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Transnational Culture of Corruption in Migrant Labour Recruitment



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Ray Jureidini

Executive summary

Analyses of international labour demand and supply assume that the cost of migration for low-skill, low-income jobs to the GCC states is the cost that prospective migrant workers pay. This assumption can be challenged when the real costs and commissions are not separated from what migrant workers are actually charged by private recruitment agents in countries of origin. In understanding and explaining the cost of migration, or the cost of recruitment, it is critical to factor in the differences between what employers are prepared to pay for and what private recruitment agencies want to charge prospective migrant workers. In what is often referred to as “excessive fees” migrant workers pay far more than the real costs of recruitment. The “extra” charges that workers pay is also used to fund kickback and other fraudulent payments to personnel of employing companies in countries of destination in exchange for the labour supply contracts and should be offset from financial remittances. It will be argued that ignoring these transactions is to ignore what is in practice bribery and/or extortion, rather than “facilitation costs”, “leakage”, “seepage”, “informal payments” and other euphemisms that hide what should be called “corruption”. Throughout the recruitment process that begins at the point of tendering for project contracts, the structural culture of corruption should not be accepted as “the way business is done”, but dealt with as fraudulent, corrupt and criminal behaviour. Remedies, however, are complex and require coordinated legislative changes and policing in countries of origin and destination, replacing the employee-pays model with an employer-only-pays model.

Introduction

Why are prospective low-skill, low-income migrant workers, particularly from Asian and African countries, required to pay private recruitment agencies (PRAs) in labour origin countries for being recruited, while most higher-skilled workers and professionals do not pay? The general assumption by some labour economists is that it is exploitative, but, because low-skilled labour supply far outstrips labour demand, the labour market works in alleviating unemployment in countries of origin and filling jobs in labour destination countries. It is merely a fact of migrant labour recruitment where low-skilled workers must pay, and are willing to go into debt to pay in order to procure employment – and where the labour indebtedness serves employers as a guarantee of labour retention or, indeed, forced labour.

There are a number of myths that have entered into the lexicon around migrant labour recruitment. The first is that the “cost of migration” is the amount of money that workers pay recruitment agencies - the cost to the worker. In reality, it is not the actual cost of migration, but rather the CHARGE to workers for obtaining a work contract that includes whatever employers are unwilling to pay plus the cost of corrupt transactions between recruitment agencies and employer representatives – and whatever excesses recruitment agencies care to charge workers for their own profit.

¹ I am grateful to Manolo Abella for his critical comments on an earlier draft and participants of the IOM Migration Research Leaders' Syndicate *Ideas to inform international cooperation on safe, orderly and regular migration* Geneva, September 28-29, 2017.

The second myth is the widespread acceptance that migrant workers pay for their work visas, even though what they pay (anything from US\$700-5,000) is far in excess of the actual cost (around US\$80 in the GCC). In reality, the employer, prior to it being issued, pays for the work visa. Thus, workers are not paying for a work visa, they are paying for a job and, unwittingly, for corrupt transactions between recruitment intermediaries. Private recruitment agencies call it a fee for the work visa to make it seem legitimate. In reality, agents are selling or auctioning “the visa” whereas they have no right to do so. Employers or sponsors who sell visas to individuals or agencies for more than their actual cost are also acting fraudulently.

Another myth is that the exploitation and corruption in the recruitment process is located in countries of origin and perpetrated by private recruitment agencies. In reality, the recruitment exploitation begins in the destination countries where companies tendering for a contract decide not to pay recruitment costs in order that their tender can be more price-competitive. Thus, the exploitation and corruption is systemic between both destination and origin countries with all stakeholders involved directly or indirectly, wittingly or unwittingly.

Background

Despite local labour laws in Qatar, the Kingdom of Saudi Arabia (KSA) and the United Arab Emirates (UAE) that prohibit charging migrant workers for any recruitment costs, the laws have been interpreted as against deducting money from wages in the destination country. Thus, the money is taken from workers prior to departure in their countries of origin. In 2016 the UAE made it clear that the prohibition includes accepting or demanding payment from workers “whether before or after recruitment” (Article 18 of UAE Labour Law No. 8, 1980). In February 2017 in their report to the ILO, Qatar made the same announcement.² In International law, the ILO Convention 181 (Article 7) stipulates clearly that workers should not pay recruitment fees or costs, anywhere.

Despite the principle of not charging workers for their recruitment, the practice continues and has done so for decades, but is largely restricted to low-skilled, low-income migrant workers from Asia, and increasingly from Africa. Further, despite the laws in the 3 GCC countries mentioned, the Asian origin countries retain contradictory regulations that allow private recruitment agencies to charge workers, albeit with varying caps (from one to three months’ salary). The expectation of paying something and the lack of policing has led to workers paying far more than what is allowed.

The importance of recruitment procedures and costs has been more recently given prominence by the ILO, the IOM and the Abu Dhabi Dialogue. Recruitment is part of the 2018 Global Compact on Migration to support safe, orderly and regular migration, and the reduction of recruitment costs is one of the UN’s Sustainable Development Goals (although it is not clear whether the reduction is for employers or employees, or both). Concerns over migrant labour recruitment have prompted considerable international research, discussion and debate in the last year or two. It is important, therefore, to dispel the myths and misunderstandings within the recruitment industry, particularly the critical role of non-transparent and fraudulent financial transactions.

Analysis

The World Bank-ILO (KNOMAD) study on the “cost of migration” to low-skilled migrant labour has sought to measure “worker-paid costs” of different migration corridors, including Asian workers to the GCC.³ With the objective of finding ways to reduce these costs, the study fails to adequately explain why there are wide cost

2 International Labour Organization (ILO). (2017) *Complaint concerning non-observance by Qatar of the Forced Labour Convention*, International Labour Office Governing Body, 329th Session, Geneva, 9–24 March 2017.

3 Abella, Manolo (2017). “The High Cost of Migrating for work to the Gulf”. Draft paper presented at Workshop 11, *Migration Policies in the Gulf: Continuity and Change*, Gulf Research Meeting, Gulf Research Center, Cambridge University, 2-3 August 2017; Martin, Philip (2016). “Bilateral and Multilateral Government Collaboration to Ensure Lawful, Fair, and Transparent Labor Recruitment Practices”. Background paper on Labour Recruitment, Prepared for the Senior Officials’ Meeting convened by the Abu Dhabi Dialogue May 11-12, 2016 in Dubai, UAE.

differences to workers according to nationality, destination, mode of recruitment, wage levels, qualifications, age and experience working abroad.

The idea of measuring “migration costs”, or “recruitment costs”, based upon interviews asking migrant workers (in countries of destination and returnees in countries of origin) what they paid to recruitment agencies will not reveal the real cost of recruitment. It only reveals what workers are charged. Further, what they pay are not really bribes, but exaction, as they are demanded by the agencies, rather than offered by the workers. Workers generally do not know what the payment is for and are not given itemized receipts. They usually are not given receipts at all. They may be told it is for emigration clearance, the work visa, the air ticket, for reimbursing the employer, agency fees, or not told anything. Indeed, workers are generally too polite, shy and afraid to even ask what it is for, with the sole understanding that if they do not pay, they do not get the job. Even if workers know they are paying far more than their government’s regulatory ceiling on what agencies can charge, they say nothing. Further, workers do not ask their employers post-arrival what they had paid to recruit them.

To understand the real costs of recruitment, we need to distinguish between actual costs in the country of origin and country of destination and between variable and fixed costs. Just as an example, Table 1 provides an estimation of actual costs between Bangladesh and Qatar.

Table 1. Example Costs for Low-skilled Worker Recruitment per person: Bangladesh-Qatar

Bangladesh	US\$	Qatar	US\$
Variable Costs		Variable Costs	
Internal Travel, Food, Accommodation	50-100	Airfare (one way)	360-450
Subagent Commission	75-100	Agency commission	250-450
Total (average)	163	Total (average)	755
Fixed Costs		Fixed Costs	
Medical Test	70	Work Visa	82
Orientation	25	Visa attestations	150
Welfare Fund	10	Residency permit	320
Life Insurance	13	Medical Test	30
Administration	25	Health Insurance Card	30
Govt. training	85		
Skills Test	35		
Emigration stamping	36		
Advertising	10		
Sub-total	309	Sub-total	612
Combined total	472	Combined Total	1,367
Overall Total	US\$1839		

Source: placement/recruitment agencies and employers in Qatar.⁴

As the KNOMAD study has acknowledged, Bangladeshi workers going to Qatar can pay between US\$3,136 and US\$3,650, while Sri Lankan workers may “only” pay US\$1,092.⁵ Thus, the difference between the costs of US\$1839 and charges of US\$3,393 (being an average paid by Bangladeshi workers) is US\$1,554. The

⁴ Jureidini, Ray. (2016) *Ways Forward in Recruitment of ‘Low-skilled’ Migrant Workers in Asia-Arab States Corridor*, International Labor Organization White Paper, International Labor Organization Regional Office for Arab States, Beirut.

⁵ Abella, Manolo, Martin, Philip & Yi, Soonhwa (2016 draft) *Why are Migration Costs High for Low-Skilled Workers? Evidence from Migrant Surveys*. World Bank KNOMAD Program: 5.

difference would be even greater if the employer is paying the costs at destination (US\$612), making the difference US\$2,166. This excess may be accounted for, or seen as an indicator of funds for kickback payments to employers and their agents in destination countries, to officials in origin and destination countries, and to the recruitment agency as extra profit.⁶ While the fixed costs at origin as specified in the above table should be fixed, quotations by recruitment agencies to employers can vary the amounts for each item. However, when the workers are paying for these, the employer will have no interest in challenging them.

The KNOMAD survey tried to correlate what workers paid with nationality, destination, mode of recruitment, wage levels, qualifications, age and experience working abroad. They were unable to adequately explain the differences in what workers pay from the same agency, but different employers at destination; or differences between individual workers doing the same job in the same firm, but through different agencies or coming from different countries.

There are 5 factors, or variables, that are not accounted for in the surveys on recruitment/migration costs that are more likely to explain the worker payment discrepancies.

1. *The propensity for employers to pay all, part or none of the recruitment costs.* Employing companies at destination vary in what they are prepared to pay for the recruitment of migrant workers. Some may pay for everything as listed in the above Table 1. Other employers may not pay the costs borne in the country of origin, but do pay the costs at destination. They may or may not pay for agency fees and the airfare, etc. What they do or do not pay for can be reflected in the differences in the charges to migrant workers. The KNOMAD study did not survey employers for this data.
2. *The propensity of private recruitment agencies to charge workers* that may, or may not, be dependent on what the employer is willing to pay. Recruitment agencies in countries of origin may settle with employers for different levels of commission, pay what the employer refuses to pay and charge workers accordingly. Agencies may still charge workers for the costs that employers do pay for. This is because there is a culture of workers expecting to pay without questioning what they are charged, the lack of transparency, and the lack of government oversight and regulation of recruitment agencies. This is why there should be a shift from the employee-pays model to an employer-**only**-pays model (rather than the current proposition of an employer-pays model). The KNOMAD study did not survey private recruitment agencies for this data.
3. *The presence and level of kickback payments/bribes and payment of expenses* to representatives of employer companies at destination. It is well known in the recruitment industry that recruitment agencies compete with one another by offering bribes to representatives of employers in order to procure labour supply contracts. These kickback bribes can range from US\$400-1,500 per worker. In addition to the kickback payments, recruitment agencies are often required to fund the trips of employer representatives to the origin countries by paying for flight upgrades, or even airfares, 5 star hotels, food and sometimes 'entertainment'. The trips are ostensibly for skills testing and selection of recruits. Employer personnel often ask agents for the hotel and food receipts so they can claim them from their companies on return, even though they had not paid. The funds for the kickback payments and employer travel expenses are built into the charges that agencies foist upon the low-skilled migrant workers as part of the "recruitment costs". The extent of the kickback and other payments to personnel of the employing company will also be factors in the differences that migrant workers pay.
4. *Worker payments used to pay various local officials in origin and destination countries* to process paperwork more quickly or to prevent deliberate delays. There are kickback payments to "a range of government officials in both origin and destination countries to fraudulently approve a host of applications or facilitate discretionary decisions including, but not limited to, foreign worker quotas,

⁶ Verité International (2016) *An Exploratory Study on the Role of Corruption in International Migration*: 2. www.verite.org/wp-content/uploads/2016/11/Verite-Report-Intl-Labour-Recruitment.pdf

demand set attestations, visas, medical certificates, and work permits.”⁷ There is little or no oversight of such fraudulent practices by origin or destination country governments. The KNOMAD study did ask workers if they had made “informal” payments, but there did not appear to be significant responses to this question. In only “some cases”, informal payments were reported, “to expedite the deployment process”.⁸ These were more likely to have been to personnel of the recruitment agencies. Recruitment agencies themselves may be more likely to be involved in bribing officials and charging workers without explaining it to them.

5. Indirect corrupt payments can also be made by colluding with employers to illegally *deduct recruitment fees and costs from workers’ wages* over a period of time that can last for over a year or for the term of the employment contract. The current Wage Protection Systems in the GCC are not yet sophisticated enough to detect such payments.⁹

Conclusion

It has been demonstrated here that there are discrepancies between the actual costs of recruitment and what workers are charged. What workers are charged is not cost of migration/recruitment but includes variations in what employers pay, what recruiters charge and fraudulent charges to fund corrupt practices of bribery and exaction. Thus the nomenclature that refers to “recruitment fees” that workers pay should be changed to “recruitment charges” that workers are required to pay.

It is therefore incumbent upon researchers of migrant labour recruitment to not only interview migrant workers, but also private recruitment agencies, sub-agent brokers and employers to better determine disbursements of the charges and explain why there are such differences between what workers pay. Far more robust inquiries into the recruitment industry and all the “merchants of migration” are required with the objective to not just reduce charges to workers, but to eliminate them altogether and make those involved in corrupt practices accountable. Reduction of recruitment costs should be seen as cost reductions for employers.

At the same time, incentives for ethical compliance in recruitment should be encouraged. In the example of QDVC in Qatar (a subsidiary of the Vinci corporation in France), under threat of reputational risk, the company now pays all recruitment costs and recruitment agencies are given higher commissions with promises of economies of scale under the condition that workers are not charged anything. Others have suggested country of origin government incentives for ethical recruitment agencies including the streamlining of license extensions, tax incentives, fast-track contract processing, reduced supervision, quota preferences for bilateral agreements, lower bank deposits and publicly listed recommendations.¹⁰ ‘Carrot’ incentives, however, need to be complemented by the ‘stick’ approach using prosecutions or credible threats of reputational risk for unethical recruitment, given the seductive scale of funds for fraudulent practices and excessive profit-taking.

The widespread practice of kickback bribes results in billions of dollars annually exiting the countries of origin to individuals and companies in destination countries. These are not factored in to the aggregate net remittances that migrant workers send home. In the case of Bangladesh alone, it may be estimated that around half a billion dollars are leaving the country annually as kickback bribes, paid for by low-skilled, low-income migrant workers.

7 Verité International (2016) *An Exploratory Study on the Role of Corruption in International Migration: 2*. www.verite.org/wp-content/uploads/2016/11/Verite-Report-Intl-Labour-Recruitment.pdf

8 Abella, Manolo, Martin, Philip & Yi, Soonhwa (2016 draft) *Why are Migration Costs High for Low-Skilled Workers? Evidence from Migrant Surveys*. World Bank KNOMAD Program: 18.

9 Jureidini, Ray (2017) “Wage Protection Policies and Programs in Various Gulf Countries” Draft paper presented at Workshop 11, *Migration Policies in the Gulf: Continuity and Change*, Gulf Research Meeting, Gulf Research Center, Cambridge University, 2-3 August 2017.

10 Farbenblum, Bassina and Nolan, Justine (2017) ‘The Business of Migrant Worker Recruitment: Who has the Responsibility and Leverage to Protect Rights?’ 52 (1) *Texas International Law Journal* (2017).

Recommendations (not in order of priority)

- Repeal laws and regulations in origin countries that allow recruitment agencies to charge migrant workers and criminalize charges to workers.
- To show commitment to eradicating corruption, both origin and destination countries should ratify relevant international conventions and activate existing penal codes towards the recruitment industry.
- Establish accredited, proven ethical recruitment agencies that do not charge workers as exclusive migrant labour suppliers to destination countries.
- Establish serious, binding bilateral and multi-lateral agreements specifically banning the employee-pays model and introducing an employer-only-pays model.
- Mandatory reimbursement of charges to workers by employers who could in turn claim reimbursement from recruitment agencies involved.
- Increased electronic/internet government-to-government recruitment.
- Project tenders should include a separate detailed and transparent 'Labour Recruitment Cost Analysis' within bidding proposals that detail variable and fixed costs of recruitment, including labour costs of subcontractors. Lowest bids should be more carefully scrutinized to ascertain whether cost reductions are at the expense of migrant workers being recruited.
- Calculate and establish international standards for reasonable commissions for agencies involved in low-skilled migrant labour recruitment.
- Legislative reform is insufficient. The commercial sector must be targeted for compliance with ethical-legal standards and prosecuted for corrupt practices. For example, employing companies need oversight of personnel in human resources, procurement and facilities management departments to identify fraudulent transactions.



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