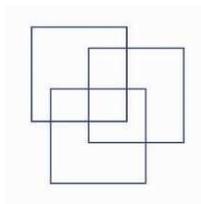


ASIA-PACIFIC 2006  
DECENT WORK  
DECADE 2015



International  
Labour  
Organization

## **Issue Paper: Fair recruitment in international labour migration between Asia and the Gulf Cooperation Council countries**

### **Realizing a Fair Migration Agenda: Labour flows between Asia and Arab States**



**ILO Regional Office for Arab States**

**ILO Regional Office for Asia and the Pacific**



Copyright © International Labour Organization 2015  
First published 2015

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Licensing), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: [rights@ilo.org](mailto:rights@ilo.org). The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with a reproduction rights organization may make copies in accordance with the licences issued to them for this purpose. Visit [www.ifrro.org](http://www.ifrro.org) to find the reproduction rights organization in your country.

---

Issue paper: fair recruitment in international labour migration between Asia and the Gulf Cooperation Council : realizing a fair migration agenda : labour flows between Asia and the Arab States / ILO Regional Office for Asia and the Pacific ; ILO Regional Office for Arab States. - Bangkok: ILO, 2015

ISBN: 9789221299660; 9789221299677 (web pdf)

ILO Regional Office for Asia and the Pacific; ILO Regional Office for Arab States

migrant worker / international migration / labour migration / workers rights / recruitment / private employment agency / Asia / Gulf States

14.09.2

*ILO Cataloguing in Publication Data*

---

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and digital products can be obtained through major booksellers and digital distribution platforms, or ordered directly from [ilo@turpin-distribution.com](mailto:ilo@turpin-distribution.com). For more information, visit our website: [www.ilo.org/publns](http://www.ilo.org/publns) or contact [ilopubs@ilo.org](mailto:ilopubs@ilo.org).

---

Printed in Thailand

Cover photo: © ILO 2012, migrant workers – mostly from throughout Asia – make up the majority of the workforce at this textile factory in the Ad-Dulayl Qualified Industrial Zone near Zarqa, Jordan.

**Issue Paper: Fair Recruitment in international labour migration between Asia and the GCC countries**

**Realizing a Fair Migration Agenda: Labour flows between Asia and Arab States**

ILO Regional Office for Arab States and ILO Regional Office for Asia and the Pacific

## Foreword

Labour migration from Asia to the Gulf Cooperation Council (GCC) States represents one of the fastest growing and most dynamic labour flows in the world. With a stock of over 22 million migrant workers, the GCC States of Bahrain, Kuwait, Qatar, Oman, Saudi Arabia, and the United Arab Emirates are also one of the world's main destination regions, and more than 15 million of these migrant workers come from Asia.

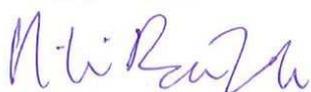
Migration to these wealthy States has provided countless jobs and generated billions of dollars in remittances for migrant workers and their families. In offering the chance to learn new skills and escape poverty in the home country while alleviating the large labour shortages in the GCC States, migration is generally welcomed by both origin and destination countries. However, the complicated and expensive processes associated with migrating for work have created a regime which lends itself to exploitative recruitment and working conditions for migrant workers.

Against this backdrop, the 2013 UN General Assembly High-Level Dialogue on International Migration and Development and the ILO Director General's Report on setting an ILO Agenda on Fair Migration, the ILO Regional Offices for Arab States, and Asia and the Pacific, took the initiative to convene a series of interregional meetings to assess the potential for reform and discuss ways forward on fair migration. The deliberations of these meetings will inform an inter-regional Ministerial Meeting on Fair Migration planned for the first quarter of 2016, in which a 'roadmap to achieve fair migration in the Asia-Arab regions' is to be adopted.

This paper, drafted by Piyasiri Wickramasekara, served as a preparatory document for the first of these meetings, the Kathmandu Experts Meeting, which was held in December 2014. The meeting brought together labour migration specialists and tripartite stakeholders from Arab and Asian nations.

The paper provides an overview of the international labour standards on recruitment, and current practices in countries of origin and destination, in particular the role that private recruitment agencies play. The main issues for achieving a fair recruitment system are analyzed, including the political economy behind recruitment, and the potential to make international labour recruitment fair and transparent. The report concludes by putting forward a number of recommendations related to legislation and enforcement, expanding recruitment options beyond private enterprises, empowering workers to realize their rights, and promotion of fair business practices and standards.

It is hoped that this issue paper, and the deliberations of the Fair Migration Agenda interregional meetings, will contribute further to dialogue between and among countries of origin and destination, and prove useful in advancing a fair migration agenda in the region.



Nilim Baruah  
ILO Senior Migration Specialist for Asia and  
the Pacific



Hans van de Glind  
ILO Senior Migration Specialist for Arab  
States



## Table of contents

Foreword	iii
Acronyms and abbreviations	vi
1. Introduction	1
2. International labour standards on recruitment	1
3. Current systems of recruitment in countries of origin and destination	2
4. Main issues relating to recruitment	3
4.1 Issues and malpractices in the recruitment process	3
4.2 Factors behind recruitment issues – political economy of recruitment	4
4.3 Gender dimensions of recruitment	6
5. The potential to make recruitment fair and transparent	6
5.1 Why reform is beneficial for workers and employers	7
6. Recommendations for realizing fair recruitment	7
6.1 Legislation and enforcement	7
6.2 Expanding recruitment options	8
6.3 Awareness and empowerment of migrant workers	8
6.4 Fair business standards and practices	9
6.5 International cooperation	9
References	10

## **Acronyms and abbreviations**

ALFEA	Association of Licensed Foreign Employment Agencies
CIETT	International Confederation of Private Employment Agencies
CP	Colombo Process
EPS	Employment Permit System
EURES	European Job Mobility Portal
GCC	Gulf Cooperation Council
ILO	International Labour Organization
IOE	International Organisation of Employers
IOM	International Organization for Migration
IRIS	International Recruitment Integrity System
ITUC	International Trade Union Confederation
MFEPW	Ministry of Foreign Employment Promotion and Welfare
MOIA	Ministry of Overseas Indian Affairs
MOU	Memorandum of Understanding
MRC	Migration Worker Resource Centre
NGO	Non-government organization
ODEPC	Overseas Development and Employment Promotion Consultants Ltd.
SLBFE	Sri Lanka Bureau of Foreign Employment
UAE	United Arab Emirates
VAMAS	Viet Nam Association of Manpower Supply



# **Realizing a Fair Migration Agenda: Labour flows between Asia and Arab States**

## **Issue Paper: Fair recruitment in international labour migration between Asia and the GCC countries**

### **1. Introduction**

Migrant recruitment issues have come to the forefront of the international agenda in the recent past. Reducing the costs of labour migration is one of the UN Secretary General's Eight-Point Agenda for Action items presented to 2013 UN High Level Dialogue on Migration and Development, as the high fees paid to recruiters reduces the impact of migration on development. The Conclusions of the ILO's Tripartite Technical Meeting on Labour Migration, held in November 2013 urged the ILO to "develop guidance to promote recruitment practices that respect the principles enshrined in international labour standards" (ILO, 2013a). As part of the Fair Migration Agenda, the ILO has launched a Fair Recruitment Initiative as a multi-stakeholder exercise, and the International Organization for Migration (IOM) is promoting the International Recruitment Integrity System (IRIS), an accreditation framework. The UN Special Rapporteur on the human rights of migrants plans to undertake a major thematic study on recruitment practices and their impact on the human rights of migrants (Crépeau, 2014).

The objective of this issue paper is to highlight international norms, current practices and underlying causes, and emerging good practices on migrant recruitment with a view to making recommendations for a fair recruitment agenda.

### **2. International labour standards on recruitment**

While all migrant-specific Conventions and other labour standards apply to migrant workers, the following instruments are particularly relevant to recruitment issues and private employment agencies:

- Private Employment Agencies Convention, 1997 (No. 181) and the Private Employment Agencies Recommendation, 1997 (No. 188);
- Domestic Workers Convention, 2011 (No. 189) and the Domestic Workers Recommendation, 2011 (No. 201); and
- ILO Multilateral Framework on Labour Migration.

Conventions No. 181 and 189 are broader in scope in that they cover both national workers and migrant workers. Convention No. 181 covers private employment services within the country and those dealing with overseas recruitment, while Convention No. 189 applies to both domestic workers inside the country and migrant domestic workers.

While non-binding, the Multilateral Framework on Labour Migration and the two ILO Recommendations (No. 188 and No. 201) provide extensive guidance to all stakeholders on implementation of provisions in relevant international Conventions whether ratified or not.

#### **ILO Private Employment Agencies Convention, 1997 (No. 181) and accompanying Recommendation, 1997 (No.188)**

Convention No. 181 recognizes the legitimacy of private employment agencies carrying out their tasks, together with and in cooperation with public employment services. While the Convention acknowledges private agencies' important role, major provisions relate to the adoption of measures by ratifying States to regulate these agencies to protect migrant workers and prevent abuses. Article 7(1) reads: "Private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers". Special protection for migrant workers is outlined in Article 8 which requires member States to seek adequate protection for and prevent abuses of migrant workers recruited or placed in its territory by private employment agencies including laws or regulations which provide for penalties for agencies that engage in fraudulent practices and abuses. It also requires States to consider concluding bilateral agreements to prevent abuses and fraudulent practices in recruitment, placement and employment of migrant workers. Japan and Fiji are the only two countries in the region to have ratified the Convention.

### **ILO Domestic Workers Convention, 2011 (No. 189) and Recommendation, 2011 (No. 201)**

The ILO Domestic Workers Convention addresses in particular the problems faced by one of the most vulnerable categories of workers – migrant domestic workers. The main provisions relate to promotion and protection of human rights; protection from abuse, harassment, and violence; fair terms of employment and working and living conditions; information on terms and conditions of employment; hours of work and remuneration; and measures for protection from abusive practices of private employment agencies. Article 15 spells out provisions in relation to private employment agencies. The Convention has been ratified in Asia by the Philippines.

### **ILO Multilateral Framework on Labour Migration**

The UN and ILO standards on migrant workers are complemented by the ILO Multilateral Framework on Labour Migration, comprising non-binding principles and guidelines for a rights-based approach to labour migration (ILO, 2006). The Framework supplements existing ILO and UN migrant worker instruments, and takes into account new developments such as the growth of temporary labour migration programmes, and the increasing role of the private sector in arranging migration across borders. It also comprises detailed guidelines on the licensing and supervision of recruitment and contracting agencies for migrant workers under its Principle 13.

## **3. Current systems of recruitment in countries of origin and destination**

The recruitment industry in Asia and the GCC states is characterized by a wide range of enterprises or agents varying in size, scale, status and formality:

- public recruitment services;
- reputed large private companies with a proven track record of ethical recruitment practices;
- small and medium recruitment agencies who are registered and licensed;
- unregistered/unlicensed small and medium operators;
- unregistered/unlicensed subagents or brokers;
- social networks of family members, friends and relations;
- overseas recruitment companies with links to local agencies or hiring directly (direct hiring is not allowed in most countries); and
- sponsors (*kafalas* in GCC) and labour brokers in destination countries.

The bulk of recruitment for overseas employment is managed by the private recruitment agencies and social networks (Afsar, 2009). In Bangladesh, for example, personal connections have accounted for 58 per cent of migrant workers deployed to GCC countries in 2009 (Rahman, 2011), and in Sri Lanka close to 40 per cent. Regulation should take this factor into account because these networks bypass most of the regulatory processes.

While the private recruitment industry has a bad image generally in the countries concerned, their contributions have to be recognized. They perform a useful role in expansion of overseas markets, and are able to assess emerging labour market demands and trends. In this sense, they perform a useful labour market matching function. They are also more flexible and easily accessible to potential migrants than government agencies (CIETT, 2006). Their role is acknowledged in South Asian government migration policies. For instance the Sri Lanka National Labour Migration Policy stated: “The State recognizes the contribution of Recruitment Agencies (State and Private) as a key stakeholder in the process” (MFEPW, 2008, p. 10).

The dominance of private recruitment agencies in international recruitment in the Asia to GCC migration corridor also needs to be looked at in the context of scale and complexity of cross-border regulations. Employers generally find it more convenient to turn to private recruiters who have networks abroad and who are familiar with immigration laws.

#### **4. Main issues relating to recruitment**

While the migration recruitment industry has played a major role in expanding overseas labour migration by linking workers with employers in destination countries, there have been a number of issues arising from market failures.

##### **4.1 Issues and malpractices in the recruitment process**

There has been extensive research on the issue, especially on recruitment agencies and their operations and malpractices in Asia and the GCC. There is considerable consensus on the issue although there may be country-specific variations (Afsar, 2009; Amnesty International, 2010; Amnesty International, 2011; Arif, 2009; Crépeau, 2014; DLA Piper, 2014; Human Rights Watch, 2014; Jureidini, 2014; Migrant Forum in Asia, 2011; Transparency International Sri Lanka, 2010; Verité, 2013; Wickramasekara, 2014). Most of the issues raised are well documented, and similar across the countries.

The above studies highlight the following features:

- presence of layers of intermediaries both in origin and destination; collusion between local and foreign agents that act to the detriment of migrant workers; corruption;
- excessive fees that land migrants in onerous debt and forced labour situations; high levels of rentier income in the industry;
- ‘free visas’ and visa trading resulting in irregular status of migrant workers;
- agencies providing false information to the worker on the nature and terms and conditions of employment; and contract substitution upon arrival in the destination country;
- withholding and/or confiscation of travel documents; and

- ineffective complaints and grievances procedures resulting in workers absconding and, at times, getting deported .

It is clear that the above practices deviate from international norms as highlighted in Convention No. 181, Convention No. 189, and the ILO Multilateral Framework on Labour Migration. The recruitment process is closely linked to the next stage of employment and working conditions. This is because employment contracts are supposed to be signed and determined before departure and secondly, because high recruitment costs lead to indebtedness and wage deductions.

#### **4.2 Factors behind recruitment issues – political economy of recruitment**

Country of origin governments have generally responded with regulation in terms of licensing requirements, a limit on fees and a complaints mechanism. GCC countries such as the United Arab Emirates (UAE) and Qatar have banned placement fees. Yet there has been limited success in curbing abuses in recruitment.

Firstly, given that the supply of workers in lower wage countries far outstrips the demand and that there are far more workers intending to work abroad than there are jobs, migrant workers are highly vulnerable to abuses during recruitment. For instance, 1.4 million workers registered for jobs in Malaysia when the Government of Bangladesh signed a bilateral labour agreement with Malaysia in 2012, but the Malaysian government could offer only a maximum of 10,000 jobs in the plantation sector at the time.

Secondly, the high volume of migration from and to countries with governance gaps (2 million workers from South Asia to the GCC each year), and the poor bargaining position of migrants, gives rise to rent-seeking behaviour on the part of local recruitment agents and their foreign counterparts as well as politicians and power elites. The recruitment fees charged are far too excessive in relation to actual costs incurred. This results in inequitable distribution of the potential gains from migration between migrant workers, the recruitment industry in countries of origin, and *kafalas* (and other brokers) in destination countries.

While Qatar has banned the charging of fees to migrant workers, the local agents, who represent a combination of native and non-national persons, charge commissions from origin country recruiters. These commission costs are then passed onto migrant workers, even when employers bear the visa and travel costs. A World Bank study estimates that annually US\$17–34 million is being transferred from Nepal (5 per cent of recorded remittances from Qatar to Nepal) by Nepalese recruitment agencies as illegal commissions to intermediaries and recruitment agencies in Qatar through informal channels (Endo and Afram, 2011). Irudaya Rajan et al. (2008) note several types of collusion in the Gulf with recruitment agents in Kerala State (India).

This collusion between origin country recruiters and intermediaries and destination country recruiters is a recurring theme. Migrant Forum in Asia has drawn attention to this: “Numerous gaps between policy and practice have been identified across a variety of national contexts; the most salient of these is the point of collusion between recruitment agencies in the sending and receiving states. It is this relationship that requires the most scrutiny on the part of both sending and receiving states, and which receives the least attention in regulatory frameworks and oversight mechanisms” (Migrant Forum in Asia, 2011, p. 3).

Visa trading is an arrangement where the so-called ‘free visa’ is issued by a sponsor (*kafala*) who will *not* employ the migrant. Instead, the migrant on a free visa has to find a job on his/her own, but pays a regular commission to the *kafala*. This ‘free visa’ is popular in South Asia because it involves less

cumbersome procedures than the official channels. The Saudi mission in Delhi had informed Indian authorities that there is no such ‘free visa’ category under the Saudi Labour regulations (MOIA, 2013). The ‘free visa’ system in GCC exposes migrant workers to a high level of vulnerability because they become irregular when they start working for someone other than the original sponsor (Jureidini, 2014; Pessoa et al 2014).

There is a high level of corruption in the recruitment industry at both ends. A 2013 Verité report on Nepal highlights the major causes of corruption: “The major causes of corruption in the foreign employment industry in Nepal are: (a) lack of awareness among migrant workers of their legal rights; (b) excessive document requirements; (c) unscrupulous recruitment agencies and agents; (d) weak monitoring mechanism; (e) non-enforcement of laws and regulations; and (f) political protection of wrongdoers” (Verité, 2013, p. 26).

Private recruitment agencies also may wield substantial political power, which could affect the effective regulation by the government. In Sri Lanka, members of the Association of Licensed Foreign Employment Agencies (ALFEA) sit on the board of the regulatory body, the Sri Lanka Bureau of Foreign Employment (SLBFE), which could obviously lead to conflict of interest (Wickramasekara, 2011). A recent study in Nepal found that charges against employment agencies have been inappropriately low, resulting in the weakest possible sanctions against recruiters. The number of cases resolved at the Department of Foreign Employment level from 2009–10 to 2012–13 was only 16.2 per cent of the complaints received (1, 245), and only 13 per cent were referred to the Tribunal (Taylor-Nicholson, 2014a). An ILO study on recruitment practices in Sri Lanka cited instances where some immigration officers in the UAE mandated with settlement of domestic worker issues ran their own recruitment offices for bringing domestic workers in from overseas suppliers. The UAE Ministry of Labour has banned the involvement of Labour Ministry officials in engaging in private business ventures of whom the majority were reported to have involved in the manpower recruitment business (ILO, 2013b).

Some writers have highlighted information asymmetry – unequal access to available information by employers and workers – as the major problem in recruitment and associated malpractices (Ahsan et al., 2014; Malit and Naufal, 2014). A study by Malit and Naufal (2014) reviews how information asymmetry affects domestic workers through the *kafala* system in GCC countries. They identify several factors leading to asymmetric information: the lack of bilateral labour agreements; poor policy coordination between and among government entities; the exclusion of domestic workers from labour laws; and the *laissez-faire* approach of the destination countries. The authors add: “These sources of asymmetric information do not only create serious market vulnerabilities for the domestic worker population, but often lead to loss of employment and early deportation” (Malit and Naufal, 2014, p. 1).

However, the information asymmetry argument can explain only part of the recruitment issues that determine winners and losers. It is not asymmetry in information access alone, but also asymmetry in power balances between the various actors involved, and poor enforcement of regulations that lead to abuse and exploitation of low skilled workers in particular. Some decide to migrate even when they are aware of the risks involved. Even if migrant workers had access to information, they are still bound by the freedom of mobility restrictions under the *kafala* system in the GCC. For example, a domestic worker confined to a private household is hardly in a position to assert and access her rights given the lack of adequate mechanisms for access to justice. Another factor behind recruitment would be transnational informal networks of criminal gangs involved in trafficking of workers for labour exploitation, which place migrant workers in forced labour situations.

Origin countries in Asia are generally confronted with the dilemma between ‘promotion’ of overseas employment of nationals and ‘protection’ of their nationals abroad (Wickramasekara, 2002). Given the bleak employment prospects at home and the economic gains from foreign exchange remittances, countries would like to see expansion in overseas migration of national workers. Thus, they may not wish to over-regulate the recruitment industry. The promotion drives also result in greater protection challenges, especially when workers are abroad. The Sri Lanka National Labour Migration Policy states: “the delicate balance between the promotion of foreign employment and the protection of national workers abroad is a continuous challenge” (MFEPW, 2008).

Another factor that needs to be considered in reviewing factors behind recruitment processes is the critical role of informal social networks of family, relations and friends, who operate at both origin and destination country ends. Most legislative and regulatory frameworks on migration apply to formal recruitment agencies, but these social networks are not adequately covered. The informal social networks account for a significant share of the flows of women migrant workers (ILO, 2003). These networks knowingly send some migrants through irregular channels, and are not necessarily benevolent intermediaries, and may engage in exploitative practices without accountability (Afsar, 2009). There are increasing attempts to bring subagents and informal agents under regulatory frameworks in Nepal and Sri Lanka, among others. There is a need for in-depth research on their role and impact on migration costs and protection.

#### **4.3 Gender dimensions of recruitment**

Women are among the most vulnerable groups both at origin and destination. The focus of many interventions has been on ‘safe migration’ for women. Women are more likely to approach informal and illegal channels of recruiters for several reasons: gender discrimination which limits access to accurate and reliable information; lack of time to search for legal channels; restrictive and cumbersome procedures involved in legal migration; lack of funds to pay legal recruitment fees; and also deliberate targeting of women as easy victims by such recruiters. Some countries have attempted to protect workers by establishing selective bans and raising age bars, which may have the opposite effect of driving them to irregular channels (ILO, 2003). Redress and complaints mechanisms might be also more difficult to access.

Women mostly work in the domestic work sector which is not covered by labour laws in many countries. Normal MOUs signed between origin and destination countries typically exclude domestic workers. The Saudi Arabia domestic worker agreements with India, the Philippines and Sri Lanka contain a number of good practices, including: standard employment contract; reference to ethical recruitment and control of recruitment costs; non-levy of placement fees on the worker and defining leave days; rest periods; and the right to communicate with family.

### **5. The potential to make recruitment fair and transparent**

The potential and scope for reform depends on the political will of both origin and destination countries, and support of all concerned stakeholders. There are encouraging signs on recognition of the problem on the part of the governments concerned.

The 2012 Manila Communiqué of the Abu Dhabi Dialogue stated the commitment of member countries to increased collaboration and partnerships to ensure welfare and protection of contract workers and to improve the recruitment process, among others (Abu Dhabi Dialogue, 2012, p. 1). The Senior Officials Meeting of the Colombo Process (CP) in May 2014 made a strong plea and encouraged CP States to:

“...reduce the costs of recruitment by strengthening national policy and legal frameworks taking into account international standards, particularly ILO C181, operationalising these through effective enforcement, and consider promoting voluntary codes of ethics. All possible action shall be taken by Member States to ensure that the migrant worker recruitment/placement shall be at no cost to the worker” (Govt of Sri Lanka, 2014, p. 3).

It also encouraged CP States “to adopt a unified position on containment of recruitment cost, with recognition of the need to set targets, and to obtain baseline information” (Govt of Sri Lanka, 2014: 3).

### **5.1 Why reform is beneficial for workers and employers**

The reforms towards fair recruitment would significantly benefit workers because the gains from migration would be better distributed. The migrant workers and their families would benefit from monetary gains, enjoy better protection of their rights, and be less vulnerable to labour exploitation. Specifically, migrant workers:

- Incur less debt, are less vulnerable to mortgage or sell their assets to finance migration.
- Can save more and send higher remittances to their families.
- Are not compelled to fall into forced labour situations because of heavy liabilities of debts.
- Can seek redress and compensation in case of fraud and deceit on the part of recruitment agencies at home or abroad.

For businesses, fair recruitment enables them to better match workers with the skills required. The UN Guiding Principles on Business and Human Rights have also made clear the responsibility of businesses to respect worker rights, which enhances their reputation. Moreover businesses will benefit in terms of productivity gains from a recruitment process that produces a better motivated and satisfied workforce.

## **6. Recommendations for realizing fair recruitment**

This section will propose recommendations to improve recruitment, based on the experience so far in the region, and the ILO’s recently launched Fair Recruitment Initiative. What needs to be done for a fair recruitment system that efficiently matches jobs to jobseekers and reduces migration costs to the employer and workers? How can recruitment abuses be drastically reduced?

### **6.1 Legislation and enforcement**

#### **Countries of origin:**

Countries of origin would benefit from the development of model legislation on the regulation of recruitment that can be used as yardstick. So far the main areas that appear to require further attention are:

- recruitment fees and costs;
- regulation of sub-agents;
- incentives for well performing agencies;
- enforcement of legislation and monitoring; and
- coherence with destination country laws.

Effective enforcement of legislation requires that a complaints mechanism is in place and complementary support services (information, advice, translation and legal support) are available.

#### **Countries of destination:**

- Prohibition of issue of ‘free visas’ and visa trading in GCC countries: The *Nitaqat* initiative of Saudi Arabia (a nationwide program which aims to provide employment for Saudis) has revealed the extent of this problem.
- Simplifications of immigration procedures linked with job vacancies and shortages.
- Review the options for *kafala* reform in different GCC countries, especially relating to recruitment drawing upon Bahrain’s initiative.

**Promotion of the Private Employment Agencies Convention, 1997 (No. 181)** in countries of origin and destination. The ILO can provide technical assistance to explain the Convention and identify obstacles to its ratification and possible options. It would be important to identify priority countries for the promotion exercise.

## 6.2 Expanding recruitment options

Employers and jobseekers can be provided with greater recruitment options that reduce the layers of intermediation, and potentially the costs. Options other than private recruitment agencies include placement through public placement agencies and direct recruitment of workers through accredited employers of destination countries as well as e-recruitment (both with labour attaché attestation). Access to cheaper credit through formal financial institutions also enables migrant workers to access more credible recruitment channels and migrate without excessive undue debt burdens. The state-sponsored Praboshi Kallyan Bank in Bangladesh is a good practice in this respect (Wickramasekara, 2014). The State Government of Kerala has revived public employment services through an online portal of the state agency, Overseas Development and Employment Promotion Consultants Ltd. (ODEPC) (Khaleej Times, 2012). The European Job Mobility Portal (EURES) is a good example of a comprehensive labour market information system for effective job matching used by employers and workers.

The Republic of Korea introduced the Employment Permit System (EPS) in 2004, recognizing the need for low skilled workers by Korean enterprises, particularly small and medium ones in construction, manufacturing, agriculture and services; and introduced a Government-to-Government labour recruitment programme based on mandatory MOUs. A major achievement is the reduction in the average cost paid by a worker from US\$3,509 under the trainee system in 2002 to US\$927 under the EPS in 2011 (Kyung, 2013).<sup>1</sup>

## 6.3 Awareness and empowerment of migrant workers

Provision of information to migrant workers on recruitment risks, rights and obligations, and conditions of work in destination countries through campaigns and migrant worker resource centres (MRCs) will better inform potential migrant workers on the recruitment options and challenges. In South-East Asia, the ILO has helped establish a network of 22 MRCs operated by governments, trade unions and NGOs. Some of these are located in Job Centres providing information and advice on national and international job opportunities.

---

<sup>1</sup> The EPS is a better planned and implemented foreigner worker programme than most in the region. It is not, however, a model programme in all respects.

To supplement statutory monitoring by the government, social partners and civil society can join hands to develop a monitoring system at both home and in destination countries. The system can alert authorities in case of violations and also suggest access to redress mechanisms.

#### **6.4 Fair business standards and practices**

There has been some promising self-regulation by private employment agencies through ethical codes of conduct. In Viet Nam, the ILO has supported the development of a monitoring mechanism that ranks agencies according to their compliance with the code of conduct of the Viet Nam Association of Manpower Supply (VAMAS). The Sri Lanka Bureau of Foreign Employment has developed a Code of Ethical Conduct for Licensed Foreign Employment Agencies and Licensees in 2013, which is now in force. What is lacking are any codes of practice in destination countries or those encompassing both sides. A notable exception is the 2006 Code of Conduct of the International Confederation of Private Employment Agencies (CIETT) which closely adheres to the principles of ILO Convention No. 181 (CIETT, 2006). However, membership of Asian or GCC recruitment agencies in CIETT is limited.

Under the Fair Recruitment Initiative, based on ILO standards and established good practices, the ILO will facilitate global stakeholder consultations, led by social partners (for example, International Organisation of Employers (IOE), International Trade Union Confederation (ITUC) and affiliates, and CIETT), to map existing tools that include detailed guidance and benchmarks on fair recruitment, especially with regard to cross-border recruitment. The Fair Recruitment Initiative plans pilot testing of recruitment models for women migrant workers in South Asia and the Middle East (for garment and domestic work) for possible replication in other regions following assessment.

The International Recruitment Integrity System (IRIS) launched by IOM in 2013 aims to establish an accreditation framework and auditing protocol for international labour recruitment, based on guiding principles.

#### **6.5 International cooperation**

At present, only a few MOUs refer to fair recruitment or contain provisions to ensure fair recruitment. The Saudi Arabia domestic worker agreements represent a vast improvement in this respect with clear provisions on recruitment as well as a standard model employment contract. Existing MOUs need to be revised to accommodate such provisions through bilateral negotiations. The DLA Piper report (2014) has made a recommendation to review and strengthen bilateral treaties of Qatar for monitoring and enforcement of workers' welfare standards.

Both the Colombo Process and the Abu Dhabi Dialogue have given priority to addressing recruitment and promoting good practices. Potentially these platforms can be used for agreeing on a regional framework on recruitment.

The capacity building needs of tripartite constituents and other relevant stakeholders working towards fair migration also need to be identified and supported.

## References

- Abu Dhabi Dialogue. 2012. *Manila Communiqué Adopting the Framework of Regional Collaboration and Interim Operating Modalities of the Abu Dhabi Dialogue*, Manila, 19 Apr. Available at: <http://www.iom.int/files/live/sites/iom/files/What-We-Do/docs/Manila-Communique.pdf> [17 Apr. 2015]
- Afsar, R. 2009. *Unravelling the vicious cycle of recruitment: Labour migration from Bangladesh to the Gulf States*, Working Paper (Geneva, ILO).
- Ahsan, A. et al. 2014. “Managing the migration industry: Policies and institutions in labor-sending countries”, in *International Migration and Development in East Asia and the Pacific* (Washington, DC, World Bank), pp. 131-178.
- Amnesty International. 2010. *Trapped: The exploitation of migrant workers in Malaysia* (London).
- . 2011. *False promises: Exploitation and forced labour of Nepalese migrant workers* (London).
- Arif, G.M. 2009. *Recruitment of Pakistani workers for overseas employment: Mechanisms, exploitation and vulnerabilities*, Working Paper (Geneva, ILO).
- Code of Conduct of the International Confederation of Private Employment Agencies (CIETT). 2006. CIETT members’ commitment towards a well functioning international labour market: CIETT Code of Conduct (Brussels).
- Crépeau, F. 2014. *Report of the special rapporteur on the human rights of migrants: Labour exploitation of migrants*, François Crépeau, United Nations General Assembly, Human Rights Council, 26th Session, New York, 3 Apr.
- DLA Piper. 2014. *Migrant labour in the construction sector in the state of Qatar* (Doha).
- Endo, I; Afram, G.G. 2011. *The Qatar-Nepal remittance corridor: Enhancing the impact and integrity of remittance flows by reducing inefficiencies in the migration process* (Washington, DC, World Bank).
- Govt of Sri Lanka. 2014. *Concluding statement - Senior Officials’ Meeting: International Labour Migration for Prosperity: Adding Value by Working Together, Regional Consultative Process on Overseas Employment and Contractual Labour for Countries of Origin in Asia* (Colombo Process), Colombo, 6 May.
- Human Rights Watch. 2014. *“I already bought you” : Abuse and exploitation of female migrant domestic workers in the United Arab Emirates* (New York).
- International Labour Organization (ILO). 1997. *Report of the Tripartite Meeting of Experts on Future ILO Activities in the Field of Migration*, Tripartite Meeting of Experts on Future ILO Activities in the Field of Migration, 21–25 Apr. (Geneva).
- . 2003. *An information guide: Preventing discrimination, exploitation and abuse of women migrant workers - Booklet 3 - Recruitment and the journey for employment abroad* (Geneva).

- . 2006. *The ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration* (Geneva).
- . 2013a. *Conclusions of the ILO Tripartite Meeting on Labour Migration*, 4–8 Nov. (Geneva).
- . 2013b. *Recruitment practices of employment agencies recruiting migrant workers: A review aimed at improving recruitment regulations and drafting recruitment guidelines* (Colombo).
- . 2014a. *Fair recruitment initiative: Preventing human trafficking, promoting safe migration and reducing the costs of labour mobility* (Geneva).
- . 2014b. *Six Point Agenda on Improving Recruitment: Protecting women and men migrant workers and promoting effective governance of labour migration* (Bangkok).
- Jureidini, R. 2014. *Migrant labour recruitment to Qatar: Report for Qatar Foundation Migrant Worker Welfare Initiative*, Bloomsbury Qatar Foundation Journals. Available at: <http://www.qscience.com/page/books/MLRQatar> [17 Apr. 2015].
- Khaleej Times*. 2012. “Kerala plans recruitment for Gulf through state agency”, 11 May. Available at: [http://www.khaleejtimes.com/mobile/inside.asp?xfile=/data/nationgeneral/2012/May/nationgeneral\\_May163.xml&section=nationgeneral](http://www.khaleejtimes.com/mobile/inside.asp?xfile=/data/nationgeneral/2012/May/nationgeneral_May163.xml&section=nationgeneral) [17 Apr. 2015].
- Kyung, K.B. 2013. *Update on the employment permit system*, paper presented at the Effective implementation of the Employment Permit System, ILO/Korea Multi-Country Dialogue, Bangkok, 3–4 Dec.
- Malit, F.T.; Naufal, G. 2014. *Asymmetric Information under the Kafala Sponsorship System: Impacts on Foreign Domestic Workers' Income and Employment Status in the GCC Countries*, Cornell University, Industrial and Labor Relations School. Available at: <http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1177&context=workingpapers> [17 Apr. 2015]
- Ministry of Foreign Employment Promotion and Welfare (MFEPW). 2008. *National labour migration policy for Sri Lanka* (Colombo).
- Migrant Forum in Asia. 2011. *Labour recruitment to the UAE: Gaps between policy and practice in Sri Lanka, Nepal, Bangladesh, and the Philippines* (Manila).
- Ministry of Overseas Indian Affairs (MOIA). 2013. *Illegality of so called 'free visa' for employment in Saudi Arabia*, Communication to all Protectors of Emigrants, 11 Sep. Available at: [http://moia.gov.in/writereaddata/pdf/illegality\\_free\\_visa.pdf](http://moia.gov.in/writereaddata/pdf/illegality_free_visa.pdf) [17 Apr. 2015].
- Pessoa, S. et al. 2014. “Ethiopian labor migrants and the “Free visa” system in Qatar”, in *Human Organization*, Vol. 73, No. 3, pp. 205–213.
- Irudaya Rajan, S. et al. 2008. *Overseas recruitment practices in India*, presented at ILO Regional Symposium on Deployment of Workers Overseas: A Shared Responsibility, Dhaka, 15-16 July.

- Rahman, M. 2011. *Recruitment of labour migrants for the Gulf States: The Bangladeshi case*. Institute of South Asian Studies (ISAS), Working Paper No. 132 (Singapore, National University of Singapore).
- Sri Lanka Bureau of Foreign Employment (SLBFE). 2013. Code of ethical conduct for licensed foreign employment agencies/licensees. Available at: [http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-colombo/documents/publication/wcms\\_233369.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-colombo/documents/publication/wcms_233369.pdf) [17 Apr. 2015].
- Taylor-Nicholson, E. et. al. 2014a. *Labor migration agents: Regulation, accountability and alternatives*, Policy Brief No. 5 (Kathmandu, Centre for the Study of Labour and Mobility).
- Taylor-Nicholson, E. et. al. 2014b. *A risky business: Accountability of manpower agencies in Nepal*, Policy Brief No. 3 (Kathmandu, Centre for the Study of Labour and Mobility).
- Transparency International Sri Lanka. 2010. *Integrity in foreign employment: An analysis of corruption risks in recruitment* (Colombo).
- United Nations. 2013. *International migration and development: Report of the Secretary-General*, United Nations General Assembly, 68<sup>th</sup> Session, Item 21(e) of the provisional agenda (A/68/190), New York, 25 July 2013.
- VAMAS. 2010. Code of Conduct applied to Vietnamese enterprises sending workers for overseas employment. Vietnam Association of Manpower Supply. Available at: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_145267.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_145267.pdf) [17 Apr. 2015].
- Verité. 2010. *Vulnerability to broker-related forced labor among migrant workers in information technology manufacturing in Taiwan and Malaysia* (Amherst, MA).
- Verité. 2013. *Labor brokerage and trafficking of Nepali migrant workers: Verité: Fair labor worldwide* (Amherst, MA).
- Wickramasekara, P. 2002. *Asian labour migration: Issues and challenges in an era of globalization*, International Migration Papers 57 (Geneva, ILO).
- Wickramasekara, P. 2011. *Labour migration in South Asia: A review of issues, policies and practices*, International Migration Papers 108 (Geneva, ILO).
- Wickramasekara, P. 2014. 'Regulation of the recruitment process and reduction of migration costs: Comparative analysis of South Asia', in *Promoting cooperation for safe migration and decent work* (ILO, Dhaka), pp. 33-87.

## **Issue Paper: Fair recruitment in international labour migration between Asia and the Gulf Cooperation Council**

Labour migration from Asia to the Gulf Cooperation Council (GCC) States represents one of the fastest growing and most dynamic labour flows in the world. While migration to these wealthy States provides higher wages for the workers, fills labour shortages in the destination country, and provides the origin country with lucrative foreign exchange remittances, the complicated and expensive processes associated with migrating for work have created a regime which lends itself to exploitative recruitment and working conditions for migrant workers.

This paper was prepared for the ILO Regional Offices for Arab States and for Asia the Pacific, *Realizing a Fair Migration Agenda: Labour Flows between Asia and Arab States Experts Meeting*, held in Kathmandu in December 2014. The paper provides an overview of the international labour standards on recruitment, and current practices in countries of origin and destination, in particular the role that private recruitment agencies play. The main issues for achieving a fair migration system are analysed, including the political economy behind recruitment, and the potential to make international labour recruitment fair and transparent. The report concludes by putting forward a number of recommendations related to legislation and enforcement, expanding recruitment options beyond private enterprises, empowering powers to realise their rights, and promotion of fair business standards and practices.

### **ILO Regional Office for Asia and the Pacific**

United Nations Building

Rajadamnern Nok Ave

Bangkok 10200, Thailand

Tel.: +662 288 1234 Fax.: +662 288 3062

Email: [BANGKOK@ilo.org](mailto:BANGKOK@ilo.org) [www.ilo.org/asia](http://www.ilo.org/asia)

