Unit 14
Immigration and Emigration Policies and their Implications

Contents

Learning Objectives

This unit will help you understand:

- The evolution of restrictive and liberal immigration regimes and their implications;

- The typologies of issue based emigration policies in the origin countries and the policy negotiations involving both home and host countries; and

- The emerging policy challenges concerning India and the world.

14.1   Introduction

This is the first unit of our book 2 on Diaspora and Transnational Communities. In our previous book we tried to introduce you to some conceptual and theoretical aspects of studying diasporas and in particular with reference to Indian diaspora. We also introduced you to the different Indian diasporas which are settled in different parts of the globe. In this book we will try and deal with some of the substantive issues that concern diaspora, in terms of policies of emigration and immigration which affect diasporas and the various linkages that are established between diasporas, the images and perceptions about and of Indian diaspora and finally issues that have come up in the context of globalisation and diaspora.

This unit will essentially deal with various emigration and immigration policies the world over and their implications for migrations and diaspora in general. The unit will discuss the policies of immigration and the politics of it in Western world, namely UK, Americas and the antipodes of New Zealand and Australia. The unit discuss both the general idea behind some of the policies of emigration and immigration and also specific policies. We also discuss policiy changes in India and the world and their implications and what can be learned from this these.

14.2 Evolution of Restrictive Immigration Policies

The Second World War marks a crucial watershed in the history of the formation of Indian diaspora, particularly in the developed world. It was the beginning of the transformation of the Indian presence from one that was miniscule, transitory and peripheral, to one that became more substantial, permanent and central. The largest number of Indian migrants in this period went to the UK, as the combined experiences of war, partition and independence provided the initial motivation for the postwar exodus. This was subsequently strengthened by the nexus of kinship and friendship that enabled others to tap the economic opportunities that were becoming available more and more in the labour markets abroad.

In spite of its 'liberal' pretence, however, Britain was still far from being a multi-racial society at the end of the Second World War. When Canada in 1946, and India, Pakistan and Sri Lanka (then Ceylon) in 1947, introduced their own citizenship laws, Britain defined, for the first time, its own policy by the British Nationality Act of 1948. When all British subjects of the Empire and the Commonwealth were still free to enter the UK during the first post-war decade of 1945 to 1955, in reality immigration of Indians and other nationals of the sub-continent (as also the Caribbean and the African nationals too) was restricted by this legislation until the very end of the 1950s and the beginning of the 1960s. As immigration began to crystallize, the Commonwealth Immigrants Act of 1962 was adopted and put into practice in 1965, providing official legitimacy to the cherished British restrictions on the settlement of 'coloured' people of the colonies, particularly the South Asians, including Indians. It limited immigration to those 'primary immigrants' who were issued job vouchers in one of the three 'priority categories' - those having a job offer in Britain to come to, those possessing special skills that were scarce in Britain, or those eligible for an undifferentiated numerical quota based on the 'labour needs' of the British economy. Subsequently, the government endorsed a White Paper that became the basis of a restrictive bipartisan approach to immigration based on skills. It curbed the entry of semiskilled and unskilled Indians, although there was the loophole of family-reunification clause that favoured the immigration of Indian Sikhs over other South Asian communities like the Mirpuris and Kashmiris from West Pakistan, or the Sylhetis from East Pakistan. The priority job-voucher category of immigrants entering Britain for the first time from 1965 onwards, and the new south Asian families accompanying them were mostly professionals - the doctors, dentists, research scientists and so on - drawn from the whole of India rather than just the few traditional areas in the Punjab and Gujarat.

In addition, highly skilled and professional Indians displaced from East Africa in the late 1960s and early 1970s, often called the 'twice banished', added to the profile of the highly qualified Indian diaspora in the UK. When nationalization and Africanisation intensified in the newly independent countries of East-Africa, — Tanganyika in 1961, Uganda in 1962, and Kenya in 1963 — these Indians faced the choice of either local or British citizenship. When the number of East African Asians entering the UK swelled in 1968, it caused the British government to think crisis, and enact the second Commonwealth Immigration Act of 1968. Being rushed through the Parliament in only three days, it subjected all holders of the British passports to immigration controls unless they themselves, a parent or a grandparent had been born, adopted or naturalized in the UK. This Act of the British is

considered as the 'most dishonourable conduct in the history of dishonourable conduct in immigration policy'. It was a straightforward tool for denying the civil rights to, amongst others, East African Indians, without disenfranchising the numerous 'white' people of British origin settled outside Britain in the 'old' dominions and in Southern Rhodesia, Kenya and Argentina.

The British policy on East African Asian immigration was as indefensible as it proved to be irrational from a practical, British self-interest point of view. Collectively, the East African Indians were a well-educated, materially successful diaspora group, comprising extremely high proportion of entrepreneurs and professionally qualified people. In signalling plainly that they were unwelcome in Britain, apart from getting into dispute with India, the British government managed to expose its international naivety by diverting to Canada many of those who were capable of making a choice, namely the richest and the best educated. On the domestic front too, the 1968 Act, which was meant to strengthen the bipartisan British approach to immigration based on immigrant skills was rather criticised by Enoch Powell's 'rivers of blood' speech as being too generous to the coloured immigrants including the Indians. As the Ugandan Asian Crisis unfolded in 1972, the exodus of Indians from Uganda followed the same broad pattern as movement from Kenya and Tanganyika in the decade following independence. When the expulsion was first announced in August 1972, it affected Ugandan residents of Asian descent who were either citizens of the UK or one of the countries of the Indian sub-continent. The Edward Heath government's rallying with other prosperous countries resulted in about 23,000 Ugandan Asians, majority of them Indians, comprising the best qualified, migrating to other countries, particularly to Canada. Only about 29,000 Ugandan Asians arrived in the UK. Over time, the British voucher scheme became tighter, and the numbers of vouchers actually issued were gradually reduced by new rules and acts of nationality and immigration that came into force. This was the time when the lifting of discriminatory restrictions and relaxation of numerical quotas in other developed countries of the North, for migrants coming from the developing countries of the South, had begun like a trend, thus undermining the British policy of whitewashing Britain and with it the West.

14.3   Lifting of Restrictions in the New World and Antipodes

Prior to the Second World War, anti-Asian sentiment was the characteristic of immigration policy in North America too. In Canada, an Order of 1947 allowed landing for non-immigrants who had served in the Armed Forces, and who were honourably discharged, provided they were not persons of Asiatic origin. However, the changing composition of the Commonwealth exerted its influence on the Canadian government. After the Indian Prime Minister Jawaharlal Nehru visited Canada, Indo-Canadians were granted the right to vote. The explicitly racist provisions in the Immigration Act were changed, lest Canada's image abroad as a humane and peace-loving country got tarnished. In 1962, new regulations to the Act were introduced, prohibiting the use of race, colour, and national origin as criteria for the selection of immigrants, and the points system that followed facilitated increasing immigration of the skilled, educated and qualified Indians. Australia too gave up its 'white Australian policy' in the 1960s, and followed the path of Canada in attracting talent of the non-white Indians, New Zealand going even further on liberalization of immigration.

In the United States, until the second world war, Indian immigration was mainly characterized by the presence of illiterate labourers – those working on the Pacific coast lumber mills, docks etc. But there were also a few educated Indians, who were political refugees or students. For example, amongst the students who were organizing Indians against the British rule in India were the son of the Maharaja of Baroda at Harvard and the son of Rabindranath Tagore at Illinois. In fact, Tagore had himself visited the U.S. and praised America for its international leadership. But he later denounced the Asian exclusions and refused to return to the US because of 'utter lack of freedom' there. After the war, things changed. Roosevelt himself, as President of the US, wrote to the chairman of the House Committee on Immigration and Naturalization, supporting the withdrawal of barriers before a bill was moved in the House, saying, 'Statutory discrimination against Indians now serve no useful purpose and [is] incongruous and inconsistent with the dignity of both our peoples'. The bill resulted in the 1946 amendments to the US Immigration Act, which ended almost 30 years of exclusion of Indians by setting an annual number of 100 as their national quota. All this was partly a sequel to the lifting of barriers against the Chinese immigrants in 1943, but a more immediate objective was perhaps to ameliorate the growing antagonism of Indians towards American troops that were still stationed in India after the War had ended. The small beginning was consolidated further by the visit of the Prime Minister Jawaharlal Nehru to the US in October 1949, hastening change from the earlier phase of Indian immigration to the US, which comprised mainly the unskilled workers, culminating with the 1965 amendments to the Act which finally opened the gates for absorbing the highly skilled and the professional Indians. In the three decades that followed, Indians acquired the status of being amongst the highest-educated, highly-professional and highest-earning model minority ethnic groups in the US. The umbilical cord of colonial legacy that Indians had long nurtured with Britain was thus eventually snapped, first when Canada and subsequently the United States of America in the 'New World' became the final destination of the migrating Indian professional masses through the 1960s and 1970s, there being a scramble for them amongst the other developed countries in the West and the East alike at the turn of century, ironically including the Great Britain too. The largely unskilled and semiskilled migrants too found a new destination in the newly developing oil-rich countries of the gulf in West Asia, and a large number of Indians went there as temporary construction workers, followed by some professionals as well.

Reflection and Action 14.1

1. What are some of the restrictive immigration polcies that UK adopted to limit the entry of South Asians?

2. What were the reasons for massive migration of Indians to USA, Australia and New Zealand during 1960s and 1970s?

14.4. Immigration of Third-Country Nationals (TCNs) in the European Union

In Europe, the principle of free movement within the EU was extended to the almost ten million third-country nationals (TCNs, i.e. workers from outside the Union) in possession of a specific residence status in a Member State. A March 1996 Council Resolution allows permanently resident TCNs in one Member State to get either a ten-year or an unlimited residence permit in another Member State. In February 1999, the European Commission, the Union's executive body, tabled two new proposals for a Directive

governing the movement of TCNs employed in services sectors within the Union territory. The first proposal provides for creating an "EC service provision card" for EU-based enterprises in services sectors, permitting the service providers to transfer their non-EU national employees from one Member State to another simply by a declaration to authorities within the destination country. The second proposal would provide the self-employed third-country nationals with the freedom to provide services throughout the Union territory, provided they are legally established as self-employed persons in a particular Member State. The EC service provision card would also allow for the temporary movement of self-employed third-country nationals.

Beginning with the coming into force in May 1999, the Amsterdam Treaty also promised to promote the free-movement and employment rights of third-country nationals. In particular, the centralized European institutions, like the European Commission and the Council of Ministers, were given clear mandate to enact policies directly affecting the migration of non-EU nationals, thus paving the way for eventually abandoning the practice of leaving the entry, stay, movement, and employment of third-county nationals to a diverse, and sometimes inconsistent range of national policies within the EU. Further, the Amsterdam Treaty extended the TEC anti-discrimination clause to encompass all forms of discrimination on account of racial or ethnic origin, religion, age, sex, disability, or sexual orientation, thereby in principle covering the third-country nationals in its fold. However, despite such treaties, harmonization and homogenization of immigration policies affecting the entry and stay of TCNs across countries of the EU are yet to take place, although many countries like Germany, France, Denmark, and the Netherlands etc. are already in the fray to attract Indian talent.

14.5 Typology of Issue-based Emigration Policies in Origin Countries

Sending countries like India have from time to time adopted policies designed to counter the exploitation of their citizens abroad and/or the draining of their valuable human resources that takes place through growing emigration. These can be grouped into four broad issue based policy types: restrictive, compensatory, restorative and developmental. India has experimented with almost all of them at various points in time, as mentioned below.

Restrictive policies

India generally does not have a restrictive policy for emigration of highly educated, trained and experienced personnel. From time to time various restrictive measures to contain the problem of brain drain have been conceived, but there has never been a consensus except in the case of the medical sector — where India had certain restrictions. There is a history of three decades of restrictive policies for medical education abroad. It started initially with the objective of controlling foreign exchange outflow and optimum use of facilities in India. Later the rationale was to regulate the out-migration of doctors and derive the benefits of highly subsidised medical education provided to them for the country's poor.

Here too, these policies had originated more as India's *quid pro quo* response to the highly restrictive US regulations for entry of medical personnel into the US geo-economic sphere. India's restrictive emigration policy had been basically aimed to protect the uneducated and unskilled emigrants, and for this a Protectorate of Emigrants has been regulating the flow of worker emigration, and looking after the interests of this section of the Indian diaspora abroad.

Compensatory policies

One can mention the well-known Bhagwati-proposal of 1976, which proposed to tax the brain drain for creating a development fund that would benefit the developing countries losing their skilled labour to the developed world (Bhagawati and Partington, 1976). However, it could not be tested due to problems of multilateral jurisdiction across countries. In India, there is no formal compensatory mechanism to compensate for the losses that the country incurs because of migration. There is a policy in terms of incentives being offered to the NRIs for sending funds to India through the official channels — remittances, investments in bank deposits, occasionally floated development bonds like Millennium Development Bond, securities of Indian companies, joint ventures and so on. Most of the incentives are in the form of higher rates of interest and lower rates of taxes for the NRIs as compared to their counterpart residents in India. In fact, the term 'non-resident' was coined for the purpose of extending tax concessions to temporary visitors abroad, so that they were not subjected to double taxation — once in the host country and again in India. Most of these schemes have attracted financial transfers to India, but at a huge social cost. In fact, very recently India lowered these differentials in interest rates to stop the rampant use of arbitrage and money laundering by some members of the diaspora.

Restorative policies

Restorative policies are aimed at encouraging return migration to the home country, either permanently or temporarily on specific assignments. The best known international scheme under this category has been the TOKTEN, launched by the UNDP in many countries. In India, however, the scheme has been quite ineffective — due to poor operationalisation. Private industrial establishments were encouraged to offer placements to the returning/visiting NRIs in their R&D units under the scheme, but private firms were frustrated and disillusioned with the functioning of the TOKTEN-INRIST (Transfer of Knowledge and Technology through Expatriate Nationals - Interface for Non-Resident Indian Scientists & Technologists) programme in India. So was the fate of the "Pool Officers Scheme", also launched by the Council for Scientific and Industrial Research (CSIR) of the Government of India, and meant for permanent returnees to India. The University Grants Commission had started a 'Research Scientist' scheme to attract Indian scientists from abroad with offers of placement in Indian universities at levels parallel to lecturer, reader and professor in the early 1980s, with substantial research grants in addition to their salaries. The scheme took-off well, but ran into trouble because of the dilution of standards by accommodating unemployed scholars from within India and that too across all disciplines. It also led to dichotomies in the universities. The UGC too had a budget constraint, and the scheme was finally withdrawn some time in the mid-nineties.

Developmental policies

Developmental policies are not specifically aimed at brain drain or labour exodus *per se*, but supposedly at the causes of mass emigration in terms of bridging the development gap between the developing home country and the developed destination country. However, these policies have remained as attention-drawing promises made by political parties in their election manifestos, with no follow up whatsoever, if the party came to power. Of late, however, the Indian judiciary has begun taking the government to task for non-performance on promises made, *e.g.* in the case of the universal primary education until the age of 14. Examples are the proposals for the setting up of 'science parks' where wages will be comparable to international

standards and working conditions will not be repressive, Export Processing Zones (EPZs) where tariff barriers will not exist for undertaking certain production activities, and so on.

14.6 Policy Negotiations Affecting South Asian Migration: Multilateral, Regional, Bilateral, and Unilateral Initiatives

Multilateral Initiatives

When it comes to operational policy making and implementation affecting South Asian and the Indian diaspora, the stakeholders in the field of international migration are mainly two: countries or the region of emigration, and the countries or regions of immigration. It is in this context that the policy negotiations by the stakeholders are driven by the key trends and issues amongst the diasporas. The policy negotiations could be seen to have been taking place at the various levels: multilateral amongst most countries of the world, regional among the countries of the South Asian region, bilateral between any two countries of the region, and unilateral by any single country in the region.

At the multilateral level, the General Agreement on Trade in Services (GATS) under the framework of World Trade Organization (WTO) is the most prominent current forum that involves policy negotiations directly affecting international migration. (There are other multilateral fora, like the ILO under the UN system, or the IOM outside the UN system, which directly deal with various aspects of international migration) Of the four modes of trade in services, the First Mode, which is called 'Consumption Abroad', involves the diasporic students migrating abroad for education, a predominant form that now comes under trade in educational services. I have pointed out elsewhere that the rising competition for foreign students, due not only to economic reasons but also because of the aging structure of the population in the developed countries, has been accompanied by initiatives in the marketing of higher education institutions. Such initiatives, sponsored by destination-country governments, universities, or private firms, include dissemination of information on the institutions recruiting students. For example, the so-called 'education fairs' are one of the most common mechanisms used by governments and institutions of the destination countries, either directly or through education marketing agencies, to attract the South Asian students. Similarly, the Fourth Mode, 'Presence of Natural Persons', refers to the 'freedom' for workers in countries of origin to move to other countries to provide services through temporary stay, not well defined but roughly for six to ten years period. The two modes of trade in services are thus supposed to cover international migration of people described as 'natural persons' (as opposed to 'juridical persons', which are the trading firms and companies). The scope here is limited to movement to and presence on foreign soil, of the 'natural persons', primarily for (a) the purpose of consuming or providing a service rather than goods, and (b) temporary stay rather than permanent residency.

For negotiating international migration of students and workers at the multilateral level, South Asian countries like India are better off in following a holistic approach rather than a piecemeal approach. Under such an approach of trade in 'human services', international migration could be described as 'Movement of Embodied Human Capital', comprising Modes I and IV in the GATS jargon, and thus incorporating the international migration of students, teachers and professionals from a developing country rich in

these endowments, like those on the Indian subcontinent, to the developed continents like the north America, Europe, and Australia under a single umbrella. The counterpart, what I would call the 'Movement of Disembodied Human Capital', primarily coverers Modes II and III, respectively by way of large-scale 'Cross-border Supply' of the online courses and material through the Internet, and face-to-face supply of education by way of offshore 'Commercial Presence' of foreign universities and campuses of the developed countries in countries of South Asia.

The short-term implication of proliferation of foreign universities and their curriculum in developing countries of South Asia could be a simple gainful trade in a service. But the long-term implications could be indeterminate. In the long run, it may lead to at least two revelations: First could be a rise in the brain drain as the educational ethos and values of the students and their parents get guided by an *ex ante* choice in favour of pursuing that education, content-wise, which is likely to get internationalized in the labour markets of the developed countries. Such an impact has, in fact, been visible at least in India lately, for example, through a shift in the choice of the 'majors', by students entering the senior secondary schooling (after class X) and colleges in favour of subjects like commerce and marketable languages, and away from the sciences or social sciences over the last decade. In the post-graduate courses too, there has been a definite shift towards the business studies and away from the general university education. Secondly, there hinges the large-scale infrastructure sustenance of the universities, the polytechnics, and other institutions of higher education in a developed negotiating country at the cost of those in the developing countries through a period of domestic recession in the former.

The paradox here is between the short-run and the long-run implications. In the short-run, it seems the global physical presence of diaspora students, teachers, and professionals abroad would be gainful for the home countries in terms of employment, income, remittances and so on, but the long-run implications could be manifold. One could be the erosion, qualitative if not quantitative, of these countries' capability to produce the kind of professionals, the doctors or even the teachers who train the very professionals or doctors that the world would like to import in future. Another could be a simple domestic shortage of the professionals possessing generic skills applicable in all types of knowledge generating and research activities. A third could be the infrastructural challenge of hedging against the vulnerabilities of the supply and demand mismatches when there are frequent changes in the immigration policies of the developed receiving countries.

One also must understand that the universities, the teachers, and the students that together make the educational service, are the inputs in the production of another intermediate input - the commodity producers or service providers; they are not similar to the final products that other services like banking, shipping, insurance, or telecommunications produce. Given this dichotomy, the paradox between factor-endowment and factor-use inherent in student and teacher mobility as a form of trade in education services must be recognized and taken care of in the new knowledge paradigm that may emerge by the joint efforts of the destination countries and the South Asian countries of origin at the GATS negotiations.

Secondly, along with mobility of embodied human capital, what needs to be looked into even more carefully are the policies that determine the *content* and the *curriculum* of disembodied human capital the foreign universities

supply through cross-border supply and commercial presence in developing countries of South Asia. It is crucial to make sure that these are geared towards the current needs and future requirements of capacity building in these developing countries rather than concentration of future global knowledge in the developed countries.

Regional, Bilateral, and Sub-regional Initiatives

There are regional and bilateral efforts of cooperation amongst the South Asian countries but none of these have explicitly covered the area of international migration, whether intra-regionally or with other regions, and countries of the world. There have been important issues touching upon the elements of international migration in the region, e.g., the issue of developing a network of fairly developed transport infrastructure amongst the member countries to facilitate better mobility of goods and people; or of bio-technology, which is a frontier area of choice for a career. However, perhaps the slow pace of trade liberalization itself under the SAARC regional framework has kept any direct reference to the issue of international migration from being taken up for policy. Going beyond a South Asian Free Trade Area (SAFTA) after 2010, the SAARC has set before itself a bold vision for all member countries to form a South Asian Customs Union by 2015, and South Asian Economic Union by 2020. There are also the prospects of a Monetary Union with a common currency, which will have a bearing on intra-regional mobility of the people of South Asia. The actual progress on these fronts has however been far from steady.

In the area of trade and investment liberalization, the South Asian region has been seen to be more intensive in bilateral linkages than regional, and this is being interpreted as a response of the member states to a rather slow progress under the SAARC framework (IRS 2004, p.52). The bilateral Free Trade Agreements (FTAs) between India-Bhutan, Indian-Nepal, and India-Sri Lanka are in place; while India-Bangladesh, and Pakistan-Sri Lanka are in the process; and Bangladesh-Pakistan, and Maldives-Sri Lanka are at the contemplating stage. India and Pakistan have also got into a trade and investment cooperation agreement, but it is the bilateral negotiations on political boundary matters and cross-border terrorism that have overshadowed such issues.

Two sub-regional initiatives involving South Asian countries have also complemented the regional and bilateral initiatives. These are Bangladesh-Bhutan-India-Nepal Growth Quadrilateral Initiative (BBINGQ), and Bangladesh-India-Myanmar-Sri Lanka-Thailand Economic Cooperation (BIMSTEC), the latter involving two member countries of ASEAN, and thus forming a bridge between SAARC and ASEAN.

The most recent sub-regional initiative of EU-India Strategic partnership portends the larger role that India aspires to play in world affairs (Editorial, ET 11 Nov. 2004). India is the sixth country to conclude a strategic partnership with the EU - the others being USA, Canada, China, Russia and Japan. Pre -WTO Summit consultations are planned. It would substantially widen India's international platform. Meanwhile, even the 25-member EU might use India's advantage with the economic integration in South, and South-East Asia. Ireland and India are two of the biggest software exporters, and intellectual property right (IPR) consultations are planned. The EU will need to cooperate to realise India's competitive advantage in a variety of high-value services when these are opened up for trade. India may ask Brussels to truly level the playing fields for all. For Indian IT majors, the India-EU business roundtable is yet another platform to deliberate issues that make the

movement of IT professionals difficult (ET, Nov. 11, 2004). The EU has, despite a few relaxations, tough immigration laws. Industry experts in India are of the opinion that stringent immigration norms for Indian professionals are to blame for Indian ITs not contributing to its potential in the EU. The mobility of IT professionals within the EU member-countries is hampered by the current work permit procedures. Residence permits, which in some parts of the EU are prerequisite for work permits, are often difficult to obtain. Often applicants have to produce birth and marriage certificates, which can be difficult. The industry would like a waiver of these requirements for IT professionals, who are on short-term assignments. Not only are the procedures tedious and tough ; they also differ from country to country. Indian IT industry would paddle for uniform processes that may apply throughout the EU. Given the demand for IT workers, there is also talk of getting IT skills listed as a 'shortage' profession. This would bypass the need by EU employers to certify that the positions cannot be filled locally before for foreign skilled workers are employed. Other immigration issues to be pursued from the business round-table include the need to do away with the pre-employment requirements for obtaining work visas. The stringent norms for entry and exit for software professionals, as well as wage parity are also likely to be taken up. On the taxation front, the social security policies would come up for negotiations. The industry would like a waiver of the social security taxes for the short-term IT professionals. The percentage taxed as social security is high in the EU, whereas most Indian IT professionals would not enjoy the benefits of these taxes.

Unilateral Initiatives

In Bangladesh, the governments have been more proactive in negotiating with foreign governments and major employers for their share of the labour market for expatriate labour. The Bangladesh government set up Bangladesh Overseas Employment Services Ltd. Similarly, Pakistan had established its Bureau of Emigration and Overseas Employment in 1971 which worked through labour attaches in the Middle East and a network of about 500 private licensed agents processing state to state labour contracts. In India, private recruitment agents operate within the structure of the Protectorate of Emigrants mentioned earlier. India has only recently institutionalised state capacity to respond to the crises, which lead to the repatriation of its citizens. These more proactive policies towards migration were developed following the repatriation of several thousand returnees from UAE to Kerala during the Gulf War. At the provincial government level, the Kerala state government set up a separate department to look at the problems of non-resident Keralites, their welfare and investment facilities in 1996. At the national level, the Report of High-level Committee on Indian Diaspora led to Indian government's conscious efforts in building cultural, political and economic links with the PIOs (Persons of Indian Origin) and the NRIs (Non Resident Indians). As a follow-up, the government also declared the annual celebration of a 'Bharatiya Pravasi Divas' (The Indian Expatriates Day) on 9th January from 2003 onwards. About the same time as the report was submitted, the recognition of the importance of Indian IT professionals and their migration had led to the creation of the Ministry of Information Technology, which along with NASSCOM deals with the issues concerning the Indian IT professionals' migration to other countries. Subsequently, the national government has constituted a separate ministry, the Ministry of Overseas Indians Affairs, with a full cabinet minister to look after the issues relating to the Indian expatriates abroad. The ministry has programmes and projects at the multilateral, regional, bilateral, and unilateral level.

Irrespective of the various levels where policies related to migration are adopted by the South Asian countries, what is important for both the countries of origin and destination in this context is to be able to distinguish and identify the 'painful' from the 'gainful' aspects of international migration in migration management. Being aware of these tasks and the responsibility involved, the countries of origin need to make use of these in their 'give and take' strategy. They need to gear up to press for international norms in the multilateral negotiations of the GATS around the issue of movement of natural persons as service providers under trade, which is just another description for promoting the temporary entry of migrants. The vulnerability of the migrants as well as the trends is the key aspect that need be taken out of international migration, whether as part of trade in services or otherwise, whether of the illiterate labourer or the highly skilled professional.

Reflection and Action 14.2

1. What are the implications if foreign universities were to be set up in India?

2. Explain what you understand by unilateral initiatives? Elucidate your answer with examples of some unilateral initiatives that affect migration of people.

3. What are some of the policy negotiations initiated under GATS by WTO which has implications for international migration?

14.7   Policy Changes in India and the World: Lessons to Be Learnt

Although there exists a 1983 law regulating emigration of the unskilled from India, the country has been no well-defined *immigration* rule or law *per se*, either for the skilled or the unskilled. Provisions regarding entry, regulation and prevention of 'foreigners' into India and Indian citizenship are found in the Constitution, the Citizenship Act 1955, the Foreigners Act 1946, the Passport Act 1967, the Criminal Procedure Code and other regulations. However, the Overseas Indian Citizenship (OIC) – the dual citizenship promised to the Indian diaspora by the Indian government in 2005 and conferred in 2006 is an important landmark in redefining the contours of *immigration policy* in the new millennium - not merely for India but for an 'interconnected' world as well. For the Indian diaspora in the Gulf – those who send large remittances back home but can never hope to become naturalized citizens of those countries because of restrictive regimes there, the Indian government announced at the fourth Pravasi Bhartiya Divas which took place in 2006 that their demand for voting rights to be exercised from abroad was under serious consideration.

The policy of dual citizenship and the promise of a consideration to grant overseas voting rights by India to the Indian diaspora gain added importance in the wake of the Report of the Global Commission on International Migration, submitted to the UN Secretary-General in October 2005, and titled as *"Migration in an Interconnected World: New Directions for Action"*. In laying down a new roadmap for action, the Report recognizes that "International migration has risen to the top of the global policy agenda." But the Report also concludes that *"the international community has failed* to capitalize on the opportunities and meet the challenges associated with it, and therefore *new approaches are required* to correct the situation" (emphasis added). The Commission concludes that "if the benefits of international migration are to be maximized and its adverse consequences minimized, then migration policies should be based on shared objectives

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and a common vision." A first-ever emphasis that the report has made is to state that *"the traditional distinction between skilled and unskilled workers is in certain respects an unhelpful one, as it fails to do justice to the complexity of international migration.... While they may have different levels of educational achievement, all of them could be legitimately described as essential workers"* (emphasis added).

The vulnerability of migrants is not limited to unskilled people. The system ensures that all migrants are kept exposed to vulnerability of one kind or the other, as it provides continuity and flexibility to the labour market in terms of a 'safety valve'. Therefore, attention to policy protection cannot be limited to the correction of specific situations. It must question the system that continues to produce situations of exploitation. For one reason or the other, the policy discourse in migration stops at the legislation of recommendations; when it comes to prescription of the laws and procedures, the entire focus is on how to stop the exploitation of the migrants, mostly irregular and illegal migrants, in the hands of the vested interest groups operating in the migration space. Enough has been said about such exploitation, and about the loopholes in the policies for effectively combating such exploitation - be it because of 'feminization, privatization, or regionalization', the three contemporary features of labour migration the ILO identifies as not being adequately provided for in the ILO Labour Conventions or national immigration laws - challenging traditional efforts to regulate migration. The systemic vulnerability that is generated in the developing home countries of legal migrants begins one step earlier, in the practical implementation stage of policy: Literally at the doorsteps of the foreign consulates that issue the visas or the entry permits for the migrants' entry into their countries. The humiliating experience that the so-called 'off-white' people (the ladies, the elderly, and the gentlemen alike) of the so-called 'third-world' (erstwhile) are more often than not subjected to in their own lands by the 'whites' and their 'brown sahibs' manning the consulates takes place only because that had never been a "white man's disease". The indignation of queuing up in a hostile environment - natural as well as man-made - outside the gate of the consulates in South Asia is degrading enough for many of these migrants to become vulnerable to any kind of misbehaviour, insult, threat, and exploitation that could be in store in the new land or on the way to it. The migrant could be utterly alone and vulnerable to the uncharted contours of a journey, which is made further uncertain by the frequently changing policies, legislation, quotas, and the practices of the so-called "migration management" in the destination countries. Stability of policy, and dignity in the practice of that policy are perhaps two key elements which would go a long way in making migration policy 'user-friendly' not only in a developing country like India but equally in all other spaces too.

14.8 Conclusions

In this unit we tried to present you the complexities involved in what seemingly seems like a simple thing as migration of people, looking for better life. The policies that are adopted by countries, between countries and regions, as well as by bodies such as UN or WTO have wider implications for migration and immigration. We also tried to critically evaluate the specific policies by giving you examples and substantiating these polices we have discussed. When examing some of these policies from political and economic point of view, we find that the worst affected from polcies of emigration and immigration are the semi- and unskilled workers who do not have the same bargaining power as the skilled white

collar workers. The other aspect which comes to fore is that the basic power politics between the advanced north-the Western countries- and the underprivileged south-the third world countries. However, in this new globalised world and where telecommunication and its many aspects are coming to fore there is new shifts in international labour markets. In our next unit we will discuss very specifically the India's initiatives regarding its diaspora, we will discuss various polices and state initiatives.

14.9 Further Reading

Castles, Stephen and Mark J. Miller, 2003. *The Age of Migration: International Population Movements in the Modern World (Third Edition)*, Basingstoke: Palgrave-Macmillan.

Global Commission on International Migration (GCIM), 2005. *Migration in an Interconnected World: New directions for action*, Geneva.

Khadria, Binod, 1999. *The Migration of Knowledge Workers: Second-Generation Effects of India's Brain Drain*, New Delhi: Sage Publications.