

**M**acro push factors for migration and the economic imbalances that create power imbalance between the sending and the receiving countries.

**M**ost receiving or host countries do not view migrant workers as 'human beings', thus not recognising the human needs of workers in the alien country. They are primarily viewed as a 'commodity' or an economic tool.

**A**lien land and new conditions create anxieties in migrant workers. They have to cope with these new surroundings alone. Human needs of warmth, companionship and sex need to be recognised.

**A**dapting to new culture and environment creates multiple conflicts and identities of migrant workers. This enhances their vulnerability.

**W**ith family back home and minimum communication, workers feel lonely. This also enhances their vulnerability.

**M**any policies also contribute to their vulnerability.

- Single entry policy
- Recruitment related policy
- Contract and working conditions related policy
- Documentation policy
- Policies related to women migrants and

employment, recruitment and working conditions

- Health and HIV related policy, notification and deportation

**T**hese conditions and policies could lead to migrants becoming undocumented workers, women finding themselves in unsafe conditions of sex work, increase in incidence of undiagnosed and untreated health problems due to discriminatory policies and lack of health care services.

**C**ondom use is low. Sexual abuse and rape is high. Women cannot access reproductive health services. Laws and policies make it further difficult for women who get pregnant.

**S**trategies and Partnerships should recognise the specific characteristics such as different languages, cultures and beliefs, religions of migrant community in the host country.

**P**artnerships need to be broadened to undertake activities related to implementation of information dissemination programmes; access to quality health care services; other support services; remittance and repatriation issues; advocacy etc.



## BACK GROUND

Rapidly growing economies in South and South East Asian countries have facilitated accelerated rates of urbanisation and modernisation coupled with considerable socio-economic and political changes. In this process, particularly between the 1980s and early 1990s, a number of countries in South East Asia and East Asia became newly industrialized. With this growth, countries like Japan, Korea, Taiwan, Province of China, Hong Kong, SAR of China, Singapore, Malaysia and Thailand began to face shortage of labour for services, which their own populations were not willing to take, as they are dirty, difficult and dangerous jobs. Thus, a vacuum was created for semi skilled and unskilled jobs in these countries.

This rise in the level of development and unwillingness of locals to undertake some of the jobs, led to many foreign workers having to fill these gaps of domestic sources of labour. Migrants, whether they work legally or illegally, typically fill jobs known as the three Ds—dirty, dangerous and difficult or demanding. They fill the jobs that local citizens refuse, even though the myth in hard economic times is that they take the jobs of nationals who are unemployed. It is, therefore, no surprise that thousands of

migrants today work at the low end of employment in plantations, agriculture, manufacturing, fisheries, and domestic services in the receiving countries.

The main sending countries are the Philippines, Indonesia, Sri Lanka, Thailand, Bangladesh, Nepal and India. Main receiving countries are the Gulf Cooperation Council of States, Hong Kong, SAR of China, Japan, Taiwan, Province of China, Korea, Singapore, Malaysia and Brunei.

Thailand, until recently, was a major sending country. After the economic growth and development, it is now a receiving country. During the high economic growth period, urban-based industries attracted their own rural migrants, leaving agriculture and fisheries sector with acute shortage of labour. Thus, labour was imported from the poorer countries to fill in this vacuum in the semi skilled sector.

Political factors also created a significant push factor for large out flow of Burmese refugees to Thailand, which also attracted labour from Cambodia and Laos with these countries depending more and more on the labour export as means to build and sustain their own economies.

Due to the imbalance in the economies, many poor and developing countries view migration and remittances as a solution to poverty and unemployment and thus promote the export of human labour. Since the labour receiving countries offer the most important commodity: 'employment and salary', they dictate the standards of working, requirement for recruitment etc., which are often

discriminatory, unfair, focussed on increasing productivity and not oriented towards welfare of migrants. Migrants often face themselves alone in situations and environment, which are new and alien in host countries.

## Post ARRIVAL PROgRAMMES AND StRATEGIES

There are several issues which need to be taken up within the host countries. These include fair and non-discriminatory policies for migrant workers; and programmes and interventions within the new environment for the workers.

Post-arrival programmes refer to the training and information given in the receiving countries as soon as migrant workers arrive in the host country, to ensure smooth integration in the new environment. Post arrival programmes could include a formal training and/or orientation that the workers receive immediately on arrival in the host country, or it could include an ongoing program like a work

place based or community based education programme.

The Post-arrival stage in the migration cycle is divided further into two sub stages of *initial adaptation* which includes the dilemma migrant workers experience on arrival and *successful adaptation* in the host country. The first stage of initial adaptation is crucial and important. Thus, interventions during this period especially dealing with their emotions and equipping them with necessary information can reduce the vulnerability and create a situation for better adaptation.

Initial adaptation is a period when migrants and other people on the move find their way in the environments that may be new to them, develop social support networks, and identify ways to satisfy their basic needs. This period *starts at the transit stage*. The workers find themselves under tremendous stress when they *arrive at the host country* airport where they do not have access to assistance for immigration and baggage collection. Going through the procedures and processes in a new environment for which no information or training is provided, increases their existing anxiety.

Successful adaptation refers to the stage when migrants adjust to the individual factors, differences between countries and the region in terms of language, culture etc. During this time, they develop skills and ability to cope with and adjust to these differences.

Following issues need to be considered in order to understand the situation and conditions that a

migrant worker faces in the new environment in the host countries; and some of the policies and procedures/mechanisms of the host countries, that contribute to these conditions and vulnerability of the migrants.

## FACTORS / CONDITIONS THAT CREATE OR HEIGHTEN VULNERABILITY OF THE MIGRANT WORKER

***Migrant Worker: a 'Human Being with human needs'  
and associated vulnerabilities***

***Vulnerability factors:***

- ◆ *New environment, culture, job adjustment, living conditions*
- ◆ *Anxiety and loneliness to cope with the situation, requiring warmth, friendship, sexual needs*
- ◆ *Multiple identities and conflicts while dealing with the situation*
- ◆ *Conflicts with culture, religious beliefs and practices, language and gender context*
- ◆ *Sexual and social networks to fulfil human needs*
- ◆ *No access to health information or services*

Migrant workers, both men and women, enter into the new world, new environment all alone since many receiving countries do not allow the workers to bring their spouses and children. Mostly, the workers are in their prime of reproductive age group. Adjustment to new culture, social environment, job, language, lifestyle and living conditions creates many anxieties and conflicts which the worker is forced to cope with and deal with all alone. In trying to cope with this loneliness, workers look for natural, human demands of warmth, friendship, companionship and sex. They look for avenues and ways of satisfying these needs in the given context and with little access to information, facilities and services.

Many migrants arrive at airports with a lot of uncertainties. Many arrive even without being able to fill immigration forms, unable to answer immigration questioning or do not have the agents to receive them, and thus become stranded. This situation can be avoided if migrant workers have gone through effective pre-departure programs accompanied by well organized and monitored recruiting processes.

A study with Bangladeshi migrant workers conducted by Tenaganita shows that the association between loneliness and employment rendered a significant p value of 0.034. Workers in the manufacturing sector seemed to experience loneliness the most.

### Association between Loneliness and Sectors of Employment

| Loneliness | Sector     |           |              |               | Total      | p Value |
|------------|------------|-----------|--------------|---------------|------------|---------|
|            | Plantation | Service   | Construction | Manufacturing |            |         |
| yes        | 17 (40%)   | 20 (51%)  | 12 (67%)     | 45 (67%)      | 94 (57%)   | 0.034*  |
| no         | 25 (60%)   | 19 (49%)  | 6 (33%)      | 22 (33%)      | 72 (43%)   |         |
| Total      | 42 (100%)  | 39 (100%) | 18 (100%)    | 67 (100%)     | 166 (100%) |         |

Living conditions of migrant workers are also deplorable. Migrant workers live either in dormitories or in crowded houses in slum areas with individuals from different cultures, religions etc. These conditions do not offer any privacy. Sometimes, workers live in the open around the construction sites. This provides a barrier for accessing any information or services and opportunity for warmth and companionship.

Which is why, near the living areas of migrant workers, one often finds a lively sex sector, sometimes organised and exploited by



*“When I cannot sleep, I take it out and can sleep after that.”*

*“If I do not bring it out by hand, I cannot sleep at night. I would be awake”.*

*“When I am excited, then I go for hand by myself and after I make it out I feel weak and sleep automatically”.*

'Vulnerable' by Tenaganita, 2000

recruiting agents and employers without an enabling environment that can facilitate safe sex practices for the sex workers and their client, in this case, the migrant worker. Some migrant workers take to masturbation as a means of coping with their sexual needs especially at night.

In the absence of accurate and scientific information, coupled with the influence of religious and cultural beliefs, most workers end up feeling 'guilty' about using these coping mechanisms.

Migrant workers in the receiving countries face numerous problems especially at work. Since migrant workers are seen as the cheapest form of labor,

receiving countries want to sustain their economic growth by maintaining the investments and controlling capital reinvestment or relocation elsewhere. In order to achieve these goals, the country adopts a policy of deregulation that reduces protective mechanisms and enforcement of labor regulations.

In Malaysia, for example, employers are able to exploit migrant workers as the employer can cancel the work permit of the migrant whenever he wants for whatever reason. The moment the work permit is cancelled, the migrant worker becomes undocumented and thus has to leave the country. In this situation, the migrant worker may file a case of unfair dismissal or claim his/her unpaid wages or seek redress for other forms of abuse if he/she can obtain a special pass visa with documented evidence of his/her case in court or with the relevant authorities. The special pass has to be renewed monthly for Malaysian Ringgit 100. During this period of waiting for his/her case to be settled, the migrant worker is not allowed to seek alternative employment.

This situation thus opens the door for abuse and exploitation of migrant workers. This is evident in the number of cases handled by migrant groups. (Tenaganita and the campaign on "Right to Redress").

During the Asian economic crisis in 1997, many migrants were thrown out of their jobs without proper retrenchment benefits or compensation. Many were repatriated forcefully while others became undocumented. Currently, with the global recession, many migrants face the same wrath of being hunted down by enforcement agencies or being thrown out of their jobs or their wages not being paid. Consequently, migrants who become undocumented, remain invisible and live in fear. This situation creates new forms of vulnerability as well.

In Hong Kong, SAR of China, the government's move to reduce the minimum wages of domestic workers by 30% due to pressure from employers arising from the global recession was met by protest by domestic workers who already find that the wages are very low when compared to the cost of living in Hong Kong, SAR of China as well as in relation to wages in other sectors.

During the Asian economic crisis, when migrant workers, including domestic workers had a wage freeze, many migrant workers worked informally in a second job. Study done by CARAM Asia revealed that this affected the health of migrant workers. Some became anaemic or susceptible to various infections.

Migrant workers sell all they have or borrow to get a job with the dream of a better quality of life for them and their families. They come with the hope that they would work for 3-5 years in the receiving country as promised by the recruiting agent. However, these dreams vanish when the

migrant worker, alone and unclear, faces the challenges at work and at the place he lives. In the absence of a post-arrival orientation program, the conflicts, the dilemma and factors of influence increase.

***Multiple Identities & Conflicts  
need creation of social and  
cultural networks and sexual  
relationships.***

Social control in communities depends on how well people know each other, how close the community is and on repercussions of deviant behaviour in that community. Migrants move from home communities that have a long-term impact on their lives to communities that may only affect them for some years. These migrants' communities are transitional by character and often consist of people who have never met each other before. After the period of work abroad these community members may never meet again.

Psychologically, migrants continue to belong to the home communities they have left behind, but gradually they need to also adapt to the new communities abroad, if they want to survive. Most of the migrant workers are single, young and in reproductive age group. Young, alone, lonely and socially isolated, these migrants tend to seek comfort by developing intimate relationships while abroad.

This leads to different roles in these different communities. These roles are related to different behavioural expectations and thus to different identities. During workshops organized by CARAM Asia concepts of *'multiple identities'* and *'parallel lives'* were selected by different participants working with migrants in the field of reproductive health and HIV/AIDS as essential for the analysis of the situation of migrants.

The emphasis here lies on the fact that multiple identities and parallel lives are defined by the context and that these identities are not always shared but can exist in competition, because the person has competing loyalties (Moghadam 1994). It also gives room to the fact that identities are shaped and reshaped by external forces with their own agendas. Hanna Papanek provides three examples of how "certain ideals of womanhood are propagated as indispensable to the attainment of an ideal society. These ideals apply to women's personal behaviour, dress, sexual activity, choice of partner and reproductive options" (Papanek 1994). This is true not only for migrant women abroad, but also for the 'ideal' male migrant, who has left his family behind to earn money that he is supposed to send home, and who is also supposed to remain loyal to his wife and family members during his stay abroad, and who has no sexual needs.

Thus, this ideology of ideal worker is in conflict with the identity of the person with human needs. But both are part of the multiple identity of the migrant worker and he/she will continuously have to be on his/her guard to identify the lines between them. This also prevents them from sharing any information with

their friends or relatives due to the fear of information on 'these activities' reaching back home. Migrant workers attempt to keep their two distinct identities separate, which leads to denial of certain behaviour and makes it difficult to acknowledge and admit information offered.

*In a research with Bangladeshi workers in Malaysia, out of 203 workers interviewed, 80.3% said that they were not worried about getting AIDS and 65% said 'no chance of getting AIDS'.*

The CARAM research in Malaysia and Hong Kong, SAR of China revealed the vulnerability and risks faced by migrants who, in order to meet their social and sexual needs, have created their own *social and sexual networks*.

***Excerpts from migrant voices testimonies of migrant experience presented at the Regional Summit on Pre Departure, Post Arrival and Reintegration Programmes for Migrant Workers by CARAM Asia***

***“Reaching Thailand .....It was a new world for us, by Ali”***

*My name is Ali. I am an inhabitant of Shirajgonj, a northern district in Bangladesh. In 1991, I decided to fly over to Malaysia in pursuit of a bright future. I was 25 years old then. A broker encouraged me by saying that I can earn a lot of money in Malaysia.*

*Reaching Thailand, we journeyed overnight and took refuge in a hotel near Hatyai border. Here, it seemed a New World to us! There was a brothel adjoining the hotel. In the hotel, there were 30-35 other Bangladeshis already in the waiting for a few days. Some of them were going to the brothel, whilst some were bringing women to the hotel room. Those who didn't have money to pay for sex had their passport taken away by the girls. The broker rescued those passports later. Because of the difference in language, some guys mistook the sex workers posture/gesture as a free invitation. After making love, comes the question of payment. If the guy is unable to pay, the girl seizes his passport. We stayed there for seven days.*

*Our living arrangement was under the basement. All boys and girls, Bangladeshis, Malaysians and Chinese lived in clustered rooms, close to each other. My working with those fair skinned women seemed like dreams sometimes. Compared to our women, these folks wear brief clothing. Besides, these women roamed in scantily clad outfits after their bath. These things drove us crazy.*

*Some among us succeeded in courting the girls by sending several gifts; some also collected sex partners by paying money. Those who were too ordinary looking went to the prostitutes at Chow Kit. Some masturbated to relieve their craze.*

*Initially, some Bangladeshis got married to Malaysians. They had to pay heavy amounts of dowries for a bride. These fellows naturally could not save anything. The strange fact observed is that, most often*



*the migrant workers send some money to their relatives during the initial two years, when they are ignorant of the foreign language and foreign place. Afterwards, they even incur debts because of sex pursuits. I've heard of one who was eventually sent back home after being caught at Chow Kit.*

*Peer pressure is a big provocative factor for losing sexual inhibitions. Same as the guys do, girls/women also look for handsome men. And then, sometimes a middleman makes commission out of it.*

*Our pastime or recreation was to watch blue films, Hindi movies, or to visit swimming pool parks on holidays (those, having girlfriends went together to swim, the others to see unveiled girls or to swim) or roamed around the markets. Some as usual went to Chow Kit; some tried their luck in betting. Another pastime was to sit together and chat. Most times the theme of topics being sex, women, love etc. I have learned a lot of things from these chatting sessions, some of which are as follows: -*

*There are three kinds of sex available in Chow Kit, such as:-*

*One way: Vaginal Sex*

*Two way: Vaginal + Oral or Vaginal + Anal Sex*

*Three way: Vaginal + Oral + Anal sex*

*Bangladeshis usually like Vaginal+Oral sex*

*And then, somebody being deceived or cheated sometimes found out that the partner he thought female actually turned out to be a male sex worker or a transsexual.*

*Somebody got caught at Chow Kit brothel by police and sent back to Bangladesh.*

*We talked about the figure of a woman, how sexy some one was, or what was whose rate.*

*I considered sex next to the matter of food, in importance, while in Malaysia. All females in Malaysia seem very sexy to me. However, Bangladeshis mostly mingled with the Indonesian. Chinese girls didn't usually like Bangladeshi lads not even for sex for money, probably because they earned a salary thrice than the Bangladeshi. However for sure, Bangladeshi lads did not enjoy good acquaintance of their fellow Bangladeshi ladies who went well with the Tamil lads. Tamil guys could have sex for less. Compatriot ladies avoid men from their states, mainly to avoid free sex or to hide their dossier.*

*I went steady with a Philippines girl. She worked in a Chinese home. They often ate at our restaurant. The maid one day gave me her telephone number. Our telephone chats led us to a deeper relationship. We shared our holidays roaming around or going to the movies. The girl earnestly fell in love with me. We lived together 7-8 months. She was pretty and innocent. I was trusted deeply by her. So I easily developed a deep-down relationship with her. At one point she proposed to me for marriage. I could somehow convince and restrain her explaining our socio-cultural and religious adversities. We then decided to fly back to our respective homelands. I then left Malaysia and she afterwards.*

*I had no idea about AIDS or STDs during those days. I first heard about AIDS in Malaysia. I thought and understood a little. We had a peer who was moderately educated. He told us that there is no remedy for AIDS, if you get AIDS you'll die. Many of us became alert*

A paper by Dr Ivan Wolfers, Fernandes and Varghese 2000, on “Sexual Behaviour and Vulnerability of Migrant Workers” revealed that, three major factors that influence migrants' sexual behaviour abroad are:

- Relative freedom and little social control
- Dependence on others
- Need to shift between identities

### **Culture conflicts and Sexual needs:**

Research by CARAM also indicated that spatial mobility together with newfound freedom/anonymity contributes to changes in socio cultural norms. Many migrant workers expressed how they were aroused initially by different styles of dressing, like short skirts, by women but gradually grew out of it. In some of the receiving countries where people interact freely, many migrants moved easily

*“We think it is nice to look at a girl and enjoy her. When you are getting very used in having a girl or other things then you start to loose your interest. I do not like to drink beer anymore because I drank it a lot. I do not feel the urge for a woman these days. The girls are wearing shorts and tight T-shirt so you can see their shapes clearly. But after passing some time there you are getting used to such views.”*

*An interviewee in a research conducted by CARAM Asia with a Bangladeshi migrant in Malaysia.*

*For many Bangladeshi migrants, the difference in social and economic level and personal freedom between Bangladesh and countries like Malaysia is remarkable.*

*“Within Malaysia, there seems to be a difference in the personal freedom that different cultural groups have....People move freely and they dress very freely....Muslims face extra problems as they are obliged to live according to Muslim law and the police checks on this as well.”*

*Source : Tenaganita*

with each other and created their own social networks.

However, the first friends of newly arrived workers are usually their relatives, friends or neighbours/co-workers. Relatives and friends are the first available support system available abroad whereas neighbours and co-workers are convenient

*In a study by KALAYAAN 1998, it was found that almost all Filipino respondents had either relatives or friends in Hong Kong, SAR of China prior to their departure from the Philippines. Majority claimed that they knew of another Filipino domestic worker who developed relationships while in Hong Kong, SAR of China. These relationships involved Filipinos in Hong Kong, SAR of China, Filipino seamen passing through Hong Kong, SAR of China, and those of other nationalities or races including Chinese, Caucasians, Pakistanis and*

*In Malaysia in the mid 90s, relationships between Indian women and Bangladeshi men received much media attention. Later, changes were noticed as one saw more of Indonesian women and Filipino women with Bangladeshi migrant workers. Earlier, one saw many relationships between Filipino women and local men. These changes in networks occur where racial sentiments are sensationalised and bring about violence against migrant workers.*

Source: Case Study & interviews by Tenaganita

friends due to their proximity. However, almost all migrants belong to some clique or the other.

### **Gender, social construct and conflicts:**

In most Asian societies, prevailing norms of masculinity expect men to be more knowledgeable and experienced about sex, which prevents many young men from seeking correct information. It also puts them under pressure for experimentation with sex in unsafe ways. This often tends to become more of a reality for a young male migrant worker in a new environment. It is also believed that variety in sexual partners is essential to men's nature and that men will seek multiple partners

for sexual release, a hydraulic model of male sexuality that seriously challenges the effectiveness of prevention messages that call for fidelity and faithfulness.

These conditions, identities and conflicts often led men and women to have relationships, which involved kissing, actual sex, or persuasion for sex. Women were found to be more monogamous in their relationship. However, according to the Study conducted with Filipino migrant workers, it was found that the relationships tended to be short, ranging from two weeks to two years. Having sex with partners was usually done on their days off, usually in motels. Condom usage was low due to lack of information and access.

### **Factors influencing overseas workers to get involved in relationships:**

- They are in reproductive age group
- They are mostly sexually active even prior to working abroad
- There are no social shackles to check their behaviour
- There is a peer pressure to get involved in relationships
- They have a need for sexual gratification
- A relationship may be economically beneficial to them
- Unfriendly social conditions lead to their social isolation

Source: Labour Migration and Vulnerability of Migrant Workers

- KALAYAAN and CARAM Philippines.

## ISSUES RELATED TO FAMILY AND SPOUSES AT HOME COUNTRIES THAT CONTRIBUTE TO VULNERABILITY

**C**ommunication problems: Despite the existence of modern telecommunications, migrant workers are still dependent on letters from their families back home. Many times, the telephone facilities are not existent within the reach of the families, i.e. not in their homes. Thus, many times it is difficult for migrant workers to establish regular telephone contact with the family, since they also have to make calls from public booths.

*Unmet expectations in the area of earnings and remittances:* This problem usually occurs when the family puts pressure on migrant workers to send amounts that are more than what is actually being earned. This is the result of a lack of information on the part of migrant workers, brought about by deception or non-disclosure by recruiting agents on the actual salary they will be getting. This problem surfaces very early and it is important for migrant workers who go through salary deduction schemes to inform their families about this arrangement beforehand.

Conflict over designated beneficiary of remittances: Unmarried migrant workers remit a part of their earnings to their families,

especially to their parents. This arrangement may change once they get married as they are then supposed to designate their spouses as the new beneficiaries. Among Filipino seafarers, for example, remittances are a hotly contested issue between female spouses and the in-laws. In many cases, this has led to strained relations. It is therefore important that this matter gets settled even before the migrant worker leaves in order to avoid conflicts later on.

## ISSUES RELATED TO POLICIES AND MECHANISMS THAT CONTRIBUTE TO VULNERABILITY

**A**s mentioned earlier in the chapter, receiving countries govern and set standards of recruitment and employment for migrant workers, since they are the ones offering employment to people from poorer countries. These countries often set policies and procedures/mechanisms, over which sending countries have little or no control or say. Most of these policies and mechanisms are reactionary and discriminatory. They are often a response to a crisis with no sustainable long term comprehensive plans.

They do not take into account the migrant's perspective and focus more on ensuring higher productivity and meeting the demands of capital.

A policy review carried out by CARAM Asia revealed that most labour receiving countries view labour as a commodity and an economic tool, which is flexible, cheap and easily disposable. With more and more countries entering the market for labour export, competition has grown. Sending countries have contributed to the institutionalisation of low wages, trading off the rights of migrant workers with less protection and have, in many ways, closed their eyes to trade in human beings.

The policies reflect the receiving country's concerns about national security, at times with a false sense, rather than protection of migrants' rights.

***Some of the issues and related policies are:***

*Receiving countries dominate the policies. Some of the discriminatory policies affecting vulnerability of migrant workers are:*

- ◆ *Single entry policies: spouse and partner migration not allowed; marriages in host country not allowed.*

- ◆ *Recruitment policies: importation of foreign labour, trainee programmes for unskilled workers on allowances and not wages; changes in policies as per receiving country's convenience and economic needs; no standard agreements on working conditions and minimum standard wages.*
- ◆ *Contract and Working Conditions related policies: long working hours, unhygienic working conditions with low wages, no leave; no mechanism for redress; no rights to join unions.*
- ◆ *Documentation policies: documents taken away by employers and /or recruiting agents.*
- ◆ *Policies related to women migrant workers: discriminated as a group; gender selectivity in recruitment; open to exploitation, violence and abuse by employers as job sectors not recognised; no mechanism for redress; no access to health information and services; tough deportation laws related to HIV, STDs and pregnancy.*
- ◆ *Health and HIV related policies: no access to health care information or services; working conditions contribute to ill health; mandatory HIV testing without counselling; notification and deportation; violation of rights of confidentiality and consent.*

**1. Single Entry Policies**

In many countries, migrant workers are *not allowed to migrate with their spouses and partners*. This is, for instance, the case with migrant workers in Malaysia, Thailand and South Korea. These policies, in fact, exacerbate the migrant workers' feelings of loneliness and alienation in the new place, coping alone with multiple conflicts in job and social adjustment,

living conditions and lifestyles, culture and language, and thus contribute to the search for warmth and increased sexual needs. Coupled with the anonymity in the new environment and freedom from social controls and cultural values, this situation can lead to all kinds of sexual relationships including visits to sex workers, same sex relationships and/or having extra marital and premarital relationships. Though this is also possible with the spouses left behind in the sending countries, but research by CARAM Asia suggests that this happens more often while being alone in the receiving country.

Many receiving countries discourage marriages of migrant workers with locals or even amongst themselves. If found out, it has severe repercussions on the migrant worker, in terms of loss of job and deportation.

## **2. Recruitment Policies**

Policies regarding recruitment are quite complex with regard to who can recruit and who is eligible for being recruited. Labour recruitment has become a highly competitive business. Labour recruiters have even organised themselves into trade associations such as Indonesian Manpower Suppliers Association, which can lobby with the government for policy changes. Some agencies, as in the Philippines and Vietnam, have specialised in a specific industry or sector, for example, dealing solely

with employment of domestic workers or factory workers.

Among the Asian countries, Hong Kong, SAR of China, Malaysia, Singapore and Taiwan, Province of China have established policies and mechanisms for the importation of foreign workers, particularly low skilled and semi- skilled migrant workers.

At the other extreme is Japan, which does not consider itself as a labor importing country and which has a policy that allows the entry of low skilled workers if they are of Japanese decent. South Korea, too, is not keen in allowing the entry of unskilled workers. Both Japan and South Korea have instituted a foreign-trainee program wherein foreign trainees supposedly receive on-the-job skills, training and trainee allowances (not wages) in Japanese and South Korean companies. This scheme is, in fact, a roundabout way of bringing in unskilled workers without tampering with the official policy not to admit unskilled workers. In this strategy, the migrant worker, now called a trainee, loses forms of worker protection, equal treatment and is open to exploitation. Consequently, many workers flee these jobs and become 'undocumented workers' which makes them more vulnerable to abuse, exploitation and health risks.

Migrants, whether they work legally or illegally, typically fill jobs known as the three Ds-dirty, dangerous and difficult or demanding. They fill jobs that local citizens refuse, even though the myth in hard economic times is that they take the jobs of

nationals who are unemployed. It is, therefore, no surprise that thousands of migrants today work at the low end of employment in plantations, agriculture, manufacturing, fisheries or domestic services in the receiving countries. Yet, over and over again, we hear and read racially discriminatory myths in the media in countries like Malaysia and South Korea that foreign workers are taking the jobs of locals. This outcry is manifested in policy changes like non renewal of contracts and even deportation of thousands of migrants back home. This stance however got shifted when these countries found that the locals or nationals would not take the 3D jobs.

Some labour receiving countries have bilateral agreements with host countries regarding minimum wages that migrant workers will receive and about other working conditions. The receiving country more often than not sets these standards. Thus different standards are maintained for different groups for the same kind of work. For example, a domestic worker from country A receives considerably less salary than the one from country B, though both are working in the same sector and in the same host country. Competition between various sending countries and their view of the migrant as the source of revenue, contributes to the institutionalisation of low wages. Contract workers in Arab countries do not fall under the

minimum wage laws of those countries. The minimum wage stipulation in Arab countries are around three times more than the wages given to contract workers.

### ***Sri Lankan Garment Workers in the Middle East***

*In a factory in Oman, Sri Lankans are paid 40 Omani Riyals per month while the Arab workers are paid 120 Riyals per month. (USD 1 = 0.38 Riyals)*

Low wages, coupled with high brokerage fee that migrants have to pay before entering into the host country, are enough to increase their vulnerability.

Policy review by CARAM Asia also indicated lack of any policy for families left behind and the impact of migration on them. Little attention is given to families within the policies related to remittances. Many countries have looked at different mechanisms of addressing the remittance issue.

### **Taiwan, Province of China:**

The irregular broker system, together with abuses by both employers and brokers, exacerbates vulnerability of migrant workers in Taiwan, Province of China. In 1999, the broker's fee increased from NT\$120,000 (US\$3,900) to as high as NT\$180,000 (US\$5,870).

For Thai workers, the brokers' fee is now as high as NT\$200,000 (US\$6,500). Both the sending and receiving countries are doing almost nothing to stop this corruption.

It is a fact that recruiters, to buy the employers' foreign worker quota, use much of the broker's fee. Despite this, about NT\$100,000 is the net profit for the broker. The Council of Labor Affairs (CLA) and the Legislature have a major influence on who gets the quota. With this easy money floating around, the temptation for corruption in the government is enormous.

On top of this, the minimum wage of NT\$15,840 (US\$517) has not increased since October, 1997. At present, the Legislative Council is in the process of deciding whether or not to increase the minimum wage by 3%, to NT\$16,300 (US\$532).

In December 1999, a Filipino factory worker in Taoyuan county refused to pay her broker's fee, claiming that the fees she paid to her Philippine agent was enough to cover her placement fees. Her creditor, Fong Hui Development Co. took her to court and won the case. The judge also ordered her to pay her broker's litigation cost. This is the new tactic being used by Taiwan, Province

Source: Asia Migrant Year Book 2000

### **Hong Kong, SAR of China**

Many Indonesian recruitment agencies charge HK \$ 25,000, well above the HK\$ 367 (US\$46) fee stipulated by the government. 80% of the Indonesian workers in Hong Kong, SAR of China are paid below HK\$ 3,670 by the legislated monthly minimum wage according the Asia Migration News.

### **Forced Saving (Compulsory Deposits): Taiwan, Province of China**

Many employers in Taiwan, Province of China adopt the practice of "forced savings," which can be described as a double-edged sword for the migrant workers. On one hand, forced savings can help the workers save their hard-earned money although not on voluntary basis; on the other forced savings can be used by the employers to prevent the migrant workers from running away or paying off the broker and other employment related expenses from this saving.

Under this scheme, the employer opens a bank account for the worker and deposits part of the salary in it usually ranging from NT\$1,000 (USD31) to NT\$5,000 (USD155). The account should be in the name of the worker because "and/or" accounts are not allowed in Taiwan, Province of China.

Since forced savings are earned income, the worker has the right to ask the employer for a receipt when the employer deposits the money on behalf of the worker. The worker can also ask the employer to show him/her the updated bankbook on a monthly basis. In 1998, the CLA adopted a law requiring forced savings for all migrants. In this scheme, as much as one-third of a migrant's monthly salary is withheld as forced savings. This is expected to be an effective deterrent against migrant workers running away.

This scheme is being reviewed by migrant workers' rights activist groups regarding the positive and the negative impact it can have on the migrant workers and their families.

(Source: Asian Migrant Yearbook, 1999)



### 3. Contract and Working

#### Conditions related Policies

Many migrant workers who have contracts may not understand its content or implications. Sometimes, what is written in a contract is found to be different in reality and the migrant workers get stuck in the middle of a system that is unfair. The laws and policies in the system and in the receiving countries do not offer any form of legal protection or redress to deal with abuses and violations of rights. Most migrant workers are not even aware of their legal rights and thus cannot pursue any remedial measures.

Most labour receiving countries have labour laws that prescribe general working conditions for both the public and the private



sector, such as the standard workweek, minimum days of leave each year, and compensation schedule for industrial accidents. However, these laws often discriminate against women and foreign workers regarding their right to join unions, or deny the workers the right to organise and bargain collectively such as the case in Kuwait and Saudi Arabia.

*In Malaysia, a migrant worker is entitled to treatment no less favourable than that enjoyed by the nationals of the country concerned, in respect of employment injury, maternity, sickness, invalidity, old age, death, family responsibilities and unemployment. Migrant workers are covered under the Workmen's Compensation Act. This covers injury sustained as a result of the work done in the workplace. However, this does not cover injuries received out of abuse/assault in the workplace. Where death occurs in the workplace, it is a long and difficult process for the insurance company to reach the deceased's family in their country of origin. The amount of compensation is derived at, on the basis of the doctor's medical report.*

(Source: country presentations at the Regional Summit on Pre Departure, Post Arrival and Reintegration of Migrant Workers organised by CARAM Asia, 2000)

Since migrant workers are often offered and recruited for 3D jobs and are considered as cheap form of labour, they often face severe working conditions. These conditions could be long working hours, unhygienic surroundings and working conditions, verbal and physical abuse, contract violations related to leave, salaries, ill treatment and abuse. This situation is far worse for women as domestic workers.

In Malaysia, the Workers' Compensation Act 1952 and Occupational Safety and Health Act 1994 makes provision for securing the safety of persons including legal foreign workers while at work. In cases, where foreign workers suffer injury as a result of accidents arising out of and in the course of work, the Compensation Act provides compensation. However, this Act does not apply to domestic workers and undocumented workers.

Termination of contracts before due time is also common in many receiving countries. This had become significantly serious during the Asian economic crisis and resulted in many migrant workers being retrenched and then deported.

According to Bangkok Reuters, Thailand deported over 90,000 foreign workers on 5th

#### **India: Case of legal redress**

*However, in some countries like India, there may be some legal redress depending on the efficiency of the courts and the workers' ability to use them, if the employers violate their contracts or rights. The workers in the private sector can take up proceedings to the Labour Courts and Industries Court, under the Industrial Disputes Act and the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices.*

(Source: Presentations at the Satellite Symposium on Mobility and HIV/AIDS: Strengthening regional interventions, organised by TENAGANITA and Ford Foundation, 5th ICAAP, 1999.

June, 1999. Malaysia repatriated one million migrant workers and then re-deployed another 150,000 to plantations or specific export-oriented industries.

#### **4. Documentation Policies:**

Many migrant workers working in some receiving countries are not permitted to keep their passports and labour contracts with them. These documents are taken away from them and held by the factory management or the representative offices of labour export companies in the receiving countries. These policies, or more exactly, these practices, are meant to prevent migrant workers from running away from their designated jobs.

For example, Vietnamese migrant workers in South Korea are required by their factories to save half of their monthly salary as an alternative to these papers being kept. Many of them are strongly advised by the labour export companies to have their salaries being directly transferred to their bank accounts in Vietnam, to ensure that the workers reimburse the costs that the companies have paid in advance for arranging their papers.

Many migrant workers from Bangladesh and the Philippines are found to be in the same situation. These migrant workers in one way or the other become dependent on their employers who do not always comply with the contract. Without sufficient papers, legal or especially illegal (undocumented) workers become more vulnerable in terms of their working conditions and their health status. In Malaysia, being stopped in the streets without legal

employment documents could result in being sent to a detention centre.

### **5. Policies Related to Women Migrants and Employment, Recruitment and Working Conditions**

Over the past few years, many countries have witnessed the feminisation of their export labour force. Women constitute work force that is more pliable and manageable. Low paying and unskilled jobs which are dirty, dangerous and demanding and require stereotypical characteristics like patience, tolerance and hard work are filled by women who accept such conditions more easily than men. These jobs include domestic workers, entertainers, hairdressers, massage parlour workers mainly the informal sector. Nearly, 30,000 Burmese women are estimated to work in the sex sector in Thailand. In India, about



100,000 Nepalese women work as sex workers. This gender selectivity demand for work in receiving countries has increased.

Also, many sending countries have restrictions on women's employment within the framework of their emigration policies to protect their women from exploitation. However, policies from these countries' perspective, aim partly to keep skilled female workers from leaving the country and partly to protect vulnerable ones from exploitation abroad. However, strict, complicated and costly application procedures leave many prospective migrant workers with no choice but to bypass the system and leave the country through illegal channels. This puts women in further vulnerable position to being sold, trafficked and taking on sex work as a means of livelihood in receiving countries.

Female migrants are confronted with discriminatory, gender biased and selective policies that alienate them and make them vulnerable to abuse and poor work conditions. Most of the jobs taken up by women are not recognised by labour laws of most receiving countries, which make these women far more vulnerable to exploitation, abuse and health risks.

Many migrant women are not permitted to keep their own passports or legal documents; these are held by the employers or factory managers. In the Middle East, factory management, often contrary to the law, hold the Sri Lankan women's passports which are handed back to them only when they have finished their contract. Thus these contract workers have little



options but to stay under miserable conditions and work.

Many receiving countries do not take into consideration the inhuman and unsafe conditions within which the women migrants work, which is further made unsafe due to the lower status and power of women, lack of systems of redress, and lack of information.

This abuse and violence can often create health risks of contracting STDs, becoming pregnant, as well as facing mental trauma. However, most women do not report these risks for fear of losing their job and being deported. According to the policies of some of the receiving countries, identification of STDs or any other infectious disease could lead to deportation of the worker (example, Malaysia).

Also, many countries' law and policies state that if a migrant woman is found to be pregnant, she would be deported within 24

hours (Malaysia, Middle East countries). In most cases, women become pregnant either out of sexual abuse or due to relationships where men do not want to use condoms. She does not have any access to health care information nor services including condoms. If found out, the woman is often not asked whether she was raped or sexually abused, but instead is punished by being deported with little or no investigations, medical care and counselling, and compensation. There is also the whole issue of being stigmatised both in the host country as well as back home.

This makes the situation of women more vulnerable as most of them resort to unsafe abortion practices, which puts them further on health risks.

In the Middle East, one of the main categories of migrant workers is domestic workers. The domestic workers who come mainly from Sri Lanka, Indonesia and the Philippines, work in very isolated conditions. They are not protected by any labor legislation except the contract, which is actually signed between the recruiter and the employer.

One of the major problems faced by domestic workers is abuse and violence. This violence also takes the form of sexual abuse where some of the migrant domestic workers become pregnant because of the abuse at their places of work. This abuse is either by the employer or male employees within the household.

A key concern facing women and women's organizations is that the domestic worker who

becomes pregnant out of abuse, is faced with penalties of the Sharia laws that impose death penalty for the crime of zina.

The use of religious laws without questioning the context and the new realities that emerge within this form of employment and consequent abuse only puts the women worker in a deeper subordinate position. This is exacerbated with increasing support for male dominance and control. Therefore, in a receiving country, how the local communities are culturally challenged to understand migrant workers and their new relationships is crucial.

The current strategies of blaming women migrant workers and the stigmatization that accompanies this form of abuse only increases women's vulnerability. This can reduce women who want to survive and maintain their job security to a form of silence that further opens them to more abuse and violence. There is, therefore, a need to make the issue visible so that a whole process of sensitisation takes place and efforts are made for increased protection and support for women migrant workers, in particular the domestic worker.

### **The Tragedy of Kartini**

*Kartini binti Karim, a 36 year-old woman, is from a poor family in Karawang region of Indonesia. Karawang was once a fertile agricultural area. But as farmers became increasingly impoverished, some of its inhabitants left in search of work as industrial laborers in the cities, or as migrant workers abroad. In 1998, Kartini left her hometown in Kampung Rawa Kepu Village, Rengas Dengklok. She travelled to the UAE to work as a domestic worker.*

*In an interview with the press, Kartini said, "I went to the UAE because my daughter, now 18, was growing up. What will her future be like? What if she marries? In our village tradition, we are required to organise and spend for the wedding when a daughter marries. My husband works as a carpenter. As long as he has work we have money. But he is often unemployed, sometimes as long as for two months. We also often incur debts".*

*In February 1998, Kartini worked as a domestic worker at Rubayyah Khamis' house. According to Kartini, her employer was kind and she received a monthly salary of 600 Dirhams (around US\$ 180). In October 1998, Kartini remitted Rp. 6 million (US\$ 775) to her family to pay back the debts she had incurred from the recruitment agency.*

*The following month, she was arrested, locked up at the Fujairah Attorney's prison, and later charged with adultery. Kartini had been found pregnant after she had received a health examination to check why she had been feeling dizzy and nauseous. Her employer had subsequently reported her to the police.*

*Kartini states that she was raped by Sulaiman, the Indian cook who had also worked at her employer's house. An Indonesian newspaper quoted Kartini, "I was raped in the kitchen. I refused to have sex with Sulaiman, but he forced me. I screamed and screamed*

*but no one else was at home and my employer was at work. I was raped twice". Sulaiman fled after he learnt of Kartini's pregnancy.*

*Kartini was imprisoned in December 1998, the place where she delivered her baby. A UAE police woman later adopted her child, Naida. According to Shariah, the Muslim law observed by the people living in the UAE, people who commit adultery are punished by Rajam. Soon, Kartini's case was reported by international and national newspapers in Abu Dhabi.*

*Kartini was not provided a lawyer throughout the whole judicial process, despite the fact that she could not speak Arabic. Many advocates claimed she was found guilty largely due to her inability to communicate in Arabic. When she was asked, "Do you confess to having committed adultery?", Kartini nodded. This contradicted her statement to the Indonesian Embassy, where she stated that Sulaiman raped her.*

*The Indonesian Embassy in the UAE said that they learnt of the case only from newspaper reports. The Indonesian government also tried to defend Kartini, particularly through the Indonesian Minister of Foreign Affairs, Alwi Shibab's visit to Abu Dhabi to meet local officials in charge of her case. The Indonesian Embassy paid a well-known lawyer in Abu Dhabi, Al Shamsi and his partners. Several Indonesian NGOs also advocated and campaigned in support of her release.*

*All these efforts finally resulted in Kartini's release on 24 April, 2000. The court of Fujairah, after a closed session, pronounced Kartini free. In May 2000, Kartini finally returned to Indonesia. According to Foreign Affairs Department, her trip home was not publicized to avoid "certain people" misusing the situation.*

*A private television station in Indonesia, SCTV, later interviewed Kartini. She said she had already apologized to her husband and was scared of going abroad again. "Although there is nothing to eat, more important is to be together with my family. I don't want to go abroad again".*

*SCTV also interviewed some of Kartini's neighbors who disagreed with Kartini's negative view of migration. Despite the risks people still want to migrate abroad. Hence, the tragic experience of Kartini does not seem to discourage others from going abroad and possibly suffer a similar fate.*

*(Source : Case Study Solidaritas Perempuan)*

## **6. Health and HIV related Policies**

Most receiving countries emphasize the recruitment and employment of a 'healthy' workforce. During the employment, if any worker is found infected with any 'infectious disease' including HIV, he or she is deported within 24 hours without any medical care, counselling, or even compensation.

While receiving countries emphasise on the health of the migrant worker, they take little responsibility, whatsoever, to provide environment policies, information and services to ensure the health of the migrant worker.

Migrant workers have poor access to health care services. When they can access available

**DISEASES OR CONDITIONS OF FOREIGN WORKERS CERTIFIED UNITS IN MALAYSIA (2000)  
(PROVISIONAL FIGURES)**

| YEAR      | Disease or Condition |     |       |     |     |      |       |     |      |      |      |     |     | TOTAL |       |
|-----------|----------------------|-----|-------|-----|-----|------|-------|-----|------|------|------|-----|-----|-------|-------|
|           | HIV                  | TB  | Mat   | Let | STD | Hep  | Can   | Epi | Psy  | Preg | Uop  | Uca | Oth |       |       |
| January   | No                   | 5   | 43    | 0   | 0   | 46   | 129   | 0   | 0    | 0    | 26   | 3   | 0   | 51    | 303   |
|           | %                    | 1.7 | 14.2  | 0.0 | 0.0 | 15.2 | 42.6  | 0.0 | 0.0  | 0.0  | 8.6  | 1.0 | 0.0 | 16.8  | 100.0 |
| February  | No                   | 0   | 44    | 0   | 0   | 48   | 134   | 0   | 1    | 0    | 24   | 3   | 0   | 64    | 324   |
|           | %                    | 0.0 | 13.6  | 0.0 | 0.0 | 14.8 | 14.4  | 0.0 | 0.3  | 0.0  | 7.4  | 0.9 | 1.9 | 19.8  | 100.0 |
| March     | No                   | 6   | 58    | 0   | 0   | 46   | 193   | 0   | 0    | 1    | 39   | 5   | 4   | 138   | 490   |
|           | %                    | 1.2 | 11.8  | 0.0 | 0.0 | 9.4  | 39.4  | 0.0 | 0.0  | 0.2  | 8.0  | 1.0 | 0.8 | 28.2  | 100.0 |
| April     | No                   | 6   | 67    | 0   | 0   | 70   | 254   | 0   | 0    | 0    | 50   | 9   | 14  | 198   | 665   |
|           | %                    | 0.5 | 10.1  | 0.0 | 0.0 | 10.5 | 38.2  | 0.0 | 0.0  | 0.0  | 7.5  | 1.4 | 2.1 | 29.8  | 100.0 |
| May       | No                   | 7   | 112   | 0   | 0   | 45   | 215   | 0   | 1    | 1    | 46   | 10  | 16  | 214   | 667   |
|           | %                    | 1.0 | 16.8  | 0.0 | 0.0 | 6.7  | 32.2  | 0.0 | 0.1  | 0.1  | 6.9  | 1.5 | 2.4 | 32.1  | 100.0 |
| June      | No                   | 20  | 154   | 0   | 1   | 88   | 261   | 0   | 1    | 0    | 62   | 20  | 29  | 289   | 925   |
|           | %                    | 2.2 | 16.6  | 0.0 | 0.1 | 9.5  | 28.2  | 0.0 | 0.1  | 0.0  | 6.7  | 2.2 | 3.1 | 31.2  | 100.0 |
| July      | No                   | 14  | 201   | 0   | 0   | 102  | 271   | 1   | 0    | 1    | 74   | 14  | 22  | 266   | 966   |
|           | %                    | 1.4 | 20.8  | 0.0 | 0.0 | 10.6 | 28.1  | 0.1 | 0.0  | 0.1  | 7.7  | 1.4 | 2.3 | 27.5  | 100.0 |
| August    | No                   | 7   | 126   | 0   | 0   | 60   | 224   | 1   | 0    | 3    | 83   | 18  | 12  | 226   | 760   |
|           | %                    | 0.9 | 16.6  | 0.0 | 0.0 | 7.9  | 29.5  | 0.1 | 0.00 | 0.4  | 10.9 | 2.4 | 1.6 | 29.7  | 100.0 |
| September | No                   | 6   | 65    | 0   | 0   | 38   | 235   | 1   | 0    | 0    | 37   | 10  | 7   | 125   | 524   |
|           | %                    | 1.1 | 12.4  | 0.0 | 0.0 | 7.3  | 44.8  | 0.2 | 0.0  | 0.0  | 7.1  | 1.9 | 1.3 | 23.9  | 100.0 |
| October   | No                   | 5   | 58    | 0   | 0   | 38   | 235   | 1   | 0    | 0    | 43   | 6   | 21  | 85    | 456   |
|           | %                    | 1.1 | 12.7  | 0.0 | 0.0 | 9.4  | 42.8  | 0.0 | 0.0  | 0.0  | 9.4  | 1.3 | 4.6 | 18.6  | 100.0 |
| November  | No                   | 2   | 71    | 0   | 0   | 43   | 170   | 0   | 0    | 0    | 55   | 2   | 12  | 101   | 456   |
|           | %                    | 0.4 | 15.6  | 0.0 | 0.0 | 9.4  | 37.3  | 0.0 | 0.0  | 0.0  | 12.1 | 0.4 | 2.6 | 22.1  | 100.0 |
| December  | No                   | 2   | 45    | 0   | 0   | 30   | 163   | 1   | 0    | 0    | 33   | 2   | 7   | 75    | 358   |
|           | %                    | 0.6 | 12.6  | 0.0 | 0.0 | 8.4  | 45.5  | 0.3 | 0.0  | 0.0  | 9.2  | 0.6 | 2.0 | 20.9  | 100.0 |
| 2000      | No                   | 77  | 1,044 | 0   | 1   | 659  | 2,444 | 4   | 3    | 6    | 573  | 102 | 150 | 1,832 | 6,894 |
|           | %                    | 1.1 | 15.1  | 0.0 | 0.1 | 9.6  | 35.5  | 0.1 | 0.0  | 0.1  | 8.3  | 1.5 | 1.5 | 26.6  | 100.0 |

Mal - Malaria; Lep - Leprosy; Hep - Hepatitis; Can - Cancer; Epi - Epilepsy  
Psy - Psychiatric illness; Preg - Pregnancy; Uop - Urine Opiates; Uca - Urine Cannabis; Oth - Others

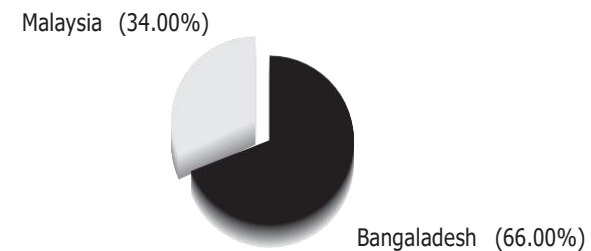
services they are afraid of being found to be ill, and being deported or losing the job. Working conditions are often long hours, in unhygienic work environment, with minimum rest hours and holidays for jobs that are often dirty, dangerous and demanding. Access to health care is further restricted for undocumented workers, as the migrants need to show their documents while accessing health care. Female migrant workers have limited access to reproductive health services while there are no policies supporting pregnancy and childbirth for women.

*In Malaysia, the clinics registered under the privatized consortia of FOMEMA (Foreign Workers Medical Examination Monitoring Agency) conducts the mandatory medical examination prior to the renewal of work permits. This agency is directly connected to the Ministry of Health and the Department of Immigration. Results of medical examinations are immediately transmitted to these departments. If the migrant worker tests positive for any of the many infectious diseases listed by the government, including HIV, he or she is deported immediately.*

Often accessing any health care information is difficult for the migrant workers due to language barriers. Thus, many public health educational messages through the mass media do not reach them. In addition, there may be vast cultural differences between receiving and sending countries. For example,

from CARAM's research on studies of STDs/HIV/AIDS of Filipino domestic workers in Malaysia, it appeared that most of what they learnt about HIV/AIDS was in the Philippines through the mass media. Whereas in Malaysia, HIV/AIDS and sexuality are sensitive issues and are not covered or discussed in the mass media.

**Figure - 7 - Countries where information was obtained on HIV/AIDS by Bangladeshi migrant workers**



(Source : Research 'Vulnerable' by Tenaganita, 2000)

Usage of condoms is very low with migrant workers. Most workers do not have information on the usage of condom as a disease prevention tool or have no access to them.

*Research by CARAM Vietnam found that Vietnamese workers in South Korea could not obtain condoms easily because condoms were available only in stations or entertainment places in big cities like Seoul. Women workers were not even aware of these sources.*

Many migrant women do not use condoms as their male counterparts are against it and women are in no position to negotiate. It symbolizes



**According to a survey by CARAM  
Cambodia, “Crossing Borders, Crossing  
Realities”**

*Negotiation for condom use by sex workers depends to a large extent on the knowledge of HIV among clients. Those who have not heard of HIV did not believe that it existed. As one brothel owner stated, “some clients do not believe that there is HIV/AIDS....some girls agree to sleep with them because they themselves do not believe that there is HIV/AIDS either.”*

*Disturbingly, many clients who already know about the HIV/AIDS, still insist on not using condoms. The cultural basis for sexuality portrays sex as a male need and that sex workers must fulfil male desires resulting in difficulties for sex workers to negotiate safe sex.*

*“I am not afraid of AIDS but I am afraid of no sex”.*

*Condoms are thought to reduce pleasure and clients complaint that if they have to use one, “they would rather sleep with their wives instead”, meaning that sex will not be as exciting.*

*Lack of substantial language skills also hampers the ability of sex workers to use condoms and negotiate safe sex with clients. Talking with clients is not encouraged as this wastes time.*

promiscuity, and thus, are not used in man-woman relationships that are fairly permanent. Most men however use condoms with sex workers but not with their girlfriends or sweethearts.

Coupled with the above unfair working conditions, are migrant workers' own living conditions and lifestyles. As described earlier in the chapter, being in the host country creates conditions, which force the worker to meet with his or her human needs including sexual needs, alone. Men and women often find themselves in relationships with sex, which is often unsafe. Mobile populations are often marginalized, which results in low self esteem and thus short term survival strategies. Given the absence of access to information and services, these very conditions make the migrant workers in the host countries, more vulnerable to HIV/AIDS.

However, governments in the receiving countries often do not have HIV/AIDS prevention programs for migrant workers, both because they lack the understanding of this group and because migrants are not a priority.

HIV/AIDS as a health issue faces enormous human rights violation in the receiving country.

**Some of the issues and policies  
related to HIV/AIDS are:**

**Mandatory testing**

Most national policies do not include migrant workers in their plans of action to fight HIV/AIDS. If

they do, it usually takes the form of mandatory testing for HIV for prospective migrant workers, pre-employment and departure. This practice violates basic human rights and creates the impression that the country needs to protect their citizens from migrant workers and is not based on the needs of these migrants.

*Most host countries in the Far East, Middle East and South East Asia require that potential migrant workers undergo mandatory testing for HIV and other infectious diseases. In addition to the discriminatory nature of the mandatory testing it is often undertaken in an insensitive and irresponsible manner. Although the Government of Bangladesh signed a strategic plan in 1997, that condemned mandatory HIV testing, emigrating workers are still required to undergo testing prior to departure.*

*Research by CARAM of migrant workers from Bangladesh in Malaysia identified that :*

*Pre-departure medical tests were completed by 83 per cent*

*Forty eight (65.8%) were aware that they were undertaking HIV testing*

*Of the 48, only 3 knew that they had been tested for HIV and received pre- and post-test counseling for HIV.*

Mandatory testing is required not only at the pre-employment screening but in some countries it is required periodically as well.

These tests are carried out, contrary to the recognized international standards. As indicated through the research, most workers are not even aware that they are going through HIV test.

*CARAM's research with Bangladeshi workers in Malaysia revealed*

- ◆ *Ninety of the 148 arrivals from Bangladesh were aware that they had been tested for HIV/AIDS after arrival*
- ◆ *Seven, of approximately 90, stated that they had received pre- and post-test counselling.*

*A similar situation was found in the Philippines. Many migrant workers from the Philippines were unaware that they were tested for HIV.*

Consent is usually not obtained at the time of the tests. Even if the worker signs the consent form, it is usually given in the notification and deportation policies of the receiving country.

They are also oblivious to implications of its results and currently there is little or no pre and post test counseling and information about the tests and the implications of the results if it is positive. No referrals are provided for further care, if detected HIV positive.

Mandatory testing of migrant workers for HIV raises several concerns. The first concern relates to the rights of the migrant workers. Secondly, the use

*In Malaysia, migrant workers are required to sign a consent form before undergoing medical tests for the renewal of work permits. The form requires that the workers sign away the right to privacy, confidentiality, and possibly the right to employment and freedom from discrimination when testing HIV positive. Several aspects of this procedure are questionable. Was a choice offered? Were the consequences of giving consent for the mandatory tests and potential deportation fully understood and realized, and was a choice possible? When faced with the requirements of testing and the ensuing consequences, the migrant worker also faces considerable loss.*

(Source : Sharuna Verghis, 5th ICCAP 1999)

of mandatory HIV testing for migrant workers as a strategy to manage the HIV epidemic is questionable. In assessing the logic and ethics of mandatory HIV testing of migrant workers as a strategy to manage the HIV epidemic, it is necessary to examine the aspects of notification and deportation of those who test positive.

### **Periodic testing**

Mandatory testing for HIV/AIDS/hepatitis for migrant workers in Malaysia, Saudi Arabia, Singapore and South Korea is compulsory every year, when they renew their work permits.

*Malaysian law requires migrant workers to undertake medical test for hepatitis, HIV, AIDS, tuberculosis, and STIs after arrival. Periodic tests are required for renewal of work permits without any pre and post test counseling.*

These policies and practices certainly have a huge impact on the migrant workers' health. The workers by all means try to avoid such check-ups if they suspect they might have an infection. They end up by running away from their factories and become undocumented workers, which worsens their situation and minimizes their accessibility to health care.

Included in the periodical check-ups of many countries is a pregnancy test. Women migrant workers will be deported immediately if found pregnant. Therefore, they tend to go for illegal abortions as

*India has not formulated any statutory rules governing the service conditions of employees with HIV sero-positive status. According to the Bombay High Court in MX versus ZY, AIR 1997 Bom 406: " There is no reason to exclude asymptomatic HIV-positive individuals from certain job assignments in accordance with the recommendations formulated by WHO, ILO experts and the Council of the European Communities". There have been very few instances reported where medical tests are conducted on the employees and if found to be HIV positive, their services are terminated. On the other hand, HIV positive workers face a lot of discrimination at the workplace. They are not allowed to come to work, but are paid their salary and kept on the rolls. Thereby, their right to work is taken away even though their services are not terminated.*

*HIV testing is not mandatory for working in Hong Kong, SAR of China and the Hong Kong, SAR of China government allows people with AIDS to continue working if they are able to. Unfortunately, very few countries like India and Hong Kong, SAR of China have policies which are in favor of migrant workers*

doctors are compelled to report to the authorities the workers' health status. Unsafe abortions can put the women at high risk of HIV transmission or complications and/or infections which may cost their lives.

### **Notification and Deportation**

In most of the host countries, mandatory testing of migrant workers for HIV operates parallel with notification and deportation.

For migrant workers, mandatory HIV testing and deportation creates severe effects particularly by the manner in which tests are conducted. An HIV positive result effectively means the loss of a livelihood. This loss to those forced from their lands and country by poverty and entering into considerable debt is enormous. In the event of testing positive, but not being informed correctly, the human and financial suffering brought on themselves and their families when they return home, has serious repercussions.

*The infringement of the human rights of migrant workers and the associated aspects of mandatory testing and deportation include:*

- *Mandatory HIV testing of migrant workers which is discriminatory, since an HIV status does not preclude the capability to function at various levels. Such tests restrict the right to travel and, when used in conjunction with deportation, it denies the right to work.*
- *Selection of migrant workers as a category for mandatory testing appears to arise from their marginalized status as other expatriate workers are excluded from testing. Inconsistency of selecting migrant workers for mandatory HIV testing is based on the perception that they are transmitters of the HIV virus, while all persons are at risk. With the exception of Singapore, most host countries require only migrant workers to undergo mandatory HIV testing.*
- *Conducting of mandatory HIV testing of migrant workers without their knowledge and not providing pre- and post-test counseling violates the right to information, privacy and confidentiality.*
- *When a migrant is deported, following an HIV test in the host country based on a false positive result, then discrimination becomes more severe.*
- *The significance of HIV testing as an epidemiological tool or as a necessary medical intervention for treatment is not challenged.*

However, a focus on migrant workers for the conduct of mandatory HIV testing that subsequently restricts employment is an unfair practice and is not an effective way of managing the HIV epidemic.

- Testing is also unfair to host populations as it places the responsibility for handling the HIV epidemic on the migrant worker. Research and actions undertaken with migrant workers indicate that migration places them at risk of acquiring HIV. A false sense of security also occurs in the local population of the host country who consider that they are free of HIV when mandatory testing and deportation of migrant workers is undertaken.
- The social responsibility of governments, companies, and other such institutions that test migrant workers for HIV and deport them is also questionable. Many migrant workers enter the host country with a clean bill of health but subsequently become HIV positive. It is noted that the window period and forged medical certificates may be misleading at the time of entry. It is noted that detection in post arrival medical tests is possible. Also, a possibility exists that a person was not infected after entering the host country.

(Source : Protecting & promoting human rights to reduce the HIV vulnerability of migrant workers: Sharuna Varghese, 5th ICAAP 1999.)

## **Confidentiality**

It is not always certain that the confidentiality of the workers' HIV status is respected. In Hong Kong, SAR of China, for instance, the company doctor would report to the authorities the workers' test results. If the workers use the government STD clinics and are tested positive, the company would then be informed about their status. As mentioned earlier, this information sometimes serves as a means to repatriate workers before due time.

Consequently, if the workers have any problems with their health, such as contracting STDs or even getting pregnant, they do not consult the factory/ company doctor for fear that they might be repatriated. CARAM Vietnam's research indicated that Vietnamese workers in South Korea try to hide that they are ill and go back to their country for treatment. This is extremely harmful for their health, because if they have an untreated STD and have unprotected sex, they are more likely to contract HIV.

## **Discrimination**

When migrant women become pregnant or get infected with STDs or HIV, it is quite possible that these women will not be asked whether they have been raped or sexually abused. Instead, they are punished by being deported often without investigations, medical care, counseling or compensation.

## **7. Issues related to discrimination in the host country**

Migrant workers face discrimination because they are viewed as coming from a culture which is less superior. A number of derogatory qualities attributed to them are racially discriminatory and are often reflected in media reports. Negative media reports highlighting migrant workers' health, habits and deportation reinforce the negative image of these workers.

In a study of Filipino migrant workers in Hong Kong, SAR of China by KALAYAAN Inc and CARAM Philippines, (Ybanez 2000) there was a strong feeling by Chinese employers that Filipino workers were poor, uneducated and ignorant. Some Filipino workers reported that rest rooms in certain malls were locked to prevent Filipinos from loitering in the mall.

## Imp ACT Of CON DITI ONs AND POLICIES ON BEHAVI OU R & PRACTICES Of MIGRA NT WORKERS

### **1. Increase in undocumented migrant workers:**

Due to the uncertainties and vulnerabilities posed by policies of recruitment, employment and health, many workers often run away from the unbearable exploitative situations. However, they cannot return home since they have to earn enough money to repay the debts incurred as well as take money as savings for their family. Thus, most migrant workers become undocumented workers thereby increasing their vulnerabilities and health risks even further. This situation became so serious that the International Organization for Migration called for a conference of various governments in Asia, in Bangkok in 1999. Governments expressed the seriousness of the issue, recognized the problem and collectively came out with a Declaration on Irregular Migration. This Declaration expressed the governments' commitment to deal constructively with the issue especially the smuggling or trade or trafficking in human beings. It also called on all governments to recognize the rights of irregular migrants and the need for a collective or coordinated approach with the setting up of regional mechanisms to deal with irregular migration.

## 2. Sex Work and Prostitution

### *Entry of women into sex work:*

Migration and sex work are inter-linked. For many women, the migration process and lack of knowledge/information of the place that they are migrating to, leaves them more vulnerable to deception and being sold off to a brothel.

An estimated 300,000 women and children are trapped in the sex trade as part of illegal migration, as was reported from Cambodia, Laos, Burma, Thailand, Vietnam and China.

Debt is a very significant factor for women to either enter and/or stay on in sex work. Most women migrants incur heavy debts prior to migration for paying high brokerage fees, travel-processing fees etc. Jobs that they are recruited for, such as domestic worker, hairdresser etc. do not fetch very high income and are often the 3D Jobs. As these jobs are not recognised in the formal sector of employment and, hence, most women migrants are on the mercy of their contractors, and thus open to further exploitation, violence and physical abuse. Hence, many take to sex work to earn additional income, while some do it to get away from the exploitative demands of their employers. Many women who were deported due to unfair practices by the employer, or during the time of economic

crisis, did not want to return home and instead took to sex work in order to survive and send money back home.

### **Process of Migration Vietnamese Women**

*Having social networks along the route was important. Some of the participants were accompanied by people who had already been to Phnom Penh, possibly because of a link to the sex trade (they had been a sex worker, they had a child who was a sex worker). Part of the route involves going by boat along the Mekong river, where it might be possible to avoid the checkpoints and the high costs in bribing guards. The boat-owners seemed to play a key role, not just in showing people the way, but also in giving information on which brothels to approach.*

*Migrating from rural Vietnam, many of the respondents had no knowledge of the Khmer language, and thus needed a guide. These guides would demand a fee, though a few of the participants were not told the amount of money. Others mentioned prices that varied from 50,000 to 1 million Dong. The participants' lack of knowledge of the route left them vulnerable to manipulation and bribery. Participants who traveled with family members or alone through checkpoints, for instance, paid more than those who travelled along other routes (usually by land and water, along the Mekong river). The amount of bribes had huge repercussions for the women, given that most lived at subsistence level and borrowed money for the cost of the journey, either from money lenders in Vietnam, or from brothel-owners in Phnom Penh. Either way, the journey's costs could result in debt bondage for the woman and her family, and almost certainly prolonged stay in the sex trade.*

(Source: CARAM Cambodia)

## Process of Migration Khmer Women



Over half of the women had migrated to Phnom Penh for economic reasons, and then entered the sex trade. Not all these were voluntary. Some of them were sold, and by the time that CARAM Cambodia interviewed them, a few had been re-sold several times already. Migration and sex work were additionally inter-linked. For a few of the respondents, the migration process and their lack of knowledge of the place that they were going to, left them more vulnerable to deception and being sold to a brothel. For at least three of the respondents, arrival in Phnom Penh and the mere look of being lost led them to being deceived and sold to brothels. Observations by CARAM Cambodia staff members in Tuol Kork support the conclusion that men sometimes approach the brothels first to see if they require any more sex workers. The Central Market (Phsar Thmey) where the taxis arrive from rural areas was mentioned as a crucial place, where women are picked up and then taken to or sold to a brothel. At least three participants talked of motor taxi drivers as playing a key role in their journey to the brothel.

*I was not “Khuy” (penetrated) because I was grown up and did not know what virginity was. The lady told him that I was not a virgin. I myself did not know what virginity was...She said this in order to get me to work in the brothel.*

*Vietnamese Sex Worker Tuol Kork*

*Once the payment for the loss of virginity has been made, some of the women still find that this does not cover their debts.*

*I saw someone coming here (Cambodia) and I asked my mother to let me come here too to sell my virginity for money to repay the debt, because my family owes...I only knew that I could sell my virginity and go back home. But still, I did not have any money after I had lost my virginity. I have to continue working to repay the debt.*

*Vietnamese Sex Worker Tuol Kork*

(Source : CARAM Cambodia)





A study by KALAYAAN and CARAM Philippines (Ybanez 2000) with Filipino migrant workers, "Labour Migration and HIV vulnerability of Migrant workers" found that

High costs of deployment leads to predeparture debts, which cause the overseas workers to:

- Endure oppressive working conditions
- Remain in the host country despite their dismissal in the hope of finding another employer, making them more vulnerable in transition phase
- Engage in part-time prostitution to earn more
- Agree to illegal contracts



#### **Visits of men to sex workers**

Most men easily find their way to brothels due to their sexual needs or the need to cope with anxieties and conflicts, and due to the cultural and gender social constructs, as described previously in this chapter. Contacts of these girls are available through taxi drivers, friends etc. This is seen as a social activity of different men together, on weekends. Some of the men also have girlfriends. However, many sex workers have reported that many men visit them not to have sex, but have a good conversation. They want someone to listen and talk to them.

### **3. Increase in the incidence of undiagnosed and untreated health problems including STDs and HIV**

Due to the issues of health care access and policies of notification and deportation, most migrants do not access even the available health care systems.

*One of the Vietnamese respondents told about the troubles of his friend:*

*"His mind is being in embarrassment. He has gone to a pharmacist to examine and buy medicine. If this medicine is not able to cure his disease, he changes to others or uses injected medicine. But his psychology is confused, how to end the disease. Sometimes he feels uneasy in urinating, he thinks that the disease is recurred, so he goes to inject again. He dares not go to a public health station, besides, he cannot speak Korean language. He cannot go to health care office for following up his disease."*

(Source : CARAM Vietnam)

Thus they live with ill health mostly undiagnosed and untreated. Many take to self medication and treatment.

Sexually Transmitted Diseases appear to be a major concern for the migrants. However, there are many misconceptions that are prevalent among sex workers regarding STDs and there is no way of correcting these misinformation and beliefs.

**Excerpts from an interview with a Filipino seafarer:**

*Q: Are you using condoms when you get women abroad?*

*A: Sometimes, but I just select.*

*Q: What do you mean by “you just select”?*

*A: If she’s young and looks “clean” with her body, I don’t use condom because I’m sure that she’s clean.*

*Alternatively, many workers are aware of the STDs in groups such as sex work but they visit them anyway. However, care is taken to use condoms when they visit sex workers because they know the risk of contracting STDs/HIV. At the same time condoms are seldom used in sexual contacts between sweethearts. Because these contacts carry the possibility of marriage and pregnancy, it is not seen as appropriate to use condoms. Moreover, using condoms could be explained as “not trusting each other” or “equaling the contact to the sexual contact of sex workers”.*

*“He tells me that if a boy loves a girl and considers her as his real wife, he never uses condoms when making love and will marry her.”*

(Source : ACHIEVE)

While there are no concrete figures and estimates available to project the rise of HIV within migrant communities, it is highly probable that with migration continuing, and the circumstances for infection and transmission being a built-in risk, HIV/AIDS among migrant workers and eventually their families could be something that needs effective interventions.

#### **4. Gender, reproductive health, and condom use**

The reproductive health concerns related to migration is an under-researched area. However, the emerging data on migration, especially on women, highlight high health problems in women who have been in sexually exploitative or high risk situations, whether as domestic workers, factory workers or workers in the entertainment industry. These sectors where women are mostly employed are informal and most unsafe and unprotected. Most of the health problems are linked to violence, which includes physical violence, food deprivation (as punishment or torture), physical immobility (kept in closed houses, small rooms), psychological trauma (constant threats, verbal abuse etc.) and long hours of work.

Many migrant women do not visit any doctor or health post for any gynaecological or urological complaints due to the fear of being detected with any infectious disease and the fact that these complaints will be related to their sexual activity which also may have repercussions on their employment. Most reproductive and gynaecological

***Testimony of a Sri Lankan domestic worker, Kailasam Kanniappam Periyayagi, age 32 years at Pallegoda Main Division, Dharga Town, holder of passport M0438541***

*I was unemployed and was a trainee nurse at Beruwela dispensary for 3 ½ years and was a trainee nurse for one year. I also worked at Beruwela Medical Centre on blood testing.*

*I am now living with my brother as my parents are both dead. I was accosted by a sub-agent Pasi Nana of Beruwela who promised me employment abroad in a house to give injection of insulin to a patient in the house.*

*I was introduced to an agency Beta International of 172, W.A. de Silva Mawatha, Colombo, by Pasi Nana. They sent me to Riyadh Saudi Arabia on 9/9/99. I was trained at the SLBFE Kalutara from 2/8/99 to 13/8/99 and insured under Suraksha on policy no 735351.*

*At Riyadh airport I awaited for one day till some one came to take me. I was met by a man in the evening of the 10th and taken to a house and handed over to a woman. They fed me, put me into a car and after a long journey took me to another house.*

*On the 11th in the new house the madam left in the morning with 2 children. One small child was at home with father. After sometime this man made several sexual advances and dragged me to a room after assaulting me. I went unconscious. I may have stayed in the room for some time.*

*Later when the woman of the house came, she opened the room door and I escaped to the*

*road. As I entered the road a Police vehicle passed by and I was picked by the police and taken to the station. I don't remember the name of the Police Station, I fainted again and after recovering, the police questioned me. I related how I was raped and all that had happened. Thereafter police telephoned and brought doctors. They examined me and they took me to hospital. After two days the hospital called the police and handed me over to them. The police traced the person who accompanied me from Riyadh Airport and through him got information where I was employed and who assaulted me. Although police called the person who assaulted me, he did not come but sent his wife's two brothers. The sub-agent also came. Police sent me to the house where I was assaulted and I recovered the clothes and travelling bags. My passport was also recovered.*

*We returned to the police station. Police instructed the sub-agent to take me back to the agency. I went to the agency. The Sub-agent was paid compensation for my assault by the employer.*

*At the agency I stayed for two days I was told that the money paid on my behalf was used by him to buy me a ticket to return home. I am confident that the police recovered full compensation for me. I think it was about 50,000 Saudi Riyals. I was given only 500 Riyals by the sub-agent as the only payment due to me. When I asked the sub-agent compensation for assault and rape given by the employer he said he has no money. I left by Saudi Air on 16th Sept. 99 and returned on 17th Sept. 99. I entered Kalutara Hospital and was treated for 5 days and discharged. I continued medical treatment with Ayurvedic physician at Aluthgama for contusion on left buttock for nearly 6 month.*

*I made a complaint to the agency Beta International on 27/9/00 and sought compensation. Later on 23/9/99 I made a complaint to the Welfare Section of the Bureau. The Insurance company paid me only Rs. 8000/= as compensation.*

*I seek full and fair compensation for my assault and rape including the airfare I paid to go from Colombo and compensation paid by the Saudi employer to the agent in Riyadh at the intervention of Riyadh police.*

(Source : Migrant Services Centre, Colombo)

problems thus go unattended relying on self medication or over-the-counter drugs.

Women migrant workers enter relationship with men to satisfy the human need for warmth, companionship as well as sex, but their subordinate social and economic position gives them little choice or negotiating power to use condoms, or safer sexual practices. Most women tend to remain faithful in their relationships and do not have multi partners. Since most men prefer not to use condoms with their girlfriends, women migrant workers are not in a position to negotiate the same. They fear that their insistence on condoms will indicate their infidelity and the men friends will leave them.

Many women also become pregnant either through their relationship with male

*According to a study by KALAYAAN Inc and CARAM Philippines in host countries, it was noted that the reasons for not using the condoms include:*

- *Uncertainty about the protection that condoms can provide as a contraceptive*
- *The fellow woman migrant worker is on birth control pills*
- *Partner does not like to use condom*
- *Misconceptions that condoms are bad for the body*



friends or through sexual abuse and violence at their workplace. However, stringent laws and policies in the receiving countries do not support pregnancy and childbirth and can result in loss of job and repatriation. This is coupled with stigma and humiliation that the woman will face including condemnation from their families and husbands. Thus, many migrant women undergo unsafe abortions thereby increasing their risks to infections and health. In cases when the woman decides to continue the pregnancy, the risks of social stigmatisation, not to mention additional economic responsibility and social obligations to keep and raise the child, have enormous impact on the woman.

When migrant women become pregnant or infected with STDs or HIV/AIDS, more often than not, they are not asked whether they have been raped or sexually abused. Instead, they are punished by being deported with no investigations, medical care, counselling or compensation offered.

The Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of

Discrimination against Women; and the Convention 1990 on Migrant Workers all emphasise the equality and dignity of each person and that all rights are inherent, inalienable and universal. But this is yet to become a reality for the migrants. Inability to negotiate safe sex practices and the consequences of violence and physical harm to women in sex work, in the entertainment industry, or as domestic workers, reveal women's condition to the risk of infections. The inability of migrant women to control their partners' sexual behaviour back home again brings about risk.

Thus, there is a need to recognise women's reproductive rights, their right to decision making and their right to their body. Cultural and religious relativism and interpretations should not undermine these rights.

In spite of rigours of life in receiving countries, the workers continue to stay in the host countries because of large pre departure debts incurred. In case of dismissal, migrants continue to stay hoping to find another employer, making them more vulnerable in the transition phase. Some engage in part time prostitution to earn more and others agree to illegal work contracts.

## STRATEGIES AND PARTNERSHIPS FOR CHANGE AND ACTION

### **Nature and Characteristics of Migrant Communities**

Before developing any activity and partnership for migrant communities in the host country, the very culture and nature of the migrant population needs to be understood. Migrant workers are often from varied cultures, background and languages which makes it difficult to communicate with them. Many come from the cultures, where talking about sex is a taboo, which makes discussions about sexuality very difficult. Many religious beliefs also affect the behavioural practices and attitudes that need to be understood before developing information dissemination activities. Gender and social constructs also play a very important role in determining the sexual behaviour of migrants.

### **Interventions:**

*Interventions targeting migrant workers in the receiving country have to deal with the vulnerability with regard to sexual behaviour in three ways.*

*Firstly, there is to be an awareness that migrants are human beings with social and sexual needs and not merely labour force. There has to be space for long and short term relationships, which should be in an enabling environment where safe sex negotiation is possible.*



*Housing is an important issue. Often, temporary migrant workers are lodged in big buildings, with many of them sharing one room. As privacy is absent, it is difficult for them to maintain relationships with the opposite sex. Organisations in migrants-receiving countries should advocate the right of migrant workers to a decent life, with normal wages, normal working hours and a good living environment Governments should support this with just laws and strict enforcement.*

***Secondly,** migrants have to be empowered to reduce their dependence. This can be achieved through self-organisation of migrant groups. NGOs and embassies could facilitate this process and support them. A place for them to come together is critical for this to happen. By developing and maintaining links with migrant community leaders, the continuity of relationships between the communities and the NGOs that strive to help them will be safeguarded.*

***Thirdly,** well-designed messages should focus on both sides of the migrant identity, those who are at home and those who are abroad. An educational material in their own language that is imported from their home country needs to be adapted taking into account the migrants' changed perspective and behaviour. NGOs and governments that would like to provide health or HIV prevention information to migrant workers in Asia should always make sure that the materials are related to the specific situation migrants live in and that they are tested among them. To make sure that the messages are appropriate and effective, the development should always be done in co- operation with some members of the migrant community, including both newcomers and long staying immigrants. Also other interventions aimed at decreasing the vulnerability of migrant workers to HIV/AIDS should take into account the differences between the home and the migrant culture and the context they live in.*

Interventions for the post arrival stage of the migration cycle need to begin at the Pre departure stage. Information regarding post arrival issues such as the culture, climate and environment, laws and policies of the host country etc., should be provided at the pre departure stage through community based intervention as well as during pre flight trainings. Issues related to remittance as well as reintegration also need to be discussed simultaneously. The potential migrants need to be informed about the migration process, the recruitment procedures and the employment requirements and policies of the

host country, including the health and deportation policy. Provision of this information at the pre departure stage will help to reduce the vulnerability of the migrants to being exploited during transit as well as post arrival in the host country.

Both sending and receiving countries need to view the migrant worker as a human being with human needs and not just as an 'economic tool' or a 'commodity'. Human rights of the migrant workers need to be addressed with the understanding that protection of these rights will reduce the vulnerability of the migrants to various exploitation and health risks.

Bilateral agreements and regional initiatives regarding standardization of the recruitment, employment and health care norms, need to be strengthened. Countries need to ratify the UN convention for migrant workers and their families, as well as other conventions that seek to provide support for protecting the rights of migrant workers. Host countries need to review their policies regarding mandatory HIV testing, health and deportation policies, as well as gender selective policies. Attention needs to be paid to women migrant workers working in the informal sector and their associated vulnerabilities to physical and mental exploitation and health risks. Strict monitoring of recruitment agents needs to be undertaken. Through bilateral agreements and

discussions, recruitment agencies and the agents who do not comply with the legal processes of recruitment and employment, could be blacklisted. For example, South Korea has blacklisted recruitment agencies in Bangladesh against whom several complaints were received. Sending countries could also address the issue of false contracts and fraud by attesting the same and by following up the contracts with the employers in the host countries.

Sending countries, apart from having well developed pre-departure initiatives, and clear bilateral agreements, need to look at providing support to the migrant workers in the host countries. Presence of Labour Attaches at the Embassies, who could facilitate and ensure protection of rights of migrant labourers as well as offer a mechanism for registering complaints, is critical. Advocacy needs to be undertaken with governments regarding the discriminatory policies and provision of redress mechanisms for migrant workers including the right to form collectives or join unions. Sending countries need to strengthen their collective bargaining power to lobby effectively with receiving countries and address the power imbalance in the procedures of employment and migration.

NGOs along with migrant workers' groups can also play a critical role in providing support and information to the migrants arriving in the host country through community based interventions. Information and counselling could be provided on adjustments, dealing with multiple conflicts and identities, sexual health and safe practices. Support can also be provided on legal issues, complaints handling, as well as



communicating with families, sending remittances etc.

NGOs also need to network and link at the regional level, with organisations in the sending countries to understand the migrant communities in the host country and develop appropriate interventions.

Issues related to reintegration need to be addressed at the pre departure stage as well as the post arrival stage. NGOs and

government institutions can help the migrants to prepare for economic and social reintegration back at home. For example, the Philippine government organises skills building and training programmes for migrants in Malaysia before their departure, to help them find appropriate employment opportunities back in Philippines.

Following matrix attempts to list the roles of various stakeholders who need to network and facilitate coordinated response to mobility and HIV/AIDS issues as well as various strategies and activities that can be undertaken. However, this list is not exhaustive but indicative of various activities that need to be implemented.



### **Strategies and Partnerships for Post Arrival of Migrant Workers (An Indicative Matrix)**

| Broad Areas  | Strategy/strategies   | Core contents/Issues  | Partners   |
|--|---|---|--|
| Rights based, welfare oriented, non-discriminatory laws, and policy formulation and implementation | Policy advocacy for promoting and protecting migrants' rights and welfare | <ul style="list-style-type: none"> <li>◆ Bilateral agreements and regional coordination</li> <li>◆ Policy changes:                             <ul style="list-style-type: none"> <li>• Mandatory testing and repatriation issues</li> <li>• Welfare oriented recruitment and employment schemes</li> <li>• Gender selectivity and discrimination</li> <li>• Access to health information and services</li> <li>• Health and repatriation issues</li> </ul> </li> <li>◆ Ratification of UN convention on migrant workers and their families</li> <li>◆ Awareness programmes for employers and associations</li> </ul> | Governments of receiving and sending countries government departments of labour, immigration, home etc; Embassies in the receiving countries, NGOs, migrant workers associations and group, trade unions, various recruiting agencies, employment agencies, UN and bilateral organisations |
|  | Bilateral agreements for setting employment and recruitment standards     | <ul style="list-style-type: none"> <li>◆ Long term and strategic plans</li> <li>◆ Migrants perspective and welfare</li> <li>◆ Equal say and participation by both sending and receiving countries</li> <li>◆ Employment conditions, fair minimum wages clearly laid out</li> </ul>  |  |
|  | Protective mechanisms<br>Embassies, POEs                                  | <ul style="list-style-type: none"> <li>◆ Contract attestation and follow up</li> <li>◆ Redress mechanisms and complaints registering</li> <li>◆ Monitoring recruitment agencies</li> <li>◆ Conducting training programmes and addressing issues related to reintegration</li> </ul>   |  |



| Broad Areas   | Strategy/strategies   | Core contents/Issues  | Partners   |
|---|---|---|--|
| Empowerment of migrant workers and facilitation of enabling environment provision of choice | <p>Community based interventions and post arrival programmes</p> <p>Peer education and empowerment/ capacity building</p> <p>Increase in access and use of quality health care services including VCTs</p> <p>Protective mechanisms NGOs, migrant workers/peers</p> | <ul style="list-style-type: none"> <li>◆ Information provision on:                             <ul style="list-style-type: none"> <li>· Orientation on the host country' culture, lifestyle,</li> <li>· Govt. policies and laws</li> <li>· Rights of migrant workers and mechanisms for legal redress</li> <li>· Health including HIV and STDs, access to health care centres for diagnosis and treatment</li> <li>· VCT, HIV testing and related employment practices and policies</li> <li>· Finance management and savings schemes and mechanisms</li> <li>· Policies related to remittances</li> <li>· Communication with families and spouses</li> <li>· Reintegration issues coping with going back home economic and social reintegration</li> </ul> </li> <li>◆ Training programmes for migrant workers on survival skills</li> <li>◆ Labour contracts to be prepared in detail and verified by sending countries</li> <li>◆ Provision of legal aid and legal counselling</li> <li>◆ Setting up of refugee centres and hotlines for information and support</li> <li>◆ Counselling to help migrants deal with multiple identities and conflicts</li> <li>◆ Linkages with trade unions</li> <li>◆ Formulation of migrant workers support and community groups</li> <li>◆ Peer based programmes, migrant workers information exchange programmes</li> </ul> | <p>NGOs, migrant worker groups, women's groups, Legal Aid Centres, government departments of labour, training, health etc. of host and sending countries, Embassies and POEAs, UN and bilateral organisations , trade unions</p> |





| Broad Areas  | Strategy/strategies   | Core contents/Issues   | Partners   |
|--|---|--|--|
| Networking and coordination between sending and receiving countries                  | <p>Research and monitoring</p> <p>Networking amongst governments, NGOs, migrant communities</p>   | <ul style="list-style-type: none"> <li>◆ Access to various finance management, savings and insurance schemes</li> <li>◆ Information sharing and exchange between sending and receiving governments</li> <li>◆ Ongoing research to maintain database of migration patterns</li> <li>◆ Ongoing research to monitor human rights violations at any stage by the receiving and sending countries</li> <li>◆ Close coordination and networking amongst various players in the region and countries</li> </ul> | Various government departments from the sending and receiving countries, NGOs, UN and bilaterals, research agencies, migrant worker groups |
| HIV prevention in the sending and host countries : focus on risk behaviour practices | <p>Community based interventions with various vulnerable groups in the country</p> <p>Provision of health care services including VTC, pre and post test counselling centres</p> <p>Effective and fair surveillance systems</p> | <p>Intervention with vulnerable population, on provision of information on HIV/AIDS, STD treatment and condom promotion and related gender and enabling environment components.</p> <p>Interventions with brokers, middlemen on HIV and mobility issues</p> <p>Policies and services related to HIV testing, pre and post test counselling, confidentiality</p> <p>Careful analysis and presentation of data from surveillance with migrant workers as one of the groups.</p>                            | NGOs, governments, UN bodies, bilateral organisations, migrant workers associations and networks, other CBOs, health professionals         |



## EXAMPLE OF SOME OF THE SUCCESSFUL POST ARRIVAL INTERVENTION AND INITIATIVES :

### 1. Karen youth produce a radio soap opera

**Jackie Pollock MAP (Migrant Action  
Programme) CARAM Asia**

*LOVE NEVER DIES, is the story of Em Weh, a young Karen refugee who leaves the refugee camp on the Thai-Burma border to experience life outside a camp and to gain some control over his own income and expenditure. His adventures and his dilemmas have been written and produced as a radio soap opera by a group of young Karen refugees at MAP to be broadcast on the National Radio Broadcasting Station of Thailand.*

*Emweh's family like the other 120,000 refugees in Thailand fled from fighting and human rights abuses in Burma including forced labour, arbitrary executions, systematic rape, destruction of food crops and forced relocation of villages. His family sought refuge on Thai soil in the mid 80s when Emweh himself was just a toddler. He grew up in the refugee camp, housed and fed by international NGOs. When he was in his early teens his camp was attacked by the Burmese military and 85% of the houses were burnt down.*

*The camp was moved but the new location was just as close to the border, so his mother constantly feared for the safety of her children and his father withdrew into a silent shell every time the Thai government announced that it was going to repatriate all the refugees. HIV seemed a world away from the life at the camp where other concerns were more pressing and immediate, and where open talk of sexuality was considered a threat to the preservation of a cultural identity already under so much threat. But Emweh is a teenager and issues of sexuality are real to him, migrating to the city exposes him to a world where drugs are readily available, where exploitation and loneliness are mixed with adventures and excitement, where there are difficult decisions to be made.*

*Issues of sexuality, gender and rights are dealt with in a simple manner intertwined into the story. Karen migrant team has been producing daily radio spots in English for the past three years on health issues and receives feedback from their listeners by letters, phone calls and from holding focus group discussions. Migrants and refugees write in with their health concerns, they write to try and locate missing family members who have been lost in the migration process, or who were separated when they fled from Burma. There are also "fan" letters to the radio team.*

*From the feedback, the team became concerned that refugees and migrants had little information about HIV, and had little understanding of the needs of HIV positive people, but they also felt that these issues were too complex to be approached in one or two ten-minute programs. They felt that an on-going story*

broadcast over a two-month period would allow for a whole range of issues related to HIV to be addressed. The fan letters that the radio team received also suggested that their listeners identified with characters on the radio, so if they could create characters that raised important issues about relationships, about growing up, about decision making they could help to bring about behaviour change.

*Love Never Dies*, the story of Emweh, tries to build on the positive attitudes young people already have; their respect and love for their community and culture, which gives them self-esteem in an otherwise disempowering situation. It addresses the misconceptions about HIV transmission and promotes relationships based on equality, honesty and sharing. It allows the listener to meet one character and follow him and get attached to him, before letting the audience know that he is HIV positive. He faces discrimination that listeners may have been part of, and it is hoped that in empathizing with this character they will be less likely to discriminate in future. Emweh in his travels gets the chance to meet and discuss with other people, thus exposing the listener to new ideas and new approaches to problems. There are still some subjects that the soap opera has shied away from. For example there is no discussion of men who sleep with men. In their discussions with young people, nobody was able to talk on this subject. Most young people said they had no idea that men slept with men; the elders would

certainly not accept the idea. The soap opera will be broadcast on the radio, it may also be broadcast on loudspeakers in some camps where the refugee committee and the local authorities agree, it is important that it gains acceptance from all sectors of the community. It could then be a long running soap opera bringing in new ideas and addressing more sensitive issues in later series.

## **2. Welfare oriented policy by the Philippines**

In response to reports of sexual abuse, withholding of salaries and poor working conditions the SEC stipulated working conditions such as a minimum salary, working and resting hours, off days per month etc. The POEA was also proactive in developing overseas markets for Filipino migrants, monitoring and regulating the private recruitment industry, maintaining skill registries and manpower pools, recruiting and placing workers and ensuring protection of workers rights. In addition, the Overseas Women's Welfare Administration was established to provide welfare services such as loans, insurance, educational support and training, disability assistance and remittance assistance.

## **3. Post arrival seminars by Hope Workers' Centre (HWC) in Taiwan, Province of China :reaching out to migrant workers**

HWC invited Filipino workers to their post arrival seminars which were three hours long and covered: rights of the workers according to the Taiwan, Province of China Labor Standards

Law; understanding the work contract; tax; health and safety in the work place; occupational accidents; preventing repatriation; Taiwan, Province of China culture etc. Seminars were held once in every three months, since it was not possible to cover all these issues in one seminar. However, the major problem was that very few migrant workers saw the importance in coming to these seminars.

With this reality, the staff of the HWC decided to bring the post arrival seminars to the Filipino workers and identified the Sunday Church as the place for providing information. This was



easily done because 3,000 Filipino workers come to the church each Sunday to attend the three English masses. For the last three years on the third Sunday of every month, HWC has been imparting 30-minute education in the church before each mass. Each month the organisation focuses on one aspect. This is not considered as



an ideal situation, but at least 3,000 Filipinos are reached each time.

Filipino workers have been trained as peer educators for HWC Migrant Workers' Assistance and Education Group and to lead these seminars themselves. This has proved to be a very powerful technique. The leaders themselves are empowered to educate their fellow workers, which is a great source of inspiration. Other techniques such as role plays, drama etc. are also used for disseminating information.

#### **With Thai Workers:**

It is more difficult to educate the Thai workers because they do not have a common meeting place. Many of the workers come to the HWC with their problems where they are provided information and assistance. Along with Thai peer educator, staff of HWC visited Thai workers in the Thai temple, parks, restaurants and karaoke bars, and held small group sessions. The number of Thai workers visiting the centre increased once mutual trust was built.

Education is also imparted on occasions like the Thai New Year; Thai King and Queen's birthday etc.



The strategy of reaching out to the workers has proved effective with them as well.

Once every two weeks, two Thai social workers speak on the Thai radio program educating the Thai workers on their rights. This is followed by many calls at the centre seeking information and assistance.

**With Indonesian Workers:**

Due to language difficulties, HWC has not been able to have post arrival seminars for the Indonesian workers though the staff visit them regularly in restaurants and parks. If they are able to speak a little English or Mandarin the staff communicates with them. The centre has not been able to employ an Indonesian worker but is planning to do so soon in order to start the post arrival seminars. Some of the Indonesian workers are beginning to feel at home in these centers.

The Taiwan, Province of China government employs only one Indonesian social worker who works at the Taipei City Government Migrant Workers Counselling Center.

**With Vietnamese Workers:**

The first group of Vietnamese workers arrived in Taiwan, Province of China in November, 1999. They were facing many employment related problems including with brokers. The centre took help of six Vietnamese priests on the island who provided active support to these workers by educating

them on their rights and providing other information. With this initial rapport, the Centre is planning to introduce the Vietnamese workers in the center.

#### 4. Asserting Migrant Rights and Orientation Programs by Tenaganita

During the last five years, Tenaganita has handled numerous cases or complaints from migrant workers. At an average, 500 cases related to various forms of violations of rights were handled annually. The organization receives complaints mainly related to unfair dismissal, non-payment of wages, arrest and detention, abuse, occupational hazards or health related problems. Following a complaint, Tenaganita investigates, then negotiates with the employer for early settlement of the case. Otherwise, together with the migrant worker, the organization files cases at various enforcement agencies or in court. With the support of the Bar Council or Association, Tenaganita has effectively set up a legal support mechanism.



Legal Aid Centre Pupils in Training in Tenaganita, Malaysia



*The legal support provides legal advice, represents the migrant worker and even files test cases in court in order to assist migrants to assert their rights. Together with this direct intervention, the organization with lawyers conduct legal literacy programs at the community level in the language the migrants are familiar with and distribute pamphlets on various issues and rights of migrant workers. Through this process, Tenaganita has been able to initiate orientation programs at the factory level with the support of the employer. This has been possible where there have been labor disputes arising from non compliance of instructions by migrants because of language problems or misunderstanding due to lack of cultural sensitivities.*

*Besides this, the organization, in evaluating the complaints and cases handled, either develops a campaign or conducts a research for more effective results in intervention and strategies to be developed on the issue. In 1999, Tenaganita handled a number of cases related to occupational hazards. In 2000, it conducted a research on compensation and the effectiveness of the Occupational Health and Safety Act to migrant workers rights. With various policy changes that are ad hoc in nature, Tenaganita found that it became more and more difficult for migrant workers to seek redress and use the law to protect themselves. It now has a vigorous*

*campaign on the Right to Redress.*

*Thus, the case handling program is multi-dimensional and has a multi-pronged approach. The case handling brings about a process for migrant workers to assert their rights; it provides the issues in the migrant community for community based interventions; it gives the direction and focus for policy advocacy and regional networking. The program therefore, is a very effective way to involve migrants in meeting their immediate needs and in mobilizing and organizing them in order to reduce vulnerability.*

CHECKLIST FOR PUBLIC HEALTH  
LAW AND QUALITY OF  
LEGAL STATUS OF VULNERABLE  
OPERATION - DEVELOPED FOR  
ADVOCACY WITH  
HOST GOVERNMENTS



**CHECKLIST Public Health Law**

1. Does the legislation empower public health authorities to provide the following comprehensive prevention and treatment services:

- Information and education;
- Voluntary testing and counseling;
- STD, sexual and reproductive health services;



- Means of prevention, i.e. condoms and clean injecting equipment;
- Medication.

2. Does the legislation require specific informed consent, with pre- and post-test counseling to be obtained from individuals before they are tested for HIV in circumstances where they will be given the results of the test i.e. not unlinked, sentinel surveillance? Does the legislation provide for any exceptions to individual testing with informed consent only with judicial authorization?

3. Does the legislation authorize the restriction of liberty/detention of persons living with HIV on grounds relating to their behavior of exposing others to a real risk of transmission (i.e. not casual modes, such as using public transport), as opposed to their mere HIV status? Does the legislation provide in such cases the following due process protections:

- Reasonable notice to the individual;
- Rights of review/appeal against adverse decisions;
- Fixed periods of duration of restrictive orders (i.e. not indefinite);
- Right to legal representation;

4. Does the legislation authorize healthcare professionals to notify sexual partners of their patients' HIV status in accordance with the following criteria:

- Counseling of the HIV positive patient has failed to achieve appropriate behavioral change;
- The HIV positive patient has refused to notify or give consent to notification to the partner;
- A real risk of HIV transmission to the partner exists;
- The identity of the HIV positive patient is concealed from the partner where this is possible;
- Necessary follow-up support is provided to those involved?

5. Does the legislation provide for protection of the blood, tissue, and organ supply against HIV contamination (i.e. requiring HIV testing of all components)?

#### **CHECKLIST Equality of Legal Status Vulnerable Populations**

**Does the law ensure equal legal status of men and women in the following areas:**

- Ownership of property inheritance;
- Marital relations, e.g. divorce and custody;
- Authority to enter into contracts, mortgages, credit and finance;
- Access to reproductive and STD health information and services;
- Protection from sexual and other violence, including rape in marriage;
- Recognition of de facto relationships;
- Prohibition of harmful traditional practices, e.g. female genital mutilation?

1. Does the legislation prohibit mandatory testing of targeted or vulnerable groups, such as orphans, the poor, sex workers, minorities, indigenous populations, migrants, refugees, internally displaced persons, people with disabilities, men who have sex with men, and injecting drug users?

2. Does the law require children to be provided with age-appropriate information, education and means of prevention?

3. Does the law enable children and adolescents to be involved in decision making in line with their evolving capacities in regard to:

- *Consenting to voluntary testing with pre- and post-test counseling;*
  - *Access to confidential sexual and reproductive health services?*
4. *Does the law provide protection for children against sexual abuse and exploitation? Is the object of such legislation the rehabilitation and support of survivors, rather than further victimizing them by subjecting them to penalties?*
  5. *Does the law provide an equal age of consent for heterosexual and homosexual acts? Does the law recognize same-sex marriages or domestic relationships?*