



Migration's Middlemen

Regulating Recruitment Agencies in the
Philippines-United Arab Emirates Corridor

By Dovelyn Rannveig Agunias

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Executive Summary

The United Arab Emirates is the third-largest destination of Filipino migrants in the world. Private recruitment agencies in both countries drive this huge flow of people with low and high skill levels. While many provide information, logistical support, and other critical services, others abuse their clients, from charging exorbitant fees to violating basic human rights. Domestic workers, a large portion of the flow, are particularly vulnerable.

Although the Philippine and UAE governments regulate recruitment agencies' operations, a policy mismatch between the two systems exists, exacerbated further by difficulties in enforcement. This has led to a three-tier labor migration system. At the surface is a documented and organized labor migration flow based on written contracts following strict regulatory guidelines of both countries. Next is a labor movement based on informal agreements typically characterized by a lower wage, a different job, and reduced or foregone benefits. The bottom tier includes those who bypass the recruitment system altogether and migrate to the United Arab Emirates with a visitor visa.

The UAE and Philippine governments should choose to disseminate information widely and give migrants access to a core set of rights and meaningful mechanisms for representation.

Both countries are considering adopting more stringent regulations to steer agencies in more positive directions. However, unless the United Arab Emirates and the Philippines first commit to fully funding and creating capable and effective institutions to jointly harmonize, enforce, and closely monitor the impact of current and new regulations, they could open the door to unintended effects, including making illegal channels more attractive for prospective migrants. Effective policy interventions would also ultimately depend on launching parallel initiatives that empower migrants. To this end, the UAE and Philippine governments should choose to disseminate information widely and give migrants access to a core set of rights and meaningful mechanisms for representation.



I. Introduction

For more than three decades, the Philippine government has adopted a deliberate policy of labor export. High unemployment rates at all skill levels, even among the highly educated, and political instability have been the main “push” factors. With increasing “pull” factors from major industrial countries suffering from labor shortages, the Philippine government’s labor-export system has allowed and encouraged Filipinos to benefit from these opportunities.

The United Arab Emirates, composed of seven emirates long dependent on foreign low-skilled workers, is the third-largest destination of Filipino migrants in the world after the United States and Saudi Arabia. As of 2008, the Philippine government estimates there were nearly 600,000 Filipino workers in the United Arab Emirates, making up nearly 12 percent of the total population there and with an annual flow of 200,000.¹

Facilitating and sometimes driving this huge migration flow of domestic workers, receptionists, and engineers, among others, to the United Arab Emirates are private recruitment agencies in both countries that recruit and guide Filipino migrants through the obstacles of immigration policies and the difficulties of transit. These agencies match employers and workers, provide information about living and working conditions, and sometimes mislead and abuse their “clients.”

A closer look at their operations strongly suggests the critical role they play mainly as providers of information and logistics support, in both the Philippines and the United Arab Emirates. Their services are critical to many prospective migrants whose range of choices is very limited. However, the costs they impose on migrants often outweigh their value due to their exorbitant fees and outright abuse of basic human rights.

The Philippine and the UAE governments recognize the need as well as the difficulty in effectively regulating recruitment agencies’ operations within their borders. Both have been regulating agencies for nearly three decades now. Although the two regulatory schemes share some similarities, they diverge in key areas, such as who can participate in overseas employment, the fees recruiters can charge migrants, and the terms and conditions that must be included in every contract. Exacerbating this policy mismatch are the difficulties each government faces in enforcing these measures within and across their borders.

Weaknesses in the current regulatory frameworks in both countries have created a three-tier system. At the surface is a documented and organized labor migration flow based on written contracts following strict regulatory guidelines in the Philippines and the United Arab Emirates. Lurking just beneath it, however, are labor movements based on informal agreements typically characterized by a lower wage, a different job, and reduced or foregone benefits. Others bypass recruitment agencies in both countries altogether and migrate to the United Arab Emirates with a visitor visa in hand, planning to find work when they arrive.

During in-depth interviews, key officials from both countries recognized the regulatory systems’ flaws and said they were willing to consider viable and enforceable solutions. Under increasing

1. Commission on Filipinos Overseas, “Stock Estimate of Overseas Filipinos as of December 2008,” www.cfo.gov.ph/pdf/statistics/Stock%202008.pdf; Philippine Overseas Employment Administration, OFW Deployment to the UAE, 2000-2009; *UAE Interact*, “UAE population to grow 6% in 2009,” May 19, 2009, www.uaeinteract.com/docs/UAE_population_to_grow_6_in_2009_/35846.htm.

pressure from the international community, the Philippines and the United Arab Emirates are leaning toward adopting an increasing array of more stringent regulations now and in the immediate future. Both countries must recognize, however, that cumbersome and rigid regulation can easily breed more corruption and abuse, force workers and agencies out of the legal system and into irregular channels, and even price workers out of a very competitive global labor market.

Unless the United Arab Emirates and the Philippines commit to fully funding and creating capable and effective institutions to jointly harmonize, enforce, and closely monitor the impact of current and new regulations, both governments should apply the expression “first, do no harm.”

Effective policy interventions would also ultimately depend on launching parallel initiatives that empower migrants.

Effective policy interventions would also ultimately depend on launching parallel initiatives that empower migrants. To this end, the United Arab Emirates and the Philippine governments should choose to disseminate information widely and give migrants access to a core set of rights and meaningful forms of representation.

The findings of this study are relevant beyond the Philippines-UAE corridor. They serve as a vital point of reference for other countries in the Middle East and elsewhere as they attempt to balance the need to create a flexible and dynamic labor migration system while simultaneously protecting workers' welfare in an increasingly transnational and interconnected global economy.

This report is divided into five sections. The first section examines the role recruitment agencies play in Filipino labor migration to the United Arab Emirates by discussing the services they provide to and the costs they impose on migrants. The next two sections describe each country's regulatory frameworks and assess how the frameworks operate in practice. The report concludes with critical considerations for reform.

The study is based on a review of official government records and data; 44 in-depth interviews of key informants, including top UAE and Philippine government officials, Philippine embassy personnel in the United Arab Emirates, heads of recruitment agencies, employers, and officials of nongovernmental organizations, including migrant organizations; and 11 separate focus group discussions. Eight of these discussions were with 65 migrant workers in Dubai, the largest destination of Filipinos in the United Arab Emirates, and three were with 21 prospective and return migrants in Manila, the capital of the Philippines and its largest city.



II. The Recruitment Marketplace: Value versus Cost

The labor flow between the Philippines and the United Arab Emirates is numerically large, diverse, and long-standing. The Philippine government estimates that over a half a million Filipinos currently reside in the United Arab Emirates, of which 99.9 percent are temporary migrants called Overseas Filipino Workers or OFWs.²

OFW deployment to the United Arab Emirates increased 25-fold between 1982, when the Philippine government started recording country-specific deployment data, and 2008 (see Figure 1). Of the nearly 200,000 departures in 2008, 60 percent were women. The United Arab Emirates has consistently ranked in the top-five destinations for OFWs over the last 25 years. Despite the global economic slowdown's adverse impact on the UAE economy, especially on the Emirate of Dubai, preliminary deployment data for 2009 and the labor market outlook for 2010 suggest the country will continue to be an important destination for Filipino workers.

*The United Arab Emirates
has consistently ranked in the top-five destinations
for OFWs over the last 25 years.*

Licensed recruitment agencies based in both the Philippines and the United Arab Emirates facilitate this flow (see Box 1). In the Philippines, the number of recruitment agencies placing workers in the United Arab Emirates more than doubled, from 179 in 2001 to 401 in 2009 (see Figure 2). Many of these agencies send workers to destinations outside of the United Arab Emirates.

2. For more on OFWs, see Dovelyn Rannveig Agunias and Neil G. Ruiz, *Protecting Overseas Workers: Lessons and Cautions from the Philippines* (Washington, DC: Migration Policy Institute, 2007), www.migrationpolicy.org/pubs/MigDevInsight_091807.pdf.

Box I. Licensing Requirements for Recruitment Agencies in the Philippines and the United Arab Emirates

Only a Filipino citizen, or a partnership or corporation created under Philippine law in which 75 percent of the capital is Filipino-owned or controlled, can operate an agency in the Philippines.^a In the United Arab Emirates, licenses are issued only to nationals; if an applicant is a company, it must be a UAE company, and all the partners therein must be nationals.^b

To prove financial competence, agencies in the Philippines must have at least 2 million pesos (US\$44,400)^c and post two types of bonds: one in the form of a bank deposit under an escrow account of 1 million pesos (US\$22,200) and a surety bond of 100,000 pesos (US\$2,200). The escrow deposit covers valid and legal money claims of recruited workers. These bonds must remain intact at all times or the license will be suspended.^d

Similarly, UAE agencies must furnish a bank guarantee for an indefinite period issued by a bank operating in the United Arab Emirates. The guarantee, however, is comparatively small at just 100,000 Emirati dirhams (US\$27,000.)^e

The Philippines requires agency owners to pass a criminal and derogatory-record examination. Applicants with criminal records and those who have been subject to a complaint or charged with or convicted of illegal recruitment are disqualified.^f The United Arab Emirates, on the other hand, only requires a certificate of good conduct issued by a competent authority.^g

Agencies in the Philippines have to meet additional requirements not found in UAE regulations. For example, an agency has to show it is tapping into a new market by partnering with foreign employers that did not employ Filipino workers for at least six months prior to the agency's application. The agency must also demonstrate deployment capacity by providing proof of job orders for not less than 100 workers.^h

In 2007, the Philippine government began requiring agencies to pass a panel interview that the Philippine Overseas Employment Administration (POEA) administrator chairs. The interview is meant to confirm and/or clarify submitted information. In these interviews, agencies, especially those deploying household workers and entertainers, may be required to show additional proof of capital, such as a deed of sale and mortgage and bank statements.ⁱ

a. Philippine Overseas Employment Administration, "POEA Rules and Regulations Governing the Recruitment and Employment of Land-based Overseas Workers," Revised 2002.

b. UAE Ministerial Resolution No. 233, for 1998, On Ruled of Licensing Employment and Expatriate Manpower Supply Agencies, Chapter 1, Article 2.

c. Exchange rate used is 45 pesos = US\$1.

d. POEA, "POEA Rules and Regulations" Part II, Rule 1.

e. Exchange rate used is 3.7 dirhams = US\$1.

f. POEA, "POEA Rules and Regulations" Part II, Rule 1.

g. UAE Ministerial Resolution No. 233.

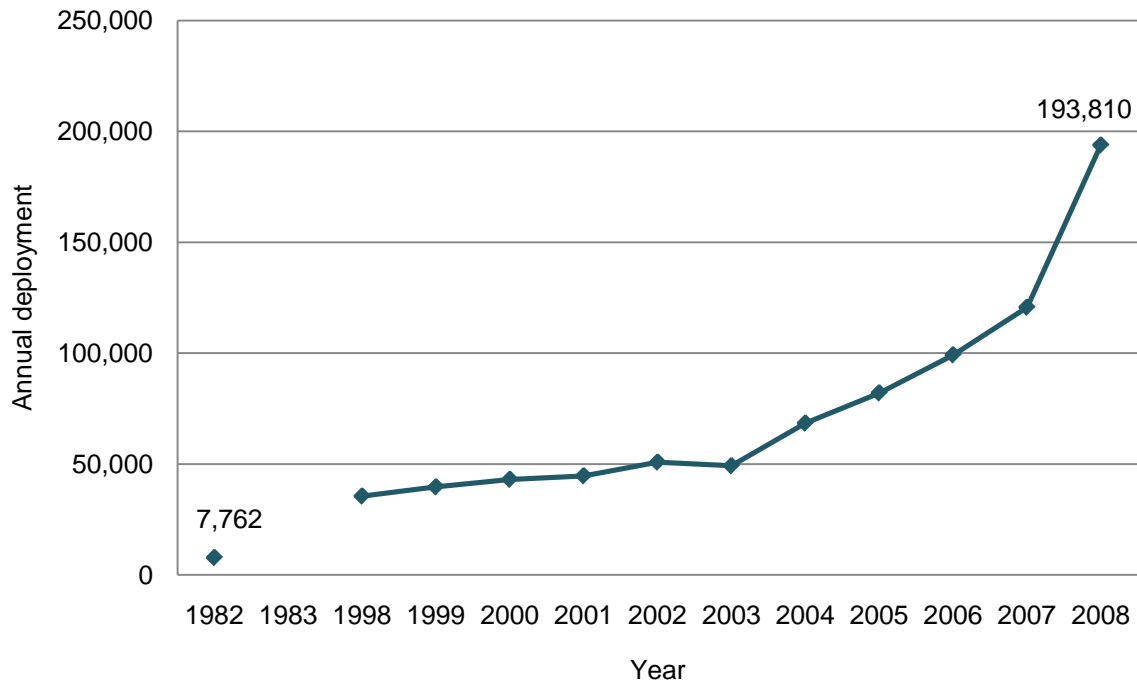
h. POEA, "POEA Rules and Regulations" Part II, Rule 1.

i. Rosalinda Baldoz (POEA administrator), interview by author, June 20, 2008.



UAE government data does not allow the identification of agencies that specifically recruit Filipino workers. As of 2009, there were 283 agencies operating in the country, a number that has remained constant over the last three years.³

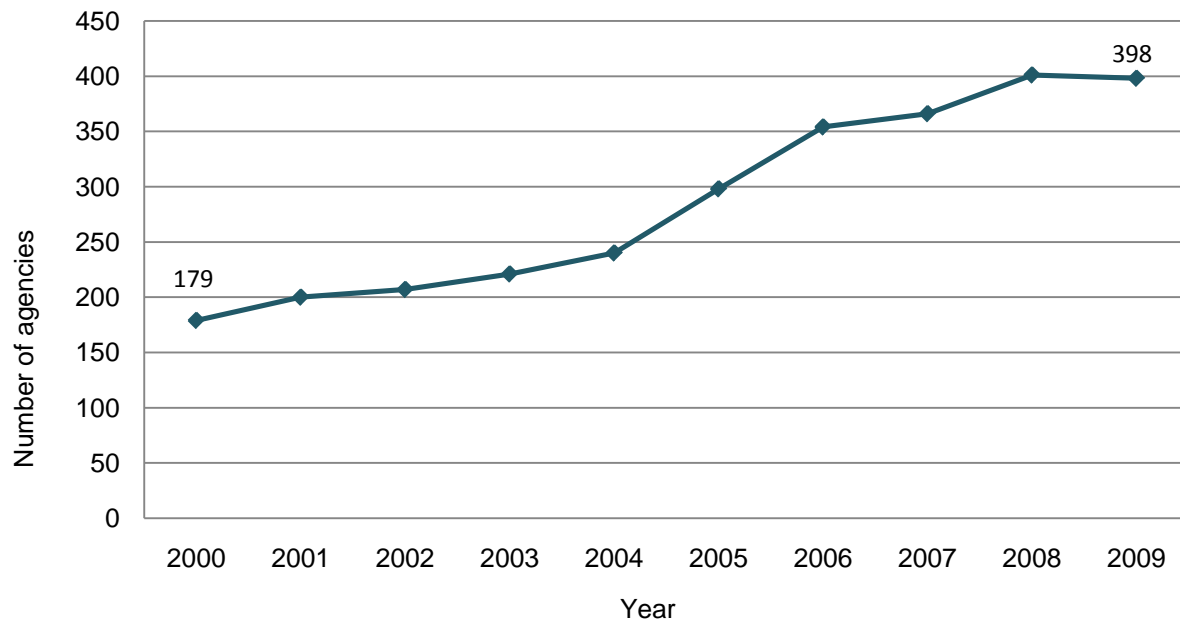
Figure 1. Yearly Deployment of Filipino Temporary Migrants to United Arab Emirates, 1982 to 2008



Source: Philippine Overseas Employment Administration.

3. Maher Hamad Al-obad (director of inspection, UAE Ministry of Labor), interview by author, November 11, 2009.

Figure 2. Number of Filipino Agencies Deploying Filipinos to United Arab Emirates, 2000 to 2009



Source: Philippine Overseas Employment Administration.

A. The Recruitment Marketplace: Value

Focus group discussions with Filipinos in various stages of the migration cycle reveal the critical role recruitment agencies play. They provide migrants with three general types of services: information, matching assistance, and logistical support while in the Philippines and upon arrival in the United Arab Emirates.

I. Information

Many prospective migrants have incomplete and imperfect information about job opportunities and living conditions in the United Arab Emirates. At the same time, UAE employers are looking for efficient ways to fill vacancies with migrant workers but often have very little knowledge about appropriate candidates in the Philippines or the means to employ them. Recruiters play an important role in filling this information gap.

Recruitment agencies in the Philippines typically advertise openings in the United Arab Emirates by posting current job orders on their Web sites, running ads in classified sections of local and national newspapers, and listing job openings in huge bulletin boards posted outside their centrally located local offices in Manila to fill every type of job imaginable and across various skill levels.⁴

While some agencies maintain branches in key provincial cities across the country, such as Cebu and Davao, an overwhelming majority have headquarters in or near Manila. To reach prospective

4. Focus group discussions with prospective and return migrants, convened by author, October 22, 24, and 29, 2009, Manila, Philippines; focus group discussions with Filipino migrants, convened by author, November 2, 6, 8, and 10, 2009, Dubai, United Arab Emirates.



migrants who live farther away from the capital or provincial centers, many agencies also routinely organize job fairs in different parts of the country. At these job fairs, agencies provide information on current and anticipated openings, explain the recruitment process, and gather documents from prospective migrants, such as a copy of their passports and/or resumé.⁵

Recruiters for Recruiters

Philippine recruitment agencies rarely work independently. They partner with a host of other actors within the Philippines or in the United Arab Emirates, essentially creating additional layers of recruiters.

Migrants in more remote areas generally hear about job opportunities in the United Arab Emirates through informal brokers. These brokers find and refer prospective migrants from villages and areas far from city centers. Although paid by the agencies they represent, they are typically not formally connected to the agencies they work with and rarely are accountable to them or to the migrants they eventually help to deploy. The prospective migrants and the broker are often part of the same social network.

Since Philippine regulations prevent foreign agencies from directly recruiting Filipinos, an agency based in the United Arab Emirates that would like to tap into the Filipino labor market has to work with an accredited agency based in the Philippines; the Philippine agency acts as the intermediary or representative. Information on openings and other relevant details are provided through the Philippine agency.

The only exception to this rule applies to foreign agencies recruiting five or fewer Filipino workers. In these cases, UAE-based agencies can either recruit directly or use brokers in the Philippines to help them find prospective clients. These brokers typically work in the informal sector and are not accredited or licensed to recruit. In these cases, migrants process their own papers within the Philippine government system as direct hires. They have to go through a different process than migrants using the services of accredited agencies.⁶ By foregoing the services of recruitment agencies, direct hires have less recourse to recover losses if problems arise. As will be discussed later, migrants can hold the Philippine recruiters equally as liable as their employers. Philippine government data suggests that less than 3 percent of annual deployments to the United Arab Emirates use this route, indicating that most UAE employers are recruiting on a large scale.

For many migrants, agencies act as guides to prevent costly mistakes and to meet government regulations in both countries. Knowing the steps and requirements is critical given the sophisticated nature of the Philippines' regulatory system and the United Arab Emirates' reputation for frequently changing its immigration rules.⁷

2. Matching Assistance

Most agencies do not just provide information. They also actively match migrants with employers. Matching can be an expensive, time-consuming, and tedious process. Agencies have to screen job orders and applications, conduct interviews, check documents, test workers, and draw up contracts that require government authentication.

5. Ibid.

6. Discussions with prospective and return migrants, Manila.

7. Discussions with prospective and return migrants, Manila.

A typical recruitment transaction starts with the agency in the Philippines collecting the resumé of a prospective worker. The resumé typically follows an agency-specific standard template. The agency then reviews the resumé and, based on available openings, recommends to a prospective migrant the jobs for which he or she can apply. If there are no matches at that time, the agency typically keeps the resumé on file.⁸

Some agencies, especially those in the industry for a long time and known for offering high-paying and/or secure jobs in the United Arab Emirates, can be very selective. They follow strict age, technical, and educational requirements. Some even administer their own testing. A number of migrants interviewed for this report noted that certain agencies rejected them and asked them to return in a few years after gaining more experience.⁹

Once they have identified the top applicants from the recruitment pool, agencies in the Philippines schedule interviews. The employer and/or agency's representative in the United Arab Emirates comes to the Philippines to screen the applicants in person. This seems to be a standard procedure across skill levels, from domestic workers to engineers. Agencies typically inform prospective migrants through a mobile-phone text message that the UAE employer or agent will be in Manila on a certain date to conduct the interview. This cost-effective practice also minimizes transportation costs for migrants, especially those living in the provinces.¹⁰ After the interview, a job offer is made, often immediately and typically within the same day. Sometimes the process takes a few days or, at most, a week.

3. Logistical Support to Migrants in the Philippines

There are tedious legal requirements at every stage of the recruitment process, from applying for a passport and authenticating relevant documents (e.g., police clearance, birth certificate) to filling out and submitting required immigration forms and visa applications. Agencies guide prospective migrants on acquiring documents or process the papers on their behalf.

Group discussions with highly skilled prospective migrants showed that agencies are very proactive in simplifying procedures. As one interviewee put it, it's "as easy as bringing a photocopy of your passport."¹¹ Migrants typically collect the required technical and school credentials while "agencies take care of everything else."¹² Even low-skilled workers interviewed for this report characterized the recruitment process as "very convenient because the only place you go to is the agency."¹³

Legal and Other Support

Once a migrant accepts a job offer, an agency arranges for a medical examination, which both governments require, with institutions accredited by the UAE and Philippine governments. The agency also helps the employer apply for a visa and prepare the contract that satisfies regulatory requirements in both countries.

Philippine regulations require that the Philippine government review all contracts and that migrants attend an orientation seminar before departure, called the Pre-Departure Orientation

8. Ibid.

9. Discussions with Filipino migrants, Dubai.

10. Discussions with prospective and return migrants, Manila.

11. Discussions with prospective and return migrants, Manila.

12. Ibid.

13. Discussions with prospective and return migrants, Manila.



Seminar (PDOS). The agency submits the contract to the appropriate Philippine agency for approval and authentication and schedules the PDOS with an accredited provider. Due to their excellent track records, a very small number of agencies have earned the privilege of authenticating the contracts in-house. Some are also accredited to conduct the PDOS themselves. Essentially, these agencies offer a one-stop shop, which makes them even more sought after by employers and workers alike.

Agencies, especially those sending high-skilled workers, also ensure that occupation-specific requirements are met. For instance, nurses have to pass an oral exam once in the United Arab Emirates. Agencies would typically schedule that exam on behalf of the migrant while keeping track of other requirements.¹⁴

Accommodations

Some agencies, particularly those that recruit domestic workers, provide accommodations in Manila for out-of-town applicants. Prospective migrants generally pay for the housing as part of the overall fee.¹⁵ These accommodations are typically overcrowded and offer very basic facilities. Migrants use their time in Manila to collect the necessary documentations and fulfill government requirements such as the PDOS.

The length of stay in these accommodations is usually around two weeks but can be as short as a few days or as long as six months. The availability of employers generally determines the length of stay. When employers back out, the process has to start again, prolonging the stay of some migrants.

Training

Some agencies also provide the training that government regulations mandate, such as certification for household work from Philippine government-accredited centers, or that the employer requests. The UAE job market, especially for the high skilled, strongly prefers those with specialized training. Some agencies that provide training charge the UAE-based company for the expenses employers request. For instance, Manpower Resources of Asia, one of the longest-standing Philippine-based agencies and specialized in engineering and construction jobs, upgrades the skills of the workers it eventually sends; the receiving companies pay for the expenses.¹⁶ Typically, however, migrants pay for training-related expenses.

4. Logistical Support upon Arrival in the United Arab Emirates

Agencies provide services even well after migrants start working abroad. This is particularly true for those that recruit domestic workers.

Temporary Accommodation

Agencies based in the United Arab Emirates, in collaboration with their Philippine-based partners, typically pick up the domestic worker from the airport and provide temporary accommodation before moving the worker to the employer's home. During this stay, which lasts overnight or a few days at most, the domestic worker receives an orientation on the do's and

14. Discussions with Filipino migrants, Dubai.

15. Discussions with prospective and return migrants, Manila.

16. Rene Cristobal (president, Manpower Resources of Asia), interview by author, October 22, 2009.

don'ts of working in an Emirati household, as well as the numbers to call in case a problem arises.¹⁷

Labor Dispute Resolution

Interviews with domestic workers in Dubai revealed that recruiters also play a part in negotiating better pay or working conditions, removing migrants from abusive workplaces, and helping file complaints to the UAE authorities. In cases where domestic workers have problems with or were rejected by their employers, UAE-based agencies typically arrange for another placement since they often work with an agency from the Philippines.¹⁸

For other workers, however, the relationship with the agency, especially those based in the United Arab Emirates, ends once employment starts. The only other time these migrants deal with agencies is if they have a labor-related or other problem. Philippine Labor Attaché Virginia Galvez, a Philippine government employee who manages labor-related problems facing Filipinos in Dubai and the northern emirates, characterized some local agencies as “very responsive.” She recounted instances when Philippine agencies sent representatives to Dubai to settle cases of complaints against abusive employers, especially those involving many workers. Others have sent plane tickets for migrants who needed immediate repatriation.¹⁹

B. The Recruitment Marketplace: Costs

Although a very small number of agencies in the Philippines have a “no placement fee” policy, agencies typically charge migrants for all the services they provide, with many requiring payment before departure. Some require a minimal fee that is refundable upon completion of the contract.²⁰

Group discussions with migrants suggest a general wariness across skill levels in paying the recruiter before seeing proof that the process is moving along. Typically, migrants must pay the agency when the visa has been released or the airline ticket has been purchased in their name.²¹ Some migrants interviewed for this report found the fees appropriate when considering the convenience of working with an agency and the salary they expected to receive once in the United Arab Emirates. For instance, low-skilled workers with an expected salary of around 1,600 dirhams (US\$432) per month paid between 13,500 pesos (US\$270) to 20,000 pesos (US\$400) in placement fees.²² A nurse or engineer pays between 20,000 pesos (US\$400) and 40,000 pesos (US\$800), a smaller proportion of their annual income. Indeed, relative to other countries, recruitment costs for Filipino migrant workers heading to the United Arab Emirates and, even more generally, to the Persian Gulf, are much lower compared to costs facing migrants from other sending countries, such as Sri Lanka, India, and Nepal. Various reasons have been given for this discrepancy, including the existence of more sophisticated regulations in the Philippines and the desirability of Filipino workers in general, due to their higher education levels and English language skills.

17. Discussions with Filipino migrants, Dubai.

18. Ibid.

19. Virginia Galvez (labor attaché, Philippine Consulate in Dubai), interview by author, November 11, 2009.

20. Discussions with Filipino migrants, Dubai.

21. Discussions with prospective and return migrants, Manila.

22. Ibid.



Rather than collect fees, some agencies provide loans, usually paid through a salary-deduction scheme.²³ Many migrants favor this approach given the high cost of credit in the Philippines, especially for the poor — annual percentage rates can be as high as 240 percent.²⁴ Deduction arrangements vary. Some workers expected or had paid a deduction of 10 to 30 percent of their monthly salary for three to six months. Others expected to pay half of their salary for two months, while the rest did not expect to get paid the first month. All interviewees across skill levels admitted they would prefer to pay nothing, but they did not perceive the arrangement as exploitative. Instead, they saw it as better than taking out high-interest loans or paying up front.²⁵

Still, the services recruitment agencies provide come at a cost that many observers find unreasonably high, to the point of being exploitative. As noted by the International Labor Organization (ILO) in a report presented to the 85th session of the International Labor Conference in 1997, “...a disturbing number of (private employment agencies) often not widely known, exploit both workers and the countries involved, including the host countries.”²⁶

Trade unions share this concern. For instance, the International Confederation of Free Trade Unions (ICFTU) highlighted in their 1997 report the “modern-day slavery of temporary migrants.” ICFTU cited recruitment agencies’ wide range of abuses, from fictitious job offers to mafia-style trafficking.²⁷

Interviews with key officials and migrant workers and a review of government data suggest that in the case of Filipino migration to the United Arab Emirates, there are three main areas of concern: excessive or unauthorized fees, fraud and deceit, and outright human-rights abuse.

I. Excessive or Unauthorized Fees

Excessive and unauthorized fees are often the first step in a cycle of dependency and coercion and are at the center of most recruitment irregularities. To pay these fees, migrants borrow money at extremely high interest rates, agree to salary deduction schemes that hold a sizeable proportion of their salary as payment, or sell valuable holdings, such as land and farm animals.²⁸

Agencies that advertise a “no placement fee” policy to entice applicants may end up charging “recruitment-related costs” that will be deductible from the person’s future salary. As already discussed, migrants may prefer salary-deduction schemes over loans, but earlier research from ILO suggests these migrants are often unaware of the payment terms and are charged at levels comparable to those of money lenders.²⁹

Some migrants interviewed for this report complained that the salary deduction often exceeded the equivalent of one month’s salary, the maximum permissible according to Philippine

23. Discussions with Filipino migrants, Dubai.

24. Discussions with prospective and return migrants, Manila.

25. Discussions with prospective and return migrants, Manila; discussions with Filipino migrants, Dubai.

26. International Labor Organization, *Revision of the Fee-charging Employment Agencies Convention* (Revised) 1949, (No. 96), Report IV (1), (Geneva: International Labor Organization, 1997), 11.

27. Luc Demaret, “Private employment agencies: The challenges ahead from the workers’ perspective,” in *Merchants of Labor*, ed. Christiane Kuptsch (Geneva: ILO, 2006), 159-160.

28. Discussions with prospective and return migrants, Manila; discussions with Filipino migrants, Dubai.

29. Elaine Pearson, Sureeporn Punpuing, Aree Jampaklay, Sirinan Kittisuksathit, and Aree Prohmmo, *The Mekong Challenge: Underpaid, Overworked and Overlooked: The Realities of Young Migrant Workers in Thailand*, vol. 1 (Bangkok: International Labor Organization, 2006),

www.ilo.org/public/english/region/asro/bangkok/child/trafficking/downloads/underpaid-eng-volume1.pdf

government regulations. Domestic workers who took advantage of the accommodation agencies provided in Manila were charged between three and four months' salary — a prohibitive cost given the poor quality of these accommodations.³⁰

Agencies also charge unauthorized fees. Since 2006, the Philippine government has banned agencies from requiring domestic workers to pay placement fees or deducting money from their salaries. Interviews with domestic workers who left in the last three years indicate, however, that the practice has continued. The rates vary widely, with the placement fee ranging from 5,000 pesos (US\$100) and three months' salary deduction to 25,000 pesos (US\$500) and no salary deduction.^{31, 32} Galvez has also received complaints from employers that their agencies in the Philippines charged placement fees even if the companies explicitly prohibited them from doing so.³³

There are also agencies that keep the passports of their applicants as “insurance” during the recruitment phase. If the prospective migrant decides to withdraw his/her application, agencies charge a “processing fee” before returning the passport.³⁴

2. Fraud and Deceit

Agencies do not necessarily provide complete and honest information about migrants' net salary, job responsibilities, and work conditions. Contract fraud, which includes contract substitution and the deployment of workers to different or nonexistent jobs, also happens frequently.

Incomplete or Incorrect Information

Almost all migrants interviewed, regardless of skill level and gender, were not aware of the breakdown of the fees their agencies charged and were not sure if they had purchased the Philippine government-mandated health and life insurance.³⁵

Some migrants left for the United Arab Emirates without a correct understanding of their net pay or its real worth. For instance, unexpected deductions for airfare and accommodation reduced their net salary by as much as half in some cases.³⁶ Others were surprised to find out upon arrival that the salary agencies had negotiated on their behalf was very low given the high cost of living in the United Arab Emirates and the higher salaries of their counterparts with similar skills and/or occupations. This is particularly true for high-skilled migrants who work alongside Europeans and North Americans.³⁷

Domestic workers, who suffer the most in terms of abuse and exploitation, are also most ill-informed. Philippine Welfare Attaché Mary Cyd Simangan, whose main responsibility is to assist and attend to complaints and problems of Filipino migrant workers in Dubai and the Northern Emirates, observed that many domestic workers do not receive adequate information from their agencies about the challenges they may encounter or the nature of their work. In fact, Simangan noted, domestic workers often believe their lives in the United Arab Emirates will be easy.

30. Discussions with Filipino migrants, Dubai.

31. Discussions with prospective and return migrants, Manila.

32. Discussions with Filipino migrants, Dubai.

33. Galvez interview.

34. Discussions with Filipino migrants, Dubai.

35. Discussions with prospective and return migrants, Manila.

36. Ibid.

37. Discussions with Filipino migrants, Dubai.



Agencies do not inform them that some sponsors ban using cell phones and making friends with other domestic workers. Other sponsors even prohibit domestic workers from communicating with their families back home to avoid what they see as a source of distraction. Those who employ domestic workers frequently cite the expenses they incurred in sponsoring the worker, such as the service and transaction fees paid to agencies and the UAE government, as a rationale for their strict demands.³⁸ Yet according to Simangan, many UAE households expect too much from the domestic workers they hire.

Contract-Related Fraud

Fraud related to contracts is also believed to be common, particularly contract substitution — a practice in which migrants sign a new contract in the United Arab Emirates with inferior or radically different stipulations than the contract signed in the Philippines. There is no official data indicating whether the degree of contract fraud varies by skill level. However, a perception exists among some government officials, industry insiders, and migrants interviewed for this report that it happens more often to low-skilled and unskilled workers.

Typically, the new contract has a lower wage. For instance, although a domestic worker signs a contract in the Philippines stating that she will receive US\$400 in monthly wages (the minimum salary required by Philippine regulations), agencies would verbally inform her to expect a much lower salary upon arrival, around US\$150 to US\$250.³⁹

Philippine government officials and recruiters alike acknowledge that this practice occurs, especially among low-skilled migrants. Many do not seem to take the contracts they sign in the Philippines as a legal document. Simangan has counseled many migrants who think the contracts they sign in the Philippines are for “government show” only.⁴⁰

Lito Soriano, former president of the industry group Federated Association of Manpower Exporters and a long-time recruiter, explained that the desire for increased profit drives contract substitution. Filipino agencies know very well that contracts stipulating salaries lower than mandated by law, or what is deemed appropriate by the Philippine government, will not be authenticated in the Philippines. In an ideal situation, Soriano said, agencies should ask for a higher salary from the UAE employer in order to comply with Philippine government regulations. However, the recruiter runs the risk of losing the employer as a client. This is a daunting prospect in the competitive UAE market, where Filipino recruiters not only compete against each other but with recruiters from developing countries that do not have similar regulations. Instead of bargaining with the employer, an unscrupulous Filipino agency arranges an informal deal with the migrant for a lower salary, to which the migrant (especially one working in the low-skilled sector) generally agrees. Some agencies might not even inform migrants that they will receive a lower salary than stated in the contract because they are banking on the high probability that migrants, fearing deportation, will not complain.⁴¹

Some migrants interviewed for this report were forced to sign contracts but were not given enough time to read them.⁴² Others claimed they signed contracts very close to their departure date, usually just a day before departure. Some even claimed they did not see the contract or visa

38. Mary Cyd Simangan (welfare attaché, Philippine Consulate in Dubai), interview by author, November 11, 2009.

39. Discussions with Filipino migrants, Dubai; discussions with prospective and return migrants, Manila.

40. Simangan interview.

41. Lito Soriano (president, LBS Recruitment), interview by author, October 21, 2009.

42. Discussions with prospective and return migrants, Manila.

until the day of departure.⁴³ Typically, in these cases, migrants found that the salary and/or occupation were different from that originally agreed. More often than not, migrants signed the contract anyway, thinking they had reached the point of no return. The few who thought of backing out were threatened with having to pay back the recruitment costs the agency incurred.⁴⁴ Others did not even see their contracts and claimed the signature on the Philippine contract was not theirs. As Simangan explained, the agency “handles the contracts and in many cases, they don’t show them to the workers, much less explain the terms of their employment.”⁴⁵

Recruiters also arrange for jobs that workers are not qualified to do, which can jeopardize migrants’ status once in the United Arab Emirates. Galvez has received complaints from employers that their Philippine-based recruiters deployed workers the employers did not choose during their visit in Manila and who were unqualified for the job.⁴⁶ Labor Attaché Nasser Munder said this happens more often in small UAE companies that employ many Filipinos. In these cases, the worker generally has two options: either go home and incur the costs associated with return or accept a different job and/or lower pay. Not surprisingly, migrants generally choose to stay.⁴⁷

The most perverse type of fraud involves deploying workers to different or even nonexistent jobs. This practice is rampant not only in the United Arab Emirates but in so many Filipino destinations that it is known by its abbreviated name — “repro,” short for reprocessing. In a repro case, migrants follow the Philippine requirements, such as paying the legally prescribed placement fee, undergoing medical examination, and attending the required PDOS. Once they reach the United Arab Emirates, however, they enter either as tourists or as workers in a different occupation than that stated in their Philippine contracts.⁴⁸

According to Soriano, agencies resort to this practice for many reasons. First, it allows agencies to avoid complying with the extra requirements the Philippine government imposes on certain occupations.⁴⁹ For instance, agencies placing drivers in the Middle East need to show proof of accident-insurance coverage for the driver and comprehensive third-party liability for the vehicle before the worker can leave the Philippines.⁵⁰ Agencies can choose to process the driver in a different occupation, such as a salesman, since that occupation does not have extra or costly requirements.

Second, agencies can make more money if they deploy a worker to a different or nonexistent job. Ideally, before a migrant can be cleared to leave for work abroad, agencies need to show that the migrant has a job upon arrival. The proof comes in the form of a job order, a statement the employer prepares that indicates the number and type of workers needed. Philippine posts abroad authenticate the job order. Some job orders remain unfilled because there are no qualified applicants, or they become invalid because the positions were filled locally or made redundant. As far as the Philippine government is concerned, the job order remains active unless the agency informs it otherwise. This loophole allows dishonest agencies to use the job order or sell it on the

43. Ibid.

44. Ibid.

45. Simangan interview.

46. Galvez interview.

47. Nasser Munder (labor attaché, Philippine Embassy in Abu Dhabi), interview by author, November 8, 2009.

48. Discussions with prospective and return migrants, Manila; discussions with Filipino migrants, Dubai.

49. Soriano interview.

50. POEA, “Registration/Accreditation of Land-based Principals and Approval of Job Orders,” www.poea.gov.ph/agency/accre_lb.html.



black market. The going rate for such job orders is reportedly 15,000 pesos (US\$300) each, allowing some agencies to survive without really deploying a single worker.

One of the most recent, high-profile examples of reprocessing involves the deployment of 137 Filipino bus drivers to Dubai in early 2009. The drivers left the Philippines legally under various occupations and then entered the United Arab Emirates on visitor visas, but they found themselves jobless once they arrived. CYM International, the main agency involved in this scam, reportedly used the job orders of 13 different agencies to deploy the drivers in a way that appeared to be legal. After a Philippine government investigation, the licenses of CYM International and six other agencies were revoked while those of five agencies were temporarily suspended.

3. Human-Rights Abuses

Another set of violations border on outright human-rights abuses. Given the costs involved in facilitating labor migration from the Philippines to the United Arab Emirates, some agencies perceive migrants primarily as investments that they need to protect from the risk of default. Migrants report practices that severely limit their freedom and prompt them to abandon the process of working abroad.

For instance, during the recruitment phase, many agencies keep an applicant's passport to prevent him or her from seeking the services of another agency. Once in the United Arab Emirates, employers appear to routinely confiscate passports, irrespective of skill levels. Interviews with migrants bound for the United Arab Emirates reveal that even highly skilled workers expect their passports to be taken from them for "safe keeping." Some said their agencies told them it is normal to surrender the passport in exchange for the labor card, an identification card from the UAE Ministry of Labor given to foreigners with permission to work.⁵¹

The majority of migrants interviewed for this report were not aware that both countries have laws explicitly prohibiting the confiscation of a passport. Those who knew about these laws understood quite well the rationale behind the illegal practice. Domestic workers, for instance, knew that without their passports, it would be harder for them to escape abusive employers and return home to the Philippines. They saw passport confiscation as a form of insurance for their sponsors.⁵² Indeed, employers often keep passports on the grounds that they have paid for the workers' recruitment, including airfares, and want to ensure they get their "money's worth." Unless the UAE government or the private sector introduces an alternative form of insurance, this practice will be difficult to stop.

Some domestic workers also reported being confined in accommodation centers in the Philippines while waiting for their visas. A few claimed that recruiters kept applicants from leaving the centers to prevent them from backing out.⁵³ Once in the United Arab Emirates, domestic workers reported that agencies had asked them to stay with abusive employers for at least three months since, under UAE rules, agencies are not responsible for the domestic worker beyond the three-month period. Some also claimed they were knowingly sent to work in households with proven track records of abuse. Those who asked their agencies that they be released from the contract were threatened with hefty fines.⁵⁴

51. Discussions with prospective and return migrants, Manila.

52. Ibid.

53. Ibid.

54. Discussions with prospective and return migrants, Manila.

In the worst of cases, agencies fail to provide food and other vital necessities once migrants arrive in the United Arab Emirates. For instance, the case involving the 137 bus drivers captured the attention of the Philippine and UAE media because the recruiter not only sent them to nonexistent jobs but left them scavenging for food.

III. Addressing Policy Mismatch

Both the Philippine and UAE governments recognize the pivotal role recruitment agencies play in facilitating Filipino labor migration to the United Arab Emirates. Without private recruitment agencies, temporary migration at the current scale would be impossible. At the same time, however, both governments understand that if left unregulated, agencies would abuse (at higher rates than today) the very workers they are supposed to help. Indeed, in a competitive UAE labor market where the supply of labor overwhelmingly outweighs demand, especially in the low- and mid-skilled sector, regulating recruitment agency operations is essential.

The United Arab Emirates and the Philippines regulate agencies within their borders through a licensing scheme that has been in effect for nearly three decades now. The two countries' regulatory systems impose entry limits on recruiters, employers, and workers; set operational guidelines on allowable fees, the extent of recruiters' liability, and the terms and conditions of employment; and manage a grievance mechanism that hears and adjudicates complaints and levies the necessary penalties and rewards.

Although the two regulatory schemes share some similarities, their differences in key areas create a gap that negatively affects migrant workers' welfare. The Philippines is unique among developing countries that send migrants to the United Arab Emirates because it has strict requirements for workers and employers alike. Since many of these requirements are not recognized in the United Arab Emirates, corrupt recruitment agencies at both ends do not take them seriously. To facilitate deployment, even law-abiding agencies in the Philippines produce documents to satisfy Philippine government regulations knowing very well that the provisions in those documents will be disregarded in the United Arab Emirates. As a Philippine industry insider puts it, "Papel papel lang yan" (*It's all about paperwork*).

Such discrepancies have created loopholes that have led to the unscrupulous practices detailed in the preceding chapter. Here we systematically examine how the United Arab Emirates and the Philippines differ on requirements for workers participating in overseas employment and employers hiring Filipino migrants, as well as the fees recruiters can charge migrants and the terms for payment, and the conditions of employment that must be included in every contract.

A. Requirements for Workers

Both countries require that only healthy workers are deployed to the United Arab Emirates. The applicant's physical fitness is determined before departure at one of 17 medical clinics and facilities accredited by both the Philippine and UAE governments. The United Arab Emirates is part of a "referral decking system," a centralized medical-referral system the Gulf Cooperation



Council (GCC) states established in 2001 supposedly to stop the proliferation of fake medical certificates among migrant workers.⁵⁵

Beyond medical fitness, however, the Philippine and UAE governments differ on other requirements. For instance, Philippine law mandates that all workers possess a prescribed level of technical qualification. As of 2006, all deployed domestic workers must be at least 23 years old, attend a country-specific language and culture course, and secure a certification on household work from a government-accredited testing center.⁵⁶ Philippine President Gloria Arroyo characterized this new batch of domestic workers as “supermaids.”⁵⁷

The Philippine Overseas Employment Administration (POEA), which regulates temporary overseas employment, including recruitment agencies, also requires certification for entertainers, a broad category that includes singers, dancers, and actors. The entertainer category is ripe for exploitation since some employers use entertainers as sex workers.⁵⁸

In contrast, the United Arab Emirates focuses its worker-quality checks on the highly skilled, not on low-skilled and vulnerable sectors. For instance, doctors and teachers seeking to practice their profession must get accreditation from relevant UAE government institutions — a common practice in many countries. The United Arab Emirates also restricts the entry of former migrants who violated their employment contracts or provisions within UAE labor laws and regulations. Depending on the type of violation committed, migrant workers can be banned from reentering the UAE for six months, one year, or even permanently.

Unlike other wealthy countries, the United Arab Emirates is a comparatively accessible destination for tourists of all nationalities and income levels; this policy has helped make Dubai, famous for its shopping and luxurious hotels, a popular destination. A prospective tourist can enter by asking a local travel agency or hotel to sponsor him for a tourist visa, usually valid for one month. Migrant workers in the United Arab Emirates as well as companies can sponsor visitors on visas that allow two-month stays.

It is not surprising that many Filipino have taken advantage of this open policy. Maher Hamad Al-obad, executive director for inspection at the UAE Ministry of Labor, estimates that between 20 to 30 percent of migrants enter with a visitor visa in hand, find an employer, and change status while in the United Arab Emirates or in a third country. Interviews with Filipino migrants suggest that this route sometimes presents a safer, cheaper, and faster alternative to agency-mediated migration. Especially before the global recession hit Dubai, the visitor-visa route was very popular with Filipinos regardless of their skill level, from domestic workers to highly specialized engineers.

55. Established in 1981, the Gulf Cooperation Council is a common market that also cooperates on security and defense matters. GCC countries include Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates.

56. POEA, *Guidelines on the Implementation of the Reform Package Affecting Household Service Workers* (Pasay: Philippine Overseas Employment Administration, 2006), 1.

57. Associated Press, “Arroyo says Philippines will start training 'supermaids,’” August 4, 2006.

58. Since 2004, POEA has required all entertainers to obtain an Artist Accreditation Card, a document issued to artists who pass auditions in singing or dancing administered by government-accredited centers. See POEA, “Guidelines on the Certification of Overseas Performing Artists” (Memorandum Circular No. 12, Series of 2004, August 25, 2004.)

Such easy access to visitor visas, however, makes it difficult for the Philippine government to maintain oversight and regulate migrant workers, many of whom are vulnerable.

B. Requirements for UAE Employers

The Philippine government imposes stricter requirements for UAE employers that would like to employ Filipinos than does the UAE government. Philippine regulations require foreign employers to register with the government before they can hire five Filipino workers or more. To register, the employer first has to name an accredited agency to act as its representative in the Philippines. UAE employers must then work with their recruitment agencies to provide valid proof of the business or project, as well as documents showing that the necessary visas are available.⁵⁹ The employer must also draft a master employment contract that satisfies the Philippine government's minimum standards, and it must issue a manpower request that states the number of workers needed, job descriptions, and the salary of each position. The Philippine diplomatic posts in Abu Dhabi and Dubai are tasked with verifying documents related to the registration, such as employment contracts, pertaining to the principal or employer.⁶⁰

Some employers, especially those hiring workers in vulnerable or high-risk sectors, have to meet even stricter requirements. For instance, as mentioned earlier, companies hiring drivers need to show proof of insurance for the driver and the vehicle.⁶¹ Employers of domestic workers, including foreign placement agencies, are required to appear for an interview and preemployment orientation at the closest Philippine post. They also need to establish their identity (e.g., picture of employer and spouse, location and complete address of residence, size of residence), prove their family income, and establish a clean criminal record with police clearance.⁶²

As of January 2010, 2,555 UAE employers have been actively registered at the Philippine diplomatic posts in Dubai and Abu Dhabi. The posts have registered around 500 employers annually since 2005.

Although the United Arab Emirates has set requirements for some employers before they can hire foreign workers, the rules are nowhere near as cumbersome as those of the Philippines. For instance, to improve working and living conditions, the UAE government has denied group labor-permit applications to companies that cannot prove they provide adequate accommodations.

Certain employers have to submit a bank guarantee as security for end-of-service benefits and repatriation costs related to their employees. Foreign residents in the United Arab Emirates who would like to sponsor domestic workers from abroad must pay the UAE state treasury an amount equal to the worker's annual salary, which is currently set at a minimum of 400 dirhams (US\$108) per month. The foreign sponsor must also earn more than 6,000 dirhams (US\$1,621) per month or 5,000 dirhams (US\$1,351) if offering accommodation. Those ineligible to sponsor a maid include bachelors, those with a record of not paying timely and appropriate wages to

59. Philippines Commission on Audit, *Sectoral Performance Audit Report on the Overseas Workers' Welfare Program of the Government, CY 2005 and 2006* (Quezon City: COA, 2008), 24-25, www.coa.gov.ph/GWSPA/GWSPA.htm.

60. POEA, "POEA Rules and Regulations," Part III, Rules I and II.

61. POEA, "Registration/Accreditation of Land-based Principals and Approval of Job Orders," www.poea.gov.ph/agency/accre_lb.html.

62. POEA, "Requirements for the Verification, Registration and Documentation of Overseas Household Service Workers and Selected Skills" (Memorandum Circular No. 14, Series of 2006, November 29, 2006).



previously sponsored workers, and those who allowed their sponsored employees to work for other people. Interestingly, these restrictions apply only to foreign residents, not to UAE nationals.⁶³ No data is available to determine exactly whether abuse rates are lower among foreign nationals who hire domestic workers. However, domestic workers interviewed for this report strongly perceived foreign nationals as less likely to be abusive.

C. Allowable Fees

Since most recruitment irregularities are related to fees, both countries have limited the placement and other fees recruitment agencies can legally charge migrants. The United Arab Emirates, along with other GCC countries, completely bans agencies from collecting placement and other fees from workers. The Philippines allows agencies to charge a placement fee equal to one month's salary. Exempted from this policy are domestic workers, sea farers, and those whose destination explicitly prohibits the charging of placement fees.⁶⁴

Given the high demand for work in the United Arab Emirates, interviews with UAE industry practitioners revealed that some make money by “selling” their access to employers and jobs to agencies in the Philippines or in other countries of migrant origin. Migrants in very competitive labor markets are also generally compelled to pay more simply because more people want to emigrate than there are (legal) places, causing the “price” of getting a job to rise. Although there is no clear consensus internationally on whether completely banning placement and other fees is ultimately a good policy, experience from other countries suggests that having bans at both ends of a corridor minimizes abuse.

D. Standardized Contracts

To limit recruiters' ability to determine the terms and conditions of employment, both countries require migrants to have labor contracts. The Philippines and the United Arab Emirates signed a Memorandum of Understanding (MOU) stipulating that the contract has to be in both English and Arabic, with the Arabic version enjoying preference in case of dispute. The MOU, however, is silent on the minimum terms and conditions to be included in the contract.

UAE labor laws require employment contracts to have only basic information: the date of the contract's conclusion, the date on which the work begins, the nature and place of work, the duration of the contract (for fixed-term contracts), and the wage or remuneration.⁶⁵ Philippine regulations, on the other hand, require all contracts for employment abroad to include guaranteed wages for regular working hours, free transportation to and from the worksite or offsetting benefits, free food and accommodation or offsetting benefits, and fair or authorized causes for termination of employment.⁶⁶

63. General Directorate of Residency and Foreigners Affairs-Dubai, “Expatriates Transactions in United Arab Emirates,” www.dnrd.gov.ae/Dnrd/Transactions/Residents/Residents%20Services.

64. POEA, “POEA Rules and Regulations”; UAE Law No. 8 of 1980, as amended by Law No. 12 of 1986.

65. UAE Law No. 8 of 1980, Article 36.

66. POEA, “POEA Rules and Regulations,” Part III, Rule 1. In determining fair or valid causes for termination of employment or service, POEA takes into account customs, traditions, norms, mores, practices, company policies, and the labor and social laws in the host country.

In December 2006, the Philippine government issued additional requirements for domestic workers, setting a minimum monthly salary of US\$400. In addition to this wage provision, the contract must also include the following conditions:⁶⁷

- continuous rest of at least eight hours per day
- paid vacation of not less than 15 calendar days for every year of service
- employer assistance in remitting a percentage of salary through proper banking channels
- no salary deductions
- no confiscation of passport and work permit
- personal life, accident, medical, and repatriation insurance
- free roundtrip economy-class air ticket or money equivalent in case of contract renewal

Due to increasing pressure from the international community following abuse allegations from human-rights organizations, the United Arab Emirates in April 2007 began requiring what it calls a unified contract to regulate the rights and duties of all domestic workers. Some of its provisions echo the Philippine requirements. For instance, the domestic worker is entitled to paid leave every two years, medical aid provision, a one-way ticket at the end of a contract, and a ticket and a month's salary if the sponsor terminates the contract before it expires. The employer is also required to allow the domestic worker to contact family back home and, in case of death, to repatriate the body and personal belongings.

However, the unified contract still does not include some of the other basic provisions as required by Philippine law, most notably the US\$400 minimum salary. Also, under the unified contract, the domestic worker's legal rights will be disregarded if he or she absconds. Further, domestic workers still fall outside the protection of UAE labor laws since they are not considered workers because the work they do is within the confines of a home. Once labor problems arise, disputes are taken directly to the immigration ministry and/or the police, not to the Ministry of Labor.

E. Different Rules for Different Priorities?

The policy mismatch occurs mainly because the United Arab Emirates and the Philippines have different, if not totally contrasting, priorities. As the migrant-sending country, the Philippines naturally seeks to protect its workers abroad, especially those it perceives as belonging to vulnerable sectors; instituting stricter requirements for workers and employers is a form of protection. Home to one of the most vibrant civil societies in the developing world, the Philippine government has long faced enormous pressure to ensure the welfare of the migrants it actively deploys — especially since migrants' remittances have protected the Philippine economy from collapse and because the government has remained unable to create enough jobs domestically.

The United Arab Emirates, as the host country, not only has to consider the welfare of the migrants within its territory but also how the hiring process affects the efficiency of business and, ultimately, the growth of local industries and the UAE economy. As host to more than 100 nationalities, the United Arab Emirates also has an interest in avoiding rules that apply to just one country or that unnecessarily burden others.

67. POEA, *Guidelines on the Implementation of the Reform Package Affecting Household Service Workers*.



IV. Ensuring Compliance within and across Borders

The policy mismatch between the Philippines and the United Arab Emirates is further exacerbated by the difficulty in ensuring compliance within and across their borders. Both countries monitor the agencies, employers, and workers, and both preside over a grievance machinery to hear and adjudicate complaints and impose the necessary penalties and rewards. However, each government faces serious operational challenges in the following areas: effectively inspecting recruiting agencies, adequately monitoring the welfare of Filipino workers, establishing an adjudication system that migrants with complaints are willing to use, and stemming illegal recruiter operations and timely resolving cases against them.

A. Monitoring and Inspecting Agency Operations

Both the UAE and Philippine governments inspect the offices and records of accredited private recruitment agencies. In both countries, inspectors may examine the premises and, depending on the purpose of inspection, require the licensee to present necessary documents, records, and account books. Any violations the inspector uncovers are grounds for appropriate sanctions. For instance, agencies found engaging in recruitment activities in places other than that specified in the license can face a suspension of two to six months. Inspectors may conduct spot inspections upon receiving a complaint or report of a violation. Additional requests, such as an application for a new branch or expansion of office space, may also trigger an inspection.

Maher Hamad Al-obad, the official in charge of inspection at the UAE Ministry of Labor, suggested that agency inspection is not a pressing challenge from their end. UAE regulators have fewer than 300 agencies in their portfolio, and the ministry inspects each agency twice a year: once during a mid-year review and again when it applies for annual renewal of its license.⁶⁸

In the Philippines, POEA inspects its approximately 1,400 agencies in good standing roughly once every four years; this is in addition to inspections of applicants for new licenses, or about 1,200 inspections each year since 2005. With just six full-time inspectors, there is one inspector for every 317 agencies. Newly licensed agencies, however, are inspected one year after they receive their license. After passing that inspection, they have a full license and are not subjected to inspection for another three years unless someone files a formal complaint or the government has a reason that would justify a spot inspection.

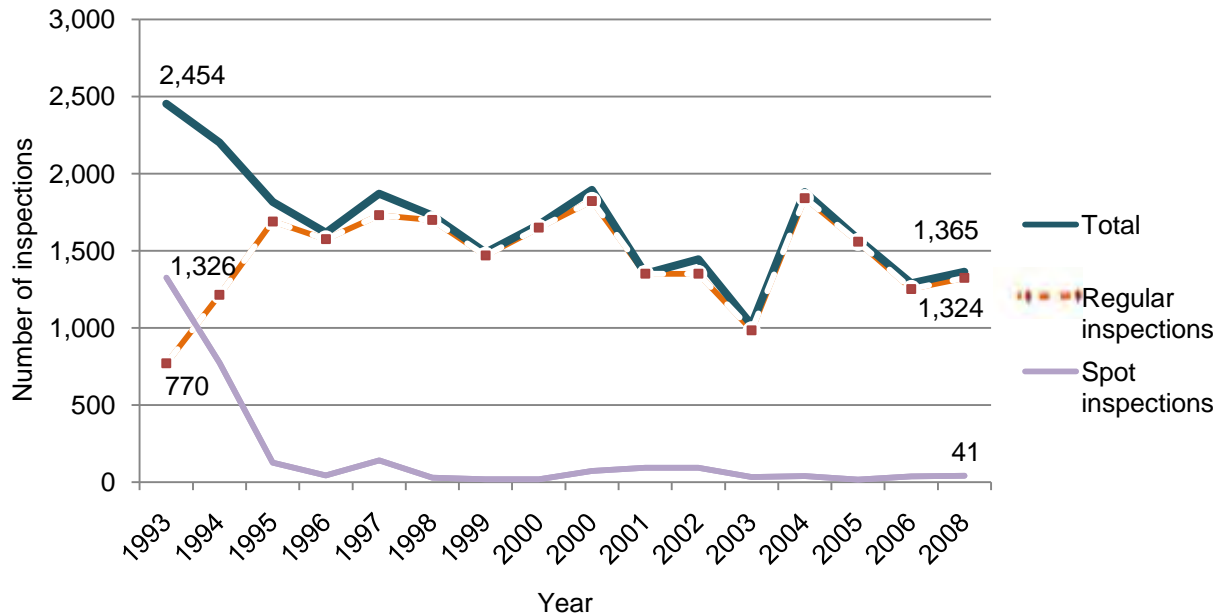
Records indicate the Philippine government prioritizes inspections, looking first at agencies whose licenses are up for renewal and those that have a record of recruitment violations or have filed requests to change their location or add office space. Indeed, applicants for a new license and agencies up for renewal accounted for more than 99 percent of inspections each year between 2004 and 2008. On average, there have been about 30 spot or random inspection per year since 2005. This means that out of the 400 agencies that sent workers to the United Arab Emirates in 2008, only around one quarter (115) were inspected.

Data from 1993 to 2008 suggest that the number of inspections has dropped despite an increase in the number of agencies during the same period. In 1993, the Philippine government inspected

68. Al-obad interview.

1,000 more agencies than in 2008. Nearly 1,300 more spot inspections were also conducted in the same year (see Figure 3).

Figure 3. Number of Annual Recruitment-Agency Inspections by Type, Philippines, 1993 to 2008



Source: Philippine Overseas Employment Administration.

An effective inspection regime is critical because Filipino migrants tend to shun filing complaints for reasons that will be discussed later. With very little prospect of getting caught, Filipino agencies know they can get away with violating the rules.

B. Monitoring and Protecting Workers

Monitoring and protecting workers has proven to be even more difficult than monitoring recruitment agencies.

I. At Points of Departure

The Philippines primarily checks on workers as they transit in and out of the Philippines. Workers without proper documents cannot leave — officially. Workers planning to return temporarily to the Philippines for vacation also need an exit clearance to prove they have undergone the right procedures when they initially left to work abroad.⁶⁹ To receive the exit clearance, returning migrant workers have to show proof that they have the legal papers to work abroad, such as an active employment contract.

For instance, in 2008, the Philippine Bureau of Immigration barred a total of 759 prospective migrant workers from leaving the country due to incomplete travel and work documents. Of that

69. POEA, “Guidelines on the Registration of Worker-on-Leave/Balik Manggagawa,” updated June 12, 2008, <http://poea.gov.ph/balik/balik2008.html>.



group, 250 did not have the required clearances from the Philippine authorities while another 16 presented themselves as tourists with the intention of finding work.⁷⁰

Given that nearly 3,500 workers depart the country every day, the total number of workers barred from leaving the Philippines is a tiny proportion of all those deployed. Some in the recruitment industry are concerned that the Philippine government has no direct way of accurately validating genuine contracts at points of exit. The government's Labor Assistance Centers, located at the country's main airports, used to inspect contracts before people could leave, but this function was scrapped in April 2008 for unspecified reasons. According to Emmanuel Geslani, a recruitment-industry consultant, illegal workers may be leaving the country daily using fake documents.

At the same time, recruiters alleged in media reports that the government imposes "circuitous and difficult procedures" at the airports that force legitimate migrants to bribe immigration officers. Recruiters collectively complained in the media that around 500 migrant workers failed to leave for their jobs in the Middle East during the first two months of 2009 because of the overly strict procedures that target documented workers.⁷¹

Group discussions conducted for this report confirmed that migrants know they may face difficulties at the airport. Many admitted setting aside some money to bribe Philippine immigration officers, if need be, to avoid delays. Some ended up using the bribe money; others did not.

2. While in the United Arab Emirates

Once workers are in the United Arab Emirates, monitoring and protection becomes even more difficult. Personnel from the Philippines' two diplomatic posts visit migrants at their workplace. The visual inspections determine if the accommodations and working conditions are in line with the contracts. Philippine government inspectors interview employers and workers alike to ascertain discrepancies in salary and job responsibilities from what was in the contract.

Galvez, the lead labor attaché at the Philippine consulate in Dubai, admits, however, that their office lacks the personnel to inspect every Filipino worker. Only two people in the consulate conduct inspections, and inspections come on top of their other responsibilities. Given this limitation, all inspections have to be scheduled in advance, which hinders their effectiveness.⁷²

Aside from visiting workplaces and accommodations, consulate personnel visit Filipino workers in jails and hospitals. They also provide standard consular services, such as renewing passports, to Filipino communities outside of Dubai and Abu Dhabi.

Filipino workers can best benefit from the Philippine government's protection mechanisms by visiting diplomatic posts themselves. The post in Dubai verifies around 1,000 employment contracts that workers bring to them every month to see if the contracts follow Philippine overseas employment standards. It also issues overseas employment certificates, which prove that migrants have active contracts to work and can also serve as an exit clearance for workers vacationing in the Philippines; provides legal counseling; renders medical assistance; operates a

70. *Philippine Daily Inquirer*, "900 Travelers Barred from Leaving in 08," December 24, 2008.

71. *Gulf News*, "Overseas workers forced to pay bribe to officials," February 25, 2009.

72. Galvez interview.

24-hour hotline onsite to answer workers' queries; and maintains a safe house for distressed migrants escaping abusive employers.

In the first three quarters of 2008 and 2009, the services most in demand at the Philippine consulate in Dubai were the 24-hour hotline, legal counseling, and the issuing of overseas employment certificates (see Table 1). Every day on average, the consulate answered 173 queries over the phone, provided legal counsel to 144 workers, issued 122 overseas employment certificates, verified 49 employment contracts, admitted five distressed workers to its safe house, and repatriated three workers. During the first nine months of 2009 alone, the consulate in Dubai, with its staff of 18, authenticated over 35,000 labor-related documents and attended to the problems of 65,000 individuals. It is important to note that these services are offered on top of the services a typical consulate provides. The consulate also maintains a separate adjudication and grievance machinery that will be discussed at length in the next section.

Table 1. Services Rendered to Migrant Workers at the Philippine Consulate in Dubai, Q1-Q3, 2008 and 2009

Services	2008	2009	Monthly average for 2009	Daily average for 2009*
Verify documents				
Employment contract	7,712	9,738	1,082	49
Recruitment agreement	480	238	26	1
Manning agreement	7	7	1	0
Special power of attorney	735	316	35	2
Job orders	1,170	631	70	3
Trade licenses	738	294	33	1
Issue overseas employment certificates	20,395	24,187	2,687	122
Provide legal counseling	25,025	28,450	3,161	144
Visit hospitals	78	86	10	0
Visit jails	150	239	27	1
Provide medical assistance	282	650	72	3
Answer queries through a 24-hour hotline	29,110	34,300	3,811	173
Repatriate distressed workers	457	668	74	3
Accept runaways to Filipino Resource Centers	835	960	107	5

* The daily average was based on the number of working days (198) in the first three quarters.

Note: These data do not count the number of individual migrant workers helped as any worker may have received more than one service.

Source: Philippine Consulate in Dubai.

Given the acute limitations in personnel, it is not surprising that many migrants interviewed for this report raised questions about the quality and availability of consular services. Some who have used these services expressed discontent over the hurried staff and the long waits they



endured. Others who have not requested any assistance were skeptical that the consulate could provide the help they might need.⁷³

Despite the heavy workload, the number of migrants assisted at the consulate is small given the estimated 600,000 Filipino workers in the United Arab Emirates. For instance, if half of the migrant workers deployed in 2009 visited the consulate before they signed a contract to avoid contract substitution, the consulate would have experienced nearly a sevenfold increase in the number of workers asking for contract verification, from about 50 a day to 400 a day.

Clearly, large labor exporters like the Philippines can only expect their diplomatic posts to bear part of the burden of monitoring and protecting migrant workers. The host country, then, should be responsible since it too benefits greatly from migrant labor.

The international community has criticized the United Arab Emirates for its dismal record in monitoring the welfare of migrant workers. For instance, a widely cited report by Human Rights Watch noted that in 2006, the United Arab Emirates only had 140 government inspectors to oversee the labor practices of more than 240,000 businesses.⁷⁴ With increasing pressure from the international community, the United Arab Emirates has since promised to step up inspections. Sheikh Mohammed Bin Rashid Al Maktoum, Vice President as well as Prime Minister and Ruler of Dubai, issued a directive in November 2006 to recruit at least 2,000 new inspectors over an unspecified time period to keep pace with the fast growth of the labor sector.⁷⁵ By 2008, the UAE Ministry of Labor had increased the number of inspection teams to 700 to ensure that employers were complying with rules and meeting the safety standards at both worksites and accommodations across the country.⁷⁶

Migrants interviewed for this report suggest that the number of Labor Ministry inspections has increased. Some domestic workers reported that government inspectors had visited them, asking for documentation and inquiring about their well-being. Since an amnesty for migrants in 2007, the UAE media have frequently reported on random inspections in places from group accommodations to bus stops. It is not clear, however, whether these renewed inspections are intended to detect illegal immigration, protect immigrants, or accomplish something else.

Since foreigners account for 80 percent of the population and 99 percent of the private sector's labor force, monitoring migrant workers presents a difficult task for the UAE government. In other words, the government needs to satisfy the demands of predominantly local employers while maintaining the welfare of predominantly foreign workers.

C. *Hearing and Adjudicating Complaints*

Both the Philippine and UAE governments offer grievance machineries to address cases arising from contract and other violations. Filipino migrants can choose to use the UAE system and/or

73. Discussions with Filipino migrants, Dubai.

74. Human Rights Watch, *Building Towers, Cheating Workers: Exploitation of Migrant Construction Workers in the United Arab Emirates* (New York: Human Rights Watch, November 2006), www.hrw.org/en/reports/2006/11/11/building-towers-cheating-workers.

75. UAE Ministry of Labor, *The Protection of the Rights of Workers in the United Arab Emirates: Annual Report 2007* (Abu Dhabi: UAE Ministry of Labor, n.d.).

76. *The Emirates*, "UAE New Steps to Protect Workers' Rights – Kaabi," January 13, 2008.

the Philippine system upon their return. Very few, however, seem to take advantage of the adjudication system on either end.

I. While in the United Arab Emirates

Cases against UAE-based recruiters can be filed at the UAE Ministry of Labor. The Philippine posts in Dubai and Abu Dhabi also accept complaints, make referrals to relevant local authorities, and preside over conciliation proceedings if both parties request their involvement. Interviews with officials from both governments suggested, however, that UAE employers receive most of the complaints, not necessarily UAE recruiters. Alex Zalami, advisor to the UAE Minister of Labor, characterized complaints against recruiters as “negligible.”⁷⁷

Recruiters in the United Arab Emirates do play a role in labor disputes, according to analysis of preliminary statements 250 migrants filed with the Philippine consulate in Dubai in 2009. Although most complaints were directed at employers for overworking or physically mistreating them, around 20 percent also mentioned that their local recruiters did not address the problem and in some cases sided with the employer by returning them to the workplace without their consent (see Table 2).

Table 2. Top Ten Complaints against Employers and Recruiters in the United Arab Emirates, 2009

Against employers		Against recruiters	
Overworked (cleaned more than one house or worked more than 18 hours per day)	117	Agency did not provide help	13
Physically maltreated	84	Migrant escaped from the agency	11
Not paid or underpaid	72	Returned by the employer to the agency	7
Denied food	53	Agency substituted contract	7
Verbally abused	30	Migrant did not want to return to the agency for fear of abuse	6
Sexually harassed	15	Returned by the agency to an abusive employer	5
Wrongly accused of theft	11	Physically maltreated by agency personnel	4
Threatened death or incarceration	13	Rejected by the agency after being returned by employer	4
Not allowed to go home and not allowed to terminate contract	9	Lost contact with the agency in Dubai	1
Raped	4	Agency planned to send worker to another country without worker consent	1

Note: Data based on analysis of first 250 complaints filed with the Philippine consulate in Dubai in 2009.

Source: Philippine Consulate in Dubai.

During the first three quarters of 2009, the Philippine Consulate in Dubai received 4,150 labor and welfare cases, 700 more cases than in the same period in 2008 (see Table 3). Nearly all of

77. Alex Zalami (advisor to the UAE Minister of Labor), interview by author, November 11, 2009.



these cases were resolved through voluntary conciliation. For most of 2009, two labor attachés handled these cases with the assistance of a welfare officer and two translators. This means that each labor attaché handled an average of 230 new cases each month or 10 new cases per day. In November 2009, one of the labor attachés was recalled to Manila and was not immediately replaced.

Table 3. Labor and Welfare Cases, First Three Quarters, 2008 and 2009

Cases	2008	2009	Monthly average for 2009	Daily average for 2009*
Cases received	3,562	4,150	461	21
Cases resolved	3,121	4,029	447	20
Cases pending	441	251	27	1

* The daily average was based on the number of working days (198) in the first three quarters.

Source: Philippine Consulate in Dubai.

Aside from handling the cases mentioned, the labor attachés are also directly responsible for maintaining safe houses in Dubai and Abu Dhabi for distressed migrant workers who have run away from their employers and have no place to stay. As of December 2009, the Philippine consulate in Dubai had 141 migrants, known as wards, all women and most of them (123) documented domestic workers. Migrants seek refuge mainly for problems related to delayed or underpayment of wages that are further exacerbated by extremely long working hours, lack of food, and verbal abuse (see Table 4).

Table 4. Reasons for Seeking Refuge at Filipino Workers Resource Center, December 2009

Reasons Cited	Number of Complaints
Noncompliance with the minimum salary of US\$400 per month	119
Delayed payment of monthly salary combined with:	117
Long working hours	98
Lack of food	95
Verbal abuse	93
Overwork	55
Sexual assault/harassment	14
Physical cruelty	6
Rape	4

Source: Philippine Consulate in Dubai.

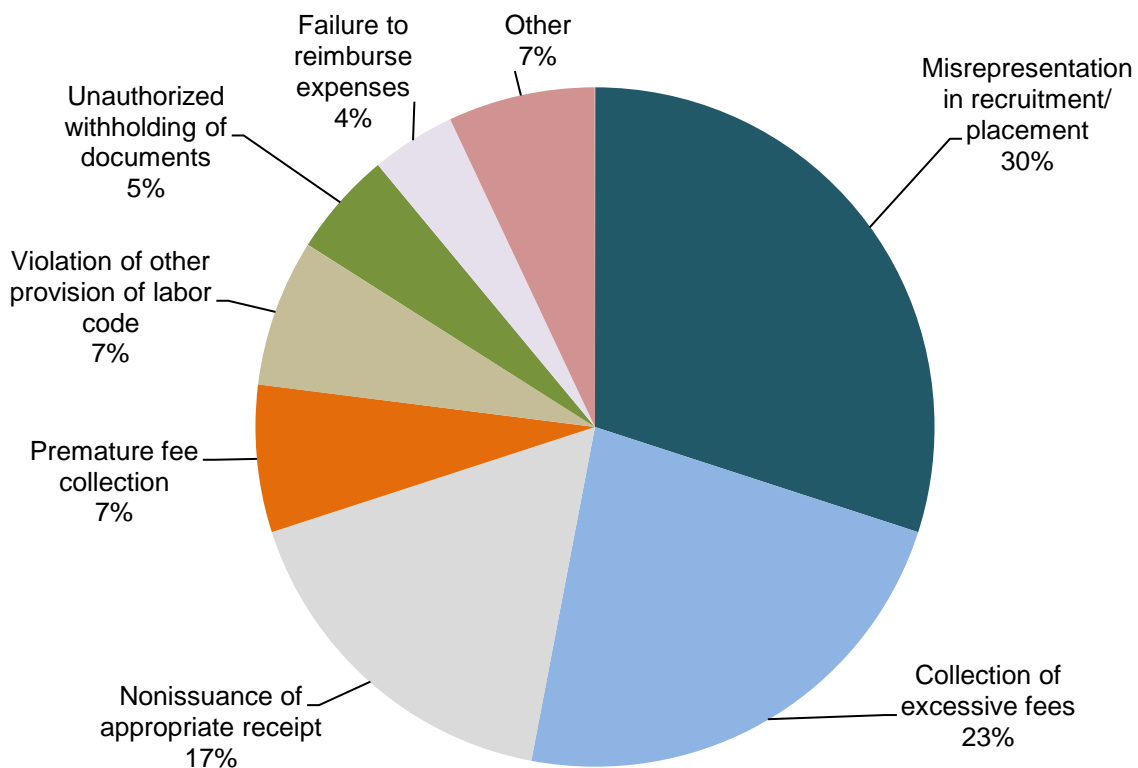
A number of wards have cases pending at the UAE Ministry of Immigration. Some have filed cases against their employers, mainly to retrieve lost wages, while others have cases filed against them, generally for absconding or overstaying their visas. A group discussion involving 13 wards revealed that the adjudication process can be long and tedious. Many migrants were frustrated because they could not work or earn money while pursuing their cases. Although all agreed that the consulate staff is kind and sympathetic to their problems, they found the facilities very basic. For instance, there is only one bathroom for all the wards, and there are not enough beds. Almost everyone also raised concerns about the progress of their cases. Having noticed the shortage of

personnel and knowing that new cases arrive each day, many were worried that the consulate would back-burner their cases.

I. In the Philippines

Depending on the outcome of complaints made in the United Arab Emirates or if no complaints were made, migrants can still pursue cases against their Philippines-based recruiters once they return home. In 2008, migrants who worked in the United Arab Emirates filed 290 recruitment violation cases against their Filipino agencies. Over half of these cases filed involved excessive fees and misrepresentation in relation to recruitment or placement, a wide category that includes repro cases (see Figure 4).

Figure 4. Recruitment Violation Cases by Type of Complaint, 2008

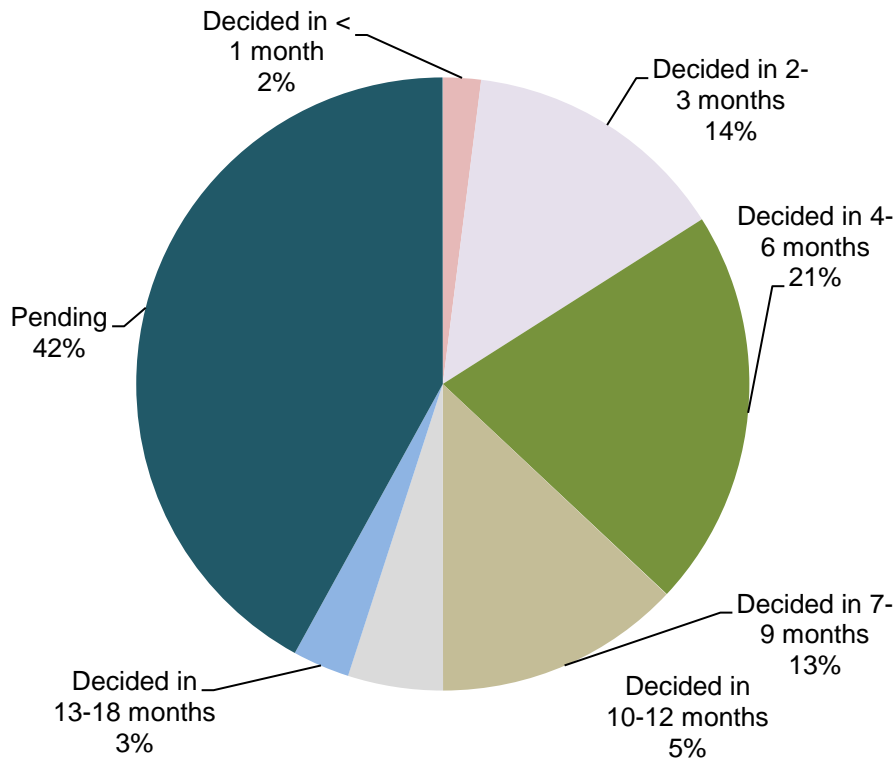


Source: Philippine Overseas Employment Administration.

As of October 2009, 42 percent or 121 cases from 2008 were still pending resolution (see Figure 5). Of the cases that were resolved, more than half (57 percent) were settled within the first six months, while another 34 percent were resolved within a year. Clearly, the adjudication process generally takes longer than the 60 days mandated by Philippine laws. For many migrants, the wait time is too long; many end up abandoning the process, especially those who eventually found other employment abroad. In interviews, those who filed cases against Philippine recruiters expressed disappointment with the process, which they described as time and resource consuming.



Figure 5. Status of Cases Filed in 2008 at the Philippine Overseas Employment Administration, October 2009



Source: Philippine Overseas Employment Administration.

2. Isolated Cases or Tip of the Iceberg?

Still, the cases filed at the Philippine diplomatic posts and in Manila comprise a tiny proportion of annual deployments.

There are two possible reasons for the small number: either violations are not as rampant as sometimes portrayed in the media or the grievance machineries in both countries are not worthwhile options for many aggrieved parties, especially workers. Group interviews with migrants strongly suggest the latter. Migrants in the United Arab Emirates were generally reluctant to file charges for fear of prejudicing their immigration status or jeopardizing their chances to migrate again. Top officials from the Philippine adjudication system and nongovernmental organizations (NGOs) that provide legal assistance share this sentiment.

Aware of the difficulties in pursuing a case, officials within the government are quite sympathetic to the many workers who decide to accept a cash settlement from erring recruiters rather than continue with their court case. For Alejandro Padaen, director of adjudication at POEA, the critical issue boils down to money. Many migrants are not interested in holding agencies accountable to the law but mainly in recovering the expenses they incurred so they can afford to migrate again. The migrants are, as Padaen put it, “just being practical.”⁷⁸

78. Alejandro Padaen (director of adjudication, the Philippine Overseas Employment Administration), interview by author, October 28, 2009.

Nena Fernandez, executive director of Kanlungan Centre Foundation, and Joey Rodrigo, case officer of Blas Ople Center and Training Institute, understand migrants' tendency not to post formal complaints. Fernandez and Rodrigo both work for NGOs that provide training and legal support, among other services, to prospective and returning migrant workers. They find that since many live in the provinces, migrants would incur hefty transportation and other costs to pursue cases filed in the capital.⁷⁹

Philippine government officials said they have tried very hard to make the grievance mechanism simple and accessible for migrants who want to use it. Padaen explained that the adjudication proceedings do not require the complainant to have a lawyer, though the government provides legal assistance to help workers formulate their complaints. According to Padaen, the most important thing for the Philippine government is for migrants to present genuine and verifiable documents when filing a case against their recruiters. This allows the government to more easily come up with a conclusion if complaints are true.⁸⁰

Fernandez and Rodrigo believe the government can do better, especially in the timely resolution of cases.⁸¹

D. Dealing with Illegal Recruitment

Beyond monitoring and adjudicating complaints against accredited agencies, the Philippine government has a bigger challenge: curtailing the growth of illegal recruiters, meaning agencies and individuals that do not have a government license as well as those with valid licenses who commit illegal activities. Interviews with industry practitioners all point to illegal recruiters' thriving businesses in the Philippines. There is no clear or official estimate of how many such agencies there are or their share of the market. Rene Cristobal, president of Manpower Resources of Asia and a long-time recruiter, suggests that about two-thirds of all recruiters in the Philippines conduct illegal activities.⁸² Considering all the government paperwork involved in deploying workers, illegal recruiters typically falsify documents.

The Philippines has a small program that provides legal assistance to victims of illegal recruitment and related cases, assists in the prosecution of suspected illegal recruiters, and conducts special operations, such as surveillance of persons and entities suspected of engaging in illegal recruitment. However, migrants, industry executives, and government officials expressed that much remains to be done. For instance, from 2005 to 2007, the Philippine government received 420 complaints against illegal recruiters that send migrants to the United Arab Emirates. In the same period, the government arrested eight recruiters. Five cases were dismissed due to the lack of a complainant; the rest are still pending.

For the Philippine government, part of the problem lies in migrants' preference to remain silent, and if they do come forward, their quickness to drop a criminal case and/or settle out of court. For migrants, the problem lies in the governments' inability to provide an environment that makes pursuing a case against a recruiter a practical option.

79. Nena Fernandez (executive director, Kanlungan Center Foundation) and Joey Rodrigo (case officer, Blas Ople Center and Training Center), interview by author, October 22, 2009.

80. Padaen interview.

81. Fernandez and Rodrigo interview.

82. Cristobal interview.



Rosalinda Baldoz, undersecretary of the Philippine Department of Labor and Employment, explains that since illegal recruitment is a criminal offense, every case has to go through the Philippine criminal justice system, which is “so slow and inefficient.” For Baldoz, even though illegal recruitment is punishable by life imprisonment, the punishment “does not instill fear among illegal recruiters because they can pay not only the officials who will handle the case but also pay the victims and the family, who are in need of money. Without a witness, the case falls flat on the government’s face. It is very difficult to build up to the level of prosecution.”⁸³

Even those cases successfully brought to prosecution have been dismissed because the principal witnesses did not attend the hearings. Baldoz acknowledged that cases can “drag on for years” since the Philippines’ “investigation, prosecution, and legal adjudication system are not that fast.” Baldoz said pursuing an illegal recruitment case is even more complicated because “it is a transnational offense that would require high-level coordination and intervention among government authorities.”⁸⁴

Interviews with recruiters suggest that the government’s difficulty in adequately stemming illegal recruitment practices sends the wrong message to the recruitment industry. The extremely large profits illegal recruiters make only reinforce the sentiment that illegality pays more than abiding by the rules.

83. Rosalinda Baldoz (undersecretary, Philippine Department of Labor and Employment), interview by author, October 29, 2009.

84. Baldoz interview 2009.

V. Streamlining a Three-Tiered Labor Migration System via Control

The inconsistencies between the Philippine and UAE regulatory systems, coupled with the difficulty in ensuring compliance within and especially across borders, essentially have created a three-tiered labor migration system.

The top tier is a documented and organized labor migration flow based on written contracts that follow regulatory guidelines of both countries. Lurking just beneath it, however, are movements that are often documented but nonetheless are based on informal or secondary agreements typically characterized by a lower wage than legally allowed or stated in the contract, a different job, and reduced or foregone benefits. The size of this informal middle layer generally varies by skill level and sex, with most abuse happening in vulnerable, low-skilled, low-value, and typically female-dominated occupations. The third tier includes those who bypass the system altogether and travel to the United Arab Emirates on visitor visas. By going directly to the employers, visitors save on the monetary and other costs associated with an agency-mediated migration — but they also forego the protection that the documented channel provides. Although these migrants leave the Philippines under an improper visa, they enter the United Arab Emirates legally as tourists or workers.

In-depth interviews with key Philippine and UAE officials suggest a strong inclination to streamline the migration flow and bring more workers to the top tier. As of this writing, both countries, under increasing pressure from the international community, are reviewing their regulatory frameworks. According to these interviews, future reforms might involve even more stringent regulations that would make it harder for low-skilled migrants to enter the system and for scrupulous recruitment agencies to receive and keep a license.

A. Keeping Low-Skilled Migration Low

Since most disputes over recruitment and contract violations involve workers in vulnerable and low-skilled sectors, particularly domestic work, the Philippine government has focused on shifting deployment away from low-skilled and low-value occupations in favor of higher-skilled categories of workers. From the government's perspective, high-skilled workers are less vulnerable simply because they have the skills to negotiate better terms with employers. The training that domestic workers must have before they leave the Philippines, discussed earlier, is an effort toward this end — as are very recent pronouncements from Philippine lawmakers calling for an outright ban on sending Filipina domestic workers to the United Arab Emirates due to numerous cases of abuse.⁸⁵

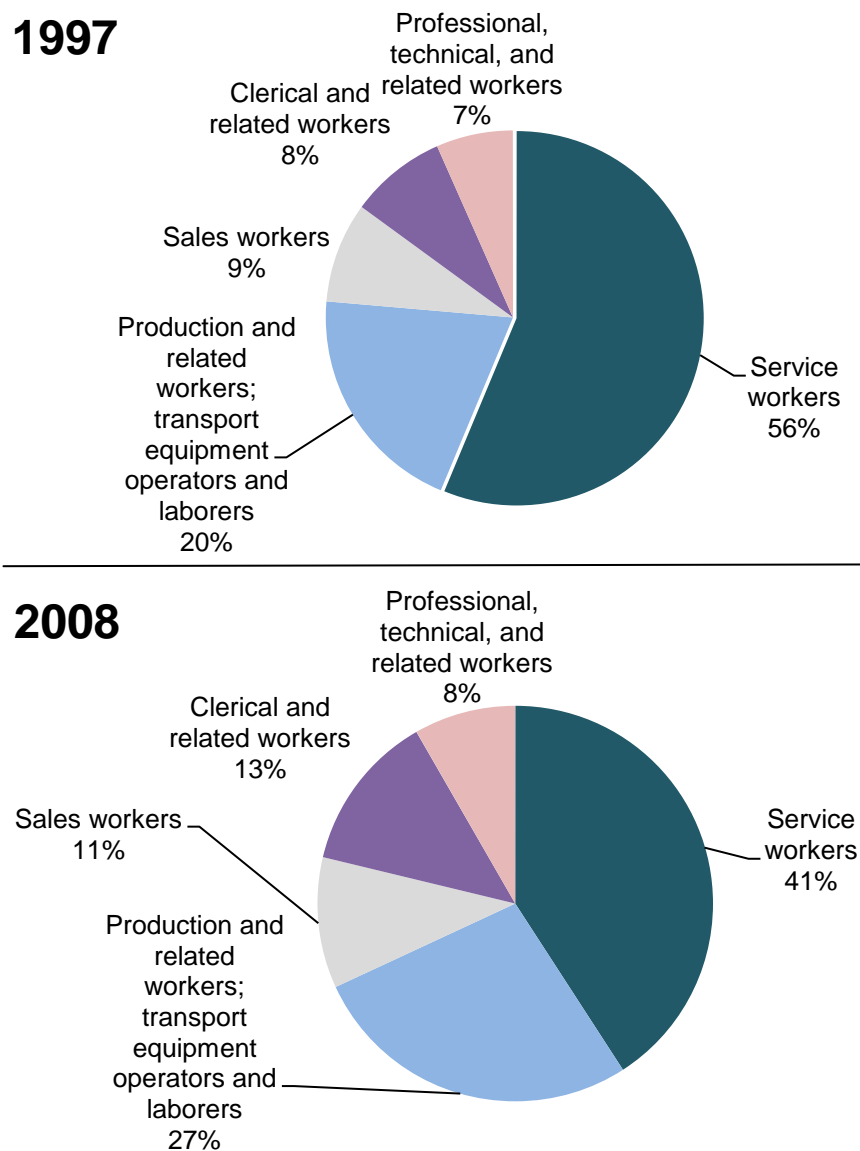
A closer look at official data suggests that the government may be inching closer to its goal. Service workers, a category that includes domestic workers, comprised 56 percent of new hires going to the United Arab Emirates in 1997 (see Figure 6). That share dropped to 41 percent by 2008. Simultaneously, deployment of newly hired professionals has increased fivefold, from fewer than 800 in 1997 to more than 5,000 in 2008. The share of other categories, particularly sales workers and clerical and related workers, also jumped by a huge margin.

85. Philippine News Agency, "House panel recommends stop on deployment of DH in Middle East Philippines," November 9, 2009.



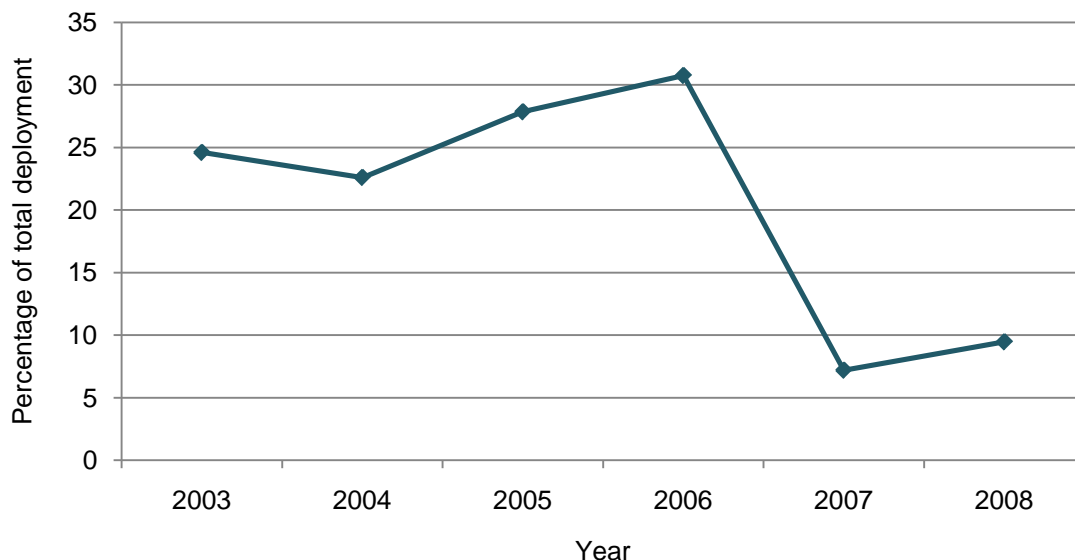
A sharp decline in the largest occupation within the service-workers group — domestic workers — accounts for the decrease. After exhibiting an upward trend from 2003 to 2006, domestic workers' share of all deployments plummeted to 7 percent in 2007 (see Figure 7). Although confirmed data for 2008 and preliminary data for 2009 suggest a rebound in numbers, they are nowhere near the all-time high (31 percent) recorded in 2006.

Figure 6. OFW Deployment to the United Arab Emirates by Sector, 1997 and 2008



Source: Philippine Overseas Employment Administration, 1997 and 2008.

Figure 7. Deployed Domestic Workers as a Proportion of Total Deployment to the United Arab Emirates, 2003 to 2008



Source: Philippine Overseas Employment Administration.

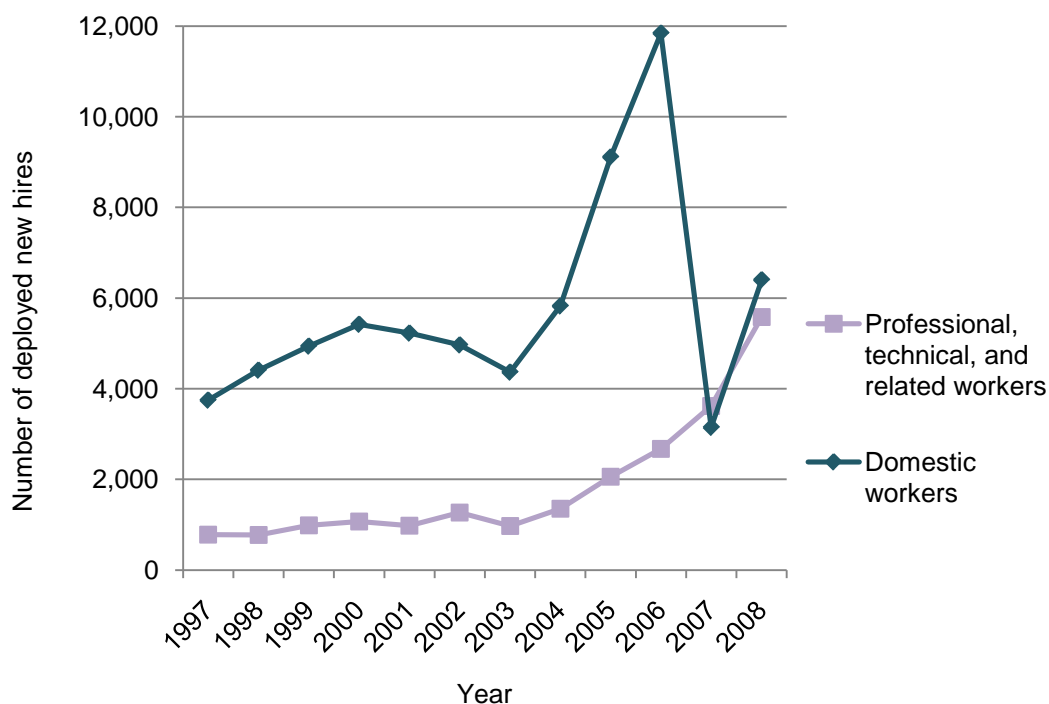
The steep drop in domestic workers in 2007 most likely resulted from the stricter requirements for hiring Filipino domestic workers introduced in 2006. However, as already discussed at length, domestic workers are still leaving but as tourists or as a different class of worker to bypass the new requirements. Migrant organizations are concerned that the policy had the unintended effect of forcing these migrants to take the illegal route.⁸⁶

Despite the decrease in domestic-worker deployments, however, official data show that domestic work remains the top occupation for newly hired OFWs in the last 15 years. In 11 of the last 12 years, the Philippines sent more domestic workers than all types of professional, technical, and related workers combined (see Figure 8). Indeed, despite an increase in number, professionals still made up the smallest number of new hires for most of the last 15 years.

86. Minutes of the Consultative Council on Overseas Filipino Workers (first meeting, Intramuros, Manila, April 9, 2008); Maruja Asis (director, Scalabrini Migration Center), interview by author, October 29, 2009.



Figure 8. Deployment of New Hires to the United Arab Emirates, Domestic Workers and Professional, Technical, and Related Workers, 1997 to 2008



Source: Philippine Overseas Employment Administration.

In 2008, the top ten occupations, predominantly held by females and accounting for more than 50 percent of new-hire deployments, were all in the low- and semiskilled category (see Table 5).

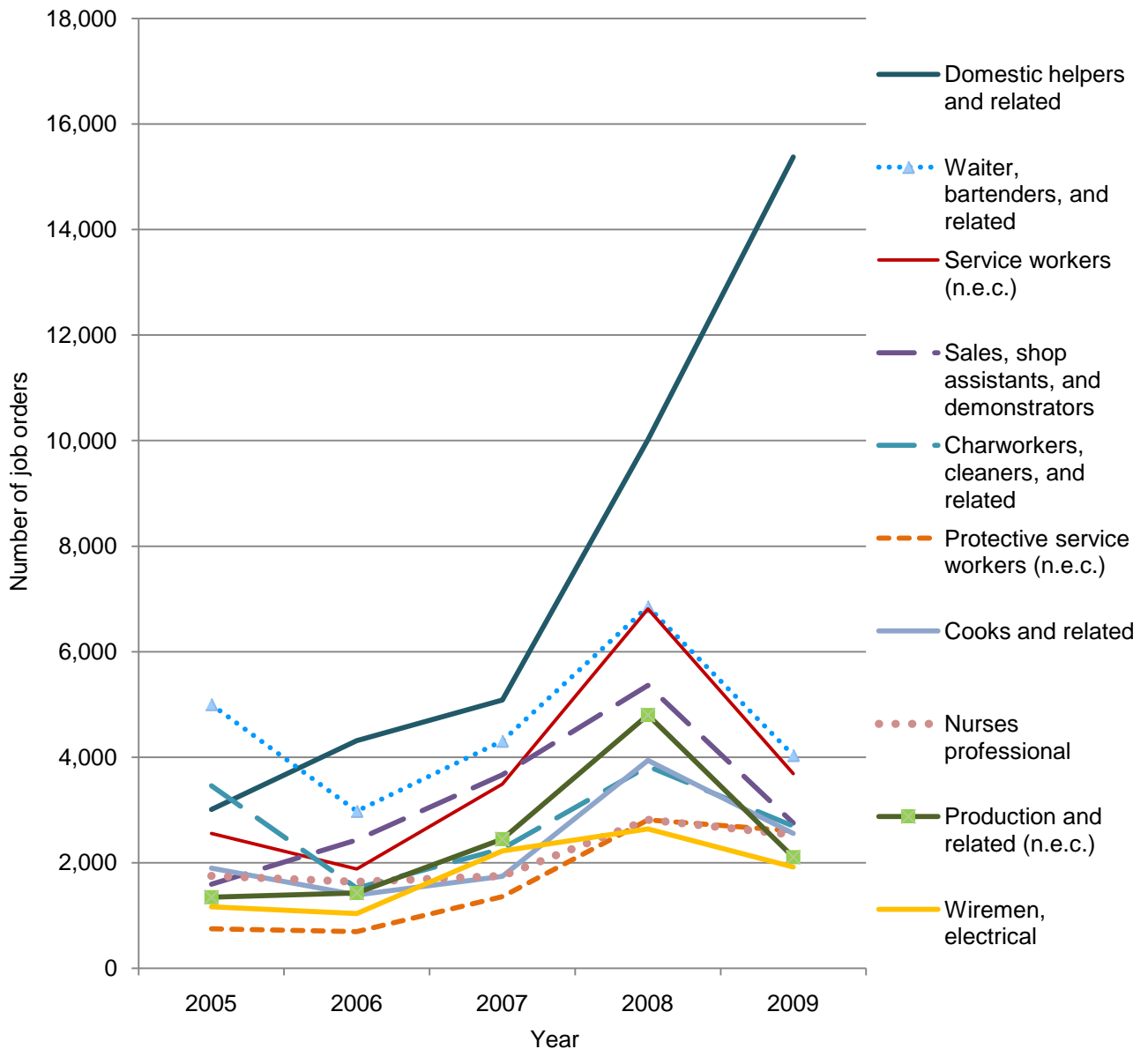
Table 5. Top Ten Occupations of New Hires to the United Arab Emirates, 2008

Occupation	Male	Female	Total	Share of 2008 deployment
Total deployment of Filipinos to the United Arab Emirates	26,719	40,943	67,665	100
Domestic workers and related household workers	46	6,357	6,403	9.5
Salesmen, shop assistants, and demonstrators	799	4,146	4,945	7.3
Waiters, bartenders and related workers	985	3,312	4,297	6.4
Service workers	1,013	2,824	3,838	5.7
Caretakers of buildings	48	2,974	3,022	4.5
Production and related workers	1,350	1,510	2,860	4.2
Cleaners and related workers	364	2,484	2,848	4.2
Stock clerks	473	1,403	1,876	2.8
Cooks	173	1,471	1,644	2.4
Clerks and related workers	314	1,252	1,566	2.3
Total	5,565	27,733	33,299	49.3

Source: Philippine Overseas Employment Administration.

If successful, a policy focused on shifting deployment away from low-skilled and low-value occupations would likely reduce the number of recruitment violations. However, this approach has two main problems. First, shifting away from low-skilled occupations can be very difficult to achieve if the demand for these occupations remains strong. As Figure 9 shows, employers in the United Arab Emirates want low- and semiskilled workers although the global economic crisis, which hit Dubai’s construction and tourism industries especially hard, diminished demand in almost all occupations in 2009. The demand for Filipino domestic workers, however, has remained strong despite the stricter requirements and the recession.

Figure 9. Top Ten Approved Job Orders to the United Arab Emirates, 2005 to 2009



Source: Philippine Overseas Employment Administration.



As long as the demand for domestic workers remains high and Filipinos remain willing to meet this demand, policies focused on restricting flows may not fully succeed. The Philippine experience with sending domestic workers to Jordan provides a good lesson on how a ban works in practice (see Box 2).

Box 2. Banning Domestic Workers from Going to Jordan: Did It Work?

In 2008, the Philippines stopped sending Filipino domestic workers to Jordan because the Jordanian government had not enacted regulations to protect them. The ban, however, did not prevent domestic workers from slipping into the country. According to Julius Torres, the Philippine ambassador to Amman, more than 5,000 Filipinos had defied the ban in Jordan as of January 2009.

The Philippine experience in Jordan shows that banning deployment of workers in vulnerable occupations could force a noncooperative country to reconsider its policies. But such a ban also comes with the risk of pushing migrants to take the illegal route, which, ironically, may only increase their vulnerability. Ambassador Torres was quoted in the media as saying, “The ban made our voice heard, but I know it doesn’t solve the problem of employers’ maltreatment or abuse.”

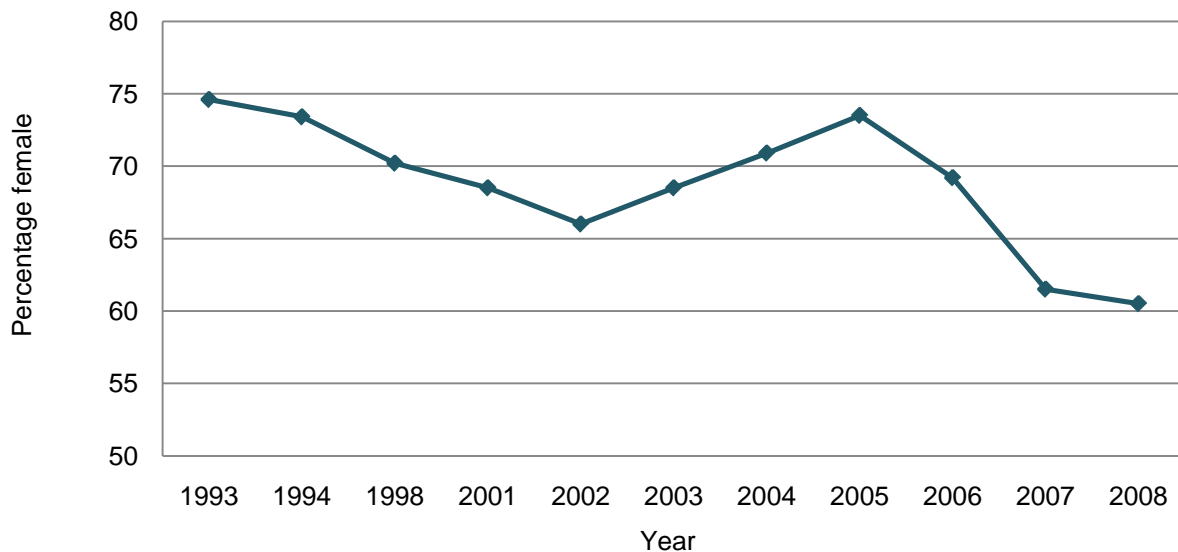
In April 2009, Philippine president Gloria Arroyo approved the lifting of the deployment ban. However, the actual reversal date has yet to be finalized pending the results of an ongoing government negotiation between the two countries.

Source: Jamal Halaby, “Filipino maids in Mideast jobs say they face abuse,” Associated Press, January 18, 2009.

Second, since many low-skilled migrants are women, this approach would likely limit women’s access to legal migration channels, a trend that is becoming more evident in Filipino migration to the United Arab Emirates. In 1993, when the Philippine government started tracking deployments by gender, nearly 75 percent of newly hired workers going to the United Arab Emirates were women. By 2008, the proportion of female migrants had declined to 60 percent (see Figure 10).

Closing the door to low-skilled women could negatively affect the country’s progress in alleviating poverty. Contributions coming from this segment are channeled to the Philippines’ relatively poorer communities and households to which they belong. These remittances, which cover basic living expenses as well as school fees, are the single most reliable economic indicator of migration’s impact.

Figure 10. Proportion of Female Migrants among New Hires Headed to the United Arab Emirates, 1993 to 2008



Source: Philippine Overseas Employment Administration.

B. Keeping Visitors in Check

Concerned about migrants from the Philippines and elsewhere using visitor visas to find employment directly, the United Arab Emirates in 2008 increased the visitor-visa processing fee 350 percent, from 110 dirhams (US\$29) to 500 dirhams (US\$135).⁸⁷ The UAE government also began requiring visitors to make a 1,000 dirham (US\$270) refundable deposit and take out health insurance during their stay. Migrants found working on a visitor visa can be fined more than 50,000 dirhams (US\$13,513) and are banned from reentering the country. Employers also face harsher penalties, such as higher fines.⁸⁸

Government officials in both countries suggested that the use of the visitor-visa route to employment has decreased. In group interviews, Filipino migrants who used visitor visas said the recession in the United Arab Emirates — namely the lack of jobs — may be the reason for the decline, not necessarily the new visa rules. Indeed, many of those interviewed have told relatives and friends back home to postpone their visits until the job market improves. Migrants who use this route have a high tolerance for costs since many find it to be a safer, faster and, ultimately, more cost-effective alternative to agency-mediated migration.⁸⁹ They are willing to pay a higher price at the outset in exchange for the opportunity to choose an employer and bargain for a better salary and benefits.⁹⁰ Comparatively speaking, these migrants are not necessarily wealthier or more skilled than those who use recruitment agencies. Their biggest advantage is access to credit or grants from relatives and friends in the United Arab Emirates and free or subsidized board and lodging once they reach their destination. Indeed, having a strong social network, common among those using visitor visas, decreases the associated risks.

87. *Recruiter*, “Firms hit by big hike in cost of UAE entry visas,” August 6, 2008.

88. *Hindustan Times*, “New UAE visa rules likely to affect Indians, Pakistanis and Nepalis,” July 25, 2008.

89. Discussions with Filipino migrants, Dubai.

90. *Ibid.*



Once the UAE economy improves, it is doubtful that even another round of fee hikes or additional requirements would deter Philippine migrants from using visitor visas.

C. Keeping Unqualified Recruiters out of the Process

Officials within the Philippine and UAE governments have discussed coming up with stricter provisions that would make it harder for unscrupulous recruitment agencies to receive a license. Currently, Philippine recruiters have to meet nationality requirements and prove financial and personal competence. UAE recruiters have similar requirements but with lower thresholds and standards (see Box 1).

As of this writing, the United Arab Emirates is reviewing its licensing regulations with the goal of creating provisions similar to those in the Philippines.⁹¹ The Philippine model also strongly suggests encouraging economies of scale among recruiters because it serves two purposes. First, larger recruiters tend to be more efficient and stable and have lower costs. They profit from many migrants, not just a few, and therefore can afford smaller placement fees. Second, a smaller number of larger players is relatively easier to monitor, an important consideration for many developing-country governments with limited institutional capacity. However, although the government has increased entry barriers over the past three decades, the Philippine recruitment industry remains saturated, demonstrating how difficult it is for government to control the number of agencies.

I. Saturated Market

The top ten agencies sending Filipino workers to the United Arab Emirates have seen their market share decrease from 34.8 percent in 2000 to 23.8 percent in 2009 although their absolute number of deployments has nearly doubled (see Table 6).

Table 6. Top Ten Agencies Deploying Workers to the United Arab Emirates, 2000 and 2009

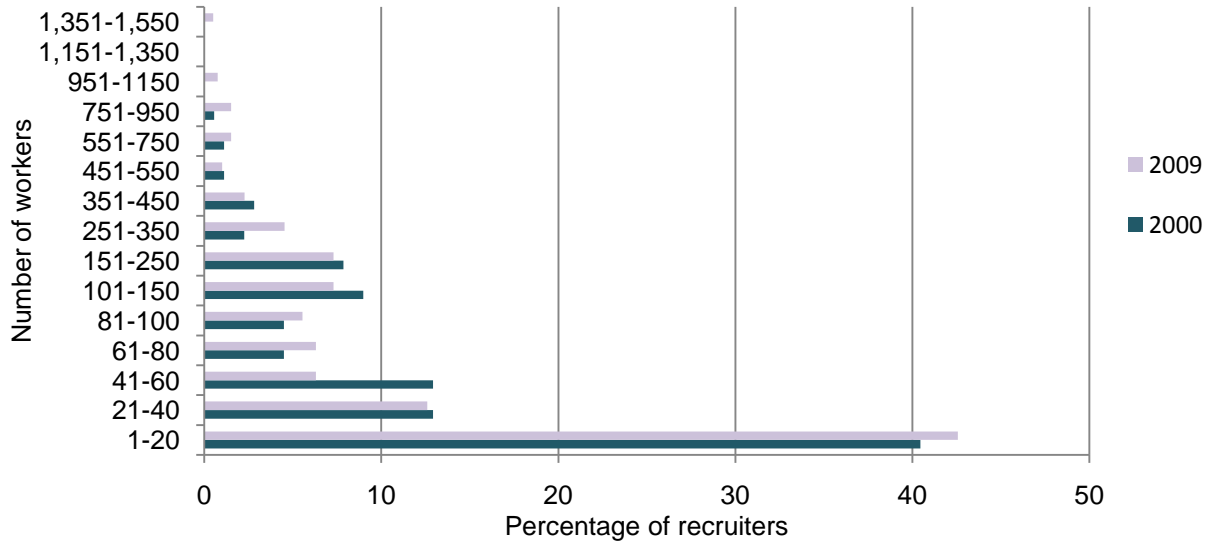
Agency rank	2000		2009	
	Deployment	% total UAE deployment	Deployment	% total UAE deployment
1	778	5.2	1,480	3.5
2	716	4.8	1,468	3.4
3	615	4.1	1,067	2.5
4	538	3.6	1,024	2.4
5	484	3.3	1,016	2.4
6	433	2.9	887	2.1
7	425	2.9	819	1.9
8	419	2.8	807	1.9
9	390	2.6	799	1.9
10	367	2.5	791	1.9
TOTAL	5,165	34.8	10,158	23.8

Source: Philippine Overseas Employment Administration.

91. Zalami interview.

Among all agencies sending Filipinos to the United Arab Emirates, most sent a very small number. In 2009, 43 percent of recruiters sent less than 20 workers. Within this group, 31 agencies sent just one worker to the United Arab Emirates. This pattern is the same for 2000 and 2009 (see Figure 11).

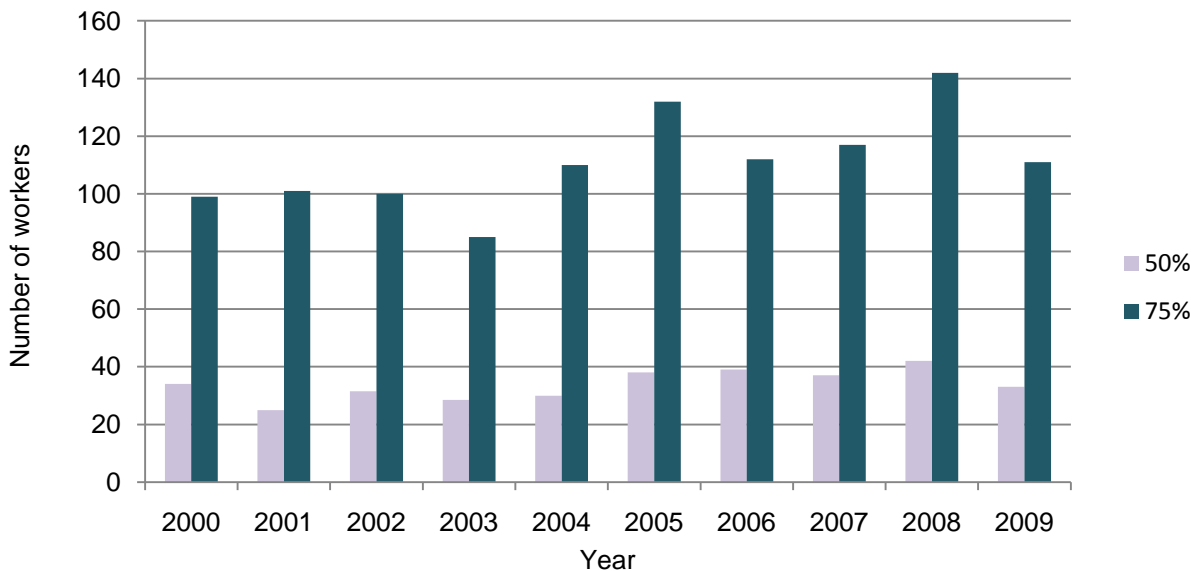
Figure 11. Proportion of Filipino Recruiters by Number of Workers Sent to the United Arab Emirates, 2000 to 2009



Source: Philippine Overseas Employment Administration.

Indeed, for the last nine years, 75 percent of recruiters sent fewer than 140 workers annually while 50 percent sent fewer than 40 workers per year, with very small annual variations (see Figure 12).

Figure 12. Number of Workers Sent Each Year by 50 Percent and 75 Percent of Filipino Recruiters, 2000 to 2009



Source: Philippine Overseas Employment Administration.



Industry insiders acknowledge that many agencies are not doing well. Emmanuel Geslani, a recruitment industry consultant, estimated that of the more than 1,000 active recruitment agencies nationwide, about 30 percent are doing well, another 30 percent are breaking even, and the rest barely make ends meet.⁹² Failing agencies do not necessarily leave the market, however. They may prefer to reduce their losses by exploiting migrants, for instance by asking for unauthorized fees.

Long-time recruiter Cristobal said the requirements on capitalization and bonds, which he thinks are already “very high,” have not kept unqualified recruiters out of the market. The high entry barriers only “become a justification for agencies to collect payments from the applicants as a form of security.”⁹³ Industry practitioners warn that further raising requirements would only drive Filipino-owned recruitment agencies out of the Philippine market.

2. Increasing Layers and Unwanted Actors

Interviews with others in the recruitment industry suggest problems in two areas that endanger the viability of smaller Philippine recruiters: the increasing layers of intermediaries and the proliferation of foreign-owned or controlled recruitment agencies in the Philippines and United Arab Emirates.

According to Victor Fernandez, president of the Philippine Association of Service Exporters, which represents nearly 800 recruitment agencies, Philippine recruiters can most easily get job orders by dealing with recruitment agencies in the United Arab Emirates because UAE-based agencies have easier access to employers and can market their services more efficiently. Many UAE recruitment agencies in the United Arab Emirates today are controlled by Indians, Pakistanis, and other non-Emiratis who, Fernandez said, run their businesses like a “syndicate.” Philippine recruitment agencies partnering with them have to pay more since costs are fixed across many agencies and options for partnerships are limited. Although there are fairly refutable agencies in the United Arab Emirates, many no longer pay service fees to recruiters in the Philippines because they are in high demand. Fernandez noted that big recruitment agencies in the Philippines can afford to bypass UAE agencies by working directly with large employers. As Fernandez put it, since an “intermediary is always a layer and also needs to earn,” migrants end up bearing much of the additional cost.⁹⁴

Lito Soriano noted that the recruiting process operated differently in the late 1970s and early 1980s. At that time, the majority of Philippine recruiters worked directly with employers, who were more than willing to pay the service fees and other costs associated with the deployment process. Destination countries like the United Arab Emirates had no agencies that recruited labor from abroad, and employers had little experience with the Philippine labor market; they saw recruitment agencies as trustworthy partners. He contends that the market wage was even higher than what the Philippine government prescribed at that time. Eventually, however, enterprising Emiratis set up recruiting agencies, blocking direct contact with employers.

For Soriano and others in the industry, the proliferation of foreign-owned recruitment agencies in the Philippines exacerbates the problem. Although Filipino law requires Filipinos to be majority owners, industry insiders assert that an alarming number of agencies have foreigners owners

92. *Business World*, “Year End Report: Manpower: Safe and Secure Returns,” January 15, 2009.

93. Cristobal interview.

94. Victor Fernandez (president, Philippine Association of Service Exporters), interview by author, October 28, 2009.

who have married or hired Filipinos to act as proxies. These foreign owners typically control the company as members of the board.

The trend began in the late 1980s. As Soriano explained, the “demand side has come to the supply side.” Fernandez estimated that foreigners mainly from the Middle East own around 20 percent of the agencies in the Philippine recruitment industry. These new players differentiate themselves from other Philippines agencies because of their connections with employers abroad and their access to job orders. If the Philippine government were to raise the financial requirements for agencies, Fernandez said only foreign-owned agencies “with their deeper pockets” could adapt to increasing barriers.⁹⁵

VI. Changing Rules and Changing Ways: Finding Viable Options for Reform

In a global employment market with high stakes, both the United Arab Emirates and the Philippines must recognize that cumbersome and rigid regulations can easily breed corruption and abuse, force workers and agencies out of the legal system and into illegal channels, and even price workers out of the market. Excessive and complex regulations, especially without meaningful enforcement, seem to have created additional incentives for agencies and other actors, such as corrupt officials and ruthless employers.

The key challenge for the Philippine and UAE governments is to develop a balanced set of regulations in tune with realities on the ground. They also need to encourage informal recruiters to establish legitimate businesses — not force legitimate recruiters to conduct illegal activities. Although more stringent regulations may be warranted in many instances and for many reasons, that route should be taken only after accounting for market forces. Otherwise, as the preceding chapter shows, provisions designed to discourage informal movement may have very little impact or, in the worst-case scenario, only facilitate more illegal movement.

A closer look at the Philippine-UAE recruitment corridor suggests that policymakers may want to first address the policy mismatch between the two systems. The regulatory and enforcement efforts of different governments will be fully effective only if both host and source countries are equally committed to introducing and enforcing compatible rules.

A. Changing Rules

It is beyond the scope of this report to identify and enumerate all the specific policies that may benefit from harmonization. As the discussion in Chapter III showed, inconsistencies on allowable fees and employment contracts have distorted incentives for all actors involved, especially the recruiters. Both governments could start with reviewing policies in those very areas, as well on agency liability for workers.

95. Ibid.



I. Allowable Fees

A few in the Philippine recruitment industry have strongly advocated for a complete ban on charging migrants for job placement. For Cristobal, “there is no legal or moral basis for it.”⁹⁶ As already mentioned, there is no clear international consensus on whether a complete ban is ultimately a good policy. Even ILO, which used to prohibit charging any fees, has softened its stance. Citing a “different environment,” ILO’s Convention 181, introduced in 1997 and since ratified by 24 countries, allows member states to make exceptions.⁹⁷

Generally, charging workers is prohibited in industrialized countries where temporary work agencies dominate the private employment market; this prohibition is in place in all 15 European Union countries that joined the union before 2004.⁹⁸ Other countries with significant numbers of overseas recruitment agencies allow fees for select categories of workers or regulate the amount of fees to be charged. Some countries do not regulate fees at all, leaving them to the discretion of the agencies and what the market will bear.⁹⁹

Experiences from other countries suggest that similar policies should minimize abuse. For instance, a Memorandum of Understanding between the Philippines government and three Canadian provinces signed in 2008 bans agencies at both ends from charging placement fees to migrants. China and the United Kingdom’s Department of Health made roughly similar arrangements involving Chinese-nurse migration.¹⁰⁰ As these are relatively new initiatives, no evaluations have been published. Still, the United Arab Emirates and Philippine governments may choose to take a similar route.

Moreover, governments tend to limit fees that can be legally charged to migrants, but very few have extended similar protection to employers. This is a critical policy oversight, given that interviews with migrants and other informants revealed employers’ tendency to eventually pass on their costs to migrants by overworking their domestic workers or holding their passports. The UAE and Philippine governments should consider looking into Singapore’s policy, which prohibits agencies from charging employers more than the stipulated registration fee of S\$5 (US\$3) and 80 percent of the worker’s first-month earnings.¹⁰¹

2. Standardized Contracts

The UAE and Philippine governments may also choose to identify existing rules and regulations that make repro and other types of contract-substitution cases so prevalent. For instance, one problem seems to stem from the routine practice of signing contracts twice: before departure in the Philippines and again upon arrival. Both countries have very limited abilities to control what happens at the other end, leading to contract-related fraud.¹⁰² One solution may be requiring

96. Cristobal interview.

97. ILO, *C181, Private Employment Agencies Convention, 1997*, www.ilo.org/ilolex/cgi-lex/convde.pl?C181.

98. These 15 European countries are Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, the Netherlands, Luxembourg, Portugal, Spain, Sweden, and the United Kingdom.

99. International Labor Organization, *Guide to Private Employment Agencies: Regulation, Monitoring and Enforcement* (Geneva: International Labor Organization, 2007).

100. UK National Health Service Employers, “Protocol on Cooperation in Recruiting Health Professionals,” February 26, 2009, www.nhsemployers.org/RecruitmentAndRetention/InternationalRecruitment/Code-of-Practice/Nurse-recruitment-agreement-China/Pages/Protocol-on-cooperation.aspx.

101. Amarjit Kaur, “Managing the Border: Regulation of International Labour Migration and State Policy Responses to Global Governance in Southeast Asia” (paper presented to the 16th Biennial Conference of the Asian Studies Association of Australia, Wollongong, June 26-29, 2006), 21.

102. Discussions with prospective migrants, Manila.

standard contracts that both countries use and recognize. The specific provisions in these contracts would and should be a matter of debate. The Philippine and UAE governments could start with the following minimum provisions as recommended by ILO:¹⁰³

- Description of the job, site of employment, and duration of contract
- Basic and overtime remuneration
- Regular working hours, rest days, and holidays
- Transportation clauses to country/place of employment and return
- Employment-injury and sickness compensation, emergency medical care
- Valid contract-termination grounds
- Settling-of-dispute clause
- Noncash compensation and work-related benefits

The United Arab Emirates may also consider eliminating “block visas,” which allow employers to petition for a group of workers without identifying specific individuals. As Baldoz of the Philippine Department of Labor noted, the system allows so much “flexibility on the part of the employer and the recruitment agency that for purposes of immediate deployment, the block visas can be used in a manner where contract substitution takes place.”¹⁰⁴

3. Agency Liability

Another critical policy area pertains to the degree of liability agencies should have for the workers they help deploy. In the Philippines, every licensed recruitment agency is liable jointly with and separately from the foreign employer. In other words, if the foreign employer fails to comply with the contract or violates any of its provisions; the worker can, in principle, file redress against the Philippine recruitment agency. This requirement essentially turns agencies into “co-employers.” In this setup, agencies are responsible for unpaid salaries and tickets for repatriation, among other things.

The United Arab Emirates, however, adopts the opposite stance. Article 17 of the UAE Labor Law explicitly states that agencies’ “function and relationships” with migrants stop once employment starts. Agencies that recruit domestic workers, however, are expected to provide a three-month guarantee to employers and workers. Both parties can request a different employer or domestic worker during the guarantee period.¹⁰⁵

Through its joint-liability provision, the Philippine government indirectly puts pressure on foreign employers who are, after all, beyond the jurisdiction of the Philippine justice system. By requiring all agencies to accept liability for worker abuses, the onus for regulating the employer-

103. ILO, *Guide to Private Employment Agencies*, 26.

104. Baldoz interview 2009.

105. Munder interview; discussions with prospective and return migrants, Manila; discussions with Filipino migrants, Dubai.



employee relationship falls to the agencies. Ideally, this arrangement would benefit workers who would otherwise have no recourse for unfair treatment.¹⁰⁶

Unfortunately, many agencies in the Philippines are ill-equipped to enforce labor standards effectively. The bonds agencies post may not be enough to satisfy workers' claims against their employers. Agencies in these situations know their licenses will be cancelled so they close shop and abscond, explained Baldoz. Although the Philippine government reserves the right to pursue the corporate and personal assets of an agency's incorporators and stockholders, Baldoz said "it would be very difficult" to do so because the government "practically does not know what their real assets are."¹⁰⁷ In cases like these, the joint-liability provision fails to protect the worker, who has no other option for compensation.

The recruitment industry has come up with a number of alternatives to the joint-liability provision. Most recent efforts have focused on lobbying the Philippine Congress to institute a mandatory insurance scheme that would pass the financial burden of protection to an insurance company. In one proposal, the employer or agency would pay a premium of US\$35 per year or US\$55 for two years to a group policy that insures migrants against nonpayment of wages, among other problems. However, Philippine government officials and members of civil society oppose this proposal. They fear agencies are trying to renege on their responsibility to the workers and that ultimately, the cost of insurance would be passed on to the migrants. Clearly, proposals that potentially undermine the joint-liability provision require an independent assessment from a respected public or private body. In vetting this specific proposal from the recruitment industry, for instance, the Philippine Congress should seek out the opinion of the Insurance Commission, an independent Philippine government body that regulates and supervises the insurance industry.

B. Changing Rules While Also Changing Ways

Governments' focus should include changing their ways. The success of any new policy to regulate agencies will still depend on parallel initiatives that create a conducive recruitment environment. Indirect polices aimed at building capable institutions and empowering migrants will have direct, positive, and lasting impacts on recruiters' operation.

I. Creating Capable Institutions

Building institutional capacity requires renewed focus on three areas. First, the United Arab Emirates and the Philippines should commit to *fully funding existing institutions* tasked with managing temporary labor migration. Interviews with Philippine officials suggest they have consistently requested funding to augment personnel or improve facilities. The government's appropriations committee has denied those requests due to budgetary restrictions.¹⁰⁸ For instance, the Philippines' Anti-illegal Recruitment Division within the country's main regulatory body does not have enough money to be fully operational. As POEA administrator, Rosalinda Baldoz has repeatedly attempted to include a special provision in the national budget that would

106. For an analysis of the Philippine migration system, see Dovelyn Rannveig Agunias, *Managing Temporary Migration: Lessons from the Philippine Model* (Washington, DC: Migration Policy Institute, 2008), www.migrationpolicy.org/pubs/Insight_POEA_Oct07.pdf.

107. Baldoz interview 2009.

108. Adelio Cruz (first secretary, Philippine Embassy, Abu Dhabi), interview by author, November 8, 2009; Baldoz interview 2009; Galvez interview; Padaen interview.

divert excess collection or income of POEA to fund enforcement of recruitment laws.¹⁰⁹ Likewise, the Philippine labor attaché in Dubai has frequently requested funding to hire Arabic translators to no avail.¹¹⁰

Funding problems concern the Philippines more than the United Arab Emirates. As a developing country with very limited and dwindling financial resources, the Philippines faces real spending and allocation constraints, especially since the needs of its citizens at home, such as education and social welfare, are as acute as the needs of migrants abroad. Developing countries like the Philippines need to learn how to effectively share the cost of protection by aggressively tapping into private-sector and civil-society resources. To this end, the United Arab Emirates should seriously consider providing technical and financial assistance to the Philippines as it builds its institutional capacity. In supporting the Philippines' relatively developed regulatory system, the UAE government can signal to other sending-country governments that it favors attempts to improve their respective labor migration systems.

Alternatively, the UAE government could match the efforts made by the Philippine government on protecting its workers by *creating complementary institutions*. The Philippines is unique among many labor-exporting countries in the developing world because it already has sophisticated institutions to handle specific aspects of labor migration. Some of these institutions do not have clear counterparts in the UAE government. Adelio Cruz, first secretary at the Philippine Embassy in Abu Dhabi, would like the United Arab Emirates to consider creating a special department in its Ministry of Labor that would only handle cases of domestic workers.¹¹¹ Once complementary institutions exist, many of the problems outlined earlier in this report could be more effectively addressed. For instance, the UAE government knows that contract substitution is rampant. Alex Zalami, advisor to the UAE labor minister, said that linking the two government systems so that both have access to the signed contracts (no matter where they are signed) would solve the problem. The UAE Ministry of Labor is currently studying the possibility of creating a computer-based system that would randomly check contracts for discrepancies and flag suspicious cases for further investigation.¹¹² This type of system would work best if complementary institutions were already in place.

Lastly, capacity building also requires *strengthening relationships with external actors* from the public and private sectors. Civil-society groups are not just an excellent source of talent and technical expertise; their cooperation with a government institution enhances the institution's credibility and lends legitimacy to its rulings. The Filipino community in the United Arab Emirates, including church groups and professional and hometown associations, already supports Filipino migrants in distress and has been an excellent source of information. Governments in both countries should consider working with these groups.¹¹³

Efforts to control actions of recruiters may not, in themselves, be sufficient. Employers, with or without government pressure, may have to assume a more active role in the recruitment phase and ensure that their recruiters follow ethical recruitment practices. As lawyer Bruce Goldstein argues, during the 19th century, contractors and agents in the United States, Great Britain, and

109. Baldoz interview 2009.

110. Galvez interview.

111. Cruz interview.

112. Zalami interview.

113. Discussions with Filipino migrants, Dubai.



Australia curtailed their slavery-like labor and recruitment practices after the companies that hired them (facing government scrutiny of their own) pressured them to change.¹¹⁴

Indeed, businesses can be a crucial partner in influencing recruitment practices. For instance, in August 2008, an Australian television channel exposed the poor working and recruitment conditions of migrant workers in a Malaysian factory producing Nike products. In response to media attention, Nike asked the factory to reimburse all employment-related fees, including recruiting and worker permit fees, to the migrants. In the future, Nike also promised that its factory would pay any and all fees associated with employment.¹¹⁵ Similarly, clothing retailer Gap developed a code of conduct for its contractors and recruiters. Some migrant groups have acknowledged that Gap's code has been particularly useful in influencing recruitment practices.¹¹⁶

A 2008 report from Business for Social Responsibility, a professional organization with a global network of more than 250 businesses, cited the following areas where companies can actively contribute to improving the recruitment system:¹¹⁷

- Adjust companies' codes of conduct to include specific protections for migrant workers
- Train suppliers on management issues related to migrant workers and support their efforts to ensure fair treatment
- Include migrant-worker issues in auditing activities
- Tie purchasing decisions to ethical treatment of migrant workers

2. Empowering Migrants

Ultimately, effective policy interventions will also depend on migrants having more power. As already mentioned, recruitment agencies provide migrants with a wider range of choices than they could access without assistance. In this exchange, migrants typically have little ability to bargain, which often leads to fraud and abuse.

Governments, along with other stakeholders, should focus on distributing accurate information, granting migrants equal treatment and basic rights, and creating mechanisms for migrant representation. These actions would empower migrants and reduce this asymmetry.

Disseminating Information

Prospective migrants need to know their rights at home and abroad; safe recruitment, travel, and employment procedures; risks associated with unauthorized movement; available options for legal migration; labor and migration regulations at origin and destination; and what constitutes illegal recruitment.¹¹⁸ Allowing agencies to monopolize this type of information is a recipe for migrant abuse.

114. Bruce Goldstein, "'Merchants of Labor' in Three Centuries: Lessons from History for Reforming 21st Century Exploitation of Migrant Labor," in *Merchants of Labor*, ed. Christiane Kuptsch (Geneva: International Labor Organization, 2006), 35.

115. Business for Social Responsibility, *International Migration: A Responsible Role for Business* (San Francisco: BSR, October 2008), 6, www.bsr.org/reports/BSR_LaborMigrationRoleforBusiness.pdf.

116. *Ibid.*, 29.

117. *Ibid.*, 2.

118. Nilim Baruah, "The Regulation of Recruitment Agencies: Experience and Good Practices in Countries of Origin in Asia," in *Merchants of Labor*, ed. Christiane Kuptsch (Geneva: International Labor Organization, 2006), 41; and Ibrahim

For instance, it is important for domestic workers to understand how the legal system works in the United Arab Emirates. Consul Adelio Cruz in Abu Dhabi explained that some domestic workers who faced abusive conditions have absconded and temporarily stayed with friends and relatives. Only when the employer filed a case against them did they visit the consulate for help. Cruz said migrant workers need to know that if abuse occurs, they should go to the police immediately to report the abuse, take the necessary medical examinations to substantiate claims, and then file a case against the employer at the immigration bureau or with the police. In cases that follow this procedure, the Philippine government can “more easily demand for repatriation if that is what the domestic worker wants,” preventing a prolonged stay at the Philippines’ safe house.¹¹⁹

The Philippine government can spread this type of critical information through the media and more directly through training and seminars. The Philippine government should seriously assess how effective the mandatory predeparture orientation seminars are in helping build skill sets and familiarizing would-be migrants with the culture and practices in the United Arab Emirates. Members of civil society and recruiters alike have noted that these seminars are very short, lasting only a day, and in many cases are still conducted late in the migration process, typically just days before departure.

Some in the recruitment industry argue that trainings and seminars should be targeted at people who are contemplating whether to work abroad so that they have few illusions about what lies ahead. This is the right approach, as long as viable funding options can be identified. Seminars at this stage could include topics such as illegal recruitment practices and government procedures. Accredited NGOs or local government officials could convene the seminars at the district or *barangay* (small village) level, ensuring that migrants would not have to travel to become informed.

Migrants also need information when they are in the United Arab Emirates. The UAE government could follow the example of other places with large migrant-worker populations. In Hong Kong, for instance, migrant workers receive booklets on their rights and obligations when they arrive at the Hong Kong airport. The guides are available in the languages of dominant migrant groups. The UAE Ministry of Labor could develop a similar brochure, with a version tailored to domestic workers that specifies their rights and obligations, as well as areas of caution. These brochures could be distributed at the airport and prominently displayed at places of worship and public locations where migrants congregate. Other entities, such as diplomatic posts and social organizations, could also distribute the brochure in the Philippines and within the United Arab Emirates.

Granting Equal Treatment and Basic Rights

Another important component of empowering migrants is the granting, at the very least, of equal treatment and basic rights. Without these, migrants are vulnerable to exploitation. It is not a coincidence that many cases of recruitment-related abuse involve domestic workers, who have limited protection under UAE law.

Awad, “Merchants of Labour in the Middle East and North Africa: Egypt as a Case Study,” in *Merchants of Labor*, ed. Christiane Kuptsch (Geneva: International Labor Organization, 2006).

119. Cruz interview.



Of course, which rights and how they are codified will and should be a matter of intense debate between the two governments, but reaching consensus certainly should be possible. Protecting migrants from abusive recruitment practices requires, at the minimum, a healthy and honest discussion.

Both governments could start with ILO recommendations on the set of minimum rights that should be afforded to migrant workers. They include the following:¹²⁰

- Freedom of association and collective bargaining
- Adequate protection in terms of minimum wages, working time, and other working conditions
- Statutory social security benefits
- Access to training; occupational safety and health
- Compensation in cases of occupational accidents and diseases and insolvency, and protection of workers' claims
- Maternity protection and benefits

The UAE government has responded to international pressure by explicitly saying it intends to improve the welfare of migrant workers.¹²¹ Just in the last three years, it has hosted a series of human-rights-related workshops and signed MOUs with key migrant-sending countries, including the Philippines. Also, government officials have attended various international and regional forums on migration and human-rights issues. In 2008, the UAE government announced a pilot project with the Philippines and India aimed at identifying “best practices in the administration of the temporary contractual employment cycle.” A specific goal of the pilot is to “to introduce policies and procedures that improve the recruitment and predeployment of temporary contractual workers.”¹²²

In addition, the UAE government has introduced some reforms that give migrant workers additional leverage in what has otherwise proved an unequal employment relationship. For instance, since 2007, the UAE Cabinet has allowed workers in all labor sectors to transfer employer sponsorship, meaning they can work for a different employer than the one that brought them over without losing their work permission.¹²³ Workers who have been cheated on wages or not paid for more than two months can also request immediate release from their employer sponsorships if they so choose.

Clearly, more areas require reform. Given that domestic workers face much recruitment- and labor-related abuse, both governments should at least jointly determine how to include domestic workers in UAE labor laws. They should also identify promising practices in other key destinations of domestic workers, such as Hong Kong and Singapore.

120. ILO, *Guide to Private Employment Agencies*, 25.

121. UAE Interact, “Statement of the Minister of State for Foreign Affairs before HRC,” March 19, 2009. www.uaeinteract.com/docs/Statement_of_the_minister_of_state_for_foreign_affairs_before_HRC/34855.htm.

122. International Organization for Migration, “Labour Mobility in Asia – Managing the Temporary Contractual Employment Cycle,” www.iom.int/jahia/jahia/facilitating-migration/labour-migration/labour-mobility-Asia-managing-temporary-contractual-employment-cycle.

123. Embassy of the United Arab Emirates in Washington, DC, “Labor Rights in the United Arab Emirates,” www.uae-us.org/page.cfm?id=145.

Creating Mechanisms for Migrant Representation

Lastly, it is important for both governments to create clear avenues or mechanisms that allow them to regularly consult with migrant workers. The recruitment industry, employers, and some actors in civil society, using the media and through active lobbying, have been very vocal and quite specific about the reforms they want the Philippine and UAE governments to adopt. Sorely missing from the current discourse, however, are the voices of migrants.

Other countries have models worth considering. One of the most promising is an advisory council, usually a mix of migrant-community leaders and government officials who advise the government on matters concerning their welfare at the destination. Since 2003, Mexico has convened an advisory and consultative body composed of Mexican, Mexican-American, and Mexican-Canadian community leaders; directors of Latino organizations; and special advisers and representatives of Mexican state governments. The majority of its members are elected or appointed by the Mexican communities in each of the areas Mexican consulates serve in the United States and Canada, while a few are appointed based on merit and career.¹²⁴ The advisory council has had many achievements. For instance, due in large measure to the pressure exercised by council members, passport and consular ID fees now remain within the Mexican Foreign Affairs Ministry to finance the consular network's activities.¹²⁵

Mechanisms for representation are particularly significant since they can be an excellent source of feedback from, and other relevant information about, migrant workers.

Beyond their functional worth, migrant representation has symbolic value. Interviews with migrant workers suggest strong distrust of the Philippine and UAE governments. Many migrants expressed doubt that the Philippine and UAE governments would prioritize them over employers and agencies who have more money, resources, and (in the case of the United Arab Emirates) rights. Whether this negative perception is ultimately warranted is open to debate; clearly, the perception exists. Consulting migrant workers generates trust and ownership in a government-led process, increasing the likelihood of a policy's success.

Current and past efforts within the Philippine government show the difficulty in effectively instituting mechanisms for representation. In 2001, Patricia Sto. Tomas, then labor secretary, formed the Consultative Council on Overseas Filipino Workers (CCOFW), a forum for key government officials and heads of select migrant organizations to discuss issues concerning Filipino migrant workers. With POEA as the secretariat, CCOFW initially convened on a fairly regular basis but lost momentum after a few years. Carmelita Nuqui, president of the Philippine Migrant Rights Watch (PMRW), a network of migrant NGOs, said that participants from both sides lost interest due to disagreements about the scope of the council's agenda and difficulties reaching consensus on key policy issues.

Despite its limitations, CCOFW had one critical accomplishment: it allowed government officials and NGO leaders to communicate directly, if not necessarily productively, with each other. With prodding from PMRW, the council met again in April 2008 after a two-year hiatus.¹²⁶ Its future

124. Institute for Mexicans Abroad, "CCIME 2006-2008," www.ime.gob.mx/ccime/ccime_06_08.htm.

125. Carlos González Gutiérrez, "The Institute of Mexicans Abroad: An Effort to Empower the Diaspora," in Dovelyn Rannveig Agunias, ed. *Closing the Distance: How Governments Strengthen Ties with their Diasporas* (Washington, DC: Migration Policy Institute, 2009).

126. Carmelita Nuqui, interview by author, June 30, 2008; letter to Rosalinda Baldoz from Carmelita Nuqui, March 13, 2008.



remains uncertain, however. Consultative councils like CCOFW can work, but they are difficult to sustain in the long run, especially once disagreements between migrants and the government become entrenched. Formal arrangements, preferably rooted in law, would be a more effective way to engage migrants.

Migrant workers are also represented on the governing boards of two of the key Philippine government agencies that manage labor migration. It is unclear whether the representatives are truly connected to their constituencies. Some migrant organizations say the representatives have failed to adequately represent the needs and concerns of migrant workers. Some have also questioned the lack of transparency and clear guidelines in the nominating process.¹²⁷ Governments need a transparent, fair, and, if possible, a more democratic system for selecting migrant representatives. Otherwise, the problem of poor migrant representation will remain unresolved.

VII. Conclusion

Regulating recruitment agencies is challenging because it requires managing an international movement over which the regulator typically does not have complete control. Enforcing worker protection rules in dual legal jurisdictions, and especially where the regulatory regimes differ dramatically across the jurisdictions, may not be impossible, but — as the UAE-Philippine case shows — it is certainly difficult.

Policymakers from both countries can start by addressing the mismatches in their respective policies in areas such as fees, contracts, and agency liability for migrant workers. As this report states, regulatory and enforcement efforts are more effective if both host and source countries are equally committed to introducing and enforcing compatible rules.

Beyond changing rules, the United Arab Emirates and the Philippines must be equally open to changing their ways. Specifically, they need to simultaneously build capable institutions and empower migrants. Both countries should jointly commit to fully funding existing institutions tasked with managing temporary labor migration, creating complementary institutions to facilitate each other's efforts, and strengthening relationships with external actors from the public and private sectors. The Philippine and UAE governments can empower migrants by arming them with accurate information, access to a core set of rights, and a voice to influence government policy.

Although both countries have made independent and joint pronouncements about the need for bilateral cooperation, the extent to which both the Philippine and UAE governments are willing to alter some aspects of their regulatory systems to accommodate each others' demands is still not very clear. Also uncertain is how committed the two countries are to sharing the cost of protection. Indeed, labor law is a national prerogative and more deeply enshrined in domestic policy than is trade or finance. Experience in many countries suggests a general unwillingness among governments to accept (and to enforce) binding labor standards for foreign workers as part of formal agreements. At the same time, capable institutions do not run on their own without an infusion of much-needed resources, financial and otherwise.

127. Nuqui interview; Ding Bagasao, interview by author, June 29, 2008; Maruja Asis, interview by author, July 12, 2008.

Even though adopting a cooperative framework involves immense obstacles, the benefits are far greater. The Philippines and the United Arab Emirates know very well that a well-organized labor flow can boost their respective economies more than freer trade and financial flows.

The market forces fuelling labor migration have changed little despite the global economic crisis. A recent survey by Manpower found that 96 percent of Filipinos are willing to migrate anywhere in the world for a better career.¹²⁸ As was true before the recession, the United Arab Emirates will need migrants once its economy improves. Recruitment agencies, far from becoming irrelevant, will likely remain important facilitators of this labor flow. Efforts to more effectively regulate their operations now are investments for the future.

Policymakers from both countries can start by addressing the mismatches in their respective policies in areas such as fees, contracts, and agency liability for migrant workers.

128. Manpower Inc., “Manpower Inc. Research Reveals Competing Agendas of Employers and Jobseekers, With 37% of Individuals Willing to Relocate Anywhere in the World for a Better Career, While 31% of Employers Are Worried About Talent Migrating Abroad” (news release, June 24, 2008), www.manpower.com/investors/releasedetail.cfm?ReleaseID=317969.



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