



Concept Note

ILO Inter-Regional Knowledge Sharing Forum:

Good practices and lessons learned on promoting international cooperation and partnerships to realize a fair migration agenda for migrant domestic workers¹ in Africa, the Arab States and Asia

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Background

Labour migration governance in Africa, the Arab States and Asia: An interregional perspective

The Member States of the International Labour Organization (ILO) overwhelmingly endorsed the Fair Migration Agenda² during the 103rd session of the International Labour Conference (ILC) in 2014. This agenda takes into account labour market needs while placing the rights of all workers, including migrants, at its core. Further reinforcing the principles and guidelines of ILO's Multilateral Framework on Labour Migration, the agenda promotes (i) decent work opportunities in countries of origin; (ii) respect for the human rights, including labour rights, of all migrants; (iii) fair recruitment and equal treatment of migrant workers; (iv) stronger linkages between employment and labour migration policies; (v) the involvement of Ministries of Labour, trade unions and employers' organizations in migration policy making; and, (vi) genuine cooperation between countries and within regions.

More recently, the ILO has operationalized one pillar of this agenda by launching a global "Fair Recruitment Initiative", as a multi-stakeholder initiative, to: (i) help prevent human trafficking and forced labour, (ii) protect the rights of workers, including migrant workers, from abusive and fraudulent practices during the recruitment and placement process (including pre-selection, selection, transportation, placement and safe return); and, (iii) reduce the cost of labour migration and enhance development outcomes for migrant workers and their families, as well as for countries of origin and destination.³ The ILO is developing guidance and piloting fair recruitment intervention models across migration corridors.

¹ Migrant domestic workers are 'migrant workers' who work in domestic work. This concept note uses the term 'migrant worker' in accordance with the international definition in the UN Migrant Workers Convention (1990), as 'a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national'. It is nonetheless important to note that the Gulf Cooperation Council countries prefer to use the term 'temporary contract worker' or 'expatriate worker'.

² ILO. 2014. *Fair migration: Setting an ILO agenda*. Report of the Director-General to the International Labour Conference, 103rd Session, 2014 (ILC.103/DG/IB).

³ ILO. *Fair Recruitment Initiative: Fostering fair recruitment practices, preventing human trafficking and reducing the costs of labour migration*. Geneva: ILO, available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_320405.pdf

Arab States are one of the main destination regions for migrant workers globally. The Gulf Cooperation Council (GCC) countries alone hosted 22 million migrant workers in 2013 (15 million of them from Asia), a substantial increase from 17.5 million in 2010.⁴ Migrants make up about half of the total population of the GCC countries. The proportion of migrants in the total population is most significant in the UAE (88 per cent), Qatar (86 per cent) and Kuwait (69 per cent).⁵ In addition, Jordan and Lebanon hosted a combined one million migrant workers in 2013 while also having to accommodate unprecedented numbers of refugees, some of whom are employed in the domestic work sector.⁶

The Arab States have recently become more engaged in regional and inter-regional labour migration policy dialogues with countries of origin in Asia. In 2005, five of the six GCC countries attended, as observers, the annual meeting held under the Colombo Process.⁷ In 2008, the GCC countries launched the Abu Dhabi Dialogue, as an inter-regional consultative process on labour migration among destination countries in the GCC and origin countries in South and Southeast Asia. The ministerial meeting of the Abu Dhabi Dialogue in Kuwait, in November 2014, adopted a Declaration that references the ILO Fair Migration Agenda, including its Fair Recruitment Initiative.

Collaboration between trade unions in Asia and the Arab States is also gaining traction. In 2013, the South Asian Regional Trade Union Council (SARTUC) and trade unions in Lebanon, Jordan and Bahrain adopted the Kathmandu Action Plan aiming to establish migrant workers' organizations and promote equal treatment and better working conditions for South Asian migrants who are working in the Arab States.⁸ More recently, the Arab Trade Union Confederation (ArabTUC), the Association of Southeast Asian Nations' Trade Union Council (ATUC) and SARTUC signed a memorandum of understanding on 1-3 August 2015 to promote the ratification of the migrant worker conventions or other conventions and instruments that make explicit reference to migrant workers;⁹ establish information centers for migrant workers; address occupational health and safety and housing concerns for migrants, etc. Following the founding of the domestic workers union in Lebanon in January 2015, the National Federation of Employees' and Workers' Unions in Lebanon (FENASOL) concluded a bilateral agreement with the Confederation of Ethiopian Trade Unions to extend greater protections to Ethiopian domestic workers in Lebanon.

In a parallel development, the African Union Commission (AUC) and the African Regional Economic Communities (RECs) recognized the importance of migration for the development of the African continent, first through the development of the Migration Policy Framework for Africa (2006) and, more recently in January 2015, with the validation of the Framework's implementation

⁴ ILO. 2014. *World of work report: Developing with jobs* (2nd edition). Geneva, Switzerland: ILO.

⁵ UAE National Bureau of Statistics (NBS); Qatar Statistics Authority (QSA), Census 2010; Kuwait Public Authority for Civil Information (PACI), 31 Oct. 2014.

⁶ ILO. 2013. Assessment of the impact of Syrian refugees in Lebanon and their employment profile. Beirut: ILO, ROAS, pp. 9, 25.

⁷ The Colombo Process brings together a number of countries of origin for migrants in Asia, and is primarily concerned with the protection of overseas workers.

⁸ ILO. 2013. ILO/SARTUC Workshop on promoting trade union cooperation on labour migration in origin and destination countries, Kathmandu, Nepal on 16-19 September 2013, available at:

http://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/meetingdocument/wcms_227742.pdf - A follow-up inter-regional meeting was held in Beirut in 2015 where the participating trade unionists issued a joint declaration.

⁹ ILO's Migration for Employment Convention (Revised), 1949 (No. 97); Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); Private Employment Agencies Convention, 1997 (No. 181); Domestic Workers Convention, 2011 (No. 189); and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990

programme, the Joint Labour Migration Programme (JLMP). The JLMP identified the protection of migrant workers, facilitation of their mobility and easier recognition of their skills as priorities for the continent.

At national and sub-regional level, tripartite consultations are underway in a number of African countries and RECs (e.g. SADC, EAC, IGAD, Morocco, South Africa, Zimbabwe, Tanzania) to design rights-based and sector-specific labour migration policies. Cooperation between African countries and the countries of the Gulf States is also proceeding as evidenced by the BLA currently considered by the Government of Uganda facilitating the placement of one million men and women in Saudi households over the next five years. Similar BLAs have already been signed by Kenya, Tanzania, Malawi, and discussions are taking place between Madagascar and the Republic of Comoros with the Gulf States. In addition, Ethiopia has also signed BLAs with Kuwait, Jordan and Qatar. Even outside BLAs, the regulation of Private Employment Agencies has become a major challenge for most of the Horn (Ethiopia in particular) and East African states. In some instances, sudden bans on PEAs or decisions to stop immigration from certain countries (as in the case of the return of hundreds of thousands of Ethiopian domestic workers from Saudi Arabia in 2013), have led to crisis situations which governments and social partners are ill-equipped to manage. Despite this increase in workers' departures, the foundations for an inter-regional dialogue between the Africa region and Arab States region have not yet been laid out.

Migrant domestic workers from Asia and Africa in the Arab States: Key issues

The overwhelming majority (82 per cent) of domestic workers in the Arab States are migrants. They account for 17.9 per cent of all migrant workers in the region. The Arab States host the largest number of migrant domestic workers in the world, estimated at 1.6 million.¹⁰ Even when improvements in the overall situation of migrant workers were noted in the Arab States, seldom did they extend to migrant domestic workers. The latter are typically excluded from national labour laws with the argument that domestic work cannot be regulated in the same manner as other work without violating the privacy of the employer's household, considered sacrosanct, and the honour of his/her family. The admission, stay and exit of migrant domestic workers in (along with the employer-migrant worker relationship) are governed by the *Kafala*, a private sponsorship scheme for temporary migrant workers. *Kafala* results in situations where employers have unchecked control over migrant workers, exposing the latter to greater risk of exploitation and abuse. Vulnerabilities to abuse are markedly heightened when migrant workers end up in an irregular situation.

Arab States have supported the adoption of the Domestic Workers Convention, 2011 (No. 189) in 2011 but none have ratified it so far. ILO's supervisory mechanisms rely on other conventions¹¹ which the Arab States have ratified, like the forced labour conventions, to address the vulnerabilities of migrant domestic workers. All the Arab States have signed the United Nations Convention against Transnational Organized Crime (UNTOC). In consequence, they have responded to charges of human trafficking more proactively than to calls for improving the working conditions of migrant domestic workers.

¹⁰ The Arab region (primarily in Saudi Arabia and the Gulf countries) hosts the largest numbers of male migrant domestic workers with a share of 50.8 per cent of male migrant domestic workers globally. By contrast, Arab States account for only a fifth (19 per cent) of female migrant domestic workers in the world (ILO. 2015. *Global estimates on migration workers: Results and methodology*. Geneva, Switzerland: ILO).

¹¹ The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979; the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), 1965; the Forced Labour Convention, 1930 (No. 29); and, the Abolition of Forced Labour Convention, 1957 (No. 105).

The Labour Ministers of the Gulf States have proposed a draft standard unified contract (SUC) for migrant domestic workers. These plans were aborted in June 2015 due to disagreements over clauses such as a mandatory day off and a cap on working hours. In June 2015, the National Assembly of Kuwait passed a national law for domestic workers. Bahrain, Lebanon and Jordan¹² adopted SUCs for domestic workers. BLAs on migrant domestic workers and the ensuing employment contracts that are set bilaterally between destination and origin countries are common practice in the other GCC countries. These agreements establish areas of mutual cooperation, including on recruitment,¹³ and support the adoption of employment contracts accepted by both parties. These BLAs, negotiated without input from employers' and workers' organizations, are criticized for reinforcing inequalities among workers leading to nationality-based wage differentials that reflect biases about workers from these countries.

Objectives of the Forum

Against this background, ILO's Labour Migration Branch (MIGRANT) of the Conditions of Work and Equality Department (WORKQUALITY) and Fundamental Principles of Rights at Work Branch (FUNDAMENTALS) of the Governance and Tripartism Department, in collaboration with ILO's Regional Offices for Africa, Arab States, and Asia Pacific, are jointly organizing an inter-regional knowledge sharing forum on promoting international cooperation and partnerships to realize a fair migration agenda for migrant domestic workers in Africa, the Arab States and Asia in May 2016. The tripartite forum will serve three distinct, yet interrelated, purposes:

1. The sharing of good practices and innovations for protecting domestic workers among countries of origin, on the one hand, and among countries of destination on other.
2. Priority-setting and consensus-building between countries of origin on issues related to the protection of migrant domestic workers.
3. Priority-setting and consensus-building between countries of origin and countries of destination.

Synergies will be built with previous knowledge sharing fora like ILO's technical workshop on challenges and good practices "Dignity, rights and domestic work in the Arab States" (11-13 October 2014, Istanbul) and the ILO-IDWF-ITUC regional workshop on "Organizing domestic workers: An exchange of knowledge and experience among practitioners" (25-27 September 2015, in Bangkok).

Structure of the Forum

The discussion, interspersed with consultations among workers' organizations and among employers' organizations from participating countries will revolve around key opportunities to promote inter-regional cooperation and partnerships along the migration cycle of domestic workers from Asia and Africa to the Arab States. A background paper, prepared by the ILO, will be submitted ahead of the meeting to inform and focus the discussion among the tripartite constituents.

¹² Jordan also issued Regulation No. 90 'for homeworkers, cooks, gardeners and similar categories' in 2009, with provisions relating to working hours, paid leave and working conditions as well as Regulation 12 of 2015 regarding the recruitment of non-Jordanian domestic workers.

¹³ Abolishing worker-paid recruitment fees, going through licensed recruiters and taking legal action against recruiters, etc.

While the background paper will set the parameters of the discussion, different panels will present and explore the replicability of good practices in international cooperation as applies to the following themes:

Theme 1: Cooperation between origin and destination countries to ensure the protection of migrant domestic workers in line with International Labour Standards, particularly the Domestic Workers' Convention, 2011 (No. 189).

This section will take stock of inter-regional and binational efforts on promoting and protecting the rights of migrant domestic workers as well as examine the challenges and opportunities of addressing the particulars of domestic workers and household care workers. Further, the possibility of expanding the dialogue to Africa will also be examined. More specifically, panellists will discuss the democratic validity, coverage, enforcement and impact of regional government processes, interregional trade union agreements, bilateral agreements and memoranda of understanding (MoUs) between governments, deployment bans, union-to-union agreements, and MoUs between recruitment agencies. Finally, the complementarity of these arrangements, including with national legislation at origin and destination, and partnerships with civil society-based processes across corridors will be explored.

Theme 2: Cooperating to promote fair recruitment practices in the domestic work sector taking into account its political economy.

This section will explore the extent to which different recruitment arrangements (government-to-government and private end-to-end recruitment) are able to balance the competing demands of the market while maintaining their commitment to fair practices; matching employers' preferences, maximizing profit to the recruiters, facilitating labour market access to the workers and extending necessary protections to them. Further, this session will explore innovative business models like the ability of labour recruiters to set up schemes that aim to avoid excessive fee charging practices and eliminate intermediaries.

Theme 3: Making return and reintegration programmes work for migrant domestic workers and their communities.

This section will explore opportunities, along the migration cycle, for promoting the occupational mobility of returning domestic workers. This includes modalities for proposed skills recognition for returning domestic workers, opportunities for cross-border mobilization and empowerment, socio-economic reintegration programmes, including through small and medium size enterprises and cooperatives, and arrangements for the portability of social security benefits.

Participation

Participation will be open to government representatives, as well as representatives of workers' and employers' organizations from selected countries from the Arab States, Africa and Asia. International human rights and advocacy organizations with relevant work in these regions, as well as recruitment and placement agencies, will also be invited to participate as observers and resource persons. Global and regional representatives of the International Organization of Employers (IOE), the International Trade Union Confederation (ITUC), the International Domestic Workers' Federation (IDWF) and the International Confederation of Private Employment Services (CIETT) will also be invited.

Resources

The ILO will prepare a background paper on promoting international cooperation and partnerships to realize a fair migration agenda for migrant domestic workers in Africa, Arab States and Asia.

This forum is supported by ILO ROAF and four TC projects: (i) Development of a Tripartite Framework for the Support and Protection of Ethiopian Women Domestic Migrant Workers to the GCC States, Lebanon and Sudan, 2013-2016 (funded by the European Union); (ii) Global Action Programme on Migrant Domestic Workers and their Families, 2013-2015 (funded by the European Union); (iii) Work in Freedom Promoting education, fair recruitment, safe migration and decent work, 2013-2018 (funded by the United Kingdom's Department for International Development); and, (iv) Promoting the Effective Governance of Labour Migration from South Asia through Actions on Labour Market Information, Protection during Recruitment and Employment, Skills, and Development Impact, 2013-2016 (funded by the European Union).