

HUMAN RESOURCE DEVELOPMENT AND FOREIGN EMPLOYMENT POLICIES IN COUNTRIES OF ORIGIN*

CHAPTER 10

1. Introduction

An increasing number of developing countries and countries with economies in transition have adopted or are seeking to adopt legislation and policies to take advantage of foreign employment opportunities for their citizens, while ensuring that safeguards are in place for the protection of their rights.¹ For these countries, job creation at home remains, in theory at least, the preferred option, but labour migration is seen as an important and reliable vector of economic development through the remittances that workers send back home. At the individual level, with or

without facilitation of the state, many people seek overseas employment opportunities to augment their income, improve the living conditions and life prospects of their families and acquire new skills and experience. However, while regular, albeit selective entry channels are available to skilled workers, this is often not the case for low and semi-skilled workers, who may be tempted to resort to irregular modes of entry and employment.

This chapter discusses policy approaches to the management of international labour movements from the perspective of countries of origin. It opens with the argument that human resource development planning is a vital element in the management of international worker mobility. Section 2 looks closely at key constituent elements of the process of human resource development (HRD) planning, including the setting of appropriate goals and objectives, the identification of quality standards and indicators, and the financing and provision of appropriate education and training opportunities. The importance of maintaining coherence of purpose and action is underlined. Due attention is paid to the further aim of preventing the loss of local talent and the role to be played by the private sector.

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¹ In keeping with the standard terminology used in this report, such countries are referred to as “countries of origin” in this chapter, although it is acknowledged that the labels “labour-sending countries” or simply “sending countries” are often used, particularly to describe those countries that have designed and implemented explicit policy frameworks aimed at sending their citizens for work abroad. It is recognized, however, that such frameworks may differ significantly in terms of purpose, content and degree with the result that not all governments are prepared to consider themselves as promoting overseas employment. Use of the neutral term “countries of origin” is therefore preferred throughout. For similar reasons, “countries of destination” has been used instead of “receiving countries”. “Foreign employment policies” is used in this and the next chapter as a generic term covering the international labour mobility policies of both countries of origin and destination.

Section 3 acknowledges the diverse characteristics of countries of origin, and considers those with long-established labour migration programmes; those in the process of economic and socio-political transition; and still others that are relative newcomers to organized labour migration. Such diversity notwithstanding, most countries face similar policy challenges. The first part of this section focuses on the actual management of international worker mobility through policy measures aimed at protecting migrant workers from exploitative recruitment and employment practices, and at ensuring worker welfare and productivity through pre-departure and on-site support services. The second part of the section proposes policy options for the optimization of the benefits of organized labour migration through the development of new markets; the facilitation of remittance flows and the enhancement of their impact on development (see also Chapter 12); the strengthening of local institutional capacity; and, finally, the promotion of international cooperation (see also Chapter 13). While the issues covered in this chapter are of broad international relevance, its research base is grounded in contemporary developments in Asia.

2. Human Resource Development

Although world demand for foreign workers is very diverse, for ease of exposition, when discussing labour mobility, foreign workers fall into three broad categories. First, there are the highly skilled or those who hold at least a first degree from a reputable university, college or other institution of higher learning. The second group consists of skilled blue-collar workers such as, for example, aviation technicians, heavy equipment operators, automotive mechanics, welders, metal workers and pipe setters. They make up a large group of migrant workers. The third group of low-skilled workers includes housemaids, janitors and waiters in hotels and restaurants, and manual labourers, for instance on construction sites. All workers would have

acquired their skills through a combination of formal education and experience. As a general rule, and depending on the particular educational system in question, professions, including those in the modern creative sectors, require higher formal qualifications, such as a first postgraduate degree for a career in computer science or genetics, and a higher postgraduate degree up to doctoral level for the medical and legal professions. For most other professions, including nursing and engineering, the requirement is normally a first degree. Blue-collar occupations have less stringent formal education requirements. Generally, a high school background is sufficient to ensure that the worker is able to be trained and to perform his or her duties. The skills are acquired mainly through experience, loosely referred to as on-the-job-training (OJT). The low-skilled category has the lowest requirements in formal education or training.

Though job applicants are carefully screened by prospective employers to ascertain how much schooling they have had and what job skills they have, the wide diversity of standards and requirements in the educational systems worldwide make it difficult to evaluate and compare the level of competence of highly skilled workers. The value of a degree programme depends on such diverse factors as the curriculum and the quality of the instructors, the library, laboratory and other instructional facilities. Globally, there are many thousands of higher educational institutions from which a professional/scientific degree may be obtained, but no universally recognized benchmarks exist by which to rate the quality of the instruction offered or the educational attainment of graduates. Although highly selective quality ratings of universities/colleges have been conducted, they cover only a relatively small number of institutions. This poses a serious problem in relation to the employment of highly skilled foreign workers, since employers have to develop their own measures to evaluate the quality of the institutions from which applicants have graduated.

By comparison, the evaluation of the competence of blue-collar workers appears less difficult, as it is based more on experience than on the quality of formal schooling, and skills are assessed through trade or skill testing and quality and length of experience. The quality of experience is reflected by the scale of production, the technology embodied in the machinery and equipment used as well as Information Communications Technology (ICT) applications and other physical operational features. Some overseas employers require experience in the use of particular brands of machinery and equipment.

A recently completed survey conducted by the International Organization for Migration (IOM) of placement agencies in the Philippines indicates that foreign employers require very specific qualifications (Tan, 2007). A variety of quality indicators are used for highly skilled workers, that differ according to the particular professions or occupations. The minimum requirement for doctors is to have completed the corresponding degree course, passed the professional licensure examination and gained relevant experience in a large general hospital. In addition to their studies, teachers are required to have gained relevant experience in a reputable teaching institution. On completion of their degree, engineers must obtain experience in selected fields such as the petrochemical industry and industrial design, while blue-collar workers are expected to have the appropriate experience in the use of modern production equipment and techniques.

Faced with the complexities of the global market for skilled labour, how should a country of origin go about designing its human resource development policy? At the outset, of course, it will be necessary to have clearly defined objectives and the necessary means to achieve them. Such an undertaking may be hampered by the scarce or incomplete information concerning the demand and supply of the numerous skills. Moreover, the financial constraints most families and individuals face in deciding which

skills they should invest in will have to be taken into consideration. Successful HRD planning in open labour markets characterized by significant and continuing migration, such as the Philippines, for example, will have to take due account of the particular skills requirements of foreign labour markets.

2.1 Human Resource Development Planning

Human capital theory may be applied to HRD planning in an education labour market (ELM).² When factoring migration into their computations, the aim of HRD planners should be to maximize social and economic returns from the outflow of migrants for the purpose of employment (see Textbox 10.1). This means guiding would-be migrants and assisting them financially and in other ways to enable them to invest in the acquisition of skills that promise the highest returns. Planners should also ensure that they have access to reliable information on skills that are in strong demand abroad, the respective qualifications required and how and where the requisite standard of qualifications and skills is best acquired. Moreover, improving quality requires financial resources. For a country to be able to take advantage of skilled employment opportunities abroad, human resource planners will have to develop a financing system to support the aim of raising quality standards in major skill areas in demand abroad.

² The ELM is characterized by three interacting parties: the employers who need and hire human resources, the suppliers of human resources and the education/training institutions. The government is an employer and policymaker and influences both demand and supply. The employers consist of domestic and foreign entities who require appropriate human resources and whose demand for labour of a particular skill level is relayed to human resource suppliers and education/training institutions. The response to this demand can be twofold: if available, to either offer the requisite skills; alternatively, to acquire them through formal or information channels with a view to offering them in due course and joining the active labour force.

Textbox 10.1

HRD Planning and Maximizing Economic Gains from Labour Migration

What may be the objective of HRD planning for the whole education labour market (ELM) market, including foreign employment, albeit of selective skills? In theory, the government would wish to maximize the social returns to investment in human capital of the population as a whole. There are private (both economic and non-economic) and social returns to the investment. Most visible are the private returns that consist of monetary and non-monetary gains from the investment. There is enjoyment to be gained from the possession of knowledge, and there are benefits to be derived from the ability it offers for making life choices and to further develop the knowledge acquired. The calculations below focus on the more tangible monetary gains, i.e. the incremental income gain minus the cost of investing in a category of human capital formation, for instance nursing education. Theoretically, it is possible to think of maximizing private returns to individuals pursuing the best investment options/skills. The returns to a skill i relative to skill j are estimated as follows.

Returns to a skill i is estimated as:

$$R_{i,t} = \sum_{t=D}^T D_t W_{i,t} - C_i - \left(\sum_{t=D}^T D_t W_{j,t} - C_j \right)$$

Where: R = returns to investment in skill formation

W = nominal wage rate

C = cost of investment

D = discount rate $1/(1+r)^t$

r = interest rate (cost)

i, j = skill categories

t = time period in years

Note the returns to investment in skill i takes account of its opportunity cost, or returns to investment in alternative skill j . Skill i is preferred to skill j if its (net) return R is positive. Another way of assessing skills is to array the skills according to their own returns:

$$\left(\sum_{t=0}^T D_{t_r} W_t - C_t \right)$$

It is assumed that the skills with the higher returns will attract more workers or labour units. In the short term, labour supply would originate from the current stock of available workers with the required skill. In the long term, the increased supply would come from the existing stock of workers with the skill and from new entrants, i.e. the students who would pursue the skill and those workers who might switch from other skills by retraining. In the equation, the reservation wage is the total cost of investing in skill i , comprising the cost of investment in that skill and the opportunity cost in forgoing skill j , or

$$\left(C_i + \sum_{t=0}^T D_t W_{j,t} - C_j \right)$$

When there is migration, the return takes account of the foreign wage and the probability of finding a job abroad. Return to a skill is estimated as follows:

$$R_i = \left\{ P_d \sum_{t=0}^T D_t W_{i,d,t} + P_f \sum_{t=0}^T D_t W_{i,d,t} \right\} - C_i - \left\{ P_d \sum_{t=0}^T D_t W_{j,d,t} + P_f \sum_{t=0}^T D_t W_{j,d,t} - C_j \right\}$$

The gross returns are averages of expected domestic and foreign wages. Gross returns to a skill rise as the probability of obtaining a foreign job, P_i , rises, given that foreign wage rates are significantly higher than the domestic wage rate.

It is possible to view an efficient ELM as one where information about demand for various skill categories and their specific job qualifications exists and where persons can acquire skills without significant financial constraints. Foreign job openings are taken for skill i . These jobs pay much more than the domestic wage. Consequently, the youth and some workers already in the labour force will be drawn to invest in skill i . The supply in other skills will fall and raise their wage rate. Skill i will continue to attract people until its return equalizes the returns to the other skills. This adjustment leads to maximum private returns on the investment. An efficient market needs no government intervention. However, if the ELM is inefficient because information about demand, the required job qualifications and where to obtain the skill is unavailable, or if the youth are prevented by poverty from acquiring the skill, there will be supply rigidity.

Market imperfections are known to be serious in the ELM. There are millions of youth preparing for entry into the labour market and millions of employers in the domestic and foreign labour markets. Information is generally poor and unevenly distributed; it is usually concentrated among the more educated in the cities. Financial resources for education are notoriously lacking for the great majority of families who may wish to invest in their children's education/training. Additionally, there are some highly skilled professionals, such as research scientists, innovative business executives, historians or creative artists, whose outputs are in the nature of public goods or have large positive social impacts or externalities. Governments would be well advised to invest in their education/training in order to increase the number of persons pursuing them. Producing and disseminating information on employment opportunities, required job qualifications and where to acquire the necessary skills is essential so that members of the labour force, and young people especially, can make optimal choices. HRD planners should also identify where financial constraints on education or training choices arise. Which are the employment categories with significant positive externalities or that are public goods by nature and hence require government subsidies? What subsidy strategy ought to be developed to address critical financial constraints? The task is so daunting in scale and complexity that, in many cases, governments tend to be very selective when choosing areas of

intervention. The U.S. Government, for instance, poured resources in science education and research in response to the Soviet launch of Sputnik in the 1950s. The Kennedy administration established the Equal Opportunity Program to mitigate inequality of access to higher education. In a similar way, scholarship programmes have been instituted by many governments to address the inequality problem and/or to increase enrolment numbers and research in science and technology (S&T) so as to promote technological progress.

2.2 Defining Requirements (Quantity and Quality)

To define requirements at the national level, both a profile of current human resources and a forecast of future requirements are necessary, as well as reliable and up-to-date information about employment opportunities and skill requirements in relation to both the domestic and foreign labour markets. Although international demand for major skills categories, such as engineering, computer science, natural science, management and finance, education and medicine is high, detailed information, for instance, on the specific skills and levels of competence required is lacking. Such information is necessary to allow for realistic and timely national HRD policy planning and implementation, as well as to guide and support individuals in their choices regarding education, work and migration.

2.3 Quality Standards and Indicators

Quality standards used by foreign employers evolve through different means. Through observed performance of their workforce, foreign employers arrive at standards by which to gauge the competence of applicants from countries of origin and use these yardsticks to identify reliable sources of qualified professionals. As a result, universities and colleges acquire a reputation based on employers' experience with their graduates, consultations with other employers and academic ratings based on periodic assessments through independent evaluators of higher education. ICT companies in the U.S. and Europe, for instance, compete for graduates from the highly acclaimed Indian Institutes of Technology. Similarly, hospitals in other countries recognize the licensure examinations administered by the Philippine Professional Regulatory Commission. The Japan-Philippines Economic Partnership Agreement³ provides for the employment of Filipino nurses on condition that they undergo two to three years' language and practical training in Japan before being recognized as professional nurses. The adoption in 1984 of the International Standard for Training, Certification and Watchkeeping of Seafarers has contributed greatly to the establishment of high quality standards of education/training for Filipino seafarers and to their recognition by international shipping companies.

For blue-collar occupations, the quality of experience is critical. The recently completed survey of placement agencies in the Philippines for the IOM by one of the authors (Tan, 2007) demonstrates that experience in operating modern equipment is essential for tool and die makers, welders, pipe setters, heavy equipment operators and other construction workers. However, the country's industrial base has only a limited capacity to produce experienced workers with these

skills, as the pool of heavy equipment and machinery operators is too small and only a few workers are able to become proficient at operating them. Less stringent qualifications may be required of other blue-collar workers, especially when employers are willing to provide the necessary training, as in the case of household workers. The Government of the Philippines has undertaken skill certification – accepted in most countries of destination – based on occupational tests for low-skill categories such as household employment, popular entertainment, hotel and restaurant services, and general welding. However, this initiative does not yet amount to a fully developed strategy for the training of skilled blue-collar workers.

As yet, no information system has been developed in countries of origin concerning the prospective demand for specific skill categories and the qualifications they call for and there is no known programme for collecting this information on a systematic and continuous basis and relaying it to the public and to education/training institutions in order to adjust their course offerings to coincide with world market requirements. It is difficult for potential migrants to obtain information about specific job opportunities and required levels of proficiency. Any available information on the qualifications required by foreign employers is generally disseminated by recruitment agencies to job applicants, and by job applicants to their friends and relatives. The reach of such informal channels is necessarily limited. Most, if not all, overseas employment initiatives of countries of origin have been concerned mainly with the protection of workers in their workplace and the fight against fraudulent recruitment agencies. They have not yet taken on the responsibility of guiding would-be migrants to acquire the skills and competencies that would maximize the returns on their investment in training and migration. The next section considers whether the education/training system can be relied upon to produce these skills.

³ The text of this agreement is available from the website of the Ministry of Foreign Affairs of Japan at <http://www.mofa.go.jp/region/asia-paci/philippine/epa0609/>.

2.4 The Education/Training System

The quality of formal education, especially at university/college level, is a serious issue in most developing countries. For example, only a small proportion of the numerous universities and institutions in South and Southeast Asia are of world standard. Asian countries have established large numbers of higher educational institutions. India has 10,403; China 4,102; Bangladesh 2,711; Indonesia 1,891; the Philippines 1,314; Pakistan 1,108; and Thailand 750 (Tan, 2006). Sri Lanka is the only country to have strictly limited the number of its universities or institutes, currently at 13. Each country also maintains a small number of prestigious universities and colleges. Graduates from the good universities account for only a small fraction of individuals with tertiary education. Many of the professionals who qualify for highly skilled jobs in destination countries are likely to have graduated from the elite institutions. The Indian ICT specialists in the U.S. are most likely to have graduated from the Indian Institutes of Technology and other well-known Indian schools (Murali, 2003). In the Philippines, placement agencies actively recruit nurses for American hospitals from reputable nursing schools, such as the Medical College of the University of the Philippines (Tan, 2006).

Two sources of data serve to indicate the scarcity of high-quality higher educational institutions: the McKinsey study, *The Emerging Global Labor Market* (2005), and the *Asiaweek* Rating of the best universities and Science and Technology Institutes in the Asia-Pacific region in 2000. The McKinsey study looked into demand and supply of high-level human resources by conducting a survey of transnational corporations (TNCs) from Australia, Canada, Ireland, Republic of Korea (South Korea), the U.K. and the U.S., to “quantify the supply of talent in 28 low-wage countries (including China, India, Malaysia and the Philippines) and eight mid and high-wage ones”. The study points to the very large number of young

university-educated persons in low-wage countries, but states that the surveyed TNCs found that only a fraction qualified for employment in professional jobs in their firms. Of Philippine graduates, only 20 per cent qualified in engineering, 30 per cent in finance/accounting and 25 per cent in general occupations. The corresponding figures for Indian graduates are 25 per cent, 15 and ten per cent. The respective shares for Chinese graduates are even lower – ten, 15 per cent and three per cent. Ratings for Malaysia are similar to those of the Philippines. The Asian sample countries have higher proportions of qualified graduates than the other low-wage sample countries. The differences in ratings between India and the Philippines in engineering and finance/accounting reflect the relative strength of India’s science and technology institutes and the accounting schools in the Philippines.

When *Asiaweek* magazine undertook to assess the “best” multi-disciplinary universities and Science and Technology (S&T) centres in the Asia-Pacific region in 1999 and 2000, it focused on a small but representative sample of the region’s more than 20,000 institutions. The institutions were rated according to several criteria: academic reputation, student selectivity, faculty reputation, research, financial resources, student/academic staff ratio, citations in international journals and internet bandwidth per student. The schools were ranked from the highest to the lowest according to the scores obtained overall. Among the 77 participating universities, five were in Thailand, four in China, four in the Philippines, four in Indonesia and two in India; all ranked below the median. Pakistan did not rate in the multi-disciplinary group of universities, but three of its science and technology institutes ranked, respectively, 20th, 23rd and 32nd. Three institutions in China participated in the science and technology rating and eight in India, all above the median ranking. According to the *Asiaweek* survey, the institutions with the highest ranking in the Asia-Pacific region were all located in the advanced

economies – Australia, Hong Kong SAR, Japan, New Zealand, Singapore and Taiwan Province of China.

2.5 Experience as an Important Source of Training

On-the-job training is the most common form of training for most skilled workers in either the highly skilled or blue-collar category. While medical doctors and nurses have to complete their respective degree programmes and pass their respective licensure examinations, the quality of their experience matters as a gauge of their competence. The capacity to produce high-quality experience depends to a large extent on the size of the economic sector and the technology it uses. The more advanced and industrialized an economy, the larger the workforce with experience in high-tech skills. Consequently, a well-developed sector is required in this field to be able to produce a large number of high-tech experienced workers. Nurses and doctors need to be familiar with state of the art medical interventions. Engineers must work in industries that use modern machinery and equipment, as too must electricians, welders, pipe-setters and metal workers. The less developed countries of origin of the Asia-Pacific region face the challenge of a high demand for such workers while having only a small industrial base to train workers in modern and high-tech skills. There is said to be a large demand for a variety of aviation skills, but countries with a relatively small airline industry will not have the capacity to produce large numbers of specialists in this field. Similarly, most countries in the region have no petrochemical industry and their universities and technical institutes do not produce engineers and technicians in this field; neither do they produce design engineers when their firms are generally of small size. Faced with these industrial realities, what HRD strategy can the region adopt? Formal education and training could provide workers with technical knowledge that would pave the way for on-the-job training. But such formal courses need to be carefully identified and

developed. Another option is for foreign recruitment companies to establish training institutions in countries of origin to meet their employment needs. Several such institutions now operate in countries like the Philippines. Placement agencies for U.S. nurses provide instruction to nurses applying for U.S. visas to improve their chances of passing the U.S. nursing examinations (National Council for Graduates of Foreign Schools and the National Council for Licensure Examination). It is informally reported in the Philippines that U.S. hospitals face such a shortage of nurses that they are willing to pay recruitment agents USD 10,000 to USD 12,000 per nurse placed.⁴

2.6 Role of the Private Sector

Wherever there is the opportunity, the private sector will respond to demand for education, as indeed demonstrated in several Asian countries. Private colleges and universities have assumed a relatively large responsibility in higher education in Indonesia, Japan, the Philippines and South Korea. Thailand has begun to authorize private institutions to offer tertiary education. The participation of private schools naturally increases access to education. However, the challenge is to ensure quality. Moreover, as discussed in Chapter 4, the Asia-Pacific region is also a popular testing ground for the adoption by foreign universities of contractual arrangements with private or public institutions in the form of franchises or twinning programmes with the objective of offering their academic courses to local students.

2.7 Emigration of Skilled Human Resources

Skilled migration is a controversial issue (see also Chapter 2). From one perspective, the movement of highly skilled workers may be seen as equally benefiting developed and developing countries by reducing the supply-demand mismatch in the former

⁴ Information obtained from interviews with recruitment agencies in the preparation of Tan (2007).

and reallocating unused human resources from the latter. Seen from a different perspective, however, this movement is seen as detrimental to both by creating an unhelpful reliance on the “import” of talent from abroad (as opposed to the development of home-grown skills) in developed countries, and by depriving developing countries of their scarce professional and technical resources. There is also an ethical dimension to be considered, as the poorer countries of origin bear the cost of educating their nationals and potential migrants (including through private funding of students), while the countries of destination reap the benefits.

Clearly, when there is a skills shortage or when skills are difficult to replace, the cost is high for the country of origin. This is the case in much of Africa as well as in the Caribbean. Two-thirds of Jamaica’s nurses emigrated over the period 1980-2000 and only few return (Lowell and Findlay, 2001). According to Docquier and Bhargava (2006), Grenada and Dominica have lost more than 90 per cent of their physicians, while the small island nations of Saint Lucia and Cape Verde have lost more than 50 per cent (Ratha and Xu, 2008). The problem has not been as acute in other parts of the world, but it exists nonetheless. The shortage of high-quality professionals and high-tech experienced blue-collar workers can be symptomatic of brain or skill drain. The number of nurses leaving the Philippines has exceeded the number of those who pass the licensure examination over the past five years. Foreign employers usually select nurses who already have experience, leaving hospitals and clinics with new graduates or those who may not have passed the licensure examination (Tan, 2007).

The following steps can be taken to mitigate the adverse impact of brain drain, although they should not prevent migrants from exercising the right to leave their country:

- promotion of ethical recruitment to prevent indiscriminate international recruitment in sensitive sectors such as health, particularly in

small and fragile economies, through managed recruitment under bilateral labour agreements (see also Chapter 13);

- creation of a system to recoup some of the loss of investment in countries of origin by requiring the inclusion of practical training as part of some higher education programmes; investment by destination countries in training and education, proportional to the loss in investment suffered by the country of origin; and retention of skilled workers through voluntary means; and
- better targeting of subsidies in higher education by, for example, concentrating such subsidies in priority programmes of instruction and research.

2.8 Achieving Policy Coherence

Given the complexities of developing education and training policies to meet the prospective demand for skilled human resources, countries of origin cannot rely on one-dimensional modes of intervention, however important they may be. The concept of HRD planning needs to be mainstreamed to give purpose and coherence to efforts aimed at matching labour demand with supply while at the same time providing the necessary means to mitigate the loss of skilled workers.

3. Foreign Employment Policies⁵

Countries of origin have different profiles. Some have long-established labour migration programmes, while others are experiencing a migration transition characterized by both labour inflows and outflows, and finally there are those that are relative newcomers to organized labour migration. Nevertheless, as countries of origin, they all face some common challenges, such as:

- Protecting migrant workers from exploitative recruitment and employment practices, and providing appropriate assistance to migrant

⁵ This section has been updated and distilled from the OSCE/IOM/ILO Handbook on Labour Migration (2006, 2007).

workers in terms of pre-departure, welfare and on-site services.

- Optimizing the benefits of organized labour migration, particularly regarding the development of new markets and directing remittance flows through formal channels, as well as enhancing the development impact of remittances.
- Mitigating the adverse impacts of the emigration of skilled human resources.
- Building institutional capacity and inter-ministerial coordination to be able to respond to new issues and challenges arising in relation to labour migration.
- Increasing cooperation with destination countries for the protection of migrant workers, access to labour markets and the prevention of irregular migration.⁶

These challenges call for very specific responses in terms of policies, structures and procedures.

3.1 Protection of Migrant Workers and Support Services

Given that the supply of lower skilled workers far exceeds demand and that many more workers wish to work abroad than there are jobs, migrant workers can be vulnerable to abuse during recruitment, travel and employment abroad. A problem many migrant workers face is high migration costs as a result of excessive, and mostly illegal, intermediation fees. In addition, problems occur in the country of employment. Those most commonly cited by migrant workers are contract substitution and violations; the late, insufficient or total lack of payment of agreed wages; non-fulfilment of return airfare obligations; and harassment and actual abuse of women workers by employers (IOM, 2003). Other problems encountered include poor working conditions, the lack of social protection, denial of freedom of association and other human and labour rights, discrimination and xenophobia and

social exclusion (OSCE/IOM/ILO Handbook on Labour Migration, 2006, 2007).

These abuses erode the potential benefits of migration for all parties concerned, and seriously undermine the expected development impact. Migrant workers are best able to realize their potential and make the best contribution when their working conditions are correct and their fundamental human and labour rights respected.

Although there is no single perfect labour migration regulation system, countries of origin do have a range of policy strategies at their disposal with which to expand the scope and improve the efficiency of their regulatory mechanisms and support services. Key policy strategies include:

- Conducting pre-employment orientation seminars (PEOS) and intensified information campaigns to provide applicants with sufficient information on which to base their decisions.
- Empowering migrant workers, especially through the formation of community-based organizations, to make their voices heard and taken account of in policy formulation and development.
- Streamlining and simplifying regulations and procedures for the protection of workers, and preventing the regulatory framework from becoming too unwieldy and complex, which may itself act as an unintended inducement to irregular migration.
- Close supervision and monitoring of recruitment activities undertaken by overseas employment promoters/agencies, to minimize malpractice and abuse against those seeking overseas jobs.
- Foreseeing criminal proceedings against serious offenders, in addition to cancellation of agencies' licences.
- Paying special attention to the supervision of recruitment and deployment of categories of workers especially vulnerable to malpractice and abuse, such as women domestic workers and low-skilled workers.

⁶ For cooperation with destination countries, see also Chapter 13.

- Raising workers' skill levels to improve their employment opportunities and promote their deployment abroad, with due attention to concerns relating to brain drain (see Section 2.7 above).
- Introducing effective measures to ensure observance of the employment contract at the worksite, in particular through bilateral arrangements and agreements between home and host governments (see also Chapter 13).
- Providing support services such as pre-departure orientation to ease adaptation to a new life and work environment abroad, and inform on the availability of and access to welfare funds and services.
- Establishing mutual cooperation on common areas of concern between home and host countries.

Some of these key policy strategies are discussed in more detail below.

A number of international instruments have also been negotiated and concluded under the auspices of the International Labour Organization (ILO) and the United Nations concerning the protection of migrant workers and their families (see Chapter 13). If widely ratified and implemented by countries of origin and destination, they would provide a comprehensive normative framework for the protection of this group.

(a) Regulation of private employment agencies

Many migrant workers lack information about job opportunities, particularly when they leave their country for the first time in search of employment abroad. Likewise, employers in destination countries who wish to fill particular vacancies with migrant workers require information about suitable candidates. In a global environment characterized by the rapid expansion of new migration routes and increasingly diversified migration flows, the role of private recruiters is gaining in importance.

The evolving migration industry has opened opportunities for a wide range of private recruiters, from small and specialized private employment agencies to multinational companies. Apart from such legally operating businesses, there are "the parallel operations" of semi-legal or outright unlawful recruiters, with some often linked to smuggling or trafficking networks. Research has shown that where regular migration channels are limited, migrant workers will largely turn to illegitimate recruiters or their own social networks (OSCE/IOM/ILO Handbook on Labour Migration, 2006, 2007). Government intervention is therefore required to regulate private employment agencies, to curb unfair and unethical recruitment methods and thus to protect migrant workers against abuse.

There are different approaches to regulating and monitoring the activities of recruiters, while trying to ensure that migrant workers are protected from abuse. The most suitable approach will best be identified through an analysis of the recruitment industry, its main type of activities and possible problems. The scope of regulation may differ according to the type of private employment agency (PEA) concerned; however, it is important that the legal status of PEAs be properly defined and determined in all cases. Since it is relatively straightforward for recruiters to pursue their activities covertly, it is essential to combine regulatory measures with promotional campaigns to ensure compliance with the law.

(i) Registration and licensing

The most common approaches to regulating the activities of PEAs are registration and licensing. Registration requires the agency to register with the Ministry of Labour or other relevant authority and pay a fee. A registered agency is then subject to routine checks by tax authorities and labour inspectors like any other business. However, given the level of concern about unfair recruitment practices, many countries have opted for a licensing system.

Unlike registration, requirements to obtain a license are more rigorous to fulfil.

The Philippines and Pakistan are two countries with an active private recruitment sector. In 2003, there were 1,327 licensed recruitment agencies in the Philippines. Table 10.1 illustrates licensing requirements in Pakistan and the Philippines.

Table 10.1:
Licensing Requirements in Pakistan and the Philippines

Requirements	Pakistan	Philippines
National	Yes	Yes
Application fee	USD 16	USD 200
Registration	Company	Company (with paid up capital of USD 40,000)
Character Certificate	Certificate of good conduct	Clean criminal record
Refundable Deposit	USD 5,000	USD 20,000
Other	Licence fee – USD 500	Licence fee – USD 1,000 Surety bond – USD 2,000 Minimum capital – USD 40,000
Validity of Licence	3 years	4 years

Note:

Original sums were in national currencies and converted to U.S. dollars by the authors.

Source: Mughal and Padilla, 2005.

(ii) Fees

ILO Convention No. 181 on Private Employment Agencies (1997), ratified by 20 countries and in force since 10 May 2000, stipulates that recruitment fees and costs should not be charged to workers other than in exceptional circumstances. While it is clearly preferable for all the costs to be borne by the employers, in practice this is often not the case, and many governments do allow fees and costs to be charged to migrant workers. Supply and demand factors underpinning migration also require attention

when regulating fees. In India, fees vary according to the worker's level of qualification (Table 10.2).

Table 10.2:
Fees Charged to Migrant Workers by PEAs in India

Type of worker	Fee (in USD)
Low-skilled	45
Semi-skilled	65
Skilled	110
Highly skilled	220

Source: Adapted from India, Office of the Protector General of Emigrants (2004).

In the Philippines, the recruitment fee must not exceed one month's salary, although charging fees is not permissible when the prevailing system in the destination country where the worker is to be deployed, either by law, policy or practice, does not allow the charging or collection of placement and recruitment fees.⁷ Responding to problems of overcharging by recruitment intermediaries and exorbitant migration costs, some countries of destination have placed legal limits to such fees. In Israel, for example, the maximum fee the migrant worker can be charged is approximately USD 950, which includes the sums paid to recruitment agents abroad as well as the sum paid to the Israeli agency but which excludes the airfare (MOITAL, 2008).

(iii) Involvement of public employment agencies

While in most countries of origin the role of public recruitment agencies has been taken over by the private sector, there are arguments in favour of the deployment through state-run agencies of categories of workers that are especially vulnerable to malpractice and abuse, such as women domestic workers.

⁷ See 2002 Revised POEA Rules and Regulations Governing the Recruitment and Employment of Land-based Overseas Workers (<http://www.poea.gov.ph/rules/POEA%20Rules.pdf>), Rule 5, Section 3.

International organizations like IOM with wide-ranging experience in migrant application processing and services can also be called upon to facilitate recruitment and are indeed taking up this role within the framework of bilateral arrangements (e.g. IOM,

2008) concerning labour migration to Canada, Italy and Spain. A particularly interesting example is the Seasonal Agricultural Workers Project: Guatemala-Canada (see Textbox 10.2 and Portrait 10.1).

Textbox 10.2

Seasonal Agricultural Workers Project - Guatemala-Canada

The Guatemala-Canada Seasonal Agricultural Workers Project is the result of joint efforts by the Ministry of Foreign Affairs and the Ministry of Labour and Social Welfare, and IOM cooperation.

The project was established in 2003 through an agreement with La Fondation des entreprises en recrutement de la main d'œuvre agricole étrangère (FERME) of the Province of Québec under the supervision of the Department of Human Resources and Skills Development Canada (HRSDC).

The Government of Guatemala and FERME agreed to promote the migration of seasonal agricultural workers with the objective of benefiting the country of origin and the host country, while reducing irregular migration and the associated risks. The Government of Guatemala requested technical cooperation and implementation of the agreement by IOM as follows:

- Assistance in the selection of candidates to meet the Canadian needs for seasonal agricultural workers.
- Coordination with the Ministry of Labour to assure that the rights of Guatemalan seasonal workers are protected and compliance with other requirements of the Ministry in addition to immigration requirements.
- Travel arrangements for seasonal migrant workers.

IOM signed a Memorandum of Understanding with FERME regarding the project.

Guatemalan workers are also protected under Canadian labour laws and have access to life and medical insurance. The project is monitored by Guatemalan consular staff in Canada who supervise the farms where Guatemalans work, with the aim of supporting Guatemalan workers as well as Canadian employers.

Main Procedures

Demand: Associated farms in Canada submit requests for seasonal workers to FERME, which are then processed and assessed for approval. Once approved, they are sent by FERME to IOM Guatemala with copies to the Guatemalan Embassy in Canada. Each request includes the number of workers, expected date of arrival in Canada, duration of the work contract and type of farm crop.

Recruitment: Recruitment is carried out in different communities and municipalities in various departments in Guatemala. During that process, candidates are interviewed and assessed to ascertain that they meet the requirements under the project, and fill in a form with general information for their possible selection. Some Canadian entrepreneurs also participate in the recruitment process. Workers then visit the IOM office and submit the documents required for inclusion in the project. Once these documents have been received, a visa application is made and the respective file created.

Visa Application: The visa application and all the appropriate documents are forwarded to the Canadian Embassy for the relevant Medical Examination Forms to be issued. Depending on the test results workers are deemed to be fit to undertake seasonal agricultural work in Canada.

Work Permit Application: Workers who have passed the medical test are registered for seasonal agricultural work and a work permit from HRSDC is requested through FERME. Once the Canadian Embassy has the HRSDC work permits, the visas are issued.

The Journey: Workers are invited to visit the IOM office a few days before leaving to receive information regarding their journey, the expected conduct and discipline to be observed during their work in Canada, and their relations with other people on the farms. Each worker receives a folder with all travel documents on the first day of the journey. These documents are classified to facilitate emigration and immigration clearance in Guatemala and in Canada, respectively, and include the documents the worker will be handing over to the employer.

Main Results

The number of beneficiaries is increasing and the institutional coordination mechanisms between national institutions (e.g. foreign ministries and labour ministries) are being supported and reinforced through technical cooperation from IOM. Project evaluations carried out with the participation of national authorities and Canadian employers confirm these positive results.

The project was launched in 2003 with an initial group of 215 workers: 180 men and 35 women. Since then the number of workers included in this programme has increased substantially: 2,075 as of 2 November 2007, including 1,948 men and 127 women.

Source: IOM Guatemala (November 2007), <http://www.iom.org.gt/SeasonalAgriculturalWorkersProject.pdf>.

Portrait 10.1

Temporary Migration of Agricultural Workers to Canada

Ernesto is from the Guatemalan indigenous community of El Llano, Patzún, Chimaltenango. He has already travelled twice with the Guatemala/Canada Seasonal Agricultural Workers Project to work on a farm tying onions, cutting lettuce and washing carrots. As instructions on the Canadian farm are given in Spanish, it is not difficult for him to follow them and to carry out his work efficiently. Also, he gets along well with his co-workers and generally feels that his stays in Canada have been positive.

“When I travel to Canada, I am usually sad saying goodbye to my wife and six children,” he recalls, “but I am happy for this opportunity to improve my family’s living conditions. Work in Canada is hard, but it’s worth the effort as I am able to send money to my family every two weeks. In Guatemala, it is so much more difficult to earn money!”

Moreover, any new skills he acquires in Canada help him to improve his own land and farming methods in Guatemala. “However,” explains Ernesto, “it will not be easy as the farm machines used in Canada are expensive.” Then he adds, “I thank God and the Project as in the first year I was able to build a home for my family, and with my earnings from the second year I bought another piece of land to grow peas. Also, I have bought a TV set and a CD player. In Canada, I usually buy presents for my wife, and clothes and toys for my children.”

During the last years, Ernesto and his family have been able to improve their diet and to occasionally add meat. “At first, my wife was sad when I left to work in Canada. But now she is grateful and happy as this allows us to live a better life.” “I tell my children that I have to work in Canada to earn enough money in order to buy their food and to send them to school.”

When working in Canada, Ernesto sends his wife money for food and basic expenses, and she knows that the extra money they are saving could be used in case of any emergency.

“The Project is a great help for poor people like me, as it gives us the chance of working and earning enough money to improve our life and future prospects for our children. I am thankful to have been given this opportunity which allows me to look ahead and gain hope and confidence, and to leave poverty behind us.”

Source: IOM Guatemala.

(b) Minimum standards in employment contracts

Ensuring that employment contracts guarantee fair wages and basic provisions has been an important concern for countries of origin in protecting their nationals abroad. For that reason, countries of origin have developed model employment contracts which establish minimum requirements for their workers in the countries where they will be working.

Such provisions take into account the existing labour and social laws of the host country, as well as national customs, traditions and practices, and local labour market conditions. They should also be in conformity with applicable international standards and bilateral labour migration agreements adopted between countries of origin and destination.

The Philippine Government, for example, has set minimum wages for certain occupations, such as household employees, seafarers and production workers, which must not be lower than the standards fixed under bilateral agreements or international conventions to which the host country is a party. In no case may a migrant worker be paid a salary lower than the prevailing minimum wage in the Philippines. Recently, the Philippine Government imposed a minimum wage of USD 400 per month for out-bound domestic workers.⁸

Standards set by the local administration and included in model employment contracts may form the basis for permitting the employment of nationals abroad. However, in the absence of a bilateral agreement between countries of origin and destination to ensure the observance of minimum wages, it is relatively easy for contract substitution to occur or for workers from one country to be replaced by those of another. It is

incumbent on the host country authorities to ensure the availability of legal recourse if labour contracts are violated, for instance such as provided for by the Department of Labour in Hong Kong SAR (Abella, 2000).

In Jordan, the government has endorsed a legally enforceable Special Unified Working Contract for foreign domestic workers, developed with the assistance of the United Nations Development Fund for Women (UNIFEM) and national stakeholders. The contract is the first of its kind in the Middle East and is required for the issuance of visas and permits. The government is also amending national labour laws to provide domestic workers with legally recognized and enforceable rights protection (UNIFEM, 2004).

Implementation of regulatory measures, whether by controlling recruitment or by using emigration clearance to check the validity of overseas employment contracts, becomes more challenging for countries of origin when movement is facilitated through the introduction of visa-free regimes (e.g. such as in the Commonwealth of Independent States) or by proximity (e.g. Indonesians and Filipinos working in Malaysia). The easing of movement, whether deliberate or due to physical factors, enables potential migrant workers to travel to the country of destination without necessarily first obtaining a job (and employment contract). In such cases, while regulatory measures remain important, countries of origin will need to rely more on support services and interstate cooperation to ensure the protection and welfare of their citizens working abroad.

(c) Support services

The provision of support services to migrant workers may include access to information, the establishment of a contributory welfare fund to meet emergency needs in the country of destination, the provision of insurance coverage and posting of labour attachés to advise and assist workers abroad.

⁸ See Guidelines on the Implementation of the Reform Package Affecting Household Service Workers, <http://www.poea.gov.ph/hsw/Guidelines%20on%20the%20Implementation%20of%20the%20Reform%20Package%20Affecting%20Household%20Service%20Workers.pdf>.

(i) *Information dissemination*

Pre-employment

As millions of people move across borders each year, the need for information has become fundamental to all migration decisions. Distorted perceptions and insufficient knowledge about the realities in the countries they are intending to go to only serve to increase the importance of ensuring that migrants have access to information. Most migrants are unaware of the practical, legal, social and economic consequences of moving to another country. This lack of awareness heightens the risk migrants may be exposed to, while also undermining orderly migration. The dissemination of relevant information reduces such risk and provides migrants with a sound basis on which to make informed decisions.

In recent years, countries of origin have recognized the need to provide their citizens intending to go

abroad for purposes of employment with sufficient information to make informed choices about regular travel options, means of recruitment and travel and employment arrangements. Such information can be conveyed in two ways: through preparatory pre-employment sessions for particular contingents of workers or through broader mass information campaigns. The latter can be especially useful in drawing attention to the risks and dangers of irregular labour migration. Information resource centres for actual and intending migrant workers have also been established in some countries with the assistance of international organizations (see Textbox 10.3 and Portrait 10.2).

A variety of communication activities using various media can be used. Mass media ensure that information reaches large audiences quickly, while direct grassroots contacts provide the informal setting required for more in-depth and frank discussions.

Textbox 10.3

Information Resource Centre for Migrant Workers in Tajikistan

An Information Resource Centre for Migrant Workers was established in Dushanbe, Tajikistan, in 2004 by IOM and the Government of Tajikistan with the support of the Organization for Security and Co-operation in Europe (OSCE) to provide intending and actual migrant workers with reliable information on living and working abroad. Tajikistan's limited employment opportunities and mountainous terrain make it difficult for its inhabitants to make a living. As a result, to escape poverty, almost every Tajik family has at least one member who is a migrant worker. Tajiks seasonally migrate to neighbouring Kazakhstan, Kyrgyzstan and Uzbekistan, though most go to the Russian Federation. An IOM study on labour migration in the region revealed that some 600,000 Tajiks are migrants (Olimova and Bosc, 2003). Unfortunately, however, Tajik migrants are not well informed about the realities of life abroad.

Most Tajiks work in informal and low-skilled sectors in Russia and, even when they have regular status, labour exploitation is common. Many migrants do not know where to go to seek advice and information on travel and work abroad and are an easy prey for unofficial recruiters and traffickers.

The Government of Tajikistan, IOM and OSCE agreed to create a public resource centre with qualified counsellors to provide information relevant to the needs of migrants. The Resource Centre informs potential migrants about employment conditions, travel and documentation requirements, registration, the rights of migrants, press reports, maps and contacts, the risks of trafficking and smuggling in human beings, health risks and other useful tips. Through this project, information is also provided on community organizations and resources, social services and longer-term integration facilities.

Particular attention is paid to collecting, preparing and disseminating up-to-date information in the field of labour migration to intending migrant workers.

1. Travel and documentation:

- documents required for travel (passport and other documents);
- entry and exit (rights and responsibilities of border guards and citizens);
- customs (customs procedures, rights and responsibilities on both sides of the border);
- police (how to prevent abuse);
- transport means and ticketing (air and road transport);
- visa information and embassy addresses;
- information on the dangers of trafficking.

2. Admission and post-admission:

- regularization in destination country (registration);
- regularization of employment (work permit);
- health (first aid, HIV/AIDS prevention);
- education (admission);
- overseas representations of the Republic of Tajikistan and other contact addresses;
- relationship with employer (employment contract and possible risks);
- housing (rental and leases, and risks);
- employment in foreign countries (realities and possible risks for Tajik citizens).

The information is disseminated via booklets, posters, counselling services, tours, mass media, meetings, workshops and seminars.

Source: IOM Dushanbe.

Portrait 10.2

The Importance of Pre-departure Consultation

In June 2006, Oleg saw an advertisement in a local newspaper offering a well-paid job in the United States. Until then, he had only been able to find some temporary jobs and the money he earned was quite insufficient to pay for his family's daily needs and the education of his children. Working in the U.S. for a monthly wage of USD 2,500, as stated in the advertisement, seemed to offer a solution to his problems. Oleg called the agency and, when he got through, was told to prepay USD 1,200 for the agency to prepare the necessary documents and obtain a work visa from the U.S. Embassy. As this was much more than Oleg could afford, he borrowed USD 1,000.

Oleg went to Kiev, located the agency and met the manager. The staff seemed friendly and accommodating. Oleg spoke of his financial problems and the manager reassured him that the prospective job would not be difficult, and provide high wages, accommodation and meals. Oleg signed the contract without even reading it, trusting what he had heard, and deposited his passport and the requested sum of money with the agency, and returned home expecting to be contacted one week before his departure for the U.S. as agreed.

However, nothing happened, and when he again called the agency, there was no reply. Becoming suspicious, Oleg continued to call and eventually left again for Kiev to see what was happening. However, there was nobody at the address, only empty offices. The cleaner informed him that the agency had rented the room only for a few days before leaving again, but she did not know where to.

Oleg needed some time before he realized what had happened. Only now did it occur to him as strange that the office was so small, that there was no official sign or name, that only a laptop had been placed on the table, and that the "manager" had been far too friendly. He did not know what to do now.

Oleg returned home and found a temporary job. He handed all the money he earned to the creditor to repay his debt. Although working abroad to earn some money became more of a necessity each day, his experience had made him suspicious and he was not ready to take any more risks.

One day, Oleg saw a banner at a railway station, with a hotline number. He called and was advised to apply to a Centre of Migrant Advice (CMA). When Oleg went there for a personal consultation, he was informed of the possibilities available to work abroad lawfully. Based on this information, Oleg chose to apply for work in the Czech Republic. The Centre assisted him to access the employment websites in the Czech Republic and offered him the use of free Internet access. The CMA consultants helped him to prepare his personal history form in English and to post it on the employment websites. He was then able to contact some of the potential employers and, in time, received an answer from a construction company in Brno. This time, Oleg prepared and collected all necessary documents himself and obtained a working visa. Before he left for his new job in the Czech Republic, Oleg was provided with all useful and necessary contact information concerning the Ukraine Consulate in Prague as well as non-governmental aid agencies able to assist migrants in the Czech Republic.

Oleg has since departed for Brno where he is satisfied with his new job. He has also referred his neighbours to the CMA.

Source: IOM Kiev.

Pre-departure orientation

Pre-departure orientation courses are intended to prepare the departing migrants for life and work abroad, including their protection from abusive employment practices. Such short courses are often seen as a useful way of providing basic, introductory information relating to future living and working environments such as cultural adaptation issues, language skills and financial services, including advice on the gains that can be made; health counselling and human rights awareness; and eventual return and reintegration arrangements.

With this objective in mind, the Governments of the Philippines and Sri Lanka have developed two-day pre-departure orientation programmes for domestic workers leaving for Hong Kong SAR and the Middle East, covering the following areas:

- rights of a domestic worker based on the standard employment contract;
- obligations of a domestic worker according to relevant regulations;
- “do’s and don’ts” in relation to the employer and living conditions in the destination country;
- destination country profile;

- services and benefits offered by government bodies and non-governmental organizations (NGOs);
- options and procedures for sending remittances;
- travel documents, airport procedures and travel tips;
- initial reception arrangements in the destination country;
- return and reintegration;
- savings options.

For similar reasons, the Italian Ministry of Labour provided funds for IOM to develop five orientation modules covering legal aspects of migration; the management of the migrant labour market; socio-cultural aspects; psycho-cultural aspects; and language learning. Those modules have been used as resources for pre-departure orientation courses in a number of countries, including Moldova and Sri Lanka.

(ii) Migrant welfare funds

Migrant welfare funds (MWFs) are an innovative and financially sustainable means of providing support services to vulnerable migrants and to migrants in distress. Although so far only implemented in Asia, they have the potential to be of value to all countries

of origin by providing a solid resource base for action against the abuse of migrant workers and ensuring decent working and living conditions. They have proved to be particularly useful in assisting migrants who encounter problems on worksites.

Three major Asian countries of origin have established MWFs: Pakistan, the Philippines and Sri Lanka. The principal objectives of the funds are to provide protection to migrant workers on the job site. The funds also provide for a number of other services for workers and their families.

MWFs are administered by public or semi-public agencies: the Overseas Pakistani Foundation (OPF), the Philippine Overseas Workers Welfare Administration (OWWA) and the Sri Lanka Overseas Workers Welfare Fund (OWWF). All three involve representatives of migrant workers and the national government office in charge of labour migration. They are financed by contributions from departing migrant workers fixed at about USD 25 per person. OWWA, together with the Philippine Overseas Employment Administration (POEA), were created by Presidential decree in 1977, just two years after the first group of 35,000 construction workers left for the Middle East. The Pakistani Emigration Ordinance, adopted in 1979, provided for the establishment of OPF, while Sri Lanka created its welfare fund in 1985. Apparently, both funds were adapted from the Philippine model, since there are great similarities in their objectives, organization and funding sources.

The operations of MWFs in the Philippines, Pakistan and Sri Lanka have been assessed in an IOM study (Tan, 2005) focusing on their effectiveness in achieving their objectives. Financial reports published by the welfare funds reveal the scope of their activities. Pakistan allocated 13 per cent of its welfare services budget to job sites, covering consultations, legal services, the return of migrants and repatriation of remains. Sri Lanka allocated a higher proportion, 35 per cent of its budget, for the same purposes. The Philippine MWF

runs 28 migrant worker centres in countries with large concentrations of Filipino migrant workers. It pays for legal services to defend migrant workers in foreign courts. All three funds pay for the fares of migrant workers whose employment has been terminated because of physical abuse, contract violations or other reasons, and for the cost of repatriating remains.

The three MWFs, but especially OPF, have tried to establish other services such as scholarships, vocational training and business loans to migrant workers and their families to the point where they risk intruding on services already offered by specialized government agencies. In general terms, however, demand for these extra services has not been particularly strong (Tan, 2005).

(iii) Government assistance in destination countries through labour attachés

The role of embassies and consulates in providing support and assistance to migrant workers is most developed in established Asian countries of origin and Mexico. The labour attaché is a member of the diplomatic mission, appointed from the ministry or department of labour, and charged with functions relating to labour relations between the home and the host country. For example, a labour attaché from the Philippines has the following duties:

- protection of workers abroad falling within the diplomatic mission's jurisdiction;
- undertaking marketing and identification of job opportunities;
- assistance in the development of labour migration policies;
- promotion of good relations with the host country on labour matters.

In the Philippines, labour attachés are supported by Philippine Overseas Labour Officers (POLOs), whose work is described in Textbox 10.4.

Textbox 10.4

Philippine Overseas Labour Officers: Serving Overseas Filipino Workers Abroad

The Philippine Administrative Code and Labour Code provide the legal basis for a service delivery programme in countries of destination through the Philippine Overseas Labour Officers or POLOs. The Department of Labour and Employment (DOLE) is responsible for the development of policy and programme guidelines, while the International Labour Affairs Service (ILAS) of the DOLE provides ongoing administrative support. The Philippine Overseas Employment Administration (POEA) and the Overseas Workers Welfare Administration (OWWA) are the POLOs' key institutional partners within the DOLE for the implementation of their programmes and day-to-day operations. From a personnel management perspective, the POLOs are attached to the Philippine diplomatic missions abroad and subject to the relevant regulations of the Department of Foreign Affairs for service attachés. The POLOs' activities are therefore supervised by their respective heads of mission at the posting station.

To ensure organized legal entry of Filipino workers to the place of work, POLOs verify whether foreign employers, foreign recruiters, worksites, project sites, job vacancies and terms and conditions of employment meet the standards set by bilateral agreements or Philippine Government policy. They also negotiate with host governments and employers to secure improvements of the terms and conditions of employment and to facilitate worker recruitment and documentation.

Post-arrival orientation activities, worksite inspections, the social mobilization of workers and consultative dialogues are undertaken to address adjustment needs by promoting a sense of belonging in their temporary work setting, the fostering of cultural unity among Filipino workers and the maintenance of communication with the Philippine Mission. When problems and crises arise, Filipino migrant workers are given access to counselling, mediation, conciliation, medical services, legal assistance and court representation, as required. Visits to workers in detention can also be arranged, temporary shelter offered and evacuation or repatriation effected in case of civil conflict or unrest, or for health reasons. Where permissible under host country policy, referrals for employment transfer may be organized. In addition, POLOs help update and implement crisis response programmes with the Consular Division of the Philippine Mission, whenever necessary. In preparation for their post-employment options in the Philippines, Filipino workers are provided access to skills training, reintegration counselling and service referral.

POLOs are counted upon to establish cooperative linkages with a wide range of partners and stakeholders, including host governments, employers' associations, worker organizations, Filipino communities, NGOs, faith-based organizations and the media. They have the responsibility to provide regular situational analyses, identify new market opportunities or make a recommendation when they are of the view that a ban on the deployment of workers to a company or country is warranted. They can also make recommendations towards the imposition of administrative penalties against or blacklisting of abusive foreign employers and recruiters.

POLOs have been deployed in 34 countries around the world and are led by 42 labour attachés. In most posts, the complete staff establishment of a POLO team includes a welfare officer, an administrative assistant, an interpreter and a driver. The POLO team works in partnership with Philippine consular officers and, depending on specific issues of concern, with other members of the diplomatic service. For example, the POLO works closely with trade attachés whenever bilateral discussions on economic cooperation agreements involve labour and employment issues. While police matters relating to nationals, including those concerning irregular work, are handled by consular officials, the POLOs maintain an open system of informal cooperation to assist in such cases. At other times, the POLOs work hand-in-hand with social workers and medical attachés deployed by the Department of Social Welfare and Development and the Department of Health.

The Migrant Workers and Overseas Filipinos Act of 1995 reinforced the role of the POLOs and provided impetus for further experimentation in team management and mainstreaming of services within the Philippine diplomatic service to provide overseas Filipino workers with the services they need wherever they may be.

Source: Ricardo Casco, National Programme Officer, Labour Migration Services, IOM Manila.

3.2 Optimizing the Benefits of Organized Labour Migration

For countries seeking to promote foreign employment, labour migration policy must also address the broader question of the promotion and facilitation of managed external labour flows. Countries of origin have an interest in discouraging irregular migration (while advocating an increase in regular channels for labour migration, including through circular migration initiatives). The benefits of organized labour migration can be optimized through the promotion of foreign employment by way of marketing strategies, cooperation with the private sector, human resource development (see Section 2 above) and leveraging the funds migrant workers send home (remittances). The importance of marketing is considered below, while circular migration and the question of enhancing the development impact of remittances are discussed in Chapter 12.

3.3. Importance of Marketing

Since labour migration is primarily determined by demand, countries wishing to deploy their workers abroad must be able to seek out prospective employers and compete with other countries of origin. Thus, it can be argued, a “marketing strategy” is the lifeblood of any overseas employment programme.

Marketing is a necessary first step in the effort to “promote” a country’s labour. It also points to a country’s deliberate purpose in using labour mobility as a means to attain certain specific economic goals, such as easing unemployment or the generation of flows of remittances to augment its foreign exchange earnings. Countries intending to deploy their nationals abroad need to identify opportunities beyond their national boundaries in a highly competitive international market. In this case, market research becomes essential.

In the Philippines, the market research group maintains a “desk officer” system that allocates work responsibilities according to regions of interest (e.g.

the Gulf Cooperation Council (GCC) states, Europe, Asia, Oceania/Australia) or to occupational sectors (e.g. seafarers, nurses/health workers, domestic workers).⁹ A monthly Market Situation Report (MSR) is provided to private sector associations, which in turn distribute it to their members. The MSR is a consolidated report on current international labour market developments and relevant economic trends and events that have a bearing on the Philippine overseas employment programme. In addition, comprehensive destination country reports are prepared, covering the labour, political and socio-economic conditions as well as prospects and problems in each country of interest. Information on immigration policies and labour laws of different countries are continuously gathered, analyzed and disseminated. This type of research is essentially based on analytical reading of secondary sources such as trade journals, regional economic magazines and national development plans of countries of destination. This is complemented by feedback derived from consultations and close liaison work with the marketing staff of private sector groups. Inputs are also derived from reports of labour attachés and whatever information can be culled from Philippine embassy reports.

In addition to disseminating market research information to the private sector, marketing missions are undertaken by the Philippine Government to negotiate bilateral agreements or arrangements for the deployment of Filipino workers.¹⁰

As part of an inter-regional project for legal and managed labour migration,¹¹ financed by the European Commission, IOM is helping to create or strengthen existing marketing activities in ten Asian countries of origin. Market research units, or MRUs, are to be located in the ministries of overseas employment/

⁹ Information provided by Ricardo Casco, National Programme Officer, Labour Migration Services, IOM Manila and former POEA official.

¹⁰ Information provided by Ricardo Casco, National Programme Officer, Labour Migration Services, IOM Manila.

¹¹ AENEAS: Regional Dialogue and Programme on Facilitating Legal Migration between Asia and the European Union. A brochure describing the programme can be downloaded from the Colombo Process website (see Textbox 10.5) at <http://www.colomboprocess.org/>.

labour to collect labour market information on selected European Union Member States and disseminate it to recruitment agencies.

3.4 Administration of Labour Migration - Sample Policy and Procedural Interventions

Ultimately, labour migration programmes are most effective when they are supported by comprehensive

sets of policies and procedures. An analysis of those already in place in four Asian countries is shown in Table 10.3 below. While there are undoubtedly similarities in these countries' policies, there are also significant differences in their content and application.

Table 10.3:

Government Functions and Services Provided by Overseas Employment Programmes, Selected Countries of Origin

	Bangladesh	India	Sri Lanka	Philippines
Supervision of Recruitment				
Registration and licensing of private recruiters	*****	*****	*****	*****
Ban/restriction of direct hiring	*****	*****	*****	*****
Periodic inspection of recruitment agencies	*****	*****	*****	*****
Limit to recruitment fee charged to worker	*****	*****	*****	*****
Cash/security bond requirement	*****	*****	*****	*****
Regulation of job advertising	*****	*****	*****	*****
Joint liability			*****	*****
Complaints mechanism and adjudication	*****	*****	*****	*****
Performance-based incentives				*****
State recruitment agency	*****	*****	*****	*****
Departure Procedures for Migrant Workers (MWs)				
Minimum standards for employment contracts	*****	*****	*****	*****
Emigration clearance	*****	*****	*****	*****
Trade test		*****	*****	*****
Support Services to Migrant Workers				
State subsidized skills training	*****	*****	*****	*****
Pre-departure orientation	*****	*****	*****	*****
Migrant welfare fund	*****		*****	*****
Labour attaché assistance	*****	*****	*****	*****
Overseas Workers Welfare Centres			*****	*****
Insurance	*****	*****	*****	*****
Conciliation on-site	*****	*****	*****	*****
Legal aid on-site	*****	*****	*****	*****
Return assistance			*****	*****
Reintegration assistance			*****	*****
Marketing Support to Recruitment Agencies				
Client referral system				*****
Market research units			*****	*****
Labour attaché reports				*****
Interstate Cooperation				
Social security arrangements		*****	*****	*****
MoUs/agreements on deployment/protection of MWs	*****	*****	*****	*****

Notes:

A migrant welfare fund is currently being established in India.

Policies by governments have also been formulated in the area of remittances.

***** In operation.

Source: Achacoso, 2002; updated in 2007 by IOM and author.

4. International Cooperation

There are clear limits to what a country of origin can do to protect its migrant workers without the active cooperation of destination countries. Interstate cooperation and, more broadly, international cooperation, can play an essential part, not only in the protection and welfare of migrant workers, but also in the expansion of organized labour migration and the curbing of irregular movements. Cooperation may take many forms. For instance, it may be conducted at the bilateral level, or regionally, between a number of like-minded countries, or even at the global level.¹² Nor should such cooperation be restricted to government actors; the participation of other stakeholders, such as employers' or workers' organizations, is of crucial importance.

Formal mechanisms of interstate cooperation are essentially binding treaty commitments relating to

cooperation on labour migration, which have been concluded either on a global level as in multilateral agreements and conventions protecting the rights of migrant workers under the auspices of the ILO and the UN, on a regional level as in the treaties establishing regional integration mechanisms, or on a bilateral level as in the case of bilateral labour agreements (see Chapter 13). The various forms of formal cooperation, such as mandated in bilateral agreements, regional integration and international conventions, often operate simultaneously.

Where it is not desirable or feasible to work on the basis of formal commitments, other forms of cooperation are available. These include non-binding consultative mechanisms, such as regional consultative processes (RCPs), joint commissions on labour, working groups and non-binding multilateral frameworks, such as the Berne Initiative which culminated in the elaboration of the International Agenda for Migration Management (IAMM) (Swiss Federal Office for Migration and IOM, 2005) (see also Chapters 11 and 13).

One of the most active RCPs in operation is provided by the Ministerial Consultations on Overseas Employment and Contractual Labour for Countries of Origin in Asia, commonly referred to as the "Colombo Process" (see Textbox 10.5).

¹² See Chapter 13 for a more detailed discussion of formal and less formal mechanisms of interstate cooperation on migration, including bilateral labour migration agreements, international agreements protecting the rights of migrant workers and their families and regional consultative processes (RCPs), as well as global means of cooperation. In the latter regard, see also Textbox Int. 2 on the Global Forum on Migration and Development (GFMD). Given its importance and cross-cutting nature, interstate and international cooperation is also discussed in other chapters in Part B of the Report (viz. on the exchange of migration data in Chapter 9; from the perspective of destination countries in Chapter 11; and between countries of origin and destination as well as with and among other pertinent stakeholders, with a view to harnessing the development potential of migration in Chapter 12).

Textbox 10.5

Ministerial Consultations on Overseas Employment and Contractual Labour for Countries of Origin in Asia: The Colombo Process

In response to a request from several Asian countries of origin, IOM organized Ministerial Consultations in 2003, 2004 and 2005. The ten original participating States (Bangladesh, China, India, Indonesia, Nepal, Pakistan, the Philippines, Sri Lanka, Thailand and Viet Nam) made recommendations for the effective management of overseas employment programmes and agreed to the implementation of a range of follow-up activities.

The aim of the Ministerial Consultations is to provide a forum for Asian countries of origin to:

- share experiences, lessons learned and best practices on overseas employment policies and practices;
- consult on issues faced by overseas workers, countries of origin and destination;
- propose practical solutions for the well-being of vulnerable overseas workers;

- optimize development benefits and
- enhance dialogue with countries of destination.

Achievements so far include:

- identification at ministerial and senior official level of policy challenges and needs, and exploration of the range of possible responses and exchange of experiences in programme development;
- development of training curricula for labour attachés and administrators and implementing joint training courses;
- establishment of Market Research Units (MRUs) and creation of more channels for regular labour migration; and
- implementation of specific recommendations at the national level.

The third Ministerial Consultations in Bali, Indonesia, were greatly enriched by the participation of countries of destination, with delegations from Bahrain, Italy, Kuwait, Malaysia, Qatar, Saudi Arabia, **South Korea and the United Arab Emirates**. Afghanistan was welcomed as a new member to the group after participating as an Observer in 2004. International and regional organizations participating in the Consultations included the Asian Development Bank, the Association of Southeast Asian Nations (ASEAN), the European Community, the Gulf Cooperation Council (GCC) countries, the U.K. Department for International Development (DFID), ILO, UNIFEM and the World Bank.

On 21 and 22 January 2008, Colombo Process countries met in Abu Dhabi with GCC countries and Malaysia, Singapore and Yemen. The Abu Dhabi Dialogue resulted in the adoption of the Abu Dhabi Declaration which provides a basis for cooperative action to be undertaken with the support of IOM. Four specific areas of partnership were identified:

- **Partnership 1:** Enhancing knowledge in the areas of: labour market trends, skills profiles, temporary contractual workers and remittance policies and flows, and their interplay with development in the region.
- **Partnership 2:** Building capacity for the effective matching of labour demand and supply.
- **Partnership 3:** Preventing illegal recruitment practices and promoting welfare and protection measures for contractual workers that are supportive of their well-being and preventing their exploitation at origin and destination.
- **Partnership 4:** Developing a framework for a comprehensive approach to managing the entire cycle of temporary contractual mobility to the mutual benefit of countries of origin and destination.

Sources: IOM and <http://www.colomboprocess.org/>.

At the global level, the constituents of the ILO have developed a non-binding Multilateral Framework on Labour Migration (see Textbox 10.6). The Framework aims to provide a rights-based approach to labour migration that takes into account labour market needs, proposing guidelines and principles based

on best practices and international standards. The Framework also underlines the importance of international cooperation in dealing with labour migration. It is composed of 15 broad principles, each with corresponding guidelines and a follow-up mechanism.

Textbox 10.6

The ILO Multilateral Framework on Labour Migration

The *ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration* forms the centrepiece of the ILO Plan of Action for Migrant Workers, adopted by the tripartite constituents (governments, and employers' and workers' organizations) at the 92nd Session of the International Labour Conference in June 2004. The Framework was the negotiated outcome of an ILO tripartite meeting of experts (31 October-2 November 2006), subsequently endorsed by the ILO Governing Body in March 2006.

The objective of the Framework is to provide practical guidance to its tripartite constituents and other stakeholders (civil society, international and regional agencies) on the development, improvement or strengthening, implementation and evaluation of national and international labour migration policies. The Framework supplements existing ILO and UN migrant worker instruments, and takes into account new global challenges and developments such as the growth of temporary labour migration programmes; the feminization of migration; the greater role of the private sector in arranging migration across borders; high incidence of irregular migration, including trafficking and smuggling of human beings; and the growing interest of the international community in migration and development linkages.

The ILO Multilateral Framework on Labour Migration is the most comprehensive international collection of principles, guidelines and best practices on labour migration policy. It is “rights-based” in the sense of bringing together the principles and rights that apply to labour migration and treatment of migrant workers already contained in various international instruments. The Framework consists of 15 principles and corresponding guidelines organized under nine broad themes, and a collection of 132 best practices worldwide. The five major themes that underlie the Framework are: decent work for all; international cooperation; governance and management of migration; promotion and protection of migrant rights; and migration and development. The Framework recognizes the important role to be played by social partners, social dialogue and tripartism in migration policy. It advocates gender-sensitive migration policies that address the special problems faced by women migrant workers. It is important to highlight that most of these principles and guidelines are already present in varying degrees in many parts of the world, as shown by the extensive compilation of examples of best practices.

At the same time, the Framework acknowledges the sovereign right of all nations to determine their own migration policies. Since it is a non-binding Framework, constituents can draw upon its extensive compilation of principles, guidelines and practices – in full or in part – in formulating, improving, implementing and evaluating their own legislative and regulatory frameworks on labour migration. Global trade union federations, such as the International Trade Union Confederation (ITUC) and international and regional NGOs (e.g. Migrant Forum in Asia), have incorporated the ILO Multilateral Framework on Labour Migration into their policy agendas.

The ILO will continue to promote and support implementation of the Framework principles and guidelines by Member States through its regular advisory services, advocacy work and technical cooperation programmes in active collaboration with its tripartite partners, the Global Migration Group (GMG), and other concerned international, regional and national organizations.

Source: International Migration Programme, ILO, Geneva.

International cooperation is vital to an orderly and managed labour migration system. In the absence of a widely accepted international migration system for labour migration – for instance, the expansion of the General Agreement on Trade in Services (GATS) to encompass broader categories of service providers thus increasing the mobility of temporary workers (see Textbox Int. 1) and considerably more ratifications of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, and of relevant ILO instruments (see Chapter 13) – there is a need to expand and develop concurrently bilateral, regional and international cooperation through formal and informal mechanisms on the basis of existing effective practices. Cooperation has to take into account the

interests of countries of origin and of destination, of governments at all levels (central, regional and local), migrant workers and their representatives, social partners (employers and trade unions) and civil society.

5. Conclusion

An increasing number of developing countries and countries with economies in transition seek to adopt policies, legislation and administrative structures that promote foreign employment for their workforce and generate remittances, while providing safeguards to protect migrants. While job creation at home is their preferred option, these countries see overseas employment as part of a

national development strategy to take advantage of global employment opportunities and as a source of foreign exchange. Countries of origin that are keen to facilitate labour migration must grapple with the challenge of formulating policies and priorities that both satisfy the needs of their domestic markets and produce talent able to compete for job opportunities abroad. This chapter has argued that this challenge is best addressed within a comprehensive HRD framework that emphasizes good information on job opportunities and requirements, and quality education and training.

At the core of such a framework is a properly resourced educational system that offers formal learning complemented, where necessary, by practical work experience and training, with both leading to assessment and certification by recognized authorities. Of necessity, however, HRD planning starts well upstream of educational processes, with the identification and forecast of labour market needs and employment opportunities in relation to both domestic and international spheres.

HRD planning then connects with policies required for the specific management of labour mobility.

Foremost among these is a wide range of measures that are collectively intended to protect migrant workers from different forms of abuse and to enhance their personal welfare. Access to authoritative, accurate and up-to-date information is of great importance in this respect. A well-informed worker is better able to make choices – whether they concern the destination, type of employment or duration of contract – and better equipped to adapt to a new social and working environment in the country of destination. In addition, processes of selection, recruitment and employment, while, by their very nature, subject to market movements, can and indeed do benefit from careful regulation and monitoring to ensure that workers are shielded from exploitative practices. Support services, for instance through the operation of migrant welfare funds, or consular assistance, can further contribute to both the migrant's well-being and productivity as a worker.

Finally, two important interconnected policy undertakings concern the establishment of an effective administrative infrastructure to bring overall coherence and purposefulness to labour mobility policies, and the pursuit of partnerships among governments and with other stakeholders.

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