

## SARTUC's Position on Labour Migration

### Background

#### Internal migration

An estimated 36 million South Asians currently live outside the region of their birth, a figure likely to increase given the roughly 2 million who migrate every year, primarily to countries in the Gulf and Southeast Asia.<sup>1</sup> Migration flows from South Asia can be segregated by destination and skills. Migrants from this region to Europe, US and other developed countries are mostly composed of high-skilled migrant whereas low-skilled migrants usually head to the Gulf region. Migration is thus a common agenda of South Asian countries with most of the migration flows from the region consisting of the same destination countries, skills levels and sectors of work.

Country	No. of total emigrants	No. of total immigrants	Unemployment rate (WB data)	Remittances in US\$/ contribution to GDP (WB data)
Afghanistan	5 106 000	105 000	8.0%	2.6%
Bangladesh	7 755 000	1 397 000	4.3%	9.2%
Bhutan	446 000	402 000	2.9%	0.8%
India	14 157 000	5 338 000	3.6%	3.4%
Maldives	84 000	1 000	11.6%	0.1%
Nepal	1 045 000	971 000	2.7%	29%
Pakistan	5 685 000	4 081 000	9.1%	6.9%
Sri Lanka	1 252 000	325 000	4.2%	9.6%
<b>TOTAL</b>	<b>35 530 000</b>	<b>12 620 000</b>	<b>6.2% (Avg.)</b>	

With an average unemployment rate of 6.2% in the region and a growing youth population, migration is increasingly becoming a livelihood option. This increase in labour migration activity has brought about positive impacts, with remittances figuring as an important contributor to national economies. The region accounts for 27% of global US\$ 435 billion that is sent as remittances. India and Bangladesh are listed among the top 10 remittance-receiving countries while Nepal is among the top 10 countries by share of remittances in GDP.<sup>2</sup> The diaspora is also increasingly seen as an influencing factor for the development of the origin country and social indicators of migrants' families often indicate better investments in education and health. Female migration is also increasing in the region - 51.7% of the total migrants of Sri Lanka for example, were women.

Despite the positive contributions accrued through migration and remittances, the issue of the social costs of migration, vulnerability of migrant workers, and the abusive and exploitative working conditions they often experience are also matters of grave concern for the region.

Several countries in the region have experienced conflict and are susceptible to natural hazards as well as environmental degradation and the impacts of climate change. Environmental and climate change and conflict –induced displacement and migration are becoming increasingly common issues

<sup>1</sup><http://esa.un.org/unmigration/wallchart2013.htm>.

<sup>2</sup> See, *World Migration Report 2013* (Geneva, IOM, 2013), available from [http://publications.iom.int/bookstore/free/WMR2013\\_EN.pdf](http://publications.iom.int/bookstore/free/WMR2013_EN.pdf);

UNICEF, 'South Asia in Action: Preventing and Responding to Child Trafficking,' Summary Report (New York, UNICEF, 2008). Migration and Remittances Factbook 2011, p. 19.

in the region and are expected to influence labour flows. The diaspora is increasingly being seen as a potential positive influence and social indicators of migrants.

### ***Mandate for Cooperation on Matters Relating to Migration***

The SAARC Heads of States/Governments in the 18th SAARC Summit held in Kathmandu on 26-27 November 2014 recognised the role of migration in the region and agreed to ‘collaborate and cooperate on safe, orderly and responsible management of labour migration from South Asia to ensure safety, security and wellbeing of their migrant workers in the destination countries outside the region.’ This is in addition to the respective national legislative, executive and administrative frameworks that have already been adopted by SAARC member states on their own to provide for the progressive realization of migrant workers’ safety, security and well-being.

## **KEY STRATEGIES FOR UNIONS**

The strategies for unions in the SAARC countries are being developed in this backdrop of the growing migration trends and the recent SAARC declaration.

While some of the points identified below are meant for individual unions to take action, additionally points for collaborative actions at the regional level are also highlighted. These need to find resonance and be linked with the Colombo process and other regional and international processes.

Many of the suggestions enlisted below are in relation to international migration as that is the common shared reality; many of the recommendations may be equally relevant in the case of internal migrants.

## **1. ORGANISING MIGRANT WORKERS AND INTEGRATING THEM INTO MAINSTREAM TRADE UNIONS ACTIVITIES**

Most migrants are not members of unions as they are either informal workers or jobless in the country of origin. In some destination countries unionizing is illegal. In some situations, there has been resistance/reservations by local unions to include ‘foreign’ members. This makes it difficult for migrants to get organized and join unions.

Trade unions organizing strategies should be more responsive to the changing labour relations, legal frameworks and economic conditions. In particular, unions should examine their structures to determine if they respond to the needs of a growing part of the labour force engaged in precarious work and having no or limited bargaining rights and in which migrants are overrepresented. There is therefore a need to sensitize union leaders on the inclusion of migrants and to build an internal commitment amongst members to include migrant workers and work towards unity of all workers. In some cases, the inclusion of migrants, especially into leadership positions may require amendment to the Union’s constitution, structure, agenda and policy.

Unions need to develop and diversify organizational strategies and methods to include migrants. Migrants units can be separately established. These units should then be provided with capacity building inputs to effectively work on migration issues including increase in staffing, financial resources and programmes to organize migrant workers. Unions to reaffirm engagement to defend

the rights of all migrant workers and increase unions' opposition and mobilization against national policies and programmes that violate migrant workers rights.

There is a need to be innovative in reaching out to migrants, especially in countries where unionizing may not be permitted, and provide them support through networking with other civil society actors. It is recommended that unions set up support units in destination countries providing legal assistance, facilitating access to public services and social security provisions. Bilateral agreements between unions of origin and destination countries can also facilitate workers organizations and portability of membership may also be explored between unions in different locations. In some instances civil society actors may already have established migrants groups which are not unionized and unions should provide affiliations to such groups. They must also network with other involved in migration including embassies and international TUs and share experiences with other unions on successful strategies etc.

## **2. POLICY FRAMEWORKS TO FOCUS ON MIGRANT RIGHTS**

There is deep concern raised regarding the prevailing approach that treats migrant workers as a commodity, rather than human beings with inalienable rights as exemplified by the growing number of trade and services agreements covering migration and circular migration programmes. To challenge this, the unions have to be involved in policy formulation and related discussions to ensure migrants workers rights are central to policy and challenge the existing migration management framework. Formulation of a SAARC Declaration on the Protection and Promotion of the Rights and Welfare of Migrant Workers and unions' engagement with it would help to provide a framework for the SAARC countries to reach a common understanding and a platform for collaboration and monitoring amongst countries.

To move towards a rights discourse, countries must commit themselves to international standards and the unions must advocate for ratification of the International Convention for Migrant workers and the relevant ILO Conventions (No 97 and 143).

Most countries of the region have a dedicated ministry or department for migration. While this separate ministry can devote greater attention to migration, the disadvantage is that labour migration is separated from labour, employment and decent work policies in the process and the new ministries have no mandate for social dialogue. These Ministries/Department are focusing on the need to improve the management of labour migration processes and while several countries have established policy frameworks and structures, they are increasingly investing in better management systems rather than focusing on rights of the workers.

Unions also need to ensure that international migration is a short-term solution and not one that increasingly takes over the economy of nations. The dependence on remittances is increasing and is becoming an increasingly larger percentage of the GDP which makes the countries of this region very volatile. The issues of trade, remittances, employment and growth therefore cannot be delinked from migration and unions need to engage with migration issues in all these processes.

The right to vote from overseas needs to be enabled for migrant workers so that they have access and representation at the policy level and are not discriminated against. This can have lasting impact on the policies at home as well as the services offered to overseas migrants.

### **3. PROTECTION OF MIGRANT WORKERS**

There is a great need to move from competition to collaboration for the origin countries. As migration is based on bi-lateral rather than multi-lateral discussions, at the SAARC level, there needs to be a framework for determining minimum wages and minimum standards of protection which is followed by all the SAARC countries in their negotiations with countries of origin. This needs to focus on non-discrimination vis-à-vis rights, wages and benefits on the grounds of nationality, ethnicity, race, caste and gender.

#### **Wages**

One of the most critical issues for migrants is wages. Several destination countries in the Gulf do not have minimum wages and let markets determine wages based on demand and supply. This is hugely problematic as countries of origin get into competition with each other to get the maximum share of the market. Some origin countries have established minimum wages / referral wages. However these are unilaterally fixed and there is a threat of substitution of contract. Wages /referral wages therefore needs to be explored and a common minimum agreed upon within the SAARC countries. These then needs to be equivocally communications during bilateral discussions and ensured through agreements. Unions must also lobby and advocate against discrimination faced by migrants in the destinationcountries with regards to equal pay and benefits for equal work.

Efforts must also be made to influence central banks and reduce remittance transfer costs for the entire SAARC region.

#### **Social security**

There is little social security for the migrant workers and their family members. In most cases, there may not be any social security available for migrants at destinationand they and their family members may not be included, or are excluded from social security provisions at origin. For the higher skilled, social security, even if agreed upon, is based on the principle of reciprocity and most SAARC countries have a very limited package of social security. So, despite having agreements, it does not result in many benefits for the workers. Nonetheless, increased bilateral agreements on social security should be promoted and membership of migrants in the origin country's social welfare system explored.

#### **Protection through awareness**

The unions may get involved in awareness raising but this need not be like the prescribed pre-departure awareness that is often provided by government and NGOs. In fact, theunions should take a monitoring role in relation to the information and training provided by others, ensuring that it is within a rights framework does not undermine the idea of organizing amongst workers. The Unions should be involved in pre-decision awareness which includes a better understanding of why people migrate, what needs to change at origin, about the existing schemes, about labourrights and the labour movements etc. Unions may of course provide information on migration through their website and other media and establish a joint resource centre to generate information which the training institutes, etc., should be motivated to incorporate.

#### **Occupational Safety and Health**

The significance of sound OSH practices at work cannot be under-estimated. As a common minimum, these standards need to be ensured at destination and employers be held responsible for ensuring safety standards and training employees on OSH. Unions need to ensure that OSH training

is included as part of employee probation period and that destination unions monitor the safety at sites.

### **Protection during crisis**

SAARC countries must reach an agreement for the rescue and repatriation of all SAARC migrants during crisis times. This should be done multilaterally so that all the SAARC countries can rescue each other's citizens. Rescue and rehabilitation should also be included in the insurance for migrants so that in times of individual or external crisis, there is a fallback mechanism available to the migrant's and the governments to deal with crisis.

### **Monitoring supply chains**

Monitor recruitment and call for registration of all recruitment agents based on international labour standards, ensure that the recruitment costs are paid in full by the employers and promote government to government recruitment wherever possible. Use name and shame campaigns against companies, employers and recruitment agencies to ensure that abusive practices are exposed and migrant's rights protected.

## **4. JUSTICE AND LEGAL AID**

The ideas of justice for migrants must be at a minimal based on a sense of equality with national workers. Adequate grievance mechanisms must therefore be provided both by origin country embassies and destination country government and common mechanisms agreed upon in relation to vulnerable workers in prison or in conflict with the law.

The unions must also make better and more strategic use of the UN and ILO supervisory mechanisms in order to denounce, redress and prevent violations of the rights of workers and also make use of the conventions in national litigation strategies.

Developing a cooperative mechanism with lawyers working on human rights and providing legal aid to workers is essential for unions. Trade unions can link with bar councils, other networks of civil society organizations to ensure that there are lawyers who can provide advice and support to migrants when needed and also to critically engage with them in both destination and origin countries to establish entitlements for migrant workers through legal reforms.

### **Standard Contracts**

As part of the protection of migrant workers, SAARC countries should establish a model standard contract, which is used across the region by all the origin countries. SARTUC can provide the points for this contract. This will not only help in bilateral negotiations but also help in increasing accountability and transparency in conditions of work.

### **Skills**

Part of the legal recognition of the worker as a worker and associated entitlements also include the recognition of skills and unions must work towards ensuring that wages are determined as per skills levels and not discriminately based on nationalities.

## **5. SPECIAL FOCUS ON WOMEN MIGRANTS –GENDER EQUALITY**

There have been a number of restrictions imposed by governments on the mobility of women for their protection. These however are gender bias, can disempower women and even place them at greater risks of exploitation and trafficking. Solutions for providing women with greater support need to be promoted, including having shelters and funds for support for women, sensitive embassy staff and dedicated helplines.

Unions should therefore work towards understanding the special needs of migrating women and work towards ensuring gender friendly labour management and the removal of bans. The unions must link up with women's groups and other civil society organizations to get more inputs and technical assistance on issues of gender and migration.

## **6. EFFECTIVE SOCIAL DIALOGUE AND NETWORKING**

To achieve any of the above, there is a need for unions to engage in meaningful dialogue with the governments and other stakeholders, both at the national and SAARC levels. Efforts by the unions in the SAARC region must also be linked to the regional processes on migration and the global discourse by the Global Unions. This will not only help in building capacity on these issues but also strengthen advocacy efforts.

Unions must also approach and work closely in collaboration with regional migrant organizations like the Migrant Forum in Asia, which has established a network of local organizations and can provide unions with the technical inputs required for moving the agenda of migrant workers rights forward. With MFA being a partner to ITUC, links may also be drawn between international and regional responses.

## **CONCLUSION**

Inclusion of migration in the SAARC Declaration provides an opportunity for countries of origin from this region to establish and agree upon common minimum standards. Agreements of such nature, on the various aspects of migration, would lend support to each of the South Asian countries during their bi-lateral negotiations with destination countries.