

Governments, NGOs, organizations of women migrant workers, international organizations including UN agencies have implemented a host of creative initiatives that could be up-scaled, adapted and implemented in other sites within a country and in other countries. This section discusses some of these initiatives.

Mainstreaming Gender concerns in Migration into the Development Dialogue

In Nepal where migration concerns were not on the development agenda, the UNIFEM Regional Programme on Empowering Women Migrant Workers in Asia, together with other stakeholders has succeeded

- *in generating intense discussion on gender concerns in migration in relevant Ministries spearheaded by the Ministry of Labour, placing migration as a priority concern on the agenda;
- *mainstreaming gender concerns in migration into the Tenth National Development Plan of Nepal (2002 – 2007) - for the first time in the history of development planning in Nepal. Translating policy into action remains a bigger challenge.
- *mainstreaming gender concerns in migration into the National Plan of Action on CEDAW; the Beijing Platform for Action; and the National Plan of Action on Human Rights is underway.

Gender, pro-poor, democratic and rights perspectives have been mainstreamed into the formulation and implementation of the Philippines and Sri Lankan Acts to Protect migrant Workers

Following similar principles, in the Philippines, the migrant workers' NGO, Unlad Kabayan, in partnership with UNIFEM has commenced a pilot savings mobilization and investment scheme for on-site and returned women migrants. The initiative emphasizes the productive contribution of migrants to countries of origin and employment, to their communities and families. It advocates for gender responsive reintegration services (e.g safe channels to remit savings; facilities for productive investment), as a right. The savings and productive investment pilot is also envisioned as a development strategy in source sites. This will create an enabling environment that makes reintegration an attractive proposition to migrants and also has the potential to contain out-migration. The project has thus far:

- *conducted savings orientations for returned women migrants and their families;
- *facilitated establishment of women's savings groups on-site and in local communities to mobilize savings for productive investment;
- *identified enterprises with growth potential, such as root crop processing, diversification of root crop products, and breeding of organic chickens for local markets;
- *conducted initial entrepreneurship and technical skills training;
- *elicited the support of local government to engender the draft investment code, the municipal development plan and the pre-departure orientation on gender responsive reintegration provisions especially those facilitating savings and productive investment.

Introducing Protective Policies and Programmes in Countries of Origin

The Philippines and Sri Lanka have introduced the Migrant Workers and Overseas Filipinos Act of 1995 (Republic Act No 8042), and the Sri Lanka Bureau of Foreign Employment Act No: 21 of 1985, (amended by Act No.4 in 1994) respectively. Both Acts recognize the significant contribution of women migrant workers, and their particular vulnerabilities. Provisions relate to (a) the promotion and development of foreign employment; (b) the regulation and management of recruitment, placement and labour migration flows; and (c) the welfare and protection of migrant workers and their families.

A key decision by the Government of Nepal has been lifting the ban on Nepalese women migrating to the Gulf countries to work in the organized sector. This is subject to Nepalese embassies in countries of employment indicating it is safe. Lifting bans will be accompanied by rights protections to women migrant workers

In Nepal, the Ministry of Labour in close collaboration with the UNIFEM Regional Programme on Empowering Women Migrant Workers in Asia has established a Committee to review and draft a new Foreign Employment Act. This is pursuant to a public commitment on the 17th January 2003 by the Minister of Labour, followed by a Cabinet decision in February 2003, to protect and promote the rights of Nepalese migrant workers abroad. Proposals include: lifting the ban on Nepalese women migrating to the Gulf countries to work in the organized sector, subject to Nepalese embassies in countries of employment indicating it is safe; implementing mandatory pre-departure orientation sessions; creating

Running Nationwide and Community-based Awareness Campaigns Promoting Rights Protections

In Nepal, the UNIFEM Regional Programme on Empowering Women Migrant Workers in Asia, in partnership with the media, NGOs, specialists and government representatives catalyzed a successful week-long multi-media campaign in December 2002. The campaign drew attention to rights violations against women migrant workers, their productive contribution and concrete government and civil society interventions to empower them. It was preceded by a media sensitization programme, also involving a cross section of government and non-government resource persons and resulted in a public commitment by the Ministry of Labour in January 2003 and in a Cabinet decision in February 2003 to review and reform the Foreign Employment Act.

Work with Spouses and Children of Migrant Workers

Caram-Asia, a regional network on migration has been actively working at community level in countries of South and Southeast Asia with male and female spouses of migrant workers and their children, providing education, livelihood training, counseling and support services, mobilizing and organizing them for peer support.

photo courtesy of UNIFEM Project Office Nepal



The reform of provincial law in Indonesia is significant in the context of decentralization in the country; attempts to upscale and harmonize reformed provincial laws with the National Bill on Protection of Migrant Workers, both at a procedural/ operational level and in its substantive gender and rights provisions; and efforts to adapt and introduce the reformed provincial law in 13 districts in East Java.

The Philippines Act contains a comprehensive definition of illegal recruitment that includes acts by a licensee violating a worker's basic human rights. Trafficking is included as an aggravating circumstance in illegal recruitment, meriting serious penalties.

a migrant worker's welfare fund; establishing embassies in countries with large numbers of Nepalese migrant workers; classifying foreign employment as a service industry; establishing a Labour Desk at Tribhuvan International Airport to provide assistance to migrants etc.

In Indonesia the UNIFEM Programme is working with the local government of Blitar in East Java, and other stakeholders to pilot the reform of Perda (provincial law) on migration from a gender and rights perspective .

Regulating and Accrediting Employers and Recruitment Agencies using Incentives and Disincentives

✳️The Philippines and Sri Lanka accredit employers with diplomatic missions in host countries and monitor them. They license and accredit private employment agencies on grounds of financial and operational capability; capacity to provide jobs by facilitating new contracts with employers; absence of any record of criminal or public misbehaviour payment of a licensing fee and posting a bond/bank guarantee for claims settlement in the event of bankruptcy, losses/damages to the worker. Public officials implementing the Philippines Migrant Act, and their relatives within fourth civil degree of affinity, are banned from running recruitment and placement businesses.

✳️Both countries use a carrot and stick approach to ensure that agencies are licensed and act within the law. Incentives provided by the Philippines government to agencies with a good rights record include: (a) rewards for the top ten recruiting agencies who have no record of rights violations and who provide welfare services to workers and their families; (b) referring clients to recruiting agencies; (c) nominating representatives of recruiting agencies on the Board of the Philippines Overseas Employment Administration (POEA); (d) including representatives of recruiting agencies in government marketing missions, on policy formulation bodies etc; (e) inviting them as resource persons to share good practices at seminars for potential licensees.

✳️Both the Philippines and Sri Lanka monitor operations of recruitment agencies, surveil suspected illegal recruiters and penalize violations.

Both countries verify and approve job orders and issue overseas employment certificates. They develop and strive to enforce contracts embodying minimum human rights standards, rejecting applications of agencies to hire workers if contract requirements violate these standards. Further, the Philippines tends to approve contracts for countries that protect the rights of workers.

Forging Bilateral and Multi lateral Agreements between Countries of Origin and Employment

Italy has signed 22 bilateral agreements on issues such as the readmission of regular and irregular migrants, information dissemination and training programmes etc. It has agreements with Tunisia and Nigeria to protect trafficked persons.

The International Organization for Migration (IOM), Bangkok, and the ILO facilitated a Memorandum of Understanding signed between the Royal Thai Government and the Government of Lao PDR, on Employment Co-operation in October 2002. The MOU states that the two governments will introduce appropriate procedures for employment, and effective return of migrant workers who have completed the duration of their work permit; prevent and intervene in undocumented cross-border labour practices/employment; share information on the same; and introduce measures for appropriate labour protection. On the issue of protection the governments will apply national laws to protect the rights of those covered by the MOU. Workers will receive the same wages and benefits as national workers based on the principles of non-discrimination and equality. Labour disputes will be governed by the host country's national laws and by its relevant authorities.

Providing On-site Services to Women Migrant Workers

Both Sri Lanka and the Philippines through their diplomatic missions in countries of employment, organize community out-reach services such as recreational programmes, celebration of national events and festivals to reduce alienation; skills training to enable workers graduate to better jobs; emergency economic support, shelter, food, health care, counselling and legal aid; repatriation assistance and reintegration orientation for those returning to the source country.

The government of Hong Kong posts mobile ambassadors at the airport to provide arriving migrants with information kits and handbooks. These contain information on a cultural orientation to Hong Kong; government policies, legislation and services; contact addresses of NGOs and their services; information on government provided gender and rights training and how to avail of this. Small grants are provided by the Home Affairs Bureau, Government of Hong Kong to NGOs for provision of services like enhancing language skills of migrant workers.

Maximizing the Development Impact of Migration: Savings Mobilization and Productive Investment as a Reintegration measure

The Asian Migration Center, Hong Kong has been working with migrant workers in Hong Kong on the issue of reintegration and savings since 1993. The programme organizes and trains migrant workers – for example foreign domestic workers in Hong Kong – to participate in group savings, collective decision-making, and create sustainable alternative investments back in their home countries.

By early 2000, the Hong Kong Reintegration and Savings Group Savings Reached US\$ 100, 000

Reintegration initiatives promoting savings and productive investment highlight the contribution of migrants to countries of origin and employment, can effect development in source sites, and possibly contain out-migration.

With overseas migration, especially of women migrant workers, becoming an enduring structural feature of the Asian region, bilateral and multi lateral collaboration to protect them is becoming a necessity.

Ensuring the right to *Associate* and *Organize* in countries of employment

Hong Kong officially recognizes migrants' unions. Under the Registry of Trade Unions (RTU) Ordinance, a minimum of seven promoters can form and register a union. The Asian Women's Union, the Filipino Migrant Workers Union and the Indonesian Migrant Women's Union –unions of women domestic workers are examples. The Asian Migrant Center which has just shifted core strategies from counselling to organizing, supports initiatives of the fore-mentioned unions.

Unlike other forms of organizations, unions in Hong Kong are granted privileges in terms of protecting the rights of a union member. For instance, a union member whose contract is terminated by her employer due to her involvement in union activities, is protected under the labour law. An employer found guilty of the offence will be fined HK\$ 200, 000. The union can also bring cases to international attention by lodging complaints with the ILO.

In Italy, the Constitution and the Immigration Act provide all workers, national and non-national, the right to join unions and strike, and to form and join associations promoting social and cultural integration.

Registering Migrant Workers using Incentives Appropriate to their Needs

❖Both Sri Lanka and the Philippines require departing workers to compulsorily register with the government, pay a registration fee irrespective of their source of recruitment, provide information on the country of employment and the employer. An employer violating a contract is blacklisted by the government and this information publicly disseminated to prevent workers falling a prey to exploitation.

❖Sri Lanka's registration involves a combination of an incentive system and monitoring mechanisms which include:

- life and accident insurance, scholarships for children, pre-departure interest free loans to minimize migration costs and resulting debt, compensation in case of loss or abuse, airport assistance etc;
- government instructions to airlines to insist on registration with the Sri Lankan Bureau of Foreign Employment prior to the issue of air tickets to prospective migrant workers;
- a 24-hour vigil at the airport where officers of the Sri Lanka Bureau of Foreign Employment (SLBFE) carry out inspections to detect and register unregistered workers;
- registration of unregistered workers by Sri Lankan embassies in some West Asian countries

Mandatory registration of migrant workers is a protective measure and helps track workers, especially when there are lapses in communication with the family.



photo courtesy of eyeDS creative works

Collaboration between *Trade Unions* in General and *Unions of Migrant Workers*, including Domestic Workers

The Hong Kong Confederation of Trade Unions (HKCTU), the Indonesian Migrant Workers Union and other migrant unions have constantly worked together on issues confronting both local and migrant workers, such as wage cuts, maternity protection etc. HKCTU for example has supported several initiatives of the IMWU by facilitating the use of space, technical facilities, holding joint press conferences and by their physical presence at migrant worker's events.

Collaboration between *Countries of Origin*

Sri Lanka in partnership with the American Center for International Labour Solidarity (ACILS) has played an important role in promoting initiatives for regional cooperation between major labour sending countries. Meetings convened since 1997 in Colombo, Indonesia and Bangkok have resulted in agreement on provision of welfare services, sharing information - especially legal information and names of blacklisted agencies, and sharing experiences, especially good practice initiatives.

Implementing *Pre-recruitment* Dissemination Programmes

Both the Philippines and Sri Lanka implement pre recruitment information dissemination and awareness raising programmes for source site communities on migration realities, legal migration procedures, local opportunities and resources. This is to facilitate informed choices before irreversible decisions to migrate are made. It enables access to existing domestic resources as a sustainable alternative to migration.

Implementing *Pre-departure* Orientation Sessions for Migrants

The Philippines and Sri Lanka implement pre-departure orientation sessions for migrants with a strong gender and rights focus, which includes: awareness of themselves as productive human beings contributing heroically to society with human dignity and rights that must be respected, claimed and redressed when violated; consciousness raising on common rights violations; knowledge and understanding of contracts; key laws, procedures, programmes, services (welfare and public utility), entitlements, formal and informal redress mechanisms in countries of origin and employment and how to avail of these; provision of assertiveness training and training on how to negotiate one's way out of physically and sexually threatening situations; tips on stress

An estimated 70 per cent of migrant women register with the SLBFE prior to leaving. The number of workers registered with the SLBFE rose from 60,167 in 1994, to 178,052 in 1999.

management, country-specific cultural orientation, cultural tips on employer-employee relations and provision of better language skills; training on the use of modern household gadgets, electrical equipment and housekeeping, and other skills and job training; information on occupational health and safety, domestic accidents; reproductive health, STDs and HIV/AIDS and general health and well being; orientation on the need to save and invest productively.

Ensuring Gender *Sensitivity* and *Efficiency* in the Delivery of Pre-departure Trainings

Sri Lanka's pre-departure trainings for domestic workers are live-in programmes whose duration has been increased to more than a week. This helps avert problems such as lack of concentration, lack of time for reflection, absorption of information, opportunities to clarify and seek further information if needed. It is also a solution to difficulties in travelling back and forth to participate in the trainings.

Decentralized training venues with locations closer to source sites of workers, reduce costs of transportation, and address problems related to heterogeneity in language and dialect.

Course content developed by relevant government departments has been developed and standardized in close consultation with NGOs, gender and migration specialists, migrant women workers and reliable recruiting agencies.

All trainers are recruited by relevant government departments. Trainers include NGOs, experts for specialized modules, returned women migrants on issues such as rights violations, cultural tips etc.

Trainers are trained, their trainings monitored and the curriculum updated as required.

Protecting the *Rights* of both legal and undocumented migrants and enforcing minimum *Labour Standards* of protection

Italy's immigration law, 'Testo Unico', enacted in 1998, is precedent setting, with several gender and rights based provisions governing entry, stay, family reunion, civil rights. Some of these are:

- *medical assistance and workers' rights provided equally to nationals and non-nationals;
- *family reunion and possibility for family members to work and study in the country; Women who join their husbands have the legal possibility of entering the labour market;
- *protections for women trafficked for sexual exploitation and other forms of violence, such as temporary residence permits, accommodation in safe houses, special witness protection programmes, socio-economic assistance and reintegration programmes;

- *bans on the expulsion of pregnant women, women with children below the age of six months, and husbands of these women with irregular immigration status. They are provided with temporary residence permits;
- *medical care for migrants with irregular status, including pregnant women, on an equal footing with Italian women;
- *obligatory provision of basic education for ten years for all foreign children in Italy, whatever their own or their parents' legal status;
- *no loss of residence permit for employee/family, when the breadwinner is unemployed due to dismissal or renunciation. Individuals are entitled to register for unemployment for the period of validity of the residence permit;
- *judicial protection against all forms of discrimination before the civil court.

Italy's Constitution guarantees the fundamental rights of non-nationals regardless of their immigration status. Non-nationals enjoy civil rights equally with citizens under the condition of reciprocity and with the respect of rules laid down by law in general. Men and women are guaranteed equal economic and social rights, including temporary special measures.

Gender and rights-based pre-recruitment and pre-departure orientation programmes facilitate informed decisions to migrate and help migrant workers avoid or deal with exploitation

Including domestic workers, including foreign domestic workers *under labour laws* or introducing special *legal protections* for them

In Jordan, where the UNIFEM Regional Programme on Empowering Women Migrant Workers in Asia works in close collaboration with the Ministry of Labour and other stakeholders, the Jordanian Ministry of Labour:

- *is amending the labour law to cover domestic workers. This is significant as it recognizes domestic work as productive labour and domestic workers as workers with legally recognized and enforceable rights;
- *endorsed a Special Unified Working Contract for Non-Jordanian Domestic Workers on the 21st January 2003. The contract has substantive rights provisions which include: responsibility of the employer to bear the costs of the worker's travel, work and residence permits; timely payment of wages; right of the worker to terminate the contract without notice, if the fore-mentioned costs are not borne by the employer and wage payments are delayed; payment of wages directly to the worker (unless indicated otherwise by the worker in writing), with signed receipts maintained by both parties; adequate shelter, clothing, food, and health care; right to life and accident insurance at the rate of 20 Jordanian dinars with equal contributions from the employer and worker; a weekly holiday, and bonus at the end of contract of the equivalent of 15 days wages; reiteration that both parties treat one another with respect and dignity, and that treatment of women migrant workers be in compliance with international human rights standards.

In Hong Kong, the Government has a legally valid domestic workers employment contract that has important rights provisions such as minimum wages, timely payment of wages directly to the worker, a weekly holiday, health insurance, decent living space etc.

The Special Unified Working Contract for Non-Jordanian Domestic Workers contract is one of the first of its kind in Jordan, and a model for other countries in the Arab region. It is legally valid and binding and is the basis on which a visa, work permit, and residence permit for Jordan are obtained.



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