

**A report on the
Workshop on Recruitment of Workers for Overseas Employment**
Dubai, January 18-19, 2011

Workshop organized & hosted by: Ministry of Labour, United Arab Emirates
In Collaboration with: ILO, IOM and OHCHR
Supported by: Swiss Agency for Development and Cooperation (SDC)
Workshop Coordinator: Ms. Areej M. Al Gurg, International Relations Bureau, UAE Minister of Labour
Expert adviser/rapporteur: Professor Philip Martin, UC Davis
Participants: Governments of UAE, Qatar, Saudi Arabia, Oman, Kuwait, Bahrain, Bangladesh, India, Philippines, Pakistan, Sri Lanka, Nepal and Switzerland, IOM, ILO, UNOHCHR, ICMPD, MPI, Migrant Forum in Asia (MFA), Recruitment associations and/or agencies from countries of origin and destination.
Total number of participants: 103

The large labour exchange programs between Asian and GCC countries offer important insights into the challenges of developing effective policies to recruit and employ contract workers in ways that enhance protection and development. The Workshop on Recruitment of Workers for Overseas Employment was organized and hosted by the UAE Ministry of Labour to initiate consultation and eventual collaboration among Asian countries of origin (COO's) and destination (COD's) to promote transparent and fair recruitment practices by way of improved legislation and regulatory measures as well as bilateral and multilateral action aimed at encouraging compliance by private employment agencies.

1. Key issues and outcomes of the Workshop

The workshop examined labour mobility to GCC countries facilitated by private recruiters. The focus was on the process by which workers from South Asia, Southeast Asia, and other countries are recruited to fill temporary jobs in GCC countries, and how this process could be improved to support the workers abroad to enhance the benefits they generate for their families and communities upon return.

Participants recognized the complexity of matching workers with jobs across national borders, and emphasized that recruiters play an essential and potentially useful role in matching workers in one country with jobs in another in ways that benefit workers, employers and both country of origin and country of destination.

Governments, with advice from international organizations, have recognized the importance of regulating the international labour market and the recruiters who help to move workers over national borders. Regulation works best when it incorporates incentives for complying with the rule of law and provides penalties for non-compliance. Participants recognized that the gaps between employers in one country and workers in another country, and the activities of private recruiters who match workers with jobs across borders, can cause problems for employers, contract workers, and governments. They also recognized the need to extend protection to workers who may not be covered by the labour codes of COD's, as is the case of domestic workers.

A well-functioning recruitment system is in the best interest of employers, contract workers, and governments in COO's and COD's. Practical recommendations to improve the recruitment system that moves contract workers into GCC countries include improved regulation in sending and receiving countries, education of workers, and experimentation and evaluation.

Governments participating in the workshop committed themselves to making the recruitment process *fair, transparent, and free of abuse and to leverage the support and expertise of the ILO, IOM and OHCHR in achieving this goal*. Some principles and good practices were agreed in the following areas: pre-recruitment, obtaining and protecting a contract, and regulations and incentives.

2.1 Pre-recruitment

To improve pre-recruitment, governments in COOs and CODs, with help from international organizations, should *improve the context and quality of information* on foreign jobs and decrease the cost of disseminating good information to potential contract workers. There are several ways to achieve these cost-and-quality-of-information goals, including *educating workers about the rights and responsibilities* of being a contract worker abroad. There are many channels to educate workers, including directly through government facilities, websites, migrant resource centers, employers, employer associations or recruiters or their sub-agents, as the situation demands.

Subagents are often a major obstacle to transmitting accurate information to workers seeking overseas employment. These generally non-regulated intermediaries, who act on behalf of one or more recruiters, receive a fee for each low-skilled worker they bring to recruiters, giving them an incentive to find **a** worker rather than **the** best worker to fill a foreign job. Subagents can make oral promises about foreign wages and working conditions that are not fulfilled, explain that contracts are simply “for show” to government agencies, and collect fees without issuing receipts. When workers find different wages and working conditions abroad, there is often no effective way to hold subagents responsible.

Regulating subagents by requiring them to *obtain licenses*, making the labour recruiters from whom they collect fees *jointly liable* with subagents to fulfill the promises they make, and requiring receipts for all monies collected during the recruitment process could help to improve the recruitment process in its earliest stages. Some countries, including Sri Lanka, are considering requiring subagents to be licensed and to make the recruiters for whom they work jointly liable for violations of recruitment regulations.

2.2 Obtaining and protecting a contract

To improve the process of obtaining a contract, the bureaucratic processes involved in obtaining passports, certifications, and other documents necessary to leave legally should be simplified and made easier for workers to fulfill by establishing *one-stop facilities in the countries of origin*.

The *process* of obtaining and clearing a contract *should be made transparent*, reducing the role of actors who may otherwise charge or mislead contract workers preparing to leave for foreign jobs. Current procedures can be revised to take advantage of new technologies that lower costs and increase protections, including having *government agencies in sending countries check databases in receiving countries to ensure employers and jobs are legitimate and visas have been issued properly*.

Standard, basic contracts can be developed jointly by governments, employers, NGOs and international organizations. Contracts signed in COOs can be *transferred electronically to CODs* to reduce contract substitution and ensure that the workers receive expected wages and working conditions. An electronic contract validation system is being developed by India and UAE. As it is being implemented, it can be evaluated and modified as appropriate, and adopted in other contract worker corridors.

Efforts to *improve skills recognition and selection* prior to workers going abroad can also help to improve the matching of workers with jobs. In some cases, recruiters send unqualified workers who disappoint employers, which can lead to lower wages or termination and unauthorized employment, as when contract workers who have incurred pre-departure debts attempt to stay abroad. GCC-based recruiters who often send their own staff to check on workers assembled by recruiters in the COO, would prefer a *more transparent and credible skill recognition and selection process in COO's*, so that they know, for example, that a person designated as a welder by the recruiter has the skills needed to perform the job in the UAE. One practical solution may be to create joint electronic profiles that list job requirements and worker skills, as is being tested by IOM to facilitate the employment of Egyptian workers in Italy. It may also be possible to have more *clarity of skills requirements in the terms and conditions* of the job offer and the subsequent job contract.

2.3 Regulations and incentives

Incentives can reinforce or contradict regulations. If recruiter incentives align with regulations, recruiters are more likely to obey them. GCC governments instruct their employers to pay recruitment costs, and most COO governments prohibit or limit recruitment charges. However, employers and recruiters who know that contract workers are willing to pay for jobs in GCC countries are tempted to charge or charge more, and it is difficult to police maximum (or even no) recruitment fee regulations. Information and enforcement campaigns can attempt to make examples of violators, but there are many ways to evade enforcement, making their long-term impacts uncertain. (Also self-regulation through codes of conduct may work best if linked to incentives and penalties, such as facilitated registration procedures and times for compliance).

The best incentive for recruiters to charge less is if the workers refuse to pay, e.g. because of development-driven opportunities in their countries. Until then, there are several other choices:

- a) *Reward employers and recruiters who comply with regulations*, such as charging them lower fees or giving them priority access to government-provided services such as the issuance of work permits;
- b) *Step up enforcement* against violators;
- c) *Increase bilateral and regional collaboration to identify and close loopholes in ways that detect and deter violations.*

Until incentives are in place to ensure that recruiters follow regulations, *low-cost pre-departure loans* can help workers to avoid going abroad in debt. In some cases, such loans could be *provided via recruiters* recognized as being in compliance with regulations.

Enforcement of regulations can be stepped up jointly and individually by governments in COOs and CODs to address problematic recruitment systems. For example, the UAE and

India are developing a system *for electronic transfer of contracts before departure*. The UAE government already requires UAE employers of foreign contract to deposit wages directly into the workers' bank accounts, which should create a paper trail to make it easier to resolve charges of unpaid wages. In many COO's, electronic databases make it easier to track contract workers during the recruitment process. Expanding smart regulations, and taking advantage of the falling cost and widespread use of technology, can strengthen government oversight of the recruitment process.

Cooperative enforcement of regulations, with COO government staff collaborating with labour and immigration inspectors in the COD, and vice versa, can also be effective. Such joint efforts to improve regulation could educate key decision makers about the sources of problems in the recruitment system, and foster more experimentation with cooperative regulatory efforts.

Participants agreed that COOs should establish criteria to govern recruitment agencies (and sub-agents), which are transparent, enforceable, standardized and known in both the COO and COD. Both countries should clearly define their role in controlling and regulating such agencies and establish explicit penalties to be enforced in situations of non-compliance. The liability of recruiting agencies in the COO and COD could be clearly articulated in the contract.

2.4 Regional framework of cooperation

Based on the outcomes of the Dubai workshop, the UAE intends to *develop a draft framework of regional cooperation on recruitment practices*. This would be a first draft of a non-binding regional instrument across the greater Asian region, presented for consideration by COO's and COD's of the Abu Dhabi Dialogue process.

The UAE took an important first step to promote regional cooperation by announcing in January 2011 that *UAE-based recruiters may not charge contract workers in their COO or in the UAE for jobs*. Under the Wage Protection System, the UAE *requires employers to deposit contract worker wages in UAE-based banks* to expedite the resolution of wage disputes. Finally, the UAE in January 2011 required *UAE-based recruiters who provide contract workers to third parties to deposit Dh1 million (US\$270,000) plus Dh2,000 (US\$540) per employee*; these funds are used if the employer to whom recruiters send workers fails to pay their wages.

It was acknowledged that such initiatives alone cannot ensure that only credible and serious agencies will work in this field. A coordination of efforts was required between countries of destination and origin.

3. Conclusion - Mobility to a job in the GCC

Moving low-wage workers over national borders with the involvement of private recruiters is not easy. There are many ways that a potential win-win-win outcome can be soured by false or broken promises, misunderstandings, and violations of human rights. Most stakeholders in the international labour mobility system, including employers, contract workers, and recruiters, are trying to achieve individual benefits that can also benefit others.

Governments, assisted by international organizations, have committed themselves to improve the recruitment system via national consultations, bilateral and regional processes such as the Colombo Process, the Abu Dhabi Dialogue, and the GFMD to seek cooperative solutions.

The UAE government has taken important steps to protect contract workers from recruitment fees and ensure that they receive promised wages from UAE employers. The UAE government is developing cooperative mechanisms, such as electronic contract transfers from Labour Ministries in countries of origin to the UAE Ministry of Labour. The Dubai seminar focused on recruitment issues in countries of origin, highlighting further practices and mechanisms that could be changed to protect contract workers and improve the outcomes of the migration process.

The reports for the 3 break-out sessions in Dubai are given below.

4 Session I: Accessing Information on employment opportunities overseas: actors in pre-recruitment and the nature of risks faced by workers
(Rapporteur: International Organization for Migration)

Group 1 discussed the issue of assessing information on employment opportunities overseas: actors in pre-recruitment and the nature of the risks faced by workers. The discussion was broken down into the following parts – accessing information and actors. The following summary reflects the issues, challenges and potential solutions, in no particular order.

a) Accessing information on employment

Issues and Challenges

- There are different types of information that workers require – information on the realities of overseas employment (pre-employment – including procedures, health requirements, etc), as well as information on concrete employment opportunities; the two types of information are distinct but mutually supportive.
- One of the key purposes of information to foreign workers is their protection.
- There are also two types of information that governments require to make and implement policy; information on the demand for foreign workers (for countries of destination), and supply (for countries of origin). A representative from Oman suggested that Countries of Origin should provide information on the supply of workers to the country of destination government who would transmit the information to potential employers. This supply information gate in this case would be the Government of Oman.
- Different target groups also require different information strategies, for example; recruiters versus individual workers seeking employment.
- It was agreed that there are various ways of disseminating information to foreign workers, employers, and recruiters;
 - Sri Lanka is developing a technical website to record employment demand and to facilitate job matching virtually. One concern is a potential lack of access in rural areas especially for less skilled workers. Such a site may be more adaptable for use by recruiters.
 - A private employer in the UAE that recruits foreign workers goes to countries of origin to identify and inform workers and suggests that providing accredited and certified information through the newspapers is an effective strategy.

- In the Philippines, the offices of the POEA are nationwide and provide information to job seekers as well as employers regarding accredited recruitment agencies with a good record. Job Fairs are used to inform workers of potential employment opportunities thus ensuring personal contact between employer and employee.
 - An Association of Recruitment Agencies in Bangladesh calls its members to disseminate information regarding employment opportunities in countries of destination. Information dissemination through TV broadcasts and the offices of the Members of Parliament is one way of reaching a wider target audience.
 - Outside the region, ILO mentioned a Farmers Association in Cataluña in Spain which recruits on behalf of the farms. This association (Union de Pagesus) also goes directly to countries of origin ensuring direct contact with potential foreign workers.
 - In South Asia, IOM mentioned the establishment of Migrant Resource Centres (MRC) as a means of communicating information on the realities of overseas employment to potential workers at local levels, and the use of individual counselors to advise workers.
 - The main challenges in information provision appear to be designing information strategies that effectively target the given target group, ensuring direct contact between employers and workers, providing information in a language and means that the prospective contract workers understand.
- Potential workers rely heavily on unofficial sources of information from family, friends and workers who are already abroad. One strategy could be to target civil society and community leaders to deliver information provision.
 - Information dissemination strategies could also be targeted to different skills levels.

Potential Solutions

- Provide various sources of information to potential workers to reduce the potential for exploitation by unscrupulous agents and sub-agents.
- Adapt sources of information according to target audience (for example – internet based information may be more suitable for higher skilled workers than for low skilled/ individuals with no internet access).
- Support Migrant Resource Centres (MRC) to decentralize information provision and counseling and ensure access outside the capital, to lower skilled workers that lack internet access.
- Link information provision on realities of overseas employment (i.e. pre-departure decision) with information on actual employment opportunities.
- Integrate migration information provision in local job and employment centers.
- Financially support/ promote public service announcements through mass media such as TV and radio.
- Capacitate COO's to collect information and forecast demand in COD's in the short and medium term. The example of the recently formed Market Research Unit (MRU) in Bangladesh could be one model for further replication.

b) Actors

Issues and Challenges

- A main issue is the non regulation of sub-agents in the recruitment process, which increases the potential for abuse of workers, and increased costs.
- The regulation of sub-agents can also be tackled through capacitating government actors and government-to-government arrangements. In terms of government to government arrangements, one example is the Republic of South Korea, which works due to the investment made by South Korea.
- Measures can be taken jointly by the private recruiters and employers. In the Philippines, employers and recruiters are jointly liable, agents can be pursued up to five years after a case.
- Other service providers can be included. For example, IOM has been involved in the facilitation of recruitment services, based on specific requests by Governments. This is one option; others can also be explored and examined.
- Self regulation of recruitment agencies, through Codes of Conduct (such as the commitment signed by 17 private recruiters to create an Alliance of Asian Associations of Overseas Employment Service Providers to work to promote ethical recruitment at the regional level, as facilitated by IOM), and adherence to international standards. Codes of Conduct may work best if linked to incentives and penalties (for example facilitated registration procedures and times for compliance)

Potential solutions

- Regulate sub-agents; for example in Thailand legislation is being put in place (draft law). In Sri Lanka there is the registration of the sub agent;
- Offer more choices for job seekers and job matching;
- Explore possibilities of making employers and recruiters jointly liable;
- Consider government-government schemes, such as S. Korea and ensure the relevant investment by both countries of origin and destination.
- Develop standard contracts for workers, potentially at the regional level.
- Examine the role of other service providers such as IOM (for example health assessments, documentation facilitation etc).
- Promote the self regulation of private recruitment agencies, for example in the Philippines the POEA and recruiting agencies have ISO quality management accreditation. BAIRA ; a code of conduct is being developed. in Bangladesh.

5. Session II : The contracting process and the role of licensed recruiters : issues of rule of law, transparency, and intermediary's costs

(Rapporteur: International Labour Organization)

During the three hour discussion on this topic, individual country representatives addressed issues and problems, and suggested solutions providing specific examples of cases within their countries. However, it was agreed by all that the intent of the session was to examine these issues in a general and allinclusive sense considering Countries of Origin (COO) and Countries of Destination (COD). Therefore at the direction of the participants, this report addresses issues, problems and suggestions for improvement without reference to individual countries.

It was also noted that the UAE has recently announced (January 3, 2011) the establishment of explicit regulations for recruiting agencies, and within the same regulations has announced an increased value of bond required for agencies engaged in overseas recruitment practices. It is

believed that these measures will help to ensure that only credible and serious agencies will work in this field. However it was acknowledged that this alone is not sufficient, and that they cannot solve the problem without a coordination of efforts with the COO's.

It was suggested that countries of origin should establish criteria governing recruitment agencies, that are transparent, enforceable and known in both the COO and the COD. Participants went further in recommending that the criteria for recruitment agencies should be standardized between the COO and COD. As well, both countries should clearly articulate their role in controlling and regulating the private recruitment agencies and outline explicit penalties which will be enforced for situations of non-compliance with these regulations.

It was agreed that one of the most common reasons for worker and employer dissatisfaction with the overseas recruitment process was a *Mismatch of Skill Qualifications*. Discussion centered on possible and practical ways of avoiding this situation and focused on the need for better clarity in the wording of skills requirements in the terms and conditions of both the job offer and the subsequent job contract.

It was suggested that there might be practical value in looking at the skills recognition framework contained in the Maritime Convention as a possible model for skills recognition. It was further suggested that this framework might also be used as one indicator in establishing "reference" wages for specific occupations.

The discussion then looked at the need for better *Access to Information* including:

- General information on the destination country so that the worker makes more informed choices.
- Standardized skills qualifications, or even occupational descriptions, with some countries suggesting that a manual or electronic database containing this information would increase clarity. It was also suggested that a system of ranking employers would assist the COO governments make better and more informed choices as when granting exit permits to workers

It was generally agreed by participants that the provision of the first two areas of information listed above fall within the responsibility of the COOs, while responsibility for the last item would be shared between both the COD and COO. It was also acknowledged that these items might not be achievable in the short or medium term, but were stated as goals for future consideration.

The discussion on types of information required then led to suggestions on effective ways of *Communication*. Currently, practical information, as well as information on job opportunities and migration procedures, is available through pamphlets and brochures placed at airports and the embassies of the COOs. Some electronic databases already exist, while in other countries they are still in the development stage. Within the UAE, call centers operate 24/7 and provide advice and counseling to foreign workers as well as access to the Ministry of Labour for all Ministry services such as legal advice and providing copies of the work contract.

It was also suggested that where it is not already done, Ministries of Labour in COOs could begin to post notifications of job opportunities.

As a preamble to discussing the actual contracts, participants suggested that there is a clear need for agreement on *Standardized Conditions / Minimum Conditions* for both the general

conditions of work and wages. While it was acknowledged that a COO has no jurisdiction to enforce a minimum wage within the COD, some representatives indicated that they will not authorize exit permits for departing workers, who would earn less than the minimum wage of the COO while working in the COD.

This then led to specific discussions on the Contracts. The first points raised dealt with the content of the contracts. It was agreed that there was a need for a single contract to be signed in both the country of origin and the country of destination. This contract should be clear and specific and include all costs involved. It should also be in a language that can be understood by the worker. It was acknowledged that the most difficult problems occurred because the worker was not adequately informed regarding the content of the contract while still in his/her home country. It was also noted that in some cases, it was necessary to clearly explain the contract in order to ensure that the worker fully understood the contents and implications of the contract.

Discussion then focused on the contracting process itself. Ideally, the job offer would be attested by the Ministry of Labor in the COO; the work contract would then be signed and the signed contract would then be shared with the Ministry of Labor in the COD. It was also noted that the specific liability of recruiting agencies in both the COO and the COD must be clearly articulated in the contract.

Discussions then turned to the issue of Accountability. While it was recognized and agreed that this is a complex issue with multiple dimensions, it was also acknowledged that ensuring accountability goes back to the contract and how well written and specific it is. It was again suggested that the contract must clearly define skills requirements, conditions of employment and wages. It was also recommended that where guidelines on regulating private recruitment agencies exist, only licensed recruiters should be allowed to operate.

Finally, the group offered some more general recommendations for future consideration and longer term solutions. These included:

- The continuation of the GCC Executive Bureau as a coordination mechanism for trans-national issues
- Capacity building on the ILO Multilateral Framework (2006);
- Look to ILO Convention 181 on Private Employment Agencies to provide guidelines on regulation of private recruiting agencies.
- Seek ILO technical assistance and input into developing a skills recognition framework or some mechanism that will help to avoid a mismatch of skills between COO and COD
- There is also a need to consider the role taken by civil society. Non-governmental organizations as well as other civil society mechanisms work to protect the rights of workers who are recruited for employment overseas as well as to maintain channels of communication, and should be involved in discussions about adopting good practices in the area of overseas recruitment.

6. Session III: Government-mandated (COO and COD) pre-departure requirements and the role of licensed recruiters in enabling workers to meet them

(Rapporteur: Office of the High Commissioner for Human Rights)

Main points

Session Structure:

The moderator framed the session and the discussion by raising a number of questions for discussion:

- 1- What are the pre-departure requirements in countries of origin?
- 2- What are the pre-departure requirements in countries of destinations?
- 3- What is the role of the licensed recruiters?
- 4- Is contract validation a pre-departure requirement?
- 5- Is pre-departure training a requirement?

Briefing on current practices:

Governments of COOs and CODs briefed the session on the pre-departure requirements they are applying currently, and that includes in general.

In the COO:

- A Demand letter
- Contract papers; foreign service agreement
- Medical certificates
- Insurance
- Welfare fund receipt
- Exit permit
- Briefing on the customs and regulations in COD

In the COD:

- A Demand Letter
- An Agreement: Employer and workers (Salary, food, accommodation ...)
- Sometimes manpower has to travel and meet the recruitment office (Oman)
- Copy of Passport
- Medical tests (GCC approved centers)
- A Certificate of Income
- A project contract (for companies)
- Committees' approval and possible inspection (UAE for example)

Main Points highlighted:

- Inconsistent agreements: one at home and another in the receiving country.
- Lack of awareness among workers
- Some considered that there are excessive regulations in the sending countries
- There is something wrong in the regulating policy regarding the mandate given to recruiting agencies
- Different minimum wages in the COO and COD

- Technical Centers in the COO are not yet approved by the COD, although there are approved medical Centers.
- Weak enforcement of existing regulations.
- Weak incentives for good behavior by recruiting agencies.
- Some violations of the rights of workers are still occurring.
- All recruitment agencies must declare the charges, and the COO must set the maximum fees, while trying to reduce that to the minimum.
- Creating and/or developing approved technical centers in COO for skill certificates.
- Raising awareness (human rights and labour rights) in the COO for the workers to know their rights and to avoid signing different contracts, putting themselves at a disadvantage.
- The employer can be encouraged to visit countries and origin and have direct contact with workers and the recruitment process.

Conclusion

The Dubai workshop represented a first attempt by Asian COO's and COD's to jointly address the complex issues associated with the recruitment of workers for overseas employment and was marked by active participation by international organizations. A consensus developed that the workshop would be the first in a series of consultations that will lead to a regional framework of collaboration on the promotion and enforcement of fair and transparent recruitment practices. The UAE ministry of Labour will produce a draft framework that is guided by the discussions at the workshop, and will circulate it for consideration by the Asian countries of origin and destination that are participants in the Abu Dhabi Dialogue process.

*UAE Ministry of Labour
21 February 2011*