

Feasibility Study on the Establishment of Migrant Welfare Fund Programme in Myanmar

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Introducing Myanmar

- Situated in south east Asia bordered by Bangladesh, India, China , Laos and Thailand.
- Composed of Seven States namely Kachin, Kaya, Kayin, Chin, Mon and Rakhine and Seven Regions namely Sagaing, Mandalay, Magwe, Bago, Ayeyawaddy ,Yangon and the Union Territory in which is located the capital city, Naypyitaw.
- There are also five self administered zones within the Sagaing Region and Shan State.
- The population of Myanmar, according to the 2013 Census is 51.5 million. About 65% of the population are in the rural areas.
- Yangon, the principal Commercial City has a population of 5.5 million.

Brief Political History

- Myanmar gained her Independence from the British in 1948 after more than a hundred years of colonial rule.
- Burma, as it was known then, was established in line with the 1947 Constitution as a parliamentary democracy and a market economy.
- In 1962, due to differences among political parties, the Chief of the Defense Forces assumed political power of the Nation.
- The Military Government introduced “The Burmese way to Socialism”, and in 1972 introduced a socialist style constitution and the single “Burma Socialist Program Party” which after elections of peoples representatives from among party members, formed the Government.
- The socialist era came to an end after the general disturbances of 1988.
- The Chief of Defense Forces took over power and formed the State Law and Order Restoration Council (SLORC). Multi-party Elections were held but no State Constitution was in place.
- In 1994, a new Commander in Chief of the Defense Forces assumed power and reformed the SLORC to State Peace and Development Council (SPDC).
- A committee was formed to draw up a Constitution based on Multi-party Elections and a Market Economy.

Labour Migration

- It was only for the past four decades or so Myanmar have been migrating to other countries in search of employment.
- Many of them went legally by their own efforts.
- Most unskilled workers migrated to neighboring countries across the border illegally with the help of illegal brokers.
- The Department of Labour , from around 1994 allowed persons who had Service Agency Registration Certificates issued by the Ministry of Trade to send workers abroad legally to work temporarily, under Contract of Employment.
- In 1990 the Government promulgated The Law Relating to Overseas Employment .
- It is administered by the Overseas Employment Central Committee headed by the Minister for Labour.

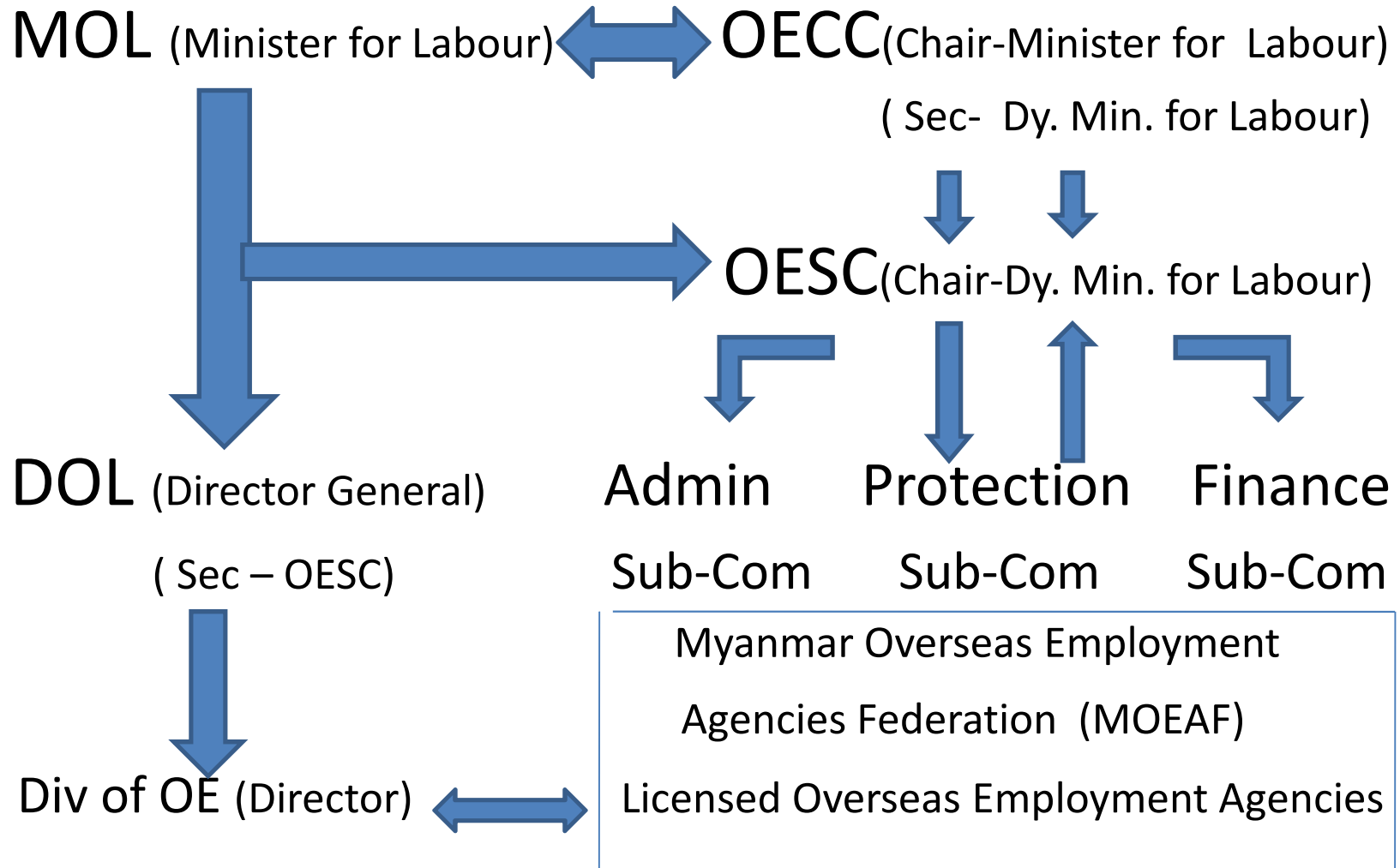
Protection of Migrant Workers

- Section 380 of the State Constitution says ‘Every citizen who has relations with foreign countries shall have the right to seek protection of the Union at home or abroad’.
- Section 25 (d) of the Law Relating to Overseas Employment says that a Service Agent License Holder ‘shall communicate with the overseas employer concerned and undertake responsibility for obtaining in full the rights and privileges in the case of loss of rights and privileges of workers’.
- Bilateral agreements with signed between Myanmar and some receiving countries spell out obligations of both Myanmar and the receiving countries to ensure that there is no loss of rights of the migrant workers.

The Labour Migration Regulatory Process

- The Overseas Employment Central Committee formed under the Law Relating to Overseas Employment lays down the policy and programs relating to overseas employment of Myanmar citizens.
- The Overseas Employment Supervision Committee under the OECC and the Department of Labour implement the policies and programs and generally performs the regulatory functions.
- Only overseas employment agents licensed by the Department of Labour in accordance with the Overseas Employment Law may send Myanmar citizens for employment abroad in accordance with procedures prescribed by the Regulatory Bodies.

Labour Migration Regulatory Bodies



Illegal Recruitment

- Despite the requirements of the law to obtain license for sending workers abroad, there are many illegal 'brokers' operating especially in the rural areas 'helping' people to migrate (albeit illegally), often charging exorbitant fees and without adequate assurance of obtaining the promised employment in the destination country.
- Efforts are being made to educate potential migrants about the dangers of illegal migration and the 'safe' ways to migrate with the help of licensed overseas employment agencies.
- Even some licensed overseas employment agencies have been found to send workers without following the procedures put in place to ensure safe and legal migration.

The Prescribed Recruitment Process in Brief

- The LOEAs are to submit the documents related to sending workers for employment overseas to the DOL.
- The DOL will process the documents and issue the authorization to advertise through the Employment Exchanges and/or the media to recruit the workers.
- Selected candidates shall undergo the prescribed medical examinations.
- The LOEA will explain to the workers who pass the Medical Examination about terms and conditions of the job as mentioned in the draft Employment Contract sent by the Employer.
- The LOEAs shall help the workers to obtain Passports.
- The DOL shall issue Overseas Registration Cards (smart cards) to the workers .
- The LOEAs shall help the workers to get work permits and visas and air tickets.
- The LOEAs shall conduct prescribed Pre-Departure Course for the workers.
- The LOEAs shall help the workers to depart for the destination country (either by air or crossing border checkpoint).
- The LOEAs shall make arrangements for its agents to meet the worker at the point of arrival in the destination country.

Workers Facing Problems in Destination Countries

- As described in the interviews with responsible persons and case studies of workers, many migrant workers from Myanmar including some sent by the LOEAs , faced problems in the receiving countries.
- Some were denied rights of workers and even not paid their wages. Many, particularly the illegal ones, were ill-treated by employers and 'brokers', some even to the point of losing their lives.
- Many were forced to be evacuated because of problems with workers of other countries.
- In several instance, the Government of Myanmar and the Myanmar Embassies in the receiving countries had to step in to resolve the disputes between the workers and their employers.
- Those who wanted to return home were sent back with the assistance of Individual donors and Organizations in Myanmar.
- Many workers who needed legal assistance could not access such assistance due to lack of financial resources.

Remittances of Migrant Workers

- The positive outcome of the Migration Process is that the remittances made by the migrant worker helps improve the lives of their families.
- Majority of the worker whether sent by LOEAs or otherwise, use the informal channel known as the 'Houndi' system to make their remittances.
- Although irregularities in the 'Houndi' system are not common, the workers have to pay a certain percentage of the amount remitted, to the 'Houndi' operators and at the same time the State loses foreign exchange earnings.
- The Government has introduced the formal banking channel for making remittances.
- However, as the workers are not yet used to the system, remittances through the banking channels have been low as indicated in the figures of the Central Bank.

Need to setup Migrant Workers' Welfare Committee

- As is evident from the case studies of Myanmar workers, both legal and illegal migrants have faced hardships in the receiving countries either due to their status or because they were denied their rights as workers.
- Some working in vulnerable circumstances have not only been ill-treated but even lost their lives.
- There were instances where the Myanmar Government had to step in to call back the distressed workers to Myanmar using its own resources and also resources made available by donors in Myanmar and in the Receiving countries.
- In disputes and infringement of the labour laws by employers legal representation on behalf of the workers is much constrained due to scarcity of financial resources.
- Hence Myanmar migrant workers stands to benefit much through the establishment of Myanmar Migrant Workers Welfare Fund.
- It is intended to include establishment of MMWW Fund when the existing law is revised.

Thank you for your attention

On behalf of U Kyaw Win

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Feasibility Study of Migrant Workers Welfare Fund

Myanmar