



International  
Labour  
Organization

## SETTING AN ILO AGENDA FOR FAIR MIGRATION

© 2014 International Labour  
Organization  
ILO/International Department (WORKQUALITY)

ILO/International  
Department (MIGRATION)

www.ilo.org/migration

# Enhancing labour market mobility in the GCC; an ILO perspective

By Hans Van de Glind  
Senior Migration\*\* Specialist for Arab  
States  
ILO Regional Office for Arab States

### Content:

- Part 1:** Economic and labour rights perspective
- Part 2A:** Factors that may affect labour market mobility (in the GCC)
- Part 2B:** Ways forward to increase labour market mobility (in the GCC)
- Part 3:** Suggested collaborative initiatives after the ADD

**\*\* ILO uses the term 'migrant worker' in accordance with the international definition of employed people with a working visa for a period longer than six months. It is recognized that in Arabic 'migration' has a connotation of permanence and that the term '(temporary) foreign worker' is preferred.**

# Feedback on Dr Nyarko's paper on labour market mobility

Excellent economic arguments for labour market mobility.

Labour market mobility could furthermore contribute to:

- ✓ Lower overall recruitment costs if employers could interview/select from a pool of available foreign workers (rather than rely on a recruiter who takes workers from abroad);
- ✓ Likely fewer abuses, resulting in lower costs for law enforcement and remedial action, and likely a lower number of cases of administrative deportation;
- ✓ Increased attraction for ethical businesses to operate in the GCC, which could contribute to upgrading the economy;
- ✓ NB: Given the numbers of low skilled foreign workers in the GCC, it would be important to include attention to foreign workers in construction and services.

# International Labour Standards and policy frameworks underpinning labour market mobility

ILO Constitution of 1919 (protection of interests of workers when employed in countries other than their own)

ILO Philadelphia Declaration of 1944 (**Workers are not commodities**)

Adherence by ILO member States to 1998 Declaration on Fundamental Principles and Rights at Work – implication: All workers have the right to:

- ✓ **Work in freedom;**
- ✓ **Not be under the control of an employer;**

Fair Migration Agenda (2014) – underpinned by Multilateral Framework on labour Migration:

- ✓ **Fair sharing of the prosperity foreign workers help to create**
- ✓ **Protection of (in particular low-skilled) foreign workers from abuse**



# Factors that may affect labour market mobility of foreign workers in the GCC

## Framework for analysis and action:

1. Is renewal of stay in the country (through residence visa) the responsibility of the employer?
2. Does termination of employment require approval by employer?
3. Does transfer from one job to another require approval of the first employer?
4. Does exit from the country require approval of the employer?

*If the answer to any of the above Qs (or factors) for any group of foreign workers is 'yes' then those may limit mobility.*

*If the answer to any of the above Qs (or factors) for any group of foreign workers is 'no', then those may enhance mobility.*



## How to address factors that may impede mobility



- Re. 1: Make work permit renewal the responsibility of the worker rather than the employer (see Decree 766 of UAE);
- Re. 2: Allow for unilateral contract termination with due notice; (see Decree 765 of UAE; Bahrain's 2011 regulation (after 12 months of work))
- Re. 3: Allow foreign worker to change job without NOC; (see 3 Decrees of UAE; Bahrain's 2011 regulation (after 12 months of work))
- Re. 4: End the need for employer approval to an exit permit (or end the exit permit altogether); (see Bahrain, Kuwait, UAE).

## Exacerbating factors that may impede mobility

1. Concerns by employers who do pay high upfront recruitment fees and travel costs may result in restrictions on foreign worker's mobility;

*E.g. Withholding salary, passport confiscation*

2. Payment of recruitment fees by foreign workers often results in debt and may limit their mobility;
3. Foreign workers who are discouraged by challenges to:
  - ✓ access justice
  - ✓ settle disputes
  - ✓ benefit from compensation mechanisms



## How to address exacerbating factors that may impede mobility

Re. 1: Fees paid by employers to agencies can be regulated to alleviate fears associated with a loss of their ‘investment’ – through for instance:

- a. Insurance schemes for employers (see Jordan and Lebanon);
- b. 2<sup>nd</sup> employer to pay the remaining balance of recruitment fees;
- c. Employer payment of recruitment fees on a pro-rata basis over time rather than upfront;
- d. Reduction in cost of recruitment.

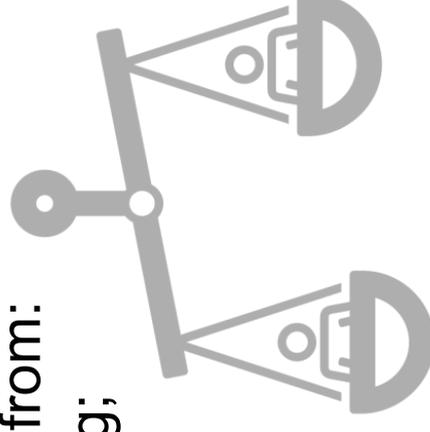
Re. 2: Draw learning from recruitment of high-skilled foreign workers, and work towards ending the culture of charging recruitment fees from low-skilled foreign workers.

Re. 3: Enhance dispute settlement and compensation mechanisms; Also consider ‘bridging’ visa.



## Specific appearances of employer-worker relationships that may compromise mobility

1. Outsourcing of a foreign worker to a 2nd employer;
2. Foreign workers with irregular status. This can result from:
  - a. Labour hoarding, visa trading or illegal rent seeking;
  - b. Trafficking;
  - c. Leaving an employer without his/her consent;
  - d. Overstaying a visa.
3. Specific groups of foreign workers who are not covered by the labour law and who work in isolation.



## How to address specific appearances of employer-worker relationships that may compromise mobility

Re. 1: Apply due diligence and joint liability for outsourcers of foreign workers (and perform inspections of these outsourcers);

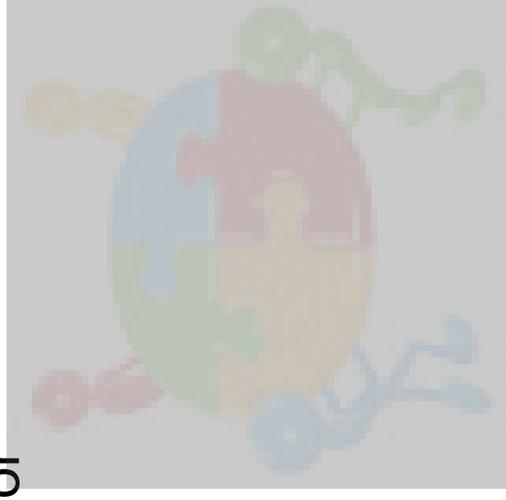
Re. 2: Explore regularization schemes for foreign workers who became irregular beyond their control, and as such create a pool of foreign workers at destination that employers can draw from to end the perceived need for labour hoarding (include analysis of general amnesty programmes);

Re. 3: Consider including all categories of foreign workers under the labour law to ensure their protection, freedom and mobility.

# Suggested collaborative initiatives after the ADD meeting

For consideration:

- ✓ Conduct exploratory study on insurance mechanisms for employers of foreign workers;
- ✓ Capacity building for targeted law enforcement;
- ✓ Conduct study to enhance dispute settlement modalities;
- ✓ Study modalities for temporary bridging visa for foreign workers who ended in irregular situations beyond their control;
- ✓ Establish a think tank to explore ways to address irregularity and links to the internal labour market.



# Thank you for your attention

This presentation is based on a forthcoming ILO working paper, entitled '*Kafala sponsorship and ways forward to enhance labour market mobility in the GCC*'.

This paper draws in particular from:

- Mohammed Dito, '*Kafala: Foundations of migrant exclusion in GCC labour markets*', (2015).
- Nasra Shah, '*Recent amnesty programmes for irregular migrants in Kuwait and Saudi Arabia: Some successes and failures*' (2014).
- Kathleen Hamill, '*Policy paper on reforming the sponsorship system for migrant domestic workers*' (2012).

For more information: Hans van de Glind at [vandeglind@ilo.org](mailto:vandeglind@ilo.org)  
Nilim Baruah at [baruah@ilo.org](mailto:baruah@ilo.org)

