



Report on
Regional Workshop on Protecting Migrants and their Rights amidst
Global Covid-19 Pandemic

South Asian Regional Trade Union Council (SARTUC)

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The COVID-19 outbreak has claimed millions of lives and millions of others have been infected across the globe. The social and economic impact of the pandemic has been especially devastating for the migrant workers of the South Asian region. The enforcement of lockdown and curfews, closure of borders, and the closure of workplaces in destination countries have left many labour migrant workers without jobs and income. Loss of employment has been a detriment not only to the migrants and their families but has also impacted the home countries. Border closure and suspension of international flights led to migrant workers being stranded in the destination countries for several months without employment and financial means to support their living expenses. The situation has brought the inequalities and injustices faced by migrant workers; they do not receive the same rights and treatments as a citizen of destination countries. Many migrants lack access to health insurance and social security benefits due to the informal and temporary nature of jobs. Hence, a crisis such as the one presented by Covid-19 has further exacerbated the pre-existing inequalities faced by migrant workers and rendered them more vulnerable. Many of them have been deprived of their basic human and labour rights including their right to return, while they are left to work and live in risky situations. Cases of wage theft and other claims have increased significantly after the initial outbreak of the pandemic. Along with this, large-scale repatriation, return and deportation of South Asian migrant workers from the major destination countries has become a reality. However, despite the violation of basic human rights and labour rights, no initiatives seem to have been taken for grievance management and remedies, let alone access to justice. Migrants and their rights need to be protected including their right to sustainable rehabilitation and integration.

In this context, SARTUC commissioned a study that aimed to assess how the Covid-19 crisis has impacted the migrant workers of six countries of South Asia namely Afghanistan, Bangladesh, India, Nepal, Pakistan, and Sri Lanka in the major destination countries primarily GCC and Malaysia. The study was based on the desk review of national, international, and regional publications and news reports as well as qualitative interviews with returnee migrant workers and key informants as well as stakeholder consultations in Bangladesh, Nepal, India, Pakistan, and Sri Lanka. Therefore, based on the study SARTUC has developed a position paper advocating for protecting migrants and their rights amidst the Covid-19 pandemic.

- To discuss and highlight the issues of South Asian migrant workers led by the Covid-19 pandemic;
- To strategize and commence the evidence-based advocacy protecting migrants and their rights amidst the Covid-19 pandemic.

Proceedings

The consultation was commenced with the opening remarks of Mr. Laxman Basnet, General Secretary, SARTUC. He highlighted the research carried out by SARTUC on the issues of labour migration in South Asia.

After the welcome speech, the session continued with three speakers who discussed the situation of Covid-19 pandemic in South Asian workers, the research carried out by SARTUC on the impact of Covid-19 on South Asian migrant workers, and the SARTUC's position to address the issues of migrant workers, and the strategy for the SARTUC and its affiliates to take up the issues of migrant workers in both the country of origin and destination countries.

Speaker 1. SM Fahimuddin Pasha, Senior Officer, Youth, ITUC-AP

He highlighted that it is very important to talk about the issues of migrant workers, especially in South Asia. This Covid-19 pandemic has brought lots of challenges particularly from the point of the world of work as the migrant workers are the most vulnerable people.

- In South Asia, six countries are associated with ITUC-AP.
- In India, the workers are facing a difficult situation due to pandemics and the government's attitude. The government of India has taken the opportunity of a pandemic to curtail all the rights of workers putting them in a difficult situation. The government of India has suspended the state laws suspending the labour laws through executive orders. The government of India is taking the opportunities of Covid-19 and repelling the Labour Migration Act and this will have a direct consequence on migrant workers who are the most vulnerable under the lockdown.
- For Pakistan, the PWF can build a relationship with concerned ministries as well as employer's federations during the covid situation, however without compromising the issues of workers. With the support of ILO in Nepal and Sri Lanka, they can develop evacuation and diplomatic efforts. In the case of Bangladesh, lots of dead bodies are stuck in GCC countries and they have not received proper rights of cremation. The ITUC-AP affiliates in Bangladesh have taken this issue seriously.
- In Afghanistan, there is ongoing turmoil and due to that, the affiliates are also facing dire situations. Therefore, ITUC-AP is also working for the safe immigration of the members of the affiliates who are stuck in Afghanistan. Due to the pandemic, recently huge numbers of migrant workers were deported from Iran which created lots of unemployment in Afghanistan.
- The main challenges associated with South Asian migrant workers are- first majority of women and youth represent migrant workers and are not getting their rights; second these



workers are not associated with any trade unions. Similarly, the workers do not have their voices and rights in their working places and are forced to live in poor working conditions. Sometimes, they face the worst forms of slavery along with violence, abuse, xenophobia, etc.

- It is needed to work at the national level policy making and policy intervention plan that also includes the changing of national labour laws so that will incorporate the interest of the migrant workers.
- The already existing laws and policies should be properly implemented. The lobby and advocacy should be done to prevent from taking the rights and laws for the protection of migrant workers.
- The work should be done on the ratification of ILO conventions, particularly ILC 97 which is the migration for employment and ILC 143 which is for migrant workers, and ILC 189 for domestic workers.
- The voice of migrant workers should be raised in multinational arenas such as SAARC, CP, ADD, GFMD, GCM, etc.
- From ITUC-AP's point of view, everyone should work together for a new social contract, recovery, and resilience that include all the aspects of decent work agenda – right at work, employment opportunity, social dialogue, and social protection.

Mr. Apolinar Z. Tolentino, Jr. Regional Representative, BWI Asia Pacific

- Closely working with SARTUC and BWI is a part of trade union working not only in South East Asia but in the entire Asia Pacific region that has provided the input on the necessary models and framework of engagement for trade unions and civil society in relation to GCM particularly for the forthcoming international migration review forum. BWI is collaborating and working with Migrant Forum Asia on the issues of Wage theft and wants to assure that BWI will work hand in hand on the strategic matter now and in the future.

Dr. Jeevan Baniya, Assitant Director, Social Science Baha

SARTUC has conducted the research basically to understand the situation of migrant workers immediately after the pandemic. This study was conducted in most of the South Asian countries – Afghanistan, Bangladesh, India, Nepal, Pakistan, and Sri Lanka. The study was focused on the GCC countries and Malaysia. The study was based on the review of literature, interviews with the returnee migrant workers, and group discussions and consultations with the various stakeholders of labour migration in the respective countries. The data was collected by the researchers within SARTUC affiliates or hired by the affiliates in the respective countries. The field research was conducted from the mid-end of 2020.

Key findings of the research

- The migrant workers were primarily deprived of the basic amenities in the destination countries during a pandemic. They were also deprived of screening and testing for the Covid-19 and other medical facilities due to lockdown and the fear of arrest and deportation of undocumented migrants.



- Due to the crowded working places and the dormitories, the migrant workers were put at risk of contracting the virus.
- The migrant workers were unaware of the nature and transmission of the virus. They lost their jobs and lost their incomes, therefore, they wanted to return but they did not have any information on the procedures related to their return. So access to information was a problem in both countries of destination (CoD) and countries of origin (CoO).
- Along with the financial distress, the migrant workers had also gone through the social stigma related to the virus both in the CoO and CoD because they were considered to be the carriers of the virus.
- Migrant workers from the South Asian regions have to pay high recruitment costs and due to the fact they lost their jobs and left without any savings – due to which on the one hand they had to bear their tickets to return and on the other hand they fell into debt traps as they were unable to repay the loans.
- Certain international human rights instruments protect the rights of the migrant workers irrespective of their status (as per the principle of non-refoulement), however, in some countries such as Malaysia and Qatar, the migrant workers were arrested and deported when the undocumented migrant workers were trying to access the medical facilities.
- Due to the return or deportation of migrant workers, the employers in some of the destination countries fell into a shortage of workers, therefore, the employers made the workers work for longer hours.
- Concerning the rescue and repatriation of migrant workers, all the countries have their institutions to carry out the rescue and support. However, miscommunication and lack of coordination among the various government agencies were prevalent, and due to which there was a delay and lack of support to the migrant workers in need.
- There have been huge ramifications in the livelihood of the migrant households as they lost their jobs/income due to pandemics.
- The rescue and repatriation through diplomatic missions were a bit complicated as some of the countries do not have the mechanisms for example in the case of Afghanistan and Nepal coordinated their rescue mission through India in some cases.

There is a campaign underway, which is called as ‘Wage Theft Campaign’, some of the institutions like MFA and the members affiliated to MFA have been proactively campaigning for access to justice for those whose income or the payments are on due and lost their income but have returned to their respective countries. They are not in a position to access these benefits because of various reasons and this undergoing campaign has various challenging tasks SARTUC and its affiliates are working with various stakeholders for the access to justice of migrant workers whose wages have been theft. Access to justice has become limited to migrant workers in this kind of situation. During interviews, it was found that the grievances of the migrant workers and the returnees were not registered; their wage theft is not well documented. Although the campaign on wage theft is underway because of lack of documentation the grievances of migrant workers have not been addressed. Therefore, access to justice seems to be challenging. The priorities and focus of the government agencies were on different issues, therefore, the access to justice for migrant workers has not been considered



by the government of respective countries although various organizations have been advocating since the beginning of the pandemic. There is some sort of complacent from governments of sending countries. The issues of passport confiscation by the employers were also found particularly during pandemic which is due to the shortage of workers the employers wanted to keep the migrant workers. Another challenge that the migrant workers faced is the forceful termination of their contracts. Although SARTUC and other various stakeholders are working on these issues still there is lack of legal mechanisms to access these benefits and compensate for the income loss. They want to work bilaterally at the same time, everyone should work together as a region; maybe the Colombo Process (CP) member countries should work together to access justice for the migrant workers.

In Nepal, according to the Foreign Employment Act (FEA) 2007, migrant workers even though they lost their incomes and have not received any compensation in the destination countries, can still apply for access to justice from Nepal. However, there are not many returnees who have registered any complaints according to the Act. So, there are some gaps in terms of dissemination of information about these institutional arrangements and access to justice services but at the same time, the state and related institutions are not proactively working on these issues. These situations of migrant workers have exposed that it is high time to rethink how the existing bilateral instruments have been working, how they have been enforcing these kinds of situations or in future, there is a need to review these instruments taking into account these kinds of situations and how to protect migrant workers. SARUC has already been proactively working to bring all the stakeholders together including trade unions, civil society working on migrant workers, state and private recruitment agencies to work on the issues of labour migration. These kinds of initiation are also needed at the regional or global level. One of the learning, for instance, Nepal's FEA makes the employers responsibility to protect the migrant workers in these kinds of situations. Similarly, there are other international human rights and labour standards, ILO principles, and guidelines that point out the responsibility of employers on protecting migrant workers, however, that is not happening. Therefore, it is also essential to question the utility of those international instruments based on the experiences that everyone had. The trade unions should also organize and mobilize migrant workers both at destination countries and at home in order to empower them. Although there are reintegration and rehabilitation policies are made in silos, so, the voices of returnees or the migrant workers are missing, therefore, trade unions have a very important role to play in this issue. It is important to have some hotline services to provide important information and services to the migrant workers. Psychosocial support is necessary for the migrant workers in the destination countries during and in the post-pandemic situation. Dissemination of information in all stages of the migration cycle particularly during the crisis is crucial to the migrant workers. The migrant-sending countries should use the platforms like SAARC, CP, ADD, GCM, GFMD to advocate the issues of wage theft and also to think about ways to protect the rights of the migrant workers. The recruitment practices in the current situation have even become problematic, therefore, trade unions should actively and vigilantly monitor the recruitment practices to prevent the migrant workers from facing adding difficulties.



Ms. Sonia George, General Secretary, SEWA, India

SARTUC is actively engaged in the issues of migrant workers for a long time and especially in the time of pandemic through various studies and interaction programs. Through the papers and researchers, the real issues of the migrant workers are brought to the surface through the platform of SARTUC. The struggle of migrant workers before and during the time of Covid-19 that the situation of pandemic worsened the struggles of migrant workers in South Asia. The countries depend on the contribution of migrant workers in their economy as an essential part, that is where the trade unions should continue their conversation, discussion, involvement, and dialogue with the state. The anomalies happening as the documented, undocumented, legally, illegally migrant workers are being recruited and the limitations of the agreement are there. There is a systemic disorder – there is no effective system or mechanisms to support their migrant workers in the CoO and CoD. So, the first thing that needs to be thought about is where are migrant workers situated in trade union status/affiliates – needed to be thought very seriously. In the context of India, in Kerala, there is always a conflict of status. Some migrant workers are migrated to some other countries are not workers in their own countries and because of their migration status, they are not recognized in the destination countries. Nepal and Bangladesh have worked a bit to address these issues, however, countries like India and Sri Lanka need to think about it. It is only Nepal that has worked to an extent through its strong trade union confederation to address these issues. Therefore, it is necessary to think that how to access trade unions mechanism if it is insufficient to include migrant workers and should think about reconstructing the structures.

The workers who have returned due to the pandemic and some are unable to return due to lack of facilitation in returning process and there are several issues of job loss, contract issues, etc. have affected the migrant workers – it is even difficult to understand the livelihood situation. Therefore, it is necessary to think that from where the trade unions should start working- especially the position paper that SARTUC has circulated to its affiliates clearly says that the situation of migrant workers in these particular situations and how should the trade unions move in that particular situation. So, the first thing is to recognize the status of the workers in both the sending and destination countries. All the trade unions can come together to rearticulate these complex situations – they can be re-accommodated in the present structure of the trade unions and if it is not possible then it is necessary to think if there is an alternative to accommodate them. Those who have returned are not even recognized. For example, the SEWA is mostly working with domestic workers and most of the domestic workers are still defined as undocumented workers, they are not even in the professional list of the state – due to the restrictions such as age bar force them to use fake passports and after return, they are not even recognized as migrant workers by the state. After their return, they are not even treated as returnee migrants. They are not included in the reintegration process of the state. So, it is essential to think about how to tackle the irregularities and undocumented migrants and include them in the reintegration process and make them the part of society where they belong and ensure a sustainable and decent livelihood.

The second thing is in the CoO the trade unions can come together through various joint platforms and other workers' organizations to develop a system or at least start a dialogue initially to think about migrant workers in the context of GCM and the regional dialogues that are happening such



as CP, ADD, and the SAARC. The trade unions can think about how to contribute to these dialogues happening between regions and the countries. At the international level, ITUC should take these issues very seriously. The trade unions in India are trying very hard to take the issues of migrant workers within the Indian trade unions and gradually they have started considering the migrant workers as the members of the trade unions. So, this is very challenging and undergoing collective bargaining processes. About the social protection schemes for the migrant workers, existing social protection schemes in both CoO and CoD are not including migrant workers at any level. For example, in India, most of them with the status migrant workers, are out of/beyond the social protection schemes, therefore, they will not be covered by any social protection status as informal workers in the country. It is time for the trade unions on how to transfer the social security statuses for the migrant workers after their return to the CoO. The trade unions need to think about the possibilities and the legal provisions for the transfer of social security and its accessibility for the migrant workers in both CoO and CoD. SARTUC and its affiliates along with other CSOs have initiated many measures on how to collaborate between the trade unions and CSOs working both in sending and destination countries in the process. In a few countries, it was successful, for instance in Kuwait, there was the collaboration of trade unions and organizations and Nepal has developed some systems in Qatar, Kuwait, and Jordan. However, in many of the GCC countries like Saudi Arabia, UAE trade unions do not have access to interact and collaborate with the social organizations and unions to work in the destination countries. So, here ITUC can play a significant role in developing such systems with the support of ILO. The worker's concern and their voices should be put into the negotiations and for this, the workers should be brought into the discussions and meetings of trade unions to make their voices heard in front of the ITUC and other responsible organizations. It is really important to think about how to link the migrant workers with the local governance system so that they will be involved in their locality or can be reintegrated into the local economy. The trade unions must play a serious role during the process and the different trade union affiliates should come together and brainstorm the details and other involvement in regional platforms and the conflict between NGO platform and trade union platform and engage in the CP, ADD, SAARC, GCM, etc. Furthermore, the trade unions should also think about how to contribute to the re-establishment of the recruitment process for the remigration of migrant workers and take action against the false recruitment process. Therefore, the trade unions should come together and work along with the CSOs, and seriously think and take forward these issues in the next SARTUC discussion during the process of being a part of the trade union's movement.

Ms. Joanna Yu, Migrant Forum Asia

Her discussion was focused on the four points from the study. The first one is wage theft which is interlinked together. SARTUC is also the co-launcher of the Justice for Wage Theft Campaign. MFA will be working together with SARTUC and other members of MFA for the documentation of wage theft cases. Recently MFA has been organizing cross-regional consultation along with IOM. Based on the consultation, one of the solutions/recommendations, to address the issues of Wage Theft in the medium to long term, is to implement the social protection schemes or social security schemes for migrant workers where the employers have to pay or will contribute to that



scheme monthly so that issue of end of service benefit or non-payment of end of services benefit of the workers will be resolved. Agreeing with Sister Sonia, both the CSOs and trade unions are also calling for the portability of social protection of migrant workers, since they work for years in the destination country and it would be significant and vital for migrants to be able to bring that money during their return to CoO. The documented process is supporting the whole campaign and recently released the second report and currently working on the launch of the third report on 18 December 2021. In that report the estimated cost of salaries paid to migrant workers during the pandemic. For the documentation of wage theft cases, there is collaboration and partnerships with the CSOs and trade unions. Similarly, the cases shared by the Solidarity Center Sri Lanka and SARTUC are also highlighted in the report. The impact of Covid-19 on the repatriation of migrant workers, MFA has 3 national studies on repatriation, the impact of Covid-19 and the situation of migrant workers, and also the issues of wage theft. The report will be launched and published soon. The last one is the strengthening partnerships of CoO governments to work together with the CSOs and trade unions and press the governments of respective countries to work under the umbrella of CP, ADD, and other inter-governmental processes to negotiate as well as to push for the issues of wage theft to be addressed at the regional also at global level – through collective actions or initiatives from different governments of CoO.

Mr. Shakil Chowdhury, ITUC-BC, Bangladesh

Sister Sonia has pointed out the very crucial role of trade unions towards migrant workers and their accessibility. It is really important to look at how many of the migrant workers are covered by the trade unions to reach them both in CoO and CoD and what are the actions taken by the trade unions so far. Although trade unions are trying, however, as compared to the numbers of people migrating for foreign employment, the actions of trade unions should be much more than these. Firstly, the number of people migrated at the moment which around 13 million from Bangladesh to the other countries. Second is the amount of remittance contributing to the country's economy and its socio-economic impact on the families and the GDP which is USD 21.9 billion for Bangladesh. Therefore, the trade unions should have much interaction on the issues of migrant workers. The trade unions have already started a discussion and dialogues which can be continued in the South Asian forum which can the more action-oriented interactions in the process.

Mr. Prabhu Rajendran, FNV Mondiaal, the Netherlands

Lots of things were discussed and everyone is aware of the issues SARTUC has been playing a major role in bringing the issues of migrant workers in different regional and international platforms. The issues of migrant workers were already there and this pandemic has further exacerbated the problems. The distress of migrant workers, for instance, the issues of internal migrant workers in India brought back the focus of issues of migrant workers. In regards to the way forward – firstly, there should be the link between the policy work and workers at the bottom, as sister Sonia mentioned the need of workers and they should be part of the whole discussion. The position paper is comprehensive and based on the research which can be made simple and



also available to the workers in the South Asian country – translated and in a different format. This can be used for a good outreach to the trade union leaders working at the local level. Secondly, in terms of organizing for social protection, things have already been put out and the campaign on access to justice should be continued. The collaboration with various CSOs should be continued. Similarly, the engagement and involvement of employers are also important which SARTUC has been doing for the past few years on the issue of migration. So to some extent, the trade unions are successful that at least by now the employers are recognizing the issues of migrant workers; ITUC and ILO are supporting and engaging them in different forums at the Asia Pacific and the global level. Therefore, the trade unions should look for opportunities to engage them at the state and government levels to bring policy changes. Reiterating the voices of the earlier speakers it is important to make the migrant workers visible and show the issues of migrant workers at all levels.

Mr. Laxman Basnet, closing remarks.

Mr. Basnet gave the closing remarks thanking all the participants and their contributions. According to him, SARTUC has already conducted research in three areas – wage theft, the impact of Covid-19 on South Asian workers, and the impact of Covid-19 on migrant workers of South Asia. Looking at the different sectors it is time to work for social justice to the workers at all sectors including the agricultural sector, organized sector – manufacturing and service sector. It is necessary to look at the conditions of the workers and where are they. These pertinent questions need to be pushed to the respective governments. It is necessary to advocate for the fair recruitment of migrant workers, their welfare, and access to justice for the migrant workers collectively.



SARTUC

List of Participants



S.No.	Name of the Participants	Organisation
1.	S.M Fahimuddin Pasha	ITUC-AP
2.	Jeevan Baniya	Social Science Baha
3.	Sonia George	SEWA, India
4.	Prabhu Rajendran	FNV Mondiaal
5.	Laxman Basnet	SARTUC
6.	Joanna Yu	MFA, Philippines
7.	Apolinar Tolentino	BWI
8.	Shakil Chowdhury	ITUC-BC
9.	Durga Prasad Khatiwada	ANTUF, Nepal
10.	Janak Chaudhary	GEFONT, Nepal
11.	Indra Deo Yadav	SARTUC
12.	Sweanta Lama	SARTUC
13.	Nilima Rai	SARTUC
14.	Krishma Sharma	Solidarity Centre
15.	Janak Raj Pandey	NTUC, Nepal