

ILO Decent Work Across Borders Migration Notes



Review of country specific regulatory and policy framework related to international recruitment industry and identifying best policy options and mechanisms to ensure exemplary behavior of recruitment agencies- A Desk Review

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Introduction

Outflow of people across international boundaries of States seeking foreign employment has increasingly become a global phenomenon as a viable source of potentially beneficial and important socio economic character for most of the labour sending and receiving countries. As for the UN estimates, out of a world migrant population of 213 million, around 50% is said to be economic migrants of which 50% is further estimated to be females. IOM in its World Migration Report 2013 has reiterated the four pathways of present day global migration streams as of South-North migration (less developed to developed), North-South migration (developed to less developed), North-North migration (developed to developed) and South-South migration (less developed to less developed). The majority 40%, has been estimated to be involved with South-North Pathway of migration as for Gallup World Poll quoted by the IOM report while World Bank identifies a rate of 45% and UNDP a rate of 41% respectively (WMR-IOM 2013). All these pathways justify the vivid geographical nature of migrants' movement from one end to another in the world.

Since the opening of employment avenues in the Gulf region in the early 1970s, the scenario of labour migration became more significant among Asians with exodus of not only the unemployed and under-employed persons from their countries but gainfully employed too. Thus, millions of people migrate annually at present from Asian countries (5.4 million in 2008-IOM) to a wide spectrum of economic activities representing from professional to low-skilled categories of employment mostly under the popularly known brand of 'Contract workers' (Table 1, shows annual outflow figures for some selected countries). Further, this avenue has become a main foreign exchange earning source to most of the sending countries today, registering a significant share in the GDP of the respective economies (Sri Lanka-10%, Bangladesh-11%, India-4%, Nepal 22%,


Year	Sri Lanka	Bangladesh	India	Pakistan	Nepal	Philippines	Cambodia	Vietnam	Lao	Indonesia
2010	267,507	390,702	641,356	364,685	299,094	1,470,826	19,783	85,564	7025	-
2011	262,960	568,062	626,565	-	354,716	1,687,831	14,853	88,298	-	-
2012	276,739	607,798	747,401	-	384,665	1,802,031	-	80,320	-	494,609

Pakistan 4%, Philippines-8 %).

Table 1 Annual Outflow of Migrant workers from some selected Asian countries (official data)

Source: Respective Govt. Authorities responsible for migrant labour management

When considering the country wise data, the stock of overseas Sri Lankan employees shares, a high percentage of 23% in the labour force (SLBFE-2012) while Philippines shares 11%, Pakistan 8%, Bangladesh 7% and Nepal 7% respectively (IOM-2013). When examining the basic characteristics of present day external migratory movements, high participation of females in the low skilled categories of employment especially in the domestic sector as household workers has greatly influenced for feminization of the flow of many sending countries.



In Sri Lanka, amidst some recent policy changes aiming at lowering the female participation as overseas domestic sector workers, 33. % of total flow of 2013 still represented by the House Maid category while total female participation stood at 40% less than what was reported in 2012 (48%-SLBFE) While In Philippines, the female participation surpassed the males in the land-based deployments by 52% to 48% (2012), Cambodian low- scaled outflow was composed with 50% of females. Participation of females in Indonesia's flow has shown a drastic drop from 80% in 2010 to 57% by 2012 due to suspension of entry for Indonesians by several East Asian countries which once were promising labour markets for Indonesian workers (IOM-2013). The official entry of Bangladesh in deployment of females in household work and Nepal policy of escalating avenues for females to take up household jobs in countries like Jordan cannot be ignored in a discussion like this. These two countries earlier recorded a low female ratio of 5% and 3% respectively. It is argued that the recent labour agreement signed between India and Saudi Arabia on supply of labor basically aimed at facilitating recruitment of household workers from India, a country which has not been traditionally a prominent supplier of female labour for domestic jobs.

High rate of low skilled nature of the Asian migrants has been another distinct character to be noticed. In Sri Lanka, around 70% of migrants are involved with unskilled job categories (SLBFE-2012), while countries in the region adding more values to the factor in the level of 43% by Pakistan, 50% by Bangladesh, 80% in Indonesia, 75% in Nepal, 63% in Vietnam and 41% in Philippines. (In Philippines, low skilled has been classified under the 'service workers category IOM-2012).

Present day regulatory and policy arrangements governing recruitment industry

With the rapid increase of migrant labour flows, the emergence of recruitment agents as key players in the deploying process in the sending and receiving ends proved to be a major area of concern. The rapid development of the recruiters demanded better regularizing the recruitment system to ensure less exploitations and abuses surged in the process. While present day labour recruitments policies have been devised by legal enactments in the nature of Acts, Laws, Regulation, Gazette Notifications(Sri Lanka) Decrees(Cambodia, Lao) Policy Declarations, and Prakas, Guidelines and Agreement(Lao), simultaneous development of institutional arrangements also took place in keeping with the pace. Thus, establishment of a separate Ministry in Sri Lanka in 2007 by the name of Ministry of Foreign Employment Promotion and Welfare taking away the subject of foreign employment from the traditional Ministry of Labour was an example to be cited. A profile of the present day legal enactments and responsible migrant labour management authorities is given in Table 2, for identifying the institutional and regulatory arrangements in place in the sending countries aiming better management of the industry.

Amidst solid regulatory and institutional arrangements in force, many studies found that migrant workers are not trouble free but associated with various form of abuses and exploitations during pre-migration, post migration and return migration sessions. 'There is often a gap between procedures outlined in national laws and the realities experienced by migrants during recruitment' (Philp Martin-2011). Recruitment related issues are more prominent during pre and post migration sessions, while returnees are faced with uncertainties due to lack of proper re-

integration guidance available in the home country.

Table 2 Major Regulatory and Institutional arrangements governing labour migration of selected labour sending countries

Country	Managing State Authority	Legal Provisions
Sri Lanka	M/ of Foreign Employment Promotion & Welfare. Sri Lanka Bureau of Foreign employment(SLBFE)	Act No.21/1985,Amendment Act No.4/1994&N0.56/2009
Bangladesh	M/ Expatriates 'Welfare & Overseas Employment Bureau of Manpower, Employment & Training (BMET)	Overseas Employment and Migrants Act/2013
India	M/Overseas Indian Affairs	Emigration Act/1983 &Emigration Amendments Rules/2009
Nepal	M/Labour & Employment/ Dept. of Foreign Employment, Foreign Employment Promotion Board	Foreign Employment Act No.2064/2007 Regulations 2064/2008
Pakistan	M/ of Overseas Pakistanis / Bureau of Emigration and Overseas Employment(BEOE)	Emigration Ordinance,1979
Philippines	M/Labour, Philippines Overseas Employment Administration(POEA), Overseas Workers Welfare Administration (OWWA)	Migrant workers and Overseas Filipinos Act/1995(RA2042), Amendment Act No RA10022/2010
Indonesia	M/Manpower, National Authority for the Placement and Protection of Indonesian Overseas Workers	Act No.39/2004, Presidential Decree No.81/2007
Cambodia	M/Labour & Vocational Training, Dept. of Employment And Manpower	Sub Decree- 190/2011,67/2009,70/2006 39/2009, Prakas No.12/2007
Vietnam	M/Labour, Invalids& Social Affairs(MOLISA), Dept. Overseas Labour (DOLAB)	Law on Sending Vietnamese Workers Overseas-2007, Decree No.16/2012 on Sending workers overseas
Lao PDR	M/Labour & Welfare	Labour Amendment 2007. Presidential Decree No.5/PO/2007

As identified by a study in Sri Lanka (Ruhunage-2013), the more common nature of issues associated with different stages of recruitment which are visible common factors in almost all


labor sending countries in the Asian region, are given below.

- High recruitment/placement fee levied on migrant worker by recruiters.
- Local and international competition among recruiting agencies by bargaining the terms and conditions of migrant worker.
- Involvement of intermediaries/sub agents who exploit migrant worker as well as genuine recruiter.
- Involvement of unscrupulous 'agents' who dupe prospective migrant workers dragging them most often to human smuggling racket.
- Substitution of service contracts by application of a different contract ('double contract' system) with conditions inferior to those contained in the contract signed prior to departure.
- Deduction, underpayment and non-payment of wages and negative impact of minimum wages unilaterally adopted by sending countries.
- Harassments in the hands of local and foreign agents and employers.
- Phenomenon of 'Kafala' (sponsorship) system and negative impact on the rights of migrant worker.
- Tendency of migrant workers for personal channels of recruitments.
- Exploitations reported at medical centers.
- Host country situations of recruitment gaps.

Good practices in curbing exploitations and abuses by sending country authorities

a. Upgrading and tightening regulatory and institutional arrangement governing labour migration


In keeping with the escalating pace of labour migration, and the issues surfacing thereon, authorities responsible for management of labour migration industry at national level, tend to make necessary institutional and regulatory changes and amendments to meet the emerging situations. This practice seems to be taking place not only in sending countries but the receiving countries as well. In 2007, Sri Lanka Government has created a separate Ministry (Ministry of Foreign Employment Promotion & Welfare) to better organize and manage the industry. Since inception of the Ministry, there has been a considerable increase in foreign employment placements during last 7 years, by 45% from 201,948 in 2006 to 292,599 in 2013(SLBFE).The most significant feature of this development was the increase of male participatory ratio to more than 50% surpassing traditional female dominance in the outflow. Since the new Ministry's strategy has been to promote more male workers in the flow targeting a decrease of female departures to domestic sector jobs which was traditionally a major area of jobs for low skilled female in Sri Lanka, the present trend seems to be a positive development of achieving the target. The latest results evident, a sharp drop in the female share by 55% in 2013 compared to 2006 levels. Subsequent to these trends, the Ministry embarked on a revision of the existing laws with a special intention of curbing escalating high cost of recruitment charges at the time. It has proved by now that the Amendment SLBFE Act No.56/2009 has greatly impacted on reducing the cost of migration in Sri Lanka and structured a feasible amount of charges which can be considered as the



lowest rates prevailing in the South and East Asian Regions. Hence, it is worthwhile to study the methodology adopted under this revision of the Law by Sri Lankan authorities more deeply, in a discussion of this nature as a case study.

SLBFE Amendment Act No.56/2009 passed by the Sri Lanka Parliament in October 2009 brought more essence to the foreign employment policy where the most striking feature was to grant legal authority to recruitment agencies to charge a 'declared actual cost' from the migrant worker. Article 6 of the new amendments stipulates that 'if any licensee does not receive any commission or any other payment to secure employment opportunities outside Sri Lanka, he may charge the actual expenses to be incurred in procuring the job after having obtained prior approval for same from the Bureau'. Following these amendments, SLBFE has appointed an Official Committee to decide whether fees claimed by the recruitment agents are acceptable and if not the chargeable amount. The Bureau's determination of chargeable fee is based on the salary offered, cost of travel, cost of medical examinations, official levies and administrative cost of the agency etc. Verification to assess whether these affiliated costs are borne by the employer is an important element in this exercise where if such facilities are offered by the employer, the agent's claim for additional charges is naturally subjected for refusal from the SLBFE. This is why some advertisements carried by the agencies are tagged under the label of 'Free Recruitment' in newspapers and electronic media. Though recruiting agents have the liberty to make an appeal for reconsideration in the event of his claim is altered or rejected by the SLBFE, finally he has to satisfy with the determination of the Committee and to decide to adhere to the approved fees structure or to withdraw from further procurement of the job order. Subsequently, SLBFE web page is updated with the approved charges for the jobs in the particular job order as to keep the public informed of the rates before stepping to the recruitment agency. If recruitment agent acts against to the decision of the SLBFE, the law provides provisions for legal action against such agency and a few such actions have been taken by the Legal Division of the SLBFE in the past against the violators, after operation of the new procedures (Performance Report/MFEPW-2013).

Apart from Sri Lanka, several other countries also came up with new policies towards upgrading their regulatory and institutional framework in tightening migration management policies. While Pakistan established a Ministry of Overseas Pakistanis in 2008, Indonesia created the National Board for the Placement and Protection of Indonesian Overseas Workers in 2006. Nepal in 2007, created two new institutions, the Department of Foreign Employment and the Foreign Employment Promotion Board under the Ministry of Labour and Transport Management and in more recently, further changes were made in the Ministry's structure by separating the Transport Management out of the Ministry. In the context of India, establishment of several institutions were noted during the post 2005 period, namely Indian Council of Overseas Employment, the Overseas Indian Facilitation Center and the Prime Minister's Global Advisory Council of People of Indian Origin. In Philippines, the Act of 1995 on Migrant Workers and Overseas Filipinos was amended in 2010 by defining what recruiters can and cannot do. The most recent regulatory development was heard from Bangladesh where a new migration law titled 'Overseas Employment and Migrants Act -2013 was promulgated and activated since October 2013. The new law has mainly focused on recruitment agencies and classification of them, licensing procedures, a new concept of allowing branch offices for RAs etc.




Though all these changes in the foreign employment industry were not intended to deal only with recruitment component of the process, these policy changes may have greatly accounted for upgrading overall recruitment industry of the respective countries.

b. Declaration and adoption of ‘National Labour Migration Policies’

Apart from the regulatory and institutional improvements, governing of labour migration is marked with declaration and adoption of National Labour Migration Policies by many sending countries. Such policies, not only identified key challenges and key issues in the industry, but priorities and target oriented action plans to address such priority areas. Thus, the Sri Lanka National Labour Migration Policy (2008) which was followed by Pakistan (2010) and Cambodia (2010) enriched with sound frame work of action oriented policy directions to suit the respective country situations, with long term visions of improvement and target achievement.

Laid on three major principles of better governance, enhancing protection and welfare of migrant workers and their family members and mobilizing development goals of migration, the Sri Lanka National Policy which was developed with technical assistance provided by ILO and Swiss Development Cooperation (SDC) has been instrumental in policy development such as:

- Drafting a new law in place of outdated SLBFE ACT of 1985, which is now under final shape up at the Department of Legal Draftsman;
- Preparation of Operational Manual for Labour Sections of the Diplomatic Missions in labour receiving countries,
- Holding of a conference by bringing all Labour Attaches and Head of Missions to one venue (Jordan) which was also attended by senior officials of Sri Lanka Ministries of Foreign Employment, External Affairs and Labour including the Minister responsible for the subject of Foreign Employment, to discuss, review and identify present issues and welfare needs of Sri Lankan migrant workers to be further developed by country level,
- Holding capacity building workshops for Labour Attaches of Sri Lanka Missions and Conciliation Officers of SLBFE, (e) upgrading pre-departure training materials
- Imitating a reintegration programme, and
- Developing a manual on Code of Ethical Conduct to be applied on recruitment agents.




All these country based national level Policy Declarations while acknowledging the contributions made by recruitment agencies to national economies of the country concerned, have prioritized implementation of action plans on good governance with special reference to recruitment agents and recruitment practices in the respective countries. 'The efforts of Overseas Employment Promoters, demand appreciation and recognition' stated in the Pakistan Policy while the Sri Lanka Policy remarked that 'the State recognizes the contributions of recruitment agencies'. The Cambodian Policy also acknowledged the contributions made by the recruitment agencies and stressed the need for improving good practices in the recruitment industry to overcome reported deficiencies in the system.

c. Development policies related to management of recruitment agencies

'Recruitment is one of the most difficult aspects of migration management' (Philips Martin-2010). Officially known as Recruitment Agencies (Sri Lanka, Cambodia, Indonesia, Bangladesh) Placement Agencies (Philippines), Foreign Employment Promoters(Pakistan) Recruitment Enterprises (Vietnam) or Employment Service Enterprises(Lao PDR), the agents can be considered as the main actors stood between the migrant worker and authorities on one way and the migrant worker and foreign partners(Foreign agent and employer) on the other. Though the role played by recruiters is warranted them to be called as 'Merchants of Labour' (Philip Martin-2006) due to high degree of profit earning motive, their service cannot be under estimated due to the fact that 90% new hires in Philippines made their journey through the participation of recruiting agencies, while Sri Lanka proportion is stood at 60%, Nepal at 70%, Indonesia 98% and Bangladesh around 40%. When examining the country status of number of recruitment agencies, India comes first in the row with approximately 2000 agencies while having 850 active agencies in Sri Lanka, 800 in Bangladesh, 1300 in Philippines and 650 in Nepal respectively. When the public recruitment agencies in all these labour sending countries are involved with limited type of recruitment programmes, basically on G to G level such as the South Korean job programme under 'Employment Permit System' (EPS), the total recruitments done by the public sector institutes do not much significant in number, but the credibility of public sector recruitment is much accepted by the society in terms of recruitment fees, service contract and terms of employment etc. However, other than in Vietnam, existence of public agencies limits to one or two in most of the labour sending countries and their deployment numbers represent marginally very low level compared to total deployments by private recruiting agencies.

The exploitations reported in the recruitment process are mainly attributed to the fact that majority of migrants in Asian region are low skilled and therefore most vulnerable for abuses, and deceptions. Hence, almost all the labour sending countries have stringent policies in controlling and monitoring the placement agencies. In Sri Lankan context, recruitment agencies cannot be operated without being licensed at the regulatory body, the Sri Lanka Bureau of Foreign Employment (SLBFE). Such requirement is found to be a common practice in all sending countries.




However, the renewal process of license in Sri Lanka system is considered more exemplary as the Act prescribes a condition that a license once issued will expire upon completion of one year but could be renewed annually (SLBFE Act-1985). Thus, the SLBFE uses this condition as a monitoring and controlling tool of the agency transactions and to evaluate the past year records through respective Operational Divisions i.e. Approval, Complaint Management, Legal etc. Unless the recommendation given by these Divisions, possibility is high for rejection of the renewal application. The Sri Lanka policy of limiting license validity period to 1 year is noteworthy, especially when compared with most of the other country policies where license validity period normally ranges from 2 to 5 years. In Lao PDR, the license validity period is 2 years whereas in Nepal, the normal license validity period is 1 year, but agents can obtain a license, valid for three consecutive years by paying a fee three times higher than the normal license fee (Ruhunage-2013). While the validity period of a license in Indonesia is reported to be 5 years subject to renewal of further 5 years at expiry, the Philippines system which also can be cited in as an example for best recruitment practices, keeps agency licensee on probation for one year before granting a full pledged license on satisfactory operation of affairs subject to renewal after 4 years. In facilitating legal operations during the probation period, the agency is granted a 'provisional license'.

Under a review of regional good practices of recruitment procedures, the system adopted by Indonesia in granting recruitment license is much significant in the sense that the applicant agency has to submit a detailed 'Work Plan' with marketing targets and anticipated placements during first year of its operation (IOM-2013).

d. Good Practices on recruitment approval

Malpractices in an overseas job procurement process can be greatly controlled by implementing a well-defined job approval system. The SLBFE in Sri Lanka in this respect, operates a comprehensive mechanism with the assistance of Labour Attaches serving in Sri Lanka Diplomatic Missions in labour receiving countries. Since most of the Labour Attaches are seconded officers from the SLBFE's permanent cadre, they are familiarized enough to carry out a satisfactory operation. Besides, a comprehensive 'Operational Manual' developed with the assistance of ILO, texting policies designed to ensure better recruitment practices by home country, guides the activities of a Labour Attaché. 'Recruitment of Sri Lankans for overseas employment has been vested under the close surveillance of the Sri Lanka Diplomatic Missions in the host countries for the purpose of better monitoring recruitment standards to ensure a safe migration process and to safeguard the rights, security and the welfare of the worker' (Operational Manual-2013).



The threefold mechanism attributed to this aspect relates to registration of the prospective recruitment party after a curability assessment, approval of Job Orders and related documents, and approval of individual job contracts as applied to some certain job categories such as domestic workers. Official dealings started from the job order approval point to migrant worker's departure stage, are computer based and interconnected with the Bureau's operational divisions, its countrywide regional and district offices, training centers, airport monitoring offices and the overseas Sri Lanka Missions. Some activities like job order approval are linked with recruitment agencies and an e-approval mechanism is in place for reception of original job orders from overseas recruitment agencies via Sri Lanka Overseas Missions.

The present day procurement practices and process of labour recruitment

After more than three decades of developments, the present day recruitment policies and practices pertaining to overseas employment in Sri Lanka, stands at a commendable level in many aspects of good practices. The present procurement process for overseas employment demonstrates following basic characteristics.

Recruitment of Sri Lankan Manpower for foreign employment (Summary Transactions):

a. Foreign Agent / Employer

- Submits Job order, Power of Attorney, Demand Letter, Service Agreement to S/L Mission
- Dispatches to Sri Lankan Counterpart (Agent) the above set of documents after authentication by S/L Mission.
- Obtains Visa clearance for in-coming workers.
- Dispatches Visa advice to Sri Lankan Counterpart.
- Deploys the workers on arrival.

b. Sri Lanka Mission

- After credibility assessment, registers, Foreign Agent/ Employer for recruitment of Sri Lankan manpower.
- Authentication of Job Order (JO)/Power of Attorney (POA) /Service Agreement (SA).
- Dispatches copy of same approval to SLBFE using on-line computer based communication system.

c. Sri Lanka Agency

- Receives JO/POA/SA from foreign agent/employer
- Seeks SLBFE first approval for procurement of recruitment

- Obtains approval for recruitment charges from SLBFE
- Advertises for candidates. (recruitment charges to be mentioned)
- Sends bio-data, PPT copies, medicals, photographs etc, to F/Agent/Employer
- Obtains visa, air ticket, for worker
- Seeks final approval (departure approval) from SLBFE
- Dispatches worker to foreign agent/ employer

d. SLBFE


- Receives authenticated job approval document online from Sri Lanka Mission.
- Receives such job order documents with the claim of recruitment charges from Sri Lanka agents.
- Grants first approval to S/L Agent for recruitment after verification of document submitted.
- Determines and grants approval on recruitment charges by recruitment agents.
- Accepts documents/passports for considering departure approval (final approval).
- Access to on-line visa verification and check veracity of visa endorsements.
- Grants final approval (departure approval) to deploy workers after charging the prescribed fee and affixing a security stamp on the passport and monitoring of such legal approval at the departure lounge at the two international airports.

e. Migrant Worker

- Verify authenticity of recruitment agency and the job position offered is officially approved by the SLBFE.(a 24 hour operated hotline is available for such inquiry)
- Pay prescribe recruitment fee to the recruitment agent directly (if needed this amount can also be verified as an approved fee by the SLBFE under the provisions of Amendment Act No.56/2009)
- Undertake the compulsory pre-departure training/orientation.(Domestic and low skilled works)
- Sign the job contract, in front of a SLBFE official after clarifying terms and conditions.
- Verification of SLBFE departure approval by ensuring the endorsement of security stamp of SLBFE, which will be checked at the airport with scrutinizing the barcode appeared in the security stamp and also comparing with online registration data base.

One of a more recent developments in the area of recruitment approval system in Sri Lanka, has been the need of a family background assessment report on social suitability from females who intend to travel to low skilled foreign assignments. As SLBFE claimed, the measure was taken for facilitation, protection and well-being of the children of mothers intending to leave to work abroad especially as domestic workers (Performance Report-2013 MFEPW).

Through the above operation of functions, the SLBFE claims that around 90% of migrant workers travel for world destinations are under their surveillance and avenues for illegal migration or undocumented migration has been almost controlled. Since the country has two international airports, the said operation have become more manageable.



Adding more essence to effective identification of persons leaving for foreign employment and preventing falsification of travel documents (passport), a recent measure of obtaining biometric data by capturing finger marks has also been introduced. SLBFE's plan in this connection is to apply this requirement for employees bound for domestic work at the initial stage and to extend to other categories later. In the first month of operation of this scheme, 35795 persons are reported to have been finger-printed at SLBFE's registration counters (Performance Report-2013,MFEPW).


Agency responsibility and prevention of contract substitution

Contact substitution or issuing a second contract on arrival with inferior terms and conditions against the original contract signed before departure has become a severe debacle in the present day recruitment practices experienced by many migrant workers. 'Contract substitution or 'double contract' system generates a substantial number of complaints of migrant workers becoming an 'epidemic' in the system (Ruhunage/ILO-2013). When a license issued to a recruitment agency in Sri Lanka, the licensee has to enter into an agreement 'to take all steps as are reasonably possible to ensure that the terms and conditions of any contract of employment between a foreign employer and a person recruited for employment under such employer by the applicant are observed by the employer (SLBFE Act/1985). Considering the more recent bad developments in the area of contract substitution, the SLBFE has now imposed an additional condition that when a job order is submitted for embassy authentication, it must be accompanied by a specimen of the job contract to be issued to the worker by the employer. At the final departure approval stage, the SLBFE officials can now monitor any deviation of the contract signed against the specimen, already authenticated by the Mission abroad preventing manipulations in the transactions.

The policies applied to recruitment agents in the Philippines must also be studied as a best practice where the law makes both local agent and foreign agent/employer jointly liable to fulfill the provisions of migrant worker contract. As shown in the POEA annual reports, the average compliance rate of licensed agencies on pre-mature repatriation cases stood at 90%, which is an exemplary practice to be noted (Ruhunage/ILO-2013).

Sub Agent Factor

Even though it was remarked that 'the sub agent is the closest friend of a migrant worker' (Gamburd-2002), exploitations of prospective migrant worker in the hands of sub-agent appears to be a major concern, noted in the pre-migration session in the recruitment system (Ruhunage/ILO-2013). This factor is so strong, that 'well established regulatory mechanisms and recruitment procedures have not proven effective in curbing abuses committed especially by sub-agents'(ILO/Dhaka-2008). In Vietnam, it has become almost impossible for the workers to get an overseas Job without intermediary involvement.



Placement agencies let the brokers to decide and make prices to laborers who have no information on the labour market demand' (Nguyen-2008) While many reports discussed how effective the sub agent network in countries in the South Asian region in acting between genuine recruiting agent and the migrant worker, the ill-effects of sub-agent network in Nepal were better highlighted in the Verite Report 2013.' Irrespective of decentralization policies of SLBFEs services and spreading Agency Network Island wide, the sub agents are reported to be operative unharmed in Sri Lanka recruitment system too.

When the subject of sub-agent and repercussions of their being in the system was discussed at many forum of the MFEPW/SLBFE in Sri Lanka, the majorities' view was to explore possibility of streamlining their presence in the recruitment system, instead of attempting to eradicate the element (National Advisory Committee Meeting-April.2013 /MFEPW). Hence, a new scheme has now been launched to register them and give them a recognition under an official designation of 'Foreign Employment Promotion Assistants (FEPA) subject to series of conditions such as:

- The sub agent (FEPA) must be affiliated to a licensed agency under which favor, he/she is registered by the SLBFE providing with an Identity card under the business name of the sponsoring agency;
- An annual registration fee of Rs.5000(US\$ 45) is charged by the SLBFE;
- Every recruitment agency is allowed to recruit maximum of 3 FEPAs for each District
- FEPS are strictly prohibited from displaying notice boards, maintaining offices, retaining passports in custody and soliciting money from the prospective migrant worker and entering into agreements with worker;
- SLBFE has authority to suspend or cancel the identity card at any time without giving reasons;
- If a FEPS service is terminated by a license agency, such termination must be informed to the SLBFE and surrender the identity card of such FEPA to SLBFE (SLBFE Circular No.01/2011-5.4.2011). After implementation of these policies, 165 persons are reported to have been registered through their affiliated agency by the Bureau as FEPAs during first 9 month of operation of the scheme (Performance Report/MFEPW-2013) However, it is premature to evaluate the progress of the scheme yet.

The condition in Indonesia with regard to sub agent has been more stringent as Regulation No.28/2007 prescribed that recruitment agencies are no longer allowed to utilize middlemen in the process of recruitment of migrant/potential migrant worker.

Agency grading and awarding schemes as a measure of reorganization of good ethical practices

In an attempt of developing good practices and ethical recruitment among recruitment agents, some labour sending countries adhere to schemes of grading and awarding the best recruitment performers in the industry to recognize their good practices and encourage the others towards such direction. It is reported that Philippines commenced an agency grading scheme as far back as in 1984, just after 2 years of establishing the POEA in 1982. The scheme was enriched with awarding Top Performer Awards to recruiters that comply with recruitment regulations and Awards of Excellence to those recognized as Top Performers for three times. The Sri Lanka scheme which was once launched in 2006, did not materialize thereafter but recommenced in 2012 with the objectives of (a) formulating a mechanism that will pave the way for growth and development of foreign employment agencies within the legal framework of the Bureau. (b) to recognize and appreciate FEAs with high performances (c) to encourage the agencies to follow good practices (d) assisting to gauge their own states of performance at national level. Eligibility criteria have spelled out a cutoff point where agencies recruited less than 100 persons during the period of assessment to disqualify from the scheme. (e) Assessment criteria to include 9 fields such as, (i) number of recruitments, (ii) efficiency in dispute settlement, (iii) enrolling into new job market, (iv) diversification of job placement market, (v) total sum of CESS tax paid to the SLBFE, (vi) Professionalism of the agency, (vii) assessment of standards of staff in the agency, (viii) Complaints of public/migrant workers against the agency, (ix) Involvement of additional fields such as 'free of charge recruitment', 'direct deployment deal with employers' etc.

The significance of this scheme was to award more points to agencies that recruit people to skilled and professional categories of overseas employments. Further, the scheme apply a mechanism to deduct accrued grading points by an agency on the basis of complaints recorded against the agency. The Mode of Certificate was to grade best performers with a 'Star' rank, qualifying highest performers for '5 Star' rank, followed by 4 Star to 1 Star based on the accumulated points by respective agencies under the scheme. Accordingly, these Star rankers are accorded with special facilities such as opportunity to join marketing programme conducted by SLBFE abroad, membership for National Advisory Committee, the policy deciding body composed with relevant stake holders. Opportunity to participate international conference, workshop and marketing the Star grade of achievement during promotion campaigns and when publishing advertisements are also permitted.

Besides the grading scheme applied on local recruiting agencies, SLBFE has also commenced a grading scheme for foreign recruitment agencies to recognize their performance of dealings with Sri Lanka migrant workers. It is reported that this overseas grading scheme was applied last year in UAE, Lebanon, Kuwait, Qatar, Jordan, Oman and Maldives (Performance Report/2013- MFEPW).

Using pre-departure orientation as a tool of curbing malpractices

Since the departing migrant workers from Asian countries mostly fall into low skilled categories, importance of pre-departure training has become a very important element in the system. In this respect, an operation of a comprehensive pre departure orientation programme for the purpose of empowering the migrant worker to a safe journey and to use such training as a tool in curbing exploitations and abuses reported in the recruitment process seemed to be a best practice maintained by many labour sending countries. When examining the pre-departure training programme conducted by most of the sending countries, the significance of Sri Lanka programme is that it has been directly sponsored by the government (SLBFE). The country wide 25 training centers operated to provide such pre-departure training are managed by the SLBFE using a standard curriculum developed with the technical assistance of ILO and IOM. The present compulsory pre-departure training programmes oriented for migrant workers by SLBFE are given in following schedule for better understanding the scope and length of these programmes in the form of a case study.

Training Programme for Prospective Migrant Workers- Sri Lanka

Training Course	Target Group	Age Limit	Duration (Days /Hours)	Fees Payable for the Training Rs.
Domestic Housekeeping Training for Middle East Bound Female Workers (Sinhala & Tamil medium)	Domestic sector female workers	21-45	15/135	2505
Domestic Housekeeping & Care giving training for Cypress Bound Female Workers (Both Male & Female)	Domestic sector female workers those who can speak in English	21-45	30/270	3500
Domestic Housekeeping & Care giving training for Singapore Bound Female Workers	Domestic sector female workers those who can speak in English	21-45	25/225	3500
Care giving training for Israel Bound Health Care Workers	Care giving sector male & female workers	21-45	18/180	3500
Care giving training for Israel Bound Experienced Health Care Workers	Experienced workers who leave for Care giving sector works	21-45	15/135	6000
Literacy Training for prospective Migrant Workers (Sinhala &, Tamil medium)	Prospective migrant workers who cannot read & write their mother tongue	21-45	18/180	2500
Special English Literacy Training for Cypress Bound Workers	Prospective migrant workers, who cannot read, write & speak in English. – Note: Anybody who wish to leave for	21-45	18/180	3000

	Singapore /Israel also can follow this course			
Special Training Programme for Overseas job Seekers other than domestic housekeeping	First time leaving non domestic workers (male /female) to the Middle East, Maldives & Malaysia	18-45	05/45	1500
Training programme of experienced Domestic Sector Female Workers (Middles East & Cypress)	Experienced female workers who can speak Arabic (for the Middle East) and Greek (for Cyprus)	21-45	07/63	6000

Source: SLBFE


Opportunity to access information

Dissemination of information and raising awareness among migrant workers on the subjects pertaining to labour migration, prospective migrant workers and even their family members is considered a key path for safe migration and improving concepts on ethical recruitment. Improved knowledge on the different aspects of migration process helps migrant worker to make correct decisions on his/her journey of foreign employment and prevent them from becoming victims of human trafficking or human smuggling rackets.

In Sri Lanka, a comprehensive and organized knowledge building programme is underway at grass root level with some of the programme being assisted by ILO, IOM and SDC and leading NGOs and Trade Unions. SLBFE, with the technical assistance of ILO has recently developed an 'information package on safe deployment in foreign employment' covering a wide spectrum of concerns in the migration cycle i.e. pre-departure, in-services, and post migration stages, to be used among prospective migrant workers and a hand book on 'guidance for field officers' who are involved with conducting of such awareness building campaigns. These field programmers are coordinated by newly appointed 1000 development officers to the District Secretariats under MFEPW cadre supported by SLBFE officers at District and Provisional level offices and members of village level 'Rataviruwo' organizations a government patronage network of returned and in-service migrant community and their family members.

The network of information dissemination and awareness raising is presently being conducted targeting general public, students of vocational training centers, officers of District and Divisional Secretariats and career guidance teachers. The main topic focused has been the 'legal way for foreign employment' and 'consequences of becoming a victim of illegal recruitment'.

It must be also noted the good practices observed by Cambodia, Lao-PDR and Vietnam through their network of Employment Service centers in dissemination of information among interested parties including information on viable foreign employment opportunities. In Cambodia, the National Employment Agency (NEA) which was created by Sub-Decree 67/2009, manifested with improving the quality and effective delivery of labour market information services including foreign employment component to job aspirants, employers and training providers. The 'Job Center' concept of the NEA is an umbrella unit functions for delivery of such services to community (Ruhunage-2011).




In Lao, the participation of Lao Federation of Trade Unions (LFTU) which has approximately 158,000 members throughout the country can be noted as an encouraging scheme. The Federation's role on migrant worker basically relies on raising awareness on safe migration at provincial and district level to prevent human trafficking and illegal recruitment practices including cross-border movements. Further, the Employment Service Centers or Job Centers affiliated to the Department of Labour acts as an information provider to aspirant people not only on local employment opportunities but foreign employment as well. On examination of practice of Vietnam, it is observed the existence of a mechanism under the Steering Committee set up on provisional level to look after the interests of community on overseas labour. The Steering Committee which is consisted with number of stakeholders under the political system of the Vietnam is learnt to be a decision making body and acts as a joint advocacy body in managing overseas employment programme in the province .Among the functions of this body, 'to support efforts of information dissemination and promotion of foreign employment in the province' is noted as a vital activity. The Employment Service Center affiliated to the Provisional level office of the Dept. of Labour Invalid and Social Affairs (DOLISA), adds more values to the system as a network of information dissemination on overseas employment among interested parties at the village level.

Ethical recruitment practices and Agency Associations

In an ethically sound recruitment process, the role that could be played by Agency Associations cannot be underestimated. The impact of Agency Associations on developing good practices among recruitment agents was once stressed in an international conference convened in Manila in April 2008 on the subject of Organizing Agency Associations in Asia. In this arena, the Sri Lanka experience is that the Association of Licensed Foreign Employment Agencies (ALFEA) has direct legal patronage under the provision of the main legal enactment, the SLBFE Act No 21/1985 (Sec.54 &55). Accordingly, ALFEA stands as the one and only official association in the industry in Sri Lanka. Thus, an office bearer of the ALFEA is always appointed to the Board of Directors of the SLBFE and considered as an essential representative in all type of advisory and review programmes on migration in the country including the National Advisory Committee on Labour Migration launched under the provisions of National Labour Migration policy of 2008 by the MFEPW. Applying an ILO sponsored Code of Conduct on recruitment agents through ALFEA was also materialized recently, adding more values to the Association on conducting a recruitment policy among its members governed by ethical values. It must be also noted the good work of other agency associations in the respective countries where countries like Philippines and Indonesia register more than one association. Subsequently, the team up of recruitment agencies in the form of Bangladeshi Association for International Recruitment Agencies (BAIRA), Foreign Employment Association of Nepal (FEAN), Association of Cambodian Recruitment Agencies (ACRA), and Vietnam Association of manpower supply (VAMAS) etc. are reported to have been rendering a good service in developing their country practices on ethical recruitment.

a. Recent development of recruitment policies in receiving countries' perspective



Slowly but surely, the policies related to recruitment of foreign workers are shaping up in the predominant labour basin for foreign workers, the GCC countries in favor of migrant workers. In this respect, the recent decision of the major recruiter of the GCC, the Kingdom of Saudi Arabia to establish a limited number of 'Mega Companies' for the purpose of recruiting overseas workers can be cited as a landmark shift from the traditional system of foreign worker recruitment through recruitment agencies. The Mega Recruitment Company concept under which 16 companies have already been established have to be responsible for the protection of workers' rights and welfare. The responsibilities of the companies include:

- Completing the regulatory procedures for obtaining the residence permits or iqama of foreign workers arriving in Saudi Arabia;
- Bearing responsibility of the worker, from the moment foreign worker arrives in the Kingdom;
- Orienting workers on Saudi rules and regulations and training them;
- Guaranteeing foreign workers' entire financial benefits and rights until their return to their country of origin;
- Guaranteeing workers' access and contact to their families and deploying agencies;
- Ensuring the worker's monthly salaries through the opening of bank accounts;
- Deploying workers in accordance with their contracts duly attested by the Saudi Ministry of Labour to protect the rights of the worker, employer, and recruitment agency;
- Providing workers with accommodation until they are fetched by their employers;
- Providing an insurance coverage to the workers;
- Handling workers grievances;
- Assessing working conditions of domestic workers who are to be produced periodically to the company by the employer (www.ofwguide.com). A member of a visiting Sri Lanka Ministerial delegation to Saudi Arabia to sign a historic MOU on recruitment of domestic workers has observed that the delegation was delighted to see the arrangement of one of these Mega Companies and expressed optimistic on the operation of these companies' activities.

Further, 'the introduction of a policy to pay the wages to a bank account of the employee in UAE is reported to have very positively impacted on reducing the number of complaints of migrant workers on wage issues' remarked by the Labour Attaché of Sri Lanka Consulate in Dubai in an interview with the writer. The ongoing process of drafting a common contract for female domestic workers by the GCC Secretariat, will surely be another significant policy change, if comes into operation after next Ministerial Conference of Labour Ministers of GCC countries to which the draft format of the contract is said to be tabled for a decision(News Letters- GCC Secretariat).


The forming of a set of guidelines by Qatar Foundation for construction companies which intend to bring construction workers to Qatar in the face of 2022 soccer World Cup, has emphasized the mandatory requirements that the companies must provide the foreign workers with. Among those concerned areas of laid down conditions are:

- Practicing ethical recruitment principles;
- Guidelines for involvement of recruitment agencies;
- Action against unscrupulous recruitment agencies;
- Criteria on recruitment, processing and placement fees (QF Mandatory Standards-2013).

Emerging changes regarding 'Kafala' system (sponsorship) a widely practiced policy in the countries in GCC and Mashreq region, tightening migrant worker to the sponsor seem to be shaping in favor of migrant workers' rights. The essence of the Kafala system is the relationship that binds employee to the employer, which has often been criticized as slave-like (Khan-2014). In Bahrain, the partial abolishing of the system in 2009 with the establishing of the Labour Market Regulatory Authority (LMRA) is regarded as the starting point of these revisions. Similarly, while Kuwait has announced the desire to reform the system allowing a public-private enterprise to handle the 'sponsorship', the establishment of Mega Companies in Saudi Arabia is believed to have a significant impact on changing the present day Kafala system.

b. Bilateral Agreements/MOUs and impact on ethical recruitment

'Bilateral agreements in the context of labour exchange are cooperation agreements entered into between labour sending and labour receiving countries, establishing each party's commitment in the flow of labour migration (Baruah & Cholewinski-2006). 'A MOU is a non-binding form of bilateral cooperation describing the intentions of the concerned parties ,expressing a desire to pursue a common line of action rather than a legal commitment (Vasuprasat-2008).Though the labour Agreements/MOUs in between the GCC countries and Asian sending countries seemed to be just 'political statements' the effectiveness of these instruments as a tool of legalizing cross border movements and controlling of human trafficking in the East Asian region is more evident when examining the MOUs operative between Thailand and neighboring Cambodia,(2003), Myanmar(2003) and Lao PDR(2002).



In keeping with the principles adopted in the Bangkok Declaration of 1999, the government of Thailand embarked on a policy of entering into bilateral MOUs in order to develop an orderly mechanism of labour recruitment and proper management of the cross country movements. Accordingly, the MOU signed with Lao PDR in 2002, which was the first in this series based on four objectives as laid down in the MOU itself.

- a. Application of appropriate employment recruitment procedures.
- b. Taking an effective measure in ensuring the return of workers after termination from contract.
- c. Establishment a proper labour controlling mechanism.
- d. Prevention and suppression of illegal migration, trafficking and illegal employment.

Adoption of MOUs in management of labour recruitment was further strengthen with signing of second MOU by Thai government with Lao PDR in 2005 on the subject of 'cooperation to combat trafficking in persons especially women and children from Lao PDR to Thailand.


The recent experience of South Korea entering into bilateral MOUs with 15 source countries for the recruitment of workers under Employment Permit System (EPS) can be cited as a successful story in the effective implementation of bilateral MOUs. It is reported that under the MOU signed with the Sri Lanka and South Korean governments in 2005, average 3000 workers have been deployed in jobs annually, where 3712 Sri Lankans have been deployed in South Korea during first 9 months of 2013 (Performance Report/MFEPW-2013).

The recently signed Agreements by Saudi Arabia with Sri Lanka, Philippines and India expected to be yielded good results as it has defined a common service contract for domestic workers with improved standards accepting that the passport is a property to be possessed by the domestic worker (Art. 11-F) and salary of the worker to be credited to his/her bank account (Art.5).

Though majority of MOUs signed between labour sending countries in the Asian region and GCC countries are not much effective, it can be mentioned that 'something is better than nothing'(Wicramasekara-2013) in the sense of bilateral understanding on labour exchanges between sending and receiving countries.

c. Impact of RCPs on ethical recruitment

Regional Consultative Processes(RCP) on migrant labour a mechanism of non-binding and non-committing dialog forum of labour sending and receiving States, Civil Societies, stakeholders and international agencies have become a form of strong international arrangement in addressing present day needs of migrant worker in a cooperative manner. When reviewing the records of these processes, it is evident the collective desire of the participants to secure the rights of the migrant worker honoring ethical recruitment practices as a tool of this direction. The High Level Dialogue of UN (HLD), Gulf Forum of Migration and Development (GFMD), Colombo Process (CP), Abu-Dhabi Dialogue (ADD) and ASEAN Forum on Migrant Labour (AFML) are among the major RCPs active at present.



The last Colombo Process meeting held in Dhaka, Bangladesh in April 2011 within a concept of ‘Migration with Dignity’ has elaborated in its statement of recommendations that ‘developing and streamlining policy, legal and institutional mechanisms to eliminate unethical practices concerning migrant workers including deduction/ non-payment in violation of contractual provisions, rationalizing migration costs, promoting transparency and openness in recruitment processes, strengthening monitoring and supervision of recruitment practices, and preventing slippage of regular migrant workers into any form of irregularities’ should be key items in a framework for driving migration into dignity. The last meeting of ADD held in Manila in 2012 also came up with a set of recommendations leading to collaboration and partnership among labour sending and receiving countries to support the guidelines of the process in which ‘respond effectively to contractual employment problems’ was an item recognized for action.

The last GFMD held in Mauritius in 2012 under the theme ‘enhancing the human development of migration and their contribution to the development of communities and states’ also emphasized in its report that ‘civil society reaffirmed the call to better license, regulate and monitor recruitment actors and called for the creation of user-led systems to promote good and reliable recruitment channels, while exposing bad recruiters and violators (GFMD-Report/2012).

The most notable recent development reported in the RCP processes is the proposal under consideration to explore possibility for a joint action plan between CP and ADD. Since Chairmanship of both Processes are held by two labour sending countries i.e. Sri Lanka(CP) and Philippines (ADD), the avenues for such collaboration seem to be more feasible.

International Labour Organization Standards on ethical recruitment

International Labour Organization (ILO) the affiliated UN body which is mandated on the protection of labour rights of global economies has been treating, labour migration a subject of their great concern for decades. Being a watchdog on policy development and implementation pertaining to labour migration, ILO’s guidance in the nature of International Conventions, Recommendations etc, has greatly impacted the labour sending and receiving countries in planting decent work policies in their country standards. A good example for the ILO’s concerns on labour migration was the 92nd session of ILO in 2004, where the main subject for general discussion was the issue of Migrant Workers (Khan-2011). Adoption by consensus of a ‘Resolution’ concerning a fair deal for migrant worker in the global economy, the ‘Resolution’ adopted in 2004, recognized positive contribution of labour migrants and suggested ,(a) stopping exploitation of migrant workers and protecting their rights (b) improving working conditions, (c)improving social protection, (d)eliminating discrimination in labour markets of destination countries(e)eliminating smuggling of people and their trafficking (f)tackling irregular migration (g) solving of problems of women workers.

The Private Employment Convention, 1997 (C181) can be considered the most important instrument in the area of enriching recruitment process with best ethical practices. Though the Article 7 has become a constraint in ratifying the convention for most of the countries due to stating that ‘private employment agencies shall not charge migrant worker directly or indirectly’ the importance of the clause is that ‘it represents a good practice that a number of countries in

the world follow as well as some agencies in the region' (AP-Magnet-online discussion/Feb.2011).


Other than the ILO Conventions on Migration for Employment-(C97)1949, Migrant Workers (Supplementary Provisions Convention-1975 (C143), Fee-Charging Employment Convention(Revised)(C96)1949, and recent Convention C 189 of 2001 on Domestic Workers, the most important policy guides developed by ILO proved to be the ' Multilateral Framework on Labour Migration'-(ILO-2006) which is treated as the only comprehensive collection of principles and guidelines on migration policy and management, which is also firmly grounded in international instruments(rights based) and best practices across the globe. It is found that National Labour Migration Policies recently launched by countries like Sri Lanka and Cambodia were based on the essence of the ILO Multilateral Framework.


Though the ratification of ILO Conventions by sending or receiving countries seems to be in a slow phased process, It is encouraged to note that the Co- Conventions regarding Forced Labour (C29), Abolishing of Forced Labour (C105), and Elimination of all forms of Discrimination Against Women (CEDAW) have been ratified not only by sending countries but the receiving countries such as Bahrain, Jordan, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia and United Arab Emirates (ESCAP-2011).

Recommendations and policy options

Taking into consideration of factors described above, following recommendations are made for policy framing options:

- a. Since majority of migrant worker complaints are related to exploitive recruitment practices, a mechanism to curb such situations must be developed by individual sending countries after reviewing the gaps in the recruitment system.
- b. Inter-cooperation between recruitment associations not only between the sending countries but the receiving countries must be a good practice in developing ethical values to the industry and therefore this subject must be an item in the immediate agenda of concerned Associations and international agencies which promote decent work practices among recruiters.
- c. As the recruitment agents are the key actors in the recruitment process, their liability on the status of the migrant worker must be more strengthen. The Philippines practice where the employer and recruitment agent should jointly be responsible for migrant worker's grievance should be used as a case study by other sending countries.
- d. Best practices prevailed in controlling high cost of migration to be studied and applied appropriately by country of origin.

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- e. Since a big role in controlling the cost of migration can be played by the recruitment associations by effective implementation of Code of Conduct, facilities must be provided by the authorities to these associations to become professional bodies in the industry. It must be made mandatory to recruitment agents to become a member of an Agency Association for better implementation of such policies.
- f. In a bid to control of contract substitution, sending countries must obtain specific contract format from direct employers through their diplomatic missions to which Job Orders are to be submitted for authentication and approval.
- g. As a measure of controlling ill-effects on the sub-agent factor on the industry, methods must be explored by sending countries to bring their activities under a legal frame work as being experimented in Sri Lanka.
- h. Recognizing of recruitment agents on the basis of their role played in the economy in generating foreign job avenues to the countrymen, should be recognized not only by a grading system but a series of incentives such as tax concessions, accord to special privileges in the public affairs, concessionary bank loans etc..
- i. Skills on professional and ethical recruitment practices must be a serious subject in the training/orientation programme conducted on recruitment agencies by management bodies. Such programme must be a component in the agendas of activities of Agency Associations as well.
- j. Authorities through RCPs must explore possibility of adopting standards for minimum or reference wage limits especially for low skilled migrant workers who are more vulnerable for deception and abuses.
- k. Labour Attaches are important partners in the application of good ethical recruitment practices at receiving end and therefore, programme must be aimed at their capacity building with supported Manual of Operational Guidelines.
- l. Dissemination of information and awareness raising among prospective and potential migrant workers has been accepted as a good practice in the region, States, in addition to their own programmes, must encourage Trade Unions, recognized NGOs and Civil Societies to join in the campaign and their trainers must be properly oriented within a unified framework to conduct such programmes.
- m. As a matter of developing close cooperation and consultation in framing migrant worker policies, controlling authorities must invite, representatives of recruitment associations to involve in such policy making on an advisory capacity.
- n. Strong pre-departure training/orientation programme will lead to better education of the migration process, State must explore to take responsibility of such programme as much as they can for improved and systematic training. The Sri Lanka System in this connection should be exemplary to other countries.
- o. Since platform has now emerged for better activation of Regional Consultative Processes (RCPs) being becoming Sri Lanka as the Chair for Colombo Process and Philippines as the Chair for Abu Dhabi Dialogue, two leading members of labour supplying block, mutual cooperation must be built to achieve common goals of the two processes benefitting the migrant workers and the industry.



p. Since ratifying and complying with ILO conventions/Recommendations and Standards as laid down will bring internationally accepted best practices to the migration programme, countries of origin as well as destination must seriously consider to follow same.

q. Bi-lateral Agreements and MOUs are considered a strong tool on embarking on good recruitment practices if it is properly regularized in the migration management programmes. Action must be taken by the sending countries to ensure proper adherence to such bilateral instruments by receiving countries through proper protocol channels of Diplomatic Missions.

References

A-P Magnet ILO (2012). On-line discussion Paper on 'improving and regulating recruitment practices in Asia and the Pacific conducted during 7th 21st Feb.2011 by ILO/Regional Office, Bangkok.

Anh, DN (2008). Labour migration from Vietnam: Working Paper No.4, ILO Asian Regional Programme on Governance of Labour migration, ILO, Regional office, Bangkok.

Colombo Process (2011). Draft Dhaka Declaration of Colombo Process Member countries conference held during 20-21 April, 2011, Dhaka.

ESCAP (2011). Indonesian women domestic workers in GCC countries: Costs and outcomes of their migratory experience. Paper submitted to the Workshop on 'Strengthen dialogue between ESCWA and ESCAP countries on International Migration and development-28-30 June 2011, Beirut.

KUPTSCH Christiane (2006). Merchants of Labour: Report on the Policy Dialogue on the agents of international labour migration, 28-29 April,2005.ILO, Geneva.

IOM (2012). Labour migration from Colombo Process countries: Challenges and way forward. IOM, Geneva.

IOM (2013). World Migration Report-2013, IOM, Geneva'

ILO (2006). ILO Multilateral Framework on Labour Migration- Non-binding principles and guidelines for a rights-based approach to labour migration, ILO Office, Geneva.

Khan, A (2011). Presentation made at the seminar on 'Towards a Better Governance of labour Migration: Global trends and National realities' 10th Sept.2011, Colombo.

Khan, A (2014). Why it's time to end Kafala: The Guardian online site, 26.Feb.2014. London.

Ministry of Foreign Employment Promotion and Welfare (2014) Agreement on Domestic worker recruitment between the Ministry of Foreign Employment Promotion and Employment of Sri Lanka and the ministry of Labour of the Kingdom of Saudi Arabia on 13.1.2014. Colombo.

Ministry of Foreign Employment Promotion and Welfare (2013). Progress Report for 2013: Colombo.

Ministry of Foreign Employment Promotion and Welfare (2008). National Labour Migration Policy for Sri Lanka. Development of the national Policy supported by ILO, Colombo.

Ministry of foreign Employment Promotion and Welfare (2013)- Operational Manual for Labour Sections of Sri Lankan Diplomatic Missions in Labour Receiving Countries: Developed by ILO, Colombo.

OFW News (2013). Saudi Introduces 10 Mega Recruitment Agencies: On-Line Facebook edition- 7.6.2013, Saudi Arabia.

Martin, P (2011). Background Paper on Improving Overseas Worker Recruitment: Paper presented at the seminar on Improving Overseas Worker Recruitment' 18-19 Jan.2011, Dubai.

Qatar Foundation (2013). QF Mandatory Standards of Migrant Worker' Welfare for Contractors & Sub-Contractors, Doha.

Ruhunage, L.K. (2013). Recruitment Practices of Employment Agencies Recruiting Migrant Workers. A review aimed at improving recruitment regulations and drafting recruitment guidelines. ILO, Colombo.

Ruhunage, L.K. & Kottegoda, S. (2013). Strengthening Grievance and Complaint Handling Mechanisms to Address Migrant Worker Grievances in Sri Lanka. ILO, Colombo.

Ruhunage, L.K. (2011). An assessment of Labour Migration practices in enhancing the capacity of the labour migration institutions to effectively govern labour migration-The Case of Cambodia.(Unpublished) ILO, Regional Office, Bangkok.

Ruhunage, L.K. (2011). An assessment of labour migration policies in enhancing the capacity of the labour migration institutions to effectively govern labour migration: The Case of Lao-PDR, (unpublished) ILO, Regional Office, Bangkok.

Sri Lanka Bureau of Foreign Employment (SLBFE) (2012) Manual on Grading of licensed foreign Employment Agencies in Sri Lanka. Colombo.

Sri Lanka Bureau of Foreign Employment (SLBFE) (2011) Annual Statistical Report of Foreign Employment. Colombo.

Sri Lanka Government (1985) Sri Lanka Bureau of Foreign Employment Act No.21 of 1985. Govt.Publication office, Colombo.

Sri Lanka Government- (2009) Sri Lanka Bureau of Foreign Employment Amendment Act no 56 of 2009. Govt.Publication Office, Colombo.

Vasuprasat, P (2008). Inter-State Cooperation on Labour Migration: Lessons learned from MOUs between Thailand and Neighboring countries; ILO Regional Programme on Governance of labour Migration; Working paper No.16, ILO regional office, Bangkok.

Wickramasekara, P (2013). Paper presented at the seminar on Regulation of recruitment process and reduction of migration costs: Comparative analysis of South Asia. 1-2 July 2013, Dhaka.

Wickramasekara, P (2012). Something is better than nothing-Enhancing the protection of Indian migrant workers through Bilateral Agreement and Memoranda of Understanding – Migrant Forum in Asia (MFA), Maniala