

Issue Paper: Promoting international cooperation and partnerships in addressing 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

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Issue Paper: Promoting international cooperation and partnerships in addressing 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

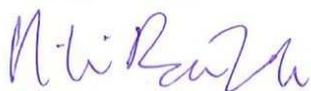
Labour migration from Asia to the Gulf Cooperation Council (GCC) States represents one of the fastest growing and most dynamic labour flows in the world. With a stock of over 22 million migrant workers, the GCC States of Bahrain, Kuwait, Qatar, Oman, Saudi Arabia, and the United Arab Emirates are also 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, abuses in the recruitment and living and working conditions of these migrant workers have been well documented, and are of concern to a large number of stakeholders, both in origin and destination countries, in the private sector, and among trade unions and civil society partners.

Against the backdrop of these circumstances and of the 2013 UN General Assembly High-Level Dialogue on International Migration and Development and the Report of the ILO Director-General *Fair Migration: Setting an ILO agenda*, 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 interregional 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 highlights the importance of cooperation among the many stakeholders involved in international labour migration and forms of cooperation that have been implemented in the two regions. Best practices and areas for improvement of bilateral labour agreements (BLAs) and Memorandum of Understanding (MOU) are presented. The paper also discusses the relative progress that trade union agreements have made in the area of improving fair migration, with cases from South and South-East Asia and Arab States analysed. The paper concludes with a series of recommendations. It is supplemented by another paper on 'Fair recruitment in international labour migration between Asia and the GCC'.

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.



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Acronyms and abbreviations

ACE	ASEAN Confederation of Employers
ACTRAV	Bureau for Workers' Activities (ILO)
ADD	Abu Dhabi Dialogue
AFML	ASEAN Forum on Migrant Labour
APF	Asia Pacific Forum of National Human Rights Institutions
ASEAN	Association of Southeast Asian Nations
ATUC	Arab Trade Union Confederation
BLA	Bilateral labour agreement
CIETT	International Confederation of Private Employment Agencies
DTP	Diplomacy Training Program
EPS	Employment Permit System
G to G	Government to Government
GCC	Gulf Cooperation Council
GEFONT	General Federation of Nepalese Trade Unions
GFBTU	General Federation of Bahrain Trade Unions
ILO	International Labour Organization
IOM	International Organization for Migration
ITUC	International Trade Union Confederation
KCTU	Korean Confederation of Trade Unions
KTUF	Kuwait Trade Union Federation
MFA	Migrant Forum in Asia
MOU	memorandum of understanding
MRC	Migrant Worker Resource Centre
MTUC	Malaysian Trades Union Congress
NGO	non-governmental organization
NHRC	National Human Rights Committee

NTUC	Nepal Trade Union Congress
POEA	Philippine Overseas Employment Administration
RCP	Regional Consultative Processes
RSE	Recognised Seasonal Employer
SAARC	South Asian Association for Regional Cooperation
SARTUC	South Asian Regional Trade Union Council
UAE	United Arab Emirates

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

Issue Paper: Promoting international cooperation and partnerships in addressing international labour migration between Asia and the GCC countries

1. Introduction

Inter-State and international cooperation is essential for the protection and welfare of migrant workers as well as for expanding organized labour migration and curbing irregular movement. Moreover successful governance of international migration is an inherently multilateral concern requiring cooperation between various stakeholders. Cooperation on migration issues takes place at the global, regional, subregional, bilateral and national levels. The ILO Multilateral Framework on Labour Migration recognized that “issues related to the movement of workers across national borders cannot be effectively addressed when countries act in isolation; hence, international cooperation in managing labour migration can be valuable in addressing national interests” (ILO, 2006). Its Principle 2 reads as follows: “Governments, in consultation with employers’ and workers’ organizations, should engage in international cooperation to promote managed migration for employment purposes (ILO, 2006, p. 7). Partnerships, which are broadly interpreted as forms of cooperation between concerned stakeholders, are important for realizing a fair migration agenda for several reasons:

- The complexity of current migration flows ranging from voluntary migration to trafficking means that no single country or stakeholder can address these issues alone.
- Partnerships are based on the principle of shared responsibility between countries of origin and destination in governing labour migration and protecting migrant workers.
- They offer potential in protecting national workers employed in destination countries.
- They help in promoting policy coordination and coherence and information exchange within and between countries, and governing migration flows between countries in mutually beneficial ways.
- They serve in avoiding unhealthy competition for migration opportunities among origin countries which can lead to deterioration of working conditions for migrant workers.

2. Forms of cooperation

2.1 Main stakeholders

The main stakeholders in labour migration are governments of origin and destination countries; employers in origin and destination countries; workers including national and migrant workers; private employment/recruitment agencies; organizations of migrant workers; and civil society organizations who reach out to migrant workers. Within the government, a number of different ministries and bureaus (e.g. Foreign Employment, Labour, Interior or Home, Foreign Affairs) may be responsible for migration issues which makes coordination important. Migrant worker organizations are limited in both Asia and the GCC countries. In addition to governments, employers’ and workers’ organizations have important stakes in labour migration. Employers hire migrant workers, and are keen on human resource development. Trade unions are concerned with the protection of both national and migrant workers. The extent of their involvement in migration matters varies widely among countries. The conclusions

of the ILO Tripartite Technical Meeting of November 2013¹ reiterated that social dialogue is a major strategy for cooperation.

2.2 Types of partnerships or cooperation on labour migration issues

There are several types of partnerships among the stakeholders as observed in the two regions. These can be either formal or informal:

a. Bilateral labour agreements and memoranda of understanding (MOUs), between origin and destination country governments in Asia.

b. Cooperation within regional integration areas.

Asia has two regional economic communities: the Association of Southeast Asian Nations (ASEAN) and the South Asian Association for Regional Cooperation (SAARC). ASEAN has integrated migration into its agenda well. The ASEAN issued the landmark Declaration on the Protection and Promotion of Rights of Migrant Workers in 2008 (ASEAN, 2007). The ongoing ASEAN Forum on Migrant Labour (AFML) has held seven annual meetings as of 2014.² The ASEAN Task Force on Migrant Workers has commissioned an ASEAN Framework Instrument on the Protection and Promotion of Rights of Migrant Workers which is currently still being developed.

After calls from the Asian Inter-Parliamentary Caucus on Labour Migration, SARTUC and ILO, labour migration was firmly placed on the agenda of the SAARC in November 2014. At the conclusion of the 18th SAARC Summit held in Kathmandu on 26-27 November 2014, the Organization's leaders adopted the Kathmandu Declaration. The Declaration includes a commitment to collaborate and cooperate on safe, orderly and responsible management of labour migration from South Asia, to ensure the safety, security and wellbeing of migrant workers in their destination countries outside the region. The 36-point Kathmandu Declaration also addressed the trafficking of women and children, poverty alleviation, social protection and support for youth self-employment.

The Gulf Cooperation Council (GCC) was established in 1981, and has gradually promoted economic integration among its member States.³ The GCC member States are the main destination countries for Asian migration, particularly from South Asia. All GCC member States follow similar approaches to migration issues including adherence to the sponsorship system. The Abu Dhabi Dialogue is one regional consultative process which promotes cooperation with Asian origin countries in regard to migration.

c. Regional dialogue

- The Colombo Process, launched in 2003
- The Abu Dhabi Dialogue, launched in 2008

d. Cooperation among non-State actors

- Partnerships between trade unions

¹ Conclusions of the ILO Tripartite Technical Meeting of November 2013, available at: http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/meetingdocument/wcms_232352.pdf [accessed 8 Apr. 2015].

² Background information on the ASEAN Forum on Migrant Labour is available at: http://www.ilo.org/asia/WCMS_214213/lang--en/index.htm [accessed 8 Apr. 2015].

³ The GCC consists of six States: Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates.

- Partnerships of unions with NGOs
- Partnerships among non-governmental organizations

3. Bilateral labour agreements (BLAs) and memoranda of understanding (MOUs)

The ILO has long recognized the potential of bilateral labour agreements in promoting well regulated labour migration and protection of migrant workers. BLAs formalize each side’s commitment to ensure that migration takes place in accordance with agreed principles and procedures. In addition BLAs provide a means to address labour shortages for destination countries and labour market access for countries of origin. Apart from national laws and multilateral treaties, BLAs have provided a useful mechanism to regulate cross-border labour migration. However their effectiveness in the region (and globally) has varied.

The earliest bilateral MOUs in the region (in the 1980s) involved Qatar, Jordan and several Asian origin countries. Since 2000, there has been a large increase in MOUs signed between origin and destination countries. For the most part, these agreements have taken the looser form of MOUs rather than legally binding bilateral labour agreements. Table 1 provides information on the major MOUs signed by Asian origin countries. Almost 70 per cent of the 65 Asian agreements reviewed recently by the ILO have been signed during 2007–2014.

Table 1: Bilateral agreements and MOUs on labour migration between Asian origin countries and Middle East destination countries (incomplete list)

Country	Bilateral Agreement/Memoranda of Understanding
Afghanistan	Qatar
Bangladesh	Qatar (1988/2008); Kuwait (2000/2008); Malaysia (2003, 2013); UAE (2007); Republic of Korea (2007); Oman (2008); Libya (2008); Maldives (2011)
Cambodia	Thailand (2002); Kuwait (2009); Qatar (2013)
India	UAE (2006, 2011); Kuwait (2007); Qatar (2007); Oman (2008); Bahrain (2009); Malaysia (2009)
Indonesia	Kuwait (1996); Jordan (2001); Malaysia (2004); Malaysia domestic worker MOU (2006; 2011); UAE (2007); Republic of Korea (2010)
Nepal	Japan (JITCO–2003); Qatar (2005); UAE (2007); Republic of Korea (2007); Bahrain (2008)
Pakistan	Qatar (1987, 2008); Kuwait (1995); UAE (2006); Republic of Korea (2008); Bahrain (2014)
The Philippines	Libya (1979, 2006); Jordan (1981, 1988, 2010, 2012); Iraq (1982); Qatar (1997, 2008); Kuwait (1997); Taiwan, China (1999, 2001, 2003); Indonesia (2003); Republic of Korea (2004, 2005, 2006, 2009, 2010, 2012); Bahrain (2007); UAE (2007); Qatar (2008); Lebanon (2012); Saudi Arabia (2013)

Sri Lanka	Jordan (2006); UAE (2007); Bahrain (2008); Libya (2008); Kuwait (2012); Republic of Korea (2012); Iraq (2013); Saudi Arabia (2014)
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Source: based on information obtained by the ILO.

The Asian-GCC MOUs have common objectives. The major objectives relate to the promotion of friendly bilateral relations and cooperation in human resources. MOUs generally contain an article on the employment contract provisions, which state that local labour laws will be applied. This points to the primacy of national laws and mechanisms of destination countries. Many agreements also list a follow up mechanism. The common approach is for the establishment of a joint committee from both parties. In some agreements the schedule of meetings (annual or else) is indicated, while others vaguely mention the meeting schedule as ‘as needed’. The MOUs signed with the Republic of Korea are different because they represent government to government recruitment under mandatory MOUs with specific quotas assigned to different countries. In contrast most Asian MOUs with the GCC States and Malaysia have been superimposed on existing flows of migration.

3.1 Good practices identified in agreements

Some good practices found in the agreements are listed in Table 2.

Table 2: Good practice elements found in MOUs between Asia and the GCC

Criteria	% of total agreements/MOUs (n=65)
Exchange of relevant information between the country of origin and destination on labour migration	89
Provisions relating to employment contracts and applicable labour laws	75
Implementation, monitoring and evaluation procedures	92
Defining clear responsibilities between parties	72
Mechanisms for complaints and dispute resolution procedures	57
Provision for free transfer of savings and remittances	38

Source: ILO research on bilateral agreements and MOUs

A few agreements include a model employment contract as an annex: these are found in some agreements signed by Qatar, and the new domestic worker agreements between Saudi Arabia and India, the Philippines and Sri Lanka. The Philippines has signed the most agreements, and also shares the content of the MOUs with the public through the Philippine Overseas Employment Administration (POEA) website, which is a good practice.

3.2 Gaps and areas for improvement

It is striking that there is no explicit reference to welfare or protection of migrant workers in most bilateral agreements. The new domestic worker agreements of Saudi Arabia however refer to ‘rights of workers and employers’. The agreements rarely address three important areas:

- Gender dimensions (differentiated practical and strategic needs of women and men migrant workers): While almost no agreements address these issues, there are some encouraging examples of good practices in this regard, such as the domestic worker agreements of Saudi Arabia which specifically address recruitment, migration costs, inclusion of a standard employment contract, a provision that workers retain their passports, specified rest and leave times; and the right to communicate with families.
- Provision for social dialogue is absent from most if not all agreements in the region as labour migration policies (including BLAs and MOUs) are still often seen by government ministries as issues affecting national sovereignty. This is true of other regions as well.
- Prohibition of confiscation of travel and identity documents was reported only by a few agreements.

In addition there is a dearth of information on the process of negotiation, the benefits, implementation, and follow up to these MOUs. A study on Indian BLAs and MOUs on labour migration highlighted a number of concerns and came to the conclusion that “something is better than nothing” (Wickramasekara, 2012). Issues pointed out in the study, which are of wider implication, include the lack of transparency and omission of critical issues such as recruitment malpractices, restricted job mobility, confiscation of passports, lack of concrete dispute resolution procedures, and lack of effective follow up and enforcement. Further reports of poor protection of migrant workers even in destination countries which have signed MOUs are an indication of the limited effectiveness of those MOUs.

The achievements of BLAs and MOUs are more visible when they usher in new labour migration programmes like under the Employment Permit System (EPS) of the Republic of Korea and the Recognised Seasonal Employer (RSE) in New Zealand. Moreover, both countries have effective national laws and mechanisms to protect the rights of migrant workers. There is less visibility about impact and achievement when they are superimposed on existing large flows of migrant workers. This applies to the bulk of the agreements between Asian origin countries and GCC countries, the Middle East and Malaysia. There is no evidence that they were accompanied by changes in recruitment and placement procedures, additional workplace protection and enforcement measures in destination countries. At the same time new migration agreements have been able to accommodate only limited numbers compared to more established programmes.

3.3 Recent positive developments on BLAs and MOUs

- Countries with no previous history of MOUs have concluded bilateral agreements as the cases of the Republic of Korea (since 2004) and Saudi Arabia (from 2013) show. Saudi Arabia is the most important destination for Asian workers.
- Dedicated domestic worker agreements (Saudi Arabia, Jordan, and Malaysia): since domestic workers – one of the most vulnerable groups – are normally not covered by general MOUs and in labour laws, the development is very important.
- Standard or model employment contracts for general migrant workers, and for domestic workers have been developed. These can usefully supplement the lack of detailed provisions in general MOUs. Examples are: Saudi Arabia domestic worker model employment contracts; Sri Lanka-UN Women standard contract for domestic workers; the Qatar Foundation’s Mandatory Standards for Migrant Worker Welfare for Contractors and Subcontractors (Qatar Foundation, 2013).
- New migration laws and policies have been enacted in Bangladesh and Nepal that include articles on the role of bilateral agreements.
- Revival of Government to Government (G to G) agreements and public employment services (EPS MOUs of Republic of Korea; New Zealand RSE; Bangladesh and Malaysia MOU): these have led to dramatic reductions in migration costs. In the case of Republic of Korea the G to G agreements

are accompanied by regular dialogue and investment into support services by the destination country.

- Agreements between origin countries: an MOU between the Philippines' Department of Labor and Employment and Indonesia's Department of Manpower and Transmigration for cooperation in the promotion and protection of the welfare and rights of migrant workers, was signed in January 2003.

4. Trade union agreements and good practices

The ILO Multilateral Framework on Labour Migration guideline 2.3 recommends the promotion of “bilateral and multilateral agreements between workers’ organizations in origin and destination countries providing for the exchange of information and transfer of membership” (ILO, 2006).

Trade union cooperation for migrant protection is important for several reasons. Widespread exploitation of migrant workers in destination countries is due to lax enforcement of labour laws, and exclusion of some workers (e.g. domestic workers) from the coverage of labour law. Low skilled workers, in particular, have issues lodging complaints or accessing redress. Most migrant workers lack information on their rights and obligations. Unions can also prevent recruitment malpractices by alerting workers to their legal rights and maximum fees payable. The role that unions can play in destination countries is constrained by restrictions on the formation of trade unions or support for freedom of association principles in some destination countries (e.g. Saudi Arabia, United Arab Emirates). In the GCC, only Bahrain, Kuwait and Oman have legalized trade unions.

The main challenges faced by trade unions in supporting and organizing migrant workers in destination countries have been summarised by the South Asian Regional Trade Union Council (SARTUC) as follows (SARTUC, 2013):

- the extremely vulnerable position of migrant workers in society;
- segregation into a separate entity from the national labour force;
- structural weaknesses within the labour movement;
- exclusion of trade unions from intergovernmental agreements and from the migrant recruitment process;
- severe restrictions on trade union rights mostly in destination countries;
- absence of a consolidated and common strategy between trade unions; and
- exclusion of migrants during policy debates and discussions.

Given the significant gaps in protection of migrant workers in destination countries, it is important to establish partnerships among trade unions, civil society and other non-State actors. The International Trade Union Confederation (ITUC) with the support of the ILO developed a model bilateral agreement between trade unions of source and destination countries in 2008. This 2008 ITUC-ACTRAV model has been used as a template in these agreements (ILO-ACTRAV, 2008).

4.1 Model bilateral agreements between trade unions in Sri Lanka and trade unions of Bahrain and Kuwait for the protection of Sri Lankan migrant workers

In May 2009, a concrete achievement was the signing of model bilateral agreements between three Sri Lankan trade unions and their counterpart unions from Bahrain and Kuwait based on the ITUC-ACTRAV model trade union agreement (ILO, 2014b). The agreements follow a rights-based approach, and aim to protect Sri Lankan migrant workers in the three countries through union action aimed at granting Sri Lankan migrant workers “the full panoply of labour rights included in internationally-

recognized standards”. As part of the follow up process Sri Lankan unions visited the three countries in December 2009 to get first-hand information and have consultation with their counterpart unions. There is no information as to whether the agreements actually helped Sri Lankan migrant workers in the three countries.

4.2 Nepal trade union agreements

The General Federation of Nepalese Trade Unions (GEFONT) has long been cooperating with destination country unions for protection of Nepalese migrant workers. It has signed agreements with two GCC country trade unions and trade unions in Hong Kong (China), Malaysia, and the Republic of Korea.

MOUs signed in 2011 between GEFONT and the General Federation of Bahrain Trade Unions (GFBTU) and the Kuwait Trade Union Federation (KTUF) have been the basis for information sharing between relevant trade unions; the formation of worker support groups in Kuwait; and for the establishment of a working relationship between KTUF and the Nepali embassy in Kuwait (SARTUC, 2013). One innovative approach is the building of support groups in destination countries with the support of destination country unions. In Arab States, GEFONT has assisted Nepali migrant workers in establishing informal support/community groups and has worked with various NGOs at destination countries to provide various services to migrant workers. The Nepal Trade Union Congress (NTUC) has also assisted Nepali migrant workers in Japan, Malaysia and Qatar to form informal support groups.⁴

4.3 Trade union cooperation in the Greater Mekong Subregion (GMS) region

A number of initiatives have been undertaken in the Greater Mekong Subregion involving origin countries of Cambodia, the Lao People’s Democratic Republic and Viet Nam, and destination countries of Malaysia and Thailand through active ILO support (ILO, 2014c). The Malaysian Trades Union Congress (MTUC) has been proactive in this area, and has initiated informal exchanges and cooperation with the Viet Nam General Confederation of Labour (VGCL), including an action plan. The VGCL Action Plan includes: a) establishing and strengthening bilateral cooperation with trade unions in major destination countries and territories through the development of a MOU; and b) appointment of local trade union contact persons in the major destination countries and territories to network with Vietnamese workers, the Vietnamese Embassy and the VGCL.

The ILO GMS TRIANGLE project⁵ has supported the Malaysian Trades Union Congress (MTUC) in running Migrant Worker Resource Centres (MRCs) in Kuala Lumpur/Selangor and Penang. The MRC offices have assisted workers in making them aware of their labour rights, as well as helping them to claim compensation. MRCs are operated by both trade unions and NGOs in Thailand, Cambodia and the Lao People’s Democratic Republic. Around 40,000 migrants and potential migrants, of whom 40 percent are women, have received counselling, legal assistance, information, education or training, and received assistance in networking or joining trade unions. Over US\$1 million in financial compensation has been ordered for 2,444 complainants (over 50 percent women) in Malaysia and Thailand, as a result of MRC support services.

⁴ Information provided by Mr. Laxman Basnet, SARTUC.

⁵ The ILO GMS TRIANGLE Project (Tripartite Action to Protect Migrant Workers within and from the Greater Mekong Subregion from Labour Exploitation) (2010-2015) aims to reduce the exploitation of labour migrants by contributing to the development of legal and safe recruitment channels and improved labour protection mechanisms. More information is available at: www.ilo.org/asia-triangle [accessed 8 Apr 2015].

4.4 Regional trade union federations and migrant workers

The South Asia Regional Trade Union Council (SARTUC) has initiated a number of steps to increase regional cooperation between trade unions in South Asia, and to increase interregional cooperation with trade unions in GCC and Arab destination countries. An ILO–SARTUC Workshop on Promoting Trade Union Cooperation on Labour Migration in Origin and Destination Countries, held in September 2013, led to the Kathmandu Plan of Action. The two main objectives of the Plan of Action are organization of migrant workers and achievement of equal treatment and better working conditions.

The Kathmandu Plan of Action provides a number of key steps to standardize trade union services for the protection and promotion of the rights of migrant workers, while still acknowledging that individual trade unions will need to adapt the specifics to their national context. For example, full implementation of the Kathmandu Plan of Action would mean that the constitution of each trade union member of SARTUC would recognize migrant workers, and that trade union structures would be reviewed to include a dedicated unit with an unambiguous mandate to work on issues related to migration.

The SARTUC experience is distinct in that it is designed to foster regional solidarity among national-level trade unions, thus allowing for trade unions in South Asia to engage more effectively with trade unions and governments in countries of destination on key issues of protection. The Kathmandu Plan of Action calls for “structured regional and inter-regional mechanisms between trade unions in countries of origin and destination to achieve, review and follow-up on progress on the action-plan.” The Plan is also committed to follow up on trade union agreements between the two regions, and looking into the respective role of trade unions in countries of origin and destination and the possible role for the ILO in supporting their cooperation efforts.

Arab Trade Union Confederation (ATUC)

International Trade Union Confederation (ITUC) affiliates in the Arab Region have established their new regional trade union structure – the Arab Trade Union Confederation – following the founding congress held from 1 to 2 October 2014 in Amman, Jordan. This will provide an impetus to union action on migrant workers in the region. ATUC has committed itself to provide social protection to all workers, including unemployed, retired and migrant workers, stating that its approach aims to resist discrimination at work and to defend everyone's basic rights.

The ATUC announced an action plan which placed emphasis on developing and improving the structures and bylaws of its affiliated organizations to allow all workers to join including workers in the informal sector, agricultural workers, seasonal workers, workers with limited contracts, crafts people, retirees, and migrant workers as a priority. It will also address the amendment of the labour legislations in the Arab region to permit migrant workers to enjoy their basic rights, specifically with regard to wages, social protection, freedom of association, and collective bargaining as per international labour standards including the mechanisms to follow-up on labour disputes.

The new trade union structure forms an opportunity to boost cooperation and partnership among trade unions in countries of origin and the Arab countries. Moreover, it can play an important role in supporting the ILO's work in promoting international labour standards, specifically those related to the protection of migrant workers.

4.5. Summary

There have been promising developments in trade union cooperation between origin and destination countries. MTUC and Korean Confederation of Trade Unions (KCTU) have set a good example as destination country unions collaborating with origin country unions and reaching out to migrant

workers. GEFONT likewise has extended partnerships and outreach to countries of destination. SARTUC and GCC trade unions have developed a structured work plan. While external support is important in initiating union cooperation, their sustainability would depend on active follow up and support by unions themselves.

The ILO/SARTUC Workshop on Promoting Trade Union Cooperation on Labour Migration in Origin and Destination Countries concluded:

In many cases, agreements have been signed but it has not been followed up with periodic communication and status update reports between the various parties. Past experience shows cooperation between trade unions should be based on clear principles, time-frame for implementation and follow-up, and clear task for each party under the overarching supervision of ILO/ITUC (SARTUC, 2013).

5. Employer organizations

Partnerships among employer organizations in Asia and GCC on the issue of labour migration have not come up prominently so far. However, industry associations in the region (and globally) have developed codes of practice and self-regulation in the framework of corporate social responsibility. In this regard the CIETT (International Confederation of Private Employment Agencies) Code of Practice for private employment agencies is noteworthy. Yet, few recruitment agencies in the region are members of CIETT (or qualify as members). In the framework of ASEAN regional integration, the ASEAN Confederation of Employers (ACE) has developed a three year plan of action on labour mobility and protection of the rights of migrant workers.

6. NGO partnerships and good practices

NGO cooperation across borders has manifested in South-East Asia both in terms of advocating a rights-based approach to labour migration and in individual cases of assistance. NGOs have collectively (through the ASEAN Task Force on Migrant Workers) provided input to the ASEAN Declaration on the Promotion and Protection of the Rights of Migrant Workers, and are engaged in discussing its follow-up Framework Instrument.

In the wider region, Migrant Forum in Asia (MFA), the largest NGO network dedicated to the protection of migrant workers, has facilitated the signing of bilateral MOUs between the National Human Rights Committee of Qatar and National Human Rights Commissions in Nepal, the Philippines and Sri Lanka for the period 2012–2013. The MFA conducted two Diplomacy Training Programs with National Human Rights Committee (NHRC) in Qatar in 2012 and 2013 (MFA, APF, and DTP, 2012; MFA and DTP, 2013). MFA has also signed the Memorandum of Understanding to Promote the Rights of Migrant Workers in Asia-Pacific region with a number of important global unions.

7. Regional and subregional cooperation and dialogue

Greater cooperation and dialogue between governments within Asia and with destination countries on migration issues has been on the rise. Part of this takes place within regional economic communities such as the ASEAN. In addition there are regional and interregional consultative processes.

The adoption of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, in January 2007, was a milestone. While implementation of the Declaration is a work in progress, the obligations of labour sending and receiving states provide a good framework for action. The ASEAN has also institutionalized a tripartite (plus civil society) forum that provides a platform to gauge implementation of the Declaration and share good practices, the ASEAN Forum on Migrant Labour (AFML). ASEAN Member States adopted the ASEAN Socio-Cultural Community Blueprint in November 2007, which proposes several detailed actions toward “Protection and promotion of the rights of migrant workers” (ASEAN, 2009). The AFML has been supported by the ILO since its inception. Collaboration at the ASEAN level is also being undertaken by employers’ and workers’ organizations although this is at an early stage.

Regional Consultative Processes (RCPs) on Migration are regular consultations among governments and international organizations that take place outside of formal institutional structures. There are three active RCPs in the region that involve primarily governments:

- *The Colombo Process*: a forum of labour sending countries in South and South-East Asia focusing on the recruitment and employment of their workers overseas.
- *The Abu Dhabi Dialogue* which covers both countries of origin in the Colombo Process and destination countries in the GCC.
- *The Bali Process*: which focuses on smuggling, trafficking in persons, and related transnational crimes.

The Colombo Process, which began in 2003 at the initiative of Sri Lanka and Indonesia, with the secretariat support of International Organization for Migration (IOM) and in collaboration with the ILO, represents an effort at policy coordination by origin countries. This process has taken a step forward by engaging counterpart countries of destination at the initiative of the United Arab Emirates, through the establishment of the Abu Dhabi Dialogue (ADD). The Framework on Regional Collaboration, adopted at a Ministerial Meeting of the ADD in Manila in April 2012, provides a basic framework for cooperation among countries of origin and the GCC throughout the cycle of overseas employment (Abu Dhabi Dialogue, 2012b). In what can be seen as the first step in activating this framework, the Abu Dhabi Dialogue has initiated a skills pilot this year. The ILO is a member of the Steering Committee and is contributing actively to the implementation of the pilot.

While both these forums do provide a much needed regional/interregional platform for dialogue and sharing of experience among governments in a major labour migration corridor, the real impact on the policies of countries and the lives of migrant workers appears to be limited so far.

8. Conclusions and recommendations

At the outset the paper highlighted the reasons why partnerships are important to realizing a fair migration agenda. While other actors can provide useful support services, the most important players are origin and destination governments. The opportunities for partnerships among GCC countries to contribute to fair migration and protection of labour migration must be explored, as must the development of partnerships among Asian countries of origin, to prevent abuse and exploitation at the source. Apart from multilateral treaties, the main means for cooperation among GCC and Asian countries have been bilateral agreements and MOUs. Regional consultative processes have also provided a periodic and informal multilateral forum for dialogue and sharing of experiences among States. Trade unions and NGOs cooperated in reaching out to migrant workers using a rights-based

approach in selected countries. This is encouraging, however, these activities need to be intensified for a better impact given the magnitude of the problem.

While there are emerging good practices there is no doubt that international cooperation can be more effective in improving recruitment and employment of migrant workers. Based on the preceding review, this issue paper raises some areas for improvement that may be further discussed.

Bilateral agreements/MOUs

BLAs/MOUs will continue to be important, and can indeed focus on labour market access and shortages, and migrant protection. To increase their efficiency, a number of measures are needed:

- Include all stakeholders (in particular employers' and workers' organizations) and technical experts in consultative processes in the development of MOUs.
- Ensure conformity of MOUs with international norms relating to the human and labour rights of migrant workers. The Preamble can make references to rights of migrant workers and related international instruments as done in bilateral agreements of Italy and Spain.
- Harmonise policies on issues where both origin and GCC countries have a shared responsibility such as recruitment and domestic worker protection.
- Wide publicity of MOUs and dissemination of their contents is most important to adequately brief the major stakeholders in migration on their rights and obligations.
- Revitalize joint committees and arrange meetings as stipulated in the MOUs, and where possible, include representatives of workers, employers, and civil society in these deliberations.
- Negotiate for concrete and enforceable implementing measures to supplement the MOUs: procedure for monitoring of workplace compliance with labour laws; a complaints procedure and redress mechanism easily accessible by low-skilled workers; the drawing up of standard model employment contracts and stipulation of minimum reference wages; inclusion of gender specific provisions in MOUs; and adopting a system for periodic evaluation of the MOUs.

Trade union partnerships and cooperation across borders

Good practices and lessons which can guide further work in this area include:

- The experience of the ILO GMS TRIANGLE project and ASEAN TRIANGLE project shows that ILO support can play a useful role in building up union cooperation initiatives. However, the unions themselves should make the process sustainable over time.
- The initiatives of GEFONT in building up country support teams in cooperation with destination country unions is critical, in particular in destination countries that restrict the work of trade unions.
- Pre-departure orientation training is another priority area in which origin and destination country unions can work together by exchanging information relevant for the orientation training programme.
- The lesson from existing agreements such as those of Sri Lanka with Bahrain, Kuwait and Jordan is the importance of regular monitoring and follow up. Regional trade union organizations such as ATUC and SARTUC could assist unions in monitoring and follow up efforts.
- The Kathmandu Plan of Action provides a road map for regional and interregional collaboration and advocacy to protect the rights of migrant workers. Its implementation will require initial support from the ILO and the ITUC and the commitment of the concerned trade unions to make the process sustainable over time. The SARTUC experience provides a model in which cooperation within a region can also be mobilised into regional solidarity in lobbying governments and trade unions in countries of destination. The approach of standardising certain aspects of trade union involvement

in labour migration, for example through constitutional recognition of migrant workers by trade unions, and through a joint commitment to the ratification of key international labour standards, is likewise a good practice.

- What scope is there for trade unions to engage with groups other than NGOs, in both the GCC and Asian countries of origin? There is potential for partnerships to be fostered with women's groups, religious groups, and academics, for example.

Role of employers' organizations

While trade unions have generally been active in labour migration issues in Asia, it is also important that employers' organizations play a role here given its implications for governance of migration including recruitment malpractices, high migration costs, human resource development, and protection of migrant workers in workplaces abroad. The considerable abuse and exploitation of these migrant workers by employers in destination countries, and intermediaries in both origin and destination countries, is well documented. Employers' organizations should play a role in negotiations with their counterparts in destination countries based on corporate social responsibility considerations to minimise these abuses. Other recommendations include:

- Work with workers' organizations and the government to develop a code of practice of good conduct or ethical framework for recruitment. High migration costs and related debt burdens of migrant workers is a major governance issue to be addressed partly through a code of conduct.
- Given that migrant workers are mostly employed by private sector employers in the GCC countries and South-East Asia, it is important to look at the potential for collaboration between employers' organizations in origin and destination countries. Such cooperation can have high potential given that employers' organizations in destination countries may be able to address issues of contract substitution, wage protection, occupational safety and health, and other related issues in a direct manner. Origin country employers' organizations can sensitise employers in destination countries on rights of migrant workers.
- Employers' organizations can play a useful role in contributing to skill development programmes for migrant workers, and recognition of skills of migrant workers on their return. This ties up with the Abu Dhabi Dialogue proposed pilot project on skills certification.
- Employers' organizations can also contribute to pre-departure orientation training with information on employers in destination countries and dos and don'ts. In addition, they can review curricula of pre-departure orientation programmes to check whether employer issues have been properly addressed.

NGOs and partnerships

This paper has not looked extensively at the scope and potential for partnerships and networking among social partners, civil society and migrant associations. Clearly, as recognized in the ILO Multilateral Framework, this is to be encouraged, even though the presence of NGOs in the GCC is limited. Migrant Forum in Asia has shown the way with regards to civil society–trade union networking and leveraging the work of Human Rights Committees. What is the scope of partnerships between women's organizations in the two regions to augment support services for domestic workers and advocate for their rights and welfare? The 2012 Dhaka Statement proclaims that: "Promotion of social networks and associations of migrant workers in countries of origin and destination are important and should be pursued" (ILO, 2014d). Diaspora associations in GCC countries and Asian destination countries can also act as a support group to low skilled migrant workers in GCC countries (for example, there are populations of Indians in the GCC).

Regional processes

Both the Colombo Process and Abu Dhabi Dialogue provide opportunities for collaboration – for policy coordination among countries of origin, and for discussing contentious issues and realizing partnerships among origin and destination countries. However, so far this opportunity has not been realized. The Colombo Process does provide a platform for information exchange and developing meaningful recommendations. Yet, the non-binding nature of the recommendations and the fact that many of the recommendations are dependent on their endorsement by destination countries, reduce their potential impact. In this sense, the Abu Dhabi Dialogue is significant – it carries the weight of destination and origin countries. Implementation of the regional partnership framework adopted in 2012 has been slow, however. Both processes can be made more broad-based with social partner and civil society inputs.

The Abu Dhabi Dialogue can be used as an interregional platform for promoting multilateral guidelines and minimum standards in recruitment, core elements of MOUs to act as the benchmark for bilateral agreements, standard employment contracts, especially for domestic workers, among others. There is also a question of how the ILO, given its rights-based approach to labour migration grounded in the world of work, can play a constructive role in the Abu Dhabi Dialogue.

Regional communities

ASEAN should finalize and adopt the ASEAN Framework Instrument on the Protection and Promotion of the Rights of Migrant Workers as a priority while using existing forums for action on migration governance and protection. SAARC as a regional institution is best placed to realize policy coordination among its members to improve the recruitment and employment standards of its migrant workers. The Asian Inter-Parliamentary Caucus on Labour Migration highlighted the role of SAARC in its Declaration in Kathmandu Declaration on 9 November: “Having recognized that South Asian Association Regional Cooperation (SAARC) countries have approximately 36 million South Asians currently living outside the region of their birth, and that migrant workers contribute to the growing economies of the region as well as to the curtailment of unemployment, reduction of poverty, and earning US\$118 billion in foreign exchange, we call upon the SAARC governments to include labour migration in the SAARC Summit agenda” (Asian Inter-Parliamentary Caucus on Labour Migration, 2014). SAARC member states made the commitment to do so in November 2014, with the adoption of the Kathmandu Declaration on labour migration.

Capacity building for all stakeholders

Priority should be given to capacity building for tripartite partners, and civil society organizations including migrant worker organizations and support groups to promote the fair migration agenda.

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Issue Paper: Promoting international cooperation and partnerships in addressing labour migration between Asia and the Gulf Cooperation Council countries

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 for the destination country, and provides the origin country with lucrative foreign exchange remittances, abuses in the recruitment and living and working conditions of these migrant workers have been well-documented, and are of concern to a large number of stakeholders, both in origin and destination countries, in the private sector, and among trade unions and civil society partners.

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 highlights the importance of cooperation among the many stakeholders involved in international labour migration and the forms of cooperation that have been implemented in the two regions. Best practices and areas for improvement of bilateral labour agreements (BLAs) and Memorandum of Understanding (MOU) are presented. The paper also discusses the relative progressive that trade union agreements have made in the area of improving fair migration, with cases from South and South-East Asia and the Arab States analysed. The paper concludes with a series of recommendations.

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