



International Labor Migration: A Responsible Role for Business

October 2008





BSR®

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About BSR: A leader in corporate responsibility since 1992, BSR works with its global network of more than 250 member companies to develop sustainable business strategies and solutions through consulting, research, and cross-sector collaboration. With offices in Asia, Europe and North America, BSR leverages its expertise in environment, human rights, economic development, and transparency and accountability to guide global companies toward creating a just and sustainable world. Visit www.bsr.org for more information.

About Migration Linkages: Migration Linkages is an initiative to help protect the rights of migrant workers who are moving between developing countries. We do this by connecting multinational companies and suppliers with civil society, international organizations, labor unions, and governments to build transparency around the global migration system and advance responsible business practices. For more information, contact migrationlinkages@bsr.org.

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Several of the photographs used in this report were taken by Mohamed Somji, a freelance photojournalist based in Dubai who has been working on an independent body of work on the migrant workers in the UAE. For more info, visit <http://www.mohamedsomji.com>

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Glossary of Terms and Abbreviations

Bilateral Agreement:	A government-to-government agreement that stipulates conditions of trade, including the exchange of migrant workers.
Broker:	A third-party middleman who connects stakeholders – e.g. recruitment agencies to employers, or employers to workers.
Buyer:	An international company or its representative who purchases or retails a product from a manufacturer based in a sourcing country. In most cases, this refers to the brand that has direct engagement with the end consumer or a relevant licensing arrangement.
Civil Society:	Includes registered charities, development NGOs, community groups, women’s organizations, faith-based organizations, professional associations, trade unions, self-help groups, social movements, business associations, coalitions and advocacy groups.
Contract Worker:	A temporary foreign worker whose residence permit or visa is tied to an employment contract.
Destination Country:	The host country that “receives” migrant workers, and the location of their employment.
Employment Agency:	An agency that recruits workers to send abroad. Can be domestic agencies based in origin countries, but more complex circumstances also exist; for example, Chinese agencies recruiting workers in Bangladesh to work in Jordan. <i>(Also called Recruitment Agency)</i>
NGO:	Non-governmental organization.
Origin Country:	The home country that “sends” migrant workers abroad.
Outsourcing Company:	A third-party broker to whom employers “outsource” labor management. Outsourcing companies are responsible for migrant workers’ immigration, paperwork, employment, contracts, wages, treatment and accommodation.
Recruitment Agency:	<i>(See Employment Agency)</i>
Supplier:	An organization that provides a product to a company or buyer. Note there are many and complex tiers of suppliers between primary products and end buyers.

Preface

In today's globalized economy, the issue of international labor migration in supply chains is one of the most critical – yet largely unexplored – issues for our member companies and all businesses operating globally.

Labor migrants now represent roughly 190 million people, or about 3 percent of the world population. They are an increasingly vital part of the global workforce. Despite immense attention to general working conditions in global value chains, little specific attention has been given to this large and vulnerable segment of the workforce. BSR sees an important opportunity to increase visibility into where migrant workers come from, how they are recruited, the terms of their employment, the rights they are afforded in the countries where they work, and ultimately, steps companies can take to protect the migrant workers present in their supply chains.

This report launches a two-year BSR initiative, funded by the John D. and Catherine T. MacArthur Foundation, to ensure that migrant workers in global supply chains – particularly those migrating from one emerging economy to another – are treated with dignity and respect.

Specifically, this initiative seeks to:

1. Increase private sector awareness of the dimensions and impacts of South-South labor migration
2. Provide actionable advice for companies on how to integrate greater protections for migrant workers in their supply chains
3. Encourage business to support the development of collaborative solutions to protect international labor migrants through engagement with key stakeholders and participation in international labor migration dialogues, such as the Global Forum on Migration and Development this fall in Manila

Migration can provide essential opportunities for workers and companies to benefit. I hope that you find this report helpful, and more importantly, that it provides the basis for additional attention to this important issue.



Aron Cramer
President and CEO
BSR

I. Executive Summary

BSR has prepared this report to address an essential dimension of globalization that has received too little attention: the migration of workers between emerging economies. BSR seeks to increase business awareness about labor migration in international supply chains, and to recommend practical steps that businesses can take to improve working conditions for migrant workers and strengthen the suppliers that employ them.

Ninety million people migrate for work globally every year¹ and an increasing percentage of those workers are moving between emerging economies, rather than to industrialized nations. Otherwise known as South-South labor migrants, these workers are filling jobs in manufacturing, agriculture, construction and service industries in countries like Malaysia, the United Arab Emirates, Jordan and Egypt. Migrant workers provide a cost-effective and hardworking labor force in labor-intensive industries, but they are also vulnerable, isolated and often heavily indebted. Reports of abuse, forced labor and human trafficking are increasingly common.

Overall, current regulation in emerging economies largely fails to adequately protect foreign contract workers. As a result, migrant workers have become akin to other sourced commodities, with a premium on price over rights and protections. Systemic change is required to create the conditions under which labor migrants can safely move from one emerging country to another, contributing to the economic growth of both their origin and destination countries as well as their own personal livelihoods.

International companies¹ are largely unaware of violations against migrant workers and the shortfalls in regulatory protections. As the drivers of the global demand for labor, businesses are in a unique position to affect sustained change through improved standards in their supply chains and enhanced engagement with policymakers and other key stakeholders.

Lack of awareness and engagement contributes to supply-chain risks and migrant worker vulnerabilities

BSR proposes a three-step process for companies to engage on labor migration:

Educate Yourself

Gain a more complete understanding of the use of migrant labor within your supply chains, including migrant workers' countries of origin, recruitment process and terms of employment. Conduct a risk assessment of your supply chains examining the use of migrant labor within them:

- » Research the number of migrant workers in your supply chains and their origins and destinations through conversations with suppliers and field research.
- » Determine the level of protections in place for migrant workers in policies and implementation:
 - By government and regional bodies
 - Under existing codes of conduct

¹ Throughout this report, "companies," "businesses" and "brands" will be used interchangeably to indicate multinational companies (MNCs).

Engage with Your Suppliers

Develop policies that help ensure the protection of migrant workers in your supply chains and engage directly with your contractors on training and verification.

- » Adjust your code of conduct to include specific protections for migrant workers.
- » Train suppliers on management issues related to migrant workers and support their efforts to ensure fair treatment.
- » Include migrant worker issues in your auditing activities.
- » Tie purchasing decisions to ethical treatment of migrant workers.

Expand Your Influence

Actively engage with relevant stakeholders to influence the key systemic issues leading to the continued vulnerability of migrant workers.

- » Work with Government to improve laws and dispute resolution processes and to enhance protection of migrant workers. Support the development and proper enforcement of bilateral agreements focused on migrant worker protection.
- » Engage with Civil Society and Organized Labor to reduce risks in the recruitment process, and to utilize and bolster existing networks and programs for enhanced migrant worker preparation and protection once they arrive in the destination country.
- » Participate in International Dialogues and Taskforces to develop international consensus and efforts on how best to address South-South labor migration.

BSR has identified a series of business-relevant trends common in current South-South labor migration, which will be discussed and paired with recommendations for companies in line with the framework described above:

- TREND 1** Indirect recruitment and employment increase risks of abuse and raise costs
- TREND 2** Migrant workers are unprotected under many national laws
- TREND 3** Few workers receive adequate predeparture or skills trainings
- TREND 4** Processes for dispute resolution are often ineffective

Key stakeholders are engaged in proactive activities that companies can take advantage of and contribute to:

Stakeholders include governments, international organizations, local civil society and organized labor. Their activities include:

- » Dialogues and taskforces
- » Bilateral and regional engagement
- » Communication channels for migrant workers to report maltreatment and dispute resolution assistance
- » International network building
- » Community outreach and support

This report includes an in-depth case study on the Philippines as an example of robust origin country policies:

The Philippines government, employment agencies and civil society can offer companies valuable resources to help improve management and protection of migrant workers in their supply chains. These resources include:

- » Experienced and forward-looking government stakeholders
- » A publicly accessible list of ethical, transparent and well-regulated employment agencies
- » Logistical support through formalized worker protection mechanisms including compulsory predeparture skills training and orientation and membership to a worker welfare association
- » Potential partners in dispute resolution in overseas labor offices
- » Knowledgeable civil society committed to working with fellow stakeholders to improve worker rights protections

Labor migrants play an active role in the economies of almost every country in the world; in emerging economies, they are becoming a significant portion of supply chain workforces. Proactive supply chain management with better attention paid to issues unique to labor migrants, and enhanced engagement with key stakeholders, will enhance migrant workers' rights while creating business benefits.

II. A Plan of Action for Companies

Report Focus

Industry:

- » Manufacturing²

Origin Countries:

- » Bangladesh
- » India
- » Philippines
- » Sri Lanka
- » Vietnam

Destination Countries:

- » Egypt
- » Gulf States
- » Jordan
- » Malaysia

International stakeholders are increasingly holding businesses accountable for the treatment of migrant workers in their supply chains, much in the same way as other labor rights issues in contract facilities. Media and civil society attention to migrant worker treatment in numerous countries has uncovered egregious labor violations, bringing the topic onto many companies' agendas for the first time.

Migrant workers are valued for numerous attributes including: filling local labor shortages; lower wages; limited taxes and social security payments; reduced likelihood of absenteeism and low turnover; and willingness to work overtime. However, migrant workers also possess enhanced vulnerabilities, as illustrated by the common violations described adjacent. These violations create unique needs of migrant workers relative to national workers, needs which too often go unaddressed in global supply chains.

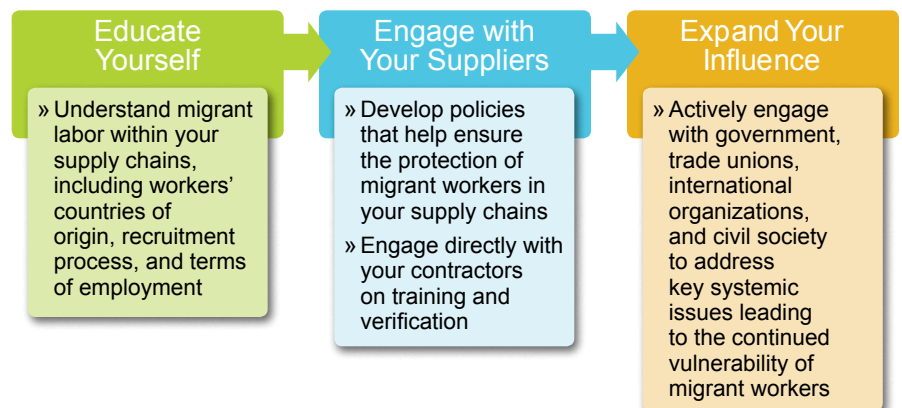
To date, the reaction from business to such violations has been based almost entirely on risk avoidance in particular geographies. Such reactive policies can be ineffective and have limited impact on issues that are global in scope. Moreover, policies introduced under such circumstances can prove unsustainable (**See Box 2, p. 7**). In the future, BSR encourages companies to examine the South-South labor migration system as a whole, and to begin to address the systemic issues throughout their own supply chains and beyond in order to achieve meaningful and sustainable impact on migrant workers' rights protections.

COMMON VIOLATIONS INCLUDE:

- » Passport withholding
- » Incidents of bonded labor
- » Contract substitution
- » Non-payment of wages and/or illegal deductions/withholdings
- » Lack of protection under national law
- » Lack of access to functioning dispute resolution channels
- » Lack of access to organized labor and/or civil society support networks

Framework for Company Action

As the global drivers of labor migration, companies can play a significant role in encouraging improved protection policies for migrant workers. This report provides a framework for action based on the following three phases:



² Though labor migrants work in many industries in emerging economies, including agriculture, construction, manufacturing, services and tourism, this report focuses primarily on manufacturing as a starting point for engagement with BSR member companies.



Amman, Jordan

“ A widespread tendency is to regard migrants as a complementary labor force, and to assign them to the jobs with the least attraction for nationals. ”

UN Fact Sheet on the Convention 90

BOX 1

EXAMPLE: MIGRANT WORKER ABUSES IN JORDAN

The National Labor Committee (NLC) first released reports of migrant labor abuses in apparel factories in Jordan in a report released in May 2006. This report, and ongoing updates, put an international spotlight on the issue of migrant workers in Jordan. The government of Jordan has stepped up efforts to protect migrant workers and is supporting with other local stakeholders a new program called Better Work, launched by the International Labour Organization (ILO) and the International Finance Corporation (IFC).

However, the NLC continues to cite instances of abuse. In September 2008, the NLC reported strikes at the Mediterranean factory in Jordan, which employs approximately 1,400 migrant workers from Bangladesh, Nepal, Sri Lanka and India.

According to the NLC, Mediterranean factory workers reported the following abuses:

- » Passport withholding
- » Physical abuse by management
- » Unpaid overtime of up to 99 hours per week
- » Contract substitution
- » Unfair withholdings for monthly food allotment
- » Threats of imprisonment or forcible deportation for speaking out
- » No days off
- » Wages below Jordanian minimum wage for guest workers

The strike was precipitated by a demand from management that the withholdings for food costs be increased. All 1,400 workers joined the work stoppage at the factory on August 31, 2008.

Workers returned to work on September 10 based on a guarantee from the factory to respond to their demands, including:

1. A 10 Jordanian dinar (US \$14.12) deduction per month for food
2. All regular and overtime wages, including holidays, paid according to Jordanian labor law
3. Termination of the most abusive supervisors
4. No arbitrary transfers from work stations or demotions without cause
5. Free medical care
6. When three-year contracts are complete, management must pay all back wages, benefits and social security deductions legally due and provide free airfare to return them to their countries.

Source: "Human Trafficking and Abusive Conditions at the Mediterranean Garments Factory in the Ad Dulayl Industrial Zone in Jordan," National Labor Committee, 9/06/08; Update, 9/10/08

Gather Information

1. Open conversation and training with your suppliers, local government, trade unions and local NGOs

2. Include migrant labor issues in audit protocol

» Worker interviews

» Record and contract reviews

» Management interviews

3. Data resources

» Development Research Centre Global Migrant Origin Database, 2007

» UN International Convention on Migrant Workers' Rights Committee

» ILO MIGRANT Program

» International Organization for Migration global and country level offices

» World Bank Development Prospects Group: Migration and Remittances

Respond to Passport Withholding in Your Supply Chains:

» Supply alternative ID cards issued by factory or government

» Provide workers with copies of their passports

» Allow immediate access to passport when needed

The First Step: Educate Yourself

The first step is to identify the presence of migrant workers in your supply chains, then to investigate the degree to which these workers' human rights are being protected. Even in cases where basic rights protections are in place, migrant workers often face additional struggles of isolation or lacking information on how to protect themselves. These vulnerabilities present additional supply chain risks in the form of worker relations, compliance and productivity issues. The questions below will help companies gather this information:

KEY INITIAL QUESTIONS:

» Which of my sourcing countries use the most migrant labor?

» What are the origin countries of most of those migrant workers?

» What is the process for recruiting workers?

» What fees are paid along the way and by whom?

» Where do those workers sign contracts, and what is the substance of those contracts?

» How do they compare to the contracts signed by national workers?

» Have I had an explicit conversation with suppliers on this issue?

» Are the migrant workers directly employed by my contract facility or by a third-party broker?

» What types of requirements/restrictions are placed on migrant workers? (e.g. passport withholding, freedom of movement, deductions and withholdings for dorms or food)

» Are my suppliers in compliance with all relevant domestic and international laws?

» Are our company codes of conduct protecting migrant workers or do they require revision? (e.g.: unfair deductions to cover levies, food and lodging.)

BOX2

EXAMPLE: NIKE AND HYTEX FACTORY IN MALAYSIA

In August 2008, Australian TV Channel 7 exposed conditions of poor housing, withheld passports and monthly wage deductions among 1,150 workers from Burma, Bangladesh and Vietnam, in a Hytex Group factory north of Kuala Lumpur, Malaysia.

Nike is one of several brands that sources T-shirts from the factory.

In response to the publicized violations, Nike announced it would begin working with all its Malaysian contractor partners to implement the following policy changes:

1. Reimbursement by Hytex to migrant workers for all employment fees, including recruiting and worker permit fees;
2. Going forward, any and all fees associated with employment will be paid by the factory;
3. Workers wishing to return home would be provided with return airfare by the supplier;
4. All workers transitioned into Nike-inspected and approved housing;
5. Workers to have immediate and free access to their passports; and,
6. Workers to have access to a 24-hour Nike hotline should they be denied access to their passports by factory management.

In addition, Nike has begun to engage with a local NGO, Tenaganita, which has a long history of protecting migrant workers' rights in Malaysia. Nike and Tenaganita will work together to implement management training programs in Nike supplier factories, targeting improved treatment of migrant workers.

In the wake of the Nike action, there has been much discussion around the feasibility of this approach on a global scale. However, the action was decisive and sends a clear signal of the importance of the issue to the company.



Step Two: Engage with Your Suppliers

Work with your suppliers to develop solutions that are feasible and sustainable.

Once companies have a thorough understanding of the use of migrant labor in their supply chains, the most immediate step is to begin to make changes in their direct sphere of influence. For engagement with suppliers, BSR recommends a Beyond Monitoring approach – a partnership with companies and suppliers jointly addressing concerns and working through issues.

KEY STEPS INCLUDE:

- » Include specific language in codes of conduct that address migrant workers. While equal protection is implicit in many codes, explicit inclusion of migrant labor will strengthen efforts both internally and with suppliers.
- » Develop policies and handbooks that clearly indicate company requirements around employment and treatment of migrant workers.
- » Communicate your policies and expectations directly to suppliers. Discuss the business implications in order to identify solutions that are feasible and sustainable.
- » Develop training for suppliers and/or the migrant workers they employ.
- » Include migrant worker issues in your auditing protocol.

Step Three: Expand Your Influence

As the drivers of global labor demand, companies are in a unique position to have far-reaching impact on how international labor migration between emerging economies is viewed, legislated and managed.

After addressing immediate risks in their supply chains, companies can begin to engage at national, regional and international levels with key stakeholders to work toward systemic change. Through collaboration, businesses can start to impact the fundamental issues that drive the continued exploitation of migrant workers. Opportunities for engagement with stakeholders are explored in greater detail in Section IV on page 25.

Broader engagement will move companies away from a risk-based approach to one that centers on protection of workers' rights at all stages in the migration process. This will also bolster companies' long-term interest of having well-prepared, well-protected workers making their products.

Efforts to expand influence beyond individual supply chains will achieve more significant and sustainable impact if coordinated with industry partners and other peer companies. A strong and unified company voice can drive significant change and allow business to be more active in the global dialogue on migration.

**EXPANDING INFLUENCE:
KEY QUESTIONS FOR COMPANIES TO ASK:**

Global Dialogues:

- » What existing dialogues and taskforces can I join to learn more about this issue and become a more responsible stakeholder?

Government:

- » How can I work with destination country governments to encourage better legal protection and dispute resolution processes for migrant workers?
- » How can I work with origin country governments to improve predeparture trainings, increase ethical and direct recruitment practices, and support destination country negotiations?
- » Are there bilateral agreements between the governments of my key sourcing countries and the countries from which they recruit their workers?

Civil Society and Organized Labor:

- » How can I utilize existing civil society and organized labor networks and programs to increase support for migrant workers?

Peers:

- » How can I leverage a unified message with peer companies for greater impact?

Benefits of Engagement

BSR's experience working with companies on responsible supply chain issues has demonstrated the strong business benefits of improved worker-management relations and enhanced worker treatment and protection. Since migrant workers are tied to fixed-term contracts, traditional concerns such as turnover and absenteeism are less of an issue for suppliers who use large numbers of migrant labor.ⁱⁱ These aside, improved management of labor migration in supply chains and beyond can lead to:

- » **More stable workforce**
- » **Better trained workforce**
- » **Reduced missed days due to illness**
- » **Less risk of crises or labor disputes**
- » **Greater productivity and quality resulting from higher worker satisfaction**
- » **Expanded license to operate through improved relationships with key local stakeholders**
- » **Reduced reputational risks**

These business benefits unique to responsible management of migrant labor workforces can be used proactively to develop incentives for improving working conditions for this population.

BOX 3

**DR. PHILIP MARTIN, MIGRATION EXPERT,
UNIVERSITY OF CALIFORNIA AT DAVIS:**

SUGGESTIONS FOR PROTECTING MIGRANTS AND EMPLOYERS

Written Contracts with Joint Liability – both recruiter(s) and employer should be liable under the initial contract signed with the worker.

- » An indirect employment model, like that in Malaysia, makes joint liability contracts difficult to achieve due to the lack of accountability; the use of temp firms to supply workers to factories also complicates monitoring and enforcement of labor laws.

Second ID card – Origin countries can work with destination countries to create a second, low-cost, official ID card for use domestically in the host country, to enable freedom of movement without fear of deportation.

- » The U.S. has successfully deployed a second ID card program with Mexican migrant workers

Economic Support/Remittances – Factories can set up direct deposit whereby a portion of the migrant workers' salary is directly deposited into a bank account for withdrawal by the workers' family back home. Banks should be willing to cover the costs of such accounts in order to win new customers.

Alignment of Rules and Incentives – Use economic incentives to encourage migrant workers to abide by contract length.

- » For example, split levy taxes on migrant worker salaries: use half to help companies/NGOs create support programs for migrants, and reimburse other half to workers when they agree to go home at the end of their contract.

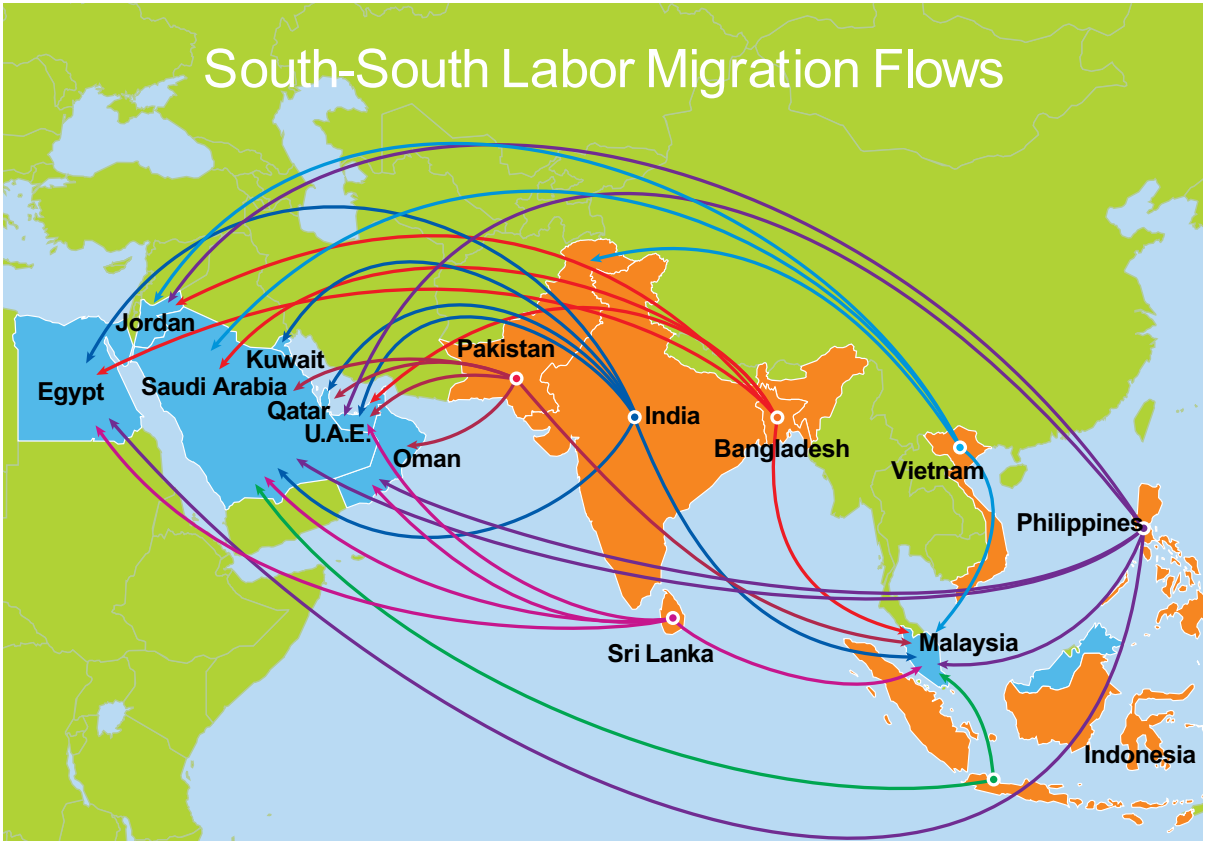
Tying Development to Migration – Micro-lending programs for returning migrants help fuel origin country development.

Regulating Recruitment – Competition from government-run agencies could improve recruitment processes by increasing regulation, and incentivizing private agencies to be more transparent and ethical.

Better Origin/Sending Country Ownership – Some origin country governments make the process of international migration for employment very challenging and complicated, which supports the recruitment industry. Origin countries can simplify the process for migration:

- » Lower the cost of a passport
- » Make passport applications available in villages and towns
- » Make the passport and visa application process more straightforward

South-South Labor Migration Flows



From Bangladesh	
To:	
Egypt	Unknown
Jordan	62,764
Malaysia	58,878
Oman	111,968
Saudi Arabia	379,207
United Arab Emirates	24,041

From India	
To:	
Egypt	Unknown
Jordan	362,591
Malaysia	139,716
Oman	79,825
Qatar	409,388
Saudi Arabia	1,045,985
United Arab Emirates	2,171,421

From Pakistan	
To:	
Egypt	Unknown
Jordan	85,418
Malaysia	15,071
Oman	79,825
Qatar	Unknown
Saudi Arabia	661,383
United Arab Emirates	32,718

From Philippines	
To:	
Egypt	Unknown
Jordan	48,433
Malaysia	22,080
Oman	13,271
Qatar	Unknown
Saudi Arabia	383,031
United Arab Emirates	18,551

From Sri Lanka	
To:	
Egypt	Unknown
Jordan	16,821
Malaysia	85,835
Oman	31,317
Qatar	Unknown
Saudi Arabia	114,981
United Arab Emirates	6,443

From Vietnam	
To:	
Jordan	5,006
Malaysia	85,835
Pakistan	23,045
Saudi Arabia	Unknown

Map data: Global Migrant Origin Database, 2007, Development Research Centre on Migration, Globalisation and Poverty (Migration DRC).

III. Relevant Trends

The current system of labor migration within the global South is fraught with challenges, but also presents opportunities for both focused and systemic change³. Diagrams 1 and 2 on pages 12 and 13 illustrate contrasting systems of global migration and the stakeholders and policies that drive it: the current system and a reformed system offering better protection for migrant workers.

The lack of effective regulation within the current system of labor migration enables treatment of migrant workers as commodities. This commodity approach has permeated beyond the private sector, and both origin and destination country governments currently prioritize regulation around increasing or decreasing headcount of workers, rather than rights protection.

Origin country migration policies are generally aimed at increasing the numbers of migrants going abroad for benefits in the forms of remittances and reduced pressure on domestic unemployment. With migration policy objectives set in this direction, relevant ministries come under pressure to increase numbers of labor migrants, and incentives are passed down to recruitment agencies. The current Vietnamese system, for example, has since 2006 focused on increasing the headcount of workers going abroad, while protection policies are just beginning to be developed. Beyond initial licensing requirements for recruiting agencies, no policies or incentives currently exist to improve the quality of the migration process.

In destination countries, migration policies focus on the increase or reduction of legal migration to meet current business needs. The focus is almost entirely on managing temporary migration, which explicitly requires that migrants will return to their country of employment after their contract terms. Monitoring worker treatment and maintaining accessible channels for reporting and prosecuting maltreatment are not commonly prioritized. Those channels that are in place generally favor the employers' perspective and often disregard the nuances of migrant worker circumstances. For example, to file a dispute in Dubai requires a passport and a formal report written in English or Arabic, conditions most migrant workers cannot fill.

This section presents business relevant trends within the current system of South-South labor migration as a means of illustrating key risks and opportunities for action:

1. Indirect recruitment and employment increase risks of abuse and raise costs
2. Migrant workers are unprotected under many national laws
3. Few workers receive adequate predeparture or skills training
4. Processes for dispute resolution are often ineffective

³ This report is based on the data that is available – lack of reliable data with regards to South-South labor migration is a major problem, and is in itself a key finding of our research. Both origin and destination countries are failing to collect and maintain meaningful and reliable data about migrant worker populations, and this contributes further to the vulnerability of these populations.

DIAGRAM 1

Broken System: Migrant Workers Lack Protection

Brand → Limited awareness and engagement

Supplier → Not managing issue adequately, or outsourcing management of workers to brokers

Destination Country → Migration Policy: Emphasis on security and business interests, not protection

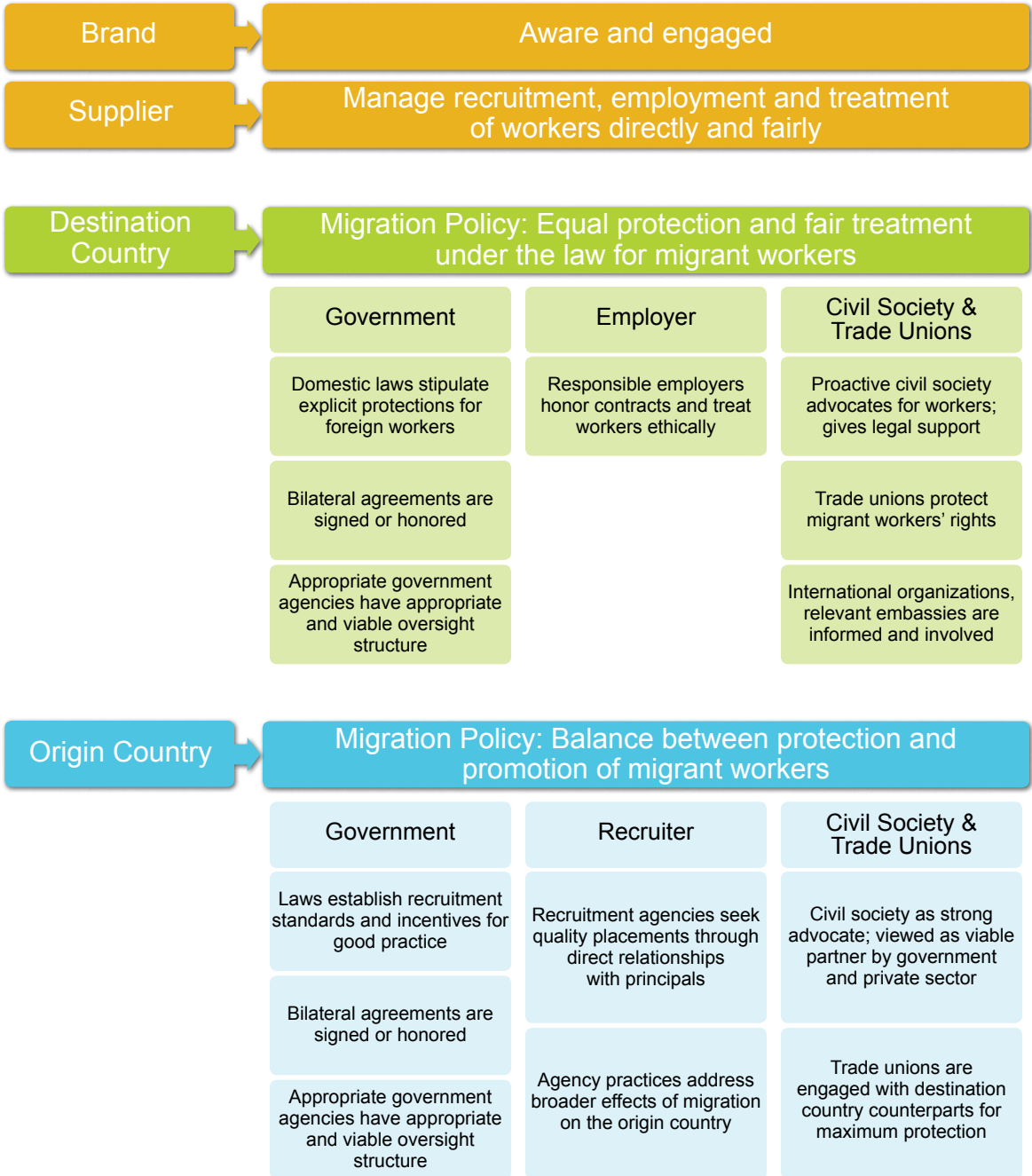
Government	Employer	Broker	Civil Society & Trade Unions
Domestic laws contain no explicit protections for foreign workers	Maltreatment is common, including contract substitution and irregular payment of wages	Manages sourcing of workers with recruiting agencies	Civil society is absent or marginalized
Bilateral agreements are not signed or honored	Often outsource management of workers to brokers with no system of accountability	Manages worker contracts, wages, accommodation	Trade unions do not adequately protect migrant workers
Government oversight is weak or wrought with corruption		Maltreatment common due to lack of accountability	International organizations, relevant embassies are not informed or involved

Origin Country → Migration Policy: Promotion of labor migrants supersedes their protection

Government	Recruiter	Civil Society & Trade Unions
Laws fail to establish fair and enforceable standards	Recruitment agencies lack incentive and resources for ethical practice and direct relationships with principals; emphasize volume over quality	Civil society is absent or marginalized
Bilateral agreements are not signed or honored	Agency practices fail to address broader effects of migration on the origin country	Trade unions do not coordinate with destination country counterparts
Government agencies lack system for worker protection		

DIAGRAM 2

Robust System: Migrant Workers Receive Equal Protection



The Business Case for Direct Recruitment and Employment:

Direct Recruitment

- » Reduced potential for contract substitution, excessive fees and other common abuses
- » Higher-quality and better trained workers
- » Reduced costs for workers and employers
- » Greater transparency and leverage for international companies

Direct Employment

- » Greater accountability for worker welfare
- » Greater transparency for international companies
- » Improved worker-management relations
- » Reduced potential for disputes and strikes by ensuring workers are paid, given proper accommodation and food, and treated well.

TREND 1

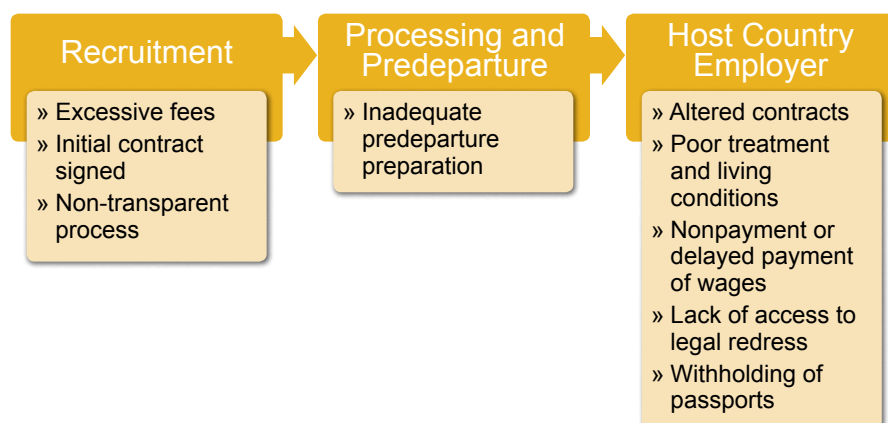
Indirect recruitment and employment increase risks of abuse and raise costs

A major trend in the current system of South-South labor migration is the process of indirect recruitment and employment through the use of third-party brokers in both the origin and destination countries. This practice carries with it inherent risks, as it effectively breaks the system of accountability. A shift to direct recruitment and employment of migrant workers will significantly reduce risks to workers, suppliers and international companies.

Indirect recruitment refers to the practice of origin country employment agencies working with third-party brokers in destination countries to find job placements.

Indirect employment is the practice of third-party brokers in destination countries acting as workers' formal employers. The brokers handle the visa and migration process and also directly pay and provide benefits and accommodation to the workers once they arrive. In this scenario, workers are never directly employed by the contract facility making products for brands.

DIAGRAM 3: POTENTIAL VIOLATIONS IN INDIRECT RECRUITMENT AND EMPLOYMENT



Origin Country: Indirect Recruitment

In origin countries, the pitfalls of indirect recruitment begin at the village level. Recruitment agencies commonly rely on subagents who go to rural villages to seek prospective workers for overseas jobs. In Sri Lanka, for example, such subagents are unlicensed and often provide workers with false contracts and charge high commissions. Licensed central agencies in Sri Lanka are not accountable for the practices of these subagents.

Once workers are identified, there are few incentives for recruitment agencies in origin countries to find them quality job placements. Recruitment agencies work with brokers in destination countries and are paid based on the volume of employees they place. Employment agencies rarely investigate the practices of these brokers since no incentives for them to do so.

For example, most Bangladeshi recruitment agencies work with middlemen in destination countries, many of them Bangladeshi, Indian or Pakistani. These middlemen are hired by factories looking for employees from overseas. The high commission fees for the brokers are currently passed on to the prospective migrant workers, as part of a blanket "placement fee."

BOX4

PHILIPPINES BEST PRACTICE: GOVERNMENT POLICIES AND MARKET FORCES CAN IMPROVE WORKER RIGHTS' PROTECTION

Government policies establish incentives for ethical recruitment through effective monitoring and record keeping of employment agency practices. Best practice is rewarded, and malpractice is punished. The Philippines Overseas Employment Administration created a series of incentives, including access to overseas marketing missions and licensing exemptions which are rewarded to "top performing agencies." These agencies are often the most profitable and sustainable over the long term. Incentives based policies also increase the transparency of the recruitment process, and provide a resource for companies and suppliers seeking to identify potential partners for direct recruitment.

The Philippines government has also streamlined the administrative processes for migration by establishing a one-stop shop for required paperwork, examinations and trainings. A standardized process relieves employment agencies and workers of administrative burdens and improves transparency – standard costs of migration are widely publicized, and standard contract provisions enforced.

In conjunction with these government policies, market forces have contributed additional incentives. Top performing employment agencies build their business on sending quality workers abroad and developing solid reputations with destination country employers for direct worker-job placement. With the emphasis on quality placements and client satisfaction, top agencies don't subcontract to middlemen for assistance in the local recruiting process. Rather, field recruiters are employed directly by the agencies and internal audits are performed to ensure compliance with laws and prevent exploitation. These practices enable agencies to keep placement fees below the legal maximum of one month's pay.

A group of top Philippines agencies have led a campaign to encourage their industry to cease collecting placement fees and has called on the Philippines government to eliminate placement fees entirely. A few agencies have been successful in requiring employers to cover placement fees for workers sent through the agency, thereby shifting traditional costs from the worker to the employer and reducing worker debt. Manpower Asia and six of their peers have pledged to try to adopt this policy with all destination country employers.

When they sign a contract with the recruitment agency, workers are often subject to contract substitution or falsified contracts. Where no direct relationship between the employment agency and the destination country employer exists, there is almost no accountability and destination country employers rarely honor contracts workers sign with their recruiter.

There are some examples of potential positive changes in the recruitment system. The Philippines offers incentives to recruitment agencies to contract directly with overseas employers rather than work indirectly (**see Box 4**).

Fears of being overcharged and cheated in the formal system motivate many migrant workers to go overseas through relatives and friends, by paying for a visa that someone they know has purchased for them in the destination country. A survey of would-be migrants in India found that 78 percent intended to secure jobs through friends and relatives.¹³ This practice is common throughout South Asia and provides very limited formal support for migrant workers. If the formal system was improved, there is a high likelihood that the use of these informal channels would decline.

This association presents an excellent opportunity for businesses to engage with employment agencies for establishing relationships for direct recruitment by suppliers.

BOX 5 ASSOCIATION OF EMPLOYMENT AGENCIES IN ASIA

In April 2008, a group of Asian employment agencies and employment agency associations gathered to discuss opportunities for cooperation in promoting ethical recruitment practices in the region. The event was held in conjunction with the project Promoting Regional Dialogue and Facilitating Legal Migration from Asia to Europe, funded by the European Commission. Agencies and associations from nine Asian countries participated: Bangladesh, China, Indonesia, Nepal, Pakistan, Philippines, Sri Lanka, Thailand and Vietnam. Surveys and discussions with participants revealed the following key barriers to ethical recruitment:

- » **Overregulation and under-regulation by governments** – overregulation sets standards beyond enforceable levels and under-regulation neglects to set any standards at all
- » **Malpractice of employers and manpower brokers** in destination countries
- » **Restrictive destination government policies**
- » **Lack of comprehensive government training programs**

Incentive programs for good performance and ethical practice by recruiters were noted as crucial contributions of origin country government. Participants displayed a high level of openness to dialogue with governments and other stakeholders, and said such engagement was the most important method to address existing challenges. Following the meeting in April, the participants signed a Commitment to Action, which can be seen in Appendix 3.

Destination Country: Indirect Employment

In destination countries, employers often outsource employment of their workers to third-party brokers. Under this arrangement, a migrant worker's direct employer is a contractor or labor outsourcing company (see Box 6). This system transfers all accountability for migrant worker management, payment and treatment to a third-party broker.



Group of Migrant Workers, Malaysia by Tenaganita

When companies base worker headcount on payroll rosters, they likely leave out workers who are indirectly employed, and it is possible that suppliers could be using indirect employment without a brand's knowledge. Given the pervasiveness of this practice and the high incidence of rights violations it enables, indirect employment of migrant workers represents a significant risk factor in global supply chains.

The system relies on the legal requirement that the contractor will pay the agreed wages to the migrant worker, provide adequate housing and food, offer health insurance and other necessary welfare services, pursue and address claims of maltreatment, and manage all paperwork for the worker. In practice, however, these requirements are rarely met. Labor outsourcing companies and contractors often cut corners by reducing the wages paid to the workers, requiring illegal wage withholdings, providing inadequate food and housing, or not offering insurance or other legally required social benefits.

In Malaysia, both NGOs and the Malaysian Employers' Federation advocate for a government-to-government system of recruitment to replace indirect employment. The outsourcing system carries too many risks and costs to both workers and employers. A government-to-government system would improve regulation and transparency and reduce costs.^{iv}

BOX 6

LABOR OUTSOURCING COMPANIES IN MALAYSIA: REDUCED ACCOUNTABILITY INCREASES RISKS FOR WORKERS AND EMPLOYERS

In 2006, the Malaysian government created a system of outsourcing companies to help Malaysian employers find migrant workers from overseas. Currently, 277 outsourcing companies are legally registered as employers in Malaysia.

The outsourcing system allows Malaysian companies to pay an outsourcing company to source and provide workers for them. The outsourcing company is responsible for negotiating contracts, arranging workers' visas, paying workers, and providing accommodation, food and insurance for them. The system is widely used by Malaysian companies.

However, there are widespread allegations of corruption. In August 2008, the Immigration Director-General Datuk Wahid Don was fired when over US\$2 million was found in his residence and tied to paybacks from outsourcing companies. Malaysian NGO Tenaganita has likened the outsourcing system to human trafficking, citing widespread abuses of migrant workers including nonpayment of wages, withholding of passports, restricted movement, lack of food and unsafe accommodation, and failure to provide employment. In addition to the NGO community, the Malaysian Trade Union Congress and the Malaysian Employers' Federation also attributed the majority of rights violations against migrant workers in Malaysia to the use of labor outsourcing companies.

Currently no system exists to effectively monitor outsourcing companies. Officially, the Ministry of Immigration thoroughly investigates all claims of wrongdoing; however, only 1 percent to 2 percent of related cases are ever prosecuted.

According to civil society stakeholders interviewed, prohibiting the use of brokers in companies' supply chains would create immediate and significant impact on workers' rights and government reform.

What can companies do to help eliminate indirect recruitment and employment?

Educate Yourself:

- » Increase awareness of the recruitment and employment practices of your suppliers.

Engage with Your Suppliers:

- » Discuss the business case with suppliers for direct recruitment and employment.
- » Support suppliers in building direct relationships with employment agencies in origin countries.
- » Incentivize direct employment through codes of conduct.
- » Work with suppliers to set fees and contracts with employment agencies to limit opportunities for unfair fee charging and contract substitution to migrant workers.
- » Utilize existing origin government resources to identify good recruiting agencies and to help link suppliers to them.

Expand Your Influence:

- » Establish industry-wide migrant labor direct recruitment and employment practices; create guidance manuals for suppliers on company expectations.
- » Utilize individual and industry leverage to advocate with governments for support of direct recruitment and employment.

UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

In their destination countries:

- » Migrant workers are entitled to treatment not less favorable than that applied to nationals, and destination countries shall take all appropriate measures to ensure this is upheld.
- » Collective expulsion is prohibited and all migrant workers shall have the right to contest expulsion and have their cases reviewed by competent authorities.
- » Migrant workers have the right to return home.
- » Signatory states should collaborate to prevent illegal or clandestine movement or employment of migrant workers.

Source: UN Fact Sheet #24

TREND 2

Migrant workers are unprotected under many national laws

Migrant workers moving from one emerging economy to another rarely receive adequate protection under destination country laws, either in policy or in practice. In some countries, laws mandate differential treatment of migrant workers. In others, no legal regulations are specific to migrant workers and are rarely enforced in favor of their protection. Finally, export processing zones and free trade zones (FTZs) often have independent legislation regarding worker rights and protections, which usually fall short of protecting migrant workers.

Many destination countries have also **failed to ratify international conventions relevant to migrant workers**, despite continued advocacy efforts by domestic civil society and international organizations such as the International Labour Organization (ILO) and the International Organization for Migration (IOM). The following table shows the number of relevant international conventions signed by the destination countries discussed in this report:

COUNTRIES ^v	UN C. 90	ILO C. 29	ILO C. 97	ILO C. 105	ILO C. 143
Egypt	Yes	Yes	No	Yes	No
Jordan	No	Yes	No	Yes	No
Malaysia	No	Yes	Yes	Denounced	No
UAE	No	Yes	No	Yes	No
Qatar	No	Yes	No	No	No

UN C. 90: Rights of All Migrant Workers and Their Families

ILO C. 29: Forced Labor Convention

ILO C. 97: Migration for Employment

ILO C. 105: Abolition of Forced Labor Convention

ILO C. 143: ILO Migrant Workers (Supplementary Provisions) Convention

Examples of national regulation policies include:

- » **Malaysia:** The provisions of the **Malaysian Employment Act** technically apply equally to all workers.^{vii} In practice, however, Malaysian laws treat foreign workers differently from nationals. A concrete example of unequal treatment in Malaysia is the requirement of foreign workers to pay a levy. The Immigration Department indicates that this levy is utilized as a tax for foreign workers, who are not subject to Malaysian income tax.^{viii} However, the wages commonly earned by foreign workers in the garment industry are well below the taxable rate of income for a Malaysian citizen. Moreover, the tax rate of the levy is equal to middle class income tax rates for Malaysian citizens.

Serious enforcement issues exist in Malaysia as well. The Immigration Department overseas security issues related to migrant workers, and they utilize a voluntary civilian militia – RELA – to monitor illegal migration. Though RELA is officially voluntary, officers are paid roughly 80 ringgit for each undocumented migrant worker who is captured and turned in to immigration authorities.^{ix} Coupled with the common practice of passport withholding, migrant workers are extremely vulnerable to unlawful arrest, detention and deportation under this profit-driven system, and reports of such incidents are common in the news media and by NGOs. The Immigration Department denies that RELA officers are paid, and emphasizes that stringent regulations prevent corruption and abuse, though they also admit that it is difficult to determine where and when abuse does occur.^{ix}

- » **United Arab Emirates:** Provisions of **UAE Labor Law No. 8** (1980) apply to both UAE nationals and migrant workers. The law also sets out the terms of recruitment of workers by UAE employers, regulates maximum working hours and provides for annual leave and overtime.^x However, the law does not set a minimum wage, fails to recognize the right of workers to organize and bargain collectively, and contains an explicit ban on labor strikes for all workers, including migrants. In practice, little evidence exists of enforcement in favor of migrant workers' rights.^{xi} In addition, and with particular relevance to the manufacturing sectors, the UAE FTZ authorities maintain their own standard employment contracts, which have in the past contained clauses that contradict specific provisions of the Federal Labor Law.^{xii}
- » **Jordan:** Following the discovery of widespread abuses of migrant workers in the Qualified Industrial Zones (QIZs) in 2005, the Jordanian government enacted several reforms to address the issues, including increased number of work inspectors, worker hotlines for complaints, and fines for employer violations. However, no formal changes to the labor law were achieved, despite advocacy for reform by international and domestic trade unions.^{xiii} A condition of the US-FTA signed in 2006 was to allow migrant workers the right to organize; however, on July 12, 2008, the upper house of the Parliament removed pending legislation provisions that would have allowed migrant workers to join unions. The Ministry of Labor (MOL) says it remains committed to comprehensive labor law reform at its next session in November. Currently MOL notes that even though the right is not codified in law, migrant workers are allowed de facto representation by the National Apparel Union in practice. But as long as unionization for migrant workers remains illegal, such organizing offers limited meaningful protection.
- » **Egypt** is the only focus destination country that has ratified the UN Convention on the Rights of All Migrant Workers and Members of Their Families. Nevertheless, Egyptian and international NGOs have raised concerns about Egyptian

BOX 7

EGYPT AND JORDAN: FREE TRADE AGREEMENTS AND IMPACTS ON LABOR LAW

Qualified Industrial Zones (QIZs) are designated geographic areas set up within Egypt (2004) and Jordan (1997) that enjoy duty-free status with the United States. High-profile incidents of migrant workers' rights violations in Jordan's QIZs in 2005 led to more robust enforcement of US-FTA labor provisions. Due to reports of abuse in Jordan, many companies have moved manufacturing operations to Egypt. According to the U.S. State Department, the government of Egypt has limited incentive to engage on the issues of migrant workers because Egypt currently lacks an FTA with labor provisions. Moreover, to date, there has been no negative media coverage on the issue.

Egyptian exports of textiles and ready-made garments to the United States have risen exponentially since the QIZs were set up, according to the trade figures of the U.S. International Trade Commission (USITC). Specifically, Egyptian exports in this sector rose from US \$579 million in 2004 to US \$626 million in 2005 and US \$819 million in 2006, reflecting growth rates of 8 percent as of April 2005, and 31 percent as of May 2006.

However, many buyers worry Egypt may become the next "red flag" in terms of the risk of potential exposure of migrant worker abuses. With a coordinated approach, companies may have the opportunity to be proactive and avoid the "crisis" situation they have had to address in Jordan.

Source: QIZ Egypt, Ministry of Trade and Industry, www.qizegypt.gov.eg/About_FAQ.aspx

laws in practice – specifically, mandatory HIV testing for migrant workers; racially-motivated identity checks and poor conditions of detention; torture and ill-treatment; and restrictions on activities of NGOs, including those working on migrant workers’ rights.^{xiv} In addition, Egyptian law requires that employment contracts are written in Arabic, which limits migrant workers’ ability to fully understand the terms and conditions. Egypt has been a focal point of regional migration for several decades; however, the mass introduction of South Asian workers into the QIZs is a relatively new phenomenon, so the full extent to which labor laws may affect this new population of migrant workers is not yet clear.

What can companies do to encourage better protections for migrant workers under national laws?

Educate Yourself:

- » Assess whether national labor laws support migrant workers in policy and in practice.

Engage with Your Suppliers:

- » Ensure explicit protections for migrant workers in codes of conduct to make up for shortcomings that may exist in host country laws.

Expand Your Influence:

- » Emphasize to national governments that sourcing decisions are based on equal protection of all workers under the law.
- » Emphasize to national governments the importance of signing relevant international conventions protecting migrant workers.
- » Advocate to origin country governments the importance of including labor provisions in bilateral agreements.

The Business Case for Improved Migrant Worker Training Programs

- » Reduce risks of workers’ rights violations by ensuring widespread awareness of rights and channels for reporting violations or maltreatment.
- » Improve local language skills for better in-factory communications and enhanced productivity.
- » Reduce costs of training workers and repairing mistakes by ensuring workers are well-trained before they arrive in factories.
- » Avoid potential crises by providing workers lists of resources of how to seek help once they arrive in their destination countries.

TREND 3

Few workers receive adequate predeparture or skills trainings

Most South-South migrant workers arrive in destination countries unprepared for the work and living conditions they will face. Basic predeparture trainings are lacking or inadequate, usually consisting of a short cultural introduction and basic language training. Workers are rarely informed of their rights under destination countries’ laws and are usually unaware of how to seek assistance from embassies or other support networks. Most workers are further isolated by language, living situations and long working hours, making it difficult for them to seek information or assistance when they need it.

In South Asia, huge disparities exist in training lengths and quality from different origin countries and variance exists even within countries:

- » **India:** No predeparture or skills training programs
- » **Bangladesh:** Inadequate predeparture training and optional skills trainings that are few in number and difficult for migrant workers to access
- » **Sri Lanka:** Extensive training programs for domestic workers and for unskilled workers going to South Korea (see Table, p. 21). An optional 40-day industrial sewing training program also exists, but is only available in two training centers in the Central West districts. This type of skills training program, if properly utilized, offers clear business benefits for employment agencies and destination country employers, as well as companies, in the form of higher quality workers and reduced training time in the factory.

The lack of adequate skills preparation demonstrates a significant missed opportunity and increased potential for migrant worker abuse. In addition to improved predeparture and skills training, origin countries should adopt and enforce uniform skills certifications. In South Asian countries, for example, the lack of uniform skills certifications result in improperly qualified workers being sent to fill jobs with strict qualifications for employment.

The Philippines has a comparatively sophisticated system of skills training and certification. Though in place, existing programs suffer from governance challenges, and are less successfully deployed among unskilled and semi-skilled labor. Weaknesses in the state-sponsored system and market incentives have also driven many of the best Philippine recruiting agencies to develop their own internal programs.

Improvements can be catalyzed by destination countries as well. For example, **South Korea** has begun to require enhanced training for all migrant workers who arrive, and in response, countries like Vietnam and Sri Lanka have developed separate systems for sending workers to South Korea, including extensive language and skills training, regulated placement fees, and information regarding local resources for reporting maltreatment.

Trade unions are an excellent and under utilized resource for making connections between origin and destination countries and providing trainings and informational materials to workers in both origin and destination countries. For example, the National Labor Committee distributed flyers to Bengali and Chinese workers in Jordan explaining their rights under Jordanian law in their language. South-South trade union relationships are still nascent, but trade unions are highly invested in growing these relationships and companies could participate and benefit from this process.

UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Prior to departure and free of charge:

- » Migrant workers should be made familiar with the language, culture and legal, social and political structure of their destination countries.
- » Migrant workers should be informed of wages, working conditions and general living conditions in a language they can understand.

Source: UN Fact Sheet #24

COUNTRY	Predeparture training program length	Predeparture training program content	Issues with current system
Bangladesh	<ul style="list-style-type: none"> » 1 hour mandatory briefing; booklet with information in different languages » Optional skills trainings programs offered through Technical Training Centers 	Basic destination country information, language	Mandatory training is required on day of departure; workers often do not attend
India	Currently no pre-departure training program is offered or required by the government		Lack of system – Indian government planning to introduce in 2010
Philippines	<ul style="list-style-type: none"> » Overseas Workers' Welfare Administration requires minimum 6-hour pre-departure training » Skills certification process required through Technical Education and Skills Development Authority 	Language introduction, cross-cultural, financial information; government support, advertisements including mobile phone plans and banking	<ul style="list-style-type: none"> » Inadequate length, not comprehensive enough » Predeparture trainings have become inundated with bank and mobile phone advertisers
Sri Lanka	Extensive optional training programs, including: <ul style="list-style-type: none"> » 12-21 days, domestic workers » 40 days, industrial sewing training program » 18 days, Korea-specific 	Country specific; domestic worker skills; basic literacy courses; industrial skills; Korea-specific skills, language, banking and health	System plagued by unlicensed recruitment agencies
Vietnam	No predeparture program currently required		Lack of system

**DIAGRAM4:
CHARACTERISTICS OF A WELL PREPARED WORKER**



Resources can also be found in **international organizations**. In Bangladesh, the government has made some recent efforts to improve the predeparture training and support resources through partnership projects with the IOM. To improve predeparture trainings, the IOM is producing a comprehensive training module, country-specific resource booklets, and English language skills manuals. The IOM has also helped the Bangladeshi government set up a Migrant Resource Center, which 200–300 migrant workers utilize daily.

What can companies do to help prioritize quality predeparture and skills trainings?

Educate Yourself:

- » Determine the legal requirements for predeparture trainings in key origin countries.
- » Determine what levels of preparation workers have likely had and identify potential risk areas.

Engage with Your Suppliers:

- » In partnership with suppliers, develop trainings on basic rights awareness and information about local resources for existing migrant workers. Ensure the training is delivered in the languages of the workers.
- » Encourage suppliers to work with recruiters to develop basic job skills matching and training programs, and fund these programs where appropriate.

Expand Your Influence:

- » Work with strategic or highly used origin country governments to improve official predeparture training programs.
- » Work with trade unions to create and disperse trainings in destination and origin countries, utilizing existing trade union networks.

“ If we seek justice at the police station, we are beaten or abused instead of getting justice. If we go to the Bangladeshi High Commission with our problems, the officer there does not have the time to listen. ”

Bangladeshi worker, Malaysia (Source, Silenced Voices, Tenaganita, March 2005)

Migrant workers often lack access to effective methods of dispute resolution. Even where such systems are present, workers' access is hindered by lack of knowledge of how the local system works, inability to speak the local language, and fear of retribution or repatriation for voicing concerns. In many cases, the lack of an effective dispute resolution system drives workers to resort to strikes or violence.

Workers who wish to report maltreatment face powerful disincentives to accessing dispute resolution mechanisms. Where visas are tied to specific employers, as is the case in most destination countries, employers may take punitive measures against workers who register official complaints, including putting their visa status at risk.

Formal dispute resolution processes pose additional barriers to access. In **UAE**, for example, a worker wishing to make a complaint against his or her employer is required to submit a formal report in English or Arabic, along with his or her passport. Most migrant workers do not speak either English or Arabic, some are illiterate and unable to write the required report, and their passports are commonly withheld by employers. In practice, therefore, the conditions for filing a formal dispute in UAE effectively render access to legal channels for complaints virtually impossible for most migrant workers.

In addition to policies, the dispute resolution system in UAE lacks coordination, transparency and accountability. Three government bodies have the authority to address worker dispute cases and very little coordination exists among them. The federal government maintains no comprehensive data (including statistics) on labor dispute cases lodged with government agencies. Thus, there is no transparency regarding the number of cases resolved, how they were resolved, or whether they were enforced.^{xv} In researching its 2006 report on migrant worker treatment in the UAE construction industry, Human Rights Watch was unable to document any instances in which an employer was sanctioned, either by prison time or financial penalties, for nonpayment of wages to employees.^{xvi}

In **Malaysia**, when a worker leaves the workplace to seek assistance from a local NGO or organized labor representative, their employer can cancel their work permit, thus rendering the worker eligible for deportation. If a worker succeeds in filing a case in labor court, he or she must pay 100 ringgit per month for up to three months in order to remain in the country legally. The most common complaint filed

BOX8

JORDAN NATIONAL WORKER HOTLINE

In response to the exposure in 2006 of widespread migrant worker maltreatment by the National Labor Committee, the Jordanian government undertook a number of measures to improve protection of foreign workers in the QIZs, including the introduction of a national hotline for all workers.

Problems existed initially as the hotline was only in Arabic and was costly to access. Reforms to the hotline resulted in low-cost access and operators speaking multiple languages to offer assistance.

Jordan's worker hotline is an example of good practice response to migrant workers' needs. It uses technological innovation to address migrant worker abuses taking into account common constraints, including isolation, risk of losing passport and visa if they leave their workplace, and lack of transportation.

in dispute cases is non-payment of wages. Without back wages, and unable to work with their permit revoked by their employers, these workers have no money for food or lodging, or to pay the fees to remain legally in the country, and few labor dispute cases are solved in three months. Such policies make it extremely difficult, if not impossible, for a worker to successfully file and see through a case in labor court. There is discussion within the government that the 100-ringgit charge will be revoked, but the three-month time limit remains unrealistic for concluding most dispute cases. Moreover, migrant workers should be allowed to continue working as they await trial, in order to pay for their food and lodging.

The Philippines offers an example of how robust origin country policies can support improved dispute resolution abroad. The Philippines government utilizes embassy officials with the Department of Foreign Affairs and labor attachés and welfare officers under the Philippines Overseas Labor Office to act on behalf of workers when disputes are filed in destination countries.



"Stranded," by Mohamed Somji, 2008

Equally, weak origin country policies can contribute further to workers' vulnerabilities. For example, in February 2008, 200 Vietnamese men and women working in apparel factories in Jordan went on strike to protest fraudulent recruitment, debt bondage, passport withholding, confinement and contract substitution. Rather than offer support in the dispute resolution process, there were instead reports that Vietnamese government officials and the Vietnamese state-run employment agencies threatened workers with retaliation if they did not suspend the strike and return to work.^{xvii}

Read more about the Philippines' migration policies in the Case Study on page 33.

What can companies do to help improve dispute resolution processes for migrant workers?

Educate Yourself:

- » Determine what resources exist for migrant workers to report maltreatment in key sourcing countries. Resources may include hotlines, trade unions, NGOs, destination country government agencies, and origin country embassies.
- » Understand the dispute resolution processes in key sourcing countries.

Engage with Your Suppliers:

- » As an interim solution, invest in or support an existing hotline to increase transparency and provide communication channels to migrant workers.
- » Provide suppliers with a resource guide for migrant workers detailing the available resources for reporting maltreatment.

Expand Your Influence:

- » Emphasize to sourcing country governments the importance of functioning dispute resolution processes and the importance of effective rule of law in your sourcing decisions.
- » Engage with key origin country embassies to improve resources available to migrant workers in destination countries and record keeping of disputes filed.

IV. Key Stakeholders: Opportunities for Engagement

The value of partnership in addressing rights violations in global supply chains has been demonstrated in the past. Strategic engagement with key stakeholders can enhance impact, decrease costs and create more sustainable, systemic solutions.

DIAGRAM 5: KEY STAKEHOLDERS



This section provides illustrative examples of current multi-stakeholder initiatives to improve conditions for labor migrants.

International Organizations, Dialogues and Taskforces

International efforts to improve conditions for migrant workers focus on a range of topics, including strengthening regulatory frameworks, proactively managing migration flows, increasing the positive developmental impacts of migration, providing resources for migrant workers, and more general awareness raising and collaboration. Examples include:

- » **Global Forum on Migration and Development (GFMD):** An annual gathering of concerned stakeholders including government and civil society, the GFMD addresses the potential positive links between migration and development, and how to enhance development impacts through policy and practice.
- » **Colombo Process:** The Regional Consultative Process on Overseas Employment and Contractual Labor for Countries of Origin in Asia is described in detail in Box 9, p. 26.
- » **ASEAN Taskforce on the Protection of Migrant Workers:** Since its inception in 2007, the Taskforce has engaged in consultations with national and regional trade unions and civil society organizations, as well as the UN and the IOM, in order to inform recommendations to national governments. In 2008, the Taskforce is conducting formal national consultations with governments in Brunei Darussalam, Cambodia, Lao PDR, Malaysia and Singapore.
- » **ILO International Migration Program (MIGRANT):** Program staff assist countries with policy formulation, strengthening legislation and management of labor migration, focusing on three component objectives: protecting the migrant workers' rights and promoting their integration in countries of destination and countries of origin, forging international consensus on how to man-

BSR is actively engaged in increasing business participation at the GFMD and can facilitate company participation.

The 2008 Abu Dhabi Dialogue brought origin and destination countries together to discuss areas of partnership for safer and better managed systems of temporary migration.

BOX9

THE COLOMBO PROCESS AND THE ABU DHABI DIALOGUE 2008

Initiated in Colombo, Sri Lanka, in 2003, the Colombo Process brings together 11 Asian labor origin countries. In 2005, the process was expanded to include eight destination countries as participatory observers. The principal aims of the Colombo Process are to share experiences, lessons learned and best practices in overseas employment policies and practices. The objectives of the dialogue fall into three themes:

- » **Welfare of overseas workers and support services** – protecting overseas workers from abusive practices
- » **Facilitating the managed movement of labor and optimizing benefits** – including remittances
- » **Institutional capacity building and inter-state cooperation** – includes increasing cooperation with destination countries for protection of workers and access to labor markets

Members and observers include:

- » **Members:** Afghanistan, Bangladesh, China, India, Indonesia, Nepal, Pakistan, Philippines, Sri Lanka, Thailand, and Vietnam
- » **Destination Country Participants:** Bahrain, Italy, Kuwait, Malaysia, Qatar, Republic of Korea, Saudi Arabia, and United Arab Emirates

In January 2008, the Abu Dhabi Dialogue was held to discuss key potential partnerships for development between countries of origin and destination:

- » Enhancing knowledge on labor market trends, temporary workers and remittances
- » Building capacity for effective matching of labor demand and supply
- » Preventing illegal recruitment practices and promoting protection measures for workers
- » Developing framework for a comprehensive approach to managing temporary migration cycle fostering mutual interests

The process has developed several specialized training programs:

- » Overseas employment administrator and labor attaché training programs (Kuwait, 2004; Thailand, 2005; China, 2006)
- » Ethical recruitment workshops for employment agency representatives (Philippines, 2007, 2008)
- » Overseas labor market research training for government officials (Pakistan, 2007; Philippines, 2007; Bangladesh, 2008)

Pilot Migrant Resource Centers and information campaigns have been launched in Bangladesh and the Philippines with positive initial results. To date, the international private sector has been only minimally involved in this process.



"Construction Workers in Dubai," by Mohamed Somji, 2008

BOX 10

ENGAGING CIVIL SOCIETY: INTERVIEW WITH DR. IRENE FERNANDEZ, TENAGANITA, MALAYSIA

Tenaganita has been working on behalf of female and migrant workers since Dr. Irene Fernandez founded the organization in 1991. The NGO takes both a strong advocacy approach – exposing issues publicly – and a partnership model for working with companies:

“Several years ago, we created a policy for Gap to improve monitoring of suppliers and to implement protections for workers,” said Dr. Fernandez. Now, she and her staff are working with Nike to help create management training programs to improve the sustainability of the company’s recent policy changes around migrant workers. Tenaganita has also created and implemented awareness and training programs for migrant workers.

“Malaysian companies are not taking any responsibility for workers,” she said. Dr. Fernandez advocates for a new system with companies sourcing labor directly, and government-to-government programs supporting ethical recruitment practices.

To support better protection of migrant workers’ rights, Dr. Fernandez says the Malaysian government must adopt a comprehensive, clear and holistic policy with a rights-based approach set in place. “Multinational companies can help build a better system by rejecting the outsourcing system in Malaysia and by addressing key migrant worker needs including nonpayment of wages and restricted mobility due to passport withholding,” she said.

age migration, and improving the knowledge base on international migration.
^{xviii} The ILO serves on the advisory committee for the Colombo Process and for the Abu Dhabi pilot projects.

- » **International Organization for Migration (IOM):** Helps facilitate and manage safe migration at all levels. The IOM serves on the advisory committee for the Colombo Process and other cooperative regional and bilateral dialogues, and engages in capacity-building activities with governments to improve migration policies and implementation. IOM regional offices also initiate local projects, including migrant resource centers and training programs as described in Trend 4. Finally, the IOM has a Business Advisory Board with members from the private sector and civil society. See **Appendix 4** for more details.

Local Civil Society Organizations

There are many civil society organizations in both destination and origin countries that are highly engaged in migrant worker protection. Civil society activities focus primarily on advocacy and awareness-raising, grass-roots response to worker mistreatment, and addressing grievances. These organizations can be critical partners to international companies seeking to further understand the presence of migrant workers in their supply chains, the conditions under which they work, and how best to improve their protections. Local organizations have on-the-ground staff, most often speak the languages of the migrant workers, and can be trusted allies for workers. As with engagement with any external stakeholder, it is important to distinguish between different types of civil society groups, ensuring that engagement will lead to desired outcomes.

The efforts of civil society groups include filing formal disputes and pursuing cases in labor court, offering hotlines for reporting abuse, providing community centers, and promoting social activities to grow awareness and provide support.

These activities are crucial mechanisms for supporting vulnerable communities of migrant workers.

Proactive, ongoing relationship building and engagement with key civil society groups is crucial to improved management of labor migration in supply chains. Relationships with civil society can significantly enhance formal monitoring by companies. Moreover, supporting a robust civil society network helps businesses ensure that workers have a voice, thus mitigating the risk of cases of abuse going unreported. When incidents of maltreatment do arise, strong relationships with civil society create the potential for disputes to be settled out of court. A reduction in filed disputes is a best-case scenario for all stakeholders, including companies, suppliers, government and workers.

Businesses can partner with civil society organizations to design and implement management trainings and awareness-raising campaigns among migrant workers (see Box 10). Companies can also work with civil society to establish worker hotlines, social programs, skills development and language lessons, or to increase utilization of existing programs where established.

Trade Unions: National, Regional and International Initiatives

Global and national trade unions have increasingly prioritized involvement in migrant worker rights issues.* While the union movement went through a period of some reluctance to engage with migrant workers, there is now a strong conviction among organized labor of the importance of including migrant workers in their efforts. Many international unions have active programs focused exclusively on addressing the needs of migrant workers. Unions are also working to include the important dimension of gender in the migration dialogue.

An excellent example of effective trade union engagement to protect migrant workers is demonstrated by union activities in Jordan following the allegations of widespread abuse of migrant workers in export processing zones in 2005. **The General Federation of Jordanian Trade Unions (GFJTU)** has since worked to achieve better conditions for migrant workers, and to improve channels for legal redress when maltreatment occurs.* Activities by Jordanian trade unions include:

- » **Advocacy** – Trade unions have advocated the Ministry of Labor for labor law reform and a fixed, equal minimum wage for national and foreign workers.
- » **Legal Assistance** – Unions help negotiate agreements with employers to avoid trials – for example, regarding payment of migrant workers' medical expenses. Unions also help workers file formal complaints when appropriate, assisting with the writing and Arabic translation of complaints.
- » **Information Distribution and Community Engagement** – Unions engage in information sharing with migrant workers, both through lectures and brochures in workers' languages. Local unions also support community health clinics in QIZs, and organize recreational activities and community events.



Dali Jade Factory by Ian Koh

“Gap...has a code of conduct concerning the recruitment of migrant workers, and that can be very useful (in our efforts to protect migrant workers).”

Doug Miller,
ITGLWF Jordan

**DIAGRAM 6:
OVERLAPPING
INTERESTS**



In Malaysia, the **Malaysian Trade Union Congress (MTUC)** has been similarly active in providing legal assistance to foreign workers and information sharing with migrant worker communities. MTUC's advocacy efforts focus on promoting the rights of migrant workers to join unions.

Companies, trade unions and governments share numerous overlapping interests in better management of labor migration between emerging economies (see Diagram 6). Companies can cooperate with organized labor to improve worker protections through existing advocacy efforts and outreach programs. For example, in 2006, the National Labor Committee and the United Steelworkers of America created flyers to inform migrant workers of Jordanian Labor Law and resources for assistance. The flyers were translated into Bengali and Chinese and distributed in Jordan's FTZs. Companies could utilize existing outreach materials for distribution in their suppliers' facilities.

Another example is efforts by the International Textile, Garment and Leather Workers Federation (ITGLWF) in Jordan to collaborate with companies by using codes of conduct to improve leverage with factories. Says Doug Miller, coordinator of the project, Gap's code of conduct is particularly useful for influencing factory behavior, because it "has a code of conduct concerning the recruitment of migrant workers."^{xxi}

Significant gaps remain in collaboration between local and global unions, and across countries in the labor migration system. For example, trade unions in Bangladesh are not coordinating effectively with their counterparts in key destination countries for Bengali workers. Trade unions can continue to strengthen their role in affecting recruitment practices and coordination, and in designing and implementing training programs for migrant workers focused on rights awareness and skills building. Resources are available to enhance these links. For example, with ILO support, the MTUC organized a conference in 2005 to strengthen trade union links between origin and destination countries. Representatives from Bangladesh, India, Indonesia, Nepal, Pakistan, Philippines and Vietnam were in attendance.

Local unions can also expand community activities to provide social support and counseling services for migrant workers. Union-supported community centers could offer basic health care, community gatherings, language courses and other information outreach.

At the global level, trade union representatives are participating in crucial labor migration dialogues and forums; however, relationships with their partners at the national level often remain informal. Formalizing these relationships will enable

trade unions to create powerful links between rights dialogues and national-level outreach activities.

Companies can utilize local and global trade unions to enhance their understanding of the issues and to create partnerships for improved rights protection. Trade union networks that are currently underutilized could be stimulated by private sector engagement, and business could reap significant benefits from trade union links between origin and destination countries. The use of framework agreements is one potential avenue for companies to ensure integration and continuous representation of the workers along their supply chains.

Origin and Destination Country Governments: Bilateral Agreements

Bilateral Agreements Can Provide:

- » Provisions for the treatment of workers, e.g. wages, hours, overtime, and working conditions
- » Legal recognition of baseline employment contracts
- » Legal restrictions on additional stakeholders such as intermediaries or brokers
- » Terms of business for employment agencies, intermediaries or brokers and destination country governments
- » Provisions for legal redress when disputes arise

Origin and destination countries frequently sign bilateral agreements on trade and security, but agreements explicitly addressing the safe exchange of temporary labor are less common.

Where agreements for labor migration are signed, they focus mostly on headcount of migrants, targeted sectors for employment, and requirements around the repatriation of workers. The lack of explicit protection for migrant workers within bilateral agreements between destination and origin countries can translate into weaker safeguards for worker rights and increased risks for employers.

The inclusion in bilateral agreements of stipulations for migrant worker regulation and protection could improve coordination of migration policies between origin and destination countries. Currently, destination country governments often fail to honor or acknowledge origin country regulations for their workers' protection overseas. For example, in an interview with the Ministry of Human Resources in Malaysia, the representative indicated that he was unaware of the protections afforded migrant workers by their origin countries; instead, migrant workers were subject to Malaysian law while in Malaysia.^{xxii} Despite this common practice, however, destination country governments often blame workers' rights violations on a failure by their origin country to adequately protect them. Better coordination through bilateral agreements could reduce accountability gaps and improve enforcement of protective measures both in origin and destination countries.

Bilateral agreements also have the potential to serve as effective frameworks for migrant workers' rights. Such agreements can include provisions for the treatment of workers (wages, hours, overtime, and working conditions), and legal recognition of baseline employment contracts, as well as the legality of using intermediaries or brokers. Agreements can also set out terms of business for recruitment agencies, intermediaries and destination country governments. Finally, bilateral agreements can establish provisions for legal redress in the event of a worker complaint against the employer. For example, the Bangladeshi government recently signed an MOU with the United Arab Emirates to establish better working conditions and rights protections for Bengali workers.

Th Colombo Process represents a movement toward improved government-to-government relations. Companies can participate in and support that process, and tie their purchasing decisions to meaningful participation in bilateral and regional dialogues. Businesses can also advocate with governments to sign bilateral agreements that incorporate provisions for protections of migrant worker rights, and to improve cooperative practices for more responsible recruitment and employment of migrant workers.



Mohamed Somji, 2008

Conclusion

This report argues that there is a lack of systematic protection for migrant workers moving between emerging economies. Up to this point, international buyers have largely been absent from conversations about how to protect these workers in their supply chains. Few companies are aware of where migrant workers originate, the processes by which they are recruited to migrate, the terms of their contracts, or the specific rights they are awarded once they arrive. Even fewer have taken proactive measures to enhance migrant worker protection.

Not only is there a strong moral case for improved treatment of migrant workers, but a strong business case can be argued as well. In addition to limiting reputation risks, BSR has demonstrated through over a decade of engagement that better treatment of workers improves productivity, worker-management relations and relationships with local stakeholders.

Through enhanced protection and fair payment of migrant workers, the development impacts of migration can also grow significantly. Remittances and the safe return of workers who have acquired skills abroad will contribute to origin country economies. Better treatment of workers in destination countries will improve industry reputations and support the development of healthy industrial relations processes. Improved regulation of recruitment practices may also reduce the number of illegal migrant workers by bolstering the formal migration process, an outcome that would benefit origin and destination countries alike.

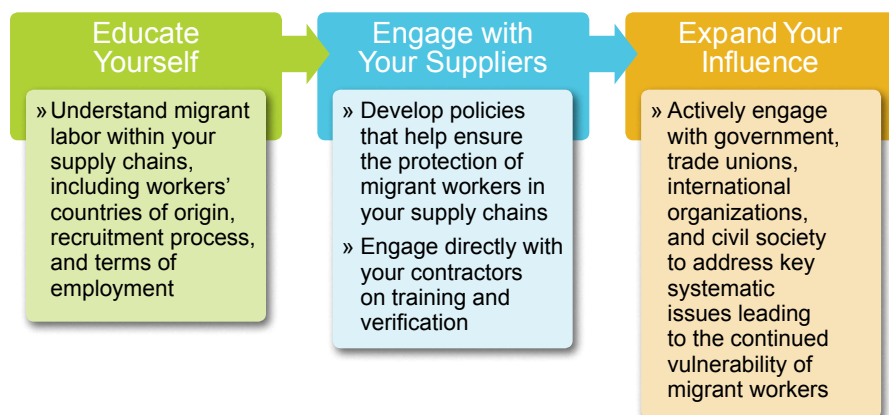
Our assumptions are optimistic. They are founded in BSR's fundamental belief that significant development impacts and rights protections can be achieved alongside financial gains. However, a win-win-win situation for companies, suppliers and migrant workers can not be achieved without careful examination of how business' procurement decisions are made and the incentives that are created through vertically-integrated supply chains. As willing partners, international companies can play a key role in helping to make the fundamental changes necessary to better protect migrant workers employed in their global operations.

V. The Philippines: A Case Study for Origin Country Processes

This case study serves to illustrate in practice how strengthened origin country migration policies and proactive and responsible utilization of origin country resources by businesses can enhance protection of migrant workers. Several key origin countries, including Bangladesh and Sri Lanka, have begun to study the Philippines system and engage with the government to discuss how they can develop and implement similar policies. Key elements of the Philippines system include:

- » Robust legislation for protection of migrant workers' rights
- » Designated government agencies and offices for workers' protections
- » Support network of labor attachés in key destination countries
- » An established overseas workers welfare association
- » A predeparture and skills training program
- » Incentives for ethical recruitment practices
- » Extensive international engagement with other origin governments, destination country governments and international organizations

The Philippines system provides a framework for companies to increase awareness, improve supply chain policies and practices, and engage with key stakeholders. As discussed previously, a proactive approach toward labor migration can result in both stronger supply chains and enhanced worker rights protections. International companies can use the Philippines system to envision a country of origin system that supports international labor migrants while promoting overseas employment opportunities. Practices such as improved government regulation and leadership, and proactive engagement with employment agencies and civil society, can provide frameworks for company involvement. This framework can also inform companies' engagements with other origin countries that have less sophisticated migration management systems.



Educate Yourself

1. Understand the Philippines context
2. Understand the ILM process in the Philippines
3. Understand the stakeholders
4. Understand the human cost

Educate Yourself: The Philippines Migration Management System

From the government management system to the development of a responsible recruitment agency, the Philippines' system can help companies understand "what good looks like," as well as some of the challenges and pitfalls in working to achieve best practice.

1. UNDERSTAND THE PHILIPPINES CONTEXT

Today, the number of overseas Filipino workers (OFWs) is approximately 8.7 million. OFWs work in about 190 countries for approximately 22,000 foreign employers.

^{xxiii} The Philippines has a long history of sending Filipino workers overseas, and over time the Philippines government has developed a highly organized process and set of institutions to oversee migration from the initial recruitment phase to the deployment of the worker to his or her employer in the destination country and thorough reintegration of workers upon their return. The estimated US\$12–15 billion in annual revenue generated by remittances and the political sensitivities surrounding previous worker disputes have acted as additional impetus for creating policies and programs that attempt to strike a balance between worker promotion and protection. As this system continues to evolve, the Philippines has emerged as a model of best practice for origin countries in Asia.

Under the Philippines system, the protection of OFWs is prioritized as a key pillar of foreign policy. To this end, the government works to optimize the number of Filipino workers channeled through the system while ensuring adequate rights safeguards.^{xxiv} The system operates under the assumption that the best way to protect workers' rights is to ensure skills development and appropriate job placement. Top performing licensed Filipino employment agencies work to achieve this objective by building good relationships with destination country employers (see Box 12, p. 38). For its part, the Philippines government exercises oversight over these relationships to help maximize benefits for workers and agencies alike.

2. UNDERSTAND THE ILM PROCESS IN THE PHILIPPINES

The Philippines government has organized policies and regulatory departments to best support OFWs throughout the process of international labor migration. While variations exist between individual experiences, a generic process is worth a brief review to frame how the Philippines system operates within it.



Manila, Philippines

Step 1: Initial Awareness And Recruitment

The OFW decides to pursue a job overseas and begins the process of preparing for and leaving the country.

Key Questions:

- » Does the migrant understand legal recruiting processes and costs?
- » Are Philippines standards, regulations and processes enforced by the agency?
- » Are bilateral agreements in place between the origin and the destination countries?

Key Risks:

- » Decisions made on false premises and bad promises
- » Debt arising through excessive placement fees and other illegal charges
- » Recruitment by illegal recruiters

Step 2: Preparation Process

Following the Philippines government processes, the potential Filipino migrant completes a number of steps including:

- » Skills development and certification (as required by employer)
- » Processing legal contract with provisions for minimum wage and hours of work
- » Membership in Overseas Worker Welfare Administration
- » Health check and legal documentation
- » Job matching and employment contract signed
- » Predeparture orientation

Key Questions:

- » Is the job match appropriate?
- » Is the potential Filipino migrant adequately skilled and certified?
- » Is the potential Filipino migrant appropriately informed?
- » Is all documentation appropriate and correct and will it be honored by the destination country employer?
- » Does the potential Filipino migrant have information necessary to access resources, including NGOs and trade unions?

Key Risks:

- » OFW inadequately informed
- » Debt arising through excessive placement fees and other illegal charges
- » Recruitment by illegal recruiters

Step 3: Work Deployment

Once the OFW enters the destination country, destination country conditions – including laws, enforcement, support structures and access to assistance – become important. An adequate predeparture process can help mitigate some of the potential risk factors that emerge in the destination country.

Key Questions:

- » Has the OFW been appropriately prepared for the job and location?
- » Is the OFW aware of means of support and redress in the destination location?
- » Are contract and other terms agreed to prior to departure honored in the destination country?

Key Risks:

- » Lack of means of redress can lead to improper and illegal employment situations
- » Contract substitution can lead to improper and illegal employment situations

Philippines Government Involvement:

- » Oversight and consultation
- » Creation of market incentives and transparency mechanisms
- » Provision of training and capacity building to OFWs
- » Engagement with foreign governments in bilateral negotiations

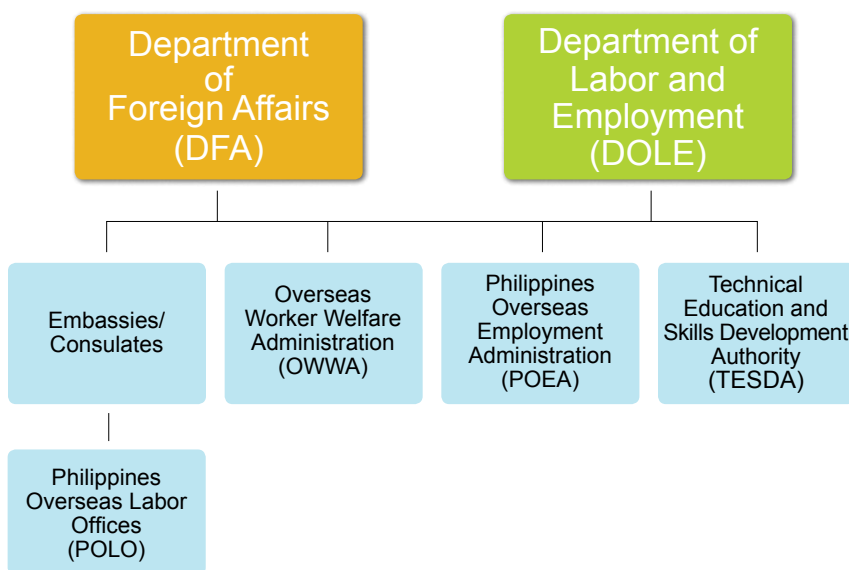
3. UNDERSTAND THE STAKEHOLDERS: THE PHILIPPINES GOVERNMENT

Key stakeholder identification and engagement are crucial to responsible management of contract labor migrants in the supply chain. In the Philippines, the government’s extensive involvement in the management of the migration process makes it a crucial stakeholder. Philippines government officials, most career civil servants with significant experience and knowledge, can serve as a valuable resource for growing awareness and engagement.

The first step to inform future engagement is to understand the Philippines government infrastructure as it relates to potential Filipino migrant workers and OFWs.

The Philippines government manages international labor migration issues under two departments: the Department of Foreign Affairs (DFA) and the Department of Labor and Employment (DOLE). This section introduces these departments and their functions within the international labor migration management system.

DIAGRAM 7: THE PHILIPPINES GOVERNMENT & LABOR MIGRATION MANAGEMENT



Philippines Overseas Employment Administration (POEA)

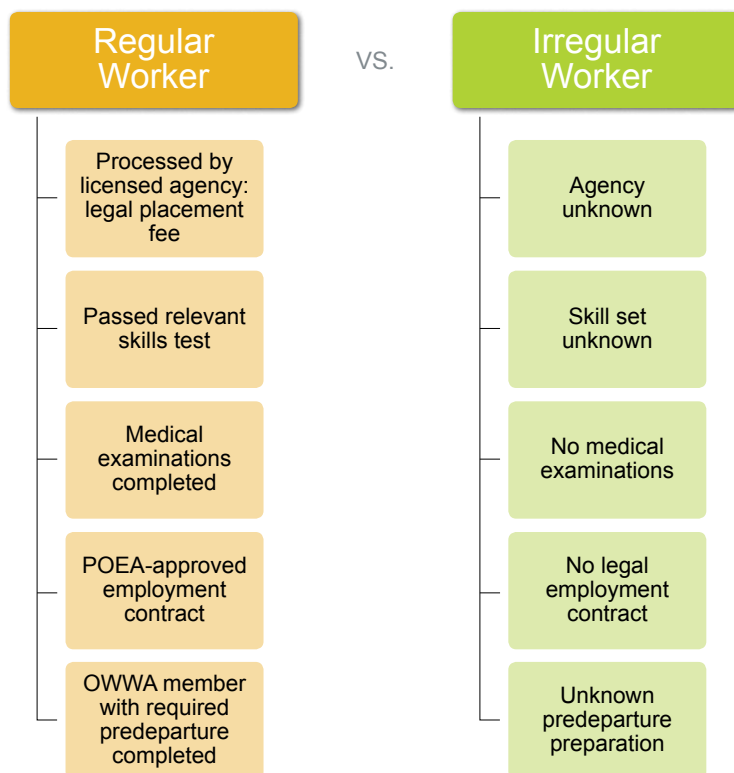
The POEA is tasked with three primary responsibilities:^{xxv}

- 1. Recruitment
- 2. Documentation
- 3. Regulation

In order to facilitate and regulate the employment facilitation and recruitment process, the POEA oversees the entire predeparture process of regular OFWs. In an effort to balance access with rights protection, POEA manages a range of activities:

- » Pre-employment Orientations (PEOS) in partnership with local governments
- » Licensing employment agencies
- » Technical support to DOLE in government-to-government engagement, including bilateral agreements

**DIAGRAM 8:
CHARACTERISTICS OF REGULAR AND IRREGULAR WORKERS**



- » Processing formal worker complaints
- » Maintaining and sharing information on employment agencies whose licenses have been revoked and employers/suppliers
- » Maintaining an OFW database that includes worker and employer profiles

The POEA requires extensive legal documentation by both workers and employment agencies before placements are confirmed. The objective of this process is to ensure fair contracts and working conditions. The characteristics of a “regular” worker processed through the formal system are contrasted with those of an “irregular” worker who does not go through the system in Diagram 8.

Once workers depart the Philippines, however, it is difficult for the POEA to enforce the contracts and working conditions agreed upon during the predeparture phase. One method of bridging this gap is through bilateral agreements between destination and origin countries. Specifically, the POEA prefers to adopt a joint and solidarity liability policy whereby the Philippine recruitment agency is liable with the employer for all contractual obligations to the worker. Under this system, the Philippines government or the worker can hold the Philippine agency accountable when a destination country employer does not fulfill obligations per the approved employment contract.

The POEA establishes a chain of accountability for the current effectiveness of the process and the continued evolution of the regulatory framework. To this end, the POEA maintains records of all accredited employers in a database, which is available upon request in addition to a list of all licensed agencies. This database also includes records of complaints filed against employers.

Visit the POEA website for access to bilateral agreements the Philippines has signed with destination countries:
www.poea.gov.ph

A list of top performing and all licensed agencies is publicly accessible on the POEA website at: www.poea.gov.ph/agency/topAgencies.html.

BOX 12

INCENTIVIZING ETHICAL RECRUITMENT THROUGH AGENCY LICENSING AND STATUS

The POEA issues all licenses for the more than 1,000 legal employment agencies in the Philippines. The POEA operates a carrot-and-stick oversight approach to promote ethical recruitment practices.

To incentivize good behavior by licensed employment agencies, the POEA conducts performance evaluations and confers awards of “Excellence” and “Top Performers” to top employment agencies. Such agencies have demonstrated achievements in:

- » Successful deployment and satisfaction of employer
- » Foreign exchange generation
- » Welfare programs for workers
- » Development of quality labor markets
- » Merit in technical capability

It must be noted that many smaller agencies with good track records but small deployment numbers often go unrewarded by the POEA, but remain potentially viable partners in ethical labor procurement.

Employers, agencies and workers who commit contract violations have licenses canceled by the POEA and are either temporarily or permanently banned, depending on the severity of the violation. For example, in 2007 alone, 92 agency licenses were cancelled due to the collection of excessive placement fees.

Technical Education And Skills Development Authority (TESDA)

Through its skills training and assessment programs, TESDA's activities are a central part of the predeparture process for many prospective workers. Employers requiring skills certification by TESDA may contact TESDA directly – certifications are conducted on a per need basis as required by the employer. Currently, certification is mandatory only for deployment of household service workers.

TESDA's activities are a central part of the predeparture process and required by all OWWA members. TESDA's core mission is as follows:

- » Integrate, coordinate and monitor skills development programs for workers seeking employment both domestically and overseas
- » Restructure efforts to promote and develop middle-level manpower
- » Approve industry driven skills standards and tests

TESDA also uses accredited private assessment centers to provide broader access to training and testing to prospective Filipino workers. Most of the cost burden for such programs is placed on the worker through a government scholarship program. Such training programs are viewed as an investment by workers and are commonly undertaken by higher-skilled workers with higher potential earnings.^{xvii} Multilaterals could work with agencies like TESDA in origin countries to expand training programs to target lower-skilled workers in order to improve the quality of migrant workers and to enhance their protection by building their skills.

Employers can contact TESDA directly to verify the quality of prospective workers.

Overseas Worker Welfare Administration (OWWA)

The OWWA is a government agency under DOLE. Membership to OWWA is legally required for all regular workers and generates all of its funds from an annual membership fee paid by the employer for its worker and valid for the duration of a contract, providing insurance coverage valid for up to 2 years per contract. OWWA activities include:

- » Deliver welfare services to migrant workers, including insurance, social work assistance, legal assistance, and cultural services
- » Ensure capital buildup and fund viability
- » Provide education and training to members and their beneficiaries through scholarship programs and predeparture orientations^{xxvii}

OWWA also coordinates with the POEA and the DFA on all worker welfare issues and instances of worker disputes. Additionally, OWWA has welfare offices stationed in many POLO offices to assist labor attachés in meeting workers' welfare needs. Through these activities, OWWA offers a linkage point for businesses to engage migrant worker welfare issues on the origin country level.

Department Of Foreign Affairs, Office Of The Undersecretary For Migrant Workers' Affairs

The Department of Foreign Affairs, Office of the Undersecretary for Migrant Workers' Affairs plays a key role in government-to-government relations, particularly with regard to bilateral negotiations and worker dispute resolution. The Department of Foreign Affairs' (DFA) baseline objective in bilateral negotiations is to push for equal treatment of OFWs under domestic labor laws. In this effort, DFA faces many challenges, especially in negotiations involving destination countries from Asia and the Middle East.^{xxviii} DOLE and POEA both provide technical input in bilateral negotiations.

In dispute resolution cases, Philippine embassies are the first point of contact for workers. In countries without POLO offices, the embassy or consulate takes on the role of interfacing with destination country employers and companies in handling dispute resolution issues. The DFA has advocated for additional support via increased POLO offices and the provision of a legal assistance fund for both regular and irregular workers. The protection of OFW rights is a major pillar of the Philippines foreign policy and in turn a top priority for these stakeholders.

Embassy Labor Offices (POLOS)

DOLE currently has 33 overseas labor offices under its technical supervision. These offices, known as POLOS, are attached to consulates and embassies and fall under their administrative umbrella, while DOLE and the POEA exercise technical supervision over POLO activities.

POLO offices are staffed by labor attachés, OWWA welfare officers and support staff, who perform a range of tasks including accreditation of employers in the destination country based on prior treatment of OFWs. In order to better protect workers, only these accredited employers can legally hire OFWs.

Origin country embassies and consulates can serve as good resources regarding destination country legal frameworks for migrant worker protections, or the verification of an absence of such frameworks.

POLOs can serve as an initial point of contact for companies when disputes and worker-centered disruptions arise with a supplier.

4. UNDERSTANDING THE HUMAN COST

For decades, many Filipino citizens have had only one viable option for work opportunities: overseas employment. Hundreds of thousands of prospective workers pursue formal and informal channels to overseas employment regardless of potential risks. Even workers pursuing employment through formal channels incur significant debt before departure. This debt, often absorbed by the family, can lead to bondage for the worker upon arrival in the destination country and protracted financial difficulties for the family at home. These financial and social costs incurred by a workers' family reflect the path a worker takes to overseas employment – if an ethical recruitment agency is utilized, the worker's family will likely receive better protection and support from the agency while their family member is away.



"The Ride Home," by Mohamed Somji, 2008

Some of the potential costs to an Overseas Filipino Worker (OFW) can include:

- » Placement fees in excess of four months of salary
- » Excessive overtime to repay loans
- » Family displacements and disruption of care giving arrangements for children left behind
- » Health insurance for families left behind
- » Counseling for social and emotional anxiety problems for children left behind
- » Education for children
- » Psychological counseling during reintegration

The high financial commitments involved in the system increase worker vulnerabilities. Burdened with heavy debt and afraid to lose their jobs, migrant workers often tolerate maltreatment, poor working and living conditions, and low wages and non-payment of wages. The financial desperation faced by most migrant workers often creates a situation akin to debt bondage.

At home, the economic benefits of remittances are well known in the Philippines, but the costs endured by workers' families, often significant, have not been quantified in social or financial terms. A joint research project by the Scalabrini Migration Center, the OWWA, and other civil society stakeholders, entitled *Hearts Apart: Migration in the Eyes of Filipino Children*, illustrates both the benefits and costs of such large-scale overseas migration through the eyes of the children of migrant workers. According to the study, "The departure of a parent to work abroad have been both welcome and dreaded occasions in the life of Filipino families."^{xxix}

Destination country employers sometimes provide family-related financial assistance to higher skilled OFWs through family insurance plans, progressive home ownership options and offers to offset education costs for children. However, such provisions are uncommon and virtually nonexistent for low-skilled workers. OWWA offers some health insurance benefits to member families, but NGOs have found

“ My father pursued a job abroad so that we can achieve what our parents did not accomplish, like finishing school... and also so that he can provide for our needs. ”

Missy, 15, Manila

Source: *Hearts Apart: Migration Through the Eyes of Filipino Children*

these insufficient.

Some top performing employment agencies advocate with employers for the need to invest in the worker over the longer term to reduce some of the human costs associated with overseas employment. These agencies apply a broader definition of client to include the entire family. This approach has helped reduce costs to the worker.^{xxx} With the aim of creating positive incentives for agencies, welfare program offerings are performance criteria for the POEA's "Top Performers" evaluation.

Gaps remain in the Philippines system for properly addressing costs to workers and their families. Solutions include provisions for adequate family health insurance and stipends for childhood education, but fulfilling these responsibilities will require political will and available resources in the Philippines.

Labor migration awareness by companies should include an understanding of the human costs to a worker and his or her family when they seek employment abroad. Companies that seek to protect basic workers' rights will address many of the associated human costs. To take their engagement a step further, companies can consider broadening the definition of workers' rights to include the rights of his or her family.

Engage with Your Suppliers

Use resources available within the Philippines system to improve supply chain practices and policies for better protection of migrant workers:

1. Employment Agencies
2. Predeparture and Skills Training Programs
3. Welfare Services

Engage with Your Suppliers: Improve Your System

In the Philippines, stronger monitoring of recruitment agencies, improved training programs, and set-fee levels all contribute to better prepared and protected workers.

However, significant challenges still remain for Filipino migrant workers. For example, according to Carmelita Nuqui at Development Action for Women Network (DAWN) and Philippine Migrant Watch, instances of TESDA certificate selling have negatively impacted employer relationships and have contributed to abuses of workers who prove unfit for employment.^{xxxi} An estimated 800,000 additional undocumented workers travel abroad through illegal channels to seek employment.^{xxxi} Instances like these demonstrate the remaining challenges to achieving full compliance even within a highly regulated origin country system.

Companies and destination country employers are encouraged to keep remaining risks in mind and not accept a complex origin country regulatory system as being a guarantee of rights protection for overseas workers. That said, the risk of suffering most of the abuses listed above are greatly reduced when prospective workers migrate through the formal system, which is bolstered by the regulatory frameworks described in the previous section.

CHALLENGES AND RISKS TO FILIPINO MIGRANT WORKERS:

- » Limited or false information for workers wishing to migrate
- » Informal channels for migration carry high risks and costs
- » Unethical recruitment processes
- » Debt bondage due to improper bribes, fees and other charges
- » Unsuitable job-skills matching
- » Contract substitution
- » Maltreatment – unpaid wages and overtime, abuse, and inadequate food and accommodation
- » Circumstances of bonded or forced labor
- » Lack of bilateral agreements with destination countries
- » Lack of knowledge of channels for assistance when maltreatment occurs

Increased private sector support for the formal system in the Philippines will likely discourage prospective migrant workers' use of the informal system over time. Moreover, international companies and suppliers can benefit greatly from the formal system, which boasts numerous resources to address challenges and mitigate risks in international labor migration. Taking advantage of existing origin country policies like those present in the Philippines can enable companies to make changes in their supply chain policies and practices with reduced cost and enhanced impact.

1. EMPLOYMENT AGENCIES

Within the Philippines labor migration monitoring system, government policies have established incentives for ethical recruitment (see Box 12, p. 38). The POEA regulates recruitment through standards and oversight:

- » Strict criterion for agency licenses
- » Standard OFW contracts
- » Fixed placement fees

Significant records are built around these standards, which can provide a valuable resource for companies and suppliers seeking to identify potential agencies for direct recruitment. Companies can utilize POEA resources to identify top-performing and canceled or suspended employment agencies. This process can mitigate the risk of using blacklisted or unlicensed agencies that are more likely to engage in violations such as contract substitution and maltreatment, and even cases of human trafficking and forced labor. The POEA can also provide information to companies regarding destination country risks, based on knowledge of where policies and legislation protect or fail to protect Filipino migrant workers.

In addition to utilizing resources in the Philippines to improve protections of Philippine workers in their supply chains, companies can also use these resources to help inform revision of company policies and practices. For example, POEA criterion for recruitment processes, standard Filipino contracts and legal placement fee levels can serve as baselines within company codes of conduct.

2. PREDEPARTURE AND SKILLS TRAINING PROGRAMS

The Philippines system links rights protection to skills development and predeparture preparation, and so prioritizes these activities through TESDA. However, stakeholders interviewed by BSR said that TESDA's predeparture orientations and skills training programs vary in quality and sometimes do not properly prepare workers for deployment. When worker disputes arise, they can sometimes be traced to ignorance of cultural norms or legal processes in destination countries, thus indicating a lack of adequate preparation.

Despite identified weaknesses, the Philippines government can offer support for robust predeparture and skills training for prospective migrant workers. Through TESDA, the government has established curriculum frameworks and a certification system, and can potentially share costs. Many licensed employment agencies have also begun to offer expanded orientations and skills trainings.

The Philippines also has established a skills certification program. Though corruption does exist within the system, certification can support and promote best practice in skills development. For example, a Japanese construction company gets a contract to build a tunnel in Saudi Arabia, and they want to employ Filipino workers for the project. The Philippines has a system in place whereby the Japanese company can set up a training school in the Philippines to ensure

the right skills are developed. For the manufacturing sector, training programs for sewing or electronic part production could be run through a large operation in the Philippines and other key origin countries. This would reduce training costs for individual factories and improve worker protections by increasing their supply chain value.

Better prepared workers will be more productive and better protected against maltreatment. Companies and suppliers can support more comprehensive predeparture briefings for workers through purchasing practices and choices of employment agencies. Employers can also partner with employment agencies to deliver predeparture skills training programs, such as industrial sewing courses, which can help workers become better qualified and more valuable, and as a result, less vulnerable to rights violations once they arrive in the destination country.

3. WELFARE SERVICES

POEA provides pre-employment orientations (PEOs) to introduce potential migrant workers to the realities of overseas employment in order to inform decisions about whether or not to migrate. PEOs strive to protect workers from illegal employment agencies taking advantage of prospective migrants' ignorance with unrealistic expectations.^{xxxiii}

The Overseas Workers Welfare Administration (OWWA) provides services for:

- » Education
- » Loan-granting
- » Reintegration, including local-level pre-employment orientations and predeparture orientations

OWWA is also responsible for the execution of predeparture orientations (PDOs), carried out in partnership with approved NGOs. The required PDO for all OFWs is about six hours in length and includes:

- » Introduction to destination-country culture
- » Basic country information
- » Language introduction
- » Advertisements including mobile phone plans and banking

“ There is a blatant lack of information at the village level that often does not allow prospective OFWs to make informed migration decisions. ”

Ellen Sana, Center for Migrant Advocacy, Philippines

BOX 13

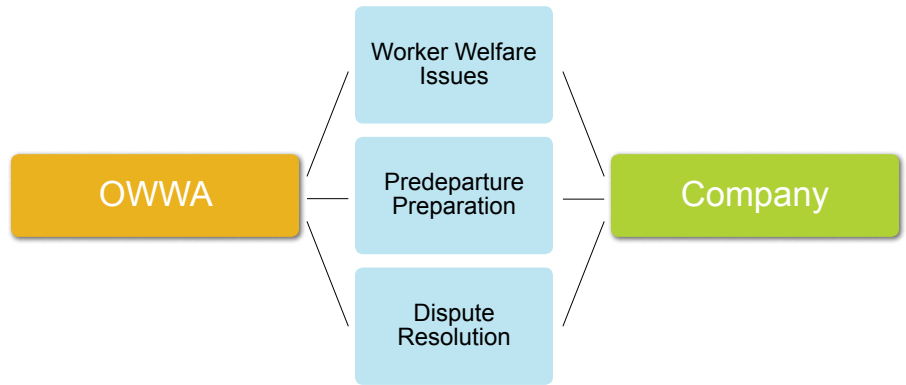
USING ORIGIN COUNTRY DATA TO INFORM COMPLIANCE AUDITING:

Labor migration data and standards can be integrated into core compliance auditing practices. In the Philippines system, many relevant records are accessible for companies to track the source and process through which OFWs became employed by their supplier. To build on their knowledge of the labor migration process, companies can use POEA data to determine whether workers in their supply chain are documented, and how well they are protected as a result. Available data from the POEA includes:

- » Database of legal Filipino workers
- » Records on recruitment agency practices

Initial audit findings can contribute to the development of standards and best practice, which can be further bolstered by coordination with existing origin and host country standards.

**DIAGRAM 9:
CONNECTING POINTS AND SHARED INTEREST**



OWWA activities and other welfare programs put in place by the Philippines government have established an impressive support network that stretches from villages in the Philippines to migrant destination countries. Philippine labor migration NGOs criticize the current system for inadequately preparing workers, however the system in place has established a baseline, upon which companies can build in partnership with employment agencies and civil society stakeholders.

In Malaysia, for example, the Philippines embassy offers numerous services to OFWs – and many of the programs are open to migrant workers from other origin countries. OFWs are encouraged to memorize the phone number of the Philippines embassy, and then register when they arrive. The embassy holds skills trainings on Sundays, and provides community support through the network of workers that is established. The Malaysian Trade Union Council reported that, because of the well-established support network, Filipino workers were among the best treated migrant workers in Malaysia, and had the best resources available to them when maltreatment did occur.

Companies can coordinate with the OWWA and other agencies in the Philippines and in key destination countries in order to ensure their workers utilize existing services provided by the Philippines government.

Expand Your Influence: Work with Stakeholders

Expand Your Influence

1. Advocate to government
2. Engage civil society and organized labor
3. Cooperate with peers

As companies begin to reorient their policies and procedures, talk with suppliers, review the integration of ILM data into compliance auditing, and take other appropriate steps, it becomes possible to shift toward protection-focused policies and practices with all stakeholders, including government, civil society and industry peers.

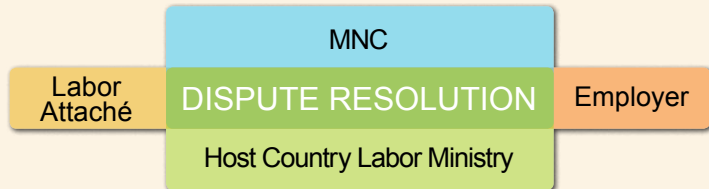
The Philippines government has established a strong network of support for overseas Filipino workers both at home and through its embassies overseas. Companies can take advantage of this network and utilize it to enhance the support system for OFWs in their supply chains. For example, the Philippines Overseas Employment Administration could advise companies on current risks involved in recruiting Filipino workers to a given host country. Strong relationships with government will also help in dispute resolution processes.

Companies can also encourage the formation of bilateral agreements to improve Filipino workers' rights safeguards in destination countries. Through direct outreach and indirect outreach with the POEA, Department of Labor and Employment and Department of Foreign Affairs, and appropriate stakeholders in destination coun-

BOX 14

ENCOURAGE COLLABORATIVE APPROACHES TO DISPUTE RESOLUTION

In the instance that a serious dispute arises at a factory with one or multiple Filipino workers, proactive company engagement with the Philippines' embassies and POLO offices could improve the dispute resolution process.



Embassies and POLOs often have stronger relationships with the destination country labor ministry and could serve as facilitators for companies during the dispute resolution process. In some destination countries, where strategic government engagement is arduous, this can be critical. In instances where the destination country's labor standards deny rudimentary protections of worker rights, refuse to exercise oversight over an employer or refuse to appropriately recognize the problem generally, POLO and POEA serve as government-level allies with a vested interest in protecting the workers.

Currently, companies rarely engage with the Philippines government on the issue of dispute resolution. What engagement does occur is reactive and in response to serious worker disputes. The DFA and labor attachés interviewed expressed willingness to engage with companies more proactively on worker dispute issues. Companies, suppliers, Filipino workers and the Philippines government could all benefit from more proactive engagement in the dispute resolution process.

tries, companies can support efforts to bolster legislation and protection in key origin-destination country pairings.

Relationships with Philippine civil society organization and organized labor will also help companies enhance the support network for migrant workers, and ensure that workers are well prepared before departure. These organizations can advise companies on the human costs to Filipino workers and their families, and the risks these human costs represent for business.

Some labor migration-related civil society organizations in the Philippines are actively engaged in advocacy efforts for government reform. Others are working with employment agencies to improve workers' protection and lower placement fees. BSR found civil society stakeholders to possess a pragmatic recognition of the role businesses can play in helping advance Filipino workers' rights protection. Through constructive partnerships with civil society and organized labor in the Philippines, companies can strive to identify solutions for stronger rights' protections for overseas Filipino workers globally.

Finally, companies will benefit from increased leverage and impact in their engagement with government and other key stakeholders if they cooperate with industry peers. While Filipino migrant workers may be distributed thinly through any one multinational's specific supply chains, within an industry as a whole, the numbers of OFWs increases greatly and potential for influence and impact will grow.

Appendix 1

Summary of Recommendations

BSR recommends the following steps for company engagement in the immediate, medium and long term to address labor migration issues in their supply chains:

EDUCATE YOURSELF

- » Grow awareness of labor migration in your supply chains and where rights violations are occurring in the migration process.
- » Learn about the recruitment and employment practices of your suppliers.
- » Assess whether national labor laws support migrant workers in policy and in practice.
- » Investigate the legal requirements for predeparture trainings in important origin countries.
- » Determine what levels of preparation workers have likely had and identify potential risk areas.
- » Investigate what resources exist for migrant workers to report maltreatment in key sourcing countries, e.g. hotlines, trade unions, NGOs, destination country government agencies, and origin country embassies.
- » Understand the dispute resolution processes in key sourcing countries.
- » Learn about existing international dialogues and taskforces, stakeholders who participate, and objectives and accomplishments.

ENGAGE WITH YOUR SUPPLIERS

Change Policies and Practices

- » Emphasize a rights-based approach to migrant workers in your code of conduct and accompanying policies.
- » Ensure alignment between sourcing plans and protection of migrant workers; that is, source from countries that are committed to protecting migrant worker rights.
- » Improve oversight and monitoring to assure compliance with migrant protections.
- » Utilize existing origin government resources to identify good recruiting agencies, and to help link suppliers to them.
- » Ensure explicit protections for migrant workers in codes of conduct to make up for shortcomings that may exist in destination country laws.
- » As an interim solution, invest in or support an existing hotline to increase transparency and provide communication channels to migrant workers.

Work with Suppliers

- » Develop trainings for suppliers that stress the human element of labor migration.
- » Discuss the business case with suppliers for direct recruitment and employment.
- » Support suppliers in building direct relationships with employment agencies in origin countries.

- » Incentivize direct employment through adjusted codes of conduct.
- » Work with suppliers to set fees and contracts with employment agencies to limit the opportunity for unfair fee charging to migrant workers.
- » In partnership with suppliers, develop trainings on basic rights awareness and information about local resources for existing migrant workers. Ensure the training is delivered in the languages of the workers.
- » Encourage suppliers to work with recruiters to develop basic job skills matching and training programs and fund these programs where appropriate.

EXPAND YOUR INFLUENCE

- » Advocate a shift toward protection-focused policies and practices with all stakeholders – suppliers, recruiters and government.
- » Participate actively in the global migration dialogue by advocating for improved protection-based policies and implementation, e.g. GFMD and the Colombo Process.

Talk to Government

- » Utilize individual and industry leverage to advocate with governments for support of direct recruitment and employment.
- » Emphasize to national governments that sourcing decisions are based on equal protection of all workers under the law.
- » Emphasize the importance to national governments of signing relevant international conventions protecting migrant workers.
- » Advocate to home country governments the importance of including labor provisions in international trade agreements.
- » Work with strategic or highly used origin country governments to improve official predeparture training programs.
- » Emphasize to sourcing country governments the importance of functioning dispute resolution processes and the role that effective rule of law places in your sourcing decisions.
- » Engage with key origin country embassies to improve resources available to migrant workers in destination countries and record keeping of disputes filed.

Cooperate with Peers

- » Develop a coordinated private sector approach, e.g. sharing best practices and establishing a unified position for government engagement.
- » Establish industry-wide migrant labor direct recruitment and employment practices; create guidance manuals for suppliers on company expectations.

Engage Civil Society and Organized Labor

- » Work with trade unions to create and disperse trainings in destination and origin countries, utilizing existing trade union networks.
- » Engage with trade unions to further South-South solidarity efforts.
- » Catalyze partnerships with local NGOs to provide migrant workers with resources, e.g. hotline and trainings.

Appendix 2

Relevant Organizations & Government Agencies

INTERNATIONAL

Better Work

BSR

Georgetown University, Institute for the Study of International Migration

Human Rights Watch

International Employers Organization

International Labour Organization (ILO):

International Labour Migration Branch (MIGRANT)

International Organization for Migration (IOM)

International Textile, Garment and Leather Workers Federation

International Trade Union Confederation (ITUC)

Levelworks

Migration Policy Institute

National Labor Committee (NLC)

Social Accountability International (SAI)

Solidarity Center

UN High Commissioner for Human Rights – Committee on Migrant Workers

UN International Convention on Migrant Workers' Rights Committee

U.S. Department of State

Verité

World Bank Development Prospects Group: Migration and Remittances

REGIONAL

Asia Foundation

Asian Migrant Centre

Georgetown University, School of Foreign Service, Qatar

Lend A Hand India

Migrant Forum in Asia

SEARCH Project, Migration and Workers Rights for Southeast Asia Regional
Co-operation in Human Development

South Asia Migration Resource Center

Taskforce on ASEAN Migrant Workers

UNI-Apro

UN Inter-Agency Project on Human Trafficking in the Greater
Mekong Sub-region

UNIFEM, Empowering Women Migrant Workers in Asia

LOCAL

Bangladesh

Bangladesh Ovibashi Mohila Sramik Association

Bureau of Manpower, Employment and Training

IOM Dhaka

Refugee and Migratory Movements Research Unit

UNIFEM Dhaka

Welfare Association of Repatriated Bangladesh Employees

Egypt

ADEW (women's rights organization)

Embassy of the United States of America, Cairo Office

Levelworks

Ministry of Manpower and Vocational Training

Ministry of Trade and Industry

Suzanne Mubarak Women's International Peace Movement

Gulf Cooperation Council Countries

Bahrain Center for Human Rights

Bahrain Human Rights Society

Dubai Center for Responsible Business

General Federation of Bahrain Workers

Gulf Research Center

Human Rights for Change

Human Rights Watch (migration research department)

Mafiwasta (United Arab Emirates)

Permanent Committee of Labor Affairs (United Arab Emirates)

India

Center for Indian Migrant Studies

IOM Hyderabad

Migrant Forum India

Ministry of Overseas Indian Affairs

National Centre for Labour

Research Unit on International Migration, Centre for Development Studies

Jordan

American Chamber of Commerce, Jordan
Better Work Jordan
General Federation of Jordanian Trade Unions
Hashemite Fund of Human Development
ITUC Middle East Office
Jordanian Labor Inspectorate
Ministry of Industry and Trade
Ministry of Labor
National Center for Human Rights
Solidarity Center Jordan
UNIFEM Amman

Malaysia

Malaysian Bar Council
Malaysian Employers' Federation
Malaysian Trade Union Congress
Ministry of Home Affairs, Department of Immigration
Ministry of Human Resources, Department of Labor
Penang Office of Human Development
Tenaganita

Philippines

Center for Migrant Advocacy
Committee on Labor and Employment, Congress of the Philippines
Dahlzhen International Services, Inc.
Department of Foreign Affairs, Office of the Undersecretary for
Migrant Worker Affairs
Eureka Personnel Management Services, Inc.
Filipino Manpower Agencies Accredited to Taiwan
Manpower Resources of Asia, Inc.
Overseas Workers Welfare Administration (OWWA)
Philippine Migrant Rights Watch
Philippines Association of Service Exporters, Inc.
Philippines Overseas Employment Administration (POEA)
Scalabrini Migration Center
Technical Education and Skills Development Authority (TESDA)

Sri Lanka

Action Network for Migrant Workers

Employer's Federation of Ceylon

Migrant Services Centre

Ministry of Labor Relations and Foreign Employment

National Workers Congress

Sri Lanka Bureau of Foreign Employment

Vietnam

ActionAid Vietnam

Center for Development and Integration

Committee to Protect Vietnamese Workers

Ministry of Labor, Invalids and Social Affairs (MOLISA),
Department for Overseas Labor Management

Vietnam Academy of Social Sciences

Vietnam Association of Manpower Supply

Vietnam CSR Forum

Vietnam General Confederation of Labor

Vietnam Lawyers' Association

Appendix 3:

Commitment to Action in Pursuit of Ethical Recruitment

Recognizing that overseas employment continues to be an important livelihood option among peoples in Asia to alleviate poverty and improve their quality of life;

Realizing the growing and critical role of employment agencies in facilitating overseas employment, through matching of jobs with skills and concluding employment agreements between migrant workers and foreign employers in the global labour market, which has been accompanied by complex challenges affecting the credibility of professional practitioners among them;

Concerned of alleged malpractices of some employment agencies, sub-agents and foreign brokers driven by greed for profits, jeopardizing quality service to both migrant workers and foreign employers;

Cognizant of the increasing competition in the world market for skilled and competent workers and varying degrees of supply shortages in some occupations in different countries;

Knowing that employment agencies have vital responsibility to comply with government regulations, promote legal migration, search for decent jobs and participate actively in policy consultations in virtue of the license and authority granted to them by the respective government;

Desiring a system of rewards and incentives to promote professional employment service and practice among agencies and an environment conducive to meaningful cooperation and responsible self-regulation;

Conscious of the vital role and corporate social responsibility of overseas employment service providers as major stakeholders in the employment of workers in foreign country;

Confident of the benefits and potentials of collaboration, exchange of ideas and information as well as sharing of good practices between and among employment agencies in the countries of origin of migrant workers in Asia;

Aware of previous efforts to organize the overseas employment service providers, either through internal sector initiatives or in the framework of programmes and actions of development partners or international organizations such as the International Organization for Migration (IOM), the European Commission and United Nations Fund for Women (UNIFEM), towards the pursuit of ethical code of conduct;

We, the overseas employment service providers in the countries of origin of migrant workers in Asia, hereby manifest our commitment to pursue a programme of action in the following areas:

1. Organize ourselves into a regional alliance, to be known hereby as the Alliance of Asian Associations of Overseas Employment Service Providers

- » Adopting the vision: A well-respected, credible, ethical organization helping to provide gainful overseas employment to people to improve their lives;
- » Tasked with the mission: of connecting human resources in Asia to the world and contributing to the development of the origin and destination countries;
- » Living up with the core values of: professionalism, quality, service to humanity, integrity, trust, honesty, passion and fairness;

2. Establish working committees on the following themes;

- » Advocacy programmes to promote understanding of universal principles espoused in international conventions and instruments relating to the rights of migrant workers and role of private employment agencies;
- » Enhancement of partnership with government for the protection of migrant workers;
- » Joint discussion of issues on issues of common concerns, including hindrances to ethical recruitment practices and strategies to address them;
- » Foreign employer client orientation programmes;
- » Development of innovative approaches to streamline the sector and the recruitment processes;
- » Program of exchange of information and ideas as well as sharing and propagation of good practices;

3. Establish administrative structure of the Alliance and mode of communication

Adopted this Commitment on the 4th of April 2008 on the occasion of the European Commission-supported IOM Regional Conference-Workshop on *Organizing the Association of Employment Agencies in Asia: Moving Forward to Action on Ethical Recruitment*, Astoria Plaza Hotel, Manila, Philippines.

Founding Chartered Members

Bangladesh Association of International Recruiting Agencies

Bangladesh Overseas Employment & Services Ltd.

DirEx Overseas Employment Services Co., Ltd. (China)

Indonesian Employment Agencies Association

Indonesian Manpower Services Association, Indonesia

Global Overseas Services, Nepal

RBS Brothers, Pakistan

Trans Arabian Travel and Trade, Pakistan

Philippine Association of Service Exporters, Inc.

Manpower Resources of Asia, Philippines

Upcountry Manpower Agency, Ltd., Sri Lanka

SL Foreign Employment Agency, Sri Lanka

Thai Overseas Manpower Association

Vietnam Association of Manpower Supply

Tourist, Trade & Labour Export J.S. Company-Vietnam Motors, Vietnam

Appendix 4:

The International Organization for Migration Business Advisory Board

The Board meets once yearly and additionally at the invitation of a Board member.

Current Board Members Include:
(November 2007)

Mr. Ghassan Aidi, President, International Hotel and Restaurant Association
Mr. David Arkless, Executive Board Member, Manpower
Ms. Carla Cico, Former CEO, Brasil Telecom
Mr. Mazen Darwazah, Chairman, Hikma Pharmaceuticals
Mr. John Defferios, Group Vice-President, FactBased Communications Media
Mr. Shafik Gabr, Chairman and CEO, Artoc Group
Dr. J. P. Huang, Chairman, JPI Group
Mr. Paul Laudicina, Chairman, A.T. Kearney
Mr. Rick Menell, President and CEO, Teal Exploration & Mining, Inc.
Mr. Carlos Moreira, Chairman, WISEKey SA
Mr. Satoshi Mukuta, Managing Director, Nippon Keidanren
Mr. Antonio Peñalosa, Secretary-General, International Organization of Employers (IOE)
Mr. Ricardo B. Salinas Pliego, Chairman, Grupo Salinas
Mr. Ikram ul-Majeed Sehgal, Managing Director, Pathfinder Group
Dr. Jannie Tay, CEO, The Hour Glass
Dr. Naresh Trehan, Executive Director, Escorts Heart Institute and Research Centre

Appendix 5

Abu Dhabi Declaration of Asian Countries of Origin and Destination

Abu Dhabi, 21- 22 January 2008

Contractual Labour Mobility in Asia: Key partnerships for Development between Countries of Origin and Destination.

Abu Dhabi Declaration of Asian Countries of Origin and Destination

(Draft)

The Ministers of Afghanistan, Bahrain, Bangladesh, China, India, Indonesia, Kuwait, Malaysia, Nepal, Oman, Pakistan, the Philippines, Qatar, Saudi Arabia, Singapore, Sri Lanka, Thailand, United Arab Emirates, Vietnam and Yemen have come together in Abu Dhabi on 21 and 22 January 2008 to consultate the Ministerial Consultation on Overseas Employment and Contractual Labour for Countries of Origin and Destination in Asia, refereed to as the Abu Dhabi Dialogue¹ adopted the following considerations and recommendations:

I. Considerations

I.1 Growing temporary and circular labour mobility in Asia is prompting countries of origin and destination to re-examine a number of long-held assumptions about contractual labour mobility with a view towards advancing their respective development interests through increased collaboration and partnership.

I.2 When properly managed, temporary contractual labour mobility will benefit both countries of origin and destination as well as improve the well-being of temporary contractual workers. Labour mobility can be an important instrument for the development of economies as well as human resources. The UN general Assembly High-level Dialogue on International Migration and Development in New York in September 2006, and the Global Forum on Migration and Development in Brussels in July 2007, highlighted the relationships between international mobility, poverty alleviation and development.

I.3 The potential of temporary contractual labour mobility in fostering development is not a new concept in Asia. For a number of decades now, many Asian countries have looked to opportunities available in the regional labour market to satisfy their employment and human resource needs. However, what is new today is the recognition that we are living in a world that is more mobile than ever before a world with greater integration of economies, labour forces and societies; and one which is experiencing rapid and deep changes, notably due to technological advances, demographic shifts and environmental degradation.

I.4 Against this backdrop, ten labour countries of origin from South and South-east Asia established in 2003 a regional dialogue, known today as the "Colombo Process." The first meeting in Colombo was followed by a second in Manila in September 2004, and a third in Bali in September 2005. During the Bali meeting, Afghanistan joined as the 11th member and for the first time, countries of destination attended as observers. It was also at the Bali meeting that the membership agreed to formally engage in a dialogue with countries of destination, both Asian and European. The Bali Ministerial represented a qualitative leap in the emerging dialogue between Asian countries of origin and destination and it was recognized there that the term "expatriate and contractual labour" was an accurate description of labour flows to GCC countries.

I.5 The hosting and funding by the Government of the United Arab Emirates of the Ministerial Consultation between the Colombo Process countries and Asian desti-

¹ The Abu Dhabi Dialogue is a dialogue between the 11 Colombo Process countries (Afghanistan, Bangladesh, China, India, Indonesia, Nepal, Pakistan, the Philippines, Sri Lanka, Thailand and Vietnam), and 9 other Asian countries (Bahrain, Kuwait, Malaysia, Oman, Qatar, Saudi Arabia, Singapore, United Arab Emirates and Yemen). This dialogue therefore takes place amongst governments from several geographical sub regions in Asia, addressed in this document under the generic term "Asia". These are western Asia (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates and Yemen), Southern Asia (Afghanistan, Bangladesh, India, Nepal, Pakistan and Sri Lanka), Eastern Asia (China), and South-Eastern Asia (Indonesia, Malaysia, Philippines, Singapore, Thailand and Vietnam).

nation countries is an important expression of the interstate collaboration fostered in this dialogue since its very inception.

I.6 The Abu Dhabi meeting highlighted that, in the context of the global economy, there is increasing competition to boost economic growth through labour mobility at all skill levels. In this connection the Ministers consider that the best economic and social outcomes are achieved through the provision to all workers of good living and working conditions, their protection including through promotion and implementation of transparent policies and practices including for recruitment and employment according to the national laws and regulations of countries of origin and destination and facilitating remittances, and the development of a framework for multilateral cooperation to leverage the benefits of temporary contractual labour mobility.

I.7 The Abu Dhabi meeting recognized the joint responsibility of countries of origin and destination to enforce compliance by recruitment agencies and other parties engaged in the recruitment process with the requirements of the national laws and regulations pertaining to the employment of temporary contractual labour, thus providing further protection to workers.

II. Recommendations

II.1 Based on the above mentioned considerations, and in light of the constructive dialogue that took place in Abu Dhabi, the participating States have decided to launch a new collaborative approach to address temporary labour mobility and maximize its benefits for development. They have identified the following partnerships between Asian countries of origin and destination through which they wish to foster information sharing, promote capacity building, technical cooperation and interstate cooperation.

Partnership 1: Enhancing knowledge in the areas of: labour market trends, skill profiles, temporary contractual workers and remittances policies and flows and their interplay with development in the region

Partnership 2: Building capacity for effective matching of labour demand and supply

Partnership 3: Preventing illegal recruitment practices and promoting welfare and protection measures for contractual workers, supportive of their well being preventing their exploitation at origin and destination

Partnership 4: Developing a framework for a comprehensive approach to managing the entire cycle of temporary contractual mobility that fosters the mutual interest of countries of origin and destination.

II.2 These partnership are based on the mutual interests of labour origin and destination countries with a particular focus on development. They are action-oriented and, in addition to governments, will seek to engage other relevant stakeholders for the implementation of initiatives which will take this partnership forward in a spirit of international dialogue and cooperation.

II.3 The meeting calls on the countries of origin and destination to continue their dialogue to identify practical outcomes to the partnerships enunciated in this declaration with support of IOM.

II.4 The next Abu Dhabi Dialogue Ministerial Consultation will be held in in 2010 with support from IOM

II.5 The meeting welcomes the call by His Highness Sheikh Salman Bin Hamad Al Khalifa, Crown Prince of Bahrain, Chairman of the Economic Development Board, at the 96th session of the International Labour Conference to launch a Social Dialogue Summit to address labour issues with the participation of countries of origin and destination in order to reach effective decisions in the light of the outcome of the Abu Dhabi Dialogue and other pertinent meetings that were held recently.

The Ministers expressed their appreciation to the Government of the United Arab Emirates for chairing this Ministerial Consultation and the hospitality provided to all participants, as well as to IOM for its efficient support as Secretariat of the Colombo Process and of this first meeting of the Abu Dhabi Dialogue.

Abudhabi, 22 January 2008

GULF FORUM ON TEMPORARY CONTRACTUAL LABOUR

Abu Dhabi, January 23rd & 24th 2008

Recommendations

The Forum took note of the discussions and constructive and transparent deliberations of the Abu Dhabi Dialogue which was held on the 21st and 22nd January 2008. It also acknowledged the significance of the *Abu Dhabi Declaration of Asian Countries of Origin and Destination*.

Presenters, discussants and participants recognized the specificity and distinctiveness of temporary contractual labour issues in GCC countries and unanimously expressed a call for capturing the tenants of an equitable and transparent administration of the temporary contractual employment cycle in a multilateral framework for regional cooperation. The Forum acknowledged the sovereign right of states to develop their own labour and migration policies and recognized the need to adopt coherent and comprehensive policies to effectively manage temporary contractual labour and protect workers. Furthermore it was recognized that special attention should be given to the critical issues faced by foreign workers, and extending protection to all workers in all phases of the employment cycle.

The Forum underlined the importance of collaboration amongst various stakeholders in both countries of origin and destination, and the significance of engaging in international cooperation.

1. On the basis of the session which examined the key outcomes of the Abu Dhabi Dialogue, the following recommendations were formulated:

- » Ensure that policies and regulations pertaining to temporary contractual workers take into consideration the particularities of the Gulf Region and the national interest of the GCC states.
- » Support research activities with respect to the movement of contractual workers and its impact on countries of origin and destination alike.
- » Ensure equitable and transparent legal and regulatory instruments covering all workers.

2. On the basis of the session which examined the issues of the Asian contractual labour in GCC countries, the following recommendations were formulated.

- » Provide induction and counseling programs to contractual workers in countries of origin that offer guidelines about the countries of destination, including language, cultural and legal aspects.
- » Ensure that the recruitment agencies on both countries of origin and destination are held accountable under national laws and regulations.
- » Recommend that recruitment agencies in both sending and receiving countries be invited to the Manilla Meeting in October 2008.

3. On the basis of the session which examined the temporary contractual character of expatriate labour in GCC countries, the following recommendations were formulated:

- » Enhance partnership between countries of origin and destination on the basis of congruence of interests of all those who hold a stake in the success of temporary contractual labour.
- » Ensure that the workers are protected against illegal or unfair recruitment practices and make sure that they make informed decisions when engaging in the offered employment
- » Uphold the protection of workers under the national laws of countries of destination during the period of temporary residence, including the areas of health and safety, accommodation, decent work environment and protection of wages, as informed by relevant international labour standards.
- » Consider means to allow for a successful reintegration of the workers in their countries of origin at the end of the employment cycle.

4. On the basis of the session which examined the engagement of civil society organizations in labour issues, the following recommendations were formulated:

- » Facilitate the engagement of civil society organizations in countries of destination in addressing and providing solutions to labour related challenges.
- » Facilitate the networking between NGO's in countries of origin and destination

in the context of the partnership enunciated in the Abu Dhabi dialogue.

5. On the basis of the session which examined the labour relations in GCC countries, the following recommendations were formulated:
 - » While appreciating the positive steps undertaken by the GCC countries towards better and stable labour relations, extra efforts are to be encouraged in this respect.

Endnotes

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