

## COMMENTS TO THE DRAFT EMIGRATION BILL, 2021

*Released for public consultation by the Ministry of External Affairs (MEA)*

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### INTRODUCTION

India Migration Now (IMN) – a venture of the South East Migration Foundation – is a Mumbai based migration data, research, and advocacy organisation. IMN provides services and interventions, conducts primary and secondary research, and gathers evidence for the purpose of furthering migration policy in India. Given the importance of migration to millions of Indian households, our vision is to ensure regulations and policies help Indians grab the opportunities that migration has to offer. The promotion and protection of welfare of emigrants is a core part of our work.

In this document, we present our comments on the draft Emigration Bill, 2021 (hereafter “the Draft Bill 2021”) in response to the call for comments from the public by MEA (Ministry of External Affairs, 2021).

Globally, India sends the highest number of international migrants, and the Draft Bill 2021 aims to regulate their emigration process to protect and promote their welfare. Overall, the Draft Bill 2021 is a progressive and welcome development with many crucial positive inclusions. The full or partial incorporation of most objectives of the Global Compact for Safe, Orderly, and Regular Migration (“GCM”) (of which India is a signatory) is an extremely welcome development. Additionally, the removal of the emigration clearance system, which constituted a major regulatory hurdle for potential emigrants, is a move in the right direction. The recognition of the role of intermediaries – in particular, sub-agents, who operate at lower levels of the supply chain – and their regulation is also a positive development. Most promisingly, measures addressing all aspects of the migration cycle including the reintegration of return migrants are especially notable – in particular the involvement of state governments in implementing reintegration programs.

However, some fundamental concerns remain. Given the dynamic nature of emigration from India, with rapidly changing migration choices, channels, and destinations, it is important for the Draft Bill 2021 to propose a futureproof policy framework. A clear and well-defined framework with explicit policy goals and outcomes would be of immense benefit as a guiding document for any subsequent Rules, Executive Orders and

other policies initiatives going forward. In addition, it is imperative to expand the definition of the term “emigrant” to include key vulnerable categories such as family dependents and irregular emigrants. In general, there are inadequate gender-specific goals, outcomes, and criteria given the growing importance of healthcare sector emigration dominated by women emigrants from India. Given the impact of COVID 19 on international mobility in 2020, it would also be prudent to detail aid, accountability, and liability mechanisms for emigrants for future crisis situations (in line with GCM Objective 8). Finally, it is crucial to ensure that government regulations do not impede or create barriers to emigration – hence, the Draft Bill 2021 should find a better balance between regulatory and compliance burdens for Human Resource Agencies and the sustainability of the overseas recruitment industry. In general, there is a need for careful deliberation on the inadvertent impact of governing the overseas employment process on the long-term availability of safe, orderly, and regular emigration channels from India.

Our comments are presented in two sections. In the first section titled “Overarching Comments”, we raise foundational concerns about the draft Bill. In the second section titled “Section-specific Comments”, we provide chapter-by-chapter feedback and proposals on provisions of the Draft Bill 2021. The thinking presented here builds on our past work on the principles and strategies required for an effective migration policy framework that considers the magnitude and diversity of emigration from India.

## OVERARCHING COMMENTS

### FOUNDATIONAL CONCERNS

#### 1. Need For a Proactive and Future-Proof Policy Framework

The Draft Bill 2021 builds on the approach of the Emigration Act 1983 (“the Act”) by considering the entire migration cycle, including the destination and return phases. It also removes the emigration clearance burden, thereby reducing barriers to emigration. However, the proposed policy regime continues at its core to overtly rely on the regulation of Human Resource Agencies (HRAs) and employers at the ad hoc discretion of statutory bodies.

India's emigrant population is the world's largest<sup>1</sup> and highly heterogeneous, comprising emigrant workers of different skill categories and sectors, international students, family dependents, and those in irregular circumstances<sup>2</sup>. The specific welfare needs, and vulnerabilities of each category varies based on geography requires context specific responses, for instance needs of emigrant workers in Qatar are different from those in Italy or the United States thus requiring calibrated responses by the respective Embassies.

At the same time, the emigration process itself is dynamic and is set to, increasingly, move into the digital space in the coming years. The business operations of HRAs, much affected during the COVID crisis, are moving in a similar direction. The need of the hour is **a future proof framework which will serve as the guiding document for the subsequent Rules and design of individual programs and policies**. The Draft Bill 2021 can achieve this through the following approaches:

#### *A Rights- and Principle-based Approach*

**Define and embed a rights- and principle-based approach towards emigration and emigrant welfare.** The GCM<sup>3</sup> and other multilateral migration conventions (Dhaka Principles, for instance) provide the guidance for the principles needed for such a policy framework.

#### *Set Explicit Aims for India's Emigration Policy*

In the absence of rights and principles, the Draft Bill 2021 identifies certain outcomes that can be interpreted as policy goals – for instance, the prevention of trafficking/human smuggling, the prevention of recruitment under irregular circumstances, sanctions against violation of working contracts, and the welfare of emigrant workers. These should be framed as **the Draft Bill 2021's explicit aims** for ensuring a future proof policy framework. Lessons can be taken from the Migrant Workers and Overseas Filipinos Act of 1995 ("MOFA 1995"), which is the emigration framework of the Government of Philippines<sup>4</sup>. The MOFA 1995 is prefaced by a Declaration of Policies underscoring the government's commitment to protection and promotion of Filipino emigrant workers, maintenance of dignity and right to self-determination of all Filipino emigrant workers, equality of employment opportunities, gender sensitive policies, and free legal assistance.<sup>5</sup>

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<sup>1</sup> 18 million, according to data from the World Migration Report, 2020: <https://publications.iom.int/books/world-migration-report-2020>

<sup>2</sup> Refer to Figure 1 in Appendix.

<sup>3</sup> Refer to Table 1 in Appendix.

<sup>4</sup> Refer to Table 2 in Appendix.

<sup>5</sup> Migrant Workers and Overseas Filipinos Act of 1995, Government of Philippines. Retrieved from: [https://www.poea.gov.ph/laws&rules/files/Migrant%20Workers%20Act%20of%201995%20\(RA%208042\).html](https://www.poea.gov.ph/laws&rules/files/Migrant%20Workers%20Act%20of%201995%20(RA%208042).html)

## 2. Need for a Nuanced and Expansive Definition of Emigrant

The Draft Bill 2021 proposes a new definition of “emigrant” which is based on **migrating either for work or with the intention of finding work**. While this welcome step is more inclusive of emigrants from India in comparison to the existing regime (the Act), there is a significant migratory population that this definition does not consider: major emigrant categories such as dependent family members and irregular migrants<sup>6</sup>, who constitute a sizeable proportion of the vulnerable emigrant population. It is also unclear how this new framework will account for those whose emigration status may change while abroad – for instance, students who move into the labour market and receive work visas in the destination country. The term “*intention to emigrate for, or with regard to, employment*” is extremely difficult to determine post-fact – for instance, it may include students who take work on a part-time basis during their studies or family dependents who pursue employment and transfer visa status after the initial journey.

**Non-working emigrant categories** are also a vital component of the emigrant population and the MEA’s prior initiatives have included policies and programs to assist them – for instance, the MADAD portal<sup>7</sup> where emigrants may register grievances, legal and financial assistance programs to married Indian women deserted by their spouses abroad<sup>8</sup>. All these categories need to be taken into consideration for a Bill concerned with emigration from India.

## 3. Need for a More Detailed Section on Crises Involving Emigrants

Promisingly, the Draft Bill 2021 complies with most of the objectives of the GCM; however, **the objective to save lives and establish coordinated international efforts on missing migrants** is only partially addressed. This is a major oversight given experiences of **the Vande Bharat missions** during the 2020 phase of the COVID 19 pandemic. Key issues that emerged during the 2020 crisis involved dispensing aid to distressed emigrant workers, connecting them to Embassies for repatriation, amnesty, and regularisation for those in irregular circumstances, and the liability and accountability for their safe return and compensation in cases of unpaid wages and/or exploitative working and living conditions. While the Draft Bill 2021 does have checks in place for stopping emigration due to epidemics and outbreak of other diseases, crucial questions of accountability in a crisis recently experienced are not accounted for. There is also an absence of any

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<sup>6</sup> Refer to Appendix for a detailed breakdown of the typology of irregular emigrants.

<sup>7</sup> Retrieved from: <https://www.madad.gov.in>

<sup>8</sup> Retrieved from: <https://mea.gov.in/legal-and-financial-assistance.htm>

provision for missing migrants, which would ideally require multi-stakeholder involvement and engagement with destination government authorities.

#### 4. Need for Holistic Representation of All Stakeholders

The 2019 Draft of the Emigration Bill (“Draft Bill 2019”) put forward an Emigration Management Authority at the national level with representation from *“amongst persons of integrity and outstanding ability, having special knowledge of, and experience in international migration, recruitment and allied matters”*. This was a much-needed inclusion of non-governmental stakeholders in the policy planning and administration process of emigration and should be reincorporated into the 2021 Draft. While the Draft Bill 2021 does incorporate this multi-stakeholder approach at destination through its proposed Emigration Welfare Committee at Indian Embassies (Chapter VII), the Ministry should consider similarly stipulating **the inclusion of emigration experts from the recruiting industry, civil society, and academia in the Bureau of Emigration Policy and Planning** which is tasked with activities including pursuing MoUs, Labour Mobility Partnerships, keeping up-to-date on policy changes in destination countries, and understanding key aspects of emigration including remittances. The need for a whole-of-society approach, with participation from stakeholders across the ecosystem is also emphasised in the GCM. An example can also be taken from the MOFA 1995, which stipulates that non-governmental stakeholder are essential partners of the state in the protection of emigrant workers.

#### 5. Inadequate Gender Sensitive Policy Formulation

Emigration of women constitutes a major portion of emigration from India. They dominate rapidly growing sectors like healthcare, nursing, and domestic care work. Women also increasingly emigrate to work as students, and family dependents. Thus, there is an urgent need to address the unique vulnerabilities of women emigrants. While the inclusion of gender sensitive planning among the duties of the Bureau of Emigration Policy and Planning is much appreciated, the Draft Bill 2021 should provide further details on the scope of such programs and how existing channels and practices of exploitative labour faced by women emigrants will be circumvented.

Established initiatives such as the MADAD portal and those to provide legal and financial aid to Indian married women deserted by NRI husbands abroad are laudable but they are ad-hoc and inadequate. The Draft Bill 2021 should have **explicit principles or goal which are gender inclusive**, in tune with the migration realities faced by Indian women and the avenues they pursue to emigrate. Here too, an example

may be taken from the MOFA 1995, whose preface reiterates the government's commitment to equality of men and women, and the need for gender sensitive policy formulation and representation, given the unique vulnerabilities of women emigrants.

## 6. Creation of Inadvertent Barriers to Migration Through Excessive Regulatory Controls

Will the prescribed regulatory measures for recruiting agents place excessive controls on the market and inadvertently create barriers to migration? Given the key role played by intermediaries like HRAs and sub-agents in minimising information asymmetries for workers going overseas, the regulatory structure must be careful in finding a balance between governing the overseas employment process and preserving the market mechanism for the recruitment industry. **The primary aim of regulations should be the formalisation of these traditionally informal industries, the creation of strong disincentives for practices which undermine the welfare of migrants and ensuring the efficient supply of recruitment services for workers seeking overseas employment.**

**A parallel aim of any emigration policy framework should be minimising barriers to migration and the cost of migration.** Evidence suggests that the regulatory process for recruiting Indians overseas has contributed to the decreasing emigration rate in the past decade, in contrast to Bangladesh, where the emigration rate has rapidly increased — due to emigration policies that encourage emigration.<sup>9</sup> There is also a concern that the prescribed regulatory approach overburdens recruiting agents who want to operate formally, and thus inadvertently contribute to increasing informal/irregular channels for migration abroad.

In the absence of any independent evaluation of the proposed regulatory regime, which merely incorporate and reinforce the regulations of the 1983 Emigration Rules and subsequent amendments, it is an open question whether the Draft Bill's regulatory approach is inadvertently creating barriers to migration through excessive controls on the recruiting industry. Similar points raised about the 2019 Draft Emigration Bill have not been addressed in this latest Draft.

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<sup>9</sup> ILO Labour Migration Update, 2018. Retrieved from: [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new\\_delhi/documents/publication/wcms\\_631532.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new_delhi/documents/publication/wcms_631532.pdf)

## SECTION-SPECIFIC COMMENTS

### 1. Preliminary Chapter: Definitions

Clause Number	Clause	Query/Concern
2.1(e)	<i>“emigrate” and “emigration” mean the departure out of India by any person with a view to taking up any employment (whether or not under an agreement to take up such employment with or without the assistance of a Human Resources Agencies).</i>	This definition does not include students and family dependents – two crucial categories of emigrants who are also often more vulnerable in comparison to emigrant workers.  <i>(please refer to Overarching Comment No. 2)</i>
2.1(f)	<i>“emigrant” means any citizen of India, not below the age of eighteen years, who intends to emigrate or has emigrated for, or with regard to employment.</i>	A significant portion of emigrants from India include students and family dependents who may be below the age of 18.
2.1(j)	<i>human smuggling” means assisting, facilitating, or making arrangements for a person to enter illegally into another country of which such person is not a citizen or permanent resident, with the full knowledge that such entry is illegal, in order to gain financial or any other material benefit;</i>	The term “irregularly” should be used in place of “illegally”. Please do refer to the following definition of the United Nations – International Organisation for Migration (UN-IOM) – Glossary No. 34 <sup>10</sup> .  <i>“The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the irregular entry of a person into a State, of which the person is not a national or a permanent resident.”</i>

### 2. Chapter II: Institutions

<sup>10</sup> Retrieved from: [https://publications.iom.int/system/files/pdf/iml\\_34\\_glossary.pdf](https://publications.iom.int/system/files/pdf/iml_34_glossary.pdf)

Clause Number	Clause	Query/Concern
3.(2)	<i>The Bureau referred to in sub-section (1) shall consist of a Chief of Emigration Policy and Planning, who shall be an officer not below the rank of a Joint Secretary to the Government of India or equivalent, and other officers of such appropriate ranks as may be determined by the Central Government.</i>	The Draft Bill 2021 does provide for multi-stakeholder representation through the Emigrant Welfare Committees to be set up within Indian Embassies (Chapter VII). A similar inclusion of non-governmental stakeholders such as recruiting agents, civil society, and academic experts should be considered for the Bureau of Emigration Policy and Planning at source as well. The Draft Bill 2019 had incorporated this much-needed representation which ought to be reinstated.
5.(1), (2), & (3)	<i>Where the Central Government considers that, with a view to preventing or checking the contravention of the provisions of this Act or the rules made thereunder, it is necessary so to do, it may, by notification, set up such number of emigration check posts at such places as may be specified.</i>	The Bill should consider setting up a data collection unit associated with the checkpoints.

### 3. Chapter III: Functions of Institutions

Clause Number	Clause	Query/Concern
9 (i) & (ii)	<p><i>Maintain a digitalised record of the following:</i></p> <p><i>(a) All Indian emigrants. The administration shall obtain such data from the Bureau of Immigration, Human Resources Agencies and any other agencies as</i></p>	<p>Will this database on emigrants be made publicly available in the way current emigration clearance data is available through the e-migrate portal?</p> <p>How will the individual emigrant's Right to Privacy be guaranteed in such a situation?</p>



	<p><i>appropriate</i></p> <p><i>(b) Blacklisted foreign employers, fraudulent Human Resources Agencies and the like;</i></p> <p><i>Establish a shared database among concerned stakeholders in the government to maintain a comprehensive approach towards emigration.</i></p>	
9 (ix)	<i>Encourage self-regulation amongst the Human Resources Agencies.</i>	Will this self-regulation be binding in nature and how will it complement governmental regulation?

#### 4. Chapter IV: Human Resource Agencies

Clause Number	Clause	Query/Concern
17 (x)	<i>To ensure that sub-agents engaged by it duly comply with such standards as may be specified by the regulations.</i>	The burden on HRAs operating from urban areas to ensure compliance of a network of subagents operating in a different part of the country may be too high. The Draft Bill 2021 can consider incorporating a system of formal agreements between registered HRAs and their sub-agents. The terms of such a formal agreement can be further defined in the Rules.

#### 5. Chapter VII: Welfare of Emigrants

Clause Number	Clause	Query/Concern

25	<p><i>In Countries with significant number of Indian emigrants, the Indian Embassy/ Consulate may establish a Labour and Welfare wing to coordinate all issues related to Indian emigrants.</i></p>	<p>While further clarification on what constitutes “significant” may be expected in the Rules, it would be important to ensure that this does not, in practice, result in such welfare activities being available only in countries with a very large number of Indians (UAE, USA, UK, etc).</p> <p>It should also be acknowledged that even in countries with a 1 million+ Indian population (such as the US), this population is geographically disparate and may not be able to easily access the Embassy which is usually in the capital city.</p>
25. & 26.	<p><i>In Countries with significant number of Indian emigrants, the Indian Embassy/ Consulate may establish a Labour and Welfare wing to coordinate all issues related to Indian emigrants.</i></p> <p><i>The Indian Embassy/ Consulate may, by notification, establish a committee to be called the Emigrants Welfare Committee to oversee, review, direct, aid and address the grievances of Indian emigrants for the purposes of this Act.</i></p>	<p>How are the activities of these two proposed committees and wings related?</p> <p>While the composition and powers of the Committee is well fleshed out, that of the Labour and Welfare Wing is not.</p>
28.	<p><i>Services and functions of the Committee.</i></p>	<p>While the Emigration Welfare Committee has been given an extensive range of activities, it is unclear how their support will extend to students, family dependents, and other categories of emigrants, besides emigrant workers. (Please refer to Overarching Comment No. 2)</p>

		Adequate fiscal allocation to Embassies will be needed to undertake these activities – we look forward to the Rules addressing this issue.
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## 6. Chapter VIII: Offences and Penalties

Clause Number	Clause	Query/Concern
30. vii.	<i>Whoever, indulges into any act of trafficking of persons, or any other act, which may constitute an offence. Proviso- punishment.</i>	The Bill elaborates on the penalties of trafficking but does not mention any relief or rehabilitation for the victims of such trafficking. The Indian Penal Code, 1860 is applicable here, which too, does not provide for any relief for the victims. A proviso should be added for the applicability of the Bonded Labour System (Abolition) Act, 1976, as well as the Immoral Traffic (Prevention) Act, 1956, to cater to the needs of victims of such trafficking.
31 (1)	<i>Whoever,— (i) emigrates in violation of section 46; or (ii) in contravention of any provisions of this Act or the rules or the regulations made thereunder,  the emigrants shall be liable to pay a penalty which shall not be less than ten thousand rupees but may extend to fifty thousand rupees:</i>	The term “ <i>intention to emigrate for, or with regard to, employment</i> ” is vague and extremely difficult to determine post-fact. Given the penalties associated with this, the Draft Bill should expand its exclusionary definition of “emigrant”.

## 7. Chapter IX: Miscellaneous

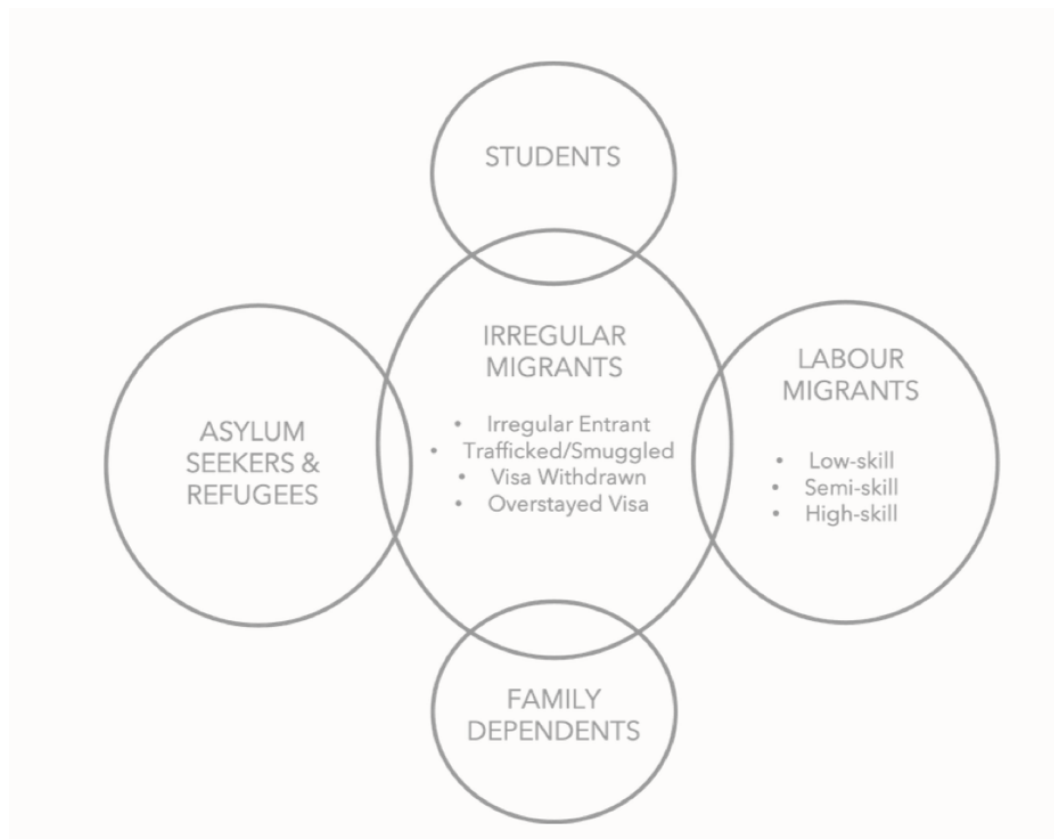
Clause Number	Clause	Query/Concern
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44.	<i>All Indian Nationals proceeding for overseas employment shall make a declaration in such manner as may be prescribed by the rules.</i>	The term 'declaration' should be defined in Chapter 1 to specify if it is binding in nature. Is this declaration mandatory?

## APPENDIX

### TYPOLOGY OF EMIGRANTS

Figure 1: Typology of Emigrants from India



## GCM OBJECTIVES: COMPARISON

Table 1: Incorporation of GCM Objectives into the Draft Bill 2021

Objective	Fully Accounted For	Partially Accounted For	Not Accounted For	Comments
Collect and utilize accurate and disaggregated data as a basis for evidence-based policies				Data collection from various sources is a part of this Draft but does not specify if this data will be made available publicly and how it will be anonymised to protect the individual emigrant's Right to Privacy.
Minimize the adverse drivers and structural factors that compel people to leave their country of origin				Not within the purview of the draft Bill.
Provide accurate and timely information at all stages of migration				<p>The Draft Bill 2021 does take into account pre departure, departure, destination, and return migration into its purview. The focus on reintegration is a positive development.</p> <p>Explicit provisions for information, however, are only made for the pre-departure, departure, and destination states – through orientations, HRAs, and the Indian Embassies. Extensive provisions have been made for return emigrants but none that explicitly focus on provision of timely and accurate information, hence this may be considered a partial step.</p>
Ensure that all migrants have proof of legal identity and adequate documentation				HRAs are mandated to arrange for the relevant travel documentation and registration with concerned authorities for emigrant workers.

Enhance availability and flexibility of pathways for regular migration				The Draft Bill 2021 assigns to the Bureau of Emigration Policy and Planning, the duties of negotiation of labour cooperation agreements and memorandum of understandings, social security agreements, issues of migrant and mobility partnership related framework with destination countries. The focus on regulation of sub-agents and accountability of HRAs are also a step towards the regularising available migration pathways.
Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work				The Bill does have systems and penalties in place to promote ethical recruitment but does not define these terms, hence it is a partial step.
Address and reduce vulnerabilities in migration				There are multiple provisions in place to address and reduce vulnerabilities – including the regulation of HRAs and sub-agents, the blacklisting of illegal HRAs, and committees and welfare bodies at destination associated with the Embassy. However, a holistic provision would have explicitly accounted for irregular migrants and the amnesty and regularisation programs needed to address their vulnerabilities.
Save lives and establish coordinated international efforts on missing migrants				Although the Draft Bill has provisions for crisis situations (diseases, etc) these need to lay out details of aid, accountability, and liability. There are also no provisions for missing migrants.  <i>(Refer to Overarching Comment No. 3)</i>
Strengthen the transnational response to smuggling of migrants				Accounted for in the Bill.
Prevent, combat and eradicate trafficking in persons in the context of international migration				Accounted for in the Bill.
Manage borders in an integrated, secure and coordinated manner				Provisions for Emigration Check Posts under the Bureau of Emigration Administration.
Strengthen certainty and predictability in migration procedures				Accounted for through the removal of the emigration clearances system.

for appropriate screening, assessment and referral				
Use migration detention only as a measure of last resort and work towards alternatives				Not within purview of the Bill.
Enhance consular protection assistance and cooperation throughout the migration cycle				Provisions in place for Emigrant Welfare Committee and Labour & Welfare Wing at the Indian Embassies of countries with a significant Indian population.
Provide access to basic services for migrants				The term basic services is not defined in the Bill, however, it takes into account social security agreements between India and the destination country, and hence is a partial step.
Empower migrants and societies to realize full inclusion and social cohesion				Although the provisions for consular assistance and access through the Labour and Welfare Wing, the Sahayata Kendras, and the Emigrant Welfare Committee are a positive step towards integration and better outcomes for emigrants at destination, it is a partial step. A holistic provision would have included engagement with destination country stakeholders.
Eliminate all forms of discrimination and promote evidence-based public discourse to shape perceptions of migration				No provisions for anti-discrimination.  Bureau of Emigration Policy and Planning is charged with research and stakeholder consultations related to global skills gaps, labour clusters in India, and remittances. However, it is unclear whether this research will be for public consumption and hence, is a partial step.
Invest in skills development and facilitate mutual recognition of skills, qualifications and competences				Both the Bureaus (Policy & Planning, Emigration Management) have been jointly assigned the relevant duties – of developing and implementing skill upgradation programmes.
Create conditions for migrants and diasporas				Not within the purview of the Bill.



to fully contribute to sustainable development in all countries.				
Promote faster, safer and cheaper transfer of remittances and foster financial inclusion of migrants.				It falls within the duties of the Bureau of Emigration Policy and Planning to analyse the source and pattern of remittances but this is a partial step.
Cooperate in facilitating safe and dignified return and readmission, as well as sustainable reintegration.				Extensive policies and programs in place for reintegration of return emigrants.
Establish mechanisms for the portability of social security entitlements and earned benefits				It falls within the duties of the Bureau of Emigration Policy and Planning to negotiate social security agreements with destination countries.
Strengthen international cooperation and global partnerships for safe, orderly and regular migration				It falls within the duties of the Bureau of Emigration Policy and Planning to negotiate labour mobility agreements with destination countries for safe, orderly, and regular migration.

**Table 2: Relevant Sections of the Migrant Workers and Overseas Filipinos Act of 1995**

Section	Clause
Section 2: Declaration of Policies	(a) In the pursuit of an independent foreign policy and while considering national sovereignty, territorial integrity, national interest and the right to self-determination paramount in its relations with other states, the State shall, at

all times, uphold the dignity of its citizens whether in country or overseas, in general, and Filipino migrant workers, in particular.

(b) The State shall afford full protection to labour, local and overseas, organised and unorganised, and promote full employment and equality of employment opportunities for all. Towards this end, the State shall provide adequate and timely social, economic and legal services to Filipino migrant workers.

(c) ... the existence of the overseas employment program rests solely on the assurance that the dignity and fundamental human rights and freedoms of the Filipino citizens shall not, at any time, be compromised or violated.

(d) The State affirms the fundamental equality before the law of women and men and the significant role of women in nation-building. Recognizing the contribution of overseas migrant women workers and their particular vulnerabilities, the State shall apply gender sensitive criteria in the formulation and implementation of policies and programs affecting migrant workers and the composition of bodies tasked for the welfare of migrant workers.

(e) Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any persons by reason of poverty. In this regard, it is imperative that an effective mechanism be instituted to ensure that the rights and interest of distressed overseas Filipinos, in general, and Filipino migrant workers, in particular, documented or undocumented, are adequately protected and safeguarded.

(f) The right of Filipino migrant workers and all overseas Filipinos to participate in the democratic decision-making processes of the State and to be represented in institutions relevant to overseas employment is recognized and guaranteed.

(h) Non-governmental organizations, duly recognized as legitimate, are partners of the State in the protection of Filipino migrant workers and in the promotion of their welfare, the State shall cooperate with them in a spirit of trust and mutual respect.