

# Migration Issues Concern Trade Unions

# Background Proceedings Action Plan and Conclusions

ICFTU-APRO Regional Consultation on  
Developing a Cooperating Mechanism for Promoting and  
Protecting the Rights of Migrant Workers  
Jakarta - Indonesia  
19-21 March 2003

## **FOREWORD**

The phenomenon of international migration, as we all know, is an important dimension of the labor market. It has consequences both for the labor-sending and receiving countries. The United Nations estimates that as many as 175 million migrant workers and their families are residing in countries other than of their own. The number of labor sending and receiving countries are now over 100; it was 64 in 1970.

Despite the huge numbers involved, adequate attention has not been paid on the living and working conditions of the migrant workers and their families. The employers, by and large, continue to exploit the vulnerabilities of the migrant workers. Yet another dimension added to the overseas flows of workers relate to the increasing feminization of the whole process. And in addition, human trafficking especially of women is fast emerging as another area of serious concerns.

It is pity that despite the increasing importance of the phenomenon of migration, few states have formally recognized the issue as manifested in the ratification of either the related ILO Conventions, namely: no. 97 and 143 or the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. In fact, the latter passed in 1990 only came in force this year in January, after ratification by the loth-needed country, Guatemala!

In case of the Asian and Pacific region, the state of ratification of the ILO Convention no. 97 and no.143 is simply deplorable.

The trade union movement can no longer remain aloof to this sorry state of affairs. We need to campaign for the ICFTU "Social Charter" for the migrant workers. In addition, I believe that the very process of crossing borders by our brothers and sisters to seek a decent work and living needs a fresh look by the labor movement.

Besides, sharing information and analyzing the ground realities, of particular importance is to identify areas and modes of cooperation between trade unions in the labor-sending and receiving countries. I am happy that this document of the ICFTU-APRO reports of a regional consultation for developing a cooperative mechanism for promoting and protecting the rights of migrant workers that was held in Jakarta - Indonesia on 19-21 March 2003.

The necessary credit for this document goes to the resource persons and the participating leadership. The resource persons provided the much-needed information, while the presentations made by the participants provided wealth of country experiences. We place on record our sincerest appreciation to all - the resource persons and the participants for their valuable contributions.

We are hopeful that not only we in the labor movement but also by the academics and activists in the area of migration will find this document useful.

**Noriyuki Suzuki**  
**General Secretary**

**25 March 2003**

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## I: BACKGROUND

According to the United Nations "International Migration Report 2002", the number of migrants in the world has more than doubled since 1975. Some 175 million people are currently residing in a country that they were not born in - most living in Europe, 56 million, in Asia 50 million, and in Northern America 41 million. Some 40 per cent of all migrants live in the less developed regions. And the annual amount of remittances to developing countries from foreign workers is estimated at \$50 billion.

The phenomenon of international migration is increasingly being observed as an escape-route, both of the migrant workers and their employers. In the absence of adequate employment opportunities available at home, many are tempted to cross borders. The growing disparities between countries and regions have been naturally contributing to this cross border flow of the workforce<sup>1</sup>.

The international migration of labor is accelerating further due to the ongoing process of globalization and free trade regime. Here it is not only due to the desire of the work aspirants to migrate. Equally interested are many employers in the host countries to accommodate the overseas workers. This is on their presumption that the migrants would stay away from unionism and neither grumble on low salary nor raise concerns on poor conditions of work, hence they could maintain or even enhance their competitiveness! Further, many of the East and South Asian countries are faced with labor shortages, while many West Asian countries are continuing their reliance on the migrant workers.

### I.1 The Issues of Concern

Governments are putting out two fundamental and often conflicting messages. While the first, as pointed out by the UN report on migration, is "Help Wanted" i.e. asking for migrants to come in ... from computer programmers and nurses to janitors and fruit pickers and the second that comes across is "Keep Out". Societies are increasingly concerned about the number and proportion of migrants - who is coming in, what are they doing, how are they affecting my job, what languages are they speaking, what faiths are they professing?

Despite the huge numbers involved, adequate attention, however, has not been paid in terms of making effective measures addressing living and working conditions of the migrant workers and their families. The migrant workers are first to be fired and largely with no compensation. They are denied access to their fundamental rights. Seldom they are allowed to organize and rarely to do the collective bargaining. Despite the international labor standards on "equality", wage discriminations are rampant. Wage inequalities exist, while social protection is denied.

It is unfortunate that in the drive to liberalize and deregulate the economies thereby hoping to reap the benefits of globalization and free trade regime, many countries have

<sup>1</sup> The growing disparities, for instance, can be gauged by the widening income gap. The top 20% of the world's population managed to increase their income to more than four-fifths of the global income. While, on the other hand people at the bottom 20% found their income declining further from a mere 2.3% to 1.4% over the past few decades. And this trend is continuing unabated.

relegated the main partner of development and change - the worker - to a subsidiary position. And in this context, the fate of migrant workers emerges as of the least interest and gravely ignored. While, employers, by and large, continue to exploit the vulnerabilities of the migrant workers, the unscrupulous agents in the labor sending countries are, quite often in connivance with the government officials, exploiting the intending migrants by extorting substantial money, distorting facts; even using the illegal channels. The illegal migrants also referred as "undocumented" are as high 50% in case of Malaysia, 60% in case of Japan and highest - 68% in case of Japan, see table-I. The situation in other labor receiving countries - many with porous borders and inadequate laws with lesser enforcement - would not be dissimilar. The vulnerabilities and extent of exposure to exploitation of these migrant workers can be well ascertained.

Table-I: Illegal Migrants in the Selected Asian Countries  
by Main Source Countries

<b>County of Destination</b>	<b>Year</b>	<b>Total Migrants</b>	<b>% Illegal</b>	<b>Main Source Countries</b>
Malaysia	1998	1,762,000	50	Indonesia, Philippines, Thailand, South Asia
Japan	1997-98	410,000	68	South Korea, Philippines, Thailand, P.R.C. Burma, Laos, Cambodia, South Asia
South Korea	1998	159,000	60	Philippines, Thailand, Burma, Laos, Cambodia, South Asia

Source: Kemal, A.R. (2003). Nature, Extent, Impact & Issues of International migration: Measures to Protect and Promote Rights of Migrants. Presentation made in the ICFTU-APRO Regional Consultation on Migration, 19-21 March 2003.

Largely, the migrant workers pay a substantially high amount to the employment agencies for managing their journeys to overseas destinations. The fee paid is disproportion to the wages they receive, almost consuming salary of a year. The plight of those entering without documents would be precarious further. The nature and extent of private employment agencies charging exorbitantly higher fee can be ascertained by the case of Filipino workers in Bahrain and Malaysia, see table-II.

Table-II: Ratio of Salary to the Fee Paid to Employment Agency  
The Case of the Filipino Workers in 1998

<b>Country</b>	<b>Ratio of Fee to Salary</b>
Bahrain	0.290
Malaysia	0.622

Note: Based on Kemal, A.R (2003)

Feminization of the whole process is the new dimension added to the overseas flows of workers since 1980s. In case of the two major labor-sending countries - Indonesia and the Philippines, the proportion of female migrants has respectively been 78% and 61%. While, this proportion for the former has been stable during 1980 and 1998, it has increased for the latter from 47% to 61%, see table-III. Many are found to be going as "domestic maids" in the major labor-receiving countries in East, South East and West Asian countries.

Table-III: Percentage of Female Migrants from Selected Countries

<b>County</b>	<b>1980</b>	<b>1993</b>	<b>1998</b>
<b>Indonesia</b>	78	66	78
<b>Philippines</b>	47	55	61
<b>Thailand</b>	13	19	16

Source: Kemal, A.R (2003)

Yet another development of serious concern is the trafficking especially of women. "Major center" for human trafficking is Southeast Asia - more than 200,000 women and children are trafficked, said the former UN High Commissioner for Human Rights in 2002. Traffickers operate with impunity because of inefficient law enforcement, compounded, in some cases, by official corruption.

One should, however, not overlook the trafficking of women also taking place in South Asia. Tens of thousands are being trafficked from Bangladesh to India, Pakistan and elsewhere. The phenomenon of refugees is emerging as yet another dimension of cross border flows of the people<sup>2</sup>.

Despite large number, only few states have formally recognized the need to provide necessary protection to the migrant workers. The ratification of either the related ILO Conventions, namely: no. 97, 143, etc or the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, is minimal. In case of the Asian and Pacific region, only three countries have ratified the ILO Convention no. 97 and none has ratified no.143. Further, only one country - East Timor - in the region has ratified the UN Convention.

They - the migrants - are denied their right to organize and to do the collective bargaining. No wonder, their plight is largely miserable. Further, in the absence of adequate enforcement mechanism, they remain vulnerable. It is not only the inequality of treatment meted out to them, increasingly the 3D jobs - dirty, difficult and dangerous - are associated with them. The high cost involved in migrating largely makes the migrant workers subservient,

<sup>2</sup> Their number is increasing and stood at 16 million in 2000, of which 12 million are under the mandate of the United Nations High Commissioner for Refugees (UNHCR) and 4 million under the mandate of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). The largest numbers of refugees are found in Asia, 9 million, followed by Africa with 4 million. Three million refugees are located in developed countries.

docile and vulnerable; this fully exploited by the employers. The plight of the "undocumented" workers is worst. Quite often they are detained and jailed, even and caned<sup>3</sup>.

The arbitrary decisions by the host governments are yet another dimension adding to their vulnerabilities. The Malaysian government, for example, decided in 2002 to deport 80,000 Bangladeshi workers and planned to exclude Bangladeshis for further imports of foreign workers. The Hong Kong government decided in early 2003 to levy a tax on the foreign maids and also to reduce their minimum wage.

## **II: ICFTU-APRO Initiatives on Protecting the Rights of Migrant Workers: Few Instances**

Besides organizing a regional conference on the role of trade unions in protecting migrant workers in January 1994 in Singapore, the ICFTU-APRO has been taking up the case of migrant workers in the meetings of its "steering committees", "executive boards" and the "conferences": Realizing that a discussion amongst the affiliated organizations is needed to deliberate on "mainstreaming" migrant workers, it organized another regional workshop in October 2000.

### **II.1: Regional Workshop on Mainstreaming Migrant Workers**

Seeking ways and means of mainstreaming the migrant workers thereby they are no more left to a situation depicting them as a "mere" tradable commodity was the main objective of this regional event of the ICFTU-APRO. Organized on 4-7 October 2000 in Bangkok - Thailand, some other related objectives of this workshop were:

- To share the information on the nature and extent of migration flows, their working and living conditions, and the policies of labor-receiving and sending countries,
- To identify the extent and realities of feminization of migration, including trafficking of women,
- To explore the possibilities and modalities of providing social security, and health and safety measures to migrant men and women workers,
- To identify areas and modes of cooperation between trade unions in the labor-sending and receiving countries,
- To find out the modalities of gainful re-absorption of the returning migrants, and the role of respective trade unions, and
- To prepare an action plan for mainstreaming the men and women migrant workers.

<sup>3</sup> Thirteen illegal immigrants in Malaysia in 2002, mainly from Indonesia, were sentenced to jail and caned for breaking the laws, which demand that foreign workers are registered and approved. The Amnesty International said the sentences were barbaric as "whipping someone with a cane is cruel, inhuman and degrading". The International standards make clear that such treatment constitutes torture.



### *II.1.i Conclusions of Regional Workshop*

The enormity and complexity of the task requires a multi-pronged approach and effective partnerships with all the actors, emerged as one of the important conclusions. Equality in employment for migrant workers, though achievable, is contingent upon, the workshop concluded, on a simultaneous focus on the following:

- The concerns of women migrant workers need to be integrated in the overall policy dialogue, lobbying and campaign activities. This then should be supplemented with the target oriented programs both in the labor receiving and sending countries.
- Integrated and comprehensive approach to migration issues by the international organizations, and trade unions in the labor-sending and receiving countries. The integrated approach also implies a simultaneous focus on re-absorption of the returning migrants, skills development; training and retraining, better networking and greater information. The phenomenon of migration intermediaries needs to be studied in detail especially their operational modality and how to eliminate the element of exploitation.
- The sustainable re-integration then brings into question the initial cost of migration, which in many countries is simply exorbitant.
- Is migration really the panacea of the economic development of the labor sending countries, and more so for the resolution of unemployment and poverty? The labor-sending countries will have to work for the creation of environments for sustainable development. Yet a related issue is that of the "brain drain", and it is assuming greater proportions in the wake of globalization. It has to be addressed especially in the developing countries.

### *II.1.ii Recommendations of Regional Workshop*

Some of the main recommendations emerging out of this regional workshop were as follows:

- Foreign missions of the labor-sending countries, in order to ensure equality of employment, need to forge close cooperation with the national centers in the labor-receiving countries.
- Migration policies should be developed as a part of a broader regional economic development plans aimed at overcoming the problems and improving the living conditions of all.
- Effective legal guarantees of equal wages and working conditions must be established in order to avoid a situation where employment of foreign workers lead to the de facto erosion of labor standards and a deterioration of the conditions of all workers.
- Right to family life of the migrant workers.
- Fair and proper control of entry of migrant workers to promote their formalization in the labor market.
- Appropriate measures are needed with regard to employers who employ illegal migrants.
- Heavy penalties should be imposed on traffickers in human beings and those who encourage migration under false pretences.

- Migrant workers must have the right to join trade unions without any hindrance; must be able to transfer wages and benefits without restrictions; insurance, pensions and provident fund payments must be guaranteed even after they return to their country of origin. Concerned governments must agree on effective enforcement of labor standards.

## II.1 The Meeting and Press Conference on the Issue of Bangladeshi Migrant Workers in Malaysia

Following press reports about the decision of the Malaysian government to send some 80,000 Bangladeshi migrant workers home and put a stop to take them further, the ICFTU-APRO convened a meeting of the MTUC and ICFTU-BC in Ptaling Jaya, Malaysia on 17 July 2002. The meeting agreed actions in two directions. Firstly, to: a) address a joint press conference in the afternoon of 17 July 2002 to highlight the issue the reported deportation of some 80,000, b) raise the trade union\_ concerns with the Government of Malaysia, c) ask for the withdrawal of their decision as well as to respect the fundamental rights of the migrant workers, and d) ICFTU-APRO to write to the authorities about the concerns of the labor movement on the reported plans, ask for the protection of migrant workers and also to highlight the prevailing corrupt practices<sup>4</sup>.

Secondly, it agreed that the ICFTU-BC will: 1) look into the ways and means to highlight the corrupt practices of the overseas employment promoters in connivance with the concerned government officials, 2) ensure a wider publicity of the existing rules and regulations, and existing state of protection mechanism, 3) prepare a plan for interactions with the association of the overseas employment promoters, media personnel and the government officials, and 4) convene a meeting/seminar on the issue of migrant workers.

## III: The Regional Consultation of the ICFTU-APRO

As a sequel to the facts indicated in the preceding sections, and in view of the events that unfolded latter - violations of rights of the migrant workers, their exploitation, denial of fundamental human rights, the issues related to remuneration, social security and freedom of association, etc - the need for an interaction of the representatives of national centers both from the labor-sending and receiving countries was clearly reflected. The reduction in minimum wages of maids in Hong Kong and imposition of a levy, the harsh treatment meted out to foreign workers in Malaysia, and similar instances elsewhere highlighted a fresh look by the trade unions and more so from the perspective of forging a collaborative mechanism in protecting and promoting rights of the migrant workers.

<sup>4</sup> The General Secretary ICFTU-APRO addressed the press conference together with the Secretary General, MTUC, ICFTU-BC representative and GS, TUAC-OECD . The APRO secretariat also participated. The focus was on the: The OECD guidelines and its relations on promoting and protecting workers' rights as well as humanizing globalization. The fall out of the reported plans to deport 80,000 workers by the end of August 2002 and not to take further BD workers on the affected families who are primarily from the poor rural areas. The extreme vulnerable situation of these workers and the impact on the BD labor market. The need for protection of the of rights of the migrant workers, the availability and accessibility of social protection to them, the payment of full salaries and that too on time as well of the severance pay. The contribution of the migrant workers to the Malaysian economy particularly by the BD workers in the rural areas and plant sector.

It thus became imperative that a follow up - of the work already done, recommendations made and actions taken - is done. Mainly, in the form a regional trade union consultation but with a greater focus on learning from the experiences and evolving a cooperative mechanism.

### **III.1 Objectives**

The main objective of this regional consultation thus was to deliberate on evolving a cooperative mechanism of trade unions in the labor-sending and receiving countries in protecting and promoting the rights of the men and women migrant workers. The other objectives were as under:

- Have a further understanding of the nature and extent of the international migration,
- Comprehend the role, policies and programs of ILO and other international organizations in addressing migrant workers' issues, and
- Look into the ways and means to: 1) highlight the plight of migrant workers, 2) the corrupt practices of the employers in the host countries as well as overseas employment promoters in connivance with the concerned government officials in the labor-sending countries, 3) ensure a wider publicity of the existing rules and regulations, and existing state of protection mechanism both in labor-receiving and sending countries, and 4) prepare a plan for interactions with the association of the overseas employment promoters, media personnel and the government officials.

### **III.2 Program structure**

Based on the objectives and the areas to be covered in this regional consultation, greater emphasis was placed on understanding, dialogue and developing a cooperative mechanism. While, there were few plenary sessions, a larger space was provided for greater interaction amongst the participants. As much as six sessions were devoted for the "regional consultation", for details see the program at Annex-A.

### **III.3 Proceedings of the Regional Consultation**

In the absence of adequate employment opportunities available at home, many men and women are tempted to cross borders, General Secretary, ICFTU-APRO Noriyuki Suzuki informed in his opening address. The migration is accelerating further due to the ongoing process of globalization and free trade regime. Here it is not only due to the desire of the workers to emigrate, equally interested are many employers in the host countries to accommodate the overseas workers. This is on their presumption that the migrant workers would stay away from unionism and neither grumble on low salary nor raise concerns on poor conditions of work, hence they would remain competitive, he lamented.

Despite the huge numbers involved, adequate attention has not been paid on the living and working conditions of the migrant workers and their families. The employers, by and large, continue to exploit the vulnerabilities of the migrant workers. It is pity that despite the increasing importance of the phenomenon of migration, few states have formally recognized the issue as manifested in the ratification of either the related ILO

Conventions or the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, he added.

The trade union movement can no longer remain aloof to this sorry state of affairs. We need to campaign for the ICFTU "Social Charter" for the migrant workers, Suzuki emphasized. Besides, sharing information and analyzing the ground realities, of particular importance is to identify areas and modes of cooperation between trade unions in the labour-sending and receiving countries. And our assemblage here in Jakarta is precisely to seek ways and means of cooperation, he concluded.

The trade Unions, which view migrant workers as fully fledged workers with the same rights as to others, are fighting at both national and international levels to promote and ensure proper application of legal instruments recognizing these rights, informed Sabur Ghayur from the ICFTU-APRO. The ICFTU, Ghayur informed, emphasizes on "equal rights and treatment at work" as fundamental right for all. It is campaigning to obtain ratification of international conventions providing for equal treatment - in jobs, wages, social security and union rights. Its work on protecting migrant workers is reflected in all priority areas: trade union rights, employment and labor standards, equality and organizing. It celebrates international day of migrant workers - 18 December - and on this occasion in 2002, prepared a special dossier on female domestic workers. The concerns on the plight of migrant workers as well as on seeking protection of their rights are clearly reflected in the ICFTU-APRO work, he added.

The rights of migrant workers are classified as related to: 1) before leaving the home country and during journey to new country, such as: information about working conditions, recruitment, contracts, facilitated departure, medical attention and even free travel, 2) on arrival, such as: customs exemption, assistance in finding suitable employment and settling in, 3) during employment, such as: wages and other terms of employment, working conditions, job security, promotion, social security, health and safety, trade union rights, access to courts, access to other jobs, vocational training and freedom of movement, 4) social and civic rights, such as: education and culture, transfer of funds to home country, family reunification and visits, and advisory services, and 5) on repatriation, such as: appeal against arbitrary decisions, assistance with arrangements and rights of returning migrant workers. These rights, Ghayur informed, are enshrined in the ILO Conventions and Recommendations<sup>5</sup>. Evolving a cooperative mechanism amongst trade unions in the labor-sending and receiving countries should appear high on the agenda for protecting and promoting rights of migrant workers, he concluded.

The ILO Senior Labor Market Specialist, Elizabeth Morris, in her presentation, quoted Director General Juan Somavia "the migrant workers provide valuable services with their labor and furnish often an invisible subsidy to the national economies that receive them. They work in factories, produce food, provide domestic service, staff hospitals and

<sup>5</sup> ILO's Conventions and Recommendations are: 1) C.97 - Migration for Employment Convention (Revised), 1949, 2) R.86 - Migration for Employment Recommendation (Revised), 1949, 3) C. 143 - Migrant Workers (Supplementary Provisions) 1975, 4) R.151 Migrant Workers' Recommendation, 1975 and 5) R.100 - Protection of Migrant Workers (underdeveloped countries), 1955. And concerning social security of the migrant workers, the international instruments are: 1) C. 118 - Equality of Treatment (Social Security), 1962, 2) C. 157 - Maintenance of Social Security Rights, 1982, and 3) R. 167 - Maintenance of Social Security Rights, 1983.

contribute to a wide range of basic needs, often for low wages and with little recognition of their contribution." The countries, Morris informed, can be characterized as: 1) labor-sending, such as: Bangladesh, China Indonesia, Nepal, Philippines, Sri Lanka, Viet Nam, etc, 2) labor-sending and receiving, such as: India, Malaysia, Pakistan, Thailand, etc, and 3) labor-receiving, such as: Middle East, Brunei Darussalam, Taiwan (China), Japan, Republic of Korea, Hong Kong SAR, Singapore, etc.

The objectives of the ILO are: ensure decent work for all workers and protect the interests of workers when employed in countries other than their own. The Preamble to the Constitution included in 1919 the "protection of the interests of workers when employed in countries other than their own." The fundamental Conventions of the ILO and the Recommendations that accompany them are applicable to all workers without distinction of nationality and in many cases regardless of migration status, she added. The main principles of ILO on migrant workers are:

- Non-discrimination and equal treatment of workers - nationals and migrants,
- Respect for basic human rights of all migrant workers,
- Protection of migrant workers in irregular situations and
- Regular consultations with social partners

Adoption of bilateral and multilateral labor and social security agreements to ensure that migration is orderly and migrants are protected are important, she emphasized. In conclusion, Morris pointed out, some key challenges confronting trade unions are under:

- How to protect the human rights of migrant workers,
- How to control trafficking of women and children,
- How to protect against discrimination and xenophobia,
- How to ensure that migration policies are gender sensitive,
- How to improve migration management,
- How to make productive use of remittances,
- How to address acute poverty and under utilized labor in countries of origin,
- How to ensure safe access to overseas employment by poor workers,
- How to provide adequate skills,
- How to reduce malpractices by private recruitment agencies,
- How to improve bureaucratic procedures and reduce migration costs,
- How to reduce vulnerability to health risks such as STDs, HIV/AIDS and improve occupational safety and health,
- How to encourage a greater role by the social partners in migration issues for policy elaboration and practical implementation,
- How to promote bilateral and regional consultations, agreements and alliances, and
- How to raise awareness and disseminate information about international migration.

The proponents of market economy argue that governments should remain away from business activities; hence greater deregulation is advocated to facilitate effective participation of the private sector. Such an emphasis should also ensure that welfare of the working men and women are improved, argued A. R. Kemal, Director, Pakistan Institute of Development Economics. While providing an in depth analysis of the phenomenon of migration, the nature, extent, impact and policies, Kemal pointed out that the debate during Uruguay Rounds did focus on movement of peoples across borders on grounds

similar to the one advanced for the factors of production, thus ensuring optimal utilization of all. This argument, however, did not receive a positive response mainly from the industrialized countries.

The market forces if properly implemented and applied across the board are beneficial, Kemal argued. However, restrictions on the mobility of labor are widely observed. A mere focus on investment flows is discriminatory, should accompany migration flows, as they are more important, Kemal emphasized.

An international consensus on labor migration would also include a focus on: 1) both labor-sending and receiving economies must agree on a system of core values, standards and outcomes to be attained through migration. Where labor migration serves this system, governments should be bound to provide facilitative mechanisms. Where it fails, policing mechanisms should be introduced, 2) an international labor market information should be available to the public, providing guidance on labor shortages and surpluses, and directing labor outflows and inflows only to those areas where workers' protection is assured, 3) the receiving country should initiate any measure regulating migrant labor. A policy of selective deployment can and should be implemented through regulation of recruitment and placement activities. This should include effective measures to facilitate legal cross-border flows at reasonable costs to the migrant, including family in the appropriate instances, 4) standardizing grounds for deportation and procedures for illegal migrants, particularly workers, should be explored. The accountability of enterprises employing such workers should also be well defined, and 5) where labor migration is replaced by capital migration through foreign direct investments, the investors themselves should be at the forefront in complying with core labor standards, Kemal concluded.

### *III.3.i: Some Country Specific Instances, Policies and programs*

The deliberations during "regional consultations" - six sessions in all - focused on national experiences, and as how to address the issues as well as build and strengthen cooperation.

In Hong Kong, an employer is required to pay a levy for employing foreign workers, HK\$400 per month. Mostly domestic helpers - 240,000 in all and 150,000 from the Philippines and 80,000 from Indonesia), the minimum wage is set as HK\$ 3,670 (480US\$). The domestic maid is to be provided with a room to live or share a room with children. They are also entitled for 7 days paid holidays as well as 12 statutory leave. They get 2-year contract that is normally renewed. While expatriate professionals can get a "permanent residence" (PR) after 7 years, the domestic workers are not entitled to.

In the Republic of Korea, migrant workers started coming in early 1990s and before that only few professional workers were allowed to come; English teachers, etc but only 14,000 were allowed. However, in 1991 the government allowed companies to bring foreign trainees for their own overseas establishments and latter allowed companies, mostly small-scale, to bring in foreigners as trainees. Such foreigners were also allowed to work for one year. After completing 1-year training, they were allowed to work for a year; this 1+1 was subsequently changed with 2+1 (2-years training and 1-year work). The wages of trainees are less than local workers even of workers having lesser vocational/ technical competence. This difference that used to be about half has been latter reducing

and presently foreign workers (trainees) receive about 80% wages of the locals. The employers hold passports; even keep them confined to work places. Sexual assault and violence is not uncommon. Further, they are more exposed to industrial accidents, as employers are largely small enterprises. Bankruptcy invariably leads to return, as "training" must be only at the company concerned. The foreign workers are recruited by the Association small enterprises.

In Singapore, the trade union is providing protection to all workers including migrants. The need of Singapore to have foreign workers is highlighted by the concerned ministry, 18% of union members are foreigners. During "May Day" celebrations, one day is earmarked for foreign workers. While there are no minimum wages for migrant workers as is also the case with locals, wages are paid according to productivity and are determined by the tripartite wage council. The Employment Act is applicable to all workers. A worker cannot work for more than 44 hours and employers have the responsibility to ensure a safer working environment. A half-day health and safety course in native language before starting construction work is mandatory. Employers are encouraged to purchase group medical insurance of foreign workers and they are asked to justify the foreign manpower needs. They must ensure a job before foreign recruitment; only then work permit is issued. A foreign worker levy is imposed mainly to bring the gap closer in wages to local and foreign workers through training. This levy of S\$370/worker is brought down to S\$40/worker after imparting to the foreign workers. The employers employing illegal workers or even those who provide residence face imprisonment.

### *III . 3.ii: Documenting Issues of Concern*

In recruiting, licensed and unlicensed employment agencies are operating and they charge exorbitantly high fee. These private agencies - many legal but also a large number of them being illegal - operate with or without having necessary job demands in hand. The government agencies, however, are genuine but here too the cost is very high. Yet another dimension is the "legally practicing illegal work" - this refers to licensed agencies either charging substantially higher fee than allowed under the rules and in worst cases using their legal status for undertaking clandestine activities. In a number of cases, despite knowing well that agreements are fictitious, the intending migrants are still interested to go and are found willing to pay! This is surely attributable to sheer lack of employment opportunities at home as well as the attraction and hope of getting a good job in the land of promise.

Some people also "pay" as the existing red tap makes it almost impossible to get the formalities completed and that too on time. These procedures interestingly have been put in placeto ensure necessary protection!

The recruitment done through private agencies and terms and conditions determined are quite often not honoured. Significant difference in salary is not uncommon to the one indicated in the agreement and/or promised and the one received after joining the work. The employees in many cases hold dual contracts, one before arriving and other after arriving and joining. Even in many cases a clause "can not join union" is added.

Problem of domestic workers are serious. Their passports are held by the employers and are subjected to violence and even sexual assaults. The fear of losing a Job is sufficient in many cases to keep them "silent". In fact, employers of the migrant workers, in order to ensure that they remain docile and undemanding, quite often use "job security" as a threat.

The permit to stay and work is revoked, migrants asked to go back without even settling the legal entitlements. If at all, a temporary residence pass is obtained to settle necessary dues and even to seek justice from courts. The concerned workers, however, are not allowed to work. And for staying in the host country and not allowing them to work during the currency of the court proceedings, a fee is charged every month for granting a "stay permit"; in case of Malaysia the amount is RM100 per month! Delaying the case by courts is also not uncommon. At times, workers have been declared as "security threat" and sent back.

Employment agencies caught for their malpractices and even illegal work are quite often found escaping any punishment. If at all a punishment is given, the penalty imposed is far less than the crime and damage inflicted on the concerned migrants.

### *III.3.iii: Protecting Migrant Workers*

Firstly, a proactive stance of national centers. Establishment of a "special committee" to deal with migrant workers' issues would be a necessary facilitating step. The issues of migrant workers also need to be integrated with the work of committees dealing with "labor laws". Organizing - migrant workers - and strong emphasis on enforcement of laws would be a necessary step.

The experience of the FKTU needs to be looked into. Though, opposed to foreign workers, its stance has been "equal treatment" and emphasizing documentation. The FKTU is also asking for application of minimum wages and replacement of training system with some employment system. Further, it has established a task force with a focus on: 1) reform of the system, 2) research, and 3) lobbying. It is also asking for the establishment of tripartite committees where NGOs are also involved. It is emphasizing provision of legal services to those who need and holding bilateral meetings with labor-sending national centers; meetings with trade unions from Vietnam, Mongolia, Nepal and Bangladesh already held. The organizing of migrant workers is underway and a separate meeting is held month migrants from different countries.

Regular meetings with foreign missions both in labor-sending and receiving countries would also go a long way in protecting and prompting the rights of migrant workers. The plans of MTUC to organize such meetings with the foreign missions of labor-sending countries are an attempt in this direction.

Secondly, a mechanism for regular interaction of migrant workers needs to be in place. A platform to share information and experiences amongst unions having migrant workers in work places. The NTUC "migrant workers forum" is a step in this direction that needs to be carefully looked into.



Thirdly, it is the greater and regular information as well as fresh research on documenting the mechanisms of cross borders flows. This needs to be addressed on priority basis. The establishment of data bank and provision of online services would be a further facilitating and complimenting step. Preparation of a booklet in native language of the migrant workers can address many problems. This booklet also needs to contain information on as how to remit money through banking system.

Fourthly, it is the lobbying and advocacy, seeking measures and heavy penalty on abuse of workers. The ministerial and summits of regional grouping of countries - ASEM, APEC, ASEAN, SAARC, etc - are important avenues to seek protection of the rights of migrant workers. The ASEAN labor ministers meet regularly. And this region has important labor-sending and receiving countries, hence an important forum for lobbying and advocacy. The "International Day of Migrants workers" falling in December can also be an important opportunity for the trade unions both in labor-sending and receiving countries to highlight the issues concerning the migrant workers and their families. The ICFTU-APRO needs to provide lead as well as necessary coordination.

Fifthly, the ILO has also to be proactive in tackling the problem of immigration authorities, the corrupt practices and violations of the fundamental rights of workers; migrants included. It can also encourage in the greater use of the tripartite forum for addressing migrant workers' issues both in labor-sending and receiving countries. It also needs to seek adequate policy and provisions as well as in the adequate understanding of laws. This would also imply actions on improving and implementing rules and regulations, as well as labor inspections. The ILO can also prepare tripartite guidelines on best practices.

Lastly, a coordinating mechanism for information dissemination, raising issues, highlighting malpractices and even conducting research in the region is needed. The ICFTU-APRO can serve as a coordinating body and regional organization protecting and promoting rights of migrant workers in the Asian and the pacific region.

#### **IV: PROTECTING MIGRANT WORKERS: AN ACTION PLAN**

##### **The National Centers to:**

- Establish migrant workers' desk or committee and nominate a contact person. Establish migrant workers' forum in each center.
- Exert pressure about violations of migrant workers' rights.
- Help unions to establish role of trade unions in managing migrant workers' issues.
- Recruit migrant workers as union members - learning experiences from other countries.
- Organize exchange programs.
- Establish channel of communication with the: 1) unions employing migrant workers, 2) foreign missions, and 3) migrant workers.
- Hold regular interactions with the media.

**The ICFTU-APRO to:**

- Document perceptions on migrant workers in receiving and sending countries - capital may move out if foreign workers are opposed and may go to those countries violating workers' rights.
- Raise issues at regional groupings - APEC, ASEM, ASEAN, SAARC, etc
- Address human trafficking.
- Serve as a bridge for information dissemination, sharing of experiences, and raising concerns of trade unions.
- Organize regular dialogues of the national centers.
- Organize national seminars on the subject with also ensuring participation of government officials and employment agencies.
- Conduct research on mechanisms of cross border flows.

**The Governments to:**

- Agree on a system of core values, standards and outcomes to be attained through labor migration. Where labor migration serves this system, governments should be bound to provide facilitative mechanisms. Where it fails, policing mechanisms should be introduced.
- Should initiate measures regulating migrant labor. A policy of selective deployment can and should be implemented through regulation of recruitment and placement activities. This should include effective measures to facilitate legal cross-border flows at reasonable costs to the migrant, including family in the appropriate instances.
- Regulate recruitment activities but should be supplemented by the appropriate mechanisms for equipping human resources with internationally needed skills. The standards for such skills should be devised in accordance with internationally acceptable benchmarks.
- Standardize grounds for deportation and procedures for illegal migrants, particularly workers.
- Ensure accountability of enterprises employing illegal workers.
- Ensure that in cases where labor- migration is replaced by capital migration through foreign direct investments (FDIs), the investors themselves should be at the forefront in complying with core labor standards. The WTO mechanism needs to be tailored in this direction.

**The ILO to:**

- Be proactive in tackling the problem of immigration authorities, the corrupt practices and violations of the fundamental rights of workers; migrants included.
- Encourage in the greater use of the tripartite forum for addressing migrant workers' issues both in labor-sending and receiving countries.
- Seek adequate policy and provisions as well as in the adequate understanding of laws.
- Help in improving and implementing rules and regulations, as well as labor inspections.
- Prepare tripartite guidelines on best practices.
- Improve and regularly update the international labor market information system, thus providing guidance on labor shortages and surpluses, and directing labor outflows and inflows only to those areas where workers' protection is assured.

## **VI: CONCLUSIONS**

The phenomenon of international migration is increasingly being observed as an escape-route, both of the migrant workers and their employers. In the absence of adequate employment opportunities available at home, many workers are tempted to cross borders. The growing disparities between countries and regions have been naturally contributing to this cross border flows of the workforce.

This process is accelerating further due to the ongoing process of globalization and free trade regime. Here it is not only the desire of the workers to emigrate. Equally interested are many employers in the host countries to accommodate the overseas workers. This is on their presumption that the migrant workers would stay away from unionism and neither grumble on low salary nor raise concerns on poor conditions of work, hence they would remain competitive!

The rise in the cross border flows of workers, however, should not entail miseries to the migrant workers. It should not deprive the labor-sending poor countries of their scant human resources either. Equality of employment and respect to Core Labor Standards are the important instruments to make the process humane and beneficial both for the labor-sending and receiving countries.

The mainstreaming of the migrant workers in fact carries a promise of substantial gains for the workers, employers and the concerned countries. A collaborative mechanism amongst the trade unions of labor-sending and receiving countries is a prerequisite in addressing issues of migrant workers as well as making the process mutually beneficial.

**ICFTU-APRO Regional Consultation On  
Developing a Cooperating Mechanism for Promoting and  
Protecting the Rights of Migrant Workers  
19-21 March 2003, Jakarta - Indonesia**

**PROGRAM**

Day One: 19 March 2003, Wednesday

8.30 am	Registration
9 am	Opening-I Welcome Address by Mr. Rustam aksam, President, ITUC Inaugural Address by Mr. Noriyuki Suzuki, General Secretary of ICFTU-APRO  Opening-II Introduction of Participants Program Orientation by Mr. Sabur Ghayur, ICFTU-APRO
10.30 am	Tea/Coffee Break
11 am	Plenary I "The Migration Issues Concern the Trade Unions: ICFTU-APRO Background Paper" Presentation by: - Dr. Sabur Ghayur, Director, Institutional & External Relations, ICFTU-APRO Moderator: - INTUC Discussion
12.30 pm	Lunch
1.30 pm	Plenary II "The International Migration and ILO: Policies and Programs" Presentation by: - Dr. Elizabeth Morris, Senior Labor Market Specialist, ILO-Bangkok Moderator: - ICFTU-BC Discussion
3 pm	Tea/Coffee Break

3.30 pm Plenary III  
"Nature, Extent, Impact & Issues of International Migration:  
Measures to Protect & Promote Rights of Migrants"  
Presentation by:  
- Dr. A. R. Kemal, Director, PIDE, Islamabad - Pakistan  
Moderator:  
ICFTU-APRO  
Discussion

5 pm End of Day One

Day Two: 20 March 2003, Thursday

9 am Regional Consultation I  
"Documenting Exploitation at Home: Modality of Recruitment and  
Corrupt Practices of Overseas Employment Promoters &  
Government Officials"  
Discussions to be Initiated by:  
- ICFTU-BC  
- CWC  
- ICFTU-PC  
Moderator  
- MTUC

10.30 am Tea/Coffee Break

11 am Regional Consultation II  
"Protecting Rights of Migrant Workers: Policies, Programs and  
Proposals of Trade Unions in Labor Sending Countries"  
Discussions to be Initiated by:  
- INTUC  
- NTUC  
- ITUC Moderator  
- SNTUC

12.30 pm Lunch

1.30 pm Regional Consultation III  
"Documenting Exploitation in the Host Countries: Modality of  
Recruitment, Corrupt Practices of Employers & Government  
Officials, Absence of Social Protection & Right to Organize"  
Discussions to be Initiated by:  
- MTUC  
- HKCTU  
- FKTU  
Moderator  
- ICFTU-APRO

- 3 pm Tea/Coffee Break
- 3.30 pm Regional Consultation IV  
 "Protecting Rights of Migrant Workers: Policies, Programs and Proposals of Trade Unions in Labor Receiving Countries"  
 Discussions to be Initiated by:
- SNTUC
  - HKCTU
  - FKTU
- Moderator
- ICFTU-PC
- 5 pm End of Day Two

Day Three: 21 March 2003, Friday

- 9 am Regional Consultation Session V  
 "How to Provide Necessary Safeguards to Migrant Workers & Ensure Wider Publicity of Existing Protection Mechanism?"  
 Discussions to be Initiated by:
- MTUC
  - SNTUC
  - ITUC
  - NTUC
  - FKTU
- Moderator  
 ICFTU-APRO
- 10.30 am Tea/Coffee Break
- 11 am Regional Consultation Session VI  
 "Forming a Collaborative Mechanism"  
 Discussions to be Initiated by:
- SNTUC
  - ICFTU-BC
  - MTUC
- Moderator
- ICFTU-APRO
- 12.30 pm Lunch
- 1.30 pm Closing  
 Refreshments

**List of Participants**

<b>Name and Position</b>	<b>Organisation</b>
1 Mr. Md. Ahsan Ullah General Secretary, Jatio Sramik League	ICFTU-BC, Dhaka - Bangladesh
2 Mr. Micheal Siu, International Secretary	HKTUC, Hong Kong
3 Mr. K. Surendran, Member, working Committee	INTUC, India
4 Mr. Rustam Aksam, President	ITUC, Jakarta- Indonesia
5 Ms. Sofia Mukadi, Vice President	ITUC, Jakarta - Indonesia
6 Mr. Saïam Daude, Saïam Daudeice President	ITUC, Jakarta - Indonesia
7 Mr. Jenal Kalaudin, Vice President	ITUC, Jakarta - Indonesia
8 Mr. Ali Rabee	GFJTU, Amman - Jordan
9 Mr. Choon-Ho Kang, Director, International Department	FKTU, Seoul - Korea
10 Mr. Balasubramanian, Council Member	MTUC, Kuala Lumpur - Malaysia
11 Mr. Suwarna Jang Sinjapati, President, Nepal Printing Workers' Union	NTUC, Kathmandu - Nepal
12 Mr. Arshad Mian, Secretary, PNFTU	ICFTU-PC, Lahore - Pakistan
13 Mr. Yeo Guat Kwang, Director of Productivity Developmeny & Quality of Life	SNTUC, Singapore
14 Mr. Jaffery Tan, Executive Officer, International Affairs Department	SNTUC, Singapore
15 Mr. R. Logdas, Director	CWC, Colombo - Sri Lanka
16 Mr. Patrik Quinn, Chief Technical Advisor	ILO-ACTRAV, Jakarta - Indonesia
17 Dr. Elizabeth Morris, Senior Specialist	ILO, Bangkok - Thailand
18 Dr. A.R. Kemal, Director	Pakistan Institute of Development Economics, Islamabad - Pakistan
19 Mr. Noriyuki Suzuki, General Secretary	ICFTU-APRO, Singapore
20 Mr. Sabur Ghayur, Director, I&ER Department	ICFTU-APRO, Singapore
21 Jason Lui Nai Feng	ICFTU-APRO, Singapore