“GCM and Migrant Labour Recruitment”

ESCWA – IOM
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GCM

OBJECTIVE 6:
Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work.
GCM Rev 1. March 2018
Objective 6
d) Review and revise regulations on public and private recruitment agencies, in order to align them with international guidelines and best practices, and prohibit recruiters from charging fees or related costs to the migrant worker in order to avoid debt bondage, exploitation and forced labour, including by establishing mandatory, enforceable mechanisms for effective regulation and monitoring of the recruitment industry.

GCM Rev 2. May 2018
Objective 6
d) Improve regulations on public and private recruitment agencies, in order to align them with international guidelines and best practices, and prohibit recruiters from charging disproportionate or hidden fees as well as related costs to the migrant worker in order to avoid debt bondage, exploitation and forced labour, including by establishing mandatory, enforceable mechanisms for effective regulation and monitoring of the recruitment industry.
c) Improve regulations on public and private recruitment agencies, in order to align them with international guidelines and best practices, and prohibit recruiters and employers from charging disproportionate or hidden recruitment fees as well as related costs to the migrant workers, and refrain from charging migrants disproportionate or hidden administrative fees, in order to prevent debt bondage, exploitation and forced labour, including by establishing mandatory, enforceable mechanisms for effective regulation and monitoring of the recruitment industry.
Improve regulations on public and private recruitment agencies, in order to align them with international guidelines and best practices.
Article 7
1. Private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers.
Dhaka Principles
Institute for Human Rights and Business
UN Guiding Principles on Business & Human Rights
“No fees are charged to migrant workers”
THE INTERNATIONAL RECRUITMENT INTEGRITY SYSTEM

IOM
UN Migration

IRIS
International Recruitment Integrity System
prohibit recruiters and employers from charging or shifting recruitment fees or related costs to migrant workers
**Qatar Labour Law**, 2004 (Article 33): “The person who is licensed to recruit workers from abroad for others shall be prohibited ... to receive from the worker any sums representing recruitment fees or expenses or any other costs.”

**Saudi Arabia Labour Law**, 2005 (Article 40): “An employer shall incur the fees pertaining to recruitment of non Saudi workers, the fees of the residence permit (*Iqama*) and work permit together with their renewal and the fines resulting from their delay, as well as the fees pertaining to change of profession, exit and re entry visas and return tickets to the worker’s home country at the end of the relation between the two parties.”

**UAE Labour Law**, No. 8, 1980 (Article 18): “It is not permissible for any licensed labour agent or supplier to *demand or accept* from any worker *whether before or after his recruitment*, any commission or material reward in consideration for arranging such recruitment, nor may he obtain from him any expenses except as may be decided or approved by the Ministry of Labour and Social Affairs.” Nor can any visa fee be deducted from a worker’s salary (Article 60).
Problem

• Countries of origin allow recruitment agencies to charge migrant workers certain amounts – 1, 2 or 3 months salary

• But in reality they charge much more and never give receipts for more than legally allowed therefore

• Inconsistent laws in transnational recruitment
in order to prevent debt bondage, exploitation and forced labour,
Transnational Culture of Corruption in Migrant Labour Recruitment

Ray Jureidini

IOM 2017
STRUCTURAL CULTURE OF CORRUPTION IN RECRUITMENT INDUSTRY

1. PROJECT TENDER COMPETITION
   – ELIMINATE RECRUITMENT COSTS
   – REDUCE PROJECT BUDGET
   – INCREASE PRICE COMPETITIVENESS
   – LOWEST PRICE WINS
   – NON-TRANSPARENT

2. LABOUR SUPPLY COMPETITION
   – NO RECRUITMENT COSTS FOR EMPLOYER
   – MINIMIZE WAGES
   – PAY EMPLOYER - KICKBACK PAYMENTS/Bribes
   – WORKER PAYS
<table>
<thead>
<tr>
<th>Bangladesh</th>
<th>US$</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Variable Costs</strong></td>
<td></td>
</tr>
<tr>
<td>Internal Travel, Food, Accommodation</td>
<td>50-100</td>
</tr>
<tr>
<td>Subagent Commission</td>
<td>75-100</td>
</tr>
<tr>
<td>Total (average)</td>
<td>163</td>
</tr>
<tr>
<td><strong>Fixed Costs</strong></td>
<td></td>
</tr>
<tr>
<td>Medical Test</td>
<td>70</td>
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<tr>
<td>Orientation</td>
<td>25</td>
</tr>
<tr>
<td>Welfare Fund</td>
<td>10</td>
</tr>
<tr>
<td>Life Insurance</td>
<td>13</td>
</tr>
<tr>
<td>Administration</td>
<td>25</td>
</tr>
<tr>
<td>Govt. training</td>
<td>85</td>
</tr>
<tr>
<td>Skills Test</td>
<td>35</td>
</tr>
<tr>
<td>Emigration stamping</td>
<td>36</td>
</tr>
<tr>
<td>Airfare (one way)</td>
<td>400 (av)</td>
</tr>
<tr>
<td>Agency commission</td>
<td>350 (av)</td>
</tr>
<tr>
<td><strong>Overall Total</strong></td>
<td>$1,222</td>
</tr>
</tbody>
</table>

Source: Placement/recruitment agencies and employers
Charge to Bangladeshis (av) = $3,300
[On minimum wages of $200 pm – 16.5 – 33 months to repay + interest]

Total Cost (Previous table) = $1,222
Difference = 2,078
Employer pays airfare 400

Surplus (Charge – Costs) = $2,478

Q: How is this ‘surplus’ disbursed?
Q: What does the employer pay for?
Q: What should the employer pay for?
Q: What should the employee pay for?
Case Example

UAE Construction Contractor
<table>
<thead>
<tr>
<th>DATE</th>
<th>DESCRIPTION</th>
<th>RATE</th>
<th>Nos</th>
<th>Dr</th>
<th>Cr</th>
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<td>21.03.16</td>
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<td>05.04.16</td>
<td>SCAFFOLDER HELPER</td>
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<td>22500</td>
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<tr>
<td>13.04.16</td>
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<td>2500</td>
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<tr>
<td>13.04.16</td>
<td>SCAFFOLDER HELPER</td>
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<td>2500</td>
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<tr>
<td>17.04.16</td>
<td>PAID TO S.LANKA (T.T)</td>
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<td></td>
<td>50000</td>
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<tr>
<td>20.04.16</td>
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<tr>
<td>01.05.16</td>
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<td>05.05.16</td>
<td>Cash Paid (Dubai Dirham)</td>
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<td></td>
<td>15000</td>
</tr>
</tbody>
</table>
Cash Express – Send Money

Date & Time: 17-OCT-2015 07:46:31 PM

CE No.

Amount Sent: 1,909,090.91 (SRI LANKAN RUPEE)
Destination Country: SRI LANKA
Destination Agent: BANK OF CEYLON

Receiver Details

Name: ____________________________________________
Bank Name: BANK OF CEYLON
Account No: _______________________________________

FCY Amount: LKR 1,909,090.91
Rate: 0.02618
Charges: AED 20.00
Total Amount: AED 50,000.00

Sender Details

Name: ____________________________________________
Tel: _____________________________________________
Nationality: BANGLADESHI

Membership Card No: _______________________________

Amount to be collected: AED 50,000.00

Cashier’s Signature & Stamp: _______________________

Subject to Conditions Overleaf

Thank you for choosing Al Ansari Exchange
# Kickback Payments

Bangladesh Recruitment Agency to HR manager of UAE Construction Contractor - > 7,000 employees

## 2015

29 direct transfer (TT) payment to Sri Lanka @ AED 50,000

<table>
<thead>
<tr>
<th>Amount</th>
<th>Value</th>
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</thead>
<tbody>
<tr>
<td>AED 1,450,000</td>
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<tr>
<td>AED 665,000 cash paid</td>
<td>$181,075</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$575,901</strong></td>
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</tbody>
</table>

## 2016

19 direct transfer (TT) payment to Sri Lanka @ AED 50,000

<table>
<thead>
<tr>
<th>Amount</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>AED 950,000</td>
<td>$258,679</td>
</tr>
<tr>
<td>AED 664,000 cash paid</td>
<td>$180,803</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$439,482</strong></td>
</tr>
</tbody>
</table>

### Total for 2015 + 2016

$1,015,383

Annual labour turnover around 8.5%
Migrant Labour Recruitment Charges

Average $1,000 payment to employer personnel at COD

Fraudulent kickback payments (bribery/exaction)

- 1000 workers = $1 mill
- 1 million workers = $1 bill
- 10 million workers = $10 bill

Flows out of Countries of Origin

- e.g. Bangladesh – 500,000 emigrants p.a. ($500 mill)

Approx 20 million low-skill migrant workers in GCC

Approx 90 million worldwide (?)
Labor Market distortion
Selection on basis of ability & willingness to pay

Deception in wage levels, substitute contracts, food allowances

Debt bondage or Labour Indebtedness, forced labor, trafficking for labour exploitation
SDG 8.8
Protect labour rights and promote safe and secure working environments of all workers, including migrant workers, particularly women migrants, and those in precarious employment.

SDG 16.3
Promote the rule of law at the national and international levels, and ensure equal access to justice for all.

SDG 16.5
Substantially reduce corruption and bribery in all its forms.
establishing mandatory, enforceable mechanisms for effective regulation and monitoring of the recruitment industry

Many Initiatives
Much still needs to be done

FOR DISCUSSION
QATAR REFORMS
• Complaint filed against the Government of Qatar relating to the violation of Convention No. 29 (Forced Labour Convention) and Convention No. 81 (Labour Inspection Convention).

• Complaint contained the threat of a Commission of Inquiry into Qatar for not complying with a ratified convention, the ILO's highest-level investigative procedure. (Such Commissions are rare, with only 11 having being conducted in the 100 years since the ILO was established.)

• March 2016 The ILO gave Qatar one year to reform the kafala system and its labour laws before taking a decision on the launch of an official Commission of Inquiry.

• October 2017, Qatar signed a technical cooperation agreement (2018-2020) with the ILO, including a commitment to carry out the Domestic Workers Law and to replace the kafala system.

• April 30, 2018 the ILO inaugurated its first project office in Qatar for a three-year cooperation program to achieve these commitments.
Qatar Reforms 2015-2018

• Changing Employers at end of contract
• Ending ‘exit permit’ requirement for most workers
• Wage Protection System
• Workers’ Support and Insurance fund
• Migrant Domestic Worker Law
• Minimum wage
• Committees for the Settlement of Labour Disputes
• Formation of worker committees and representative joint committees
• Labour Inspections
• Qatar Visa Centers
ASSESSMENT OF THE WAGE PROTECTION SYSTEM IN QATAR

ILO Project Office for the State of Qatar
Major Reforms announced in November 2019 for January 2020

‘Real’ abolition of *Kafala* system

- Abolition of exit visa for all, including MDWs
- New Minimum Wage (with accounting for food and transport)
- Abolition of NOC requirement (most significant) (NOC = No Objection Certificate)