

ILO APRM Bali, 7 December 2016

Summary report of information session: Fair Migration with a focus on Recruitment

The information session on fair migration with a special focus on recruitment was chaired and moderated by Mr HOUNGBO, Deputy Director General for Field Operations, ILO.

The panel was composed of:

- Phongsaysack Inthalath, Chair Labour Officials Meeting and ASEAN committee on migrant workers;
- Dr Omar Alnuaimi, Assistant Undersecretary for Communication and International Relations, Ministry of Human Resources and Emiratization, UAE;
- Ray Jureidini, Research Director, Migration, Ethics and Human Rights, Hamad Bin Khalifa University, Doha;
- Michelle Leighton, Chief, Labour Migration Branch, ILO

In introducing the session, Mr HOUNGBO placed the theme of fair recruitment into the broader policy context of the Fair Migration Agenda (adopted in 2014), and invited Ms Leighton to introduce the Fair Recruitment Principles and Guidelines which were adopted by a Tripartite Technical Meeting of Experts in September of 2016.

Ms. Leighton highlighted the increase in volume of migrant workers in the interrelated regions of Asia and the Arab States, and within Asia. The majority of the estimated 18 million migrant workers in the Arab States originate from Asia, while two thirds of the 9.5 million international migrants in ASEAN come from other ASEAN countries. The high volume of migration in these corridors and the poor bargaining position of low-skilled migrants, gives rise to unscrupulous behaviour by local recruitment agents and their foreign counterparts.

She then presented the key features of the Fair Recruitment General Principles and Operational Guidelines, which apply to national as well as migrant workers. The nonbinding Guidelines are meant to serve as a central means to addressing recruitment abuses. The principles state that recruitment should take place so as to respect and fulfill human rights and international labour standards, and in particular Fundamental Principles and Rights at Work. They call for taking measures against abusive and fraudulent recruitment methods, including those that could result in forced labour and trafficking. Here, the key role of employment

contracts, labour inspection, and the use of standardized registration, licensing and certifications systems is important. The guidelines underscore the ILO standard that no fees or costs should be paid by job seekers and workers. The operational guidelines identify responsibilities of different actors of the recruitment process - Governments, public employment services and enterprises, with a need to develop laws and policies that regulate recruitment comprehensively, and across borders through bilateral and multilateral agreements. Within enterprises, specific responsibilities are outlined for labour recruiters and employers.

Ms Leighton stated that the ILO Governing Body has authorized ILO's dissemination of the Guidelines and to use them as a basis for capacity-building programmes and cross-border cooperation to implement the guidance, working with employers' and workers' organizations.

She further informed that the UN Sustainable Development Goals (SDG's) recognize that eliminating the costs of recruitment is central to management of migration. The ILO and World Bank are developing the methodology to help member States measure these costs under SDG indicator 10.7.1.

The ILO Governing Body has also asked the Office to use the Guidelines in follow-up to the UN General Assembly High Level Summit on refugees and migrants that took place in New York in September. The UN General Assembly agreed to develop, for adoption in 2018, two Global Compacts on respectively refugees and migration. The Migration Compact will be the first global instrument to be adopted at the UN by Heads of State to guide global migration governance. The discussion today is particularly relevant, as consultations for the development of the Migration Compact, including at regional level, will begin in early next year. ILO constituents will need to play a key role to ensure ILO standards and approaches, including on recruitment, are adequately reflected.

Mr. Inthalath informed that protection and promotion of the rights of migrant workers are high in ASEAN agenda. In 2007, ASEAN Leaders signed the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers or the Cebu Declaration. The Cebu Declaration calls for Sending States to regulate recruitment of migrant workers and eliminate recruitment malpractices through legal and valid contracts, regulation and accreditation of recruitment agencies and blacklisting of negligent or unlawful agencies. For Receiving States, the Declaration calls for the facilitation of migrant workers' access to

resources and remedies. It calls for the Receiving States to promote fair and appropriate employment protection and provide migrant workers with adequate access to legal and judicial system when they face discrimination, abuse, exploitation and violence.

The Cebu Declaration is not just a political statement but also a guidepost for actions, and these include the finalisation of ASEAN instrument on the protection and promotion of the rights of migrant workers, and the work plan of the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers or ACMW. The ACMW Work Plan 2016-2020 is addressing four thematic areas, translated into activities and projects that ASEAN will work collectively on over the five years. The four thematic areas are: governing mechanism of labour mobility; social protection of migrant workers; protection and promotion of the rights of migrant workers; and labour dimension of trafficking in persons.

Mr Alnuaimi, from a destination country perspective, recalled key drivers of current recruitment practices which result in abuse of migrant worker rights and which need to be addressed: (1) In most corridors in the region there is an imbalance of supply and demand, with high numbers of low skilled migrant workers and far fewer job opportunities resulting in illicit fees and kickbacks imposed on migrant workers, and often resulting in a skills mismatch; (2) Migrant workers are poorly informed about their future job and destination; (3) Employers are driven by lowering worker costs, including through illegal means; (4) Regulation of the recruitment of migrant workers remains unresolved at the high political level, making enforcement a challenge; (5) Business relations between recruiters and employers are non transparent and may escape legal scrutiny.

He highlighted that in absence of government-to-government recruitment modalities in the region, governments of countries of origin and destination need to find ways to increase the transparency between recruiters and employers, and standardize recruitment processes with letters of demand for workers, selection of candidate workers and their placement through government oversight. Partnerships between countries of origin and destination should be leveraged and customized to the Asia-Arab states corridor, and these could draw from models such as the MOU between the Philippines and three provinces in Canada, and another one between Saudi Arabia and Bangladesh.

Mr Jureidini drew from his recent ILO white paper entitled Ways forward in recruitment of low-skilled workers in the Asia-Arab States corridor

and emphasized that both countries of origin and destination need to show commitment to fair and ethical recruitment with the objective of eliminating all worker payments for recruitment in line with ILO Convention 181. He stated that it is unacceptable that the poorest low-skilled migrant workers are the ones fraudulently charged for their recruitment, far in excess to actual costs when the vast majority of higher-skilled workers do not. Those fraudulent charges are a form of extortion and amount to a multi-billion dollar industry at the expense of low skilled migrant workers, and can lead to debt bondage and forced labour. Employers who profit from this recruitment model, in particular in the construction sector, are motivated to maximize the number of migrant workers to be recruited.

He argued that, to change the culture of workers expecting to pay for obtaining their jobs abroad requires governments in countries of origin to repeal current regulations that allow private recruitment agencies to charge migrant workers, making such charges illegal and punishable by law, and informing prospective migrant workers accordingly. The culture of employers expecting not to pay the costs of labour recruitment also needs changing; beginning with reforming the tendering process for projects in countries of destination.

Bilateral and Multilateral Agreements should specify the supply of labour at no cost to migrant workers, and be underpinned by consistent legislation and enforcement on recruitment charges. To reduce the number of intermediaries, increased Government-to-Government labour recruitment is to be encouraged, setting benchmarks for the private sector.

Maximum recruitment fees - to be paid by employers - should be set and made transparent for all stakeholders. Accreditation programs to establish and source exclusively from trustworthy, fair, ethical and compliant recruitment agencies was also recommended.

He ended by highlighting the benefits of fair recruitment for all stakeholders. For employers these would include minimization of reputation risks, reduction of fraudulent activities, improved productivity, and contributions to a more socially just society. For Agencies, fair and ethical recruitment has proven to be commercially viable and would

produce less competition with economies of scale. For Employees, labour rights and freedom of movement would be easier to achieve with the elimination of debt bondage. For governments in countries of origin, it would mean the elimination of hundreds of millions of dollars currently disappearing through corruption, less abuse of nationals abroad and compliance with international standards. For governments of countries of destination, it would be reduction of fraudulent behavior, more contented workers and increased productivity, compliance with international standards and improved reputation.

Plenary discussion

Mr. Farooq Ahmed, Secretary General, Bangladesh Employers, stated that having clear and transparent national immigration laws and policies that do not hinder the free movement of labor are greatly beneficial for all the stakeholders. We also need to focus on the role of social partners. Both workers' and employers' organizations should be strict in advocating as well as implementing fair recruitment process. Communication among employers organizations should be established to exchange useful information and required intervention when necessary.

He pointed out that to ensure fair recruitment processes, many companies and industry bodies have their own codes of conduct. The World Employment Federation (previously known as the Confederation of Private Employment Agencies or CIETT) has its own Code of Conduct to promote ethical recruitment.

The role of IOE has been pivotal in the International Recruitment Integrity System (IRIS) and Fair Recruitment initiatives.

In addition to supporting the implementation of the principles and guidelines, ILO needs to support the Member States to analyze the need of the labour market, identify gaps, and take effective steps for free movement of workers across the region. ILO should also play a significant role in providing capacity building and technical assistance to its constituents in promoting fair recruitment. In this regard, ILO can assist to establish jointly collaborated training centers by sending and receiving countries with mutually acceptable certification systems to enhance and standardize the skills of the migrant or potential migrant workers.

Mr. Ramesh Badal, Secretary, GEFONT, Nepal, referring to the DG's 2016 report for the APRM, observed that a triple win potentially benefitting migrants, countries of origin and destination is currently not being realized: Agricultural and domestic workers are not recognized as workers; high recruitment fees are paid by workers; there are restrictions around job changes; and rights to freedom of association and collective bargaining often curtailed or absent. The win for countries of origin is also absent given that remittances do not make up for the loss in investment (in education) and social costs.

Recruitment agencies should be monitored and held accountable. Countries of origin should have policy coordination on wages to prevent a race to the bottom; and MOUs should be developed in a consultative manner and be transparent.

The Vice-President of the Malaysian Federation of Employers (MEF) stated MEF's support for fair migration. Migration costs are currently too high. Involvement of third parties should be minimized. Government-to-Government programmes in recruitment should be promoted. He mentioned the importance of recognition of skills as it results in better pay and higher productivity.

Mr. Solomon of the Malaysian Trade Union Congress emphasized that the real need to hire should be justified. He also pointed out that the legitimization of labour recruiters should be stopped, and replaced by a tripartite system. The right to freedom of association and collective bargaining for migrant workers should be respected.

Closing remarks

In concluding the session, Mr. Houngho invited the panelists to make final remarks.

Mr Jureidini reiterated the importance of eliminating recruitment costs for migrant workers and reducing them for employers. He further stated that bribery and extortion are crimes, and are not supposed to be the business norm, and euphemisms such as facilitation costs and leakage should be avoided.

Mr. Alnuaimi informed that a number of countries of origin and destination in the interrelated regions of Asia and Arab states are looking at alternative models of migration governance though leveraging skills and technology. He invited delegates to the APRM to participate in the

upcoming senior officials meeting of the Abu Dhabi dialogue in January in Colombo.

Mr Inthalath stressed the importance of taking action on fair recruitment at three levels, namely exchange of good practices at the global level; development of platforms and mechanisms at the regional level; and, model systems and implementation at the national level.

Ms. Leighton reiterated that recruitment should be monitored as there is a high risk of trafficking, debt bondage and poor working conditions. The Fair Recruitment Guidelines constitute the right framework for intervention, and ILO and its constituents need to now act together to implement it, and to ensure it is featured as part of the Global Compact on Migration.

Mr. Hounbo closed the session by thanking the panelists and audience for their contributions to a lively and productive session.

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