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POLICY BRIEF

SAFEGUARDING MIGRANT WORKERS
IN ASIA: LESSONS FROM POLICY
IMPLEMENTATION





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POLICY BRIEF

SAFEGUARDING MIGRANT WORKERS IN ASIA: LESSONS FROM POLICY IMPLEMENTATION

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Background

“The available literature shows us that the stronger legislations do not always or necessarily result in increased protection of labor trafficking victims. Effective protection of victims is dependent on a range of other inter-related and complex factors, including effective access to legal representation, remedies, and the ability of frontline enforcement personnel to exercise their duty and to apply humanistic judgement when dealing with vulnerable victims. Further, with an overwhelming lack of public support and migrant agency, there is little incentive for increased protections”. (Wahab and Yusof, 2022)

While various policies governing labor migration in Asia may seem promising in theory, their practical implementation often falls short. To identify the challenges surrounding policy execution and offer recommendations for improvement, USAID Asia Counter Trafficking in Persons (CTIP) has developed a policy brief following consultations with various stakeholders, including migrant workers, migrant networks, practitioners, recruiting and employment agencies, and employers from this region.

This policy brief draws from insights gathered during two online events, the first one, “Private Sector Insights in Migration Policy” held on March 27, 2024, and the second “Empowering Voices: Rethinking Labor Migration Policies Workshop” held on March 28, 2024. The first convened 23 participants from private recruitment agencies, business associations, and company representatives. The private sector workshop focused on gathering private sector perspectives on the challenges of recruiting migrant workers and discussing ways for improvement. The second workshop convened 50 NGOs, migrant workers, and stakeholders to discuss policies, best practices, challenges, and recommendations concerning labor migration, with a specific focus on recruitment fees and associated costs of migration, the flexibility of migrant workers to switch employers, and regularization process and requirements. Following the workshop, a desk review was conducted to further examine the examples shared during the discussion.

USAID Asia CTIP, after earlier consultations with Civil Society Organizations (CSOs) in the region, identified the following priority issues for discussion during the two events:

- Recruitment fees and associated costs
- Flexibility for migrant workers to switch employers in the destination country
- Costs for documentation and regularization of undocumented migrants

The goal was to uncover challenges in policy implementation, identify gaps, and share best practices and lessons learned from other countries to formulate recommendations for more effective policies aimed at increasing migrant workers' protection from exploitation and abuse.

1. HIGH RECRUITMENT COSTS

Policies on labor migration

Labor migration in Asia is a significant phenomenon, with millions of individuals seeking employment opportunities abroad to support themselves and their families. Over the last three decades, Asia has seen a 93% increase in its intraregional migrant population, reaching 68.5 million in 2020 [\[1\]](#). However, the journey for many migrant workers is fraught with challenges, one of the most pressing being the cost of migration.

In Asia, labor recruitment is formalized through government-to-government (G2G) agreements, including Bilateral Agreements (BLAs) and Memorandums of Understanding (MOUs). However, the high demand for migration has led to the emergence of private recruitment agencies, complicating regulation efforts. Despite attempts to regulate private actors due to human rights concerns, G2G recruitment programs often fall short, facing challenges such as corruption and difficulty managing large migrant populations.

Three primary G2G recruitment modalities exist 1) G2Gs excluding private recruiters, 2) G2G agreements with guidelines for private recruitment agencies in origin countries, and 3) G2G agreements with guidelines for agencies in both origin and destination countries. These agreements primarily focus on wages, working conditions, and labor market quotas. However, the inability of government agencies to manage quotas, coupled with higher supply than demand, leads to corrupt practices and inflated migration costs for workers. While G2G agreements aim to address labor rights violations, they often do not fully eliminate private actors, such as recruiters and brokers, from the recruitment process. Governments cite capacity issues in recruiting workers, relying on private recruiters to fill the gap. Although some MOUs include provisions for monitoring and licensing, enforcement remains questionable. G2G agreements prioritize economic concerns, sometimes sidelining human and labor rights protections.

[1] International Organization for Migration (IOM), Labour Migration in Asia: What Does the Future Hold? (Geneva: IOM, 2023), IX, https://roasiapacific.iom.int/sites/g/files/tmzbd1671/files/documents/2023-07/iom_labour-migration-in-asia_what-does-the-future-hold.pdf

The operation of private recruitment agencies is often not regulated by G2G agreements, further complicating enforcement. MOUs, while not legally binding, offer flexibility and potential for advocacy but may not effectively hold governments accountable. Moreover, policy coherence in migrant labor recruitment is lacking in many destination countries, leading to fragmented systems. Migrant workers often lack access to basic labor rights' protections and struggle to assert their rights under employer-tied visa regimes facilitated by G2G agreements.

1.1 Background and Examples of Policies

Recruitment fees and related costs refer to the costs incurred by migrant workers during the process of securing employment abroad. These fees often include intermediary services provided by recruitment agencies, expenses for visa processing, transportation, and medical examinations, as well as costs associated with training and orientation. It's crucial to note that under the ILO Private Employment Agencies Convention, 1997 (No. 181), neither employers nor their subsidiaries, labor recruiters, or any third parties providing related services should collect recruitment fees or associated costs from workers. Additionally, the ILO General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs reiterate this principle and provide a definition of recruitment-related costs and fees not to be paid by workers [2].

High recruitment fees pose a significant challenge for Asian migrant workers. These fees, often exceeding several months' wages, lead to debt bondage, trapping workers in cycles of financial vulnerability. The opaque nature of recruitment fee structures often leaves migrant workers unaware of the true costs involved, making them susceptible to deceptive practices by recruitment agencies. Additionally, many workers find themselves promised lucrative employment opportunities abroad, only to discover upon arrival that their wages are insufficient to cover the debts incurred through recruitment fees, leaving workers disappointed and struggling financially in their new countries.

Governments across Asia have responded to the pressing issue of recruitment fees and the protection of migrant workers' rights with various approaches. These include the Employer Pays Model, government-led recruitment schemes, and regulatory frameworks to control fees and enhance transparency.

1.1.1 Free Visa - Free Ticket Policy - Nepal

Nepal implemented the "Free Visa - Free Ticket" policy in 2015, requiring foreign employers to cover the visa and flight ticket expenses for Nepali migrant workers they hire. Nepal's "Free Visa-Free Ticket" policy was introduced in response to the excessive and unauthorized recruitment fees being charged to Nepali migrant workers. This policy applies to workers destined for seven countries: Oman, Bahrain, Saudi Arabia, the United Arab Emirates, Kuwait, Qatar, and Malaysia [3]. The policy lowers migrant worker recruitment costs in two ways:

[2] International Labour Organization (ILO), Recruitment fees and related costs: What migrant workers from Cambodia, the Lao People's Democratic Republic, and Myanmar pay to work in Thailand (Geneva: ILO, 2020), XIII, <https://www.ilo.org/publications/recruitment-fees-and-related-costs-what-migrant-workers-cambodia-lao>

[3] Open Working Group on Labour Migration & Recruitment, "STAND FIRM WITH NEPAL: Zero fees as a first step towards migrant worker empowerment," Migrant Forum Asia, accessed April 1, 2024. <https://mfasia.org/migrantforumasia/wp-content/uploads/2017/01/6-Call-to-Action-Zero-Fees-in-Nepal.pdf>

- (1) By requiring the foreign employer to pay the cost of the visa and round-trip travel ticket, and;
- (2) By reducing the ceiling of migrant paid recruitment fee to 10,000 Nepalese Rupees (NPR) (approx. \$75) – a service charge only paid to the recruitment agency if the employer does not pay their commission.

The provision, since its introduction, was controversial due to the lack of consultation with destination countries and recruiting agencies, making enforcement challenging. Opposition included labor-receiving governments, Nepali recruiting agencies, and agents. The concern was that smaller companies might be discouraged from hiring Nepali workers, however, larger employers, particularly in Qatar and Bahrain, were already offering free visas and tickets.

Eight years since the provision came into effect, it has largely remained on paper. Workers are still made to pay a hefty amount in recruitment fees^[4].

Moreover, the 2018 memorandum between Nepal and Malaysia stipulates that Malaysian employers should bear all recruitment costs for Nepali workers, exempting workers from these charges. However, migrant workers and researchers report that this policy is not being enforced, while recruitment agencies argue that the policy is nearly impossible to implement because few employers are willing to cover these costs, and because the limit on the recruitment fee is too low and unrealistic.

Overall, the policy is headed in the right direction by seeking to eliminate recruitment costs for workers. However, it lacks the necessary infrastructure to facilitate its implementation effectively. This could be achieved through formal agreements with destination countries and employers, supported by robust monitoring and enforcement mechanisms.

1.1.2 Bangladesh-Malaysia: Attempts to Reduce Recruitment Costs

In December 2021, Malaysia and Bangladesh signed a new MOU to resume the recruitment of Bangladeshi migrant workers after a three-year hiatus. The earlier agreement was suspended in 2018, amid allegations of money laundering and corruption^[5]. The previous agreement restricted recruitment to ten government-selected agencies, creating a syndicate that sought to profit from the high costs associated with migration.

The latest MOU aimed to alleviate migration costs by shifting more financial responsibilities onto employers and expanding the pool of authorized recruiting agencies to 100.

Despite efforts to combat corruption, concerns persist due to the MOU's non-binding nature, lack of enforcement, and the restriction allowing only 100 out of the 2,500 registered agencies to send workers to Malaysia under the agreement. Civil society organizations are skeptical about its effectiveness in reducing migration costs^[6].

[4] Pawan Pandey, "Task force studying effectiveness of free-visa, free-ticket policy," The Kathmandu Post, May 11, 2023,

<https://kathmandupost.com/money/2023/05/11/task-force-studying-effectiveness-of-free-visa-free-ticket-policy>

[5] Arafat Ara, "Malaysia again shuts door for BD workers," The Financial Express, May 18, 2024, <https://thefinancialexpress.com.bd/trade/malaysia-again-shuts-door-for-bd-workers>

[6] Kamran Siddiqui, "Bangladeshis pay higher than peers to reach Malaysia job market," The Business Standard, February 17, 2024,

<https://www.tbsnews.net/bangladesh/migration/bangladeshis-pay-higher-peers-reach-malaysia-job-market-794590>

Reports from migrant workers indicate once again malpractices with high fees charged to workers and situations where workers are sent without confirmed job[7]. Additionally, reports from government officials raise new allegations of corruption, accusing the new syndicate of recruiting agencies to put pressure on employers in Malaysia not to comply with the Employer Pays model[8].

However, in May 2024, Malaysia announced a freeze on foreign workers' recruitment from 14 sending countries, including Bangladesh, citing the high number of irregular migrants, giving priority to their regularization.

1.1.3 The Employment Permit System (EPS)- the G2G “Korean model”

In 2004, the Republic of Korea launched the Employment Permit System (EPS)[9] to address the need for low-skilled workers in various sectors, including construction, manufacturing, agriculture, and services. The EPS, a government-to-government labor recruitment program, was established through mandatory MOUs with 16 Asian countries, including Bangladesh, Cambodia, China, Indonesia, the Kyrgyz Republic, Laos, Mongolia, Myanmar, Nepal, Pakistan, the Philippines, Sri Lanka, Thailand, Timor-Leste, Vietnam, and Uzbekistan, to work in South Korea. This program is jointly administered by government institutions and entities affiliated with relevant ministries from both sending and receiving countries. They oversee the entire process of recruitment, selection, and placement of workers, aiming to ensure fair and transparent recruitment processes while effectively eliminating recruitment fees and preventing corruption practices.

The Korean government views the EPS as a labor strategy rather than an immigration policy. Annually, the government issues quotas for the number of workers to be accepted from each country and sector (manufacturing, construction, agriculture, stock-breeding, services, and fisheries). The program is restricted to firms with fewer than 300 employees, with about 45 percent of EPS firms having fewer than four employees and another 20 percent having five to nine workers.

Participants undergo pre-admission training by sector-specific employer associations and post-admission training covering language, culture, immigration and labor laws, and industrial safety and skills.

The EPS permits foreigners to work in Korea for three years, with contracts renewable for up to four years and ten months. After this period, workers must return to their home countries unless their employer makes a special request for them.

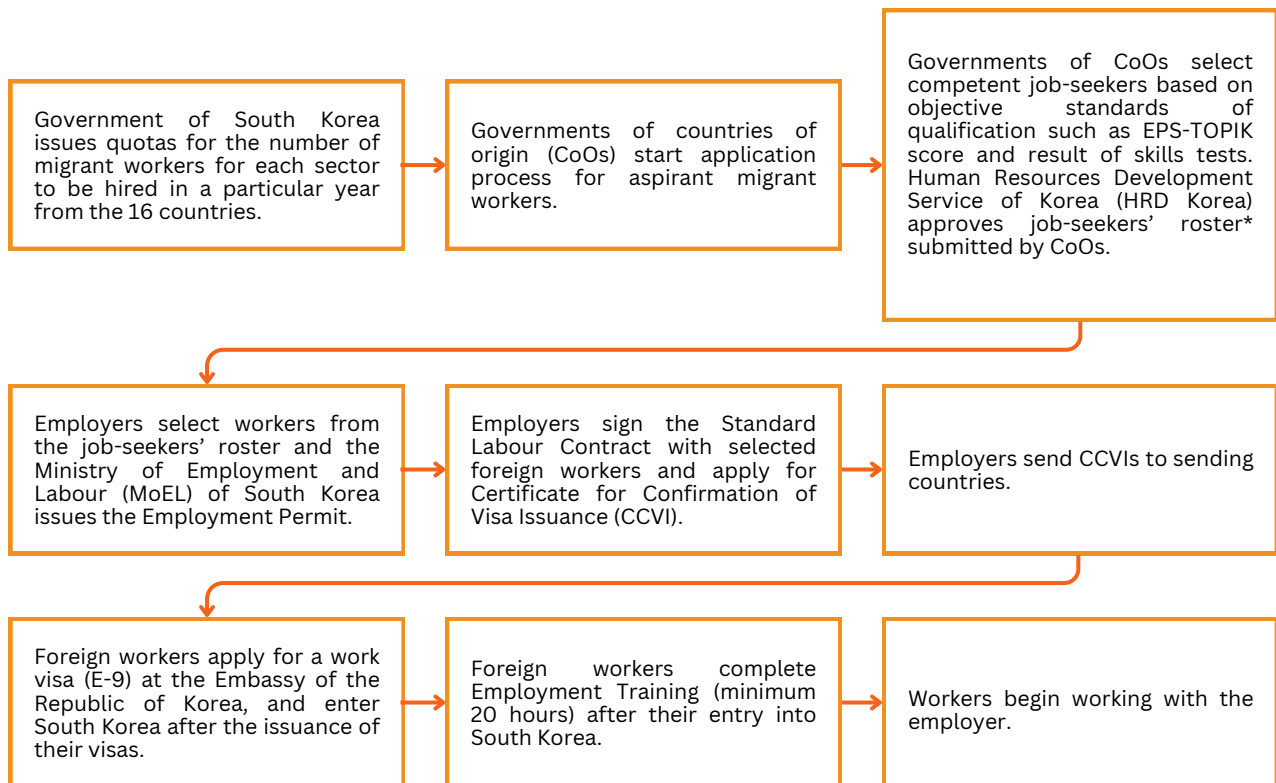
In 2009, a reintegration and co-development component was added to the EPS. The Happy Return Program helps EPS workers with long-term employment or business start-up plans upon returning to their home country. For co-development, Korea's Human Resources Development (HRD) partners with 34 vocational institutes to offer non-work-related courses to EPS workers on Sundays. Experienced EPS workers can change their visa status from low-skilled (E-9) to semi-skilled (E-7) upon passing a skills test, incentivizing skill development and improving firm performance.

[7] Ara, "Malaysia again shuts door for BD workers,"

[8] Siddiqui, "Bangladeshis pay higher than peers to reach Malaysia job market,"

[9] International Labour Organization (ILO), Regional guidelines on the return and reintegration of migrant workers participating in the Employment Permit System of the Republic of Korea (Bangkok: ILO, 2016), <https://migrantprotection.iom.int/en/resources/guideline/regional-guidelines-return-and-reintegration-migrant-workers-participating>

Fig. 1 Migration Process under EPS



Source: 'Procedure of Employment,' Employment Permit System, accessed 3 January 2023, https://www.eps.go.kr/eo/EmplyPrsykTst.eo?pg!D=P_000000035&menuID=10003&langCD=ph and reproduced into the study: Jeevan Baniya et al., 'ONLY A FEW CAN AFFORD TO GO TO KOREA': The costs of Nepali migration to South Korea (Kathmandu: Centre for the Study of Labour and Mobility, 2023), <https://www.researchgate.net/publication/371041725>. 'ONLY A FEW CAN AFFORD TO GO TO KOREA' The costs of Nepali migration to South Korea

*The asterisk refers to a Box on the roster that has not been included in the study and it is not accessible anymore

The Korean government claims that EPS has significantly reduced the cost of hiring foreign workers, bringing transparency to the employment process, and many governments in the region see the ESP as successful in regulating migrant labor recruitment, and is an example to follow to eliminate private recruitment agencies from the process [10].

However, migrant communities, civil society organizations, and trade unions in South Korea raised concerns about the impact of the EPS on migrant worker rights. They cite violations such as non-payment of minimum wage, passport confiscation, restrictions on changing employers, and pressure on origin countries to implement measures preventing migrants from becoming undocumented, such as imposing high deposits on migrant families to ensure their return [11].

Another challenge lies in the fact that despite the absence of agencies and capped costs, the disparity between high supply [12] and a relatively small quota of migrant workers may encourage corruption in origin countries unless all the process is closely monitored.

Moreover, a recent study [13] based on interviews to Nepali migrants to South Korea reveals that significant financial investments are required for pre-migration preparations, including language classes and living expenses, often financed by families or loans. This underscores the need for measures to reduce or eliminate these additional costs.

[10] International Labour Organization (ILO), Pioneering a system of migration management in Asia – The Republic of Korea's Employment Permit System approach to decent work (Bangkok: ILO, 2016), https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@asia/@ro-bangkok/documents/publication/wcms_145630.pdf

[11] Open Working Group on Labour Migration & Recruitment, "South Korea's Employment Permit System A Successful Government-to-Government Model?," Migrant Forum Asia, accessed May 2, 2024, <https://mfasia.org/migrantforumasia/wp-content/uploads/2017/01/2-Policy-Brief-South-Koreas-EPS-A-Successful-G2G-Model.pdf>.

[12] Kalpana Khanal, "South Korea Emerging as Preferred Destination for Nepalese Migrant Workers," Global Press Journal, November 3, 2018, <https://globalpressjournal.com/asia/nepal/south-korea-emerging-preferred-destination-nepalese-migrant-workers/>.

[13] Jeevan Baniya et al., 'ONLY A FEW CAN AFFORD TO GO TO KOREA': The costs of Nepali migration to South Korea (Kathmandu: Centre for the Study of Labour and Mobility, 2023),

Overall, the program seems to have been designed primarily to address economic issues, with insufficient consultation with origin countries, migrants, and civil society organizations. Nevertheless, it serves as a notable example of a regulated system that effectively eliminates private recruitment agencies from the process. Interesting aspects of this model are that migrants report that because the application and job matching processes are closely managed, they feel safer with less chances of ending in an exploitative situation and they appreciate the opportunity to acquire new skills[14]. The challenge remains with the costs associated with the recruitment and selection process.

1.2 Challenges

The implementation of policies aimed at reducing migration cost and safeguarding the rights of migrant workers including the Employer Pays model, government-led recruitment schemes, and regulatory frameworks to control fees and enhance transparency is confronted with numerous challenges. Despite collaborative efforts by governments and stakeholders, the issue persists. Some common challenges faced by these stakeholders include:

1.2.1 Outdated Legislation and Absence of Streamlined Policies

Outdated laws in countries of origin create barriers to implementing initiatives such as Employer Pays models, which shift the financial responsibility of recruitment from the worker to the employer. These regulations often lack provisions or enforcement mechanisms to support such models, complicating efforts to ensure fair and ethical recruitment practices.

1.2.2 Absence of Standardized Costs and Accessible Processes

Ambiguity regarding recruitment costs in both origin and destination countries persists due to governments' failure to establish straightforward and accessible migration processes; this uncertainty leaves migrants dependent on agencies and intermediaries to navigate the process, resulting in inflated costs and exploitation. Reliance on private agencies for recruitment has resulted in increased costs and governments' oversight.

1.2.3 Lack of Effective Monitoring and Enforcement

Due to the lack of strict monitoring mechanisms to ensure that private recruitment agencies comply with regulations in origin and destination countries, standardized fees often fail to reduce migration costs. For example, while the Bangladeshi Ministry of Expatriate Welfare and Overseas Employment established a recruitment fee of Bangladeshi Taka (Tk) 79,000 (USD 675), the actual migration expenses for Bangladeshi workers heading to Malaysia typically fall within the range of Tk 4.50 lakh[15] (USD 3,845) to Tk 5 lakh (USD 4,272)[16]. This was reported in 2024, two years after the signing of an MOU specifically intended to reduce migration costs.

[14] Khanal, "South Korea Emerging as Preferred Destination for Nepalese Migrant Workers,"

[15] Lakh is a unit in the Indian numbering system equal to one hundred thousand (100,000).

[16] Siddiqui, "Bangladeshis pay higher than peers to reach Malaysia job market,"

1.2.4 Agents and Brokers involvement

Numerous efforts have been made to minimize the involvement of intermediaries and provide migrants with direct access to legal channels for obtaining migration documentation. However, in many countries of origin, the process remains intricate and out of reach for most migrants. Furthermore, the competition to secure quotas for recruiting migrants for specific countries and industries often leads to corruption involving recruiting agencies, government officials, and employers. Ultimately, these costs are passed on to the migrants.

1.2.5 Cost Challenges for Recruitment Agencies

From the other side, private recruitment agencies complain that it is challenging to comply with policies of zero recruitment costs in the absence of clear guidelines and enforcement.

1.2.6 Gap between policies and reality

Policies aimed at reducing costs for migrants need to be realistic, otherwise, they will simply remain on paper. For example, according to Nepal's Free Visa-Free Ticket policy, agencies are only permitted to charge a maximum of NPR 10,000 (USD 75). However, Nepali migrants typically pay more than NPR 100,000 (USD 750) on average for recruitment fees^[17]. Moreover, recruitment agencies operate within a competitive environment, where the primary challenge lies in the allocation of licenses and quotas. This allocation process may favor agencies with connections to employers in destination countries and government officials. Consequently, this dynamic can perpetuate practices of corruption and extortion that contribute to increased migration costs.

1.2.7 Employers' Reluctance to Bear Costs

Some businesses hesitate to cover recruitment expenses, fearing that their investment may not pay off if employees seek alternative employment shortly after arrival or if they are not suitable for the job and leave within the first few months. In the absence of clear guidance and enforcement, complying with the employer pays model while remaining competitive presents a challenge for employers, especially smaller ones. Unintended consequences include employers opposing legislation granting more flexibility for migrants to change employers if they have to bear the cost of recruitment. They may also request a minimum duration for employment to recover these costs, which can pressure migrant workers to stay against their wishes. Employers often stress the importance of good pre-departure training to reduce turnover, but it remains unclear who should cover those costs.

1.2.8 Lack of Clear Guidelines in Employer Initiatives

The primary feedback from employers regarding the Employer Pays model is that it lacks clear guidance, and not all businesses can comply. Several private companies have launched collaborative programs with agencies in both origin and destination countries. Some have achieved success in establishing recruitment channels, while others have begun direct recruitment efforts in origin countries. However, there is ambiguity regarding the legality of these processes, and operational guidelines are often unclear or missing.

[17] Jeevan Baniya and Sadikshya Bhattara, Analysis of Recruitment Reviews from Migrant Workers (Kathmandu: General Federation of Nepalese Trade Unions (GEFONT), 2022), https://www.recruitmentadvisor.org/sites/default/files/inline-files/Recruitment%20Final%204%20May%202022_1.pdf.

1.2.9 Debts

Migrant workers frequently accumulate debts to cover their migration expenses. These debts are owed to agencies, intermediaries, money lenders, or even employers. It's common for these debts to be repaid through salary deductions, despite being illegal in most countries and industries in this region. This practice can result in workers being trapped in situations of bonded labor, unable to leave until their debt is paid off.

1.3. Recommendations

1.3.1 For Governments:

1. Any bilateral agreements on managing the migration process need to include clear guidelines for implementation, monitoring, and enforcement. These guidelines should outline shared responsibilities and accountability for implementation between origin and destination countries.
 2. While G2G agreements have the potential to eradicate the involvement of private recruiters and reduce recruitment costs, it is imperative to closely monitor the process. Prospective migrants should not be burdened with costs associated with the selection process. The design of G2G schemes should involve close collaboration between origin and destination countries, incorporating input from migrants and CSOs to ensure that human rights considerations are thoroughly addressed.
 3. Governments should establish government-operated recruitment agencies tasked with conducting interviews and providing training, in collaboration with government-run technical training centers.
 4. Governments should champion a migration model that empowers migrants to access information and services directly, enabling them to prepare their documentation without the need for agencies and intermediaries. Moreover, such a model should facilitate direct access to information about training opportunities and jobs in destination countries.
 5. Bilateral agreements on Employer Pays model need to include clear guidance on implementation and monitoring with responsibilities shared between the origin and destination country. Standard recruitment costs outlined in policies need to consider the actual costs borne by migrants to be effective in reducing the cost.
 6. Migrants and employers, including small and medium employers, need to be consulted and involved in the development of the policy to ensure its implementation.
 7. Limiting the number of recruiters in the migration process does not reduce exploitation but may even lead to increased corruption. When private agencies are involved in the process, governments must ensure a fair and transparent system for assigning licenses and quotas to agencies.
 8. Implement monitoring mechanisms to ensure that employers and private recruitment agencies comply with regulations in both origin and destination countries.
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9. Improve the quality of government-mandated pre-departure training for better job-matching and ensure that it is provided free of cost for migrants.
10. Provide migrants with options to increase their skills and get certifications, during their migration and/or upon their return.
11. Inspect workplaces in the destination country where migrant workers are sent.

1.3.2 For Recruiting Agencies:

1. Recruiting agencies (RAs) should advocate for a fairer and more transparent system to allocate quotas for sending migrant workers abroad. This should include regular monitoring and auditing to favor the most efficient agencies that meet migrants and employers' needs and expectations.
2. Recruitment fees charged by agencies should be standardized and regulated.
3. RAs should adhere to the guidelines outlined in bilateral agreements concerning the Employer Pays model.
4. RAs should advocate for employers to support RAs pre-departure training program.

1.3.3 For Employers:

1. Employers in destination countries should advocate for clear guidance and bilateral agreements on the Employer Pays model.
2. Request easy access to information on RAs and the ability to contact them directly and to provide feedback and report non-compliance with the agreed process and costs.
3. Invest in pre-departure training to increase workers' retention.
4. Establish a zero-fee policy through collaborative efforts between sending and destination countries. Consider convening a joint meeting to initiate a pilot project or committee to assess willingness and commitment in the destination country.
5. Clearly define which party in the supply chain will bear specific costs to avoid ambiguity and ensure accountability among all stakeholders.
6. Promote better collaboration between the private sector and civil society organizations to enhance mutual engagement and effectiveness in addressing shared goals and challenges.

1.3.4 For Civil Society Organization (CSOs):

1. CSOs should collaborate with the government, employers, and RAs to provide free pre-departure and pre-employment training to reduce the migration costs borne by migrant workers and increase workers' retention. CSOs should develop the contents of the training in consultation with employers in destination countries, ensuring it also includes topics such as migrant workers' rights and labor laws.

2. FLEXIBILITY TO CHANGE EMPLOYERS

2.1 Background and Examples of Policies

Migrant workers often face challenges related to employment conditions, including limited job mobility and vulnerability to exploitation by unethical employers. Many countries have implemented restrictive policies to regulate the movement of migrant labor, often employing sponsorship systems or employer-tied visa regimes. These frameworks bind workers to specific employers, leaving them highly vulnerable, restricting their job mobility, and subjecting them to passport confiscation.

In South Korea, although permitted, workers are highly discouraged to request to change employer and switching employer may result in them not being able to reapply for a job in the country in the future^[18]. In Thailand, migrant workers can switch employers only in specific situations such as employer dismissal, bankruptcy, abuse, or if the new employer compensates the previous one for recruitment costs.

Binding a worker to a single employer or sector of employment can lead to exploitation, especially for low-wage and low-skilled workers who are already in vulnerable positions. This situation is exacerbated for workers who have paid recruitment fees, as they may become trapped in debt bondage or forced labor to repay these debts. Difficulty in changing employment within the country further exacerbates their vulnerability, as leaving their jobs could result in either falling into irregular status or facing deportation.

To address issues of worker vulnerability and promote fair labor practices, countries such as Qatar and Singapore have initiated reforms and introduced measures to allow and facilitate migrant workers to change employers under specific conditions, providing avenues for workers to leave exploitative working conditions or seek better employment opportunities without facing legal repercussions or leaving the destination countries, but implementation remains challenging.

2.1.1 The reforms in Qatar

In the Gulf Arab states, the kafala^[19] system grants employers sponsorship permits to bring in foreign workers, binding them to their employers and leaving them vulnerable to exploitation. This system represents an extreme form of employer sponsorship, where employers wield significant power over both the employment relationship and the worker's immigration status in the country. Disentangling from kafala is not merely a matter of changing laws; it is deeply ingrained in various measures, practices, and customs.

Recent years have seen significant reforms to the kafala system, albeit with variations across the region. Qatar has led the way with the most advanced legislative changes. In 2018, Qatar abolished the 'exit permit' requirement for most workers, allowing them to leave the country without their employer's permission. Initially, domestic workers were excluded, but by the end of 2019, this requirement was lifted for them as well. In 2020, Qatar made further strides by eliminating the No-Objection Certificate requirement, enabling all workers to change jobs without needing their employer's consent.

[18] Open Working Group on Labour Migration & Recruitment, "South Korea's Employment Permit System: A Successful Government-to-Government Model?."

[19] Kali Robinson, "What Is the Kafala System?," Council on Foreign Relations, last modified November 18, 2022, <https://www.cfr.org/backgrounder/what-kafala-system>.

These reforms provide workers across all sectors, including domestic work, with the ability to switch employers before their contracts expire without their employer's consent, provided they notify their employers accordance to the procedures outlined by the Labor Ministry within a specified notice period. The changes also mandate that if an employee switches jobs during the probation period, which is limited to six months, the new employer must reimburse the previous employer's recruitment expenses. However, this reimbursement is capped at two months' worth of the worker's basic wage.

In contrast, countries like Saudi Arabia and Bahrain have implemented more limited reforms. In these countries, changing employers without the current employer's permission is only possible after one year, and these reforms often exclude domestic workers from their provisions.

However, the real impact of these legal changes depends on their practical application. Weak implementation and enforcement of these reforms have left many workers vulnerable to exploitative employers. Legislative reforms alone do not guarantee real change for workers; effective implementation and enforcement are crucial.

Despite the reforms, migrant workers in Qatar remain dependent on their employers, who act as their official sponsors. Employers can still cancel workers' residence permits or file "absconding" charges against those who leave their jobs without permission, leading to potential arrest and deportation. This maintains a power imbalance favoring employers and increases the risk of labor abuses. Additionally, passport confiscation remains common, particularly among domestic workers, hindering their ability to leave the country or change jobs.

For these reforms to be meaningful, far greater efforts in implementation and enforcement are necessary to protect workers from ongoing abuse and exploitation^[20].

2.1.2 Singapore: the No-Consent Period's policy

Until November 8, 2021, in Singapore, the transfer policy for migrant workers included a "no-consent period," allowing workers to seek new employment without their current employer's consent within a window from the 40th to the 21st day before their work permit expired. This policy was intended to ensure that workers could continue their employment in Singapore either by renewing their permits or finding new jobs. However, in practice, employers frequently obstructed this right, repatriating workers even when they wished to stay, particularly during the disruptions caused by the COVID-19 pandemic.

In response to these challenges, the Ministry of Manpower (MOM) introduced revised measures on October 30, 2021. This policy applies to workers under the Construction, Marine Shipyard and Process (CMP) Sectors. The new policy adjusted the no-consent period to the end of the work permit's validity. Under this updated rule:

[20] "Reality Check: Migrant Workers Rights with Two Years to Qatar 2022 World Cup" Amnesty International, February 5, 2019, <https://www.amnesty.org/en/latest/campaigns/2019/02/reality-check-migrant-workers-rights-with-two-years-to-qatar-2022-world-cup/>.

1. If a worker's permit was not renewed, the worker had to request a 30-day extension from their current employer.
2. If the employer agreed, the worker could use this 30-day period to seek new employment without needing further consent.
3. If the employer disagreed, the worker would enter a 30-day retention scheme managed by industry associations to facilitate job matching.

The revised policy, although well-intended, has led to several complications: workers need their employer's consent to initiate the no-consent period, which undermines the principle of free job transfer and many employers are disinclined to grant the 30-day extension due to various reasons, such as maintaining control over their workforce or penalizing workers for not renewing their permits. The retention scheme's process is not very efficient, with workers facing long waits for job interviews with limited job choices. Additionally, the reliance on receiving an enrollment Short Message Service (SMS) from MOM creates a risk of some workers falling through the cracks.

To create a more equitable system, Transient Workers Count Too (TWC2), a CSO in Singapore has proposed the following improvements:

- **Extended No-Consent Period:** Allow workers whose jobs have ended to remain in Singapore for up to 90 days to seek new employment.
- **Allow workers three Pathways:**
 - Workers and employers can agree on a 90-day extension, providing a no-consent period for job searching.
 - If employers do not agree, workers can enroll in a job-matching scheme with up to 90 days to find new employment, with modifications to allow for multiple concurrent job choices.
 - For workers who resign, they will manage their own accommodation and meals, enabling them to seek new jobs independently.

This proposal aims to enhance the fairness of the system, ensuring workers have genuine opportunities to continue working in Singapore, while also addressing employers' needs and the broader economic context^[21].

2.1.3 Singapore: the In-Principle Approval (IPA) System and Its Potential for Abuse

The In-Principle Approval (IPA) system is a foundational element of Singapore's regulatory framework for managing its migrant workforce. While intended to streamline the employment process, the system has vulnerabilities that can be exploited by employers, leading to restrictions on workers' ability to change jobs.

The In-Principle Approval (IPA) is a document issued by the Ministry of Manpower (MOM) in Singapore. It is a pre-employment authorization required for foreign workers to enter Singapore for work. The IPA confirms that the worker has been approved for a work permit, contingent upon passing necessary medical exams upon arrival. The IPA is valid

[21] "No-consent period for job transfers "adjusted", in effect shrunk," TWC2, November 29, 2021, <https://twc2.org.sg/2021/11/29/no-consent-period-for-job-transfers-adjusted-in-effect-shrunk/>.

for three months, during which the worker must enter Singapore and convert the IPA into a Work Permit.

Employers or licensed employment agents apply for an IPA online using the worker's personal information, once approved, the IPA allows the worker to enter Singapore and begin the process of obtaining a Work Permit.

The design of the IPA system, while efficient, is susceptible to misuse: employers or agents can apply for IPAs without the worker's consent, using information from their records. This can happen even if the worker has not agreed to the job or is unaware of the application. Once an IPA is issued, it can prevent other employers from successfully applying for an IPA for the same worker. Prospective employers' applications may be rejected due to the outstanding IPA, effectively blocking the worker from securing new employment. Employers can continually renew or extend the IPA, keeping it active beyond the initial three-month period. This ongoing renewal can trap the worker in a cycle where they cannot switch jobs or seek new employment opportunities.

The consequences are that workers who have left the country and want to return but work for another employer may be unable to do so if the old employer files an IPA. Workers may incur costs related to prolonged job searches and legal battles to cancel unauthorized IPAs.

CSOs in Singapore have already recommended several policy reforms to address these issues:

- Implement stricter verification mechanisms to ensure that IPAs are applied for with the worker's informed consent. This could include requiring confirmation from the worker before an IPA is issued.
- Make it easier for workers to cancel unauthorized IPAs, ensuring that the process is as straightforward and quick as the application process for employers.
- Develop a transparent tracking system where workers can view the status and details of any IPA applications in their name, allowing them to detect and address unauthorized applications promptly.
- Enforce legal safeguards against the misuse of IPAs, including penalties for employers who repeatedly apply for or renew IPAs without worker consent.

These two examples from Singapore illustrate how, despite existing policies, there are still methods to misuse the system and prevent migrant workers from exercising their right to switch employers. The lessons learned from Singapore, along with the recommendations already formulated, can help in designing future policies in other destination countries, increasing the likelihood of these policies being effective.

2.2 Challenges

2.2.1 Lack of information

There is a lack of comprehensive information on the countries and policies where workers can change employers and/or cannot do so at which conditions and migrant workers are often unaware and confused about their rights.

2.2.2 Time constraints on migrant job transitions

Often migrant workers are provided with insufficient time to seek new employment in the destination country after the termination of their current job. If they fail to secure new employment within this limited timeframe, they may be compelled to return to their countries of origin.

2.2.3 Debt trap

Some migrant workers may face difficulties when they wish to terminate their jobs, change employers, or return to their home countries, often due to employers asserting claims of debt repayment obligations.

2.2.4 Power Imbalance and Lack of Protection Mechanisms

Workers frequently find themselves unable to exercise their rights to switch employers due to a significant power imbalance and insufficient protection mechanisms. This dependency on employers creates a precarious situation where workers risk being unable to find new employment or face difficulties in re-migrating to the same country.

For instance, in the migration scheme to South Korea, while workers technically have the right to switch employers, migrant workers face significant restrictions and disincentives when attempting to change employers during their contract period. According to Article 25 of the Act on Foreign Workers' Employment, workplace changes are only permitted under specific conditions, such as if the employer plans to terminate the contract early, refuses to renew it, or if the business shuts down or violates employment terms. Workers are limited to changing employers a maximum of three times during their contract. Additionally, labor officials often arbitrarily deny requests for job changes, and quitting a job results in the worker being sent home^[22]. Similarly, as seen in Singapore, despite legal provisions allowing workers to change employers, employers still possess methods to exert pressure and discourage workers from exercising this right.

2.3 Recommendations

2.3.1 For Governments:

1. Countries of origin must establish comprehensive databases outlining countries or destinations where workers have the freedom to change employers and the conditions under which such mobility is restricted. This information is crucial for migrant workers to make informed decisions.
2. Countries of origin should advocate with destination countries to introduce a probationary period, allowing both employers and workers the opportunity to reassess their fit and enabling them to change employers or jobs if dissatisfaction arises, fostering a mutually beneficial arrangement for all parties involved.

[22] Korea EPS - Layout (mfasia.org) - <https://mfasia.org/migrantforumasia/wp-content/uploads/2017/01/2-Policy-Brief-South-Koreas-EPS-A-Successful-G2G-Model.pdf>

3. Countries of destination should develop transparent procedures for job changes, removing unnecessary barriers such as employer consent requirements. Ensure that workers are aware of their rights and the process to change employers.
4. Develop realistic models in consultation with migrants and employers to share costs and responsibilities between employers and workers to ensure workers' right to change employer. For instance, introduce and regulate options for employers to share recruitment costs with new employers when workers leave early.
5. Streamline administrative processes to reduce delays in job transfers. Additionally, migration management departments should adopt standardized names and forms to prevent confusion among migrant workers and facilitate their ability to change employers.
6. Provide workers a window between 40-90 days to find a new employer when work permit is not renewed by current employer or when they resign.
7. Enforce stricter regulations to prevent the misuse of systems like the In-Principle Approval (IPA) for blocking job changes. Implement penalties for employers who abuse their authority to prevent job change.
8. Strengthen labor inspection mechanisms and enhance the capacity of dispute resolution bodies to handle cases related to job mobility.
9. Develop transparent tracking systems where workers can monitor their employment status and any job applications made on their behalf.
10. Develop independent mechanisms for workers to maintain their legal status without depending on employers. Ensure that workers have avenues to renew their own permits or visas.
11. Promote comprehensive support systems to help migrant workers find jobs by improving job-matching schemes to offer multiple choice and increase efficiency and providing temporary support, including housing and financial assistance, to workers during job transitions.

2.3.2 For Employers:

1. Facilitate the job transfer process
 2. Cooperate with regulatory authorities to ensure fair treatment of workers during job transfers.
 3. Ensure transparency in all job transfer dealings and support workers in exercising their rights.
 4. Engage only with reputable recruitment agencies that comply with ethical standards.
 5. Provide fair opportunities to workers seeking employment and cooperate with job-matching schemes.
-

2.3.3 For Civil Society Organization (CSOs):

1. Conduct informational campaigns to educate workers about their rights and the process of changing employers.
2. Provide legal assistance to workers facing issues related to job mobility.
3. Monitor and report violations related to workers' ability to switch employers.
4. Serve as vigilant monitors to ensure the effective implementation of reforms regarding flexibility in changing employers.
5. Provide platforms for workers to report violations and seek assistance anonymously.
6. Assist workers in understanding and navigating job transfer procedures and accessing monitoring systems.

3. REGULARIZATION OF UNDOCUMENTED MIGRANT WORKERS

3.1 Background and Examples of Policies

Migrant workers find themselves without legal status in destination countries for various reasons. Some may enter these countries illegally, attracted by the lower costs and less complicated processes associated with irregular migration. For example, Laos workers bound for Thailand through official routes face substantial recruitment fees, with the visa application alone requiring THB 2,000 (USD 55). Consequently, many Laotian migrants opt to enter Thailand through unofficial channels, leveraging connections with acquaintances for support. They then seek job opportunities and manage work permit requirements upon arrival.

Others may initially enter legally with a work permit but then overstay their permitted duration. Some Asian countries have implemented regularization programs to address the presence of undocumented workers and provide them with legal status. For instance, in countries like Malaysia and Thailand, which host significant numbers of undocumented migrants, regularization initiatives have been introduced to register and legalize the status of undocumented workers.

3.1.1 Regularization program in Thailand

The Thai government announces amnesty programs occasionally, through cabinet resolutions, to regularize undocumented migrant workers. Since the 1990s, the Thai government has periodically allowed undocumented Cambodian, Myanmar, Lao, and Vietnamese migrants to semi-regularize their status through Nationality Verification (NV) processes, granting them up to two years' stay with yearly visa renewals. This enables them to register and gain similar rights as MoU workers, including the ability to register their children under 18^[23]. The latest effort, outlined in a July 5, 2022, cabinet resolution, focused on the management of two groups of migrant workers. The first comprises over 1.7 million workers whose permits were expiring, allowing them to continue working in Thailand for an additional two years.

[23] "Regularisation of Migrants in Thailand," Mekong Migration Network, accessed May 1, 2024, https://mekongmigration.org/?page_id=13509.

The second group comprises 700,347 workers who have been working illegally but will now be permitted to reside and work in Thailand under special circumstances upon registration[24]. However, many workers have faced challenges in meeting the required procedures before the registration deadline, including obtaining or renewing passports and temporary ID documents.

According to the UNDP report Seeking Opportunities Elsewhere: Exploring the lives and challenges of Myanmar migrant workers in Thailand[25], one of the primary challenges in implementing regularization is the fear of deportation, which prevents migrant workers from initiating the process. The next most common obstacle is the high associated costs. Other challenges include a lack of information, complex procedures, and language barriers.

The situation underscores the need for increased guarantees against deportation during the regularization process to encourage migrant participation. Additionally, a simplified, streamlined process with more flexibility in required documentation, along with direct access for migrants, can help reduce reliance on agencies and intermediaries, ultimately lowering costs and waiting time.

3.1.2 Recalibration Program Malaysia

In 2023, Malaysia launched the Recalibration Program 2.0 (RTK 2.0) to formalize the status of undocumented foreign workers in various sectors, including domestic helpers.

Previous programs, such as the Labor Recalibration Program and the Return Recalibration Program, were implemented from November 16, 2020, to June 30, 2021, and later extended. However, the involvement of agents in these programs led to many migrants paying exorbitant fees or being cheated.

The RTK 2.0 began on January 27, 2023, and has been extended to May 2024. Some strengths of this program are that, unlike previous programs, RTK 2.0 is open to all undocumented migrants in all sectors, excludes agents, and caps the fee at RM1500 (USD 318.43). However, migrants still need willing employers with the necessary quota to employ them, which can be a significant barrier. Employers and workers must visit immigration offices for verification, a process that is time-consuming and prone to corruption. Certain sub-sectors, like textiles and barbers, are excluded from the program. Additionally, the effectiveness and trust in RTK 2.0 have been undermined by ongoing raids aimed at arresting undocumented workers.

As of 21 March 2024, only 48% of the roughly one million enrolled workers have been verified by employers. The RTK 2.0 initiative facilitates online registration for employers, though they are still required to personally accompany their foreign workers to immigration offices for biometric screening and verification. According to Datuk Ruslin Jusoh, Director-General of the Immigration Department, a significant portion of registered foreign workers are from the construction sector (51%), with services (24%), agriculture (8%), manufacturing (8%), and plantation (6%) following suit[26]. One of the primary obstacles in legalizing illegal foreign workers through RTK 2.0 is the lack of legal documentation [27].

[24] Migrant Working Group (MWG) and Coalition for the Rights of Refugees and Stateless Persons (CRSP), The situation of migrant workers and refugees in Thailand: Policy recommendations and reform of concerned laws (Migrant Working Group, 2023), <https://mwgthailand.org/en/article/1688602720>.

[25] United Nations Development Programme (UNDP), SEEKING OPPORTUNITIES ELSEWHERE: Exploring the lives and challenges of Myanmar migrant workers in Thailand (Yangon: UNDP, 2023), https://www.undp.org/sites/g/files/zskgke326/files/2023-12/undp-mmr-seeking-opportunities-elsewhere_nov_2023_final.pdf

[26] Mazwin Nik Anis, "Verification rate lags as RTK 2.0 deadline approaches," The Star, March 21, 2024, <https://www.thestar.com.my/news/nation/2024/03/21/verification-rate-lags-as-rtk-20-deadline-approaches>.

[27] "Tighten up migrant labour recalibration efforts, govt told," The Star, January 13, 2024, <https://www.thestar.com.my/news/nation/2024/01/13/tighten-up-migrant-labour-recalibration-efforts-govt-told>

Other challenges include its lengthy process and the government's inadequate promotion of RTK 2.0, leading to some employers not being aware of the program. Small and medium-sized enterprises (SMEs) also encounter difficulties in housing their workers during the verification process carried out by the immigration department^[28].

During this process, the Malaysian government has decided to halt new foreign worker intakes to assess the number of legal migrants and strengthen regulatory frameworks. This decision aligns with the goal of maintaining foreign workers at no more than 15% of the total workforce by 2025.

In conclusion, Malaysia's most recent Labour Recalibration Program represents a significant effort to manage the migrant workforce more effectively. While the program has succeeded in providing a legal pathway for many undocumented migrants, challenges remain, particularly concerning administrative burdens on employers and ongoing enforcement issues.

The government's decision to pause new intakes reflects a strategic move to ensure a more controlled and regulated approach to foreign labor but may favor irregular migration to the country in the absence of legal channels. Future success will depend on addressing these challenges and balancing labor market needs and migrants' protection with robust regulatory enforcement.

3.1.3 Regularization Program in Italy

Another example of a regularization program that encountered similar challenges is the one implemented by Italy^[29] during the COVID-19 pandemic, which could provide lessons for Asia. Italy implemented the program in May 2020 with the aim of providing undocumented migrants with a pathway to residency amid the pandemic. The program had two main objectives: protecting public health and addressing irregular employment. However, the program fell short of its goals, leaving many migrants unprotected and susceptible to continued exploitation, especially in agriculture.

Key issues identified include: the program was limited to the agricultural and home care sectors, excluding workers from other industries such as construction, logistics, and hospitality. Furthermore, the program had unclear eligibility criteria, particularly for asylum seekers, leading to confusion and potentially deterring many from applying. The requirement for employer sponsorship heightened the vulnerability of migrants to exploitation and fraud, as many employers either refused to sponsor workers or demanded high fees for doing so. Additionally, the €500 (approx. USD 544) application fee, originally intended to be paid by employers, was often passed on to the workers, exacerbating financial strain. The restrictive nature of the program and its reliance on employer sponsorship led to instances of fraud and scams, with migrants being deceived into paying large sums for fictitious contracts.

[28] Zakiah Koya and Khoo Gek San, "Employers point out RTK 2.0 flaws," The Star, March 21, 2024, <https://www.thestar.com.my/news/nation/2024/03/21/employers-point-out-rtk-20-flaws>.

[29] "Italy: Flawed Migrant Regularization Program," Human Rights Watch, December 18, 2020, <https://www.hrw.org/news/2020/12/18/italy-flawed-migrant-regularization-program>.

Some lessons learned were: future regularization programs should not be limited to specific sectors but should include all undocumented workers to prevent exclusion and ensure more comprehensive protection. Providing clear, consistent, and timely information about eligibility and application procedures is crucial to ensure all potential beneficiaries can apply. Programs should minimize the dependence on employer sponsorship to reduce the risk of exploitation and give more agency to the migrants themselves. Implementing robust measures to prevent fraud and exploitation, such as monitoring and enforcement mechanisms, can safeguard migrants from abuse.

In conclusion, Italy's regularization program during the COVID-19 pandemic was a well-intentioned but flawed initiative that failed to protect a large segment of undocumented migrants.

A recent analysis^[30] of the regularization programs in Europe conducted by Canada Excellence Research Chair in Migration & Integration concluded that the key recommendations for implementing a regularization program are:

- Clear criteria for eligibility.
- A role for civil society organizations in supporting applicants through the process
- Flexibility in the documents required to prove residency, employment, or identity, and
- The provision of 'firewalls' (or protections) and temporary permits while the application is in process.

3.2 Challenges

3.2.1 Lack of awareness

Migrant workers may not be aware of regularization programs or lack information about registration procedures.

3.2.2 Migrant workers' perspectives on regularization

Irregular migrant workers view the regularization process as complex and costly due to several factors, including bureaucratic obstacles, limited access to information, and high application fees. Moreover, the fear of potential consequences, such as deportation or fines, discourages them from seeking regularization.

3.2.3 Limit on registration

In some countries, the registration of workers in each round is limited, making it impossible to accommodate everyone seeking to legalize their status.

3.2.4 Regularization policies can inadvertently incentivize irregular migration

Countries of origin express concerns that regularization policies may inadvertently encourage irregular migration by offering migrant workers the chance to legalize their status in destination countries without repercussions. However, destination countries such as Thailand and Malaysia heavily rely on migrant labor, particularly in specific sectors.

[30] Ruth Heylin and Anna Triandafyllidou, Regularizations of migrants without status in Europe: Scope, impact and lessons learned (Toronto: Canada Excellence Research Chair in Migration and Integration, 2023), https://www.torontomu.ca/content/dam/cerc-migration/Policy/CERCMigration_PolicyBrief_11_FEB2023.pdf.

Previous attempts to implement stricter measures to curb illegal migration have led to abrupt departures of irregular migrants, resulting in adverse economic consequences^[31].

3.3 Recommendations

3.3.1 For Governments:

1. Expand access to regularization programs by developing inclusive regularization initiatives that include all undocumented migrant workers, regardless of the sector they are employed in, to prevent exclusion and ensure comprehensive protection.
2. Streamline application procedures by implementing clear and accessible eligibility criteria and application procedures for regularization programs to provide consistent and timely information to potential beneficiaries to facilitate their participation. Streamline registration procedures to be both cost-effective and time-efficient, ensuring accessibility for all migrant workers and their families. For example, implementing user-friendly online platforms, providing clear instructions, and offering support services can further enhance efficiency and reduce barriers to registration.
3. Allow migrant workers to register the births of their children.
4. Minimize dependence on employer sponsorship within regularization programs to mitigate the risk of exploitation and fraud, thereby empowering migrants and enhancing their agency in the regularization process.
5. Establish stringent monitoring and enforcement mechanisms to prevent fraud, scams, and exploitation within regularization programs, safeguarding the rights and interests of undocumented migrant workers.
6. Offer safeguards against deportation through regularization. The fear of deportation keeps many undocumented migrant workers from starting the regularization process. Incorporating protections against deportation within regularization frameworks and informing migrants about them more effectively can foster greater participation in such programs.

3.3.2 For Employers:

1. Engage in ethical practices. Refrain from exploiting the vulnerabilities of undocumented migrant workers by demanding excessive fees or engaging in fraudulent activities related to regularization programs.
2. Support workers through the process by providing necessary assistance and support to undocumented migrant workers during the regularization process, including facilitating access to required documentation and covering associated costs without passing them onto the workers.

[31] Zachary Keck, "170,000 Panicked Cambodians Flee Thailand," The Diplomat, June 17, 2014, <https://thediplomat.com/2014/06/170000-panicked-cambodians-flee-thailand/>.

3.3.3 For Civil Society Organizations (CSOs):

1. Provide legal assistance and support to undocumented migrant workers throughout the regularization process, ensuring they understand their rights, obligations, and options available to them.
2. Advocate for the development and implementation of inclusive regularization policies that prioritize the protection and well-being of all undocumented migrant workers, irrespective of their employment sector.
3. Disseminate clear and comprehensive information about regularization programs to undocumented migrant workers, assisting them in understanding the eligibility criteria, application procedures, and available support services.

4. CONCLUSIONS

Consultations have underscored three critical issues concerning the mitigation of exploitation and labor trafficking within the framework of labor migration in Asia. Firstly, high recruitment fees place labor migrants in precarious situations. This often results in indebtedness, trapping them in exploitative labor conditions or driving them towards illicit channels with limited protections, thereby heightening their vulnerability to exploitation. Secondly, the inability to switch employers upon reaching the destination country confines workers to specific jobs and employers, fostering dependence that impedes their ability to extricate themselves from situations of exploitation. Thirdly, the substantial costs and complexities associated with obtaining work permits in destination countries frequently result in indebtedness and reliance on employers to cover these expenses, increasing the likelihood of undocumented status and rendering migrants more susceptible to exploitation.

The Employer Pays model, designed to mitigate the burden of exorbitant recruitment costs for migrants, faces implementation challenges and suffers from a lack of enforcement guidance. Moreover, the prevalence of hidden costs stemming from corruption, extortion, and the proliferation of intermediaries in the recruitment process impedes compliance among employers and agencies. Additionally, employers are concerned about potential losses if migrants prematurely leave their jobs and demand better-trained workers and support from recruiters, yet they are often disinclined to assume such risks.

Several initiatives in the region strive to reduce the involvement of intermediaries and agencies, enabling workers to access information and services directly to circumvent recruiters. Likewise, employers seek to curtail costs and exert more control over the recruitment process by engaging in direct recruitment. However, this practice often resides in a legal grey area, poses challenges for regulation and monitoring, and may prove unfeasible for small-scale businesses. Governments, while advocating for legislation to reduce costs and introduce Employer Pay models, grapple with the task of providing clarity in implementation and combating corrupt practices.

To address these challenges comprehensively, governments must pursue systemic reforms that ensure transparent allocation of quotas and foster fair competition among agencies, allowing migrants to access efficient services at lower costs. Employers need to invest in training and recruitment processes, as well as collaborate in the design and testing of models that effectively prevent labor exploitation while remaining pragmatic and sustainable. Governments should enact legislation to streamline recruitment processes, provide accessible avenues for migrants to switch employers and remain employed in the country, and establish straightforward and efficient regularization programs for irregular migrants, underpinned by clear implementation guidelines enforced through robust monitoring and accountability mechanisms. Crucially, migrants should be actively involved in the design and oversight of new systems, empowering them to access information and prepare their documents directly before and after migration.

Summary of main recommendations to increase protection for migrant workers

- **Any migration policy needs to be developed in consultation with migrants and employers and coordinated between origin and destination countries.**
- **Migration policies should aim to protect migrants' rights, ensure safe migration, and be developed with an infrastructure to guarantee implementation, monitoring, and enforcement.**
- **Eliminating private recruitment agencies from the process may reduce costs, but the process needs to be well-structured and monitored to prevent additional costs for migrants and rights violations in destination countries.**
- **When private recruiting agencies are involved, there should be a robust and transparent process for assigning quotas and removing licenses, and a fair competitive process for the most efficient and professional agencies to be selected by workers.**
- **Employer Pay models are the right direction to take, but they need to be realistic, carefully designed and monitored, with the involvement of destination countries and employers and clear guidance for implementation to ensure they are effective.**
- **Destination countries should provide options for migrants to independently renew their visas and work permits and options to leave and change employers with clear guidelines and no repercussions on their future migration and employment opportunities.**
- **Regularization programs for undocumented migrants are good initiatives to prevent exploitation and trafficking in persons. However, they need to be inclusive, ensure comprehensive protection, offer flexibility in document requirements, and provide temporary permits to applicants.**

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