



Asia Pacific Migration Research Network

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**PROMOTING A PROCESS TO ENCOURAGE
RATIFICATION OF THE 1990 UN CONVENTION ON
THE RIGHTS OF ALL MIGRANT WORKERS AND
MEMBERS OF THEIR FAMILY:
BANGLADESH, KOREA AND NEW ZEALAND**

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The project was undertaken under the auspices of the APMRN, a network of migration researchers and NGOs that has been operating in the Asia Pacific region since 1995. The network has 17 countries/economies and three of these were selected for inclusion in this research. Professor Abrar Chowdhury from the Refugee and Migratory Movements Research Unit (RMRRU) of Dhaka University, Hae-Woo Yang and her colleagues from the Network For Mirgants' Rights in Korea and Professor Paul Spoonley from the Sociology Department of Massey University undertook the project in their respective countries. I would like to thank them and acknowledge their advocacy work. The compilation of country reports was not easy in the face of national elections, inclement weather conditions and the pressure of other work.

No project is possible without the participation of willing informants. The involvement in this project of dedicated NGOs, government officials, academic researchers and others needs to be acknowledged. We trust that the time that they devoted will ultimately be productive and that they will see the benefits of their input.

We also wish to acknowledge the valuable input of Patrick Taran of the ILO office in Geneva in assisting us with running the workshop in Singapore. Patrick Earle from the Diplomacy Training Program, University of NSW in Sydney also attended the workshop and made valuable suggestions.

I wish to acknowledge the very important work of Nicola Piper who was the prime author of the first report and a major contributor to the second report. Some material has been taken directly from these reports to provide background material in this report.

Finally, I would like to acknowledge the ongoing support provided to me by my colleagues at the ANU. In particular, Dr Siew-Ean Khoo provides steady and valuable input and Simon Cann-Evans is always supportive and efficient in the way he operates in backing up projects.

Robyn Iredale
20/4/06

Executive Summary

Background and Rationale

This report is the third in the series and grows out of the desire of the United Nations to promote ratification of the ICMR in countries in the Asia Pacific region. It is based on an action project to promote ratification of the 1990 ICMR in Bangladesh, Korea and New Zealand.

In the first report (Piper and Iredale, 2003), we indicated that Bangladesh came quite close to ratification in 1997 when it signed this document and the communication, as well as the administrative channels, were put in place. But major problems were posed by the lack of resources, at the governmental and NGO level, by lack of awareness or ignorance on the part of the migrants themselves and by the strong interests involved in the 'migration business'. It was suggested that all of this needed addressing as part of a promotion campaign.

Korea and New Zealand are predominately receiving countries and the first report indicated that particular obstacles to ratification applied in each. The aim of this report is to trial ways of promoting ratification and then evaluating whether they have had any effect.

Method

Robyn Iredale from the APMRN Secretariat acted as coordinator for the project and the financial management was handled by ANU Enterprises. A first planning and preparation workshop was held in Singapore in February 2005 and representatives from each of the three countries attended. Patrick Taran from the ILO and Patrick Earle from the Diplomacy Training Program at the University of NSW, Sydney, were also invited to Singapore to join.

Possible methods for conducting the project were discussed at the workshop and it was agreed that each country would be free to operate in the way that they perceived to be most appropriate for their situation. Each country has its own set of political, economic and social conditions and the history of ratification of UN conventions varies greatly. Thus, each country proceeded differently and the methods used by each project coordinator are outlined in their country report.

Bangladesh

The Government of Bangladesh signed the ICMR in 1998 but since then there has been little movement towards ratification. Officials of the Ministry of Expatriates' Welfare and Overseas Employment are on record as favouring ratification but those of Foreign Affairs are reticent. The latter's position is based on the premise that ratification of the Convention may cause concern to receiving countries and thus jeopardise Bangladesh's labour market. The recruitment industry also appears not to be favourably disposed to ratification of the Convention.

The demand for accession to the 1990 UN Convention first began to be articulated in 1997 and since then there has been continued pressure on the government from some quarters. RMMRU, the Welfare Association of Bangladeshi Repatriated Employees (WARBE) and the Bangladesh Ovibashi Mohila Sramik Association-BOMSA (the Association of Female Migrant Workers of Bangladesh) have become the major lobby groups.

Ultimately, the action project in Bangladesh contained the following elements, after some changes outlined in the report:

- Television Programme on International Migrants Day, 18 December 2005
- National Workshop on the 1990 Convention in mid-March, 2006
- Collaboration with WARBE and BOMSA on workshops

Evaluation: Need for Sustained Engagement on Ratification

While Bangladeshi civil society institutions are increasingly voicing their demand for ratification, the issue is yet to make any substantive progress in the policy making bodies. There is a need for a more intensive and sustained campaign for ratification targeting the Ministry of Foreign Affairs, the arm of government that is opposed to ratification. Engaging the members of the parliamentary standing committee on Overseas Employment could be an important form of intervention.

While some migrant NGOs are actively advocating for ratification, a wider range of human rights and women's groups and trade unions need to be sensitised on the issue so that they join the campaign. The media has a strong role in articulating the demand for ratification and attempts must be made to build contacts with journalists who are interested in migrants' rights issues. Involvement of the media will help to create public support for the cause and will influence the Government for ratification of the Convention.

The APMRN support for a campaign on ratification was important and timely. A more elaborate campaign may be launched with adequate funding in countries like Bangladesh, where some signals have been received that ratification is favoured by some quarters in the government.

South Korea

Since the 1980s South Korea has become a country of immigration and has made remarkable strides in the attention given to human rights. However, the notion of giving rights to migrants is very new in Korea: this is a country which is not used to foreigners living in its midst. Korea has been a mono-ethnic/ethno-centric closed society, with only a small Chinese minority that has blended into the wider society very smoothly. Koreans do not perceive themselves as multicultural or multiethnic and there is resistance to do so. Thus, the protection of foreign workers is not high on the agenda in Korea.

The change to domestic legislation and the introduction of the new work permit system was a necessary step to enable discussion about ratification of the ICMR. Prior to 2005, the Ministry of Labour, the National Commission for Human Rights and most NGOs were concentrating on this first step in order to enhance the social security rights of migrants. With the assistance of UNDP and the International Organisation for Migration (IOM) these changes have now been put in place. They are all now in a better position to address possible ratification of the ICMR.

A number of major activities under APMRN auspices were planned:

- Symposium to Promote Ratification organised by the Network for Migrant Rights on 11-12 November 2005
- Press Interview to urge Ratification of the ICMR
- Ratification Campaign in 16 cities on 17-18 December, 2005

Evaluation: Need for Government Engagement in Debate on Ratification

Activists who work for migrant workers' rights have become ardent and confident about the necessity and possibility of ratification of the UN 1990 Convention. They are providing continuous education on the necessity of the Convention to elementary, middle, high school students, and university scholars, and trying to inform the general public.

However, their greatest regret lies in the insufficiency of their efforts to pull government policy makers, who will actually legislate and execute the convention, into the discussion. The relevant authorities refuse to participate in the debate itself. They insist that it is unnecessary to ratify a convention that many other countries have not yet ratified. In future, we could try to arrange a panel discussion between the government and interested parties but this would need to be arranged carefully.

This attitude was clearly articulated in 2003 and is spelled out in our first report. It is clearly an uphill battle to persuade the South Korean government to ratify in the face of so few ratifications by other countries, especially other receiving countries.

New Zealand

New Zealand is a classic immigrant-receiving society, but for most of the country's history, the majority (95%) came from the UK and Ireland. The first significant wave of non-European migrants arrived from the Pacific from the late 1950s. New Zealand was an early signatory to many international conventions and New Zealand has a Bill of Rights, which has helped shift some of the policy focus on how racism and discrimination are perceived. But on the issue of becoming a signatory to the United Nations Convention on the Protection of the Rights of All Migrant Workers (1990) the response has been that existing legislation and other provisions are adequate and there is no need to become a signatory. There is a political consensus that this is not a high priority.

On 5 April 2006, the new minister for immigration (David Cunliffe) announced a major review of immigration policy but the documentation setting out the issues to be covered by the review did not include the ICMR. It was then agreed that submissions to the review would raise the ratification of the ICMR. The review of immigration policy is as extensive and significant as the 1986 review, and is an important opportunity to focus attention on the ICMR.

A number of major activities under APMRN auspices were envisaged to raise awareness and ensure inclusion of material on the ICMR for the review:

- Presentation at the National Diversity Forum, 23 August 2005 (sponsored by the Human Rights Commission, Office of Ethnic Affairs and UNESCO).
- Further discussions with Joris de Bres, Sam Sefuiva (Manager, HRC) and at Joris de Bres' suggestion, the "development of some principles that derive from the

convention” as the basis for a submission to the current review of immigration policy.

- Discussion with staff from the Office of Ethnic Affairs (OEA).
- Research for both HRC and OEA on migrant settlement, indicators and the need to develop an appropriate policy framework (of which the ICMR is part).
- A seminar in Auckland with relevant NGOs, government departments and community representatives to discuss the ICMR and its ratification (scheduled for May 2006).
- The media were contacted.
- Unions were approached
- Research and policy networks encouraged to organise seminars, include material in teaching, etc.

Evaluation: Need for Widened Engagement on Ratification

A wider understanding of the issues concerning the Convention and the fact that New Zealand has yet to sign have emerged over the last year. This will be further enhanced by the forthcoming review of immigration policy, and submissions/discussion will highlight the non-ratification of the ICMR.

However, reactions from the (minority) Labour Government indicate that there is still a reluctance to sign the convention – the argument remains that New Zealand has adequate legal provision, and therefore becoming a signatory is not necessary. It is difficult to see how this might be changed. The mainstream media and unions do not demonstrate a great deal of interest in the ICMR and so more efforts need to be directed towards mobilising these elements of civil society.

Conclusion

This project was an unusual one to be undertaken by members of the Asia Pacific Migration Research Network. Normally APMRN members conduct research projects either within their own countries or across international borders. Country coordinators vary considerably in their positions and functions: most are academic researchers though many engage in consultancy work and policy-relevant projects for governments. Some of these people also take an ‘activist role’ in terms of trying to highlight issues and lobby governments to make improvements in their policies and programs. Other coordinators work for international organisations and have strong program roles. Others belong to non-government organizations and have much more of a ‘hands-on’ or advocacy function. All three types were involved in this project and their valuable contributions have produced the following lessons.

Lessons Learned

This action project has demonstrated a number of insights that will be useful for countries engaging on their own process to promote ratification of an international convention.

- (1) Each country has its own unique set of circumstances and therefore individual campaigns to promote ratification are necessary.

(2) An elaborate and extensive campaign is necessary if individual governments are to be influenced. All three governments covered in this report are opposed or partially opposed to ratification but for very different reasons:

- in Bangladesh, it is the Ministry of Foreign Affairs for fear of losing markets;
- in Korea, it is not seen as necessary as few receiving countries have ratified and there are still misunderstandings about certain clauses in the ICMR, especially on the right of families to accompany workers;
- in New Zealand, there are still fears and misunderstandings about some clauses and domestic legislation is seen as providing adequate coverage.

(3) The level of advocacy is quite low in each of the countries, with the exception of individual academics (New Zealand), research units (RMMRU in Bangladesh) and particular NGOs ((Bangladesh and Korea). A wider church of activists is needed to highlight the issues facing migrants in each country. Church groups, trade unions, women's groups, human rights groups and others all need to be brought into the process. The role of such organisations in the Philippines has been instrumental in pressuring the government to introduce domestic legislation and ratify the ICMR (see Iredale, Piper and Ancog, 2005).

(4) The media has manifested little interest in ratification of the ICMR in many countries. This may be because of censorship, an unwillingness to highlight conditions of migrants as they provide cheap labour for various sectors, a reluctance to admit to the presence of many people from diverse origins or some other reason. This project has demonstrated that the media can be incorporated into a campaign but they need to be supplied with prepared material and articulate spokespersons.

CHAPTER 1: INTRODUCTION

Background and Rationale

On 1 July 2003, the 1990 United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (hereafter: ICMR) officially entered into force as an instrument of international law that will ensure protection and respect for the human rights of all migrants.

In the Asia Pacific region only three sending countries (the Philippines, Sri Lanka and Tajikistan) have so far ratified the ICMR, despite the region constituting an important source of labour migrants and intra-regional labour migration taking place on a large scale. Our first report, *Identification of the Obstacles to the Signing and Ratification of the UN Convention on the Protection of the Rights of All Migrant Workers 1990: The Asia Pacific Perspective* (Piper and Iredale, 2003), covered both countries of origin and destination: two countries of origin, Bangladesh and Indonesia, and five countries of destination, Japan, Korea, Malaysia, New Zealand and Singapore.

When a country ratifies an international treaty, it assumes a legal obligation to implement the rights in that treaty. But this is only the first step because recognition of rights on paper is not sufficient to guarantee that they will be enjoyed in practice. The situation in the two sending countries covered in the first report, Bangladesh and Indonesia, was very similar: ratification and the implementation processes were seen as expensive undertakings and both countries' governmental budgets and staff assigned to such matters were very limited. Another problem was the allegedly high level of collusion between government officials and those involved in the export business (recruitment agencies). The creation of an environment of 'good governance' was needed and this required broad reforms.

Thus, one of the major obstacles to ratification of the ICMR was the view that such ratification would involve heavy costs of implementation and monitoring. Both Bangladesh and Indonesia were also afraid of losing jobs abroad and of other sending countries picking up their workers' share if they ratified the ICMR. Competition between sending countries is a reality all over the world. For sending countries, the fear of being undercut by non-ratifying neighbours is a major obstacle — countries fear they will lose markets if they ratify. The need to encourage co-operation and collaboration, rather than competition, was imperative.

For receiving countries, the major obstacles were seen to be of a political nature and required changes in national perspectives. Many do not fully understand the Convention: for example, the perception that family members of labour migrants must be admitted is prevalent in receiving countries. But there is nothing in the Convention that requires that migrants be accompanied or joined by their family.

Of even greater concern were issues surrounding irregular migrant workers. The unwillingness to admit the failure of border control and visa policies is a sensitive issue and likely to attract negative publicity for governments. The mismatch between labour demand and the supply of contract labour from overseas is particularly evident in Malaysia, Japan and Korea. The high costs of migration, the inflexibility and/or brevity of some contracts and the absence of opportunities to migrate often lead to a growth in the number of irregular migrants. Until these governments acknowledge the needs of

employers and develop adequate labour migration programs and enable mobility between employers, migrants will be found in unprotected and highly exploitative positions. Employers need to be made aware of the benefits of having rights-based, clear laws and regulations/policies in place which do not change frequently on an ad hoc manner.

The focus in receiving countries should therefore be on changing domestic policies and laws first before mounting a ratification campaign. One such initiative has already begun in South Korea, involving UNDP and IOM. When domestic changes have been implemented, there will be a better chance of achieving ratification of the ICMR.

Our first report recommended to UNESCO that one way of alleviating fears would be to conduct a study of the impacts for the Philippines, Sri Lanka and Tajikistan of their ratification. Thus, our second report (Iredale, Piper and Ancog, 2005) investigated the legislative side (implementation of Convention's content¹) and the promotional aspects (i.e. 'external use') vis-à-vis the destination countries and beyond in the context of two State Parties located in Asia — Sri Lanka and the Philippines.² We focused on the obligations of both countries in their role as migrant sending countries but also gave consideration to the situation of in-coming foreign workers.

This third report grows out of the desire of the United Nations to promote ratification of the ICMR in countries in the Asia Pacific region. It is based on an action project to promote ratification of the 1990 ICMR in Bangladesh, Korea and New Zealand. In the first report (Piper and Iredale, 2003), we indicated that Bangladesh came quite close to ratification in 1997 when it signed this document and the communication, as well as the administrative channels, were put in place. But that major problems were posed by the lack of resources, at the governmental and NGO level, by lack of awareness or ignorance on the part of the migrants themselves, and by the strong interests involved in the 'migration business'. It was suggested that all of this needed addressing as part of a promotion campaign.

Method

Robyn Iredale from the APMRN Secretariat acted as coordinator for the project and the financial management was handled by ANU Enterprises.

A first planning and preparation workshop was held in Singapore in February 2005, after the Asian Metacentre/APMRN conference on *Transnational Families in Asia*. Representatives from each of the three countries attended the workshop and Patrick Taran from the ILO and Patrick Earle from the Diplomacy Training Program at the University of NSW, Sydney, were invited to Singapore to join the workshop.

Possible methods for conducting the project were discussed at the workshop and it was agreed that each country would be free to operate in the way that they perceived to be most appropriate for their situation. Each country has its own set of political, economic and social conditions and the history ratification of UN conventions varies greatly. Thus, each country proceeded differently and the methods used by each project coordinator will be outlined in their country report.

¹ For full text, see <http://www.ohchr.org/english/law/cmw.htm>.

² There are more State Parties in Asia to this Convention: East Timor and Tajikistan. Bangladesh and Indonesia have signed this Convention, but not yet ratified. For a full table of ratifications, see www.december18.net.

At the completion of the project, each coordinator was asked to prepare a short report on the process, the outcomes and future activities to promote ratification. These are included as Chapters 2 to 4 of this report. The final chapter will provide a brief summary of the lessons and insights learned from this 'action' project.

References

Iredale, R. and Nicola Piper, with Amelia Ancog, 2005, *Impact of Ratifying the 1990 UN Convention on the Rights of All Migrant Workers and Members of Their Family: Case Studies of the Philippines and Sri Lanka*, APMRN Working Paper No 15, RSSS, ANU, Canberra, available at <http://apmrn.anu.edu.au>

Piper, N. and Iredale, R. 2003, *Identification of the Obstacles to the Signing and Ratification of the UN Convention on the Protection of the Rights of All Migrant Workers 1990: The Asia Pacific Perspective*, APMRN Working Paper 14, Wollongong: University of Wollongong, available at <http://apmrn.anu.edu.au>

CHAPTER 2: REPORT ON CAMPAIGN FOR 1990 UN CONVENTION IN BANGLADESH

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Why should Bangladesh Ratify the 1990 UN Convention?

Taking care of its citizens is the foremost responsibility of any state. Although the nationals of a country may live in other countries on employment they are still the responsibility of their own Government. Bangladesh therefore is obliged to protect the rights of its own migrant workers.

Migrant workers are playing an important role in the economy of Bangladesh. Remittances are the single most important source of foreign exchange earnings of Bangladesh. Overseas employment also reduces the pressure on the domestic labour market. The Government of Bangladesh actively promotes the policy of sending labour to other countries. A lot needs to be done to protect the rights of these workers both at sending and receiving ends. Often migrants become victims of violations of their rights both at home and abroad. Ratification of the 1990 UN Convention on Migrants' Rights will commit Bangladesh government in protecting the rights of its nationals who are working abroad. Ratification will also establish its credibility in the international arena and empower the country with a moral authority to demand better treatment of its migrant work force abroad.

Position of Bangladesh Government on Ratification

In 1997, the Government of Bangladesh sent the UN Convention 1990 to the Bangladesh Law Commission for examination to see if its articles were in conformity with the existing laws of the land. The Commission noted that there was an anomaly in one aspect. While the national law admits trial of an accused in absentia, an article of the Convention prohibits such a trial. Terming this as a minor problem the Commission recommended the the signing and ratification of the Convention. Subsequently, the Bangladesh Government signed the Convention in 1998 but is yet to ratify the instrument.

Little progress has been made in the ratification process since then. However, over time the civil society has become more actively involved in the campaign for ratification. The procedure demands that the Ministry of Law can only facilitate the process, while the Ministries of Foreign Affairs and that of Expatriates' Welfare and Overseas Employment need to initiate the process. Officials of the latter Ministry are on record that they favour ratification, while those of Foreign Affairs are reticent of such a move. Their position is based on the premise that ratification of the Convention may cause concern to receiving countries and thus jeopardise Bangladesh's labour market.

The recruitment industry also appears not to be favourably disposed to ratification of the Convention. In 2005 during deliberations of the technical committee on drafting the Overseas Employment Policy (OEP) the suggestion of the civil society representatives

including that of Refugee and Migratory Movements Research Unit (RMMRU) to incorporate the issue of ratification in the policy document was fiercely contested by the Bangladesh Association of International Recruiting Agencies (BAIRA). Ultimately, it was dropped from the draft.

Articulation of the Demand for Ratification of the 1990 Convention

The demand for accession to the 1990 UN Convention first began to be articulated in 1997 at a workshop on *National Responsibility towards the Migrant Workers* organised by RMMRU in Dhaka. Among other issues, the need for the immediate ratification of the 1990 Convention was highlighted in the keynote address and also in the subsequent discussion. In his speech the Chief Guest of the programme, the then Minister for Law promised that he would actively consider ratification of the Convention. Subsequently, the government decided to sign the 1990 Convention along with a few other international human rights instruments.

In 1999, RMMRU and Bangladesh National Women Lawyers' Association organised an international conference on *Temporary Migrant Workers of Bangladesh: Towards Developing a National Plan of Action*. Scholars from Malaysia, Philippines, Sri Lanka and Kuwait attended the conference. Ratification of the 1990 Convention was one of the key recommendations of this conference as well. Subsequently, RMMRU organised a series of national consultations on the ratification of the Convention with various stakeholders, including government, NGOs, human rights organisations and trade unions.

Since 1998, with the UN adoption of 18 December as the International Migrants' Day, the civil society organisations in Bangladesh began to celebrate the day with a lot of fervour. A festive rally of returnee migrant workers and migrant support groups in the capital constitutes an important attraction of the celebration. One of the key demands that are reiterated on the occasion is the ratification of the instrument.

The Welfare Association of Bangladeshi Repatriated Employees (WARBE) began espousing the cause of ratification with a lot of vigour. One of the principal activities of the organisation is to lobby the concerned authorities for ratification of the instrument. Since 1998 WARBE has been consistently demanding ratification of the convention and organised many rallies, signature campaigns, petitions and demonstrations to press home the demand for ratification.

The emergence of Bangladesh Ovivashi Mohila Sramik Association-BOMSA (the Association of Female Migrant Workers of Bangladesh) in 2002 provided a further fillip to the cause of ratification. Over a short period of time BOMSA became the chief organ of returnee and aspirant female workers. Realisation of the ratification of the 1990 Convention has become one of the key organisational objectives of the organisation.

APMRN Project on Ratification of 1990 Convention

Two major activities under APMRN auspices were envisaged initially:

Television Programme on International Migrants Day

One component of the project was holding programmes on television channels on the International Migrants' Day. Two such programmes were organised to this effect. On 18

December 2005 in Channel I a RMMRU produced documentary *Another Horizon* was shown. Though the theme of the documentary was on female migrant workers, it made a strong plea for the ratification of the 1990 Convention.

RMMRU successfully persuaded the producers and the anchor of one of the most popular talk shows of the Bangladesh Television (BTV) to incorporate the issue of the ratification of the 1990 Convention in one of the episodes. The show *Lal Golap* was aired on 13 December 2005. Among others, Dr. Tasneem Siddiqui, Chair of RMMRU and Ali Haider Chowdhury, Secretary General of Bangladesh Association of International Recruiting Agencies participated in the discussion. Although the Minister for Law initially accepted the invitation to participate in the programme, he did not attend in the end due to urgent state matters.

Both the television programmes were largely successful. The national television channel forwarded to RMMRU scores of messages from the viewers. A section of the letter writers were returnee migrants and narrated their own experiences of migration. There was a general support for the idea of framing a national policy on migration and also for the ratification of the 1990 UN Convention.

Television Jingle

Another activity under the project was to prepare a jingle for television audience highlighting the need for upholding dignity and rights of migrant workers and advocating for ratification of the Convention. This activity was planned on two key considerations. Firstly, a jingle on national television was likely to take the issue to a large audience, many of whom cannot otherwise be reached through the print media due to prevalence of illiteracy. Secondly, it was assumed that at least one television channel would be agreeable to air the jingle free of charge as part of its social commitment. However, at the preparatory stage of the jingle production channels were contacted to check if indeed any of them would be willing to air the programme free. Unfortunately, none of the channels agreed to show the jingle free of charge and the earlier assumption proved to be incorrect. Although the budgeted amount was enough to produce the jingle, in the absence of any firm commitment to air the jingle, RMMRU decided not to proceed with the production of the jingle.

It was decided to reallocate the money budgeted for the jingle to other activities that would promote ratification of the 1990 Convention. These included support to WARBE and BOMSA organised programmes on International Migrants' Day and the holding of a national workshop on 1990 UN Convention.

National Workshop on the 1990 Convention

A national workshop on 1990 Convention was planned on 15 February 2005. It was meant to be a day-long workshop of various stakeholders on migration. This would include officials of the Ministry of Expatriates' Welfare and Overseas Employment, Ministry of Foreign Affairs and Ministry of Law along with representatives of the Bureau of Manpower Employment Training, NGOs, human rights organisations, migrant support groups and the media. The workshop was divided into three sessions with a concluding session focusing on the need for Bangladesh to ratify the Convention. Despite completion of all preparation the workshop had to be postponed as a national strike was declared by the opposition political parties on the scheduled date. It will be held in mid-March.

Collaboration with WARBE and BOMSA

RMMRU actively collaborated with WARBE and BOMSA in their effort to promote the ratification of the Convention. It was an active partner of the WARBE organised rally for ratification on International Migrant' Day. On behalf of APMRN, Dr. Tasneem Siddiqui spoke on the need for ratification at a seminar organised at the Dhaka Reporters' Unity auditorium.

Representing APMRN, Siddiqui was also the keynote speaker at a BOMSA organised discussion session on Women Migrant Workers' Rights held at the Bangladesh Overseas Employment Services Ltd. She stated that the 1990 Convention duly acknowledged the participation of women in international migrant work force. In response to a viewpoint that ratifying the Convention before others in the region would not be prudent Siddiqui argued that as a major labour sending country Bangladesh should provide the lead in doing so. She also highlighted the issue that the Philippines and Sri Lanka did not face any adverse consequences from the receiving countries following their ratification of the Convention.

Evaluation: Need for Sustained Engagement on Ratification

While Bangladeshi civil society institutions are increasingly voicing their demand for ratification, the issue is yet to make any substantive progress in the policy making bodies. As stated earlier, the Ministry of Expatriates' Welfare and Overseas Employment appears to be in favour of ratification³ while the Ministry of Foreign Affairs holds a different view. Under such circumstances, there is a need for a more intensive and sustained campaign for ratification targeting the Ministry of Foreign Affairs. Engaging the members of the parliamentary standing committee on Overseas Employment could be an important form of intervention.

Although the campaign for ratification has been taken up by organisations such as WARBE, BOMSA and RMMRU and other NGOs, human rights and women's groups and trade unions need to be further sensitised on the issue. A broader coalition of civil society institutions will go a long way in helping achieve the target of ratification.

Media has a strong role in articulating the demand for ratification. Attempts must be made to identify and build contacts with journalists who are interested in migrants' rights issues. Involvement of the media will help to create public support for the cause and will influence the Government for ratification of the Convention.

The APMRN support for a campaign on ratification was important and timely. A more elaborate campaign may be launched with adequate funding in countries like Bangladesh, where some signals have been received that ratification is favoured by some quarters in the government.

³ Mr. Amir Hossain, Joint Secretary of the Ministry at a discussion session held at National Press Club stated that he expected ratification may be formalized by June 2005.

CHAPTER 3: REPORT ON CAMPAIGN FOR 1990 UN CONVENTION IN SOUTH KOREA

HAE-WOO YANG NETWORK FOR MIGRANTS' RIGHTS

Why should South Korea Ratify the 1990 UN Convention?

Since the 1980s, the Republic of Korea (hereafter South Korea) has experienced an ever-increasing influx of foreign workers and has thus shifted from being a labour exporter to becoming a major labour importing country. The total number of migrant workers in 1990 was less than 20,000 but has subsequently risen to over 400,000. Many are unskilled factory, construction and service workers. There was a major breakthrough in 2005 when the Government introduced a work permit visa, as opposed to the former 'industrial trainee visa' which wrongly labelled migrant workers as trainees.

With the general democratisation of South Korea since 1987, the situation of Korean workers has improved as has the general human rights situation. At the time of the ICMR drafting, South Korea was not a member of the UN (it only joined in 1991) and hence there was no input from Korea at the Working Group deliberations.

Human rights have played an important role in South Korea during its 35 year long struggle to overcome military dictatorship. South Korea has a strong human rights activist civil society and some high-ranking politicians and bureaucrats have an NGO background themselves. Since 1987 South Korea's official record on acceding to international human rights documents has improved tremendously resulting in the ratification of all six core conventions by 1995.⁴ In 2001, the National Commission for Human Rights was set up and enjoys an independent status.

Position of South Korean Government on Ratification

The notion of giving rights to migrants is very new in Korea — a country which is not used to foreigners living in its midst. Korea has been a mono-ethnic/ethno-centric closed society, with only a small Chinese minority that has blended into the wider society very smoothly. Koreans do not perceive themselves as multicultural or multiethnic and there is resistance to do so.

Thus, the protection of foreign workers is not high on the agenda in Korea. In June 2003, the sub-committee of the Korean National Assembly (parliament) rejected a bill in support of an employment permit system but as noted above this was passed last year. Korean foreign policy is said to be reactive, rather than pro-active. Korea would not take the initiative to ratify unless directly or indirectly pushed by other developed countries.

⁴ CEAFRD in 1978; ICESCR in 1990; ICCPR in 1990 (plus Optional Protocol on same date); CEDAW in 1984; CAT in 1995; CROC in 1991.

Korea is adamant about avoiding the settlement of migrant workers and would not permit migrants to bring their families with them. However, this is not required by the ICMR but the misconception, nevertheless, is one of the biggest obstacles to ratification.

Articulation of the Demand for Ratification of the 1990 Convention

The change to domestic legislation and the introduction of the new work permit system was a necessary step to enable discussion about ratification. Prior to 2005, the Ministry of Labour, the National Commission for Human Rights and most NGOs were concentrating on this first step in order to enhance the social security rights of migrants. With the assistance of UNDP and the International Organisation for Migration (IOM) these changes have now been put in place. They are all now in a better position to address possible ratification of the ICMR.

APMRN Project on Ratification of 1990 Convention

A number of major activities under APMRN auspices were planned:

Symposium to Promote Ratification organised by the Network for Migrant Rights on 11-12 November 2005

This was a two day workshop that was held in the Daejeon Catholic Youth Education Centre, Incheon.

Outcome:

- It was meaningful to examine and compare the context of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (UN 1990 Convention) and that of the revised domestic law. After the discussion, we concluded that the UN 1990 Convention doesn't severely conflict with the domestic law;
- Ratifying countries can take reservation measures on some of the points at issue, so we decided it will be apt to persuade the Korean Government to do this when appropriate;
- Other sessions covered the Role and Perspective of Migrant Workers Trade Union: Comparing Korea, Japan and Germany, Civil Rights of Migrant Workers and Role of Local Government, the philosophy and vision of migrant movement and UN Children Convention and Children's Rights of Undocumented Migrant Workers in Korea.
- We planned to study other international conventions besides the UN 1990 Convention in depth where we can find contents that lead us to the key of defending rights of immigrants;

First of all, we decided to concentrate our efforts on claiming the rights of undocumented children to receive education, based on the contents of the Convention on the Rights of the Child.

- Since the symposium was meant for activists who work for migrant workers' rights, lectures for these activists occupied the main part of the symposium. But in the future,

space where governmental policy makers and activists can gather and debate the ratification of convention of immigrant's rights should be prepared.

- Although the schedule seemed a little bit tough to digest, it was meaningful and sincere.

Press Interview to urge Ratification of the ICMR

This did not take place.

Ratification Campaign in 16 cities on 17-18 December, 2005

- At first, it was planned to run 15 street campaigns simultaneously in different areas on International Migrants Day to urge the ratification of UN 1990 Convention. But many were cancelled due to freezing weather conditions of $-15-30$ degrees celsius.
- Some associations did run on street campaigns but since it was too cold, people didn't participate in signing and even refused to get the handbills. So the campaign had little effect.
- After the cancellation of street campaigns, some associations held indoor International Migrants Day commemorative ceremonies and culture festivals, but since indoor event needs sufficient preparation and budget before it is held, only a few were able to carry forward their schemes.
- The International Migrants Day Buttons were designed to catch attention from the crowd but they didn't fully express our motto: Ratification of UN 1990 Convention.



- Campaigns were run in the following cities and took the forms outlined in the table below:

| Cities | Hosting Organizations |
|---------|--|
| Incheon | <ul style="list-style-type: none"> - Korea Migrant Workers Human Rights Center, - Migrant Workers Cultural Center under Caritas - Friends of Asia <ol style="list-style-type: none"> 1. The background of establishing the International Migrants Day and its meaning 2. Cultural performances by migrant workers' national communities and theatrical performance 3. Distribution of commemorative Buttons to promote the ratification of UN Migrant Convention |
| Anyang | <ul style="list-style-type: none"> - Anyang Migrant Workers House <ol style="list-style-type: none"> 1. The background of establishing the International Migrants Day and its meaning 2. Present state of domestic migrant workers and their human rights issues 3. Introduction of UN Migrant Convention and the necessity of its ratification 4. Signature-collecting drive to promote the ratification 5. Distribution of commemorative buttons and handbills to promote the ratification |
| Dae Gu | <ul style="list-style-type: none"> - Gumi Catholic Labor Center - Dae Gu Song Seo Trade Union migration desk <ol style="list-style-type: none"> 1. The background of establishing the International Migrants Day and its meaning 2. Present state of domestic migrant workers and their human rights issues / Signature-collecting drive to accelerate security of right to labor 3. Distribution of commemorative buttons and handbills to promote the ratification 4. Migrant workers culture festival in Dae Gu area |
| YoungIn | <ul style="list-style-type: none"> - Migrant workers Human Right Center under CLC Korea <ol style="list-style-type: none"> 1. The background of establishing the International Migrants Day and its meaning 2. Introduction on the present state of domestic and Youngin area migrant workers and their human rights problem 3. Introduction of important contents in UN Migrant Convention and exhibition of picture panels 4. Distribution of commemorative buttons and handbills to promote the ratification 5. Fund raising for rehabilitation project of damaged area during Asia earthquake disaster |
| Puan | <ul style="list-style-type: none"> - Association for foreign Migrant Workers Human Rights - Pusan Migrant Workers Mission Fellowship - Yangsan Migrant Workers House <ol style="list-style-type: none"> 1. The background of establishing the International Migrants Day and its meaning (Showing introductory movie and exhibiting panels) 2. Cultural performances by migrant workers' national communities and performances given by various cultural communities 3. Distribution of commemorative buttons and handbills to promote the ratification |

Evaluation: Need for Government Engagement in Debate on Ratification

Activists who work for migrant workers' rights have become ardent and confident about the necessity and possibility of ratification of the UN 1990 Convention. We are providing continuous education on the necessity of the Convention to elementary, middle, high school students, and university scholars, and trying to inform the general public.

However, our greatest regret lies in the insufficiency of our effort to pull government policy makers, who will actually legislate and execute the convention, into the discussion. The relevant authorities are refusing to participate in the debate itself. They insist that it is unnecessary to ratify a convention that many other countries have not yet ratified. In future, we could try to arrange a panel discussion between the government and interested parties but this would need to be arranged carefully.

This attitude was clearly articulated to Piper and Iredale in 2003 and is articulated in the first report. It is clearly an uphill battle to persuade the South Korean government to ratify in the face of so few ratifications by other countries, especially other receiving countries.

CHAPTER 4: REPORT ON CAMPAIGN FOR 1990 UN CONVENTION IN NEW ZEALAND

**Paul Spoonley
Massey University**

Why should New Zealand Ratify the 1990 UN Convention?

New Zealand is a classic immigrant-receiving society, but for most of the country's history, the majority (95%) came from the UK and Ireland. The first significant wave of non-European migrants arrived from the Pacific from the late 1950s. They came in response to labour shortages, particularly unskilled and semi-skilled. The Race Relations Act (1971) and the Race Relations Commissioner had difficulty in addressing issues relating to the racism and discrimination experienced by these migrants, especially during the overstayers campaign (1972-75).

Changes to immigration policy in 1986 meant that another shift in the source countries of immigrants occurred. In 1986, 83% of immigrants came from traditional source countries (mainly the UK) while 16% were from non-traditional source countries. By 1997, the figures were 41% (traditional) and 58.5% (non-traditional). The focus has been on "economic migrants", skilled migrants who can contribute to the New Zealand economy. The question is whether these migrants (skilled and unskilled) face difficulties, especially in relation to various forms of racism and discrimination, and what might be an appropriate response.

Position of New Zealand Government on Ratification

New Zealand was an early signatory to international conventions concerning racism and discrimination. New Zealand became a signatory to Convention to Eliminate All Forms of Racism and Discrimination in 1961 and established a Race Relations Conciliator, along with the supporting legislation in 1972. Since then, the legislation has been refined and, in some cases, expanded to encompass other forms of discrimination (eg disability). The New Zealand Bill of Rights has helped shift some of the policy focus, and how racism and discrimination is perceived. The principle organisation for ensuring that the legislation (complaints, education, policy development) is now the Human Rights Commission which covers gender, disability ethnicity and religion. The Race Relations Commissioner is Joris de Bres. New Zealand, however, is not a signatory to the United Nations Convention on the Protection of the Rights of All Migrant Workers (1990).

Articulation of the Demand for Ratification of the 1990 Convention

The issue of becoming a signatory to the United Nations Convention on the Protection of the Rights of All Migrant Workers (1990; hereafter ICMR) has been raised within the New Zealand Government (the relevant Ministers of the Crown). The response to date has been to suggest that the existing legislation and other provisions are adequate and that there is no need to become a signatory.

A distinction should be made between the different arms of government. The reluctance to ratify ICMR is apparent at ministerial level, and has been for sometime. Both conservative (National Party) and liberal-left (Labour Party) governments have seen no need to move to ratify ICMR. For both, the rationale is the same: there are more than enough conventions and rights embedded in existing legislation to cover the symbolic and moral significance of signing the Convention has not been recognised. This is partly explained by the timing of policy changes. New Zealand reviewed its immigration policies in 1986 and changed the relevant legislation in 1987. Essentially, the focus on preferred source countries (based on racial/cultural preferences) was dropped. The effect was to rapidly diversify immigration flows. This generated a negative political reaction in the 1993-1996 period. The result has been a certain political sensitivity around immigration policy and this has undoubtedly affected the willingness to ratify the ICMR. There is a political consensus that this is not a high priority.

While quite a lot has occurred, a difficulty arose when the existing Government declared a General Election in mid-2005. The election occurred in September 2005, and produced a difficult situation, and a minority government was not declared for some weeks. All policy and budget development was suspended, and the combination of electioneering through the mid-part of the year, and then the indecisive election result meant that it was inappropriate to hold a seminar which made the issue of migrant workers rights a policy issue.

A new minister (David Cunliffe) is now in place, and he has signalled a major review of immigration policy (this was announced 5 April 2006). The documentation setting out the issues to be covered by the review is now available (www.dol.govt.nz) with a deadline for submissions of 14 June 2006.

The relevant department advisors were contacted on 7 April 2006 to discuss the omission of the ICMR in documentation. It was agreed that submissions to the review would raise the ratification of the ICMR. The review of immigration policy is as extensive and significant as the 1986 review, and is an important opportunity to focus attention on the ICMR. Unfortunately for this project, any outcome will not be obvious until the completion of the review and new policy in late 2006.

Human Rights Commission

While the political arm of government has been reluctant to see the ICMR as a priority, this is not true for other government agencies, notably the Human Rights Commission (HRC). In the "The New Zealand Action Plan for Human Rights", which is a major policy/priority statement from the HRC, there is reference, under the priorities for action (page 24) to "work towards ratification of ILO Convention 143 on migrant workers" and on the "convention on the rights of all migrant workers and their families". In May 2005, I wrote to the Race Relations Commissioner, Mr Joris de Bres, on this matter and to seek his support to seek ratification of the ICMR. His reply (copied to the Chief Human Rights Commissioner) was to say:

Thank you for sending me a copy of the UNESCO and Asian Pacific Migration Research Network report on obstacles to the signing and ratification of the Migrant Workers Convention. I find it a very interesting piece of work... If you have more copies of the report, I would welcome some to use as we explore ways of working towards maximum compliance with the convention.

...the Commission would be keen to work with you on your awareness raising project, and I would welcome any suggestions as to how we might do so.

APMRN Project on Ratification of 1990 Convention

A number of major activities under APMRN auspices were envisaged:

- Presentation at the National Diversity Forum, 23 August 2005 (sponsored by the Human Rights Commission, Office of Ethnic Affairs and UNESCO).
- Further discussions with Joris de Bres, Sam Sefuiva (Manager, HRC) and at Joris de Bres' suggestion, the "development of some principles that derive from the convention" as the basis for a submission to the current review of immigration policy.
- Discussion with staff from the Office of Ethnic Affairs (OEA).
- Research for both HRC and OEA on migrant settlement, indicators and the need to develop an appropriate policy framework (of which the ICMR is part).
- A seminar in Auckland with relevant NGOs, government departments and community representatives to discuss the ICMR and its ratification (scheduled for May 2006).

The aim of the above was twofold:

- To raise awareness about the issues concerning the ICMR.
- To prepare material to submit as part of the immigration review.

Media

Another group that is influential in raising awareness, and contributing to pressure on politicians to ratify the ICMR, is the Media. Initially, three key journalists in the print media were sent information on the ICMR to try and encourage interest. Nothing was forthcoming and when the most senior one was contacted, he indicated that he was keeping it on file and hoped to use it in relation to a current news issue. In the year since this material was made available, there has been no mention of the ICMR. In reassessing this situation at the beginning of 2006, it was thought that a more productive route was to send information to the diverse and numerous ethnic media in New Zealand. This material will be sent out, in conjunction with the immigration review, to give it currency. Native speakers have been asked to keep an eye on coverage.

Unions

The Combined Trade Union (CTU) were approached in mid-2005 to see if they were prepared to publicise the issues associated with ICMR and to support a request for ratification. The response was brief but supportive. However, it has been difficult to get any further involvement although the seminar in May will involve union officials.

My assessment is that while the CTU and member unions are likely to be supportive, domestic issues are their priority and their limited resources are focussed on other matters. The likely (and probably best) outcome is that they will be prepared to support requests for the New Zealand Government to ratify ICMR but that further involvement is unlikely.

Research and Policy Networks

A sympathetic and important community are those who conduct research on immigration matters or those who develop and implement policy. The New Zealand Migration Research Network (a member organisation of Asian Pacific Migration Research Network) has recently updated its membership list (48 members) and information has been provided on the ICMR. Most are in the private or university sectors but a proportion are also in the government sector. In addition, discussion of the ICMR has been part of the following:

- Seminar at Massey University (Auckland), July 2005
- End-users seminar, Victoria University Law School, April 2006
- Teaching (first year, postgraduate), Massey University, 2005, 2006
- Incorporated in a PhD thesis (due for submission in 2006)
- National Diversity presentation, Te Papa (New Zealand National Museum), August 2005

It is the intention to continue raising awareness of the importance of ICMR in research and policy networks through 2006, especially as these networks are influential opinion leaders on immigration policy generally.

Evaluation: Need for Widened Government and NGO Engagement on Ratification

There is a wider understanding of the issues concerning the Convention and the fact that New Zealand has yet to sign over the last year. This will be further enhanced by the forthcoming review of immigration policy, and submissions/discussion will highlight the non-ratification of the ICMR. However, reactions from the (minority) Labour Government indicate that there is still a reluctance to sign the convention – the argument remains that New Zealand has adequate legal provision, and therefore becoming a signatory is not necessary. It is difficult to see how this might be changed.

CHAPTER 5: CONCLUSION

This project was an unusual one to be undertaken by members of the Asia Pacific Migration Research Network. Normally APMRN members conduct research projects either within their own countries or across international borders. Country coordinators vary considerably in their positions and functions: most are academic researchers though many engage in consultancy work and policy-relevant projects for governments. Some of these people also take an 'activist role' in terms of trying to highlight issues and lobby governments to make improvements in their policies and programs. Other coordinators work for international organisations and have strong program roles. Others belong to non-government organizations and have much more of a 'hands-on' or advocacy function.

The three country chapters in this report have been prepared by three groups comprising all of these perspectives. Hence they vary in their emphasis and in the approaches taken to try to promote ratification of the ICMR.

The countries also vary in their attitudes to international conventions, their migratory status (predominately sending or receiving) and the availability of domestic legislation that could be used to protect migrants. Nevertheless, the three country reports provide a much better understanding of the attitudes of governments, especially, to ratification of the 1990 ICMR. They also demonstrate the current amount of non-government activity and the scope for leveraging this up.

Bangladesh

In Bangladesh, civil society institutions are increasingly voicing their demand for ratification but the issue is yet to make any substantive progress in the policy making bodies. There is a need for a more intensive and sustained campaign for ratification targeting the Ministry of Foreign Affairs, the arm of government that is opposed to ratification. Engaging the members of the parliamentary standing committee on Overseas Employment could be an important form of intervention.

A much wider range of human rights, women's groups and trade unions need to be sensitised on the issue so that they join the campaign. The media has a strong role in articulating the demand for ratification and attempts must be made to build contacts with journalists who are interested in migrants' rights issues. Involvement of the media will also help to create public support for the cause and this may influence the Government to ratify the Convention.

South Korea

Activists who work for migrant workers' rights have become ardent and confident about the necessity and possibility of ratification of the UN 1990 Convention. They are providing continuous education on the necessity of the Convention to elementary, middle, high school students, and university scholars, and trying to inform the general public.

However, their greatest regret lies in their failure to pull government policy makers, who will actually legislate and execute the convention, into the discussion. The relevant authorities refuse to participate in the debate. They insist that it is unnecessary to ratify a

convention that many other countries have not yet ratified. In future, we could try to arrange a panel discussion between the government and interested parties but this would need to be arranged carefully.

New Zealand

There is a wider understanding of the issues concerning the Convention and the fact that New Zealand has yet to sign now than there was a year ago. This should be further enhanced by the current review of immigration policy and submissions/discussion will highlight non-ratification of the ICMR.

However, reactions from the (minority) Labour Government indicate that there is still a reluctance to sign the convention – the argument remains that New Zealand has adequate legal provision, and therefore becoming a signatory is not necessary. It is difficult to see how this might be changed.

Lessons Learned

This action project has demonstrated a number of insights that will be useful for countries engaging on their own process to promote ratification of an international convention.

(1) Each country has its own unique set of circumstances and therefore individual campaigns to promote ratification are necessary.

(2) An elaborate and extensive campaign is necessary if individual governments are to be influenced. All three governments covered in this report are opposed or partially opposed to ratification but for very different reasons:

- in Bangladesh, it is the Ministry of Foreign Affairs for fear of losing markets;
- in Korea, it is not seen as necessary as few receiving countries have ratified and there are still misunderstandings about certain clauses in the ICMR, especially on the right of families to accompany workers;
- in New Zealand, there are still fears and misunderstandings about some clauses and domestic legislation is seen as providing adequate coverage.

(3) The level of advocacy is quite low in each of the countries, with the exception of individual academics (New Zealand), research units (RMMRU in Bangladesh) and particular NGOs ((Bangladesh and Korea). A wider church of activists is needed to highlight the issues facing migrants in each country. Church groups, trade unions, women's groups, human rights groups and others all need to be brought into the process. The role of such organisations in the Philippines has been instrumental in pressuring the government to introduce domestic legislation and ratify the ICMR (see Iredale, Piper and Ancog, 2005).

(4) The media has manifested little interest in ratification of the ICMR in many countries. This may be because of censorship, an unwillingness to highlight conditions of migrants as they provide cheap labour for various sectors, a reluctance to admit to the presence of many people from diverse origins or some other reason. This project has demonstrated that the media can be incorporated into a campaign but they need to be supplied with prepared material and articulate spokespersons.