

the  
**migration-trafficking  
nexus**

combating trafficking through the protection of migrants' human rights

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# The migration-trafficking nexus: combating trafficking through the protection of migrants' human rights

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## 1. Introduction: looking at trafficking as part of a migrant rights agenda



J.R. Ripper/SocialPhotos

Forced migrant labourers, Brazil.

Trafficking, smuggling and migration are separate, but inter-related issues. Migration may take place through regular or irregular channels and may be freely chosen or forced upon the migrant as a means of survival (eg. during a conflict, an economic crisis or an environmental disaster). If the method of migration is irregular then the migrant may be assisted by a smuggler who will facilitate illegal entry into a country for a fee. The smuggler may demand an exorbitant fee and may expose the migrant to serious dangers in the course of their journey, but on arrival at their destination, the migrant is free to make their own way and normally does not see the smuggler again.

Trafficking is fundamentally different as it involves the movement of people for the purposes of exploiting their labour or services.<sup>1</sup> The vast majority of people who are trafficked are migrant workers.<sup>2</sup> They are seeking to escape poverty and discrimination, improve their lives and send money back to their families. They hear about well-paying jobs abroad through family or friends or through "recruitment agencies" and other individuals who offer to find them employment and make the travel arrangements. For most trafficked people it is only once they arrive in the country of destination that their real problems begin as the work they were promised does not exist and they are forced instead to work in jobs or conditions to which they did not agree.

It is no coincidence that the growth in trafficking has taken place during a period where there has been an increasing international demand for migrant workers, which has not been adequately acknowledged or facilitated. The lack of regular migration opportunities to take up work in other countries and the fact that many migrants are looking for work abroad as a means of survival, rather than an opportunity to improve their standard of living, has left migrants with little choice but to rely on smugglers or traffickers in order to access these jobs.

Despite this, many governments have responded to the problem by proposing tighter immigration controls, which usually increase the profitability of smuggling and trafficking and make matters worse.

This publication therefore seeks to look at the issue of trafficking within a broader migration framework and to propose policies which would be effective in reducing trafficking and in preventing the human and labour rights violations to which migrant workers are so often subjected today.

The first section of the publication gives an overview of trafficking in people internationally. It considers the coercive mechanisms through which traffickers maintain control over trafficked migrants and why prosecutions have been difficult to obtain. The absence of proper measures to protect and assist trafficked migrants is highlighted as a particular failure in many states' counter trafficking strategies.

The second section stresses that policies to increase prosecutions and provide support and protection to trafficked migrants will be largely ineffective unless they are part of a larger strategy, which acknowledges the need for growing numbers of migrant workers and introduces policies to manage and facilitate this migration. The chapter gives an overview of migration today, including both push and pull factors that are encouraging international migration. It also provides evidence of the increasing demand for migrant workers and proposes how such migration could be facilitated so as to benefit the migrants themselves, as well as both sending and receiving countries.

The third chapter focuses on the need to recognise and respect the labour and human rights of all migrant workers as set out in the *UN Convention on the Protection of the Rights of All Migrant Workers and Their Families, 1990* (subsequently referred to as the 1990 Migrant Convention). It assesses aspects of several international conventions which could be used to assist and protect migrant workers and gives examples of two countries where existing legislation has proved inadequate and has not prevented the exploitation and forced labour of migrant workers, even when they migrated through regular channels.

<sup>1</sup> The internationally recognised definition of trafficking is set out in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, November 2000 (see 1.1 for details).

<sup>2</sup> The exception to this is the small percentage of people who are abducted or sold into forced labour and have therefore made no decision to migrate.



## 1.1 The definition of trafficking

*The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention on Transnational Organized Crime* (referred to as the Trafficking Protocol), November 2000 defines trafficking as:

**"the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery or servitude or the removal of organs."**

The definition makes clear that trafficking covers not only the transportation of a person from one place to another, but also their recruitment and receipt so that anyone involved in the movement of another person for their exploitation is part of the trafficking process.

It also states that trafficking is not limited to sexual exploitation and also takes place for forced labour and other slavery like practices. This means that people who migrate for work in agriculture, catering, construction or domestic work, but are deceived or coerced into working in conditions they did not agree to, are also defined as trafficked people.

## 2. Tackling trafficking in countries of destination

### An overview of trafficking

Trafficking in human beings increased dramatically during the 1990s and the US Government estimates that currently between 800-900,000 people are trafficked across borders annually.<sup>3</sup> Research carried out by the ILO estimated that, in 2000, 1.2 million children had been trafficked for sexual or labour exploitation internationally.<sup>4</sup>

An accurate calculation of the total number of people trafficked is difficult because of the clandestine nature of trafficking and the problems involved in detecting and documenting trafficking cases. Extrapolations from documented cases are often used to estimate the number which are not coming to public attention and will always contain a margin of error. Assessments are even more difficult when they are being made across regions or internationally, as data may be collected using different criteria, for example with some looking only at those trafficked across borders and other looking at both cross border and internal trafficking. The ILO stressed that it encountered difficulties in its data collection on trafficked children, especially as some of the statistics it collected were on a yearly basis and others gave snapshots measuring the numbers trafficked at a particular time.

Despite these difficulties, the collection of detailed information about trafficking, which includes reliable base line statistics and a detailed analysis of individual cases, is essential if we are to understand the traffickers' *modus operandi*, why people are being trafficked and how traffickers are maintaining control over them. These aspects can vary between different trafficking groups as well as from one country to another (*see 2.1*). Only once this type of information has been collected will it be possible to put together an effective counter trafficking strategy which takes into account the individual circumstances in sending and receiving countries. Integrated counter trafficking policies should contain components which seek to ensure prosecutions of traffickers; the protection and support of trafficked people; and the prevention of trafficking through the implementation of measures to tackle the root causes of the problem.



© IOM 2003 - MGH0002 photo: Jean-Philippe Chauzy

Children are trafficked into the fishing industry in West Africa. Boys draw nets watched by their "slave master" in Tonka, on the shores of Lake Volta.

<sup>3</sup> US State Department, *Trafficking in Persons Report 2003*, Washington 2003.

<sup>4</sup> International Labour Office, *Every Child Counts - New Global Estimates on Child Labour*, Geneva, 2002.



## 2.1 Trafficking between Benin and Gabon

In 1999, an organisation in Benin, Enfants Solidaires d'Afrique et du Monde (ESAM), completed research on the trafficking of children between the Republic of Benin and Gabon. The research was based on interviews with parents, children, receiving families, traffickers and officials and some of its principal findings are summarised below.

Many of the families of the children who were trafficked said that they had more than one child living abroad. Most significantly, 63 of the 170 parents interviewed (37%) said that they could not earn enough to satisfy the essential needs of their family and therefore were prepared to hand their children over to traffickers. Interviews with children in Benin revealed that their parents were extremely influential in persuading the child to co-operate with the trafficker. Of the 281 children interviewed in Benin, 212 (75%) said they would go if their parents told them to. The vast majority of trafficked children, 88%, came from only three districts in Benin: Ouémé, Mono and Atlantique.

Looking at the whole sample of 229 children who had been trafficked, a total of 198 (86%) were girls. This reflects the fact that girls are in greater demand for work as domestics and as market traders. Interviews also suggest that girls are preferred as they are less likely than boys to rebel as they get older. The cost of preparing daughters for weddings may also be significant in terms of why more girls are sent with traffickers than boys. Of the trafficked boys interviewed nearly two thirds were working in the agricultural or fishing sectors.

The other important piece of information that came out of the research is that many of the children intercepted trying to cross borders or sent back from countries to which they were being trafficked do not return to their homes. The sample of 91 children in Benin was gathered from a list of 150 trafficked children that had been documented by the special police department for the protection of minors. However, the researcher could only locate 91 of the 150 children listed (61%), indicating that many of the children who are returned home are subsequently trafficked again.

A total of 91 children were interviewed in Benin about the conditions in which they lived and worked while they were in Gabon. With regard to their living conditions, more than two thirds described their treatment as 'bad'. They described being shouted out, being deprived of food and being beaten by their employer as examples of the bad treatment they endured.

With regard to their working conditions, more than half described their treatment as very bad. These children were generally working for traders and had to work between 14 and 18 hours a day - this includes both domestic work and commercial activities. They had to carry heavy loads and walk long distances in order to sell goods. Almost all the employers (95%) were women.

The kind of detailed information provided by this research can be used by governments to inform their anti-trafficking policies so that they tackle the root causes of the problem and are properly targeted at the regions and individuals most at risk.



Top to bottom:

A child selling bags of water carries a full load of over seven litres.

Sister Pierette with girls at the Centre d'Accueil - Libreville, Gabon. Each of these girls was trafficked to Gabon.

Eight-year-old Pelagy and six-year-old Jocelyne are sisters. Pelagy was trafficked from Benin by lorry, through Nigeria and Cameroon to Gabon. Jocelyne was transported by boat. Both were being taken to work as unpaid domestics for the same family in Libreville, Gabon.

This woman worked as a trafficker for 26 years taking children from Benin to Nigeria. She says that the girls she trafficked had no future with their families, and were destined to live a life of hardship.



## Prosecution challenges

Part of the reason that trafficking has flourished in recent years is because it has been a high-profit, low-risk enterprise. Trafficking in human beings is estimated to net profits of \$7 to \$10 billion a year worldwide for those involved.<sup>5</sup> The risks of getting caught are low because traffickers use a combination of coercive mechanisms in order to retain control over the migrant and thereby ensure that they are either unable or unwilling to contact or co-operate with the authorities. These mechanisms include:

### Threat or use of violence

The implicit or explicit use of violence, including torture and rape, is commonly used by traffickers as a means of ensuring the compliance of migrants. In the long term it is the threat of violence against family or friends in countries of origin which proves the most effective deterrent to those who consider trying to escape or reporting their traffickers to the authorities. Many migrants will endure their situation rather than expose their families to the risk of retaliatory violence.

### Irregular immigration status and control of movement

Traffickers do escort migrants to and from work and lock them in rooms and houses to stop them escaping. However, less obvious mechanisms of controlling people's movements, such as removing their travel documents and forcing them to carry a mobile phone at all times, can be equally effective.

Many trafficked people enter the country of destination with false documents or clandestinely. Even if the migrant has entered legally, traffickers normally take away passports and other travel documents so that the migrant cannot prove that they have a right to be in the country.

Migrants believe that if they go to the authorities they will be deported and/or prosecuted, and in many cases these fears are well founded. Traffickers also claim that they control the police, which seems plausible to many migrants, especially if state officials were complicit in trafficking them out of their countries of origin.

### Debt bondage

In order to pay for the ticket to take up the well-paying jobs abroad that they have been

promised, most migrants will need to borrow money. This money may come from family or friends, loan sharks or directly from the trafficker. When they arrive at their destination and discover that the job they were promised does not exist, they still have a debt to pay back which can be anything between \$1,000 and \$35,000.<sup>6</sup>

Those migrants who have debts to family members back home will feel that they have no alternatives as they cannot return home without the money they owe. Migrants who owe money to the trafficker will be angry at having been tricked and exploited, but may also feel that they still have an obligation to pay back the trafficker and believe that eventually they will be able to make some money in their own right. This expectation may prove false as their initial debt can be inflated through charges for accommodation, food and interest on the loan.

### Emotional attachment

Some traffickers use an emotional attachment that a person has for them as a mechanism for controlling them and coercing them to work against their will, often in prostitution. Traffickers suggest to their "girlfriends" that they travel to another country for a better life and then abuse the trust that has been put in them. In these circumstances, the woman doesn't immediately identify her "boyfriend" as a trafficker and, as with victims of domestic violence, it may take them a considerable period of time before they are ready to leave the person who is exploiting and abusing them.

### Lack of alternatives

These coercive mechanisms, combined with the fact that the migrant has no money to live on, let alone pay for a return ticket home, severely curtail their options. When the migrant is also unfamiliar with the country or town they are living in, does not speak the language and has no one to go to for help, they often feel that they have no alternative but to submit to the trafficker.

These factors explain how traffickers maintain control over migrants and why the vast majority of trafficked migrants will not go to, or co-operate with, the authorities against their traffickers. Equally problematic is the fact that, even today, few law enforcement or other state officials are aware of what trafficking is and how it operates. This means that they often do not identify people they come into contact with as being trafficked, and consequently they miss the opportunity to take them out of the trafficking cycle and build a case against the trafficker.

For these reasons, cases where a trafficker has been identified and enough evidence gathered to pursue charges against them remain the exception rather than the rule. Even when prosecutions have been brought, the lack of adequate legislation has frequently meant that traffickers are charged under inappropriate offences and, if convicted, receive very light sentences (see 2.2).



Colin Mearns/The Herald magazine

An Albanian woman shows a scar that she received as a result of a whipping from her trafficker.

<sup>5</sup> UNICEF UK. *End Child Exploitation: Stop the Traffic*, London, 2003, p.11. As with global figures on trafficked people, there are disparities between estimates on profits generated by trafficking.

<sup>6</sup> Salt, J. *Current Trends in International Migration in Europe*, Council of Europe, Strasbourg, 2001. Quoted in International Organization for Migration, *World Migration 2003*, Geneva, 2003, p.315.



## 2.2 The situation in the UK between 1999 and 2002

In 1999, the Vice and Clubs Unit of the Metropolitan Police in London began to document cases where women were being trafficked into the UK for sexual exploitation. While this Vice and Clubs Unit did make the pursuit of trafficking cases a priority, they were severely hampered by two issues. First, there was no agency to which they could refer trafficked people for support, assistance and protection. Second, there was no legislation dealing specifically with trafficking which meant that the police had to charge traffickers under inappropriate offences from the 1956 Sexual Offences Act.

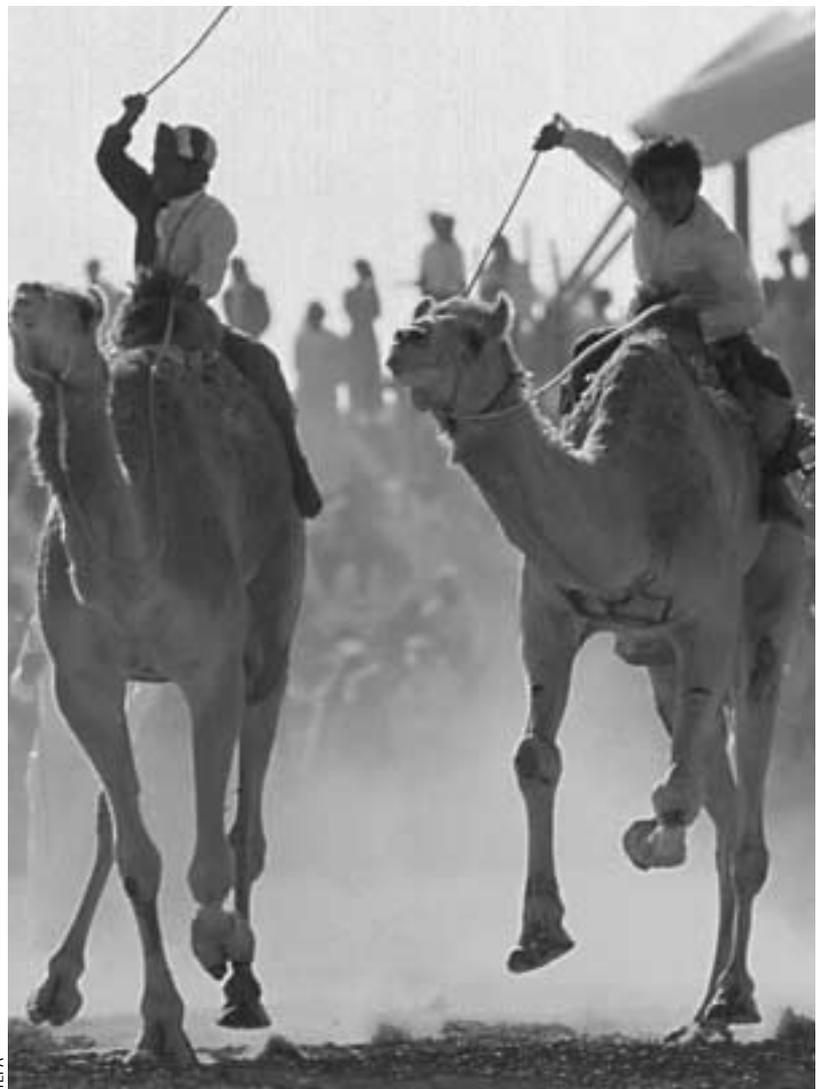
The consequences of these problems is reflected in the following prosecution figures. Between 1999 and 2002 the Vice and Clubs Unit investigated 18 cases of trafficking in which 44 traffickers were charged with offences under the 1956 Sexual Offences Act, primarily living off the earnings of a prostitute and controlling a prostitute. Of those convicted only 20 actually served prison sentences and only five of these were for more than two years.<sup>7</sup>

Clearly sentences of this type are not going to be a deterrent to traffickers when substantial amounts of money can be made. An indication of the profits available to traffickers in the UK is reflected in the fact that the Vice and Clubs Unit seized assets totalling over £1 million in relation to just eight of the above cases. It should be stressed that this amount does not represent the total profits earned by the traffickers, as it will exclude money that has already been spent and money which cannot be traced.

The UK and all other EU states have recognised the need to introduce legislation which prohibits trafficking for both labour and sexual exploitation and has appropriate penalties. Indeed, under the EU Council Framework Decision on combating trafficking in human beings (2002), all EU states must make the necessary amendments to their domestic criminal legislation by the end of 2004.

Undoubtedly there is a need for legislation that prohibits trafficking for all forms of exploitation and which makes the punishment commensurate with the crime. However, it is important that domestic and regional legislative measures should be fully consistent with the Trafficking Protocol's inclusive definition of trafficking; otherwise traffickers will be able to evade prosecution and groups of trafficked migrants will not be recognised as such.

The *Convention on Preventing and Combating Trafficking in Women and Children for Prostitution*, which was agreed by the South Asian Association for Regional Co-operation (SAARC)<sup>8</sup> in January 2002 is an example of an initiative which is not consistent with the Protocol. The SAARC Convention only applies to women and children and restricts its focus to prostitution, sexual exploitation and fraudulent or child marriages. Consequently, the SAARC Convention, unlike the Trafficking Protocol, will not cover trafficking for labour purposes, such as domestic work or camel jockeys, which are serious problems for several SAARC member states (see box 2.3).



TEPA

Children as young as four are trafficked to the United Arab Emirates to be used as camel jockeys.

<sup>7</sup> Vice Unit Statistics 1999 - 2002. Of the other 24 cases, nine were still awaiting trial; six were deported; three were given community service orders; two were conditionally discharged; two received suspended sentences; one was fined; and one was cautioned.

<sup>8</sup> SAARC members include Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan and Sri Lanka.



## 2.3 The trafficking of camel jockeys to the UAE

Children continue to be trafficked from countries such as Bangladesh and Pakistan to be used as camel jockeys in the UAE. The use of children as jockeys in camel racing is itself extremely dangerous and can result in serious injury and even death. Some children are also abused by traffickers and their employers (eg. depriving them of food and beating them). The children's separation from their families and their transportation to a country where the people, culture and usually the language are completely unknown, leaves them dependent on their employers and makes them *de facto* forced labourers.

The UAE has prohibited the use of children under 15 or weighing less than 45kg from being employed in camel racing for many years and a new ban with stricter penalties came into effect on 1 September 2002.

However, evidence that this ban was not being properly implemented was clearly seen in a documentary broadcast by the Australian Broadcasting Corporation on 25 February 2003.<sup>9</sup> The filmmakers were invited to attend a camel race, but officials at the track seemed surprised at their appearance. Police are shown escorting a group of very young camel jockeys onto a bus while other officials attempt to stop the filming.

The film also includes other footage of two camel jockeys from Pakistan, aged five and seven, who have been in the UAE for two years and who race four times a week. A young child from Bangladesh who has been a camel jockey in the UAE for approximately six years is also interviewed and describes it as "the worst job in the world".

The Embassy of Pakistan issued a press release on 12 May 2003 in which it stated that it had arranged for the repatriation of 21 trafficked children in the previous week alone and that a total of 86 trafficked Pakistani children had been repatriated in the last year.

The SAARC Convention will have no impact on ending the trafficking of children from and through SAARC states to work as camel jockeys in the UAE. The UAE has not signed or ratified the Trafficking Protocol.

The passage of good quality legislation is a necessary first step, but there also needs to be the political commitment to ensure that anti-trafficking laws are properly enforced. This will require a number of measures which may include: training for all of the relevant agencies which come into contact with trafficked migrants (police, immigration, judiciary, social services, etc); establishing trafficking as a priority concern for relevant agencies; allocating additional resources to these agencies; anti-corruption measures; and above all the provision of services for the protection and support of trafficked migrants.

### The protection deficit

The primary purpose of assisting trafficked people should be to help them recover from serious human rights violations (eg. violence, torture, rape, deprivation of liberty, forced labour, etc) and to ensure that they are not subjected to further harm. The Trafficking Protocol outlines in Articles 6, 7 and 8 the core protection and assistance services which should be available to trafficked people. These include:

- Temporary or permanent residency permits
- Appropriate housing;
- Information and counselling, in particular about their legal rights;
- Medical, psychological and material assistance;
- Employment, education and training opportunities;
- Opportunities for legal redress and compensation; and
- Due regard being given to a person's safety when carrying out returns, which should preferably be voluntary.

Unfortunately the provisions highlighted above are not binding on states which ratify the Protocol and governments are only obliged to "consider implementing" them "in appropriate cases". The consequence of this is that when states come to incorporate the Protocol into national legislation, they are free to dilute or ignore the protection and support components or make access to them conditional on co-operation with the police. Where this takes place it is likely to undermine the effectiveness of any counter trafficking strategy.

### The merits of a reflection period

Trafficked migrants are highly unlikely to reveal what has happened to them when they initially come into contact with the authorities or non-governmental organisations. This is for a variety of reasons including: fear of retaliation from traffickers against themselves or their families; an unwillingness to discuss what has happened to them because of trauma or shame; a distrust of authorities and a fear that they will be prosecuted or deported. The trafficked person will therefore need a reflection period. That is to say a period of time in which their immigration status is temporarily regularised<sup>10</sup> so that they can be referred to an

<sup>9</sup> Thompson, G. & Grey, K., *Foreign Correspondent*, Australian Broadcasting Corporation, 25 February 2003. Footage was shot between 13 and 25 October 2002.

<sup>10</sup> The majority of trafficked people will have irregular immigration status (eg. no passport, forged documents, overstayed visa, etc) particularly as traffickers use this as a means of maintaining control over them.



agency to receive advice and assistance, recover from their experiences, and make an informed decision as to what to do next.

On the basis of our research,<sup>11</sup> Anti-Slavery International recommends that this reflection period should be for three months in the case of adults, as is currently the case in the Netherlands, and six months for children. Reflection periods have a number of benefits both from the perspective of protecting the trafficked migrant and assisting in the prosecution of the trafficker:

- It offers trafficked migrants the chance to avoid immediate deportation back into the hands of traffickers without having to confide in police or immigration officers and thereby putting themselves or their families at risk.
- The reflection period allows a trafficked person time to assess their options and make a proper assessment of the risks to them should they co-operate with the police and/or return home, including whether they would be likely to be re-trafficked or be liable to other punishment from the traffickers. Punishment could take place because the traffickers think the trafficked migrant may have co-operated with the authorities; as a warning to others not to get caught or seek help; or for not having paid back the money they allegedly owe the trafficker.
- During the reflection period the trafficker is not making any money from that person and this disrupts their business and reduces the profitability of trafficking in people.
- Reflection periods do not interfere with police investigations as the police can still debrief a trafficked person who is immediately willing to co-operate with them and pursue their investigations. However, where officials come into contact with someone they think may be a victim of trafficking, but that person will not talk to them, they have the opportunity to refer them to an agency for assistance and support and the possibility that they will co-operate with the police at a later stage.
- Those offering support to the trafficked person will have the opportunity to win their confidence and may receive information



Lorena Ros & Dominic Ridley

Many trafficked people are detained and deported rather than being given the help they need.

regarding how the traffickers operate and whether other victims are being held. If protocols are established between the police and the agencies assisting trafficked migrants, this information can be shared and may assist the police to gather evidence on traffickers, release other trafficked migrants, profile those at risk of being trafficked and disrupt the traffickers' networks.

- After a period of reflection some trafficked people will agree to be interviewed by the police, which may provide them with valuable intelligence. In some cases the trafficked migrant may even decide that they are willing to testify against the traffickers, thereby helping to facilitate a successful prosecution.
- If after a period of reflection the trafficked person wishes to return to their country of origin, arrangements can be made to organise the return and minimise the risk of their being re-trafficked: for example, arranging for a suitable non-governmental organisation to meet them at the airport and assist in their reintegration.
- As many trafficked people will only reveal their full story over a period of time, the reflection period will help to avoid a situation where inaccurate or incomplete information is recorded and acted on immediately. Any inconsistencies which come to light some weeks later may be equally damaging to the chances of a successful prosecution against a trafficker or to an application for asylum or other leave to remain.

All of the above underlines the fact that there is no contradiction between protecting and supporting trafficked people and seeking to prosecute traffickers. On the contrary, countries that have introduced systems designed to offer trafficked people more security and assistance, particularly through reflection periods and residency permits which are not conditional on co-operation in a prosecution, have been extremely effective in prosecuting traffickers (*see 2.4*).

Despite this, most states remain reluctant to incorporate articles 6, 7 and 8 of the Trafficking Protocol into domestic legislation thereby guaranteeing trafficked migrants' minimum standards of assistance and protection.

<sup>11</sup> Anti-Slavery International, *Human Traffic, Human Rights: Redefining Victim Protection*, London, 2002. The report reviews trafficking laws and policies in Belgium, Colombia, Italy, the Netherlands, Nigeria, Poland, Thailand, Ukraine, United Kingdom and the United States. It contains 45 policy recommendations and is available at: <http://www.antislavery.org/homepage/resources/humantraffichumanrights.htm>



## 2.4 Examples from Italy and the Netherlands

In the Netherlands, there is a three-month reflection period and temporary residence permits for victims co-operating in criminal proceedings against traffickers. Between 1995 and June 2000, the police filed 756 reports relating to trafficking cases with the Prosecutors' Offices, 71 per cent of which went to trial. Of these, 88 per cent (472 cases) resulted in convictions and prison sentences were imposed in 85 per cent of these cases.<sup>12</sup>

In Italy there has been an increase in the prosecution of traffickers following the introduction of Article 18 of the immigration law in 1999. Under Article 18 a six-month residency permit can be issued on the basis that a victim of severe exploitation is in danger as a result of escaping from their situation or because that person is co-operating in criminal proceedings.

Italy prosecutes trafficking cases under Article 600, a criminal provision for reduction to slavery. Between 1997 and 1999 Article 600 was only used successfully in seven cases nationwide. While national statistics are not yet available on Article 600 cases subsequent to the introduction of Article 18 there is no doubt that prosecutions have increased. In Milan alone, Article 600 was applied in 14 trials in 2000 and 2001. In Busto Arsizio, Article 600 was used to convict 40 traffickers in seven trials concluded in 2000. A criminal court judge confirmed in an interview in 2002 that he believed the availability of Article 18 residency permits has increased the number of prosecutions, most of which have resulted in convictions.<sup>13</sup>

The European Union's (EU) response to trafficking illustrates this point. While the EU recognised through its Framework Decision on combating trafficking in human beings that harmonised definitions and penalties are essential in combating trafficking, it has not yet accepted that high standards of support and protection for trafficked people are equally important.

The only EU legislative proposal to date dealing with the protection and assistance of trafficked people is the Council Directive on short-term residence permits, which proposes that residency permits will only be issued if "the presence of the victim is useful" and they show "a clear intention to co-operate". The Directive also states at the outset that it "is not concerned with protection of either witnesses or victims"<sup>14</sup>.

The Brussels Declaration, which was agreed at a conference jointly organised by the EU and the International Organization for Migration (IOM) in September 2002, does refer to protection and support issues and this was adopted as an official EU document in 2003. The Declaration states that: there should be adequate funding for shelters and assistance to victims of trafficking; victims of trafficking should not be criminalised or detained for offences resulting from their being trafficked; immediate removal of victims of trafficking should generally be

avoided; short term residency permits and reflection periods must be available under certain conditions. However, as a Declaration has no legal force these commitments are not binding on member states.

Measures to prosecute traffickers and protect trafficked people are essential elements in any counter trafficking strategy. However, it must be recognised that these policies are treating the symptoms rather than the cause of the problem. If states are serious in wishing to combat trafficking in the long term, they must seek to prevent the circumstances arising in which people become trafficked.

However, the prevention components of anti-trafficking programmes frequently focus on seeking to discourage migrants from travelling abroad in search of work by highlighting the dangers to them. Such campaigns are unlikely to have much impact when there is a growing demand for migrant workers in developed countries and a strong supply of migrant workers, many of whom are willing to take substantial risks in order to obtain work which they see as a means of survival for themselves or their families. If governments wish to prevent trafficking, then they need to review current international migration trends and amend existing policies which have played a significant part in increasing the demand for traffickers and smugglers.



Newly arrived migrants in a detention centre, Spain.

Lorena Ros & Dominic Ridley

<sup>12</sup> Anti-Slavery International, *op. cit.*, p.68.

<sup>13</sup> Anti-Slavery International, *op. cit.*, pp.141-142.

<sup>14</sup> The EU Council Directive on the Short-Term Residence Permit Issued to Victims of Action to Facilitate Illegal Immigration or Trafficking in Human Beings who Co-operate with the Competent Authorities, Brussels 11 February 2002. As of October 2003, there was still no agreement on even this very limited proposal.



## 3. The migration-trafficking nexus

### An overview of international migration

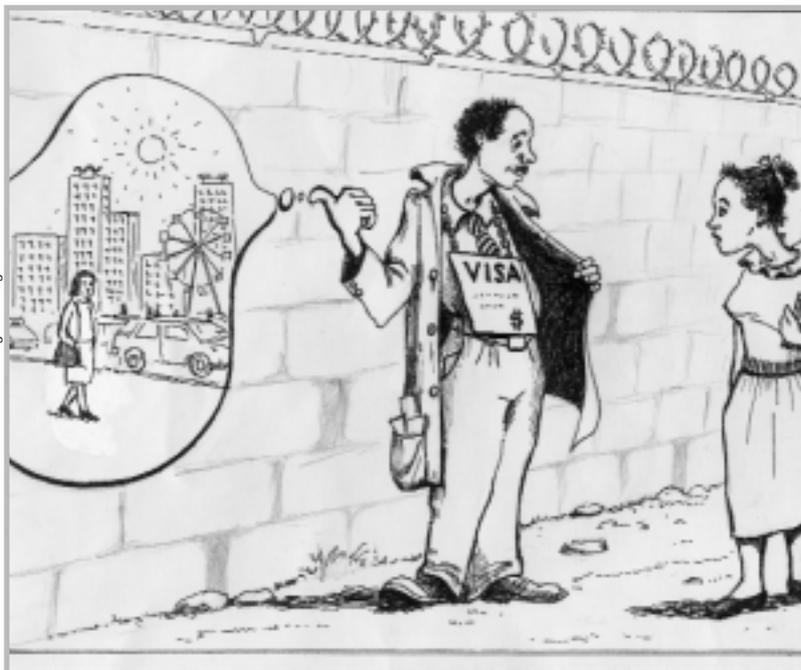
According to International Labour Organization (ILO) estimates, there are 120 million migrant workers and family members in the world today.

There are three features of modern migration which are particularly worth highlighting:

1. **Labour migration is not simply from developing to developed countries. Some 60 per cent of migrants live in developing countries.**<sup>15</sup>
2. **Women workers constitute 50 per cent or more of migrants in Asia and Latin America. For example, in the Philippines women made up 70 per cent of migrant workers abroad in 2000.**<sup>16</sup>
3. **The number of migrant workers has dramatically increased in recent years. According to the International Organization for Migration (IOM), the total number of people residing outside their country of origin has increased significantly between 1985 and 2000 from 105 million to 175 million.<sup>17</sup> This represents a 67 per cent increase at a time when the total world population only increased by 26 per cent.**

The Ethiopian artist, Yitagesu Mergia, has been painting for over ten years and often works with local humanitarian organizations.

This illustration is part of an IOM counter-trafficking information campaign.



There are several reasons for the growth in the number of migrant workers in recent years, which can be summarised into push and pull factors:

### Push factors

- Inadequate employment opportunities, combined with poor living conditions, including a lack of basic education and health provision.
- Political breakdown or economic dislocation which may be caused by conflict, environmental disaster, structural adjustment policies, mismanagement of the economy, etc. These may threaten an individual's ability to sustain themselves and their family directly or indirectly as such crises usually lead to higher unemployment, rising cost of living and fewer public services.
- Discrimination (gender, ethnic or caste), nepotism and/or corruption which excludes people from employment or professional advancement.
- Family breakdown (particularly the sickness or death of one or both parents) which often compels remaining family members to send the children away from their homes to work and/or have better opportunities.

### Pull factors

- Fewer constraints on travel (eg. less restrictions on freedom of movement; cheaper and faster travel opportunities; easier access to passports, etc).
- Higher salaries and standard of living abroad; greater job mobility and opportunities for professional advancement; and more options for acquiring new skills and education.
- Established migration routes and communities in other countries and a demand for migrant workers, along with the active presence of recruitment agents or contacts willing to facilitate jobs and travel.
- High expectations of opportunities in other countries boosted by global media and internet access.

<sup>15</sup> International Labour Organization, *Facts on Migrant Labour*, 2003.

<sup>16</sup> International Organization for Migration, *World Migration 2003*, Geneva, 2003, p.7.

<sup>17</sup> This figure includes migrant workers, permanent immigrants, refugees and displaced persons, but does not include irregular migrants. International Organization for Migration, *World Migration 2003*, *op. cit.*, p.5.



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Irregular migrants cross the Rio Grande to the United States by raft.

### 3.1 Push and pull factors in operation in Mexico-US migration

The migration of Mexicans to the US is hugely important to both economies. The Mexican community contributes some US\$82.1 billion a year to US gross domestic product and nearly US\$9 billion was sent back to Mexico by Mexican nationals or persons of Mexican origin in 2001 alone.<sup>18</sup>

These figures do not take into account the irregular migration of Mexicans to the US. More than 90 per cent of US "permanent" visas for employment based immigration are targeted at well educated and skilled immigrants and their families. This means there are insufficient avenues for regular migration to fill posts for less skilled jobs, despite a strong demand for these workers in the US. Consequently, many migrants try to cross the border illegally in search of work and it is estimated that some 4,000 irregular migrants successfully enter the US every day.<sup>19</sup>

The risks of irregular migration are significant. Between 1998 and 2001, more than 1,500 migrants died while trying to cross the border. Some 1.5 million migrants each year are arrested on the US-Mexican border and forced to return home.<sup>20</sup> Others may make it into the US only to find themselves compelled to work as forced labourers or in situations of severe exploitation.

Despite these very substantial dangers, there is no shortage of migrants willing to risk their savings and their lives in the search for work in the US. The explanation for this can be found in the fact that on average an undocumented Mexican migrant worker in the United States will find a job within two weeks of arriving.<sup>21</sup> Furthermore, Mexican migrants earn around nine times as much in the US as they did in their last job in Mexico.<sup>22</sup> Clearly any immigration policy which ignores the domestic demand for migrant workers, in whatever sector of the economy, is simply encouraging irregular migration and making migrant workers more vulnerable to exploitation by unscrupulous employers, smugglers and traffickers.

<sup>18</sup> International Organization for Migration, *World Migration 2003, op. cit.*, p.148.

<sup>19</sup> International Organization for Migration, *World Migration 2003, op. cit.*, p.150.

<sup>20</sup> *Ibid*, p.31 and p.60.

<sup>21</sup> P. Taran and G. Moreno-Fontes Chammartin, *Getting at the Roots: Stopping Exploitation of Migrant Workers by Organised Crime, Perspectives on Labour Migration* Vol.1E, ILO Geneva, 2003, p.5. Quoted in ILO, *Trafficking in Human Beings, New Approaches to the Problem*, Geneva 2003, p.5.

<sup>22</sup> International Organization for Migration, *World Migration 2003, op. cit.*, p.66.



The growing inequality of wealth within and between countries is increasing both the push and pull factors and leading more people to make the decision to migrate. Yet governments in developed countries are generally reluctant to publicly recognise their dependency on both skilled and unskilled migrant labour. Instead of tackling xenophobic reactions to the issue of migration, many governments have sought political advantage by promoting more restrictive immigration policies. Such policies only reduce the opportunities for regular migration, thereby providing greater opportunities for traffickers to operate.

### The increasing demand for migrant workers in developed countries

Low fertility rates and longer life expectancy means that most developed countries have an ageing population. This will lead to labour shortages, skills shortages and an increased tax burden on the working population in order to support and provide social benefits to the wider population. Old age dependency ratios, already at breaking point in many OECD countries at a ratio of five to one, will fall to three to one over the next 15 years.<sup>23</sup> The proportion of adults over 60 in high income countries is expected to increase from eight per cent to 19 per cent by 2050, while the number of children will drop by one third.<sup>24</sup>

Thus without mass immigration, the working age population (between 15 and 65) in Western Europe is projected to fall by 8.5 per cent (22.1 million) between 2000 and 2025 and by 37.2 per cent (96.6 million) by 2050. The situation is similar in Central and Eastern Europe, where the working age population is projected to decline by 9.2 per cent (eight million) between 2000 and 2025 and by 30.9 per cent (27 million) by 2050.<sup>25</sup>

Even if European governments rigorously promote policies to put more people into the job market (eg. discouraging early retirement or improving child care facilities) this will not change the fact that their economies will become increasingly dependent on migrant workers in the coming years. In order to stabilise the size of the working population in

the 15 EU member states, there needs to be a net inflow of some 68 million foreign workers and professionals between 2003 and 2050.<sup>26</sup>

The demand for migrant workers will be filled by irregular migration unless policy makers recognise that it is in their national interest to facilitate and manage this process. Countries of destination benefit from the contribution migrants make to the economy through their work, their innovation and their tax contributions. If channels for regular migration are opened up, migrants would not have to put themselves in the hands of smugglers and traffickers and would also be in a better position to defend their labour rights in the receiving country. Governments in countries of origin could also better manage the migration process in order to make sure it contributes to, rather than undermines, their own country's economic and social development.

### The potential development opportunities of migration

Uncontrolled migration can have a negative impact on developing countries, particularly those that already have significant problems in terms of education, adult literacy, nutrition and child mortality. These countries can ill afford to lose their most talented professionals to satisfy recruitment shortages in developed countries and must try to ensure that migration is planned and contributes to sustainable development.

Jointly developed migration programmes between countries of origin and destination can maximise the positive impact of migration on development while limiting depletion of skilled labour in countries of origin ("brain drain"). Such programmes would encourage migration that is short term and in which migrants return to the country of origin. They may also include training to enhance the migrants' skills base while abroad and to facilitate the sharing of information, contacts and expertise with local staff when they return. They may also contain agreements on how to maximise the impact of remittances in order to promote long term development in the country of origin.

Forced migrant labourers and their families in Brazil were working for months without pay before being freed in a police raid. Only then did they receive their rightful wages.



<sup>23</sup> There are 32 developed states in the Organization for Economic Cooperation and Development (OECD), International Organization for Migration, *World Migration 2003*, *op. cit.*, p.68.

<sup>24</sup> United Nations Populations Division 2002, *World Population Aging 1950-2050*, New York. Quoted in Brunson McKinley, Director General of the IOM, *International Migration and Development - The Potential for a Win-Win-Situation*, presentation at G77 Panel for Migration and Development. New York, 20 June 2003, p.7.

<sup>25</sup> The only exceptions to this in European countries are Ireland and Albania. UN Population Division. Quoted in International Organization for Migration, *World Migration 2003*, *op. cit.*, p.244.

<sup>26</sup> International Organization for Migration, *World Migration 2003*, *op. cit.*, p.245.



## Remittances

Remittances are the portion of an international migrant's earnings that are sent back to their country of origin. Statistics on remittances normally refer to official remittances, which are those that are sent home through official banks and recorded in national statistics.

The total value of official remittances doubled between 1988 and 1999. According to the World Bank, official remittances further increased from \$60 billion to \$80 billion between 1998 and 2002.<sup>27</sup> Unofficial remittances, which are sent via private courier systems, friends or relatives, are likely to be two or three times the official figure.<sup>28</sup>

Remittances account for substantial amounts of a state's income and therefore have an important impact on national economies. In Benin, remittances averaged 4.5 per cent of the gross domestic product (GDP) between 1980 and 1999<sup>29</sup> and in the Dominican Republic and Honduras they exceed seven per cent of GDP. In Nicaragua and Yemen remittances make up more than 16 per cent of GDP and in Lesotho the figure rises to 26.5 per cent.<sup>30</sup>

Remittances can narrow the trade gap, increase foreign currency reserves, facilitate debt servicing, reduce poverty and inequalities in wealth and support sustainable development. In low income countries, remittances are, on average, larger than overseas development assistance. Over the last 20 years, annual official remittances to several African countries, including Morocco, Egypt, Nigeria and Tunisia, have been worth far more than the overseas development assistance these countries have received.<sup>31</sup> In El Salvador, remittances accounted for more than 80 per cent of the total financial inflows in 2000, with overseas development assistance and foreign direct investment accounting for less than 20 per cent combined.<sup>32</sup>

Individual families also receive significant benefits from remittances which often make up 50 per cent of the household income. In many Latin American countries remittances increase the average per capita income by between seven and 14 per cent.<sup>33</sup> This money may be used to cover expenditure on food or other essentials such as medicine. Alternatively it might be spent on locally produced goods and services thereby stimulating demand and having a multiplier effect throughout the community, particularly in rural areas.

The additional income provided by remittances may allow families to send their children to school rather than to work or it may be used to cover further education or training. Remittances may also be invested in starting or developing businesses or be deposited in savings accounts in local banks.

Clearly, remittances are already an extremely important source of foreign income for many national economies. However, within the context of the increased demand for migrant workers, it is important to try and ensure that more remittances go back to the country and people that need them and that their potential to promote sustained development is fully harnessed. Addressing the following issues will help to facilitate this:



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A group of seventy-six trafficked Cambodian fishermen stranded aboard Thai fishing vessels, impounded by the Indonesian navy, wait at Surabaya naval base, to be returned home.

<sup>27</sup> World Bank, *Global Development Finance*, April 2003. Quoted in Human Rights Watch, Letter to World Bank President James Wolfensohn, 18 September 2003.

<sup>28</sup> Brunson McKinley, Director General of the IOM, *International Migration and Development - The Potential for a Win-Win-Situation*, presentation at G77 Panel for Migration and Development. New York, 20 June 2003, p.9.

<sup>29</sup> International Organization for Migration, *World Migration 2003*, *op. cit.*, p.227.

<sup>30</sup> Brunson McKinley, Director General of the IOM, *International Migration and Development - The Potential for a Win-Win-Situation*, *op. cit.*, p.9.

<sup>31</sup> IOM, *Migration Policy Issues, Facts and Figures on International Migration*, No. 2 March 2003, p.2.

<sup>32</sup> Brunson McKinley, Director General of the IOM, *Migrants' Remittances in the Americas*, paper delivered during the VIII Regional Conference on Migration in Cancun, Mexico, 29-30 May 2003, p.5

<sup>33</sup> *Ibid.*



- Migrants need to have a regular immigration status in the countries in which they are working, otherwise they will be subject to exploitation which will substantially reduce their earnings and consequently their ability to send home remittances. Migrants with regular status are also subject to exploitation and measures need to be taken to ensure that their rights are fully protected in law and in practice (eg. through legislative measures, information prior to migration regarding their rights, unionisation, etc).
- Migrants need to be able to access banks in their country of residence which will offer them the facility to send money home through official channels at very low costs. This would remove the need for migrants to use private money transfer firms, which often charge extremely high transfer fees. In Central and South America these fees are normally around 13 per cent and often exceeds 20 per cent<sup>34</sup> (see 3.2).
- Migrants could be encouraged to keep some or all of their saving in their country of origin rather than in foreign savings accounts. For this to take place migrants will have to be confident that the financial sector in their home country is efficient, trustworthy and that their savings will not be at risk. If these conditions can be guaranteed, migrants may accept lower rates of interest on their savings because of a loyalty to their country of origin.
- Programmes need to be developed by governments which encourage the use of remittances in investment and development projects. For example, further reductions on money transfer fees could be offered to migrants if they open savings accounts in their country of origin. Governments in both countries of origin and of destination could also commit to financing development projects as a proportion of official remittances (see 3.2).
- Governments need to engage directly with migrants and their communities to listen to their concerns, help solve their problems and make them partners in the process of developing policies around migration. Migrants should never be compelled to accept any of the measures outlined above.

Agreements that set a framework for planned migration have clear benefits for both sending and receiving countries. Countries of destination will be able to fill labour shortages and offset demographic pressures, while countries of origin can prevent "brain drain" by fostering managed and temporary migration which would see returning migrants bringing back new skills, contacts and financial resources that will help promote growth in the local economy. Policies that facilitate the flow of remittances to sending countries and maximise their impact may help promote sustained economic and social development.

Despite the many opportunities presented by the migration process to all states involved, most countries still refuse to acknowledge the real extent to which they rely on migrant workers or guarantee the rights of migrant workers, as set out in various international labour and human rights instruments.

## 3.2 Policies designed to maximise the development impact of remittances

### Mexico

The Mexican Government introduced a "three plus one" programme under which the federal, state and municipal governments provide one dollar each to complement each dollar of remittances invested by a migrant's home town association in their community. This type of programme encourages migrants to send money home because the matching funds provided by different levels of government represent a significant injection of resources into their local communities.<sup>35</sup>

### Senegal

By offering a special transfer scheme to Senegal through the Banque de l'Habitat du Sénégal in Paris, official remittances from France increased dramatically. In 1999, more than US\$24 million was officially transferred to Senegal via this scheme, 26 per cent of the total official remittances to the country in that year.<sup>36</sup>

### STOP THE WAGE CUT & ANTI-MIGRANT PROPOSALS

COALITION FOR MIGRANTS' RIGHTS (COMC KONG)



COMC (ADWU, ASL, FEONA, FPMG, ISMA, IHWS, TMA), Friends of Advice &

Coalition for Migrants' Rights' campaign against taxing domestic workers in Hong Kong.

<sup>34</sup> De la Garza and Lowell, *Sending Money Home: Hispanic Remittances and Community Development*, Rowman and Littlefield, Oxford, 2002. Quoted in Brunson McKinley, *Migrants' Remittances in the Americas*, op. cit., p6. Transfer costs of remittances to Nicaragua reached 25 per cent of the money transferred.

<sup>35</sup> Brunson McKinley, *Migrants' Remittances in the Americas*, op. cit., p7

<sup>36</sup> International Organization for Migration, *World Migration 2003*, op. cit., p.230.



## 4. Protecting migrants' rights

### International protection mechanisms

Irregular migrants are obviously most at risk of being subjected to forced labour and exploitation, but regular migrants are also routinely denied both their human and labour rights.

The need to protect the rights of both regular and irregular migrants has been recognised in international standards like *ILO Convention No. 143 on Migrant Workers, 1975* and the *UN Convention on the Protection of the Rights of All Migrant Workers and their Families, 1990*. Other international instruments, while not specifically focussed on migrants, also contain provisions that are of assistance in seeking to protect migrant workers' rights.

Some of the relevant Conventions are summarised below with indicators of their strengths and weaknesses. It is important to look at a range of standards as many will not be ratified by the particular country in question and others will only apply to certain categories of migrant workers or those in particular circumstances.<sup>37</sup>

#### ILO Convention No. 97 on Migration for Employment (Revised), 1949 - 42 ratifications<sup>38</sup>

Despite being over 50 years old this Convention still has several articles which address problems that migrants face today, including:

**Article 2:** Requires states to provide an "adequate and free service to assist migrants for employment" and "in particular to provide them with accurate information".

**Article 3:** Requires states to take "all appropriate steps against misleading propaganda relating to emigration and immigration".

**Article 6:** Requires states to ensure that all immigrants receive treatment no less favourable than nationals in a number of areas, including remuneration, conditions of work, accommodation and membership of unions.

**Article 10:** Where migration between countries is sufficiently large, the competent authorities "whenever necessary or desirable" shall enter into agreements for regulating matters of common concern that relate to the application of the Convention.

**Limitations:** the scope of this Convention is limited under Article 11 to "any person regularly admitted as a migrant for employment" and therefore will not assist irregular migrants. Given its age and its limited scope, the Convention has a very low number of ratifications, just 42 states as of 1 November 2003.

#### ILO Convention No.143 on Migrant Workers (Supplementary Provisions), 1975 - 18 ratifications

This Convention is split into two parts. The first deals with migration in abusive conditions and seeks to reduce irregular migration and extend some protection to irregular migrants. The second part seeks to promote equality of opportunity and treatment for migrant workers in regular situations. Articles of particular interest include:

**Article 1:** Requires states to "respect the basic human rights of all migrant workers".

**Article 3:** Commits states to take all necessary and appropriate measures to suppress the clandestine movement of migrants for employment and their illegal employment, including measures against those responsible for organising their illegal movement or employment.

**Article 8:** Where a migrant has resided legally on a territory for the purposes of employment, the migrant worker shall not be regarded as illegal by the mere loss of his employment. The migrant worker shall enjoy equality of treatment with nationals in respect of "guarantees of security of employment, the provision of alternative employment, relief work and retraining".

**Article 9:** Even where a migrant has irregular status they shall "enjoy equality of treatment for himself and his family in respect of rights arising out of past employment as regards



J.R. Ripper/SocialPhotos

<sup>37</sup> A table listing the countries which have ratified the principle international standards relating to forced labour, migrant rights and trafficking can be referred to on pages 25-26

<sup>38</sup> The number of ratifications listed for conventions in this section was correct as of 1 November 2003.



remuneration, social security and other benefits". Where disputes arise in relation to this the worker or a representative shall have the right to present their case to the competent body.

**Article 10:** Requires states to promote and guarantee "equality of opportunity and treatment in respect of employment and occupation, of social security, of trade union and cultural rights and of individual and collective freedoms" for migrants and their families who are lawfully within its territory.

**Article 12:** Requires states to educate migrants about their rights and to "give effective assistance to migrant workers in the exercise of their rights and for their protection".

**Limitations:** This Convention only has 18 ratifications and none of these are in the last 10 years. However, only three of these states have also ratified the 1990 Migrant Convention.

### The United Nations Convention on the Protection of the Rights of All Migrant Workers and their Families (1990) - 23 ratifications

This UN Convention is the most comprehensive international standard dealing with migrant workers. It entered into force on 1 July 2003 and will have a treaty monitoring body to review whether the states which have ratified the Convention are in full compliance with it. The 1990 Convention builds on the principles of ILO Conventions Nos. 97 and 143 and the Universal Declaration of Human Rights in order to extend human rights law to all migrant workers and their families throughout the entire migration process. It seeks also to prevent and eliminate "the clandestine movements and trafficking in migrant workers" and the employment of migrants in an irregular situation. The Convention is divided into nine parts, some of which are highlighted below.

#### Parts I and II:

These sections include the definition of a migrant worker as "a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national" (Art. 2). Family members are defined (Art. 4) and a non-discrimination article is included (Art. 7).



Stephan Ruiz / COLORES Magazine

ILO Convention No.29  
(1930) protects nationals  
and migrant workers from  
forced or compulsory labour.

A family of released bonded  
labourers, India.

#### Part III:

The Convention extends basic human rights protection to all migrant workers and their families regardless of whether they have regular or irregular status in the country of destination. This includes: protection from torture (Art. 10); protection from slavery or forced labour (Art. 11); freedom of thought, conscience and religion (Art. 12); the right to privacy (Art. 14); the right to liberty and security of person (Arts. 16 and 17); due process before the law (Arts. 16-20); protection against the confiscation or destruction of their identity documents (Art. 21); equality of treatment with nationals in respect of remuneration and conditions of work (Art. 25); the right to take part in trade union activities (Art. 26); information regarding their rights arising from the Convention and their rights and obligations in the country concerned (Art. 33).

#### Part IV:

The Convention sets out additional rights for documented migrants including: information, prior to their entry into the country of destination, on conditions of admission, stay and employment (Art. 37); rights to be temporarily absent from work (Art. 38); equality of treatment with nationals in respect to access to education, vocational training and social services (Arts. 43 and 45); reunification with partners and dependent children (Art. 44); equality of treatment with nationals in respect to protection against dismissal, unemployment benefits and access to alternative employment if work is terminated (Art. 54).

#### Part VI:

The Convention also proposes policies to promote equitable and lawful international migration, including: regulating organisations recruiting workers for employment abroad (Art. 66); collaboration between states to prevent the dissemination of misleading information regarding migration and measures to prohibit and punish those responsible for the illegal movement of migrant workers or for the employment of undocumented migrants (Art. 68); and ensuring that migrant workers and their families in a regular situation enjoy the same living conditions as nationals in relation to "standards of fitness, safety, health and principles of human dignity" (Art. 70).

**Limitations:** This Convention has only been ratified by 23 countries to date - all of which are sending countries (Azerbaijan, Belize, Bolivia, Bosnia and Herzegovina, Cape Verde, Colombia, Ecuador, Egypt, El Salvador, Ghana, Guatemala, Guinea, Kyrgyzstan, Mali, Mexico, Morocco, Philippines, Senegal, Seychelles, Sri Lanka, Tajikistan, Uganda and Uruguay).



## ILO Convention No. 29 on Forced Labour, 1930 - 163 ratifications

ILO Convention No. 29 has a very high number of ratifications and is one of the ILO's fundamental human rights conventions, with which ILO member states are supposed to comply even if they have not ratified them. The Convention can assist any migrant worker who is undertaking any work or service against their will because they have been coerced or threatened with some form of punishment if they do not. The definition of forced labour has been interpreted broadly by the ILO's Committee of Experts and been applied to bonded labourers and trafficked people in the past. The aspects of the Convention which are particularly relevant include:

**Article 1:** Requires all ratifying states to "suppress the use of forced or compulsory labour in all its forms within the shortest possible period".

**Article 2:** Defines forced labour as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily". It also lists exceptions to this definition.

**Article 25:** Notes that the use of forced labour must be punishable as a penal offence and governments are obliged to "ensure that the penalties imposed by law are really adequate and are strictly enforced".

**Limitations:** This Convention will not cover all migrants who are being exploited as it only applies to those who are working against their will under the threat of some form of penalty or punishment.

## United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the Convention on Transnational Organized Crime, November 2000 (Trafficking Protocol) - 44 ratifications.

The Trafficking Protocol is the primary international standard dealing with trafficking in people. It has been ratified by 44 states (signed by 117 states) as of 1 November 2003 and comes into force at the end of 2003. Under the Protocol's inclusive definition many migrant workers would also be trafficked people and

may benefit from some of the measures contained in the Protocol. Articles of particular note include:

**Article 3:** The definition of trafficking. It stresses that someone is trafficked whenever force, coercion, deception or the abuse of power have taken place, irrespective of whether a person consented to their exploitation. In addition, the recruitment, transportation, transfer, harbouring or receipt of a child (under 18) for the purposes of exploitation will always be considered as trafficking.

**Articles 6 and 7:** Outline the assistance and protection measures (including housing, social assistance, medical care, legal advice and temporary or permanent permits to regularise their immigration status) which should be made available to trafficked persons "in appropriate cases and to the extent possible under its domestic law".

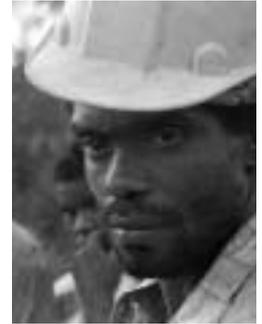
**Article 8:** The country of origin will facilitate the safe return of that person with due regard for their safety. The receiving country will return the trafficked person with due regard for the safety of that person and any legal proceedings related to their being trafficked. Such returns "shall preferably be voluntary".

**Article 9:** Lists measures which should be taken to prevent trafficking, including the protection of victims of trafficking and measures to tackle "poverty, underdevelopment and lack of equal opportunity", which make people vulnerable to trafficking.

**Article 10:** Calls for information exchange between states and the training of law enforcement, immigration officers and other relevant officials. Training should focus on preventing trafficking and protecting the victims and their rights. Training would need to consider human rights issues and be child and gender sensitive and should encourage co-operation with non-governmental organisations and other relevant organisations.

**Article 14:** Stresses that nothing in the Protocol will undermine rights and obligations under international law, particularly relating to the 1951 Convention Relating to the Status of Refugees and the principle of non-refoulement.

**Limitations:** The protection and support elements are not binding on states that have ratified the Convention. Furthermore, the effectiveness of any protection that is offered will depend on ensuring that all organisations



all photographs on this page: J.R. Ripper/SocialPhotos

All photos from an operation to free forced labourers in December 2001 from an estate in the Amazon, Brazil.



and officials do refer anyone they think may have been trafficked to the relevant agency for advice and assistance, regardless of their willingness to co-operate in a prosecution or their irregular immigration status.

### The UN Convention Relating to the Status of Refugees, 1951 - 131 ratifications

This Convention (hereafter referred to as the 1951 Refugee Convention) provides for the protection of people who would face persecution if removed to their country of origin. Particularly relevant aspects of the Convention include:

**Article 1:** The definition of a refugee as someone who "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a social group or political opinion, is outside the country of his nationality and is unable or, owing to such a fear, is unwilling to avail himself of the protection of that country".

**Article 31:** Notes that states should not penalise refugees who are in their country illegally provided they have come direct from a territory where their life or freedom was threatened and they present themselves to the authorities without delay and have a good reason for being in the country without authorisation.

**Article 33:** Prohibits the expulsion or return of a refugee to a territory where his life or freedom would be threatened because of their race, religion, nationality, membership of a social group or political opinion.

**Limitations:** The Convention limits the grant of refugee status to people who can show that as individuals they are likely to face persecution on one of the grounds specified in the Convention. This does not cover people whose lives may be at risk because of a general situation of violence or upheaval or where it is considered that the government of the country in question could offer them effective protection against the persecution they fear. Some trafficked migrants have been granted protection under the Convention or been given subsidiary forms of protection (see 4.1).

## 4.1 Protection for trafficked migrants in the UK under the 1951 Refugee Convention and European Convention on Human Rights (ECHR), 1950<sup>39</sup>

Migrants who have escaped from their traffickers may be at risk of being re-trafficked if returned to their country of origin or of being subject to other punishments from traffickers. The harm that they may consequently suffer may amount to persecution if there is not sufficient state protection and they may qualify for refugee status or other forms of long term protection in the country of destination. Below are some summarised examples of determinations from the UK relating to trafficked people.

**Immigration Appeal Tribunal Decision, Secretary of State for the Home Department v Dzhygun (00TH00728), 17 May 2000.**

This case deals with a woman from Ukraine who was trafficked abroad and forced into prostitution. The Tribunal found that a trafficked woman was entitled to protection under the 1951 Refugee Convention as a member of a particular social group, namely "women in the Ukraine who are forced into prostitution against their will". The Tribunal also found that the authorities in the Ukraine were unable to provide the women with sufficient protection.

**Immigration Appellate Authority Decision, Josephine Ogbeide v Secretary of State for the Home Department (HX/08391/2002), 10 May 2002.**

This case involves a 16 year-old Nigerian girl who was trafficked to the UK for prostitution. The Adjudicator identified her as belonging to the particular social group of young girls from Nigeria whose economic circumstances are poor. He also found that if she were returned there was a serious risk that she would be re-trafficked or forced into prostitution in Nigeria so that the traffickers could recover their investment in her. The Adjudicator accordingly granted her protection under the 1951 Refugee Convention and under Article 3 (freedom from torture) of the European Convention on Human Rights (ECHR).

**Immigration Appellate Authority Decision, Miss A B v Secretary of State for the Home Department (CC/64057/2002), 18 February 2003.**

This case relates to a 16-year-old girl from Nigeria who was trafficked to the UK for prostitution. The Adjudicator found the girl was part of "the well-documented social group of girls trafficked from West Africa" and that if returned to Nigeria there was a danger that she would be re-trafficked. Accordingly the Adjudicator granted her protection under the 1951 Refugee Convention and under Articles 3, 4 and 8 of the ECHR which relate to freedom from torture, freedom from slavery and forced labour and the right to privacy and family life.

<sup>39</sup> The protection offered by the European Convention on Human Rights (ECHR) is extended to all migrants in the UK through the Human Rights Act, 2000 and they should not be removed from the UK if this would lead to a violation of their rights under the ECHR.



### Immigration Appeal Tribunal Decision, *A v Secretary of State for the Home Department* (CC/63673/2002), 18 February 2003.

This case relates to an Albanian woman who was trafficked to the UK and forced into prostitution. Despite the fact that the Adjudicator dismissed the evidence of the trafficked woman and much of the evidence provided by third parties on the grounds that the “appellant is used to practising deception” he still granted humanitarian protection on human rights grounds (Article 3 of ECHR). He found that “the police could not protect the appellant in Albania from the Mafia if she lived with her family”, that internal flight in Albania was not a practical option and that there would be a significant danger for her in Albania if returned.

### Immigration Appeal Tribunal Decision, *Secretary of State for the Home Department v K* (UKIAT00023 K), 7 August 2003.

This case involved an Albanian woman who had been sold by her family to a man with a view to him marrying her, but in reality he intended to sell her into prostitution. The Tribunal accepted that there was not sufficiency of protection in Albania and that the country “does not yet fully comply with the minimum standards for the elimination of trafficking”. It therefore found that there was a real risk of the woman being subjected to persecution and that she would also face treatment which would violate her rights under Articles 3 and 8 of the ECHR.

### Immigration Appellate Authority Decision, *Ms Tam Thi Dao v Secretary of State for the Home Department* (HX/28801/2003), 1 September 2003.

This case relates to a Vietnamese girl who was trafficked to the UK and escaped from her traffickers before she was put into prostitution. The Adjudicator found that because of her age and the absence of family and friends in Vietnam she would be extremely vulnerable to exploitation and re-trafficking if she were returned to Vietnam. He considered that if she were re-trafficked this would constitute persecution and that she qualified for protection under the Refugee Convention as a member of a social group on account of her gender. He also allowed her appeal under Articles 3, 4 and 8 of the ECHR.

## The importance of the 1990 Migrant Convention: examples from the UK and Indonesia

As stated above, the 1990 Migrant Convention seeks to protect all migrant workers' basic human rights throughout the entire migration process and ensure equality of treatment between migrant workers and nationals in a range of areas.

No major receiving country has ratified the 1990 Migrant Convention to date. However, there is no doubt that migrant workers - including those who have migrated through regular channels - are exposed to extreme human rights violations in these countries, including forced labour, and that they are subjected to discriminatory treatment in terms of pay

and conditions. According to the International Labour Organization more than one in three qualified migrant applicants were unfairly excluded in employment selection procedures in Western industrialised countries.<sup>40</sup>

The examples below demonstrate how regular migrants are not adequately protected against forced labour and exploitation by existing national legislation.

### Exploitation and forced labour in the UK

The UK Government has recently published research which confirms the positive contribution that migrant workers make to the economy and has expanded some schemes to allow additional migrant workers to enter the UK. The Home Office has stated that migrants contributed £2.5 billion more in taxes than they consumed in benefits in 1999-2000.

The UK is increasingly reliant on migrant labour, particularly in sectors like health care, education, cleaning, agriculture, hotels and catering, IT and construction. It is estimated that the UK will need up to 1.2 million migrants, many unskilled, in the next few years just to replace workers entering retirement.<sup>41</sup>

There are now a myriad of different routes into the British labour market, which include: Work Permit Holder, Working Holidaymakers Scheme, Seasonal Agricultural Workers, Sector Based Schemes, Domestic Workers, Au Pairs, Self Employed Visas, Highly Skilled Migrants Programme, Students, EU Nationals, etc. The system is complex and confusing as each scheme has different rights and entitlements. This makes it highly unlikely that a migrant worker will know what their rights are, let alone how they would go about enforcing them.

A recent report by Kalayaan, an NGO that campaigns for and supports migrant domestic workers, highlights how migrant workers' rights are inadequately protected under existing UK legislation. Kalayaan found that, on average, 49 per cent of domestic workers registered with them had had their passports taken by employers (a total of 511 migrant worker between January 2001 and June 2003).<sup>42</sup> The removal of a passport makes migrant workers vulnerable to deportation and thereby allows

<sup>40</sup> International Labour Organization, *Facts on Migrant Labour*, 2003.

<sup>41</sup> Adapted from Selaisse and Weiss, *The Brain Drain - Africa's Achilles Heel*, *World Markets in Focus 2002*, World Markets Research Centre, London, 2002. Quoted in IOM *World Migration 2003*, *op. cit.*, p.222.

<sup>42</sup> Kalayaan, *Migrant Workers' Rights: The Passport Issue*, London, 2003, p.15.



employers to exert additional pressure on workers to accept bad pay and conditions. It also makes it impossible for migrant workers to access many services and entitlements.

Despite this, there is no legislation in the UK which protects workers from having their passports withheld or penalises employers for doing so. Article 21 of the 1990 Migrant Convention stipulates that all migrant workers should have protection against the confiscation or destruction of their identity documents.

Home Office statistics show that some 14,000 domestic workers are given permits to work in the UK each year. However, these workers are not properly protected by UK employment legislation against exploitation and discrimination. For example, it is still legal to discriminate on the grounds of nationality and colour when employing someone for work in the private household. Furthermore, if their employers can show that they are treated as "part of the family" then the domestic worker is exempt from minimum wage legislation and the working time directive also does not apply to domestic workers.

This type of treatment is not limited to migrant domestic workers. The Trades Union Congress (TUC) report, *Overworked, underpaid and over here*, draws attention to similar practices affecting other types of workers, including nurses and agricultural workers. The public service union, UNISON, has assisted migrant workers from the Philippines, Zimbabwe, Malawi, South Africa and India who were brought to the UK to work as nurses in private care homes. UNISON has documented cases where migrants were charged up to £2,000 by agencies in countries of origin just to be put forward for work in the UK. On arrival others are told they have to work for at least two years or pay a "fine" of up to £7,000. These workers are frequently paid less than promised, work long hours, asked to surrender their passports and work permits, and housed in appalling conditions.<sup>43</sup>

These examples illustrate that migrant workers in the UK are working in situations which are not only exploitative, but in some cases would also constitute forced labour (eg. where documents

are removed in order to coerce migrants into staying in a job or accept exploitative conditions of work). Despite this, the UK will not guarantee migrant workers the rights set out in the 1990 Migrant Convention, stating that:

"The Government has no plans at present to sign and ratify the Convention. The Government considers it has struck the right balance between the need for immigration control and the protection of the interests and rights of migrant workers and their families in the UK."<sup>44</sup>

The failure to provide adequate protection to migrants is neither confined to European states nor indeed to receiving countries, as the following case of Indonesian migrant workers demonstrates.

## Exploitation and forced labour of Indonesian migrant workers<sup>45</sup>

Since the early 1980s, poverty, high unemployment and a lack of educational opportunities have been driving Indonesian migrants abroad in search of work and, by the late 1990s, they were among the fastest-growing migrant populations in Asia. By mid-2001, over 70 per cent of Indonesian migrants were women, and 43 per cent worked in the informal employment sector as domestic workers, factory workers or construction workers.<sup>46</sup>

Most Indonesians wishing to work abroad in jobs perceived as "low-status" or "unskilled" are officially required to go through over 400 government-sanctioned recruitment agencies, which seek to profit from the migrant trade. These agencies often charge extortionate training, processing and placement fees, which make migrant workers severely indebted before they even start working abroad.

The compulsory requirement to sign contracts with recruitment agencies means that migrants have little or no power to negotiate the terms of their agreement and employment contract, including agency fees. Many migrants end up accepting whatever work they are offered, even



Kalayaan

<sup>43</sup> Trades Union Congress, *Overworked, underpaid and over here: Migrant workers in Britain*, London, July 2003, pp.27-28.

<sup>44</sup> Letter from the Home Office, Immigration and Nationality Directorate to the Joint Council for the Welfare of Immigrants, 7 August 2003.

<sup>45</sup> Taken from the document Information on Indonesia: Compliance with ILO Convention No.29 on Forced Labour (ratified in 1950), Asian Migrant Centre, Indonesian Migrant Workers' Union, Migrant Forum in Asia and Anti-Slavery International, August 2003.

<sup>46</sup> Indonesia Country Report, *Asian Migrant Yearbook 2000*, The Asian Migrant Centre (AMC), November 2001, Hong Kong SAR.



if it is different to the work they were promised and involves severe exploitation.

The Indonesian Government's requirement for migrants to use the agency system, and its failure to provide adequate rights and legal protection, as set out in various international conventions, has left its migrant workers vulnerable to exploitation and forced labour during the migration process.

The agencies require prospective migrant workers to live in training camps in Indonesia for one to 14 months, where they are often forced to work for the agency staff as well as carry out other tasks such as cleaning, shopping and cooking. Though the Indonesian labour department has set minimal standards to regulate practices within these camps, these are rarely enforced. Restrictions are placed on migrants' freedom of movement, and conditions in the camps are poor, often leading to health problems for which there is little medical care. According to research conducted by the Centre for Indonesian Migrant Workers (CIMW) on conditions inside 100 such training camps, 68 per cent of girls/women interviewed were not provided with mattresses to sleep on; 62 per cent stated they received insufficient food; and nine per cent received no food at all. Though many training camps provided one toilet per 50 women, one training camp had 200 persons sharing a single toilet. Physical and sexual abuse were reported by 17 per cent of interviewees.<sup>47</sup>



Ming Shya/COLORS Magazine

A 20-year old domestic worker from Indonesia worked from 5.15 am to midnight, seven days a week for employers who lived in an apartment shown above. She was beaten with a stick when they were not satisfied for her work. She is still waiting to receive compensation from a Hong Kong Labour Tribunal.

The research also found that almost all workers interviewed had signed a contract in a foreign language (without translation) and were prevented from reading the contract. Forty-one per cent had been forced by agents to use false ages and addresses and 78 per cent of women interviewed had paid illegal fees to brokers of Rupiah (Rp) 100,000 (US\$12) to Rp seven million (US\$855). Despite this, there is no guarantee that all migrants would actually end up with a legitimate job abroad.

The migrants' exploitation continues after departing for host countries. Here they are in a situation of debt bondage and forced labour while they pay off agency fees, which are often extortionate despite the fact that a legal maximum for such fees is set by the Indonesian Government. Migrants going to the Gulf must

pay official fees of Rp 400,000 (US\$49) with a two to three months salary deduction. Those going to Taiwan must pay NT\$82,653 (US\$2,430) with a 21 month salary deduction in addition to brokers' fees of NT\$60,000 (US\$1,760). Those going to Hong Kong must pay Rp 17,845,000 (US\$2,179); however, more than 50 per cent of migrants in Hong Kong pay excessive placement fees of up to HK\$21,000 (US\$2,699) with a four to seven month salary deduction.<sup>48</sup> Hence, even if Indonesian migrants are mistreated and forced to work long hours under harsh conditions, they cannot leave because of the contract they have signed and the money "owed" to agencies. Migrants who have had their rights violated, especially those who have signed contracts using false names, find it difficult to receive information and assistance from the Indonesian consulate authorities on how to pursue redress mechanisms.

According to baseline research, 48 per cent of Indonesian migrant workers in Hong Kong are paid below the legal minimum wage, 61 per cent do not receive their weekly rest days, and 24 per cent have undergone physical and verbal abuse.<sup>49</sup>

<sup>47</sup> *Training Camps for Potential Indonesian Migrant Women Workers: Study on the Conditions Inside Training Camps for Indonesian Migrant Workers in Jakarta*, Centre for Indonesian Migrant Workers, September 1999, Jakarta, Indonesia.

<sup>48</sup> Indonesia Country Report, *Asian Migrant Yearbook 2001*, The Asian Migrant Centre (AMC), April 2002, Hong Kong SAR.

<sup>49</sup> *Baseline Research on Racial Discrimination Against Foreign Domestic Helpers*, Asian Migrant Centre & Coalition for Migrants Rights, February 2002, Hong Kong SAR.



Migrants must also pay excessive agency fees in order to renew their employment contracts. According to a survey conducted in Hong Kong, 89 per cent of respondents were charged fees higher than the legal maximum of HK\$367 (US\$47) set by the Hong Kong Government. The average fee paid by respondents was HK\$5,655 (US\$727), and 5 per cent of respondents had even paid HK\$10,000 (US\$1,285).<sup>50</sup>

Article 66 of the Indonesian Government's Ministerial Decree No.104A/2002 has only served to worsen the situation by requiring low-status migrant workers to return to Indonesia to renew their contracts. This means they have to leave their jobs for two weeks and pay for their air fare and agency fees again, rather than having their contract validated by the Indonesian Consulate in the host country.

Migrants continue to be exploited and discriminated against even as they return home. All returning migrants must return through the specially-designated Terminal 3 of Soekarno Hatta International Airport, where there have been reports of migrants experiencing rape and physical abuse and having to pay bribes in order to obtain basic information and services. Migrants are also required to be met upon arrival by their family members. If not, they must return home by transportation offered by agencies, which again involves paying fees 10 times higher than public transportation.

On 23 February 2003, 12,000 people protested against the Hong Kong Government's proposal of a tax on migrant workers



Centre for Indonesian Migrant Workers



Alex Smalles / COLORS Magazine

## 4.2 Case study - Adek

Adek's experience exemplifies what many migrant domestics have to go through at the hands of Indonesian recruitment agencies. Adek had contacted a broker in her home town to help her go to Hong Kong, because she had heard from a relative that she could get a better job there and earn more money. The broker had taken her to an employment agency in Surabaya, East Java, where she had to pay Rp 390,000 (US \$44) for a medical test, a uniform, and Cantonese language books and cookery books.

Adek was sent to a training camp in Surabaya. There were around 1,000 women in this camp; many women in the camp came down with illnesses due to inadequate food and unsanitary water. One woman died through lack of medical care. Adek and the other women were forced to carry out tasks for the agency staff, cleaning duties, and undertake long hours of language tuition. During her four months in the camp, Adek was not allowed to leave, and her family was allowed only a few hours to visit her every two weeks. There were no telephones for Adek to contact her family, and letters were censored or taken away. Adek signed contract papers without these being explained to her.

Adek was then taken to Hong Kong where she worked for five months without pay as this money went to repay the agency fees she "owed". Adek also faced routine verbal abuse, was not allowed to leave the apartment and had only one rest day in nine months of employment.<sup>51</sup>

<sup>50</sup> Campaign for Fair Treatment of Indonesian Domestic Helpers in Hong Kong by Agencies Approved by the Hong Kong Labour Department, Asian Migrant Centre, Amal Indonesia Direct & Coalition for Indonesian Migrant Workers Associations (KOTKIHO), 30 March 2001, Hong Kong SAR.

<sup>51</sup> According to the research carried out by Asian Migrant Centre & Coalition for Migrants Rights, the majority of Indonesian migrants in Hong Kong receive two rest days per month.



## Conclusions

States need to pass legislation which prohibits and punishes all forms of trafficking as set out in the UN Trafficking Protocol and ensure that trafficked people have access to the protection and support measures outlined in Articles 6, 7 and 8 of that Protocol. Yet, states must also recognise that these initiatives alone will not be sufficient to counter the problem of trafficking in people and that their policies must also address the root causes of this problem, which are closely linked to migration issues.

Growing inequalities of wealth between and within countries and an increasing, and often unacknowledged, demand for migrant workers in both developed and developing countries are fuelling migration. Many governments have reacted to this by mounting campaigns which seek to evoke fear in potential migrants and dissuade them from travelling abroad, and by implementing more restrictive immigration policies. This response is unlikely to deter migrants who are seeking work abroad as a means of survival and has increased the profitability of trafficking and smuggling by reducing regular routes for migration.

The promotion of regular and managed migration has the potential to reduce trafficking and smuggling by offering migrants a mechanism by which they can take up jobs abroad, which is safer, cheaper and guarantees their human and labour rights in the country of destination.

However, it must be stressed that regular as well as irregular migrants are subjected to trafficking, forced labour and other serious forms of exploitation and discrimination.

It is therefore essential that the promotion of regular migration takes place within the framework of a migration system which is transparent, standards-based and is managed for the benefit of migrants themselves as well as both sending and receiving countries. Key to the establishment of such a system is ensuring that all states sign and ratify the United Nations Convention on the Protection of the Rights of All Migrant Workers and their Families, 1990.

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December 18 and Migrant Rights International: [www.december18.net](http://www.december18.net)

International Confederation of Free Trade Unions: [www.icftu.org](http://www.icftu.org)

International Labour Organization: [www.ilo.org](http://www.ilo.org)  
and [www.ilo.org/migrant](http://www.ilo.org/migrant)

International Organization for Migration: [www.iom.int](http://www.iom.int)

Joint Council for the Welfare of Immigrants: [www.jcwi.org.uk](http://www.jcwi.org.uk)

Organisation for Security and Co-operation in Europe:  
[www.osce.org/europe-against-trafficking](http://www.osce.org/europe-against-trafficking)  
and [www.osce.org/odihr/democratisation/trafficking](http://www.osce.org/odihr/democratisation/trafficking)

Trades Union Congress: [www.tuc.org.uk](http://www.tuc.org.uk)

United Nations Association: [www.una-uk.org](http://www.una-uk.org)

United Nations Office of the High Commissioner for Human Rights:  
[www.unhcr.ch/women/focus-trafficking.html](http://www.unhcr.ch/women/focus-trafficking.html)



International standards relating to migrants' rights, forced labour and trafficking as of 1 November 2003 signed by one or more states.

Country	Protocol <sup>52</sup> 2000	UN 1990 <sup>53</sup>	ILO 143 <sup>54</sup>	ILO 97 <sup>55</sup>	ILO 29 <sup>56</sup>
Albania	✓				✓
Algeria				✓	✓
Angola					✓
Antigua & Barbuda					✓
Argentina	✓				✓
Armenia	✓				
Australia					✓
Austria					✓
Azerbaijan	✓	✓			✓
Bahamas				✓	✓
Bahrain					✓
Bangladesh					✓
Barbados				✓	✓
Belarus	✓				✓
Belgium				✓	✓
Belize	✓	✓		✓	✓
Benin			✓		✓
Bolivia		✓			✓
Bosnia & Herzegovina	✓	✓	✓	✓	✓
Botswana	✓				✓
Brazil				✓	✓
Bulgaria	✓				✓
Burkina Faso	✓		✓	✓	✓
Burundi					✓
Cambodia					✓
Cameroon			✓	✓	✓
Canada	✓				✓
Cape Verde		✓			✓
Central African Rep.					✓
Chad					✓
Chile					✓
Colombia		✓			✓
Comoros					✓
Congo					✓
Democratic Rep. of Congo					✓
Costa Rica	✓				✓
Côte d'Ivoire					✓
Croatia	✓				✓
Cuba				✓	✓
Cyprus	✓		✓	✓	✓
Czech Rep.					✓
Denmark	✓				✓
Djibouti					✓
Dominica				✓	✓
Dominican Rep.					✓
Ecuador	✓	✓		✓	✓
Egypt		✓			✓
El Salvador		✓			✓
Equatorial Guinea	✓				✓
Eritrea					✓
Estonia					✓
Ethiopia					✓
Fiji					✓
Finland					✓
France	✓			✓	✓
Gabon					✓
Gambia	✓				✓
Georgia					✓
Germany				✓	✓
Ghana		✓			✓
Greece					✓
Grenada				✓	✓
Guatemala		✓		✓	✓
Guinea-Bissau					✓
Guinea		✓	✓		✓
Guyana				✓	✓
Haiti					✓
Honduras					✓
Hungary					✓
Iceland					✓
India					✓
Indonesia					✓
the Islamic Rep. of Iran					✓
Iraq					✓
Ireland					✓
Israel				✓	✓
Italy			✓	✓	✓
Jamaica				✓	✓
Japan					✓
Jordan					✓
Kazakhstan					✓
Kenya			✓	✓	✓
Kiribati					✓
Kuwait					✓



Country	Protocol <sup>52</sup> 2000	UN 1990 <sup>53</sup>	ILO 143 <sup>54</sup>	ILO 97 <sup>55</sup>	ILO 29 <sup>56</sup>
Kyrgyzstan		✓			✓
Lao People's Democratic Rep.	✓				✓
Lebanon					✓
Lesotho	✓				✓
Liberia					✓
Libyan Arab Jamahiriya					✓
Lithuania	✓				✓
Luxembourg					✓
the former Yugoslav Rep. of Macedonia			✓	✓	✓
Madagascar				✓	✓
Malawi				✓	✓
Malaysia				✓	✓
Mali	✓	✓			✓
Malta	✓				✓
Mauritania					✓
Mauritius	✓			✓	✓
Mexico	✓	✓			✓
Moldovia, Rep. of					✓
Monaco	✓				✓
Morocco		✓			✓
Mozambique					✓
Myanmar					✓
Namibia	✓				✓
Nepal					✓
the Netherlands				✓	✓
New Zealand	✓			✓	✓
Nicaragua					✓
Niger					✓
Nigeria	✓			✓	✓
Norway	✓		✓	✓	✓
Oman					✓
Pakistan					✓
Panama					✓
Papua New Guinea					✓
Paraguay					✓
Peru	✓				✓
Philippines	✓	✓			✓
Poland	✓				✓
Portugal			✓	✓	✓
Qatar					✓
Romania	✓				✓
Russian Federation					✓
Rwanda	✓				✓
Saint Kitts and Nevis					✓
Saint Lucia				✓	✓
Saint Vincent & the Grenadines	✓				✓
San Marino			✓		✓
Saudi Arabia					✓
Senegal	✓	✓			✓
Serbia & Montenegro	✓		✓	✓	✓
Seychelles		✓			✓
Sierra Leone					✓
Singapore					✓
Slovakia					✓
Slovenia			✓	✓	✓
Solomon Islands					✓
Somalia					✓
South Africa					✓
Spain	✓			✓	✓
Sri Lanka		✓			✓
Sudan					✓
Suriname					✓
Swaziland					✓
Sweden			✓		✓
Switzerland					✓
Syrian Arab Rep.					✓
Tajikistan	✓	✓			✓
Tanzania, United Rep. of				✓	✓
Thailand					✓
Togo			✓		✓
Trinidad & Tobago				✓	✓
Tunisia	✓				✓
Turkey	✓				✓
Turkmenistan					✓
Uganda		✓	✓		✓
Ukraine					✓
United Arab Emirates					✓
United Kingdom				✓	✓
Uruguay		✓		✓	✓
Uzbekistan					✓
Venezuela	✓		✓	✓	✓
Yemen					✓
Zambia				✓	✓
Zimbabwe					✓

<sup>52</sup> UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the Convention on Transnational Organized Crime, November 2000.

<sup>53</sup> UN Convention on the Protection of the Rights of All Migrant Workers and Their Families, 1990.

<sup>54</sup> ILO Convention No. 143 on Migrant Workers (Supplementary Provisions), 1975.

<sup>55</sup> ILO Convention No. 97 on Migration for Employment (Revised), 1949.

<sup>56</sup> ILO Convention No. 29 on Forced Labour, 1930.

Trafficking, smuggling and migration are separate, but inter-related issues. This publication seeks to look at the issue of trafficking within a broader migration framework and to propose policies which would be effective in reducing trafficking and in preventing the human and labour rights violations to which migrant workers are so often subjected today.

Anti-Slavery International is the world's oldest international human rights organisation and was set up in 1839. Anti-Slavery International is committed to eliminating slavery through research, raising awareness and campaigning. It works with local organisations to put pressure on governments to acknowledge slavery and to take action to abolish its practice.

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