Regional Workshop on Ethical Business and Recruitment Practices in Labour Migration in the Middle-East, North Africa and Asia

A Training Program for Practitioners held in partnership with Migrant Forum Asia (MFA) and the Middle East Centre for Training and Development

Report on Capacity Building Program

Dubai, May 2014

Migrant Forum Asia (MFA)
Diplomacy Training Program (DTP)
Hosted by the Middle East Centre for Training and Development
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This is the report of a special capacity building program organized by the Diplomacy Training Program (DTP) and Migrant Forum Asia (MFA) with the Middle East Centre for Training and Development (MECTD). The program was held over four days in May 2014.

The capacity building program had a focus on the responsibilities of the private sector to the human rights of migrant workers in the Middle East. It had a focus on the role of the recruitment industry that facilitates the large scale movement of these workers from countries of origin in Asia, the Middle-East and North Africa to work in the countries of the Gulf Cooperation Council (GCC) in particular.

There were 22 participants in the program, nine of them women, from 12 countries of origin and destination. All of the participants work on issues related to the rights of migrant workers. Most came from civil society organisations - NGOs and Trade Unions (TUs). Two worked in the private sector. They were all selected on the basis of their interest and commitment to promoting and protecting the rights of migrant workers.

The trainers and facilitators included William Gois (Regional Coordinator of MFA) Marie Apostol (Founding Director, Fair Hire Initiative, Philippines) Tristan Foster (Founder FSI, Dubai), Matthew Coghlan (human rights lawyer, Australia) and Patrick Earle (Executive Director of DTP).

The program explored the application of the UN Framework on Business and Human Rights (and its Guiding Principles) to the private sector’s role in the process of labour migration, and on how this process can better respect and protect the rights of often very vulnerable migrant workers.

The program mapped out the issues, and built the knowledge, skills and networks of participants. It provided guidance for the development of DTP-MFA’s capacity building strategy going forward. The following report provides the background and context for the program – as well as a description of its contents and reflections on next steps.

The program was positively evaluated by the participants, and was successful as a first step in what needs to be a major and long term commitment by advocates to engaging the private sector, and where necessary holding it to account.

DTP would like to acknowledge the contribution of its partners, MFA and MECTD and in making the program possible, as well as the trainers who donated their time and expertise and the participants who enriched the discussions and grounded them in the reality of the abuses and challenges being experienced by too many migrant workers in the Middle-East.

*This was an excellent experience, especially to work with both origin and destination countries... The informal network formed by the workshop will strengthen my efforts to succeed in our goals to combat trafficking and address fraudulent recruitment practices, debt bondage and modern day slavery*.  

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1 This and other quotes are taken from anonymous end of training
Background and Context – The Rationale for the Program

The Middle East has long been a magnet for labour migrants, most notably from South and South-East Asia and, increasingly, from North Africa. The proportion of migrant to local workers is particularly high in the Gulf Cooperation Council (GCC) states, with migrants comprising 94% of the workforce of Qatar. Cases of abuse and exploitation abound. The ILO has estimated that there are some 600,000 forced labour victims in the Middle East region, many of whom are low-skilled migrant workers. Migrant workers face very low wages, unsafe working environments, a virtual absence of social protection, widespread discrimination and xenophobia, and barriers to freedom of association.

While governments bear the primary and ultimate responsibility for ensuring that the human rights of all people within their jurisdiction are respected, protected and fulfilled, the private sector also has responsibilities.

Since 2004, DTP/MFA have worked to build the knowledge, skills and networks of civil society advocates working to promote and protect the human rights of migrant workers in and from Asia. This has focused on building knowledge of key human rights standards and the responsibilities of governments.

This program was a first step by DTP/MFA in developing a longer term strategy focused on the role and responsibilities of the private sector, recognizing the private sectors’ pivotal position in determining how migrant workers are treated at all stages of the migration cycle.

The private sector is deeply engaged with the process of international labour migration – generating the demand for their labour as direct and indirect employers of the workers. Manufacturing, construction, oil and gas, hospitality, tourism, health and security industries are all significantly involved as employers and contractors of migrant labour. An increasing number of migrant workers are domestic workers – the majority of them women – employed by families and currently beyond the protection of labour law and regulatory systems.

The private sector also dominates the process of recruiting and placing migrant workers. The recruitment industry involves significant multi-national enterprises through to village level brokers in countries of origin such as Nepal and Sri Lanka. The transferal of remittances from migrant workers is also big business – involving major banks and financial institutions.

The UN human rights and business framework sets out the responsibility of governments to protect human rights from abuses and violations by businesses, the responsibility of businesses to protect human rights and the responsibility of both governments and business to provide access to effective remedies when harms are done. The Framework is given greater clarity – and guidance on implementation - by 30 Guiding Principles. The Dhaka Principles are based on this framework and aim to apply it to labour migration.

In addition to the UN Framework and Guiding Principles on Business and Human Rights, there are the OECD Guidelines on Multi National Enterprises and a range of industry and

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3 www.dhaka-principles.org
sector codes of conduct and guidelines reflecting commitments to corporate social responsibility. All of these are potentially useful for advocates to know about and may offer options for advocacy to promote and protect the rights of migrant workers.

The limited knowledge and understanding of the UN Framework and Guiding principles within governments, business and the private sector is a major impediment to their implementation. Largely unaware of this framework, and relevant guidelines and codes of conduct, civil society advocates and their organisations are also limited in their capacity to call for their application.

The DTP/MFA strategic goal for this focus on the private sector is building the capacity (knowledge, skills and networks) to enable civil society in Asia and the Middle-East to engage more effectively with the private sector to ensure that the human rights of migrant workers in the Middle-East are respected, and that there is effective redress when grievances occur. This goal is based on an assumption that civil society attitudes and advocacy is a key driver of change and behavior in the private sector. It is this assumption of a necessary “social licence” to operate that underpins the UN Framework on Business and Human Rights.

It was agreed that the focus for this program would be on the recruitment industry, in countries of origin and destination. This industry has been identified as central to the abuses experienced by migrant workers. In particular the practice of charging workers fees on the promise (sometimes false) of particular and well-paid jobs has contributed to forced labour and trafficking.

Charging fees to workers is both a breach of international standards and at the heart of current recruitment practices. It underpins the economic model of recruitment – minimizing costs for the employer and making recruitment a lucrative business enterprise. In many cases recruitment agencies are paid both by the final employer and the worker. Even in countries like the Philippines and Sri Lanka that have ratified international human rights standards, fees are an integral part of the recruitment process. The significant profits to be made from recruitment also mean there is significant resistance from the sector to change within and to more effective external regulation and accountability of the industry.

Introducing an ethical approach to recruitment, with no fees for workers, is a private sector response to the abuses associated with the current model of labour recruitment and perceived failures of regulation and reform. Models of ethical recruitment are also being developed and promoted by international agencies such as the ILO.

The design of this program focused on building knowledge relevant international standards and how they could be applied – and in developing an understanding of how recruitment works in practice and the problems associated with it, of the drivers of business practices and of alternative models of recruitment. Such knowledge and understanding is vital for advocates to determine effective advocacy strategies.

**Workshop Objectives**

- Develop familiarity of advocates with some of the key international human rights/business standards and mechanisms most relevant to migrant workers and the private sector, including UN, ILO conventions and OECD Guidelines etc.;
- Develop understanding of the recruitment procedures, employment conditions and legal protections present in the sending countries in Asia and the receiving countries in the Middle East;
- Explore the challenges to promoting and implementing these standards and mechanisms in the context of migrant workers from Asia in the Middle-East, particularly through the lens of the three pillars of the UN Framework/Principles on Business and Human Rights – that is, state duty to protect, corporate responsibility to respect, and access to remedy;
- Encourage engagement between representatives of civil society and the private sector;
- Identify priorities for further action, including written/online materials to build the capacity of civil society capacity to more effectively engage the private sector at the national level

**Target Audience - Participants**

Consideration was given to who should be invited to participate in the program. The DTP/MFA courses usually have a mixture of participants selected through an open application process and through nominations. The proposed target audience for this program was:

- Advocates from civil society (with priority given to MFA members) and representatives from NHRI
d- Representatives from recruitment industry

Participants were selected from countries of origin and destination. A consideration in selecting participants was the relatively specialist nature of this training and the capacity of individuals and their organisations to take on work in this area. Consequently many of the participants came from MFA’s Lawyers Network as it was believed that these individuals would be best placed to take up and continue this work going forward.

The discussions were enriched by two participants from the private sector – one a lawyer working with the Guggenheim and the other who had a long background in securing workers for major energy sector projects in the GCC.

One of the key facilitators for the program was Marie Apostol, who has recently established an ethical recruitment business in the Philippines, having worked for many years addressing the issues of forced labour and trafficking in the supply chain. Also presenting on the program was Tristan Forster, Founder of FSI and a world recognized leader in efforts to bring change to recruitment practices.

**Program Location**

This was the first workshop organised by DTP in Dubai, United Arab Emirates. The UAE is a major country of destination for migrant workers and is undergoing a significant construction boom in the lead-up to Expo 2020 which is drawing in more workers from South Asia in particular. Like other GCC states, UAE is an absolute monarchy with limited space for civil society advocates. The treatment of the large number migrant workers is politically sensitive.
Program Partners

The Diplomacy Training Program (DTP) is an independent NGO seeking to advance human rights and empower civil society through quality education and training and the building of skills and capacity in NGOs. Migrant Forum Asia (MFA) is a regional network of NGOs, associations and trade unions of migrant workers, and individual advocates in Asia who are committed to protect and promote the rights and welfare of migrant workers. It is guided by a vision of an alternative world system based on respect for human rights and dignity, social justice, and gender equity, particularly for migrant workers. The Middle East Centre for Training and Development was established in 2012 by Dr Ahmed Al-Hashemi to develop knowledge and understanding of human rights and development issues within government, private sector and society in the UAE.

Training Methodology

The DTP recognizes and values the experiences and skills that participants bring to its programs. The opportunity to share experiences and lessons with other participants and trainers is one of the real benefits and highlights of participating in the program.

The training methodology is interactive with an emphasis on group work, role plays, case studies and discussion. Participants are expected to make presentations during the program and to participate, through groups in the management and facilitation of the course. At the end of each day, program facilitators sit with a representative group of participants to seek feedback so that necessary adjustments in program plans can be made.

Program Description

Opening, Introductions, Expectations, Key Issues and Introducing the Framework

Opening:

The program began with welcomes and opening remarks from the partner organisations.

Welcoming participants to Dubai, Dr Ahmed Al-Hashemi (Founding Director of MECTD) noted that this was the MECTD’s first training activity and it was most appropriate that it was focussed on labour recruitment given the importance of migrant workers to the UAE – and the need for all people in UAE to treated with respect and dignity.

Patrick Earle (Executive Director, DTP) noted the program was beginning on May Day – international Labour Day - a special day that marks the achievement, through organising and advocacy, of the 8 hour-day as the standard reasonable working day. It was a good time to reflect the long history of efforts to ensure dignity for all – of decent work and a decent life. Patrick put the program in the context of DTP’s history and mission as an NGO dedicated to building the knowledge and skills of advocates working for human rights, and its 10 year partnership with MFA. The need to engage effectively with the private sector has become an increasing priority. He expressed appreciation to the DTP alumni in the MECTD, Dr Ahmed Al-Hashemi and Riji Joy for hosting the program.

Marie Apostol reflected on her long experience of engaging with the private sector, including Fortune 500 companies on issues of forced labour and trafficking in their supply chains. The need for companies to address these issues has been driven by international standards,
consumer expectations and new legal requirements in the US, and California in particular. Globalisation has made companies and supply chains more interconnected across borders – and therefore not just subject to regulation in one country. At the same time, Marie noted that advocates had to understand that human rights are on the periphery of concerns of most businesses – and that there is a disconnect between the language of human rights and of business. There needs to be a better alignment of language and understanding if change is to happen. Advocates have to understand what drives and motivates business if they are to engage effectively to seek change.

William Gois (Regional Coordinator of MFA) emphasised that the history of the DTP/MFA partnership had been of building constituencies of support for migrant workers – including trade unionists, lawyers, government officials and human rights advocates. MFA/DTP have long recognised the need to engage the private sector, recognising that simply quoting international standards, or using tactics of naming and shaming are inadequate. There is a need to understand the recruitment industry more, to look at opportunities for engagement and influence and to develop our skills in negotiation so that the private sector can also become part of the constituency for these programs, part of the constituency driving change.

**Introductions, Expectations and Program Overview**

Participants then introduced themselves to each other – their names, organisations and countries – and their expectations of the program. There were common expectations to build knowledge of legal standards and framework, to learn from others and to develop skills in engaging with the private sector.

The structure of the program was then reviewed – an initial focus on building shared knowledge of the frameworks that we are working within, then exploring how these are being and can be used, drawing on the experience of participants. A manual and reference materials had been prepared for the program and these included key reference materials on ILO standards, human rights and the Dhaka Principles.

As is the custom on DTP courses, participants agreed a set of *house rules* to build a safe and supportive learning environment, encouraging participation from all and respect for each other and shared values of human dignity.

**Key Issues - Group Exercise – Identifying the Abuses Experienced by Migrant Workers**

Working together in small groups and then reporting back to plenary, the participants were asked to identify what they saw as the abuses migrant workers experienced and also some of the problems with the way that recruitment operates currently.

*What are the key human rights abuses in recruitment?*

- Lack of informed consent by migrant worker when signing a contract
- Contract not available in language of worker
- False contract/contract substitution
- Lack of pre-departure training
- High cost of recruitment placement fees/debt bondage
- Instances of forced prostitution through recruitment
• Discrimination based on gender (restrictions on women taking up jobs in some countries)
• Lack of standardized contract
• Criminalisation of workers without documents/with false documents
• Withholding of passports/identity documents
• Employee sponsorship system – lack of job mobility/freedom of movement
• Recruitment of migrant workers without proper documentation/skills for job
• Migrant workers stranded due to falsification of documents by recruitment agencies
• Labour law does not cover domestic workers in most countries
• No medical insurance – sickness/injury

What problems are there in the recruitment industry and its regulation/accountability?

• Contractors using ‘race to the bottom’ tactics in hiring migrant workers for a project
• Weak data collection on recruitment agencies
• Corruption
• Ambiguity around responsibility/liability for the migrant workers
• There is a general lack of understanding (by workers and NGOs) on the policies and regulations of recruitment agencies
• Lack of legislation and policy on recruitment agencies
• Government regulation of recruitment agencies seen as non-existent or ineffective
• Lack of institutional capacity and financial resources to monitor recruitment agencies
• Lack of regulatory mechanisms/code of conduct within recruitment industries
• No mechanisms available for recourse to justice – or too expensive/difficult to access
• Lack of interpreters to enable access to courts/complaints processes
• Complaints result in freezing of work permit for worker/complainant
• Lack of penalties for abuses
• Lack of coordination among responsible departments/officials within and between countries
• Lack of action by – and collaboration between - missions of sending countries, including re blacklisting of recruitment/placement agencies
• Issues of recruitment are not properly addressed in bilateral labour agreements
• Lack of international standards on recruitment agencies
• Not enough collaboration among diplomatic missions (labour attaches) of sending countries e.g. not sharing information on blacklisting agencies

Human Rights, Business and Migrant Workers – Introducing the Framework

Having spent time getting a shared understanding of the key issues, it was important to build a shared understanding of human rights, and the international human rights framework.

The sessions on the UN Framework on Human Rights and Business were led by Matthew Coghlan, and were structured around the three pillars of that framework – the state duty to protect human rights, the corporate responsibility to respect human rights and the requirement for victims to have access to remedy when harms are done.

On the first afternoon the focus was on the state’s responsibility to protect human rights. Since the adoption of the Universal Declaration of Human Rights (UDHR) in 1948, governments have developed and agreed nine core human rights treaties. These detail
human rights categorized as civil and political and economic, social and cultural. They also address specific human rights violations such as torture, enforced “disappearances” and racism and the rights of specific sections of society vulnerable to abuse – migrant workers, women, children, persons with disabilities. Rights are recognized as belonging inherently to individuals. International legal agreements identify governments as having the primary responsibilities to respect, protect and fulfil human rights.

- **Respecting** requires states to refrain from interfering with migrant workers’ enjoyment of their rights
- **Protecting** requires states to prevent violations of migrant workers’ rights by third parties like corporations
- **Fulfilling** requires states to take appropriate legislative, administrative, budgetary, judicial and other measures to the full realisation of migrant workers’ rights

When these human rights treaties are ratified by governments they become more enforceable – with governments agreeing to introduce compatible legislation, submit reports to and be monitored by UN human rights treaty bodies. While only 47 states have ratified the UN Convention on the Rights of Migrant Workers (CMW), all governments have ratified at least one treaty – and most have ratified two or more. The treaties on the human rights of women, or on racism apply as much to migrant workers as to others – such as nationals/citizens.

The obligation to protect means the state must protect individuals from harms/abuses by others – including corporations. This

- Applies to all corporations: national/transnational, public/private
- Applies to all rights but some have been raised more than others in treaty bodies commentaries:
  - Non-discrimination and equality
  - Minority and labour rights
  - Health and housing rights
  - Race and gender prejudice
- Emphasis on obligation to protect does not mean other obligations of respect and fulfill are irrelevant to strengthening corporate responsibility/accountability

States are required to take various measures to effectively protect against corporate abuse including monitoring compliance by third parties and effective regulation, investigation and accountability – and through promoting awareness of rights.

UN human rights treaty bodies have developed their own jurisprudence in these areas. For example the Committee on Economic Social and Cultural Rights (CESCR) requires that States put in place effective monitoring mechanisms in the labor context. Such mechanisms must be properly equipped and resourced. The Committee on the Elimination of Discrimination Against Women (CEDAW) maintains that “States parties should report on how public and private health care providers meet their duties to respect women’s rights to have access to health care.”

Adopting legislation is one of states minimum obligations, and while they do not specify content they do give specific guidance in relation to the protection of specific rights or concerning specific sectors e.g. states must legislate to prohibit discrimination, forced labor, child labor and unsafe working conditions. Legislation is also seen as key in relation to
discrimination in access to services and protection against industrial accidents or actions likely to jeopardize rights related to health and living conditions.

State failure to investigate and redress violations can be seen as violations of the state duty to protect

- CESCR makes it clear that State must investigate allegations of abuses by employers
- The Committee for the Elimination of Racial Discrimination (CERD) confirms the importance of investigating all allegations of indirect/direct discrimination

States are obliged to ensure that third party abuse is punished, including abuse by business, and that perpetrators, whether public or private, are brought to justice. Human rights treaties also speak of the right to an effective remedy (e.g. Art. 2(3) of the ICCPR) and Art. 71 of CMW calls for states to ensure appropriate processes are in place to assist rights-holders to bring claims against corporate abuse. The right to remedy requires reparation – although this can take different forms.

At the end of the day the facilitators sat with the participants to review the days sessions and to look at what issues had arisen and what needed to be changed. Some difficult questions were posed – What is the cost of improving migrant worker rights in the UAE? How can you measure the ‘cost’ of increasing human rights, you can measure increased wages i.e. but how to measure outcomes of the well being/human rights standards among workers?

The Human Rights and Business Framework Continued – Respect and Remedy

Human Rights and Business – Responding to a Changing World

The second day began with a brief recap provided by participants and an open discussion. International human rights law focuses on the role of the state, yet processes of economic globalisation have increased the power, role and scope of the private sector.

This process is reflected in what has happened in labour migration, where the process of recruitment has become more dominated than ever before by private recruitment and placement agencies – although some government to government agreements are still in place.

The previous day had focused on the responsibilities of government, but many problems first occur in the interactions with the recruitment agencies and brokers – and employers.

States have responsibility to regulate the private sector – but can be unwilling or lack the capacity to fulfil this responsibility – especially in a global environment where there is competition for foreign investment for economic development and growth – and regulation is seen as imposing costs on business.

The UN Framework on Business and Human Rights is a global response to the challenges of defining the responsibilities of business to human rights. It has been described as a 3-legged stool. The state duty to protect human rights, at the core of the human rights framework, is one leg – and the corporate responsibility to respect human rights is the second leg.

The corporate responsibility to respect is derived from interpretations of human rights agreements that see all in society as having responsibilities to human rights – and an
understanding that business must respond to social expectations – that it depends on a “social licence” to operate. At its most basic it is the requirement to do no harm.

Processes of globalisation, of increased trade, have also led to significant changes in processes of production and the value structures of corporations. For manufacturers, the investment used to be in plant and equipment, but increasingly it is in the value of the brand e.g. Nike does not own any factories – and the value belongs to the brand not the product. Advocates increasingly have to look at how to engage directly with companies and to look at other avenues of accountability that relate to drivers of business behaviour – such as brand image. While democratic governments are mandated to serve the public interest and owe responsibility to voters, companies owe their primary responsibilities to shareholders – who may well be in other countries. There are different knowledge and skills sets involved in approaching companies to discuss their policies and practices.

Businesses are also part of society – and there is recognition that they must act in accordance with the values and standards of the societies in which they operate. As abuses and problems have become exposed, often through good research and advocacy, businesses have responded through the development of codes of conduct and adoption of voluntary guidelines. These take a number of forms – and increasingly as multi-stakeholder initiatives bringing together companies and NGO/community representatives.

**The UN Guiding Principles on Business and Human Rights (GPs) - Respect**

The UN Framework of protect, respect and remedy was adopted by the UN Human Rights Council in 2008 and a set of 30 Guiding Principles (GPs) were adopted in 2011.

The GPs elaborate the implications of existing standards and practices for States and business in international law and integrate them within a single, logically coherent and comprehensive template under the UN Framework. Each Principle is accompanied by a commentary, further clarifying its meaning and implications.

The Corporate Responsibility to Respect (CRR) requires companies to avoid causing or contributing to adverse human rights impacts by their activities, and to address negative impacts if they occur and seek to prevent or mitigate adverse human rights impacts linked to operations, products and services by business relationships (GPs11&13). This requirement applies to all businesses of all sizes, in all sectors/contexts, with all types of ownership and structures (GP14). All human rights should be respected – recognizing the international bill of human rights (IBHR) and core ILO conventions are the benchmark (GPs12&23).

The CRR requires companies to have policies/procedures on human rights – including a human rights due diligence process to identify, prevent, mitigate and account for their impacts on human rights.

In the context of labour migration this requires recruitment agencies to check (due diligence) that the employers that they are recruiting for respect human and labour rights. It requires employers to check that the recruitment agencies they are using to supply them with workers are respecting human rights – and should therefore prevent them using recruiters that charge recruitment fees. The GPs (GP17 & 18) provide further guidance on what is involved in a due diligence process, depending on the size and complexity of enterprise, nature of operations and context.
The Dhaka Principles for Migration with Dignity provide one of first applications of GPs for companies/sectors in migration process. They consist of two core principles and 10 others.

Principle 3 recommends that migrant workers’ rights should be referred to explicitly in company policies and procedures because of their unique circumstances. It suggests the following steps for implementing the principle:

– Adopt human rights policy commitment, with senior level approval and responsibility
– Train supervisors/managers in non-discrimination relating to operations/and the rights of migrant workers
– Recognise particular migrant workers’ challenges in procedures
– Conduct due diligence, including determining legal recruitment/no trafficking and engaging in meaningful consultation
– Employer/recruitment contracts set out human rights requirements

Following the presentation, participants were broken into groups to read and discuss a case study – and to agree and present back on the policy commitments/operational procedures they would want adopted and implemented by the recruitment company and the construction company (final employer).

The UN Guiding Principles on Business and Human Rights (GPs) – Remedy

The final leg of the UN Framework’s three legged stool is the responsibility to provide access to remedy. This is recognized as a responsibility of both the state and of individual businesses.

States must take appropriate measures to ensure access to remedy, through judicial, administrative or other appropriate means (GP25). States should take appropriate steps to ensure effectiveness of domestic courts, including considering ways to reduce legal and practical/procedural barriers, paying particular attention to the rights and needs of the vulnerable at each stage (access, procedures and outcome) (GP26).

States should also provide effective and appropriate non-judicial grievance mechanisms, alongside judicial mechanisms (GP27). Grievance mechanism means “any routinized, State-based or non-State-based, judicial or non-judicial process through which grievances concerning business-related human rights abuse can be raised and remedy can be sought”.

States should also consider ways to facilitate access to effective non-state-based grievance mechanisms (GP28). These could be grievance mechanisms established by individuals, businesses, industry groups, and multi-stakeholder groups.

To be effective, state-based and non-state-based non-judicial grievance mechanisms should be:

– Legitimate
– Accessible
– Predictable
– Equitable
– Transparent
– Rights-compatible
– Learning source
Business mechanisms should also be based on engagement and dialogue. Where business identify that they have caused or contributed to adverse impacts, they should provide for, or cooperate in, their remediation through legitimate processes (GP22). Specifically, business should establish or participate in operational-level grievance mechanisms (GP29).

Operational-level grievance mechanisms perform two key functions:

• Support identification of adverse human rights impacts
• Allow grievances to be addressed and for adverse impacts to be remediated early and directly

The UN Framework on Business and Human Rights and the GPs seek to address gaps in global governance. They were adopted by governments following a process that engaged governments, business, trade unions and civil society and they represent a compromise between them – with many in civil society and NGOs and some governments wanting clearer and legally binding standards and an accountability mechanism. There are efforts to develop a binding international treaty.

In the meantime advocates need to look at how they can use the UN Framework in their engagement and accountability strategies – both directly with the private sector and with governments. The GPs provide a shared and authoritative basis for engagement. Where national human rights institutions (NHRIs) exist they can be encouraged to promote and use the framework. NHRIs may also be able to hear and mediate complaints.

**OECD Guidelines for Multinational Enterprises**

Currently the only international corporate responsibility instrument with a grievance mechanism is the OECD Guidelines\(^4\) on International Investment and Multinational Enterprises - revised in 2011. The OECD Guidelines include chapters on human rights, employment and industrial relations. The revised guidelines take up some of the key concepts and responsibilities such as the responsibility to respect and to exercise due diligence.

Complaints can be made in relation to companies that are based in, and/or receive finance from, OECD member (or adhering) countries. Complaints are made to what are called National Contact Points (NCPs) – which consist of one or more government officials who have the discretion to accept and then mediate complaints.

There is an international NGO dedicated to assisting individuals and organisations with using this mediation process called OECD Watch\(^5\). It provides training guides and background information and has a repository of cases that can be reviewed. It can also provide practical guidance for those thinking of bringing a case.

Participants were again broken into groups and asked to discuss the grievance mechanisms that should have been established by Manikia/Liberto and to consider how recruitment/construction company grievance mechanisms should be designed to be effective – and to report back to plenary.

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\(^5\) [http://oecdwatch.org/](http://oecdwatch.org/)
Marie Apostol has long experience of engaging significant corporations in relation to forced labour and trafficking – and of engaging and seeking to change the cultures of business to make them more rights sensitive. Human rights are not the natural language of business and advocates to work out in their own context how best to connect with individuals in business.

Human rights have however been put on the agenda of business through the exposure in the media – particularly in the US and Europe – of abuses in companies that are sensitive about their brand image. These companies, like Nike or Apple, may not directly employ workers who are being abused, but they are still recognized (at least by consumers) as having a direct responsibility for what happens in the process of producing the goods bearing their logo – and brand reputation.

Businesses have therefore adopted Codes of Conduct, Verification Protocols, Corrective Action/Performance Improvement Policies, and Public reports that include supply chain performance on labor and human rights standards.

There are different types of codes:

- Company-based
- Industry-Based, e.g. Electronics Industry Code of Conduct (EICC), Roundtable for Sustainable Palm Oil (RSPO)
- Codes set by Membership Organizations, e.g. Fair Labour Association (clothing), ETI
- Issue-Specific (Migrant Labor-Specific): e.g. Dhaka Principles, Verite-Manpower Ethical Framework for Cross-Border Recruitment
- Certification-focused Codes (e.g., SA 8000)
These codes cover a range of issues that are relevant to the treatment of migrant workers including:

- No Forced Labor
- No Child Labor
- Nondiscrimination
- Freedom of Association
- Humane Treatment
- Employment Terms: Wages, Benefits, Hours
- Grievance Mechanisms
- Discipline and Termination
- Health and Safety

Advocates concerned about abuses therefore need to know which company, and which sector, the migrant workers are employed in as there may be specific avenues to complain through, specific commitments that can be cited and specific organisations that can offer help and advice.

Marie also highlighted the importance of ILO standards that focus on the world of work. The ILO has its own monitoring and complaints processes, which are tri-partite – bringing together, organized labour (trade unions), employers and governments. The following ILO Conventions are the most relevant to migrant workers – and the process of recruitment:

- C29 Forced Labor Convention (Abolition of forced labor)
- C105 Abolition of Forced Labour
- C138 Minimum Age of Work
- C182 Worst Forms of Child Labour
- C181 Private recruitment agencies
- C100 Equal Remuneration
- C111 Nondiscrimination
- C87 Right to Organize
- C98 Right to Organize and Collective Bargaining
- C189 – Domestic Workers

The ILO Convention on Forced Labour defines forced labour as:

“All work or service which is exacted from any person under the menace of penalty and for which the person has not offered himself voluntarily”

The ILO Convention has informed how the industry and company codes define forced labour and Marie highlighted that typical violations of Code standards on Forced Labor include the following:

forced overtime, payment of exploitative fees to get the job, wage deductions (particularly for payment to third parties), debt bondage, payment of deposits/bonds, passport/identity document retention, coercion/harassment by private recruitment agents/agencies (PRAs), forced to work even when ill, unreasonable curfews, limitations to freedom of movement

Other requirements in ILO Conventions that are particularly relevant to migrant workers are:
• Contracts:
  o have to be in a language that workers understand,
  o workers have to keep a copy,
  o have to contain clear Terms & Conditions,
  o no changes that might diminish Terms & Conditions even if change were made with workers’ consent
• Access to grievance/complaints mechanisms
• Standards on accommodations and meals
• Access to medical care not controlled by employer
• Ability to terminate contract with reasonable notice

It is clear that current realities fall well short of minimum standards.

Marie highlighted that in the current migration process migrant workers, rather than employers or governments, are subsidizing the costs of labour migration. In the country of origin they may need to pay a series of fees – a reservation fee, a placement fee, and the direct costs (passport/visa/ticket). In the country of destination they may have deducted from their wages runaway insurance, and larger than anticipated amounts for accommodation/food/health etc.).

While there are great variations in how the recruitment industry is regulated in different countries – regulation has not ensured that either international standards or industry codes of conduct are upheld.

If an ethical approach to labour migration is going to be adopted it requires policy settings that provide incentives for the approach – to workers, recruitment agencies and employers – that can counterbalance the attractiveness of imposing the costs on workers. It also requires changes from the employers – and willingness by them to absorb the costs of labour migration.
Tristan Forster, the Founding Director of FSI, presented to the participants on the morning of the 3rd day of the program. Based in Dubai, Tristan has established a global recruitment business based on a commitment to ethical practices – including no fees, and a commitment to ensuring that businesses he engages with treat their employees with respect and dignity. Tristan has won international recognition for his leadership in the business community to address human trafficking. FSI had 70 staff and had placed over 3000 workers.

Tristan addressed the reality that labour migration will continue to grow, as individuals seek to fulfill their hopes of a better life for themselves and their families. It is evident that the current system is dashing the hopes of many and is a deeply demoralizing process. Ethical recruitment is a way to both respect and promote values between countries of origin and destination. It is necessary to work with both government and with businesses to institutionalize human rights in the recruitment process.

Tristan outlined the approach to recruitment taken by FSI – what an ethical approach entailed:

- Control over all steps of the recruitment process – to avoid the possibility of complicity in unethical behaviour by others.
- FSI goes right down to the village level – and establishes its own relationship - rather than working through city based agencies that may use suspect brokers/impose their own fees
- No worker pays a fee – FSI will conduct interviews, do visa processing, supervise medical checks, skills testing and provide orientation training on UAE
- Will only place workers with employers that have signed a code of conduct on treatment of workers
- Staff must be the right people with the right values and drive – and internal standards must be monitored and upheld

This model of recruitment costs employers much more than the existing prevailing model that places the costs on workers. Despite this, Tristan has acknowledged that he has to make a business case, rather than a moral or standards based case, to prospective employers. The business case includes more certainty that the workers will have the necessary skills and experience for the job, and that they will have the commitment to the job and are less likely to have health or other problems.

Tristan emphasized that governments play a key role in establishing a level competitive environment – by providing incentives to those companies with good practices, fast-tracking visa approval processes to companies with proven ethical policy and practice, reducing the administrative fees and bureaucracy for ethical businesses – and cracking down on non-compliant agencies. They can also play a role in bringing companies together – and companies and business together - to emphasize the importance of upholding minimum standards. Large well-resourced companies have a role to play in showing leadership and allocating sufficient resources into supply chains, procurement processes, and inspections.

Some of the key questions to emerge from the subsequent discussion included:

- State complicity in the abuses. While the process is driven by the private sector, the national economies are beneficiaries (from the work and remittances) and governments need to act.
- The responsibility of the state in relation to state owned enterprises e.g. the airlines in GCC countries. They employ many migrant workers through sub-contractors. One challenge is to get the state to take more responsibility.
- Holding contractors accountable – those putting out the job orders do not see the issues of substitute contracts, non-payment of wages, no or unsuitable accommodation etc. as their problem.
- How to change the economic model.
- How to hold companies accountable to their commitments to corporate social responsibility.

*My expectations were to learn the characteristics and guidelines of a recruitment process that respects the human rights of migrant workers, the program exceeded my expectation by learning/hearing 1st hand the real and different experiences in the different countries*

**Towards Change**

There are many challenges – in countries of origin and destination – to applying a human rights based approach to labour recruitment. Perhaps the most powerful takeouts from Marie and Tristan’s experience and presentations are that there is a different way to do things, the ingredients of an ethical approach have been established, and there is greater understanding of the practical challenges involved in changing the current models. A good business model and willing governments were identified as two of the key requirements for change.

The presentations from participants, the small group work discussions and working on case studies enabled the exchanging of knowledge and experience between the participants and the facilitators over the four days.

Through these exchanges it was possible to learn of different systems and approaches – some improvements in some countries that may be useful to others.
o KUWAIT – when a worker arrives in Kuwait a bank account is opened for them and the government guarantees they will be responsible for ensuring their salary is deposited in their account. The government has harsh regulations around ensuring companies pay on time.

o HONG KONG – There is an available grievance mechanism for migrant workers and recruitment agencies may be prosecuted - however not very many noted cases

o PHILIPPINES – the government has established joint liability - holding recruitment agencies to account (POEA process) when there are problems/abuses.
Compensation for workers(actual damages, moral damages, exemplary damages, attorney’s fees arising from illegal dismissal or breach of contract by agency – employer), penalties for recruitment agency including deregistration and prosecution

o UAE – will directly recruit 200,000 workers from India – and government is looking into setting up training centers India – this may lead to positive change because they will have control over the whole process. Qatar has been considering similar models.

o JORDAN – Domestic workers are now included under labour law – but seriously weak implementation and ambiguity around enforcement paves way for exploitation. There has been movement to address the gap between legal protection for Jordanian and migrant workers. Application of these types of laws is challenging.

o MALAYSIA – Some labour migration is covered by bilateral labour agreements (BLAs) between countries of origin and destination. There is apparently inconsistency in the terms of these BLAs – some BLAs allow passport retention while others do not. It is clear that to be compliant with international standards, passport retention by employers/RAs should be expressly prohibited.

One area that received attention was the government to government agreements (G2G & BLAs) that are in place between some countries. There is clearly scope for advocates to engage more strategically with the negotiation over the content of these agreements to ensure that they reflect minimum international standards – and provide the right facilitating framework for ethical recruitment practices.

An ethical approach to recruitment, consistent with minimum standards of human rights and labour rights, is being put on to the agenda of both governments and business. Some businesses and governments have recognized and are moving to address the problems.

One challenge for advocates is to learn about the standards, and better practices, so that they can advocate for these in an environment where they can draw on support from international agencies such as the ILO, supportive governments and international NGO networks and foundations. Another challenge is for advocates to generate the political will and social demand for change from both governments and business – in countries of origin and destination.

The training has provided me with new skills to advocate for workers’ rights. The examples provided give strategies that I can use in my advocacy work. Thank you.
Participant Evaluations

At the end of the program participants were asked to fill in evaluation forms – these are anonymous so remarks are not attributable and participants are encouraged to be frank and critical. The evaluations of the program were very positive, and there were also thoughtful reflections and suggestions on the program – and improvements that could be made.

Facilitators encouraged a free and conducive atmosphere for sharing and also to express views.

The facilitators built confidence by respecting the opinions and ideas of each participant and encouraging greater participation.

The facilitators spent a lot of time on the 1st morning with introduction and outlining the workshop objectives. They involved the participants and encouraged sharing of ideas in a non-rigid, non-threatening environment. The informal atmosphere promoted sharing of ideas. The attendees were from many different countries which added to the understanding of the problems forced in different countries. The presentations by Marie and Tristan... provided useful models to aspire to.

The discussions on the relationship between business and human rights, the human rights context; the group/plenary discussions on human rights principles and ethical recruitment/business practices were most helpful.

The group work make sessions very interesting. A two way knowledge sharing process was enabled and a lot of local knowledge was shared. Was able to learn about their domestic legal remedies, frame form and what’s been effective and what has not

(the most useful part…) When it dealt with issues which linked the theoretical understanding with experiences. Maybe someone could have summarized the general problems in origin and destination countries and how people have tried to use international instruments.

Consider inclusion of business reps in future workshops to get their view on what they are doing, what are the costs, what not doing and why not? I.e. – some pay fees for recruitment, some get paid fees for recruitment, contracts in home/destination countries, views on standard contracts

I gained a deeper knowledge about recruitment practices in different jurisdictions in both sending and receiving countries and how the government responds to problems as well as the infrastructures in place. The shared knowledge could be useful in framing recommendations to the relevant governments where I work.

It would be useful to (1) map recruitment model that respects human rights (2) map existing practices in sending and receiving countries (3) map existing legislation in sending and receiving countries (4) make recommendations to improve (5) follow up

In future courses it would be good (1) to give examples of countries (origin and destination) which have used and implemented international instruments (2) to give more examples of countries which have good laws (3) countries which no laws but have used the guidelines
Reflections and Next Steps

Organizers should follow up through newsletter of MFA and DTP as well as email inquiring about new initiatives based on the training

It would be better if we also formed/developed a forum for working together (formal forum)

Similar activities should be trilateral in participation – government, private companies and NGOs

This was DTP/MFAs first specialized program focused on the private sector and recruitment agencies. Overall the program balanced the theoretical and practical aspects of the program. There was a lot of new and substantial content for participants. While some had some prior exposure to the human rights framework, none were familiar with the UN framework on business and human rights and the GPs or the OECD Guidelines.

Course content and structure and supporting materials

Structuring the program around the three pillars of this framework worked well, although should the course be repeated more consideration needs to be given on how best to integrate both ILO standards and the content on codes of conduct – which are very relevant and practical. The use of a core case study was also very helpful in getting participants to apply the theory to practice. The program would probably have benefited from a session/activity more explicitly distinguishing human rights and the corporate responsibility to respect from CSR. The participant presentations were overall integrated well into the program and helped to ground the program.

Given the centrality of labour standards, more time in the program needs to be dedicated to identifying/explaining these standards and ILO processes – and also the role that the ILO can play in technical and advisory services. The development and presentation of other short case studies would help to illustrate human rights/labour standards and the application of the three UN Framework pillars, including grievance mechanisms.

Speakers/Presenters

The core facilitators worked well together as a team, with a good balance of knowledge and expertise that could cover the agenda and a range of teaching styles. Tristan Forster was a valuable addition to the program. For future programs there would be value if possible in bringing in more presenters from the private sector and government.

Participants

The participants were great – ready to share knowledge, keen to learn, respectful of the fact that this was a pilot program and very active and engaged. They made the learning process a very enjoyable and stimulating one. Having a mix of participants from country of origin and country of destination was clearly very important to the program dynamics and to the learning overall. Most of the participants were from civil society. Having some participants from the private sector considerably enriched the discussions.
Consideration should be given to bringing some of the same participants back to share experiences and lessons, to increasing the proportion of participants from the private sector and some participants from government and to ensuring that the NGOs nominating participants commit to supporting the subsequent application of knowledge and skills developed in the program.

Materials

Most of the trainers used Powerpoints and these were generally very clear. If time allows and trainers are willing it, would also be good for trainers to exchange PPTs in advance to know/add to them, and identify/avoid overlaps. There may also be value in having a PPT of objectives/output/outcomes to keep referring back to ensure the program keeps focused through its many different sessions.

Translation/Interpretation

Given the location of the program and the commitment to engage with host communities, advocates and business representatives it is important that materials be available in Arabic and that there be good interpretation. Interpretation is one of major expenses of this program and other ways of securing interpretation should be explored – based on cost, but also on developing capacity and drawing on the resources of other organisations with a long term commitment to these issues.

Next Steps

The potential of international human rights and labour standards to influence and shape the practice of the private sector is presently unfulfilled. This is in part at least because of a lack of knowledge and understanding of the application of these standards to the private sector. It is also the result of a lack of open and informed engagement between civil society advocates and the private sector.

These issues are on the agenda and there are sections of the private sector that are interested in change and in grappling with the challenges involved. DTP/MFA are keen to build on this first program, and the current openness to reform, to develop a network of skilled and informed advocates, who are able to engage effectively with the private sector and to build collaborative relationships that bring in international agencies such as the ILO, governments and the private sectors – including to complement initiatives such as Reform Recruitment.org. DTP would like to develop a specific private sector strategy that would likely include the following next steps:

- A series of at least three GCC regional capacity building programs that would bring together representatives of CSOs, national human rights institutions, government and business – each with a distinct thematic focus on a sectors employing migrant workers (e.g. hospitality/tourism);
- The selection of civil society participants/NGOs committed to developing and implementing multi-year engagement and advocacy plans on the private sector
- Secure the involvement of specialist international NGOs/networks able to provide ongoing and expert support to individuals engaged in this work
- Development of specialist resource materials on human rights, business and migrant workers
Appendix 1:

Regional Workshop on Ethical Business and Recruitment Practices in Labour Migration in the Middle East, North Africa and Asia
A Training Program for Practitioners held in partnership with Migrant Forum Asia (MFA) and the Middle East Center for Training and Development
May 1st – 4th, 2014, Dubai, United Arab Emirates

Participant’s Biographies

Hong Kong

Holly Carlos Allan (F) is the Executive Director of the Helpers for Domestic Helpers (HDH). Her work involves liaising with lawyers and networking with migrants associations, migrant support groups, lawyers, NGOs and organizations that seek to protect and promote the rights of migrant domestic workers in Hong Kong. HDH is a NGO that provides legal advice, counseling and guidance to foreign domestic workers in Hong Kong. HDH was originally a spontaneous initiative by a small group of lawyers who worshipped at St. John’s Cathedral where, as is still the case, a substantial part of the congregation were Filipino domestic workers.

India

Hubertson Tomwilson (M) is the Assistant Field Coordinator of the Migrant Forum India. His work includes organizing capacity building activities, research, case documentation, advocacy and awareness raising. He also supports MFI and MFA in working with the media to heighten impact of policy advocacy. Hubertson is keen at gaining more knowledge on how to deal effectively with issues and cases brought to their attention.

Gayatri Singh (F) is a human rights lawyers and a founding member of the Human Rights Law Network. She specializes on labour issues and is currently practicing at the Bombay High Court. She works in collaboration with other civil rights advocates, tribal groups, dalit, and women’s organizations among others. Gayatri has been working with trade unions and has been active with textile workers struggles in Bombay. She was also part of the establishment of the national labour lawyers network. She is in charge of the litigation work in Bombay High Court. She also carries out legal education to judges by holding judicial colloquiums and legal training for lawyers, law students and activists. The Human Rights Law Network provides legal aid to the homeless, slum dwellers and those arrested by police. They also conduct prison visits.

Rajaram Gurusamy (M) is a social activist and the current Chairperson of the Guru Rural Empowerment and Action Trust (GREAT). He coordinated and conducted the following surveys: 1) Households in Ramanathapuram District of Tamilnadu, where one family member was a migrant labour and compared the socio Economic status of similar families in the same area through the India chapter of Migrant Forum Asia; 2) Translated the important guidelines for the Migrant Workers in Tamil and distributed to the workers who propose to Migrate to Gulf countries from Tamilnadu.
He conducts awareness programmes before migrating abroad as a worker through Consumer Protection Association of Paramakudi. He also organizes workshops and seminars to university students focusing on human rights issues, specially, Migrant’s rights.

**Jordan**

**Diala Al Amiri (F)** is a Program Coordinator at Tamkeen Fields for Aid. Tamkeen is an organization that specializes in the protection of migrant workers in Jordan through conducting various activities that ensure Migrant Workers get access to their rights. As a program coordinator she is responsible for conducting multiple projects in the field of protecting migrant workers’ rights in Jordan and victims of trafficking. In particular she conducts awareness programs, provides legal and medical services to migrant workers and refers them to shelters and anti-human trafficking unit and advocacy of the organization. She also conducts visits to prisons where there are detained migrant women and conducts visits to agricultural workers and various farms in different districts of Jordan, which gives her an opportunity to see the situation of migrant workers in the country first hand.

**Salah Jaber (M)** is the Senior Legal Consultant and Project Manager for Criminal justice unit of the Justice Center for Legal Aid. Salah is a Jordanian attorney and has been practicing law since 2003. Throughout his career, he has focused on providing legal aid services particularly to the unprivileged people in the country, including migrant workers. He started his career at the Taamneh law firm, which is renowned in Jordan for defending migrant workers and handling cases related to migrant labour disputes, especially domestic workers. During his stint at Taamneh, Salah handled cases of abused and exploited migrant domestic workers. Salah was the first lawyer who joined the Justice Centre for Legal Aid (JCLA) in 2008. JCLA is an NGO that provides legal aid services to the poor and vulnerable in Jordan. At JCLA, Salah handles mostly criminal cases, particularly grand felonies cases of persons who would have been prosecuted without representation.

**Kareem Fayyad (M)** is an advocate and legal advisor since 1993 in Amman/Jordan. He is the owner of the “Fayyad’s Law Firm” (Family business since 1974 owned by late Advocate Khairy Fayyad, his father). He specialises in litigation, arbitration, legal studies and consultations. Kareem applied for the training in order to learn more and improve the services offered to migrants - either in courts or legislations in cooperation with the courts or bar association or related ministries.

**Kuwait**

**Khalifa Al-Mutairi (M)** is a board member of the Kuwait Human Rights Society. He also currently holds the position of Head of the Department of the Ports in the Ministry of Interior. In this position, he advises migrant workers in the country on issues pertaining to their rights. He hopes that by attending this training it will increase the capacity of the Kuwait Human Rights Society to facilitate a higher number of advocacy programs for migrant workers.
Khaled Al-Ajimi (M) is the Chairman of the Board of Directors for the Kuwait Society for Human Rights. The Kuwait Society works with both private and government sectors to improve the rights of migrant workers in the country and is affiliated with the Arab Human Rights Organization and is a member of the Arab Immigrant Workers Network. As the Chairman of the Kuwait Society, Mr. Al Ajimi oversees all supportive activities regarding human rights in Kuwait.

**Lebanon**

Roula Hamati (F) works as a research and advocacy officer at Insan Association. As an advocacy officer, she acts as the focal person for all advocacy-related activities at Insan and represents the organization within the national consortium in Lebanon working for the protection of the rights of Migrant workers. In the last months she has been involved in the preparation of a three-day event that will take place in May on the occasion of Labor Day. The aim of the event is to advocate for legal protection for Migrant Domestic Workers. With respect to her role as a researcher, she currently is working on two research projects which focus on migrant domestic workers and employers, and on child protection. Her main tasks in these projects include working on the design, draft and implementation of research projects, assisting the organisation with advocacy campaigns and events, and liaising with community leaders and various stakeholders. Roula is particularly interested in this course as it closely relates to her current work. It would also help her in devising a strategy on dealing with private recruitment agencies to improve the working conditions of migrant domestic workers.

Nehmetallah Milan (M) is a lawyer at Caritas Lebanon Migrant Center (CLMC). As CLMC’s lawyer, he represents migrant workers in court. His tasks involve receiving migrant workers, filing legal cases, and representing and assisting migrant workers in court and at the general security department. CLMC is a specialized centre of Caritas Lebanon, a member of Caritas International, one of the largest humanitarian networks in the world, counting 165 country Caritas organizations working in 200 different countries.

**Maldives**

Mariyam Neela (F) is a Senior Legal Officer at the Human Rights Commission of the Maldives. She is involved in offering legal opinion investigated by the Commission and to the members whenever such assistance is needed. She has also provided input to the drafting of the new proposed laws and regulations in the country.
Mohamad Shifan (M) is the Deputy Chief of the Department of Immigration and Emigration for the government of the Republic of the Maldives. He is also a member of the National Anti-Human trafficking committee in overseeing the government’s action and coordinating with stakeholders in matters relating to human trafficking. Working with the Anti Trafficking and People Smuggling unit, he is a part of developing capacity building programs for officers in the department. He is also involved in conducting programs to raise awareness on human trafficking among the general public and vulnerable groups.

Malaysia

Stanley Sudhagaran (M) is the current Chairman of the Episcopal Commission for the Pastoral Care of Migrants and Itinerants, Malaysia, Singapore and Brunei. He is also the Co-ordinator for the Migration Working Group in Malaysia (MWG). He has been serving for the past 7 years and has conducted various trainings and programs on the issues of migrants and refugees. He is also the co-founder and board member for the LifeBridge Learning Centre, a school that provides free education for refugee children living in Penang.

Nepal

Dev Chandra Rai (M) is a program officer with AHRCDF Migrants’ Center. The non profit organization was established in 2005 and is a returnee migrant workers organization dedicated to improving the human rights of migrant workers and their families. Areas that the organization focuses on are access to education, health, skill and justice.

Oman

Marikkal Prasad (M) is a lawyer and currently works as a legal consultant at Khalid Al Wahaidi Advocates. She has been the legal advisor to various migrant organizations such as the Overseas Indian Cultural Congress (OICC) Pravasi Muscat, Pravasi Jalan, Thana, SNDP, NSS, KMCC etc. Aside from the above, she also works as a legal consultant to the Supreme Court in the Sultanate of Oman and currently is the lawyer of the Indian Embassy in Muscat. As an official Lawyer of Embassy of India & a social worker she is involved in visiting jails and detention centres in various parts of Oman, giving legal support to migrants, arranging tickets to the poverty-affected migrants, conducting legal clinics, and teaching legal classes for migrant workers.

Gireesh Kumar (M) is a lawyer with Hassan Mohsin Lawyers who has been giving legal advice to the Indian, Bangladeshi and Sri Lankan embassies on the welfare of their nationals in Oman for the past 11 years. Working as a lawyer in this field, Mr. Kumar regularly meets with migrant workers to take up their cases to the relevant authorities.

Philippines

Henry Rojas (M) is a volunteer legal counsel at the Center for Migrant Advocacy (CMA) and currently the coordinator of the Lawyers beyond Borders (LBB) network which MFA supervises. Henry has been involved with NGOs working for the rights and welfare of Filipino migrant workers and their families for 30 years.
Appendix 2

TRAINER AND STAFF BIOGRAPHIES

**Marie Apostol, Founder and CEO of FAIR Hiring Initiative**
Since founding the FAIR Hiring Initiative Marie has overseen the development of a program that develops, tests and promotes ethical recruitment models and addresses issues of forced labor, debt bondage and human trafficking in labor migration. In 2004, Marie founded Verité Southeast Asia and served as its Executive Director until February, 2012 where she led the development of the Verité Systems Approach For Social Responsibility, the Verité Fair Hiring Toolkit, and prepared the original draft of the Manpower-Verité Ethical Framework for Cross-Border Recruitment. She has trained and consulted for companies such as Starbucks, Apple, The Home Depot, Wal-Mart, Gap, Levi Strauss, Hewlett-Packard, New Balance, Hershey’s and Motorola, in the improvement of internal and supply-chain-level programs, systems and organizational competencies for managing Corporate Social Responsibility. Prior to her work with Verité, Marie served as an independent consultant on poverty alleviation and social reform and worked on projects for the Philippine Government, bilateral agencies, international NGOs, and a number of UN agencies.

**William Gois, Regional Coordinator Migrant Forum Asia**
William Gois is the Regional Coordinator of MFA and also chairs Migrants Rights International (MRI). Over the last twenty years, he has been at the forefront of international advocacy efforts engaging and influencing international and multilateral organisations to promote equitable and fair migration and development policies. He works closely with UN Treaty Bodies, with the Office of the High Commissioner on Human Rights (OHCHR) and the Committee on Migrant Workers and other special mandates. He also heads a team to the International Labour Conference (ILC) of the International Labour Organization to monitor the development of labour migration issues within the ILO framework.

**Matthew Coghlan**
Matthew Coghlan is an Australian lawyer who has worked on economic justice and human rights in South East Asia for 10 years. He was a Trade Policy Officer for Oxfam America in Phnom Penh for 3 years, and supported civil society advocacy on access to medicines in particular. Matthew has assisted donors on labour migration and INGOs on business and human rights issues. He has a strong interest in the role that access to justice can play in protecting human rights. He lives in Singapore with his wife and two children, and enjoys trying out new cuisines and learning about new cultures.

**Patrick Earle, Executive Director, Diplomacy Training Program (DTP)**
Patrick Earle has over 20 year’s experience working in the human rights movement, both in Australia and internationally. Since 2003 Patrick has been the Executive Director of the Diplomacy Training Program, and in this role has developed and facilitated human rights courses in the region – including new thematic courses focusing on human rights business, human rights and migrant workers and the rights of Indigenous peoples. From 1996 until 2003, Patrick worked with the Human Rights Council of Australia with a focus on its groundbreaking project on the relationship between human rights and development and is co-author of “The Rights Way to Development – Policy and Practice”. Prior to that Patrick worked for Amnesty International in London and produced their first International Campaigning Manual. Patrick is on the Steering Committee of UNSW’s Initiative on Health and Human Rights, a member of the Human Rights Council of Australia, and Visiting Fellow at the Faculty of Law at UNSW.
Appendix 3: Human Rights and Migrant Workers in the Middle-East

“Social expectations regarding business have shifted. The Guiding Principles ensure that we speak the same language and find solutions, so that people are treated with respect and dignity, and that we know what to expect of government and business.” Dr Alexandra Guaqueta, Member of the UN Working Group on Business and Human Rights

Principle 11 of the UN Guiding Principles on Business and Human Rights states:

The responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate. It exists independently of States’ abilities and/or willingness to fulfill their own human rights obligations, and does not diminish those obligations. And it exists over and above compliance with national laws and regulations protecting human rights.

Effective action to address the human rights abuses experienced by migrant workers in the MENA region requires action from both governments and the private sector. Human rights standards provide a basis for accountability. Perhaps more importantly they provide a basis for good policy and practice, a framework that enables corporations to look at the impacts of their activities and to change practice accordingly, and a framework that enables business, government and civil society to engage with each other constructively.

Recent years have seen a rapid development in standards, and a greater willingness by corporations to engage. In November 2013 the UAE hosted a Roundtable for Business Leaders in the GCC: Understanding and Implementing the Corporate Responsibility to Respect Human Rights. In December 2013, the London based, Business & Human Rights Resource Centre launched its first briefing on Business & Human Rights in the Middle East and North Africa and established a web portal focused on the Qatar 2022 World Cup.

Initiatives by, and guidance from, the UN Global Compact, The International Finance Corporation (IFC) and the International Organisation for Standardisation (ISO) have all contributed to making this a key strategic moment to build the capacity of civil society organisations to engage with corporations directly, as well as with their own governments on the responsibilities of corporations for the rights of migrant workers.

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7 Quoted in report of the Roundtable for Business Leaders in the GCC: Understanding and Implementing the Corporate Responsibility to Respect Human Rights – 17 and 18 November 2013, Abu Dhabi, UAE.

8 ISO 26000 Guidance on social responsibility states: “In countries where the law or its implementation significantly conflicts with international norms of behaviour, an organization should strive to respect such norms to the greatest extent possible.”