

SUMMARY REPORT FOR THE GFMD

Workshop on Recruitment of Workers for Overseas Employment

Dubai, January 18-19, 2011

Organized and hosted by: Ministry of Labor, 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 Labor
Expert adviser/rapporteur: Professor Philip Martin, UC Davis
Participants: Governments of Bangladesh, India, Philippines, Pakistan, Sri Lanka, Nepal, Switzerland, UAE, Qatar, Saudi Arabia, Oman, Kuwait, Bahrain, 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 GFMD context

The Dubai workshop was an outcome of GFMD 2010 in Puerto Vallarta, and identified by the GFMD Working Group on Protecting and Empowering Migrants for Development as a priority for follow-up implementation. It was taken forward by the UAE Ministry of Labor in the context of the Abu Dhabi pilot program on temporary contract labor between Asia (Bangladesh, India, Philippines) and the UAE, in partnership with international organizations and the Swiss Agency for Development and Cooperation (SDC) representing the current Chair-in-Office of the GFMD.

Previous GFMD meetings had identified high costs of labour mobility, including recruitment costs, as one of the major obstacles to maximizing the developmental benefits of working abroad, particularly in temporary or circular mobility situations. Since 2007, the GFMD has discussed how to improve the preparation and protection of temporary contract workers abroad by better regulating intermediaries such as recruitment agencies, and providing incentives for them to comply with regulations.

The large labour exchange programs between Asian and GCC countries offer important insights into the challenges of, and likely policy responses to, recruiting and employing contract workers in the region. The focus on recruitment is part of a multi-pronged approach discussed in the GFMD, and taken forward by the Working Group, to support and protect temporary/circular contract workers. The Working Group is also considering low-cost loans schemes, income security and social security options for such workers.

This summary report is offered to the GFMD Chair as a contribution to the 2011 debate on “taking action on migration and development”. More details of the Dubai outcomes and recommendations will be available in the full official report by the UAE Ministry of Labor.

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 temporary migrants from South Asia, Southeast Asia, and other countries are recruited to fill 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.

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, benefiting workers, employers and both countries.

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, migrants, and governments in migrant-sending and -receiving countries. Practical recommendations to improve the recruitment system that moves contract workers into GCC countries include improved regulation in sending and receiving countries, education, and experimentation and evaluation.

In the workshop, governments 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.

i) 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.

Subagents are a major obstacle to providing accurate information to potential migrants. 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 no effective way of holding 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 making the recruiters for whom they work jointly liable for violations of recruitment regulations.

ii) **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; *government agencies in sending countries can 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 to ensure that the workers receive expected wages and working conditions. An electronic contract validation system is being developed by India and UAE, which could be evaluated, 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 migrant-sending countries*, 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 move Egyptian workers to Italy.

iii) **Regulations and incentives**

Incentives help to enforce 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 migrant-sending governments prohibit or limit recruitment charges. However, employers and recruiters who know that the 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 (e.g. 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:

1. *Reward employers and recruiters who comply with regulations*, such as charging them lower fees or giving them priority access to government-related migrant services;
2. *Step up enforcement* against violators by individual governments;
3. *Increase bilateral and regional collaboration to identify and close loopholes in ways that deter violations*.

Until incentives are in place to ensure that recruiters follow regulations, *low-cost pre-departure loans* can be an incentive for the workers not to go 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 by governments in origin and destination countries to address problematic recruitment systems. For example, the UAE and India are developing a system for *electronic transfer of contracts before departure* and the UAE has deployed a monitored *electronic system for the direct-deposit of wages* into the workers' bank accounts, which should create a paper trail to make it easier to resolve charges of unpaid wages. In many countries of origin, electronic databases make it easier to track the 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.

iv) Regional framework of cooperation

Based on the outcomes of the Dubai workshop, the UAE intends to *develop a draft regional framework of cooperation on recruitment practices*. This would be a first draft of a non-binding regional instrument across the greater Asian region; and would be *presented to the Colombo Process* for consideration of its member states by the GCC countries of destination in the context of the Abu Dhabi Dialogue.

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.

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, including most residents in sending and receiving countries.

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 MOL. 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 more detailed official report on the workshop and its practical and concrete proposals for dealing with recruitment issues will be provided by the Ministry of Labor, United Arab Emirates, and made available on the GFMD 2011 website.

(02 February 2011)