



Pakistan Institute of Labour Education & Research

## **Irregular Migrant workers in Karachi**

### **Introduction**

Migrant workers are defined<sup>1</sup> 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”, while irregular migrants includes “those who enter a country without the proper authority (for example through clandestine entry and entry with fraudulent documents); people who remain in a country in contravention of their authority (for example by staying after the expiry of visa or work permit, through sham marriages or fake adaptations, as bogus students or fraudulently self-employed); people moved by migrant smugglers or human trafficking, and those who deliberately abuse the asylum system.” (Koser, 2005). Irregular migrants are thought to be vulnerable against any type of exploitation or inhumane treatment because of their legal status in the host and transit countries, which includes unpaid or underpaid wages, exclusion from social security scheme, working in a very poor working conditions, no access to social services including health, education and training, the forced labour, sexual exploitation and so on.

Pakistan is a country of source, transit and destination of irregular migration and Karachi is said to be home of irregular migrant communities, especially those from Bangladesh and Burma (apart from Afghans). Despite their prolonged presence in the city, the government has not been developed concrete policy for them till 2000 when the federal interior ministry set up the National Aliens’ Registration Authority (NARA) to regulate them. The NARA entitles the irregular migrants of regularization and three-year renewable work permits upon the registration with them. Though the government accepted the presence of these migrants and tried to regularize them with some certain rights, general perception towards the irregular migrants are as described in the official websites of the ministry of interior “burdening the country’s already strained socio-economic infrastructure, and adding to the crime rate...”. Irregular migration poses dilemmas for states but exposing migrant themselves to insecurity and vulnerability at the same time (2005, Koser). The denial of basic rights due to irregular status sometimes is manipulated

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<sup>1</sup> According to UN Migrant Workers Convention, Article 2 (1), but no universally accepted definition

by the employers. In consequences, they tend to work under the unreasonable conditions.

In 1990 United Nation's General Assembly adopted the convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRWM) which covers both irregular migrant workers and family members of migrant workers for their minimum degree of protection. The convention entered into force in 2003.

International convention stated all migrants irrespective of their legal status were entitled to a minimum degree of protection. How is the case of Pakistan? This study tries to present the overview of the irregular migrant workers in Karachi in light of labor rights as well as to explore whether the NARA's strategy could protect them or not.

### **Study Methodology and Limitations**

Study methodology includes literature review and interview with a select number of members of migrant communities, interview with concerned authorities, interview with employers. There are said to be more than 100 migrant concentrated residential areas in Karachi. Among them, this study picked up migrants resides in Korangi area as selected interviewee. Korangi is close to industrial estate as well as close to the creek where communities are engaged in fisheries and have heavy presence of migrant communities both from Bangladesh and Burma. The interviewees included 1) both Bengali and Burmese, 2) both men and women, 3) those who are working in fisheries and textile sector, 4) both those migrated by themselves and descendants, who were recognized by community members. Total number of interviewee is (to be included later).

Since the number of interviewee was limited and selected based on the network of community members, the study might not be representing the exact overview of the whole irregular migrant situation and views and requires the further verification by the quantitative study.

### **Irregular Migrant workers: Overview**

It is always difficult to have exact number or reliable statistics of irregular migrants in the country due to its clandestine nature. The government of Pakistan conducted census of Afghans, largest group of foreigners living in Pakistan in 2005, which covered all over the country but northern area. It includes the Afghans arrived after December 1979 and those who do not have Pakistani national identity card. Census found 3,049,268 Afghan individuals residing in Pakistan in 2005. Both group of included and excluded in census may include irregular migrants. During 2005-09, 1,229,507 refugees were repatriated

(EBDM, 2009). As per the data of UNHCR<sup>2</sup>, registered Afghans are approximately 1.8 million in 2009 and of which 1,015,200 are outside of refugee village and do not directly receive material assistance from UNHCR. Since they are not receiving any material assistance, they might be engaged in some occupation in the country but not as an irregular status. Apart from these populations, there might be movement of people which cannot be counted by the existing system.

National Aliens Registration Authority (NARA) is estimating that there are 3.35 million irregular immigrants (or 5 millions) in Pakistan and of which 2.5 millions are residing in Karachi. Of which about 1.8 million is Bengali origin and 200,000 are Burmese and 0.5 million are Afghan origin.<sup>3</sup> It is the estimation based on unknown sources. The population census which is carried out in 1998 most recently does not include foreigner as a target population or included partially but available data does not allow grasping the exact figure of population of migrant by nationality.<sup>4</sup>

Generally it is perceived that biggest foreign national population residing in Pakistan is those from Afghanistan, followed by those from Bangladesh and Burma, respectively. The clear separate statistics of registered and irregular Afghans are not available. While most of Afghans are regarded as refugee, those from Bangladesh are regarded as irregular economic migrants. And for the Burmese, Government of Pakistan considers them as refugees who shifted to Pakistan with facilitation of Pakistani government because of their political persecution and for the cause of Islam.<sup>5</sup>

Other nationals who enter Pakistan in irregular way are including those from Iran, Somalia, Iraq, India but counted as only a few thousands people and seems to be regarded as refugees.<sup>6</sup>

Karachi is thought to be home of half of irregular migrants residing in Pakistan.<sup>7</sup> There are some certain localities irregular migrants populations are concentrated. Generally this concentration is grouped by their place of origin, like those came from Chittagong area of Bangladesh, Dhaka of Bangladesh, Burma and so on. Nearly 30 communities or localities of migrants of Bangladesh and Burma origin are found in Karachi.<sup>8</sup>

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<sup>2</sup> [http://www.unhcr.org/cgi\\_bin/texis/vtx/pag?page=49e487016](http://www.unhcr.org/cgi_bin/texis/vtx/pag?page=49e487016)

<sup>3</sup> EBDM, 2009 and interview with NARA officials

<sup>4</sup> Interview with Population Census Organization officials and Gazdar H, 2008

<sup>5</sup> NARA leaflet and Gazdar H., Bux Mallah H. and Memon R., 2006

<sup>6</sup> <http://www.refugees.org> World Refugee Survey 2004 Country Report

<sup>7</sup> Interview with NARA officials

<sup>8</sup> Source from a migrant community member. In NARA leaflet it is mentioned that there were 102 Bengali slums in Karachi.

According to the CSSR study (2006), as much as 79.2 % of sample populations of Bengali and Burmese population in Karachi were born in Pakistan. There are perception by the migrants communities itself that those remain in Pakistan are those with families who could not easily return back to country of origin for the case of Bengali. After the Bangladesh economy boomed, those who are ready to go back have been returned to their place of origin. These statements correspond with the outcome of census. The majority of the remained population in Karachi is with families and with the passage of time, the ratio of those who were born in Pakistan believed to be increasing.

There is no chorological data of number of migrants' influx into Pakistan. The two studies shows different outcome with regards to the distribution of migrants by ethnic group and year of arrivals.

Year	Bengali	Burmese	All Migrants
Up to 1971	14.3	20.0	14.7
1972-77	18.2	27.5	18.9
1978-88	38.5	37.5	38.4
1989-98	28.2	15.0	27.2
1999-2005	0.8	-	0.8

(Source: CSSR, 2006)

Year	Bangladesh	Burma	Others
Prior to 1970	36%	33%	9%
1971-79	29%	29%	70%
1980-2000	34%	38%	21%

(Source: IOM, 2004)

Grouping of years in IOM study made tendency of migrants' inflow obscure. If we look at tendency from the first table, the number of inflow is on the decline after the peak of influx of migrants during 1978-89. This is also corresponds with the perception of the migrants and communities.

There is no demographic data of Bengali and Burmese population available, the proportion of male-female and age-group, therefore, are not clear. But if the data that 79.2% of population were born in Pakistan are true, about 80% of the Bengali and Burmese

population are below the age of 40. Large proportion of the population is of working age. There is considerable presence of children who are under the age of schooling. And there is reproductively active age group, too.

The occupation the Bengali and Burmese migrants engage in Karachi are said to be fishers, daily workers in construction sector, working in factory such as textile factory and home based workers including carpet weaving, cigarette making, embroidery, textile related works. They are also found working as cooks, domestic helpers and so on.

The occupation they took up varies in the locality they reside. Those who are residing close to the coastline are engaged in fisheries. The locality in proximity to industrial areas found migrants workers working in textile ancillary factories. Most women work at home as home based, piece rate workers while some of them working outside but not many.

## **Pakistani Legislation, Regulatory framework, Policy**

### ***Legislation***

#### **Illegal Entry**

There are several legislations relating to regulate irregular movement of foreigners into and in the state.

Foreigners Act 1946 section 14 stated that “where any person knowingly enters in Pakistan illegally, he shall be guilty of an offence under this Act and shall be punished with imprisonment for a term which might be extended to ten years and fine which may extend to ten thousand rupees”.

Foreigners Order 1951 Section 3 (2) describes that “Leave to enter shall be refused if the civil authority is satisfied that (a) the foreigner is not in possession of a passport or visa valid for Pakistan or has not been exempted from the possession of passport or visa.”

Those who enter Pakistan by road may come under the allegation of being without possession of a passport or visa.

The person who stayed in the country more than stipulated by the authority will be imposed overstay charges fixed by Ministry of Interior.<sup>9</sup>

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<sup>9</sup> <http://www.pakistan.gov.pk>

### Citizenship

Pakistan Citizenship Act, 1951 section 16B made clear cut of entitlement of the citizenship for those belongs to then East Pakistan, Bangladesh that those who stayed in Pakistan before 1971.

Those who came after the stipulated period by the Pakistani government will not enjoy the entitlement of the citizenship unless he or she falls under any other clause entitled citizenship.

Pakistan Citizenship Act, 1951 section 4 defines citizenship by birth as “Every person born in Pakistan after the commencement of this Act shall be a citizen of Pakistan by birth.” According to law, Pakistan gives its citizenship based on one’s birth place.

Those who entered Pakistan without valid documents might fall under the violation of section 14 of Foreigners Act, while those who were born in Pakistan might be given the right to obtain its citizenship according to this clause, but the judicial precedent interpreted this clause that “Person born in Pakistan after the commencement of Pakistan Citizenship Act, 1951 shall be a citizen of Pakistan by descent if his father was a citizen of Pakistan at the time of his birth.” (Ahmed S and Basit M.A., 2008)

### Employment of Foreigners

Pakistan Citizenship Act, 1951 Section 13B prohibits employment of an illegal entrant. - “No one shall knowingly employ or provide employment to a person who has no permission to stay in Pakistan.” and is punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Pakistani law prohibits employment of an illegal entrant and this might be applied as well those who were born in Pakistan but have not acquired its citizenship.

While section 13B of Foreigners Act 1952 prohibits the employment of illegal entrants, Foreigners Order, 1951 section 10 defines the restrictions on employment. “No foreigner shall, without the general or special permission in writing of the civil authority, enter any premises relating to, or be employed in, or in connection with (a) any undertaking for the supply to Government or to the public of light, petroleum, power or water, or (b) any other undertaking which may be specified by the Federal Government in this behalf.”

The general visa policy allows the foreign nationals engaged in house maid (principally employed by foreign diplomats), NGOs, those who invest in the business to some certain amount. But not in the informal sector mostly irregular migrant worker are engaged.

#### Assisting illegal entry of foreigners

Section 13A prohibits the assisting illegal entry of foreigners. - “ No one shall make or carry out arrangements for securing or facilitating the entry into Pakistan of any one whom he knows or has reasonable cause for believing to be an illegal entrant.”

#### ***Regulatory Framework and Policy***

In 2000 Pakistan government amended the Foreigners Act, 1952 by adding section 14D registration of illegal immigrants. Based on this amendment, National Alien Registration Authority (NARA) was established on 10 May 2004 to register all the foreigners in Pakistan who immediately before the commencement of the Foreigners Act, 1952(Amendment 2000) on July 10, 2000 who had no permission to stay in Pakistan. The registration system may serve purpose of both Government and irregular migrants. On one hand it enables government to grasp the data of irregular migrants residing in the country, which had been no mechanism in the country before and control them. On the other hand, it enables irregular migrants to obtain certain status for staying in the country within some certain legal framework and with some certain rights. They have given this regularization for one year and free from punishment envisaged in the Foreigners Act 1952, i.e. maximum 10 years imprisonment and 10,000 rupees fine. With the application of work permit which is valid for 3 years, the irregular migrants are be able to seek employment or do own business, which is prohibited in section 13B of Pakistan Citizenship Act. Apart from that, the registered persons are given the following benefit. a) They will be protected from the inquiry of any government agency, b) They can educate themselves and their children, c) They will avail important utility facilities, e.g. electricity, gas and telephone connections, d) They can get car/vehicle registration and driving license, e) They can open their own bank account, f) They can get their own mobile phone connection. The limitation is that a registered alien will not have the right to shift and settle in any city of Pakistan other than the one indicated in his registration card without permission of Authority. S/He has no right to vote and obtain a passport.<sup>10</sup>

Despite the benefits prescribed in the brochure of NARA, the number of registered

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<sup>10</sup> NARA leaflet and interview with NARA officials

irregular migrants is approximately 10 % of the estimated population.<sup>11</sup>

#### Registration of Aliens by NARA 2008

Registration activity	Population registered
Total Work permits	925
Work permits issued	915
Renewal of Alien Registration Card	76,847
Renewal of Alien Registration Card issued	74,845
<b>Total registration (including minors)</b>	<b>125,987</b>

(Source: EBDM, 2009)

#### Number of Registered irregular migrants by nationality

Nationality	Registered adults	Registered Dependents	Total
Bangladesh	49,817	39,043	88,860
Afghanistan	8,087	8,664	16,751
Somalia	917	468	1,385
Nigeria	1,112	48	1,160
Burma	398	398	796

(Source: Compiled from presentation of Facts & Figures relating to Migration, Bureau of Emigration & Overseas employment.)

The limited resource was pointed out by the NARA officials to carry out the effective public relations about the NARA card and extension service to register the targeted population.

Given the fact that only 20% of the estimated population is illegal entrants and others might have recourse for entitlement of citizenship, the achievement of the registration might be higher than evaluated by NARA, i.e. 10%.

However, the perception by the irregular migrants is that they are not welcoming the introduction of NARA card because some of irregular migrants possess the national identity cards (NIC) through paying extra money to the government officials via agents. The status of holder of NARA card certainly degrades their status who previously was holding

<sup>11</sup> Interview with NARA officials



NIC. There is distrust among irregular migrants on the role of NARA, too.

Since 2001, Pakistani government introduced the computerized national identity card (CNIC) which is valid for a fixed period. According to migrant communities, those hold old NIC had experienced no hardship to renew their old card to computerized card. However, many face difficulties to renew their CNIC at the time of this study, i.e. year 2009 since they could not prove that they were residing in Pakistan from 1971 to 1975.

Given the current situation, it might be the crucial time for NARA to gain the momentum to attract more irregular migrants to get registered with them if suppose no more fraudulent documentation is of easy access to them, while for the irregular migrants, too, is time to decide either go for the NARA registration or seek amnesty or citizenship on the basis of their long presence in the country.

#### **International conventions**

##### ***International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (45/158 of 18 December 1990)***

The 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) constitutes the comprehensive framework in international law for the protection of the rights of migrant workers and members of their families and for guidance of States on how to develop labour migration policies while respecting the rights of migrants (The international steering committee for the campaign for ratification of the migrants rights convention, 2003).

One of the important points of the convention is that it is addressed to all the migrant workers irrespective of their legal status, thus, basic human rights are also protected for all the workers including undocumented and irregular workers under this convention.

Part III of this convention expresses the human rights of all migrants workers irrespective of their legal status including freedom of movement (subject to restriction), right to life, flee from torture, forced or compulsory labour, right to freedom of thought, right to seek, receive and impart information, flee from arbitrary or unlawful interference on his or her privacy, arbitrarily deprived of property, right to liberty and security of person, humane treatment of accused migrant workers and their families, equality before the courts and tribunals, prohibition of confiscation of identity documents, rights at the time of expulsion, rights to have recourse to the protection and assistance of the consular or diplomatic

authorities of their State of origin, equality of employment, rights to organize trade unions and other associations, equal social security, right to receive any medical care urgently required, right of a child to be named, registered, and have nationality, right of a child to have access to education, respect for cultural identity, rights to transfer their earnings and savings at the time of departure, rights to be informed their rights arising out of the present convention and rights and obligations under the law and practice of the State, respect for the laws and regulations of the State, no implication for regularization of non-documented migrant workers.

As of 2009 October, 42 countries were ratified but most of receiving countries have not ratified the convention. Pakistan has not either signatory or ratified the said convention as of December 2009.

Though Pakistan does not ratified the said convention, we try to look into the current status of migrant workers with reference to the following articles which can be closely related with the current situation of migrant workers in Karachi for the discussion.

#### Article 25: Equality of the employment

Article 25 expresses the equality of the employment irrespective of their legal status. Migrant worker shall enjoy same treatment as nationals enjoy in respect of remuneration, overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of the employment relationship, minimum age of employment, restriction on home work and so on.

#### Article 26: Right to participate in trade union

Article 26 ensures migrants workers right to join and seek the aid of any trade union.

#### Article 27: Grant of social security

Article 27 mentioned the same treatment granted to nationals with respect to social security for migrant workers.

#### Article 28: Access to emergency medical care

Article 28 stated that migrant workers and members of their families shall have the right to receive any medical care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their health.

#### Article 29: Migrants' Children's Right to be named and registered

Article 29 mentioned that each child of a migrant worker shall have the right to a name, to registration of birth and to a nationality.

#### Article 30: Migrants' Children's Right to Access to education

Article 30 ensures the children's right of access to education. It said that "Each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned. Access to public pre-school educational institutions or schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child's stay in the State of employment".

#### Article 33: Right to information

Article 33 stated the right to be informed by the State of origin, the State of employment or the State of transit about their rights arising out of the convention and rights and obligations under the law and practice of the State concerned.

#### ***Convention relating to the Status of Refugees (429(v) of 14 December 1950)***

ICRMW excludes its application to refugees and stateless persons, but the 1951 Convention relating to the Status of Refugees covers rights of refugees and stateless persons.

Pakistan has not ratified the convention relating to the Status of Refugees, though hosting about 1.8 million Afghans in the countries. Non-Afghan refugees recognized by UNHCR include those from Somalia, Iraq and Iran, who granted the right to work under the NARA registration with the facilitation of UNHCR.<sup>12</sup> The Burmese Muslims are referred as refugees in the leaflet of NARA which mentioned "These people have been considered as refugees because Government of Pakistan hasn't granted them Pakistani nationality at any stage". Pakistan have not been ratified the convention but the said convention stated the right to engage in wage-earning employment, right to receive public education and facilitation of naturalization process of the refugees.

#### **Migratory Process**

##### ***Bangladesh independence***

On 16th December 1971 East Pakistan became Bangladesh. Based on the New Delhi Agreement, repatriation accord between Pakistan, Bangladesh and India, in 1973 and 1974

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<sup>12</sup> <http://www.refugees.org> World Refugee Survey 2004 Country Report

some 116,000 Bengali speaking residing in Pakistan repatriated to Bangladesh (UNHCR, 2000). Some migrants claimed that they had been residing in the territory of now Pakistan before 1971 but did not afford to go back to Bangladesh at that time and even could not follow the necessary procedure required for the repatriation at the time of 1973 and 1974 since they were illiterate.<sup>13</sup> In 1978 Pakistani government promulgated Pakistan Citizenship (Amendment) ordinance 1978 by adding section 16A. certain persons to lose and others to retain citizenship. In that it was decided that “ (1) All persons who at any time before 16 day of December 1971, were citizens of Pakistan domiciled in the territories which before said day constituted the Province of East Pakistan and who: (i) were residing in those territories on that day and are residing therein since that day voluntarily or otherwise shall cease to be citizens of Pakistan: and (iii) were residing in Pakistan on that day and are voluntarily residing therein since that day shall continue to be citizens of Pakistan;” Therefore, if those claimed that they had been residing in Pakistan before 1971 may fall under the category of (iii) and proved to be a citizen of Pakistan but the question is if they have evidence of proof or not. The authority requested the migrants to give the proof of evidence that they were residing in Pakistan from 1971 to 1975.

#### ***Facilitation by the state***

Burmese Muslim migration towards Pakistan is reported to be started some time early 1960's (CSSR, 2006), at the time of Ayub Khan's era. The Arakan Muslims known as Rohingya claimed that persecution by the Burmese government started towards the end of world war II and withdraw of the Japanese from Burma, i.e. sometime back in 1942. In late 1950's there was conspiracy of fomentation of separatist tendencies among the Arakan Muslims, which is believed to have involvement of Pakistani government (Morshed, 2001). This might be the reason for allowing Arakan Muslims to stay and move to the then West Pakistan on the basis of cause of Muslim at the time of Ayub Khan's era.

It is reported in early 70's, Muslim World League had obtained permission from Saudi Arabia to allow for Burmese Muslims fleeing from religious persecution in their country to settle in Saudi Arabia. The Saudi government had told them to procure passports of any country to facilitate their stay in the Saudi Arabia. In 1986, Burmese Muslims residing in Saudi Arabia approached Pakistan government and the then president General Ziaul Haq had agreed to help.<sup>14</sup> In 1978 there is exodus of 300,000 people from Arakan to Bangladesh caused by Army operation for which repatriation operation got moral and material support from the Islamic countries including Saudi Arabia (Morshed, 2001). It can be guessed

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<sup>13</sup> Stated by the migrants in Orangi town, Karachi

<sup>14</sup> “Saudis don't want Burmese as nationals” Daily Times, June 19, 2006

these environments allow the steady flood of Arakan Muslim inflow to Karachi in 1970's and 1980's.

There is massive exodus of Arakan Muslims in 1991 and 1992 to Bangladesh but there is decline of inflow of Burmese Muslims in Karachi after 1988. It is said that the Arab and Islamic countries were much more reticent in regard to the exodus of Arakan Muslims in the 1990's compared to 1978 (Morshed, 2001). This shows that persecution at the country of origin is not the only reason for Burmese Muslim migrant to come to Karachi but the pull factor, i.e. state facilitation played a big role to bring migrants from Burma to settle in Karachi.

### ***Economic migration***

Most of migrants mentioned the extreme economic vulnerability in their original place was for the reason for migration. Those who are Arakan Muslims also mentioned difficulties making their ends meet due to political persecution of the government as a reason for migration. Economic reasons were the apparent push factor for irregular migrants to migrate to Pakistan, Karachi.

There is perception by Bangladesh communities that the Pakistani economy was better than Bangladesh in 1980's. That was the pull factor for Bangladesh workers to come to Pakistan.

Employer of textile sector recalled that in 1980's many workers from Bangladesh were working in textile factories. They were preferred by the employer because they complain less and keep working for a same factory. Since wages of textile factory was comparatively low at that time, turn over of Pakistani workers was high. The employer preferred Bengali workers due to this tendency. There is no specific administrative guidance from the government for hiring or not hiring those people according to employers.

As for the fisheries sectors, a boat owner recalled that many Bengali fishermen have seen since 1986 to 2001. The introduction of heavy *katra* net<sup>15</sup> which requires many man power and demanding work facilitated the induction of numbers of Bengali fishermen according to him. That might be a chance factors for inducting numbers of Bengali fishermen, but it was not evident that the fisheries sectors experienced shortage of crews during that time.

Home based workers....

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<sup>15</sup> *Katra* net is fixed surrounding the area of fish/shrimp population. When taken out it collects the whole fish/shrimp population, along with the juvenile fish, while sweeping the whole ground. *Katra* net was introduced about 50 to 60 years ago. See WWF Pakistan 2005

It seems that after 1990's the economic pull factor was lost. It is reported those who remitted money from Pakistan to Karachi now are sometime receiving remittance from Bangladesh. Many of single migrants were either returned to their home or they proceeded to other destination for better earning. Pakistan, at the point of 2009, was not the attractive place for new migrants.

### ***Chain migration***

Many of migrants mentioned that they had relatives in Karachi prior to their migration. It is said that there is much evidence that little irregular movement can occur without the information, advice, encouragement and support of family and friends. (Battistella, 2008) Though most of families reported they did not receive any monetary or material support at the time of migrating from their original place to Karachi, information or presence of their relatives might play a big role to facilitate the flow of migration to Karachi.

Many of those who came to Karachi from Bangladesh in 1970's and 80's were found to be from such as Cox Bazaar and Teknaf where very close to Arakan state of Burma. They are in close proximity in terms of distance and ethnic background. Many Arakan Muslim also resided in the same area of Bangladesh for some certain years. It might be hypothesized that the initial flow of Arakan Muslims from Burma to Karachi pull the next flow of the people from Bangladesh especially from Cox Bazaar and Teknaf area. This might be the reason why people from Cox Bazaar and Teknaf area can be found in large numbers.

### ***Smuggling and trafficking***

By the passage of time, there might be more structured route for bringing people from Bangladesh to Pakistan has been established by migrant brokers and immigration officials, which includes the smuggling Pakistani passports out of the country to bring foreign nationals bearing them on which fake exit stamps enter Pakistan, issuance of fake NICs with the connivance of registration offices by the illegal entrants, issuance of authentic passport based on the fake NICs, bogus police verification or fake repatriation certificate. The smuggling Blank Passports were reported since at least 1993. These passports were forged and altered for the usage of human smuggling from Bangladesh. Fake NICs and passports were issued through bribery (Immigration and Refugee Board of Canada, 2000).

In 2000 Pakistani government decided the creation of the National Database Registration Authority (NADRA) and introduction of new machine-readable computerized passports to eliminate fraudulent NICs and passports. New CNIC is valid for a fixed period while old

identity card was a one time card. However, migrant communities reported some ambiguity of issuance of CNIC and still it is based on arbitrary implications both political and corruption related.

According to the migrant community, after 1989 people intend to come to Karachi for the purpose of traveling to other places than Pakistan. It is reported established international networks are existing to bring not only from Bangladesh but also some other countries to other destinations such as Europe. These people are potential migrants who might spend some certain times in Karachi for earning required fees for traveling or remained due to failure to reach their destinations.

### **Migrant workers in fisheries sector**

#### ***Fisheries Sector Overview***

The fisheries sector in Pakistan - inland and marine - cover rivers and their tributaries, canal irrigation system, natural lakes, storage reservoirs, small and large size ponds, coastal and deep sea fishing. The country's fisheries sector is comparatively small contributing 0.3 percent to GDP (ADB, 2005), but source of natural livelihood of people engaged in both in land and marine and employed 85,105 numbers of people (number of marine fishermen counted by Marine department in 1999). Contribution to the export is 0.9 percent of total export earning (ADB, 2005) amounted in 111.7 million US\$(as of 2005), mainly export of shrimp. The country has about 1,046 km coastline extending from Indian border in the east to the Iranian border in the west.

Karachi has two main sites for fish landing, one is Karachi fish harbor in Kemari Town and Ibrahim Hyderi, Bin Qasim Town where big numbers of boats at 9 jetties.

Fishing sector is regarded as a part of agricultural sector in Pakistan where no coverage of labor laws. Thus labor laws are not applied to the workers in fishing sector.

Distribution system of remuneration is based on so-called "Patti system", in which various stake holders are distributing profit according to the share prescribed for each stake holders. The stake holders include a boat owner, a captain, an engine operator, a recruiting agent, a steersman and crews. The crew can borrow money from a captain or a recruiting agent for their personal usage. The small amount of loan taken by crews usually does not have any interest. They are repaid by deducting any amount of loan based on mutual consent from crew's remuneration. At the time of injury or loss of life of crews, a captain usually extends his assistance to them and their family. It is informal and traditional type of social security system.

#### ***Profile of Migrant Worker in Fisheries Sector***

There are 2 areas known as communities where many migrants are engaged in fisheries. One is close to Karachi Fish Harbor, the other is close to Ibrahim Hyderi jetties. It is said that majority of these communities are from either Burma or Chittagong and Cox Bazaar, Teknaf area of Bangladesh. Proximity of the fishing sites and migrants communities followed by the ethnic network might be the reason for migrants to enter the fisheries sector as a means for livelihood in Karachi.

A local boat owner stated that it was from 1986 to 2001 when many Bengali/Burmese fishermen were seen in Ibrahim Hyderi, though interviews found there were many of those who had migrated earlier and entered in this sector. It was not totally proved but supply of labor from pool of irregular migrant communities might conveniently be utilized by employers. One respondent shared that he was allowed to stay in the empty land of the local sea load. He purchased a plot with the facilitation of carpet weaving middlemen who lend them money in exchange of engaging their children in carpet weaving at home. The employer may not initiate and guide the influx of irregular migrants but they might play a role of facilitation of continuous stay of irregular migrants in the area. The aforesaid boat owner recalled that it was 1979 when heavy Kutra net was introduced for catching trash fish, local people did not prefer this demanding work, thus, patient and 24 hours available single irregular migrants were recruited as boat crews.

The informal and demanding job as a crew was entry point into local labor market for irregular migrants, but it seems not always the case that they keep stay in the same stratum of labor market in the fisheries sector after spending years of their career in this sector. Some has their own boats and own big boats (launch). Many small boats which accommodate 2 to 3 crews are owned by irregular migrants, according to them.

As a crew they receive share of catch according to the prescribed distribution rate. As a boat owner, they receive half share of catch. The traditional ways of distribution of remuneration were followed by all fishermen irrespective of their place of origin and legal status.<sup>16</sup> As a crew, they earn 2,000 - 4,000 Rs per week. As a boat owner they could earn approximately 5,000 Rs per trip. Days of working are approximately 20 days per a month (4 days off and they could not catch fish from 10<sup>th</sup> to 17<sup>th</sup> days of moon since it is too bright to catch fish in the night) and working days varies owing to weather. Thus, income is not stable. Decrease of fish stock caused the decrease of catch accordingly. However, due to increase of rate, their income is same as they could earn before. Nevertheless, the inflation of daily commodities in recent years affected their lives. They said they

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<sup>16</sup> Interviewed boat owner shared his experience that he had traveled up to Bangladesh when one of his crew, Bengali fisherman lost his life. He brought his savings to their survived family in Bangladesh.



could no more save their money because inflation increases their expenditure.

### **Migrant workers in Textile & Ancillary Textile sector**

#### ***Textile & Ancillary Textile Sector Overview***

Pakistan is the 4th largest cotton producer in the world. The textile and its ancillary industries are an important industry in the country in terms of contribution to export earning and job creation. It is said that 38% of the labor forces are working in the sector. Ancillary textile industry includes cotton ginning, cotton yarn, cotton fabric, fabric processing, home textiles, towels, hosiery and knitwear and readymade garments. These components are being produced both in the large scale organized sector as well as in unorganized cottage/small & medium units. (Pakistan Economic Survey Chapter Manufacturing) Type of employment in the producing units can be categorized roughly into two, i.e. salary based registered workers and contract based piece rate workers. The paradigm shift in development discourse from model of distribute welfare state to focus on the market, open economies in early 1980's are the favorable environment of growth of subcontracting of work, which accelerated the degradation of rights for workers all over the world, while it is prevailing phenomena in Pakistan to hire workers as un-registered contract workers for employers to save costs of labor by reducing the number of full time permanent workers enjoying social security benefit and to adjust numbers of workers and hours of work which can be changed according to the requirements of orders. ()

Workers rights in legislative and regulatory documents are described in the various acts including 1) Factories Act 1934, 2) West Pakistan Standing Ordinance 1968, 3) Industrial Relation Ordinance 1966, 4) Employees Social Security Ordinance 1965, 5) Employee Old-age Benefits Ordinance 1976. According to those legislations, working hours per day is defined as 48 hours per week and 9 hours per day. One weekly holiday is compulsory. 14 days annual holidays, 10 days casual leaves, 16 days sick leaves and festival holidays are defined as holiday with pay. Double rates for over-time wages are stipulated for the working hours which exceed 9 hours per a day and 48 hours per a week. Termination of service requires one month advance notice in case of permanent employee and in lieu of notice, one month's wages is paid to the employee. Industrial relation ordinance stipulates the right of association, i.e. forming trade union. Employees Old-age Benefits ordinance defines the provision of pensions whereas Social Security Ordinance introduce a scheme of Social Security for providing benefits to workers or their dependents in the event of sickness, maternity, employment injury or death related to employment.

Though rights for workers are somehow properly stipulated in the law, the violation and

noncompliance of the law is the main issue in the country. The applicability of ordinance is based on the number of employees and employers tend to report less than actual number of employees to escape from the binding of law. Contract workers are included in the definition of workers, therefore, in principal, they are covered by the same ordinances. However, besides the under-reported issues, the applicability of ordinances, which varies from 5 to 20 numbers of employees as minimum number of employees has ambiguity in terms of definition of establishment. “employer could have more than one establishment. Expression establishment could include not whole of the establishments of an employer, but each of them individually. Where number of workers in each establishment was less than twenty, establishments could not by any stretch of imagination be joined together for the purpose of showing number of workers to be more than twenty.” (Complete Labor Code in Pakistan Pg1637) It is, therefore, deemed that ordinances are not applicable to contract workers, which can be counted separately and counted less than 5 or 20 numbers of a group of people employed.?? It is said that majority of workforce in textile and ancillary textile industry is comprised of contract workers whom are not enjoying rights and privileges of the workers.

After the end of quota system, textile industry in Pakistan is going through tough competition and remained under pressure.

### ***Profile of Migrant Workers in Textile sector***

The interview respondents perceived that 40% of the contract worker is from Bangladesh while very few Bengali migrants are found among salary based registered workers because most of them do not possess National Identity Card required for employer for employing registered workers. Both migrants and employers perceived that employers preferred Bengali migrants because they are obedient, less complain about low wages and has experiences in this field. Earning are varies, ranging from 3,000 Rs per week to 8,000 to 10,000 Rs per month. Change of workplace, factory and contractor are quite common and they frequently change their place of work based on the availability of work and a piece rate paid to them. Work subcontracted to contractors is based on the order. According to the shipment schedule they sometimes have given unrealistic targets and requested long hours working. However, once target was achieved for shipment, there will be time gap till next order comes. Since they earn wages based on the piece rate, they shift to next work place for their survival. As a piece rate contract worker, working hours last 14 to 16 hours a day, which exceed the stipulated working hours in the law. Piece rate given from employer to contractor include share of contractor and rate for rejection, thus the share of workers is less than the rate given by employer. Even so,

some workers mentioned that they prefer to work as piece rate workers since they become used to work as a contract worker regarded as skilled or professional workers by their definition and they see even salary of salary based registered workers are comparatively low. Some migrant workers perceived the overall decline of work in the sector due to recession and post quota regime, therefore they start considering taking up salary based work for job security. Social security scheme could be one of the attracting factors for them to enter salary based job, but these are only applicable to big scale factory based on their experience.

#### **Issues related to remunerated activity**

It is amazing to know that even though Pakistan did not ratify the convention, as far as Article 25 of ICRMW is concerned, all the respondents responded that they did not face any discrimination because of their ethnicity and legal status, which includes remuneration, overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of the employment relationship, minimum age of employment.

It is same for in Pakistan as in other countries, the entry point into local labor market for irregular migrants were so called “3D” (dirty, demanding and dangerous) kind of work. Those were categorized as informal sector which are less protected and less paid same for nationals. In the case of textile sector, many of migrant workers work as contract workers and share same type of issues among those of nationals, i.e. long working hours, job insecurity, lack of social security. As for the fisheries sectors are concerned, the Pakistani labor law does not cover it and irregular migrants are under same conditions as national fishers are facing. However, they were sometimes preferred by the employer because they were obedient, less complain and available for 24 hours. There are indeed movements of informal workers in Pakistan for the betterment of their working conditions, such as fisheries sectors and textile sectors while as far as migrants workers are concerned, no respondents were found to be a member of trade unions nor show their interest of being part of it.

“There is no trade union in a small factory. Factory owner does not like it. (Burmese Origin Karachi Born Contract Worker in a garment factory)”

“I heard from my friend about trade union, but you cannot make this kind of organization without support from any political party or influential figures.”

(Bengali/Burmese origin Karachi Born Contract worker in a garment factory).

“They (organization of fishers) are not interested in Bengali fishermen and we could not join them, either.” (Bangladesh origin fishermen, 55 years old?)

“I do not know much about their organization (fishers’ organization) and am not interested in it since it is the captain who extends assistance to us at the time of need.” (Bangladesh origin fishermen, 60 years old?)

“We are just an employee. What we can do? Though we have problems, we cannot negotiate with employer. (Burmese origin Karachi born Contractor working in garment factory last 20 years.)

Unfortunately though migrants are considered to be part of the proper system at the working place and they are receiving equal treatment, they have not been a part of trade unions as far as respondents of this study are concerned. Article 26 of ICRMW ensures migrants workers right to join and seek the aid of any trade union.

Migrants perceived that 40% of the contract worker in textile sectors is Bengali/Burmese but few people found salary based registered workers because not all people have Identity card required to be recruited for registered workers. If this trend will continue and they are continuously confined within the informal sector and they will not be organized in the union activities, countries trade union might lose opportunity for employers to change the current working condition of informal sector workers.

## **Ethnic Barrier**

### **Issues related to rights of children**

It is reported that as much as 80% of the population of the current migrant communities were born in Pakistan. Article 29 of ICRMW stated migrants’ children’s right to be named and registered and article 30 mentioned migrants’ children’s right to access to education. Pakistani Citizenship Act 1951 itself has given the citizenship by birth to “Every person born in Pakistan after the commencement of this Act shall be a citizen of Pakistan by birth.”, however, the judicial precedent interpreted that this is by decent and provided that a father of children was citizens of Pakistan at the time of children’s birth. How the practice was followed? Some respondents reported they, including even those who were

not born in Pakistan, registered their birth in B-form in Pakistan. The statements need to be interpreted with caution and need further investigation since it is not visually proved if they have registered or not like possession of CNIC. There might have been a chance that migrants did not know if they were registered or not. The reason those who do not have their children registered was that they do not have enough money to pay for it either to agents or government officials.

Since they do not possess the evident documents of the country of origin either, it can be assumed that they rarely register their children's birth to consular authorities of their country of origin.

Unless they could register their birth to any of state, they remain as a kind of stateless population.

One of the respondents estimated that around 50% of teenage population of the migrant community is working. Rest of them is in the school system. About 25% are in the regular school while 75% of them are in Madrassa. It was not possible to have exact percentage of the educational attainments of the migrants' children but the general impression was that high percentage of migrants' children were attending Madrassa instead of regular schools. Possible reasons mentioned by the respondents were 1) many of migrants families cannot afford to pay school fees required to regular schooling and opt for Madrassa which does not charge any fees or charge small amount of fees, 2) Some Madrassa charge higher than regular schools and even parents would like to send their children to regular schooling, they could not do it because they require either CNIC card or B-form to accept children in the schools, 3) There is no role model in the community that proves the education will lead them to a better life. That might be one reason why parents do not place importance on regular schools. The NARA registration gives registered irregular migrants the rights to access to basic education, but was not so much perceived or appreciated by the migrant communities. It might be related with the fact that majority does not place importance on education like stated as 3<sup>rd</sup> reason.

It is reported that in exchange of providing work force of children in the community for carpet weaving, the plot was allotted to households. This was the reason why many children did not go to school according to one of the respondents. But carpet weaving has not been seen sometime after early 1990 in the communities. It was, therefore, not the reason for not attending school at the present.

Though many are reported to use their mother tongue (Bengali) at home, no respondents

had shown interest in learning or teaching of read and write in Bengali language. Thus, children are inducted in the Pakistani educational system and assimilated into Pakistani society as Pakistani.

To some extent irregular migrants have access to basic education and mainstreaming them is more or less laid on the expectation on social mobility among each family.

#### **Issues related to liberty and security**

Article 16 of ICRMW includes the state's obligation to protect migrant workers and members of their families against violence, physical injury, threats and intimidation. Article 14 mentioned migrant workers shall not be subjected to arbitrary or unlawful interference with their privacy, family, home, correspondence or other communications or to unlawful attacks upon their honor or reputation.

The issues highlighted by migrant communities were not harassment by employers but by law enforcement agency. Due process of law at the time of investigations, arrests and detentions needs to be ensured for all migrant workers. (Articles 16-20) Common scene of irregular migrant workers when they encountered with law enforcement agencies is that they would be released after taken bribes. The procedure of arrests and detentions were beyond the scope of this study and not examined, but further study might be needed.

It can be said that the communities were harassed or utilized by the political parties as well. The demographic weight of Bengali/Burmese communities can be the motivation of political parties and the communities were backed in exchange of unfulfilled promise of provision of citizenship.<sup>17</sup> Generally strict raid or measures have not been taken on irregular migrants. They are not arrested nor deported followed by strict rules. Ambiguous status of irregular migrants allows law enforcement agencies or political parties take advantage of their vulnerability. 2 consular were selected from communities, nevertheless one of respondents feel that this will not help his community for better future but he takes it as one of the tool of political mobilization.

#### **Issues of Integration, social mobility**

At this point of 2009, it was estimated 80% of the migrant community members were born in Karachi or brought up in Karachi. Those who were brought up or born in Pakistan regard themselves as Pakistani. The issues mostly highlighted by the migrant

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<sup>17</sup> Dawn dated Nov. 21, 2009 reported that issuance of CNIC for 15,000 cases of Machhar Colony residents pending at the NADRA offices were expedited after the meeting with MNA whose constituency includes Machhar colony. Machhar colony is known as irregular migrants community.

communities were issuance of CNIC and passport. Citizenship Act 1951 under section 16A draws a line of recognition as citizen of Pakistan if they were in Pakistan before 1975. Therefore, in fact, if any person arrives after the said year, she/he has no recourse to claim her/his citizenship. But the enforcement of the law was arbitrary nature much depends on the amount of bribe migrants pay for it according to respondents. As described earlier, many fraudulent NICs and passports were issued through bribery. At the same time, even those who come under the citizenship entitled category, lack of documents can be a hurdle for them to present evidence of residence to concerned authorities. The registration of NARA supposed to give amnesty for those who do not have legal status in the country but ironically the precedent arbitrary enforcement of law did not allow migrant community have sense of security and give them impression that NARA registration will deteriorate their status in the country.

One of respondents appreciated that NARA registration was good for single migrants but not for those with families. With NARA registration single migrants whose principal motive is earning money can at least fulfill their purpose, i.e. finding a job, but not good for those with families who will face multiple requirements in their life.

Given the fact that they have been living in Karachi for last 20 or 30 years and majority of them were brought up or born in Karachi, the communities or individuals were almost completely incorporated in the local society. If he/she is not migrated himself/herself, they regard themselves as Pakistani but not as Bangladeshi or Burmese. Some are not even interested in their parents' original place and has no idea to visit that place, either.

As far as language is concerned, Use of Urdu is widely adopted by migrant communities, families and individuals. Even for education, though majority is studying in Madrassa, communities do not opt for educating their children by the way that inherits their cultural values and norms and their languages.

Then, can we say they were completely adopted into Pakistani society? One of respondents shared that if they are confined themselves within lower strata of the host country, i.e. Pakistan, they may not face many issues, however, once they wish to have ambition in the host county, their social mobility will be limited. When they want to multinational companies or study further in higher education institution, there is stigma on "Bengali" speaking people even though they have proper legal status.

Provided that they continue to stay in the same legal status as right now and laws are not properly implemented as it should be, migrants communities are continued to be taken advantage of their vulnerability, especially by law enforcement agencies and political parties. The integration into the society may go further, but their vulnerability or

insecurity may remain.

On the other hand, for the case of migrants with legal documents but having same kind of migratory history, some successfully make effective use of their transnational nature of networks of their families to make their social mobility happen. There found movement of migrant families and descendants not only from place of origin but from and to third countries as well. Money earned in the third countries had sometimes invested in Pakistan in the form of property or in their business. This will add another nature of the migrant communities which cannot grasp by the traditional stereo typed view of migrant communities. There shall be change of nature of migrant communities, which needs to be captured from time to time.

## **Conclusion**

### ***NARA's registration policy agrees with the ground reality of the irregular migrants in Karachi?***

As for immigrant policy in terms of regulating inflow of labor force or migrants, there has been no concrete policy brought by the Pakistani government so far. Push factor from the migrant communities were apparently seeking better economic opportunity or escaping from insecurities. However, as for pull factors, there seems to be little factors of demand of foreign workers from employers side as the case of Pakistan. It, therefore, might be natural that policy formulation on migrant workers has not been priority of the government. While shortage of labor was not the pull factor, rather, regulator valve of influx of migrant workers in the country had been network of smuggling agent and fraudulent issuance of traveling documents and identity cards.

Employer might make use of migrant worker simply because of their presence in the country, but not from the motive of exploiting them for making most of their benefit, which might be the reason why migrant workers have not face any discrimination in terms of working conditions, but working in already severe condition like most of Pakistani nationals have been facing so far.

Ironically influx of migrants workers both from Bangladesh or Burma have been declined not because of intervention by the Pakistani government, but because of deterioration of country's economy, construction of barbed-wire fencing along with Pak-India border and strict action of Bangladesh government against movement of Arakan Muslim into Bangladesh. (2006, Human Rights Documentation Units)

Nevertheless, those who have been in the country for 20 to 30 years most probably will continue to stay for the same. Unfortunately the government policy of registering them



and providing the amnesty has not been successfully introduced so far. The possible reason is that 1) Contradiction or inconsistency with the precedent practice and current practice could not provide the sense of benefit for migrant communities, 2) Proper information has not been brought to migrant communities, 3) Various natures of communities, families or individuals were not fully translated into the policy towards migrant communities. The benefits of registration looks like attractive did not necessarily so in the case of Pakistan.

Census carried out 1998 did not totally cover in-migrants population including irregular migrant population, nor was data not made publicly available, which might hamper the sound argument on the country's policy alternatives.

NARA's policy - regularization - can advantage states since regularization programmes can be a good source of information about migrant population in the country, which will benefit policy formulation on migrant population in the country. If regularization can only give advantage to state, but not to migrant communities, motivation for regularization of migrant community might remain low. Nevertheless, the proper legal status can give sense of security more or less to irregular migrant, even it might be temporary one. However, government needs to recover its credibility among migrant communities in terms of consistency and continuity of policy and proper implementation of the policy.

### ***Victims or Comrades?***

The study shows non existence of discrimination in remunerated activities of irregular migrant in Pakistan. Further, if the regularization will work properly, it supposed to provide more favorable employment opportunities to irregular migrant such as formal employment. However, regularization is not always give the perfect solution for eliminating number of irregular migrants in the country as well as for granting favorable employment for irregular migrants as the other countries experience shows. In the country where the informal economy is well established and articulated within formal labour market structures, migrants may remain in the informal economy even after regularization(Papadopoulou, 2005). This might be applicable to Pakistan where majority are employed in informal sector.

The growth of labour subcontracting might be contributing to hiring of irregular migrants since employer do not need to ensure the possession of identity card of employee and employer are not directory contacting irregular migrants.

As the case of Pakistan shows, role of labour market is most determinant factor for influx of irregular migrant workers as well as working conditions of irregular migrant workers. Where the informal sector is large, irregular migrant will be remained there and where the subcontracting prevailing, irregular migrant will be inducted to there. On the contrary, where labor market characterized by high flexibility and a small informal economy, even the irregular migrants enjoyed upward mobility. (Papadopoulou, 2005)

In Pakistan, it might be able to say that irregular migrants are not categorically discriminated but incorporated into the country's informal sector, i.e. deprived sector. Yet, they are not fully part of the unionization. Those regularized under the regularization program can be a member of unionization for betterment of working conditions, this will result in momentum both nationals and migrants for improving their working conditions.

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