Switzerland	4.24	16.21	34.67	29.11	22.71	20.50	18.06	22.72	14.95
Australia	4.15	5.47	8.26	13.66	19.64	25.10	31.24	39.03	26.82
Canada	4.90	20.52	15.19	22.90	48.49	81.71	87.20	100.62	65.07
Japan	3.93	5.97	8.14	5.28	6.51	6.63	4.26	4.75	3.58
Other Countries	67.71	256.24	658.05	497.14	417.25	573.31	642.11	530.39	498.09
Encashment FECBs & FCBCs*	64.98	48.26	46.12	45.42	16.50	12.09	2.68	2.40	0.45
Total	1,086.57	2,389.05	4,236.85	3,871.58	4,168.79	4,600.12	5,493.65	6,451.24	6,355.58
Annual Percentage Increase/(Decrease)		120%	77%	(9%)	8%	10%	19%	17%	

* Encashment and profit of Foreign Exchange Bearer Certificates (FECB) and Foreign Currency Bearer Certificates (FCBC)

Source: State Bank of Pakistan.

500,000 drug users. An estimated 100,000 inject drugs, and 64 percent of IDUs surveyed say they use non-sterile needles.¹⁷ In 2004 a concentrated outbreak of HIV was found among IDUs in Karachi, where over 20 percent of those tested were found to be HIV positive. In 2006, HIV prevalence rates among IDUs ranged between 10 percent and 50 percent in Quetta, Faisalabad, Hyderabad, Karachi, and Sargodha. The majority of these were either married or sexually active.

There is also an indication of rising infections among male sex workers. In 2004, HIV prevalence among men who have sex with men (MSM) was about 4 percent, with prevalence among *Hijra* (trans-sexuals) about 2 percent. Similarly, surveillance data for 2006 indicated local concentrated epidemics among MSWs and *Hijra* in Larkana and Karachi in the Sindh province, while

prevalence elsewhere was still below 5 percent.

Pakistan today faces the risk of an escalating epidemic, and significant risk factors remain unaddressed, including:

- Low use of condoms among vulnerable populations such as female sex workers, MSMs, truckers, and *Hijra*.
- Low use of sterile syringes among IDUs.
- Alarming high prevalence of syphilis among *Hijra*: 60 percent in Karachi, 33 percent in Lahore.
- Unsafe practices among commercial sex workers (CSW).
- Inadequate blood transfusion screening and a high number of professional blood donors.
- Large numbers of migrants and refugees.
- Unsafe medical injection practices.

¹⁷ IRIN, "Pakistan: Unsafe blood transfusions pose HIV, hepatitis risk," March 13, 2008; available at www.irinnews.org/Report.aspx?ReportId=77271; and UNAIDS, *HIV/AIDS Report 2007*.

- Low levels of literacy and education.
- Vulnerability due to social and economic disadvantages, especially among women, youth, and children.

National Response to HIV/AIDS

Pakistan's response to HIV and AIDS began in 1987, soon after the first case of AIDS was reported and when the Ministry of Health established a Federal Committee on AIDS (FCA). The National AIDS Control Program (NACP) was created in 1990. Although the initial emphasis of the program was diagnosis of cases that came to hospitals, gradually it shifted focus toward communities. The main objectives of NACP are prevention of HIV transmission, safe blood transfusions, reduction of sexually transmitted diseases, establishment of surveillance, training of health staff, research and behavioural studies, program management, and capacity development.

The Enhanced Program 2003-2008 is funded by the World Bank and the Government of Pakistan and was started in late 2005. Four of the five HIV Care and Treatment Centres – those in Karachi, Lahore, Islamabad, and Peshawar – are operational and providing HIV care services. At the time of writing the fifth centre, in Quetta, was finalizing procurement of necessary medications.

The HIV Care and Treatment Centres provide various services, such as: medical care, pre-test and post-test counselling services; radiological support; pharmacy; nutritional counselling; laboratory services (including HIV ELISA screening, CD 4, and HIV viral load PCR testing) and general laboratory diagnostics, with specialized tests sent out to the reference laboratory in the National Institute of Health in Islamabad; and referral to specialist services. Medical care includes HIV/AIDS anti-retroviral treatment and the management of opportunistic infections. These HIV Care Centres are located in public sector hospitals, where it has been noted that HIV-positive patients often face insensitive and discriminatory behaviour from health-care providers. The NACP conducts sensitization sessions, provides technical assistance, and monitors performance to improve service provision.

The National HIV and AIDS Strategic Framework (2001-2006) set the direction of Pakistan's HIV and AIDS response. The framework was reviewed in 2006 and a new framework developed for 2007-2011 (NSF-II). The new framework provides a monitoring and evaluation

component for measuring progress in the priority areas and for evaluating the impact of HIV and AIDS programs. The Government of Pakistan, with support from the World Bank, launched a response in the form of the Enhanced HIV and AIDS Control Programme, under implementation since 2003. The government has finalized costed action plans for the next phase of the federal and provincial programmes covering the period 2009-2013.

A draft national AIDS Policy and HIV and AIDS Law, both recommending formation of a National AIDS Council, have been prepared by the National AIDS Control Programme.

Migration and HIV/AIDS

Migrant workers are among the groups considered vulnerable to HIV, as specified in the National HIV and AIDS Strategic Framework (2001-2006), as a direct result of male Pakistani migrant workers deported from the Gulf States after being found HIV positive.¹⁸ Migrant workers continue to be included among the high-risk, most-at risk, bridge, and vulnerable populations under the NSF-II, which indicates greater commitment for expanded response and scaling-up of programme delivery.¹⁹

Mandatory Testing

All registered migrant workers, especially those going to the Arab States, undergo mandatory HIV testing. Pre-test and post-test counselling is generally not provided. In the case of seafarers, medical testing by port health officers under the Merchant Shipping (Medical Examination) Regulation 2002 is required.

Pakistani migrant workers are tested periodically for HIV, usually without their informed consent; and those testing positive are deported to Pakistan without referral. Upon completion of their contracts returnees are not required to report to any government department or agency and most return directly to their home towns. No effective mechanism is in place to provide health services to returnees. NACP officials claim that the country lacks a database for recording

¹⁸ National HIV & AIDS Strategic Framework, 2007-2012, Ministry of Health, Government of Pakistan

¹⁹ Ibid.

information about migrants who travel abroad and return home. Although the Federal Investigation Agency is responsible for data collection on health and other issues, there are no available records of migrants deported by foreign countries because of their HIV status.

Without proper testing and counselling, returnee migrants pose a significant risk to their spouses and family, as evidenced by increased HIV among migrant spouses. A significant number of HIV-positive cases are found among low-skilled Pakistani workers deported from the Gulf States. In the period 1996 to 1998, 58 returned migrant workers with HIV represented 61-86 percent of all reported cases. During that same period, 5 wives of returning workers were identified with HIV.²⁰

Many migrant workers undergo job-related testing, both prior to departure for the destination and often periodically during their stay. The general population, however, is not tested. Thus, findings that HIV prevalence among returning migrants and their spouses is higher than among the general population is a misinterpretation of the available data.

Pre-departure Orientation

Migrants rarely have accurate prior knowledge of their destination country. While the information on HIV/AIDS and its prevention is also part of the BEOE briefing for migrating workers, the draft National Migration Policy (2008) stresses that these briefings need to be extended and elaborated to cover migrant worker health – especially with regard to communicable and non-communicable diseases, reproductive health, HIV/AIDS, occupational safety and health, and, if possible, access to services for prevention and treatment of health concerns.

With a budget of PKR52 million (US\$736,120) to train staff from various institutions, NACP launched a media campaign in 2006 on HIV prevention, awareness, and counselling for those who travel to foreign countries. The NACP has conducted many training programmes between 2006 and 2009 but despite their efforts the lack of coordination among various government departments remains a major obstacle.

20 UNDP, "HIV Vulnerabilities of Women Migrants," 2009

Policies, Legislation, and International Conventions

International Conventions

Pakistan has ratified several International human rights conventions, including the *Convention on the Elimination of All Forms of Discrimination against Women* and *Convention on the Rights of the Child*. However, Pakistan has not yet ratified the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Family* and the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons.

Pakistan has been a member of the International Labour Organization (ILO) since 1947 and has ratified 36 ILO conventions, of which 34 are in force, including:²¹

- *Inspection of Emigrants Convention*, 1926
- *Forced Labour Convention*, 1930
- *Abolition of Forced Labour Convention*, 1957
- *Worst Forms of Child Labour Convention*, 1999
- *Right to Organise and Collective Bargaining Convention*, 1949
- *Equal Remuneration Convention*, 1951
- *Discrimination (Employment and Occupation) Convention*, 1958
- *Indigenous and Tribal Populations Convention*, 1957
- *Equality of Treatment (Social Security) Convention*, 1962
- *Minimum Age Convention*, 1973
- *Tripartite Consultation (International Labour Standards) Convention*, 1976

Regional and Bilateral Agreements

Pakistan has ratified the South Asian Association for Regional Cooperation's (SAARC) *Convention on Preventing and Combating Trafficking of Women and Children for Prostitution*. Agreements with Kuwait, Malaysia, Republic of Korea, Qatar, and UAE were signed, while agreements with several other countries

21 International Labour Organization (ILO) conventions ratified by Pakistan through Ministry of Labour, Manpower, and Overseas Pakistanis as reported by the ILO in Pakistan at www.ilo.org.pk.

are in process. The memorandum of understanding (MoU) with Malaysia covers recruitment of semi-skilled and unskilled Pakistani workers for a large number of new job opportunities in Malaysia. Similarly, the MoU signed with Republic of Korea will send workers to Republic of Korea on a regular basis. The first group of workers left for Republic of Korea in April 2008. In May 2009 two agreements were signed with Libya: a MoU on Employment and one on Human Resource Development.²²

National Policies and Legislation

The legal framework that safeguards the rights of overseas workers and regulates the activities of overseas employment promoters and recruiting agents is contained in the Emigration Ordinance (1997) and the Emigration Rules (1997). The Government of Pakistan, through the Bureau of Emigration and Overseas Employment, encourages migration to foreign countries. The BEOE is the central organization for regulating labour emigration from Pakistan, and administratively is under the Ministry of Labour, Manpower, and Overseas Pakistanis (MLMOP). Its mandate has two main goals: to reduce unemployment within the country, and to earn foreign exchange through salary remittances from abroad. Overseas employment is regulated under Section 8 of the Emigration Ordinance, which grants vast powers to the Director General of the BEOE, the Protector of Emigrants, and the Community Welfare Attaché (CWA)/Labour Attaché, all of whom deal with matters pertaining to the overseas employment of Pakistani workers.

The MLMOP licenses (OEP) to find jobs for Pakistanis according to the requirements of foreign employers. There are about 2,200 OEPs in Pakistan. Each licensed OEP is required to obtain permission from the Protector of Emigrants prior to negotiating overseas employment for a Pakistani citizen. The Emigration Ordinance also regulates the activities of OEPs through licensing and recruitment procedures, and makes provisions for protection of workers against malpractices and for redress of workers' grievances.

The BEOE, with seven regional offices, functions through the Protector of Emigrants. The Protector of Emigrants supervises the activities of overseas employment

promoters; processes their requests for workers; inspects their offices; and receives such reports as may be required by the BEOE Director General. The Community Welfare Attaché, the equivalent of the Labour Attaché in other countries, is responsible for the promotion of overseas employment of Pakistani workers and for their welfare while abroad. At present, Pakistan has CWAs stationed in Bahrain, Kuwait, Libya, Oman, Qatar, Saudi Arabia, UAE, and the United Kingdom.

According to Emigration Rule 27, all workers recruited for employment abroad are required to appear at the Protector of Emigrant's office prior to departure for orientation and briefing along with the overseas employment promoter or his authorized representative. During this visit they are briefed about the laws of the host country, the terms and conditions of their contract, and their rights and obligations while they remain employed abroad. According to the law, no one can leave Pakistan for overseas employment on an employment visa unless they are registered in the office of Protector of Emigrants and have a certificate of registration stamped on their passport.

The Compulsory Insurance Scheme for Emigrants has been in place since 1982 and is renewable every two years up to the age of 58. The compensation amount increased from PKR 200,000 (US\$2,831) to PKR 300,000 (US\$4,247) on January 1, 2001.²³

Pakistan established the National Alien Registration Authority (NARA) under the Alien Registration Order (2001) with the primary functions of issuing work permits to those seeking employment or the operation of a business in Pakistan. NARA immediately registers all foreigners in Pakistan who prior to July 10, 2000, were not authorized to stay in the country.

A Draft National Migration Policy (NMP, 2008), prepared by the Policy Planning Group of the MLMOP, focuses on promoting the prospects of short and long-term migration of Pakistani men and women from all parts of the country; protecting the rights of the migrant workers; and initiating and strengthening the process of re-integration of returning migrants. At the time of this writing the NMP had not yet been finalized and approved. In addition, the National Migration Management Policy of the Ministry of Interior, a control and enforcement mechanism, focuses on regular migration, preventing irregular migration (trafficking

²² Report on steps taken by the government to curtail unemployment in the country, accessed through the MLMOP, Labour and Manpower Division, 2009.

²³ 2008 Exchange Rate US Dollar (US\$) and Pakistani Rupees (PKR) US\$1: PKR 70.64.

and smuggling), border control management, handling of deportees, and passenger information.

The Human Trafficking Ordinance 2002 is a comprehensive law designed to meet Pakistan's obligations under various international treaties on trafficking of persons, including relevant provisions of the *Convention on the Elimination of All Forms of Discrimination against Women*, as well as other treaties to which Pakistan may become party in the future, such as the *Protocol to Prevent, Supplementing the International Convention Against Transnational Organized Crimes*.

The ordinance defines human trafficking as:

Obtaining, securing, selling, purchasing, recruiting, detaining, harbouring or receiving a person, notwithstanding his/her implicit or explicit consent, by the use of coercion, kidnapping, abduction, or by giving or receiving any payment or benefit, or sharing or receiving a share for such persons' subsequent transportation out of or into Pakistan by any means whatsoever for any of the purposes.

Any offence related to human trafficking invites a rigorous punishment of 7 years imprisonment along with a fine. If trafficking involves women and children, punishment is 10 years with a fine. The Court is authorized to utilize this fine to compensate the victims. The government uses Sections 17 through 23 of the Emigration Ordinance to prosecute external cases of trafficking.

In addition, the *Bonded Labour System Abolition Act 1992* prohibits bonded labour, with prescribed penalties ranging from imprisonment for 2 to 5 years or a fine, or both. The Pakistan National Action Plan for Combating Human Trafficking (NAPCHT) was adopted in 2006; and aspects dealing specifically with trafficking of children are also addressed in the National Action Plan for Children.

Key Stakeholders

Government Agencies and Networks

Federal Investigation Agency is a law enforcement agency that combats human trafficking, illegal migration, and other related crimes.

Ministry of Interior confirms illegal immigrants deported by host countries and brings them back to Pakistan. The ministry is currently in the initial stages

of developing a policy on migration-related issues and also on health issues, especially for HIV/AIDS.

Ministry of Labour, Manpower, and Overseas Pakistanis deals with workers who are migrating to foreign countries for employment and issues licenses to recruiting agents or overseas employment promoters. The ministry, in collaboration with the ILO and UNDP, initiated the development of a Labour Market Information and Analysis (LMIA) system, which became operational in the second half of 2006. The LMIA system aims to provide timely information and analysis of labour markets as input into the formulation and monitoring of labour and employment policies.

Bureau of Emigration and Overseas Employment and its seven regional offices, known as the Protector of Emigration, are the main government agencies responsible for safeguarding the interests of migrant workers from Pakistan.

Protector of Emigrants offices process and register all manpower demands from overseas through licensed overseas employment promoters.

Orientation and Briefing Centres provide pre-departure orientation and training to potential emigrants.

Labour/Community Welfare Attachés in nine countries promote overseas employment opportunities and safeguard the interests of Pakistani migrants.

Gulf Co-operation Council Approved Medical Centres' Association (GAMCA) Centres provide medical testing prior to departure for Pakistanis migrating to GCC states.

National Vocational and Technical Education commission (NAVTEC) is primarily a regulatory and coordinating body for skills development and establishment of national skill standards, certification, and accreditation procedures established by the Prime Ministers' office in 2006 to strengthen, standardize, and streamline vocational and technical education. NAVTEC recently released a draft text titled *Skilling Pakistan: A Vision for the National Skills Strategy, 2008–2012*.

Non-government Organisations

AMAL Human Development Network focuses on gender and HIV/AIDS-related work.

Lawyers for Human Rights and Legal Aid (LHRLA) work on HIV and the protection of the rights of vulnerable segments of society, such as children and women,

victims of violence, victims of human trafficking, migrant workers, and refugees.

Marie Stopes Society (MSS) provides reproductive health information and family-planning services.

Pakistan Voluntary Health & Nutrition Association (PAVHNA) works in the area of general health and nutrition with a special focus on reproductive health.

The Salvation Army is active in social and community health and integrated development programs at the grassroots level.

Jinnah Post-Graduate Medical Centre (JPMC) runs a surveillance centre, specializing in blood screening for HIV/AIDS and Hepatitis B and C.

Peril Urban Welfare Association promotes awareness about reproductive health rights, has built a shelter home for women and has set up a modern, well-equipped educational institute for poor and needy community members. It also provides free education and has established a well-equipped hospital/maternity home with trained staff.

Community Health Care Centre follows the same structure as Peril Urban Welfare Organization and is also a partner of PAVHNA.

Research, Advocacy, and Social Training Institute (RASTI) aims to establish its own training institute for community-based organizations and non-governmental organizations, and also to provide positive activities to youth, children, and women within low-income communities.

Health and Nutrition Development Society (HANDS) provides training on development, community organization, community management skills, gender issues, violence against women, women in Islam, reproductive health, adolescents reproductive health, and HIV/AIDS.

Recommendations

The following recommendations are made within the context of the foregoing analysis of Pakistan's migration patterns and policies and HIV situation. In order to reduce the HIV vulnerability of current and future migrant and mobile populations it will be necessary to take action in a range of key areas, as detailed below.

1. Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Family and the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons.
2. Undertake a more comprehensive approach to international migration management, including gathering statistics and data with a focus on temporary and irregular migration, gender disaggregation of information, and in-depth qualitative data on the linkages among gender, migration, human trafficking, and HIV/sexually-transmitted infections. Better coordination among the various agencies responsible for collating, publishing, and disseminating data on HIV and migration in Pakistan is required.
3. Finalize the National Migration Policy and approve the National AIDS Policy and HIV and AIDS Law presented to the National Cabinet and Parliament. Ensure both policies reflect a gender sensitive, rights-based, and multisectoral approach, integrating issues of migration, HIV and AIDS, and establishing the nexus between migration and human trafficking.
4. Ensure comprehensive, migrant-friendly voluntary HIV testing that protects the rights of migrants in a process governed by best practices: informed consent, confidentiality, and pre-test and post-test counselling. Migrant-friendly voluntary HIV testing needs to be included in current and future bilateral agreements with labour-receiving countries to protect migrants from mandatory testing and deportation in cases of HIV-positive status.
5. Strengthen the education system by upgrading curriculum and skills training and expanding access to include more women and girls, in order to maximize the quality of the labour force and address gender-based vulnerability factors at the grassroots level in those areas prone to high migration and human trafficking,
6. Integrate basic information on migrant rights and HIV vulnerabilities in pre-departure briefings conducted by emigration sub-offices, with special programmes for female migrants.
7. Make provisions for a fast, convenient, and formal alternative system that enables overseas Pakistanis to transfer remittances and funds to Pakistan safely, securely, and at an attractive market exchange rate, and discourage the use of the hundi system.

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SRI LANKA



Acronyms & Abbreviations

ART	Anti-Retroviral Therapy
CBO	Community-based Organization
CPCTWCP	Convention on Preventing and Combating Trafficking in Women and Children for Prostitution
CSW	Commercial Sex Worker
GAMCA	Gulf Cooperation Council Approved Medical Centres Association
GDP	Gross Domestic Product
IED	Immigration and Emigration Department
ILO	International Labour Organization
IOM	International Organization for Migration
LKR	Lanka Rupee
LTTE	Liberation Tigers of Tamil Eelam
MoU	Memorandum/Memoranda of Understanding
MSM	Men who have Sex with Men
NAC	National AIDS Committee
NGO	Non-governmental Organization
NSACP	National STD and AIDS Control Program
NSP	National Strategic Plan 2007-2011
PLHIV	People Living with HIV
PPTCT	Prevention of Parent to Child Transmission
SLBFE	Sri Lanka Bureau of Foreign Employment
STI/STD	Sexually Transmitted Infection/Disease
UNGASS	United Nations General Assembly Special Session on HIV/AIDS
VCT	Voluntary Counselling and Testing

Introduction

Sri Lanka is an island nation in the Indian Ocean, located south of India. With 21 million people and a labour force of 7.6 million, Sri Lanka had an estimated poverty rate of 23 percent as at 2008.¹ The 25-year civil conflict between the Liberation Tigers of Tamil Eelam (LTTE) and the Government of Sri Lanka has been a serious impediment to economic activities. Despite a brutal civil war that began in 1983, Sri Lanka saw gross domestic product grow at an average rate of 4.5 percent annually over the last 10 years, with the exception of a recession in 2001. In late December 2004 a major tsunami claimed about 31,000 lives; left more than 6,300 people missing and 443,000 displaced; and destroyed an estimated US\$1.5 billion in property.

Government spending on development and fighting the LTTE drove GDP growth to about 7 percent in 2006-2007, before slowing in 2008 due to the global recession. At the same time, government spending and high oil and commodity prices raised inflation to almost 15 percent.²

Migration Patterns

Both international migration and internal mobility occur in response to economic hardships in rural and urban areas in Sri Lanka. According to the UNDP *Human Development Report 2009*, Sri Lanka has an annual emigration rate of 4.7 percent, or approximately 350,000 emigrants.³

Of these, the Sri Lanka Bureau of Foreign Employment

1 US State Department, *The World Factbook, 2009*; available at cia.gov/library/publications/the-world-factbook/geos/ce.html.

2 Ibid.

3 UNDP, *Human Development Report 2009*, Country Fact Sheet, Sri Lanka.

Table 1: Migrant Profile 2006 to 2008 (Est.)

Overseas Employment	2006		2007		2008 Est.	
	Number	%	Number	%	Number	%
Total Migrants	201,948	100	217,306	100	252,000	100
Migration Process						
Licensed Agents	141,177	69.9	146,031	67.2	161,280	64.0
Other	60,771	30.1	71,275	32.8	90,720	36.0
Gender						
Male	90,170	44.7	102,629	47.2	128,520	51.0
Female	111,778	55.3	114,677	52.8	123,480	49.0
Occupations						
Housemaids	99,659	49.3	102,176	47.0	118,440	47.0
Skilled Labour	45,063	22.3	49,609	22.8	55,720	22.1
Unskilled Labour	40,705	20.2	52,191	24.0	59,400	23.6
Other	16,521	8.2	13,330	6.2	18,440	7.3

Source: Sri Lanka Bureau of Foreign Employment, Annual Statistical Report of Foreign Employment, 2008.

(SLBFE) reported that an estimated 252,000 Sri Lankans went abroad to work, most to the Gulf States. Almost half of this total were female. Over 70 percent of migrants employed abroad through SLBFE were housemaids or unskilled labourers, with the number of migrants in both job categories increasing significantly in 2008. Overall, foreign employment placements during 2008 increased almost 15 percent over the 217,306 migrant workers reported by SLBFE in 2007.

There were 626 licensed recruitment agencies operating in Sri Lanka at the end of 2008. To encourage agencies to register with the SLBFE, the Sri Lanka Government instituted a national award scheme for employment agencies, based on performance and adherence to regulations.

According to the most recent statistics, the use of recruiting agents licensed by the SLBFE declined from 75 percent in 2003 to 64 percent in 2008.⁴ Difficulties in monitoring the activities of recruitment agencies and reports of high fees are thought to have contributed to the decline in the use of recruiting agents in general, as well as those licensed by the SLBFE. For example, the SLBFE reported in June 2008 that Sri Lankan men migrating to Gulf oil-exporter nations were expected to pay a minimum Rs 60,000 (US\$550) in fees to recruiters; the SLBFE charges each migrant only Rs 7,700 (US\$70.60).

4 Sri Lanka Bureau of Foreign Employment reports.

Only those migrants who are registered with the SLBFE are reflected in statistics for temporary migration. The actual number of migrant workers is assumed to be much higher, with many workers leaving through unauthorized sources and personal contacts.⁵ In 2007, an estimated 60,000 undocumented Sri Lankan workers were employed in foreign countries.

Occupational Profile of Migrants

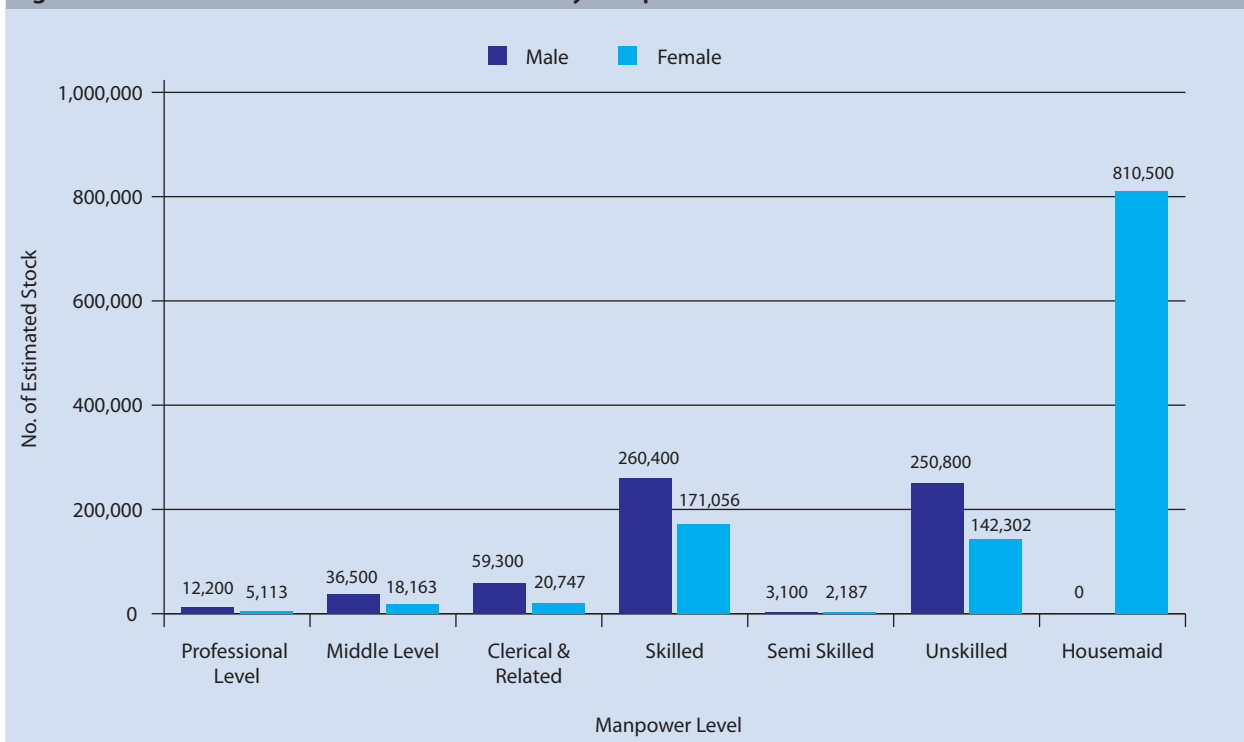
The SLBFE *Annual Statistical Report of Foreign Employment (2008)* classifies migrant contract workers into seven categories: professional, middle-level, clerical and related, skilled, semi-skilled, unskilled, and housemaids. The cumulative gender disaggregated data on Sri Lankan migrant workers in each category is provided in Figure 1 and Table 1.

The number of Sri Lankan migrants going abroad to work has increased steadily over the past three decades. Primary destinations are the Gulf States and neighbouring countries in South and South-East Asia. The Central Bank of Sri Lanka reports that 1.8 million Sri Lankans, equivalent to almost a quarter of the Sri Lankan labour force, were documented migrants employed abroad by 2008.⁶

5 International Organization for Migration (IOM) and Institute of Policy Studies of Sri Lanka, *International Migration Outlook*, Sri Lanka 2008.

6 Central Bank of Sri Lanka, *Annual Report 2008*.

Figure 1: Sri Lankan Overseas Contract Workers by Manpower Levels to 2008



Documented workers most often assume positions in health, information technology, tourism, and construction industries. Professional positions held by Sri Lankan migrants in the health sector include doctors, surgeons, psychiatrists, dentists, nurses, pharmacists, pathologists, and radiographers. The information technology sector employs software engineers, data processors, systems engineers, and analysts. In the tourism sector, skilled and semi-skilled jobs include accountants, surveyors, administrators, chefs, hair dressers, cashiers, receptionists, and security officers, among others. In the construction sector, skilled workers find jobs as masons, painters, carpenters, plumbers, and metal workers.

The number of unskilled workers migrating is much higher than the skilled and professional categories. In 2008, 59,400 departing migrants were classified as unskilled, while 2,800 were classified as professionals. Undocumented workers include migrants who enter destination countries without proper documents and those who may have entered as documented, but their status was subsequently changed, their visa expired, their contract finished, or they were dismissed from their work. There is also a growing tendency for Sri Lankan students to migrate to Western countries

for educational purposes and then later obtain employment and residency in these countries. There are huge data gaps on these individuals since there is no single authority that records the flow of undocumented Sri Lankans living in foreign countries.⁷

Gender and Migration

The collapse of the rural agricultural economy and increasing levels of economic hardship and poverty, compounded by years of conflict, have all led to increased migration of Sri Lankan women. Sri Lanka has an active policy of promoting emigration of its female citizens for work in the Arab States and affluent South-East Asian nations, such as Singapore and Malaysia, primarily as domestic workers. Over the past three decades the number of Sri Lanka migrant workers has increased steadily, as has the proportion of women in the emigrant group. More than a million female Sri Lankan citizens are estimated to be earning their livelihood abroad in the Arab States.⁸

⁷ IOM, International Migration Outlook.

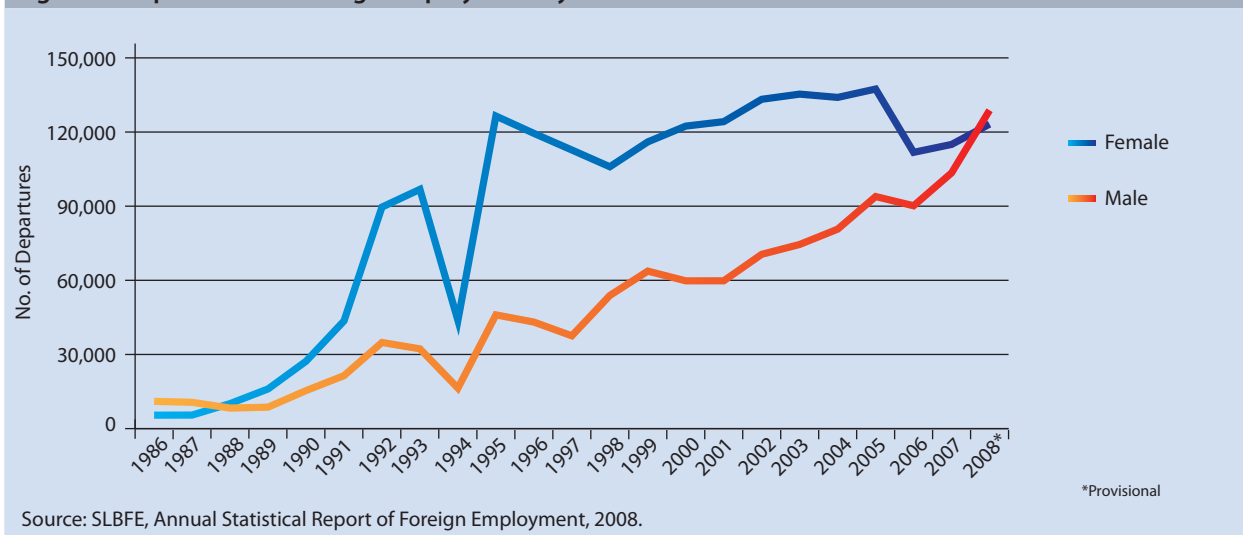
⁸ UNDP, "HIV Vulnerabilities of Women Migrants: from Asia to the Arab States," 2009.

Table 2: Migration for Employment by Gender 2003 to 2008

Descriptions	2003	2004	2005	2006	2007	2008
Male	36%	37%	41%	45%	47%	51%
Female	64%	63%	59%	55%	53%	49%
Male / Female ratio of migration	1:02	1:02	1:01	1:01	1:01	1:01

Source: SLBFE, Annual Statistical Report of Foreign Employment, 2008.

Figure 2: Departures for Foreign Employment by Gender 1986 to 2008



Source: SLBFE, Annual Statistical Report of Foreign Employment, 2008.

In 2008, for the first time in a decade, the percentage of male migrants increased to 51 percent of the total, up from 36 percent in 2003 (see Table 2). This was due to high demand for skilled and unskilled jobs for males in Qatar, Saudi Arabia, United Arab Emirates (UAE) and, Jordan, particularly in the construction and manufacturing sectors. At the same time, female migration to Saudi Arabia and Oman decreased, mainly due to inadequate remuneration, but possibly also as a result of increased job opportunities for women in Sri Lanka.

By 2008, an estimated 810,500 Sri Lankan women, many from rural areas, were working as low paid domestic helpers in the Arab States and South-East Asia. Over the past 10 years women leaving to work as housemaids represented half to two-thirds of all work-related migration out of Sri Lanka.⁹ Domestic workers are often vulnerable to exploitation, and have no labour rights in many of the destination countries. According to International Organization for Migration (IOM)

estimates, 47 percent of Sri Lankan labour migrants are female housemaids, and most are married with children. Very often children are left behind to be looked after by their father and/or other relatives. These children are often neglected and de-motivated, and many drop out of school, are negatively influenced, and/or are abused.¹⁰

In recent years, the Sri Lankan Government has sought to increase the migration of skilled workers through training and skill development and to discourage the outflow of domestic and unskilled workers. At the same time, to better prepare women for employment overseas, beginning in 2009, female domestic workers receive an 18-day pre-departure English and literacy program. Overall, the government's goal is to reduce the share of female domestic workers to 25 percent of total Sri Lankan migrants.¹¹

10 IOM, International Migration Outlook.

11 National Labour Migration Policy for Sri Lanka 2008, Ministry for Foreign Employment Promotion and Welfare.

9 Ibid.

Human Trafficking

Social inequities, extended periods of internal conflict and war promotes the trafficking of persons, and consequently Sri Lanka is both a source and destination country for men and women trafficked for the purposes of involuntary servitude and commercial sexual exploitation.¹² Women and children are trafficked primarily to the Middle East, Singapore, Hong Kong (SAR), and Republic of Korea; men, mostly 18-44 years, are trafficked to war zones such as Iraq, Palestine, or Israel to undertake dangerous occupations or to coastal regions to undertake illicit fishing in ice cold seas; small numbers of women from Thailand, China, Russia, and other former Soviet states are reportedly trafficked to Sri Lanka for the sex trade.

Trafficking often flourishes under the pretext of labour migration, eventually changing into forms of forced labour and exploitation. Some migrants in the low-skilled and unskilled categories find themselves in situations of involuntary servitude, restrictions on movement, withholding of passports, threats, physical and/or sexual abuse, and debt bondage.¹³ The Government of Sri Lanka considers that much of this vulnerability is due to lack of pre-departure education, training, and awareness regarding host country laws and working conditions.¹⁴

Children are trafficked internally for commercial sexual exploitation and, less frequently, for forced labour in unregulated businesses in the informal sector such as garment factories, construction sites, and domestic service. Under-aged girls are trafficked using forged documents that indicate they are adults. Trafficked children, both boys and girls, often end up in the commercial sex trade, some reportedly providing sexual services to tourists.¹⁵

Source, Transit, and Destination

Source

Since the early 1980s when Sri Lanka opened its economy, migration for overseas employment was

permitted without restrictions. Source communities include the highly populated districts of Colombo, Gampaha, Kalutara, Kandy, Matale, Nuwara Eliya, Galle, Matara, Hambantota, Batticaloa, Ampara, Trincomalee, Kurunegala, Puttalam, Anuradhapura, Badulla, and Kegalle.

Labour migration is less evident in the districts of Jaffna, Mannar, Vavuniya, Mulativu, and Moneragala. North and East Sri Lanka are noted for refugee migration due to prolonged conflict in these areas. During the last two years nearly 200,000 people, mostly women and children, have left their homes as internally displaced persons. This has also facilitated the trafficking of women and children.

Transit

As an island state, Sri Lankan migrants have few transit points. Most migrants leave the country by air through the Sri Lanka International Airport in Colombo and travel directly to destination countries. Many Gulf carriers have bilateral air agreements with Sri Lanka and have flights from Colombo on a daily basis.

Destination

The major destination for migrants from Sri Lanka is the Middle East, with 93 percent of all Sri Lankan migrants moving to the Gulf States. The countries of Saudi Arabia, Kuwait, UAE, Qatar, and Jordan employed 86 percent of Sri Lankan migrants from 2004 to 2008. Middle East countries have opened embassies in Colombo to facilitate issuing visas to migrants.

A small number of Sri Lankan workers are migrating to non-Gulf destinations, notably with the significant increase in employment opportunities in Republic of Korea. The SLBFE signed a memorandum of understanding (MoU) with Republic of Korea on foreign labour as part of an initiative to encourage recruitment of skilled labour employees to Asian countries.

Remittances

Sri Lanka ranks among the top 20 countries in the world in migrant remittances. International remittances play an important role in the Sri Lankan economy, contributing 7 percent of its GDP, 36 percent of its export earnings, and 36 percent of current receipts in the Balance of Payments. Remittances have become the leading source of foreign capital to Sri Lanka,

12 US State Department, *The World Factbook*, 2009

13 US State Department, *Trafficking in Persons Report 2009*.

14 National Labour Migration Policy for Sri Lanka, 2008.

15 UNDP, "Human Trafficking and HIV: Exploring vulnerabilities and responses in South Asia," 2007; and *Trafficking in Persons Report*, 2009.

Table 3: Destination Countries for Sri Lankan Migrant Workers 2003 to 2008

Destination	2003	2004	2005	2006	2007	2008
Saudi Arabia	36.26%	33.21%	32.95%	30.42%	27.69%	26.90%
Kuwait	18.41%	17.12%	15.63%	17.18%	18.78%	18.72%
U.A.E.	15.40%	15.32%	15.72%	16.74%	17.86%	20.57%
Qatar	11.34%	13.98%	15.54%	15.58%	17.83%	15.69%

Source: SLBFE, Annual Statistical Report of Foreign Employment, 2008.

Table 4: Migrant Remittances 2003 to 2007

Region	United States Dollars US\$ Millions					Sri Lankan Rupees LKR Millions				
	2003	2004	2005	2006	2007	2003	2004	2005	2006	2007
Middle East	804	868	1,089	1,234	1,451	77,579	87,871	111,179	128,282	160,502
Europe	366	415	490	554	635	35,293	41,990	49,503	57,513	70,289
North America	90	105	125	119	105	8,691	10,643	12,734	12,356	11,623
East Asia	69	76	86	110	135	6,634	7,696	8,736	11,458	14,943
South Asia	12	13	19	22	25	1,134	1,294	1,941	2,247	2,767
South-East Asia	27	32	38	52	75	2,588	3,204	3,883	5,392	8,302
Australia	16	23	29	28	33	1,581	2,319	2,912	2,921	3,597
South & Central America	14	15	19	22	20	1,391	1,501	1,941	2,247	2,214
Other	16	18	24	22	23	1,547	1,772	2,427	2,247	2,491
Total	1,414	1,565	1,919	2,163	2,502	136,438	158,290	195,256	224,663	276,728
<i>Annual Increase</i>		<i>10.7%</i>	<i>22.6%</i>	<i>12.7%</i>	<i>15.7%</i>		<i>16.0%</i>	<i>23.4%</i>	<i>15.1%</i>	<i>23.2%</i>

Source: Central Bank of Sri Lanka 2007.

overtaking official development assistance and foreign direct investment.¹⁶

Total foreign remittances in 2008 were US\$2.92 billion (LKR316 billion), an increase of 16.6 percent over the previous year.¹⁷ This increase was attributed to an awareness campaign launched by the SLBFE, with the assistance of banks, licensed recruitment agencies, and the media, aimed at increasing the level of foreign remittances from migrant workers.¹⁸

According to the UNDP *Human Development Report 2009*, approximately US\$2.53 billion in remittances were sent to Sri Lanka in 2007, for an average of US\$131 per person. These remittances help support five million Sri Lankans, roughly a quarter of the total population, making it possible for the government to reduce welfare subsidies to low-income families, which become

ineligible to receive government welfare transfers once a member of the family migrates.¹⁹

Not all migrant remittances are processed through the banking system and official channels. Informal transfer mechanisms are discouraged by the government, and the extent of these money transfers is unknown. Earnings are also repatriated in the form of goods brought home by returning migrants.

HIV/AIDS Situation

The first case of HIV in Sri Lanka was detected in 1987. As of the end December 2009 the estimated number of people living with HIV was 3000, and a cumulative total of HIV cases, 1,196, had been reported to the National STD and AIDS Control Program (NSACP), the majority of which were in the 25-49 age group. Estimated HIV

16 IMO, International Migration Outlook.

17 Current exchange rate US\$:LKR (Lanka Rupee) is 108.29.

18 Central Bank of Sri Lanka, Economic and Financial Statistics.

19 UNDP, "HIV Vulnerabilities of Women Migrants," 2009.

prevalence among adults (15-49 years) is less than 0.1 percent and the current ratio of HIV positive men to women in Sri Lanka is 1.4:1. Cumulative AIDS cases as at end December 2009 were 326, with 202 AIDS-related deaths. As of the end of 2009, there were 207 adults and 11 children on anti-retroviral therapy (ART), accounting for 40.6 percent of those in need of ART as per cases reported to NSACP.²⁰

Female sex workers and their clients, men who have sex with men, and injecting drug users are identified as the most at risk populations in the country. The probable mode of transmission is known in only two thirds of those 1196 HIV cases reported to the NSACP since 1987. Where mode of transmission is known, unprotected sex among men and women accounts 82.8 percent of cases, while unprotected sex between men or bisexual encounters account for 11.2 percent of cases.²¹

Table 5: HIV/AIDS Data to 2009

Indicators	2009
HIV Cases:	1,196
Male	706
Female	490
Male /Female ratio of infection	1.40
HIV+ Cases on Anti-Retroviral Therapy	218
AIDS Cases	326
AIDS Deaths	202
Modes of Transmission:	
Heterosexual	82.8%
MSM and Bisexual	11.2%
Mother to Child	5.4%
Blood Transfusions	0.4%
Injecting Drug Use	0.2%

Source: UNGASS Country Progress Report, Sri Lanka 2008-09

Sri Lanka remains one of the few countries in the region with a low HIV prevalence rate, despite high-risk groups and behaviour, such as sex work, and networks of MSM. Rapid political, economic, social, and policy transitions also contribute to increased risks. Many of the infections recorded in 2007 are associated with overseas work.²² Data collected in the first Behavioural Surveillance

Survey (October 2006 to March 2007) confirmed relatively high levels of risk behaviour among high-risk groups and vulnerable populations, including migrants.

The size of the population at risk is difficult to assess, but there are several factors that may fuel an HIV epidemic in Sri Lanka: low condom use; prolonged civil unrest in the country; poverty and gender inequity; increased casual, unprotected sex; misuse of alcohol and drugs, especially among young adults; and proximity to and mobility from AIDS epicentres, such as Tamil Nadu in South India.

National Response to HIV/AIDS

In 1992, the Government of Sri Lanka initiated HIV-prevention and control efforts through the NSACP of the Ministry of Health, under the Director General of Health Services. NSACP integrates services for STIs and HIV/AIDS and the National Reference Laboratory for STI/HIV. NSACP is responsible for coordination of the national HIV/AIDS response through planning, monitoring, and coordination of all stakeholders. The NSACP, in collaboration with the provincial governments, has undertaken HIV-prevention activities, such as a mass-media communications strategy, to improve knowledge and awareness of HIV and to provide care and treatment to people living with HIV and AIDS (PLHIV).

Sri Lanka has a well established sero-surveillance system; and a second-generation behavioural surveillance among vulnerable groups was conducted in 2006. NSACP oversees a network of 30 STI clinics, while 11 branch clinics are conducted on an outreach basis from five provincial hospital clinics. NSACP also oversees scaled-up voluntary counselling and testing (VCT) and HIV clinical management services, pilot programmes for prevention of parent-to-child transmission (PPTCT), and the development of HIV/STI clinical management guidelines. The National Blood Transfusion Service is responsible for ensuring blood safety in Sri Lanka. No cases of transfusion related HIV infections have been reported to the NSACP since 2000.²³

The National AIDS Council, formed in 2006, is the highest governing body, chaired by the President and with relevant ministers as members. The National AIDS Committee (NAC) formed in 1988, is the main body for coordinating HIV prevention and control initiatives

²⁰ UNGASS, "Country Progress Report, Sri Lanka, 2008-09," 2010

²¹ Ibid.

²² UNGASS, "Country Report, Sri Lanka, January 2006-December 2007," 2008.

²³ UNGASS, Country Progress Report

and for overseeing implementation of programmes to prevent the spread of HIV. It is chaired by the Secretary of the Ministry of Health Care and Nutrition, and members include other ministerial secretaries, NGOs, PLHIV, representatives of the private sector, and donors.

Voluntary Counselling and Testing services are provided free of charge at government clinics. Counselling services are undertaken by NGOs such as the Migrant Service Centre (MSC), Lanka+, the Salvation Army of Sri Lanka, and Community Development Services. Anti-retroviral therapy is given freely to persons registered at STI clinics, although less than 10 percent of the 3,000 people in Sri Lanka who are estimated to be HIV positive regularly call at clinics to receive therapy.²⁴

Within the health sector, several departments provide HIV/AIDS-related services, such as the Family Health Bureau, Health Education Bureau, National Blood Transfusion Service, National TB Programme, and the Health Services Department (clinical care). Other government sectors also respond to HIV, including the Ministry of Education (school-based life-skills education), Ministry of Labour, and the Foreign Employment Bureau (pre-departure education for migrants). NSACP supports several ministries and departments to build their competence, such as defence (prevention and VCT), youth affairs, fisheries, and the police department. In line with on-going efforts of decentralization and devolution, the provincial, district, and municipal AIDS committees coordinate local responses with support from the NSACP.

The World Bank and UN agencies have provided financial and technical assistance to the government and NGOs in carrying out targeted interventions among vulnerable groups and the general public. In the past World Bank have funded projects to strengthen STI treatment services by refurbishing clinics and laboratories, providing equipment, and training health staff. International NGOs support several local NGOs and trade unions in HIV-prevention programming, providing information sharing experiences, conducting HIV-awareness programmes, and offering prevention and care services. Civil society organizations are encouraged to conduct campaigns against stigma and discrimination.

The goal of National Strategic Plan (NSP) 2007-2011, prepared in collaboration with relevant stakeholders,

²⁴ Ibid.

is to maintain low HIV prevalence in the country and provide care and support for those infected and affected. The NSP 2007-2011 is implemented by all sectors of government and civil society, under the technical guidance of the NSACP and with high-level leadership from the NAC, accelerating scale-up of HIV testing, prevention, care, and treatment services, and ensuring collection of robust strategic information to monitor and guide the national response to the HIV epidemic.²⁵

On April 3 2007, Sri Lanka signed a National Tripartite Declaration on Prevention of HIV/AIDS in the workplace. It was signed by the Ministries of Labour, Health, Child Development, Women's Empowerment, Vocational and Technical Training, and the SLBFE, as well as representatives of employer organizations and large trade unions.

The Declaration states:

Trade Union and Employer Organizations who are signatories will encourage development of HIV/AIDS workplace policies and programmes in collaboration with the employer/employees and take the lead in protecting workers and their families from HIV/AIDS. Workers Organisations and Employers Organisations will contribute to the prevention of HIV/AIDS by developing their own policies and programmes in this regard and include HIV/AIDS awareness raising in their education and training programmes focusing on employees, their families paying special attention to vulnerable communities and taking into consideration the special needs of women and children.

Worker Organisations will also raise awareness on HIV/AIDS amongst the workers in the informal sector in collaboration with their subsidiary units at all levels.

All three constituents being signatories to this National Tripartite Declaration firmly dedicate themselves to cooperate and support each other in all activities related to HIV/AIDS in the workplace.

²⁵ "National HIV/AIDS Strategic Plan 2007-2011" and National STD and AIDS Control Programme, Ministry of Health Care and Nutrition, Sri Lanka.

Migration and HIV/AIDS

Mandatory Testing

Most destination countries require compulsory medical tests and re-tests at regular intervals during employment. If migrants test HIV positive, they are deported, often without explanation. Where mandatory testing is a requirement of the host country, it is done without Sri Lanka Government supervision or involvement and neither the testing centres nor the government offer pre-test or post-test counselling to migrant workers. Generally there is also a lack of access to condoms.

Blood and urine tests (for HIV and pregnancy, respectively) are mandatory prior to departure for women migrating through official channels. The test results are provided directly to the agents. Many of the women tested admit not knowing the nature of these tests. A VDRL test, screening for syphilis, is also required, and is provided by the NSACP.

The Government of Sri Lanka allows Gulf countries to conduct mandatory testing at sites approved by the Gulf Cooperation Council Approved Medical Centres Association (GAMCA). GAMCA has approved 13 testing centres in Sri Lanka: 10 based in the district of Colombo and 3 in Kurunegala district. Migrants tested do not receive the results and no pre-test or post-test counselling is provided. GAMCA is not obliged to provide test results or statistical information to the Ministry of Health, Ministry of Foreign Employment Promotion, or the SLBFE. Migrant workers travelling to countries not covered by the Gulf Cooperation Council may also be required to undergo testing, and recruiting agents direct these recruits to a GAMCA centre for testing. Although government hospitals can do full medical examinations more cost-effectively, testing at private hospitals is encouraged by recruiters.

While abroad, many documented migrants avoid testing, or upon detection disappear, becoming undocumented workers to avoid deportation. Many HIV-positive migrants returning to Sri Lanka hide their HIV status for as long as they can in fear of stigma and discrimination.

Increasingly, Sri Lankan migrant workers tested in the Arab States are infected with HIV; and more than 40 percent of women who have tested positive, both abroad and in Sri Lanka, are or have been international

migrants. It is unclear how many of these women acquired HIV infection abroad, and how many within Sri Lanka.²⁶ As most migrant workers are screened for HIV prior to departure and retested abroad, they are over-represented in HIV testing data.

None of the recently concluded bilateral agreements with destination countries contain provisions for ensuring protection of the health rights of migrants at destination and in the workplace. Recruitment to Republic of Korea is a monopoly of the SLBFE. Medical testing for migrants leaving for Republic of Korea is done at Sri Jayawardenapura Hospitals in Colombo, Thalapatthipitiya, and Nugegoda as approved by the Government of Korea. No private medical laboratories are permitted to conduct these medical tests.

All these factors point to the need to strengthen the evidence linking high-risk behaviour among migrant workers to structural deficiencies in the migration process. Generating data on the HIV vulnerability of migrant workers, with specific focus on women and on responses in both origin and host countries, will provide insights for the scaling-up of existing programmatic responses and the development of new interventions.²⁷

Pre-departure Orientation

A significant number of Sri Lankans employed abroad are not reached by existing national sexual and reproductive health programmes at departure, in transit, on arrival in receiving countries, or on return to Sri Lanka.

The SLBFE conducts training and pre-departure orientation programmes for migrants, both male and female. In 2005 it began offering HIV education as part of pre-departure training that domestic migrant workers are required to attend. In 2009 the SLBFE took steps to integrate HIV/AIDS education into pre-departure training for female migrants in all 34 SLBFE training centers.²⁸ However there is no clear policy or requirement to provide pre-departure information to all migrants on STI and HIV prevention and care.

Programmes recently launched by the SLBFE on information sharing on HIV/AIDS lack sufficient material to increase knowledge about health, labour rights,

26 UNGASS, Country Report.

27 UNDP Colombo, "HIV Vulnerabilities Faced by Women Migrants."

28 UNGASS, Country Progress Report

and services available in receiving countries through Sri Lanka missions abroad or through overseas NGOs. While pre-departure sessions vary in length, a pre-departure orientation session which runs for 13 days (72 hours) includes only 2 hours devoted to discussion of HIV-prevention and protection issues. At destination, Sri Lankan missions are not equipped to handle the sensitive health issues of migrant women.

Policies, Legislation, and International Conventions

International Conventions

In 1996, Sri Lanka ratified the *International Convention on the Protection of all Migrant Workers and Members of their Families*, which facilitated the creation of a normative framework on which national migration legislation and practices can be developed. However, Sri Lanka has yet to pass legislation to give effect to this instrument and its provisions.

Sri Lanka is also a signatory of *The Protocol on Preventing, Suppressing and Punishing Trafficking in Persons especially Women and Children* under the UN Convention against organized crime, though it has not ratified the convention. Once ratified, the government intends to develop a comprehensive set of rules governing trafficking, and to communicate these throughout the country with the support of relevant stakeholders. Sri Lanka has ratified other associated international conventions, including *Convention on the Elimination of All Forms of Discrimination against Women* and the *Convention on the Rights of the Child*.

Sri Lanka adopted the *Declaration of Commitment on HIV/AIDS* at the United Nations General Assembly Special Session on HIV/AIDS (UNGASS) in June 2001. However, there has been limited follow-up by authorities on many of the commitments made at UNGASS, particularly access to HIV/AIDS programs for all migrant and mobile populations. In addition, Sri Lanka has yet to ratify relevant ILO conventions, including *Migration for Employment*, the convention concerning migration in abusive conditions, the promotion of equality of opportunity and treatment of migrant workers, and recommendations concerning migration for employment. Though Sri Lanka is a party to the *International Covenant on Economic, Social and Cultural Rights* and has an obligation to protect the

health rights of all Sri Lankans, no specific interventions, including the promotion of the health rights of migrant workers, have been undertaken.

Regional and Bilateral Agreements

Sri Lanka is a member of the South Asian Association for Regional Cooperation (SAARC) and has ratified the *SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution*. This convention enables a High Court in Colombo to hear, try, and punish offences committed outside Sri Lanka if either the accused or the victim is a citizen of Sri Lanka. This law is restricted to women and children victimized or forced into prostitution by traffickers using deception, threat, coercion, kidnapping, sale, fraudulent marriage, or other unlawful means.

Sri Lanka has signed a MoU on migration with a number of countries in the Middle East and Asia. These MoU, unlike bilateral agreements, indicate the type or category of workers required; physical characteristics and skill requirements rather than minimum standards for wages, working hours, and conditions; contract enforcement; health rights; insurance; compensation; and anti-trafficking/welfare measures. By their nature, MoU do not ensure the comprehensive protection and welfare of migrants during their stay in foreign countries.²⁹

On May 7, 2009, the leaders of Sri Lanka trade unions and their counterparts from Bahrain, Jordan, and Kuwait signed major cooperation agreements to protect the rights of Sri Lankan migrant workers in these countries, granting Sri Lankan migrant workers “the full panoply of labour rights included in internationally-recognized standards.”³⁰

National Policies and Legislation

The protection and welfare of Sri Lankan migrant workers is the joint responsibility of the Sri Lanka Bureau of Foreign Employment and the Ministry of

29 Ministry of Foreign Employment Promotion and Welfare of Sri Lanka, “Report regarding the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,” April 2008.

30 International Labour Organization (ILO), “Bilateral trade union agreements on migrant workers’ rights between Sri Lanka and Bahrain, Kuwait and Jordan” August 2009; available at http://www.ilo.org/dyn/migpractice/migmain.showPractice?p_lang=en&p_practice_id=32

Labour. The National Law on Overseas Employment regulates migration and has specified protective measures against illegal operations. All migrant workers are now required to register with the SLBFE in an effort to prevent illegal recruitment and to provide migrants with essential services. The SLBFE seeks to promote and regulate migration of Sri Lankans and provide for welfare and protection of migrants. It is generally perceived as migrant-friendly in terms of facilitating emigration and inflow of remittances.

The *Sri Lanka Bureau of Foreign Employment Act 1985* includes protective measures to reduce irregular migration and clearly articulates provisions for regulated migration. However, lack of suitable enforcement measures results in frequent contravention of these laws during the migration process. Recent amendments to the *Foreign Employment Act 1985*, were passed by the Parliament in September 2009, increasing the punishment and fines imposed by the courts for violations of the provisions. A Parliamentary Select Committee was established to investigate complaints and grievances of migrant workers regarding recruitment procedures, training, education, language proficiency, service agreements, welfare, and security of employment, primarily in the Middle East. Enforcement of laws and regulations related to migration for employment is complicated by the fact that most of the harassment and exploitation of migrant workers takes place outside the country and offenders are not held accountable.³¹

In February 2006, Sri Lanka passed an amendment to the Penal Code that gives a broader definition of trafficking to include buying, selling, bartering, recruitment, transportation, transfer, harbouring, or receipt of persons, and makes trafficking a criminal offence.

To protect female expatriate workers, a policy was framed to discourage recruitment of domestic workers and replace domestic work with new occupations for women migrants, such as nursing, computer-based employment, and other jobs requiring special skills that women can fill after appropriate training.

In 2006, the Ministry of Labour Relations and Foreign Employment, at the time responsible for all foreign employment, requested assistance from the ILO in preparing a National Labour Migration Policy for Sri

Lanka. In its Advisory Report, the ILO recommended that a multi-stakeholder dialogue on the National Labour Policy for Sri Lanka provide the following:

- Improved governance and regulation of labour migration based on a consultative process with social partners and civil society in formulating migration policy.
- Effective service provision to migrant workers and their families.
- Maximized development opportunities given the benefits of labour migration, migrant remittances, and reintegration of returnee migrants.
- Linkages with trans-national communities and effective communication of policies.

In 2007 a new Ministry of Foreign Employment Promotion and Welfare was established and was mandated to introduce structural changes to ensure Sri Lankan workers were trained to meet the international demand for skilled workers; ensure improved working conditions for migrants through regional cooperation and signed international agreements; promote equitable treatment and higher salaries for skilled workers and minimum wage agreements for domestic workers; and strengthen the services provided overseas by Sri Lankan embassies and embassy welfare officers.

The National Labour Migration Policy for Sri Lanka was officially launched by the Ministry of Foreign Employment Promotion and Welfare on February 24, 2009, and approved by the Sri Lanka Cabinet on April 30, 2009.³²

The *Ten Year Plan for Development* and the *National Action Plan for Decent Work* recognizes the importance of labour migration in Sri Lanka. The Ten Year Plan highlights safe, skilled migration as the best strategy for guiding overseas labour migration.

The Sri Lankan Government has taken measures to enhance migrant worker welfare by introducing a pension scheme in August 2007; setting up training centres to teach Korean, Japanese, Arabic, English, and Hebrew languages; and conducting pre-departure training to better facilitate information dissemination on the laws, culture, and social values of host countries.

Recruitment agencies have taken a creative approach

31 Chandanie Watawala, "Human Trafficking as a Threat to Human Security: Reflection on the Context of Trafficking in Sri Lankan Women to the Middle-East," 2002.

32 ILO, "National Labour Policy for Sri Lanka," April 2008; available at www.ilo.org/public/english/protection/migrant/info/mpolicy_srilanka.htm.

to contract negotiations for migrant workers by developing a Memorandum of Understanding on Minimum Working Conditions. The agencies have organised under the Association of Licensed Foreign Employment Agencies (ALFEA), proposing to assist the government in negotiation of service contracts. An ALFEA milestone was the negotiation with their counterparts in Saudi Arabia for a uniform policy on HIV testing, which was subsequently approved by the SLBFE.

Key Stakeholders

Government Agencies and Networks

The main institutional framework for the labour migration process is handled by the Ministry of Foreign Employment and Welfare. The other key government institutions and agencies involved in the migration process are the Ministry of Labour Relations and Manpower, Ministry of Internal Administration, Department of Immigration and Emigration, Department of Registration of Persons, Ministry of Foreign Affairs, Ministry of Child Development and Women's Empowerment, and the National Child Protection Authority.

The International Organization for Migration (IOM) concentrates on building the capacity of government agencies and NGOs working on trafficking prevention, prosecution of cases of trafficking, and providing assistance to victims. For example, IOM trains law enforcement personnel, such as the police, immigration officers, and officers of the SLBFE, to identify and prosecute cases of trafficking. IOM also raises awareness together with these agencies on the risks of irregular migration.

The National Resource Centre to Counter Trafficking was opened in May 2009 by the Immigration and Emigration Department (IED) of Sri Lanka with the support of the IOM. This centre is housed at the IED and intends to offer comprehensive training to IED staff on human trafficking, promote research, and enhance information sharing among stakeholders. It will also provide appropriate assistance and redress to victims of human trafficking and facilitate the development of a referral system.

Non-government Organizations

Migrant Services Centre (MSC) is a service organization established in 1990 to act as the migrant services arm of the National Workers Congress, a registered trade union in Sri Lanka with a migrant worker membership. MSC membership is open to migrants, returned migrants, and prospective migrants, including refugees. The main services provided are: stakeholder meetings with policy makers; training of trainers; information, counselling, and orientation programs for prospective migrants; health education, HIV prevention and care for migrants with AIDS; assistance with training and skills development; counselling on health problems of migrant returnees; resettlement and reintegration of HIV-positive migrant workers; and intervention in the trafficking of women and children under the pretext of migration for employment and referral of victims to relevant authorities for assistance.

Community Development Services (CDS) is an active local NGO launched in 1991 and offering capacity building and advocacy on HIV awareness and prevention to a range of stakeholders, including NGOs and community-based organizations (CBOs), private sector organizations, and international NGOs. CDS formed the first commercial sex worker (CSW) micro-credit programme in Sri Lanka and helped to form Lanka+. CDS works with CSWs, MSM, youth, and prospective migrant workers in several districts. It recently worked with three CBOs in the south, and has educated 333 migrant domestic workers and their families on issues such as dealing with a licensed recruiting agency, STIs, HIV and AIDS, medical testing procedures, post arrival behaviour, international labour laws, human and health rights, host country labour laws, reintegration, human trafficking, and coping strategies for people/families left behind.

Community Strength Development Foundation (CSDF) is a non-profit organization registered with the Department of Social Services in 2002 under the national Secretariat of NGOs. CSDF utilizes a group of dedicated, educated, and experienced government and non-government personnel to serve the community irrespective of social, economic, or political position. Activities include issues of unemployed youth, HIV prevention programmes, entrepreneurship training and counselling programmes, drug prevention, education quality improvement, and community empowerment programming.

National Workers Congress has undertaken an anti-trafficking project to establish a victim centre, monitor detection of trafficking, provide legal assistance, and design anti-trafficking intervention programmes. The centre received information on 78 cases of trafficking in 2007, mainly from external migrants, and 46 persons received further assistance. The National Workers Congress is a signatory to the Tripartite Declaration on Trafficking.

Recommendations

The following recommendations are made within the context of the foregoing analysis of Sri Lanka's migration patterns and policies and HIV situation. In order to reduce the HIV vulnerability of current and future migrant and mobile populations, it will be necessary to take action in a range of key areas, as detailed below.

1. Ratify the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons and other relevant ILO conventions essential to the protection of migrants.
2. Expand and strengthen the data-gathering system for both immigration and emigration.
3. Expand the evidence base and research to increase understanding of the issues created by international migration, such as: the impact on families, particularly children left behind by migrant women; the nexus between migration and human trafficking; and HIV vulnerability.
4. Ensure comprehensive migrant-friendly voluntary HIV testing that protects the rights of migrants in a process governed by best practices: consent, confidentiality, and pre-test and post-test counselling.
5. Improve the quality of education and access to skills-based training for youth and women at the grassroots level and areas prone to high migration, with a view to foreign employment as skilled workers.
6. Ensure that pre-departure orientation and training programmes are accessible to migrant populations, particularly women migrating as domestic workers; and expand programming to include HIV and STI awareness and prevention through safe behaviour choices, such as condom use and access to health services.
7. Regulate and monitor recruitment agencies and their sub-agents; impose ceilings on fees; and blacklist agencies indulging in unlawful, fraudulent, and corrupt practices.
8. Continue to actively implement and follow-up on the commitments made at UNGASS, particularly improving access to HIV/AIDS programmes for all migrant and mobile populations.

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