CHAPTER – 7 - HISTORICISM OF MIGRATION AND TRENDS FOR THE FUTURE

In Chapter- 1 we had set out briefly, the history of migration. The phenomenon started nearly 11,000 years ago. and, in the intervening period, it has taken different forms, has acquired different motivations, and, has been controlled or regulated differently. It was also alluded to in that chapter that, the present day migration, especially those of labourers and other manual workers, is very akin to the migrations caused by the slave trade in the past. In Chapter 3, we have set out in some detail, the conditions in which migrant workers in Saudi Arabia are working and living. In this chapter, it is proposed to examine, whether the present day Indian migration to Saudi Arabia, is any different, from what prevailed centuries ago. and, if so, to what extent.

7.1 PRESENT DAY OUTFLOW OF MIGRATING WORKERS

The plight of migrant workers could not be detected unless we can examine the extent of outflow not only from Indian but also from neighbouring States.

The table below shows how the number of migrants from selected countries have shown remarkable increase, during the relevant period. These figures are of migrants who have left the country overall, and, not related to any specific destination:-

Table : 1 - Asian Overseas Contract Workers : Official Outflows.

<table>
<thead>
<tr>
<th>Year</th>
<th>Bangladesh</th>
<th>India</th>
<th>Pakistan</th>
<th>Philippines</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991</td>
<td>147,131</td>
<td>192,003</td>
<td>147,145</td>
<td>456,300</td>
</tr>
<tr>
<td>1992</td>
<td>188,124</td>
<td>416,784</td>
<td>195,985</td>
<td>504,355</td>
</tr>
<tr>
<td>1993</td>
<td>244,508</td>
<td>438,338</td>
<td>157,387</td>
<td>492,936</td>
</tr>
</tbody>
</table>


From the above table, it would appear that countries like Bangladesh and India, during the three year period from 1991 to 1993, have recorced quantum increases in the number of migrant workers, travelling overseas for work. Presently, the large
majority of these workers would have headed towards different countries in the Middle East, as the following Table would suggest.

If we consider the numbers of Indian migrating to the Middle East, though the data available is for an earlier period, but, they are indicative of the general trend:-

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Bangladesh</td>
<td>15,932</td>
<td>32,514</td>
<td>58,229</td>
<td>54,500</td>
</tr>
<tr>
<td></td>
<td>(98.2)</td>
<td>(96.4)</td>
<td>(98.3)</td>
<td>(99.1)</td>
</tr>
<tr>
<td>India</td>
<td>-</td>
<td>-</td>
<td>2,17,971</td>
<td>1,21,812</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(96.9)</td>
<td>(97.2)</td>
</tr>
<tr>
<td>Pakistan</td>
<td>74,589</td>
<td>1,17,187</td>
<td>1,27,616</td>
<td>69,340</td>
</tr>
<tr>
<td></td>
<td>(53.1)</td>
<td>(90.3)</td>
<td>(99.5)</td>
<td>(99.6)</td>
</tr>
<tr>
<td>Philippines</td>
<td>24,721</td>
<td>1,32,044</td>
<td>3,23,414</td>
<td>3,06,757</td>
</tr>
<tr>
<td></td>
<td>(70.1)</td>
<td>(83.9)</td>
<td>(85.1)</td>
<td>(72.0)</td>
</tr>
</tbody>
</table>

**NOTE**: Figures in Parentheses, represents percentage of migration to Middle East out of total migration.

**SOURCE**: To the Gulf and Back (ed) Rashid Amjad, ILO, 1989 : 61

**Note**: One difficulty is getting up-to-date or recent data; as a matter of fact, even the Advertisement issued by the Kingdom of Saudi Arabia, on its National Day on 23-9-2000, in The Statesman, Calcutta, gave data of 1998 only.

### 7.2 MIGRATORY MOVEMENTS - A NEWER SYSTEM OF SLAVERY?

Tinker¹ has studied the migratory movements, in a historical perspective. He has identified what he calls, "the framework of indenture," in relation to Indian migration to Mauritius in the 1830s and 1840s. Atleast seven characteristic features of this indenture movement can be identified. One, the labourer arrived from India as a free man and then freely entered into a contract with an individual planter i.e., the owner of the sugarcane farm. Two, during their travel, they were covered by

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strict welfare rules, but these were rarely observed. Three, though originally, the contract was for only one year renewable at the choice of the worker, but, in fact, workers were indentured for ten years. Four, the workers were not free to choose where they could work – they could be sent anywhere. Five, the workers lived in “minute separate quarters”. Six, as in systems of slavery, workers were confined within their estates, and could not venture outside, without a pass. Seven, discipline was maintained by whips and the stock.

These characteristics of the Indian migration to Mauritius, are in relation to the period of 1830s and 1840s.

Tinker says that, the labourer arrived from Indian as a free man and then freely entered into a contract with an individual planter. In the context of a legal migrant worker from India to the Middle East generally, and Saudi Arabia specially, it could still be said that the worker was travelling as a free man. Not only do International Human Rights Instruments give him the right to travel outside his country, and, also return thereto, as per his choice, the Indian Emigration Act, 1983, makes detailed provisions about how the Indian migrant worker can travel outside the country, for the purposes of taking up employment, which category of Indian workers can travel outside the country without the necessity of taking emigration – clearance, and for which category, it is mandatory to do so, before, he could be allowed to leave the country. In view of the fact that all the Gulf labour importing countries, have very strict entry restrictions, and, it is not possible to get an entry visa, without following the due process, it can be assumed that the Indian migrant worker, even today, can not enter Saudi Arabia, etc., unless he has a standing contract with his prospective employer, as he would not get an entry visa; to this extent, the two migratory movements – in the past, visa, and or concluded employment contract, were not prerequisites for migration, but today they are, are different. Otherwise, like in the past, the migrant worker still travels outside his home State, on his free will and legally.

The position however is very different, if the migrant is travelling out of the home State illegally, and, therefore, trying to enter the host State illegally also. We have
noted in earlier chapters, the pathetic plight of illegal migrants – for example Haj Pilgrims who stay on in Saudi Arabia illegally, even after their visas expire, and take up employment; they not only get lower wages than regular migrants, but also do not enjoy the other benefits available to them; also, the employer of such illegal migrant workers, would benefit more, as his outgo on wages is relatively less. This phenomenon is replicated in different parts of the world, and the Middle East is not unique in this respect – the death in transit of Chinese illegal immigrants trying to enter England through Dover has been referred to earlier. The Indian Emigration Act, 1923, had provision for inspection of vessels of migrants, not only to ensure that minimum conditions were met, but also to ensure that no illegal immigrants were on board the vessel. Therefore, it may be concluded that, the Indian migration to the Middle East is similar to the Indian migratory movements of the previous century, in respect of the freedom of the worker to leave his home state.

The second characteristic identified by Tinker is not a very serious issue today, at least, in respect of legal migrants. Legal migrants are usually travelling by air, and in the case of the Middle East, the journey time is not exceeding four hours from India. In that event, it is not likely or even possible that, migrants would face travails of travel. However, the position in respect of illegal migrants would be very different. It is not unusual for illegal migrants to travel to the Middle East by sea on small boats or ships; the journey is not only dangerous, but also time consuming. As the Dover incident has highlighted, illegal migrants run the risk of their lives when they have to travel by informal and illegal means of transport. On the whole, travel by migrant workers, is not a serious problem, compared to what it was in the previous century.

The third characteristic feature identified by Tinker was that, though the initial contract was for one year renewable at the option of the worker, in fact, workers were indentured for ten years. In effect, the issue would be the adverse change in conditions, for the worker, on his arrival in the host country. We have examined the

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1 ibid.
2 ibid.
3 ibid.
various provisions of the Indian Emigration Act, 1983, where, inter alia, it is necessary for the recruiting agent to file all relevant documents with the Protector of Emigrants, including the employment contract. It would thus be clear that the employment contract between the migrant worker and his employer is well settled before the worker leaves India. We have also noted that it often happens that when the migrant worker reaches Saudi Arabia, he finds that the employer has already decided to re-negotiate some of the terms of the contract; or, that the contract is completely given a go-by by the employer. The migrant is compelled to acquire to the renegotiated contract, because, of amongst others, the following reasons:- a) before leaving from India, he would have had to spend a considerable amount of money, to make the trip; b) he would in all probability have made a hefty payment to the recruiting agent; c) he would have given up his job in India, if he was employed, and, it may not be waiting for him; d) if he does not accept the unilaterally negotiated terms of the contract, he is faced with an uncertain future, in a hostile land.

In such an event, prudence compels the worker to accept his renegotiated contract and his fate. However the migrants problems do not end here. Since his prime motivation for the migration is to improve his financial position, and his Saudi employer is aware of that, the worker is liable to continue working for the same employer, till such time, the employer has no use for him. This is because of two reasons - one, occupational mobility in Saudi Arabia is dependent upon the employer, without whose consent, no worker can change jobs - his passport remains with his employer, and two, if the employer wants the worker to continue working for him, even after initial period of contract is over, then, the migrant worker is bound to continue, else, under Saudi Labour Law, he would be deported to India, and can not be eligible for any further employment, atleast for two years. Therefore, the Indian migrant worker in Saudi Arabia is virtually bound to his employer, and, to that extent, there is great similarity between the Indian indenture labour's tryst in Mauritius more than a hundred years ago, and the situation of the migrant worker to Saudi Arabia, today.
The fourth characteristic feature identified by Tinker⁴ is that the indentured workers were not free to choose where they could work—they could be sent anywhere. Right to occupational mobility is invariably not available to the Indian migrant worker in Saudi Arabia. Once the worker has contracted for employment with a particular employer, then, he may leave that employer or change his employer, only with the latter’s consent. The worker has no rights to choose his employer or change his employer; even the Saudi Labour Code imposes stringent conditions upon him in this regard. Therefore, the “bondage” is enforced by statute. We have also noted that, on arrival in Saudi Arabia, the migrant’s passport is taken over by the employer, who in turn issues him an ‘igama’, which is in the nature of a residence permit. Migrant workers are expected to carry this igama with them at all times.

If the migrant worker’s basic document of identity, i.e., the passport is kept in the “safe” custody of the employer, it is obvious, that, the worker cannot get it back, against the will of the employer. Therefore, the Saudi statute has systematically converted the migrant into a “bonded” labour—without any free will of occupational mobility. Therefore, in this respect also, it is seen that the situation exemplified by Tinker, in respect of Indian indenture migrant workers, nearly one hundred and fifty years ago, is still in evidence, subject to minor adjustments, even today, in the context of Indian migration to Saudi Arabia.

The fifth characteristic feature identified by Tinker⁵ is that indentured workers were made in to live in very congested “minute separate quarters.” In an earlier chapter, we have noted the difficult living conditions in which migrant workers in Saudi Arabia are expected to survive. Woodward⁶ has quoted a worker, who said that their living quarters were so congested, that if all the occupants of a room stood up at once, there would not be sufficient space for all of them to stand. Further, as per Saudi laws, all migrants are expected to be segregated [this is applicable, barring the highly paid, senior ranking managers, etc.], and to stay together. This serves many purposes. One, the employer would find it convenient to make stay arrangements for

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⁴ ibid.
⁵ ibid.
⁶ Supra
all his workers at the same place; two, if all migrants stay in one place, then, arrangements for their food etc. can also be conveniently made; three, the employer has a lesser burden, in respect of transport arrangements, if all the migrant workers stay in one place; four, it may be convenient for the migrant workers to also stay in one place, as, their loneliness could be mitigated to some extent, if they stayed with their friends, relatives, or even country men. Finally, it could be said that the small living quarters provided by Saudi employers to their migrant workmen, in a manner of speaking, represents the optimum utilization of space, as, most migrant workers, especially, those towards the lower end of the market, work for on an average ten hours a day, for nearly seven days a week, - in which event, their requirement for living space is extremely limited.

Therefore, we may conclude that the living conditions of Indian indentured migrant workers as identified by Tinker,⁷ is not much different from the condition of Indian migrant workers (atleast the majority of them), in Saudi Arabia. It must be are of the most glaring ironies of history that, even in the intervening one hundred and fifty years, the living conditions of migrant workers has not undergone any substantial change – rather, as more things change, the more similar they look.

The sixth characteristic feature identified by Tinker⁸ was that, as in systems of slavery, workers were confined within their estates, and could not venture out without a pass. In the present day context, we have noted that migrant workers have their passports possessed by their employers, who are then issued an ‘igama’ or an identification/residence permit. No migrant worker may step out of his living quarters, without the ‘igama’. These ‘igamas’ are of different colours, so as to identify the religion of the migrant workers; this is not only an aspect of slavery; but, is even reminiscent, of a kind of apartheid, when people were distinguished on the basis of the colour of their skin.

Saudi laws prohibit inter – mingling between the sexes, and therefore, no migrant male worker may be seen to maintain any public contact with any female migrant

⁷ Supra
⁸ ibid.
worker. As a matter of fact, in this aspect, the plight of the female migrant worker is worse than that of the male migrant worker. Migrants of both sexes are expected to be either usually at their place of work, or in their living quarters; they are not expected to be loitering about in the market place etc., except to carry out their business of shopping, etc. We can safely draw an inference and conclude that the condition of the migrant worker in Saudi Arabia has not undergone any material difference compared to what the indentured labourers from India, experience nearly are hundred and fifty years ago.

The seventh characteristic feature identified by Tinker.\(^9\) was that discipline was maintained by whips and the stock. Our analysis in chapters 3 and 4 would indicate that the whips and stock of the 19\(^{th}\) century have been replaced by discrimination and exploitation furthered by statute, and, the total absence of any effective grievance redressal system. As a matter of fact, migrant workers in Saudi Arabia, are totally at the mercy of the employer – this may start as soon as he arrives in the Kingdom; the concluded employment contract may be unilaterally renegotiated by the employer, taking advantage of the vulnerable position of the migrant; it must be reiterated that this malpractice is possible only in respect of private sector employment only, which is of course the largest sector of employment. Therefore, the terms and conditions of service of the migrant worker are totally dependent upon the whims of the employer; no statutory provisions exist which stipulate as to how the wages of migrant workers are to be paid - especially in respect of components of wage, the maximum number of hours of over-time work, annual increments, etc. We have also noted that no rules of promotion, training, etc. are formalized in service rules – these are all dependent upon the employer.

Whether a migrant worker would be employed by a Saudi employer, and if yes, then at what terms, and the terms and conditions of the continued employment, are all unilaterally fixed by the Saudi employer. Conduct, discipline and appeal rules, except for the provisions in the Saudi Labour Code, have no practical and material application. Simply put, the migrant worker stays in employment during the

\(^9\) ibid.
pleasure of the Saudi employer; if he, i.e., the migrant worker does not find the terms of employment to his satisfaction, then, he is theoretically capable of withdrawing from the contract, but, at serious peril to himself. If he does not accept the renegotiated terms of the contract on arrival, then, he can return to his home country, but, after incurring multiple loses, e.g. loss of his employment in the home state, loss of excessive fees paid to the recruiting agent, etc; if he does not accept the renewed contract, which may be detrimental to his interests, then he may do so, but risk the penalty of not being eligible for further employment in the Kingdom for two years.

It is thus apparent that, what the employer in Mauritius one hundred and fifty years ago would achieve by the whip and stock, the present day Saudi employer is able to do by exploiting the weak legal system and the vulnerable condition of the migrant worker, to his advantage.

So, has the condition of the Indian migrant worker undergone any material change in the last one hundred and fifty years? We have shown, on the basis of Tinker's hypothesis that, on the seven aspects identified by him, there has been no material change in the condition of Indian migrant worker; what may have changed, is only the manner of exploitation; one type of exploitation may have been replaced by another type exploitation.

Therefore, it could be concluded, on the basis of the facts and analysis presented in this study that, no substantial improvement in the condition of the migrant worker can be identified in the last one hundred and fifty years. In effect, historically, migrants have been exploited and ill-treated, and that very manifestation persists even today – at best, subject to some very usual changes. So, will the continuing historicism of migrant be apparent in the future also? It is submitted that this study does suggest that the lot of the migrants in Saudi Arabia, especially those from poor, underdeveloped countries would not be any different in the future also.

Having established that the pattern of present day Indian migration is not substantially different from Indian migration of the previous century, we need to
raise and answer another question – if the Indian migration to the Middle East, especially Saudi Arabia, is not unique or is not different from Indian migration in the past, then, can it be said that the present day Indian migration, even in the current context, is different from other migratory movements, taking place else where in the world today? To answer this question, we may first recapitulate the broad characteristic features of present day migration. They may be summarized as:- a) migrants are usually engaged in low-laying, low-skilled and inferior status jobs; b) they are recruited by a process initiated in collaboration with, and on terms beneficial to the host countries and their agents; c) for different reasons, the supply of migrant labour is always in excess of the demand; d) occupational mobility is severely restricted by conditions of the contract and laws of the host country; e) migrants usually constitute the lowest strata of the society.

To consider whether the Indian migration to the Middle East is unique or not, it is proposed to compare this with the migration to the erstwhile Federal Republic of Germany, of Italians, Turks, etc. In a study\textsuperscript{10} conducted by the writer, it was said: “The Saudi Arabia and FRG situations are comparable for many reasons. Nearly 80% of FRG’s foreign workforce comes from six countries – Italy, Yugoslavia, Turkey, Greece, Spain, and Portugal. Immigrants in Saudi Arabia also come from diverse backgrounds – Egypt, other poor Arab states, Pakistan, India Bangladesh, Sri Lanka, etc. In both countries, the home States of the migrants are poorer in comparison to the host country. In FRG the largest concentration of male migrants were concerted in production and manufacturing and building, and, in Saudi Arabia, they are concentrated in these area too.” If we compare the legal status of migrants, we find that in FRG the migrant worker needed a work and residency permit; these were issued by an Administrative Board, at it’s discretion. The work and residency permits tied the migrant to a specific job and a specific place of stay. In Saudi Arabia also, before a migrant can enter the kingdom, he requires a valid employment contract, on the basis of which he is granted an entry visa. The employment contract here also binds the worker to a specific job and a specific place of residence.

\textsuperscript{10} See, Saints, Scoundrels or Victims? A study of Migrant Labour in Saudi Arabia, Mimeograph, Univ. of Warwick Library, 1990.
The two migratory movements are similar in another respect – family reunification. FRG used to impose strict conditionalities for family reunifications; e.g. children of migrants, aged more than sixteen years could not enter FRG; family members of migrants got delayed and restricted work permits. The policy of the then Government was one of tolerance, rather than welcome. In Saudi Arabia also, family reunification is allowed only for a small minority of migrant workers, usually Americans and Europeans who are occupying managerial positions. It may however be stated that, whilst most migrant workers in erstwhile FRG would have been eager to shift their families also, this, may not necessarily true for Saudi Arabia, where most migrant workers appear disinclined to shift their families for economic and social reasons.

Another area of similarity between the situation prevailing in erstwhile FRG and Saudi Arabia, is in respect of formation of trade unions and worker’s rights. The rights relating to freedom of expression, access to the media, freedom of association and freedom of movement were restricted. Employer’s often insisted on a non-membership of union undertaking from migrant workers, before renewing their contract of employment. In Saudi Arabia, trade unions are not permitted and no rights relating to freedom of expression, access to the media, freedom of movement, exist. However, the new phase of in-migration of Indian software professionals into unified Germany today, should be studied, after a few years, to examine, whether such rights and facilities are available to migrants now.

In this section we have established two hypotheses, one, that the present day Indian migration to Saudi Arabia, is not materially different from the Indian migration of indentured labourers to Mauritius, more than one hundred and fifty years ago; second, the present day Indian migration to Saudi Arabia, even today is not an unique phenomenon, as its characteristics can be seen, even in respect of migration into highly developed, democratic and liberal country, like the erstwhile FRG. From these two hypothesis, it is possible to conclude that the plight of the migrant in the past was pathetic, it is quite difficult in the present and, in all likelihood, it is unlikely to substantially improve in the future.
7.3. A NEWER INTERNATIONAL DIVISION OF LABOUR - TRUTH AND REALITY

Frobel et al 11 in their pioneering work, have analyzed the economic history of the world, and have formulated the following broad categorization:-

a) From the 16\textsuperscript{th} century to the 18\textsuperscript{th} century:-

(i) Independent crafts and domestic labour formed the basis in Western Europe of manufactures such as textile, metals, ship-building, arms production; wage labour was used in large-scale units.

(ii) Forced or slave labour formed the basis of silver mining in Peru and Mexico, sugar plantation in Brazil and West Indies (owned by white Europeans); serf labour formed the basis of grain production in Eastern Europe – the “second serfdom”, to meet the increasing demand for corn from Western Europe.

b) 18\textsuperscript{th} and 19\textsuperscript{th} Century :-

(i) Wage labour supplanted other forms of labour as the basis of the industrial revolution, which spread from England where cotton manufacturing steam engine and railways were developed.

(ii) Slave labour became the basis of raw cotton production in the West Indies and Southern USA; India’s indigenous cotton manufacturing which had been initially stimulated by world-trade was destroyed; China and Japan were “opened up” for world trade (the Opium Wars). 12

c) First Half of the 20\textsuperscript{th} Century.

(i) Wage labour formed the basis of manufacturing in Europe, USA, Japan.

(ii) A peculiar form of wage labour formed the basis of the extraction and production of raw materials in the enclaves of Latin America.

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12 Tinker (supra) has also considered the slave trade of Indians to Mauritius and the West Indies during this period.
(iii) Africa and Asia. These were primarily for export into the world market. A partial industrialization process was established in a small number of developing countries though a policy of import substitution.

Based on this historical-categorization, and, drawing upon their own earlier analysis, Frobel et al say "Our earlier descriptive sketch of some typical aspects of the contemporary world economy has already indicated that the old or 'classical' IDL is now open for replacement. The decisive evidence for this hypothesis is the fact that developing countries have increasingly become sites for manufacturing - producing manufactured goods which are competitive in the world market." 13 This has been dependent upon the following factors:-

a) the development of a world-wide reservoir of potential labour power;

b) the development of the labour processes in manufacturing which has led to the decomposition of production processes into elementary units and the deskilling of the labour force;

c) the development of the forces of production in the fields of transport communication which has made industry less tied to specific locations. These factors have given rise to "In other words, for the first time in the history of the 500 years old world economy, the profitable production of manufacturers for the world market has finally become possible to a significant and increasing extent, not only in the industrialized countries, but also now in the developing countries. Further more, commodity production is being increasingly sub divided into fragments which can be assigned to which ever part of the world can provide the most profitable combination of capital and labour.

The term which we shall use to designate this qualitatively new development in the world economy is New International Division of Labour." 14

13 Frobel et al ibid.
14 See Rhys Jenkins, Division over the International Division of Labour, Capital and Class, No.22, Spring 1984, who has critiqued Frobel, et al 1980.
Therefore the shift from the classical division of labour to the New International Division of Labour [NIDL] is primarily dependent upon the shift of the manufacturing process from Western Industrialized countries and Japan, to Asian, African and Latin American countries, where cheap labour was available; capital, if not locally available, could be transferred and the requirement for the manufacturing process, like land, water, power etc. was available.

It is proposed by this writer that, an analysis of the present-day labour market would suggest that we are experiencing a "newer" international division of labour; "newer" because, if not in the manufacturing sector, but, more definitely in the services sector, labour is again moving to the source of capital – i.e., the industrialized countries of North America and Europe: whether this labour is in the nature of software professionals, or skilled technicians, is a different matter. What is material is that the predominant characteristic of the Post-War world economy was movement of capital to the source of cheap labour; this was NIDL; now cheap labour is moving back to the source of capital; and this may be referred to as the Newer International Division of Labour.

Having put forward this hypothesis, it must be put on record that the international community did not take adequate notice of the NIDL phenomenon, and, this phase of the world's economy shows complete lack of regulatory control mechanism; but, should this be allowed to continue even during the phase of the Newer IDL? This writer is of the firm view that, we must take notice of this phenomenon, and, there must be adequate legal mechanism which should regulate the movement of labour to capital, at the earliest. Whilst NIDL contemplated transfer of the manufacturing process of various Third World locations - all sources of cheap labour, the migration process which we have examined in this study, and which developed during the period NIDL was taking shape, was determined by movement of cheap labour to capital, but, significantly, to those capital intensive States, where stock of local labour supply was inadequate to meet the demands of industrialization and development. We have shown that this migratory movement was not adequately regulated by international instruments; but, we must take timely action to put in
place adequate regulating mechanism, so that the Newer IDL could be properly regulated, and it does not become another occasion for the exploitation of labour.

This is an urgent problem, because, as time passes, Newer IDL world become more manifest; one of the reasons for this is that, with the coming into existence of the World Trade Organization, barriers put up to control movement of labour world come down further.

7.4 WORLD TRADE ORGANIZATION AND MIGRATION

The Uruguay Round of Multilateral Trade Negotiations concluded by signing a Declaration at Marrakesh, on 15 April, 1994, providing for the formation of World Trade Organization. Article II of the Agreement Establishing the W.T.O., reads as follows: "The World Trade Organization shall provide the common institutional framework for the conduct of trade relations among its Members in matters related to the agreements and associated legal instruments included in the Annexures to this Agreement."15 Trade in this context, includes trade in services.

Annex IB to the Main Declaration deals with the General Agreement on Trade in Services. Article Vb is of the Agreement on Trade in Services deals with Labour Market Integration Agreements, and reads as follows:

"This Agreement shall not prevent any of its Members from being a party to an agreement establishing full integration of the labour markets between or among the parties of such an agreement, provided that such an agreement:

(a) exempts citizens of parties to the agreement from requirements concerning residency and work permits;

(b) is notified to the Council of Trade in services.

Note: "Typically, such integration provides citizens of the parties concerned with a right of free entry to the employment markets of the parties and includes measures concerning conditions of pay, other conditions of employment and social benefit."16

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16 ibid Page 289.
It is therefore seen that this Article provides for a formal and legal platform, which could be used to further the migration process. This Agreement carries an Annex on Movement of Natural Persons Supplying Services under the Agreement, which reads as follows:

"1. This Annex applies to measures affecting natural persons who are service suppliers of a Member, and natural persons of a member who are employed a service supplier of a member, in respect of the supply of a service.

2. The Agreement shall not apply to measures affecting natural persons seeking access to the employment market of a member, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.

3. In accordance with Parts III and IV of the Agreement, members may negotiate specific commitments applying to the movement of all categories of natural persons supplying services under the Agreement. Natural persons covered by a specific commitment shall be allowed to supply the service in accordance with the terms of that commitment.

4. The Agreement shall not prevent a member from applying measures to regulate the entry of natural persons into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to any member under the terms of a specific commitment."

Note 1:- The sole fact of requiring a visa for natural persons of certain members and not for those of others shall not be regarded as nullifying or impairing benefits under a specific commitment."

In this Agreement, 'natural person of another member' is defined in clause (K) of Article XXVIII to broadly mean a citizen of that other member.

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17 ibid., page 306.
It is reasonable to infer that, under the W.T.O. regime, migration of workers would become a more common feature; it is for this eventuality that, we need to stress that, a comprehensive regulatory mechanism must be put in place, so that, the ills of modern day migration, which we have highlighted in this study, could be reduced to the extent, it would be feasible.

As the international economy opens up, with increase in trade and in services, the movement of workers across national barriers, is likely to become more common place; if the suggested regulatory mechanism is put in place, before the problem becomes more acute, then, its purpose would be served that much better.

From the Indian perspective, it is to be considered that, since there is a growing demand for its Information Technology Professionals, in Japan, Europe and North America, it should take advantage of this demand, and work out a regulatory mechanism, which would work to its advantage, or, in the minimum, atleast balance the keel.

Thus far, we have, in this chapter, examined the historicism of migration, and have even suggested the possible trends for the future, and what action needs to be taken urgently, so as to ensure that the migration phenomenon in the future, does not suffer from the same ills as migration has suffered thus far. In this context, it is suggested that one concrete step, which would be pioneering in some respects, could be taken by two Third-World neighbours, viz. India and Bangladesh. It is an open secret that the porous borders of India with Bangladesh, do not pose any serious problems to prospective Bangladeshis to illegally migrate to India. Therefore, to regulate this migratory process, and give it an orderly paradigm, both India and Bangladesh could execute a Migration Convention. Such a Convention, in the nature of a bilateral treaty or protocol, could serve two purposes:- a) it would regulate the present-day illegal migration and give it a semblance of order; and b) it would be an example for other nations of the world, who may be desirous to regulate and make orderly the migration process between themselves inter se; such a mandate and possibility exists, within the ILO frame work, as we have seen in Chapter 5.
The Charter of the South Asian Association for Regional Cooperation (SAARC), in Article X excludes bilateral and contentious issues for cooperation between member states, but such cooperation shall not be a substitute for bilateral and multilateral cooperation but shall complement them; therefore, within the framework of the SAARC regime also, such bilateral cooperation, for example between India and Bangladesh, is permissible.

It is now necessary to examine what shall be possibly the future trends in migration and, from that analysis, it may be possible to identify what further steps may be necessary to ensure that migration in the near and the not-so-near future does not suffer from the same ills, as migration did in the past.

7.5. MIGRATION AND GLOBALIZATION.

As stated earlier, various factors, including the WTO regime, will give an impetus to migration in the future. However, first as the present day migration is not a new phenomenon, as shown in this study and else where, similarly, globalization is also not a recent development. As a matter of fact, migration over the centuries, has been an aspect of globalization. Stalker says: "Such is the preoccupation, with globalization that, whether welcomed or feared, it is being accepted as something new and starting – and out of human control. This is far from true. In many respects what we are currently going through is merely the latest, and not necessarily the most dramatic phase of a centuries – long process."18 Stalker here confirms one of the hypothesis of this study that present day migration is not an unique phenomenon but part of a long tradition. He further says: “A logical first task is to establish what ‘globalization’ is – no simple matter since the term is applied to many different processes that its meaning becomes steadily more elusive. In its weakest sense, it may merely refer to an increasing number of events taking place simultaneously in more than one country – from the emergence of soccer as a global sport to the resurgence of Islam as a global religion. But globalization should imply something beyond similarity or equivalence in each country – that these events are connected.

and that there is a steady multiplication and intensification of links and flows between discrete national entities.”¹⁹ Stalker says that all this represents merely internationalization; globalization is something more than internationalization: “It implies a higher plane of organization – one at which discrete national entities are themselves dissolving so that all major political and economic decisions will ultimately be transmitted globally. This new world sees the ‘death of geography’ and in particular the demise of the nation-state.”²⁰

One may not go so far as Stalker does, to suggest that, globalization, in effect, inter alia, results in the withering away of the nation-state; this has to be reconciled with his earlier formulation, discussed in a previous chapter, about the role in policymaking that would need to be played by home and host States. This would not be possible, if the nation-state were to wither away. Essentially, the reasons for Stalker’s suggestion, hinges upon two factors:- a) reduced role of the Government from its earlier held position, and passing those on to the private sector; b) promotion of free trade and the removal of restrictions on international movement of capital. Therefore, essentially what is happening is that the nation-state is retreating from its classical spheres of influence, and involving private enterprise in discharge of many of its functions, which were earlier considered to be sovereign in nature.

In the perspective of migration generally, and in the context of this study, specifically, this trend is fraught with dangers; we have been attempting to build a case of strong Governmental intervention to regulate the disorderly growth and practice of the migration phenomenon. What is required that not only home and host countries, but also multi-lateral agencies like the UN, the ILO etc. should play a greater interventionist role. Stalker himself suggests this: “Globalization is not a monolithic, unstoppable juggernaut, but rather a complex web of interrelated processes – some of which are subject to greater control than others. Of those, international migration is the one most likely to provoke intervention. Governments are less willing nowadays to block flows of trade or finance but take such more

¹⁹ ibid.
²⁰ ibid.
resolute action when it comes to people.” It is hoped, that Governments would take notice of this flow of people, as Stalker suggests.

What should be the future trends in migration needs to be examined. According to one view, quoted by Stalker, in terms of the neoclassical economic theory, one effect of globalization should be ‘factor price equalization.’ That is, movement of goods, people and capital should tend to equalize prices between countries. “Labour should travel from low-wage to high-wage economies and capital should move in the other direction. This would tend to decrease wages in the migrant – destination countries, while raising them in the sending countries. Eventually, some kind of equilibrium should be reached when the remaining wage gap represents just the cost of migration between the two countries. As a result, migration should stop.”

This is not wholly correct. The conclusion that migration would one day come to an end is too futuristic, even to be contemplated today. That apart, the neoclassical economic theory has missed a few vital points, whilst coming to these conclusions. One, whilst it is true that labour moves from low-wage to high-wage and capital moves in the reverse direction [see NIDL supra], this does not have any marked impact on wage patterns on either of the two countries. Two, since most labour sending countries are labour-surplus, out-migration has little impact on domestic wages. Three, in the host country, this is a highly relative phenomenon; wages would go down, only in relation to wages for equitable skill variation and job-profiles within the country, and, not in general terms. Four, we have seen that migrants tend to take up those jobs which the local population reject – therefore, it is difficult to formulate in precise terms the effect of in-migration on domestic wages. Therefore, Stalker rightly says: “Countries can converge economically for a number of reasons – as a result of the flow of goods, or capital, or people. In the past the flow of people did help economies move close together. But in recent years political resistance to migration has stifled this process – and contributed to a widening of
international disparities. This has not stopped migration but it has changed the pattern and direction of flows.\textsuperscript{23}

In the next section we shall examine some of these changing patterns in migration.

7.6. MIGRATION – SOME TRENDS.

One of the fundamental raison-de-eteurs of migration is the wage disparity between the home and host State. This determinant is compelled with atleast two other motivations which may result in migration. One, sudden changes in local circumstances may move people from one place to another, e.g., in 1997, when Great Britain formally retreated from Hong Kong, it was expected that some people from Hong Kong, could be given British passports. Two, people may be exposed to so far unknown alternatives in other countries; in September 2000, the British Home Secretary, Mr. Jack Straw, on a visit to India, announced that, Britain was relaxing its visa norms to attract more workers from India; it appears that the British labour market is facing an acute shortage of manpower. The Business Standard, Mumbai, of 30\textsuperscript{th} September, 2000 carried a report from the Financial Times, London, which said that "Ministers are resolving through a radical relaxation in immigration policy this weekend, allowing few of thousands of qualified workers from outside the EU to come to Britain help solve the country's growing skill shortages." The report further said that "This year 100,000 non-UK workers will come into the country under the worker permit scheme."

Therefore, the migration sector is in a highly dynamic, even volatile state; in all likelihood, in the coming years, migration would be a significant factor in the world economy – today, people transfer takes third place after capital and technology transfer, but, it is believed that in the foreseeable future, migration would jostle with capital and technology, seeking greater attention.

A more recent phenomenon in migration is the rise in the skill level of migrants – classical migration. and even today, the bulk of migration is in respect of skilled, semi-skilled and clerical/service workers, but now, skilled workers and professionals

\textsuperscript{23} ibid.
are migrating in large numbers. It is estimated that more than 1,00,000 Indian Information Technology professionals will travel to USA every year; the numbers to Germany and Japan would be in the range of 20,000 approximately, every year; a similar number could be migrating to Great Britain. Whilst in absolute terms those numbers may not be very significant, but, seen in relation to one skill category only, it represents a substantial figure. As with other migrants, professionals migrate for higher wages, but they are also motivated by "...the opportunities to develop their careers and keep abreast of their chosen field of knowledge."  

The Economic Times, Mumbai, dated 4th October, 2000 carried the following news item: "The US Senate today passed election-year legislation to provide 600,000 new visas over the next three years for overseas workers sought by the burgeoning high-tech industry. A majority of the workers who apply for high-tech visas come from India and China..."

Similarly, The Economic Times, Mumbai of 4th October, 2000 carried a news item which said that Hungary was sourcing for Indian IT professionals, to meet its needs.

Therefore, increased out-migration of skilled Indians is very discernible on the horizon.

Another factor which would have an impact on migration in the immediate future is the fact that large number of Asians are travelling overseas, especially to USA and UK for the purposes of higher education. On completion of their education, they are likely to join the labour market in overseas markets. Stalker\(^\text{25}\) states that "In 1990, 62 percent of engineering doctorates in the United States were given to foreign students, mainly Asian... Many of these professionals head for richer countries after completing training at home, but others are lost when they fail to return after completing their studies overseas. One estimate is that over 70 percent of foreign-born Ph.D's remain in the United States, many of them becoming citizens. Chinese officials said in 1995 that of the 220,000 Chinese students who had gone abroad

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\(^{24}\) ibid.

\(^{25}\) ibid.
since 1979, only 75,000 had returned.” Therefore, students of third-world countries, studying high-end disciplines, are likely migrants in the near future.

We have already referred to the role of the media, in the context of understanding the conditions of migrant workers. However, media, especially television is itself, an important player in the migration process. This role of the media could have two aspects: one, it increases awareness amongst the prospective migrants, about possible destinations. Since this movement in all likelihood is to take place from the third world to the developed world, the images of prosperity in the latter, are attractive; two, conversely, the media explosion itself creates the impression that the world is getting to be a smaller place – and, this tends to break down the psychological barriers and hesitation to migration.

The growth of the telecommunications and air transport industry also plays a vital role in furthering migration. International telecommunication companies have taken advantage of migration, which has added to their turnover; not only has the telecommunication network expanded, prices have come down. Stalker says that: “In the United States, long-distance carriers make a point of mailing professional material to new arrivals and offering special rates to each community for their national holidays... In Tel Aviv, in the many shops advertising cut-rate telephone services, clocks display the local time in India, Ecuador, and the Philippines.”

The increase in the Internet network will make communication between migrant workers and their families in their home countries, even easier. Coupled with the advances in the telecommunication sector, international transportation is also making things easier for the migrant. We have noted that in the previous century and in the early half of this century, migrants would travel by sea – both risky and time consuming. But now, most migrants are travelling by air, which not only saves time but is also very convenient. There are regular flights from various airports in India to the Gulf regime, and it is possible to cover this distance in upto four/five hours. As a matter of fact, for the country’s national domestic carrier, Indian Airlines, [the only domestic airline permitted to fly on international routes], the Gulf sector is the source

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26 ibid.
of valuable revenue. Keeping in mind the large density of migrant workers from Kerala to the Gulf regime, the Kochi Airport has been upgraded into an international airport.

Another factor, which arises from globalization, and which will affect migration in the future, is the growth of Indian industry, into multinational companies. It is now possible for Indian companies to set up shop in foreign countries. Both these would lead to greater possibilities of Indian professionals to travel abroad for work. Examples of this be the large number of project offices which been set up by Indian information technology companies; or even acquisition by Indian companies of existing foreign companies, e.g., the takeover of Tetley Tea in UK by Tata Tea. This is not to suggest that such mergers or acquisitions would lead to large-scale migration - all this points to is that, in the future, as economic barriers come down, migration world prosper.

In an earlier chapter, we have noted that, though earlier migrations were block movements of people, but present-day migration is a highly individualized decision: notwithstanding this, it is common for migrants to develop networks, and, one migrant could lead to subsequent migration by his friends, relatives and neighbours; in effect, migration, in a dynamic market, can have a snowballing effect. Stalker27 says that human networks of migrants work as "unofficial employment exchanges." They not only provide inputs about the availability of jobs but also about living conditions, legal issues like visas, work permits, etc. As time passes, these migrant networks become highly organized, and, may even move from an informal role to gain official status; it is not unlikely that, such networks would start newspapers, radio stations, food chains, etc. to meet the requirements of fellow migrants. In sum, such networks are also expected to provide an impetus to migration.

In an earlier chapter we have noted the role of recruiting agents in the migration process; it is to be expected that as migration rate increases, the role of recruiting agents would also enhance; conversely, recruiting agents have traditionally been

27 ibid.
responsible for "pushing" migrants from the home country. Therefore, recruiting agents have not only caused migration, but have also assisted it. As time passes, and countries like Canada, Australia, New Zealand try to bridge their manpower requirements by in-migration, a new class of agents, is mushrooming - they are Immigration Service Providers - ISPs in our context. It is expected that in the future, such ISPs would play an important and active role in furthering the migration process.

Finally, and with a note of regret, it has to be acknowledged that, one last factor which would continue to induce migration in the future is the desire to cross the Rubicon of prosperity, and enter the Shangrila of good living - that is, illegal immigration. Illegal immigration, or trafficking is not only beneficial for the migrant, but means big money for the agents involved. Stalker\textsuperscript{28} says that trafficking in migration nets about $5-7 billion a year!

In sum, the various factors listed in this section, would jointly or severally, give an impetus to migration in the future. It is unlikely that human migration would cease one day - what may happen is that, the type of person migrating may change, or the source or destination of migration may change. Therefore, this reality should enable us, that is persons concerned about the subject, to explore ways and means, which regulates the process, and diminishes the ills, from which it presently suffers.

In the next chapter, we shall attempt to suggest and summarize some ways and means to achieve this purpose.

\textsuperscript{28} ibid.