



# Running in Circles:

Progress and Challenges in Regulating Recruitment of  
Filipino and Sri Lankan Labor Migrants to Jordan

By Dovelyn Rannveig Agunias

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## Executive Summary

Unskilled and semi-skilled migrant workers from the Arab region have been filling labor shortages in Jordan for decades, shaping its labor market and sustaining its economy. However, non-Arab migrants from Asia have taken on a growing role in Jordan in recent years, with a significant proportion of this new migration flow coming from Sri Lanka and the Philippines.

The challenges surrounding recruitment of foreign workers are complex, and the solutions are far from simple. Sri Lanka, the Philippines, and Jordan understand that private recruitment agencies play an important role in facilitating and driving labor migration. At the same time they are well aware that some agencies, if left unregulated, abuse the workers they place and increase the cost of doing business for employers.

A look at the three countries' regulatory systems suggests that each country has developed a comprehensive set of laws and guidelines regarding recruitment practices. Each country has chosen to control recruiter operations by operating licensing schemes for recruitment agencies, imposing entry barriers to qualified workers and employers, creating rules and regulations that govern the recruitment process and set minimum employment standards, and maintaining a system of monitoring and adjudication to ensure compliance with rules and regulations.

In addition, each has a dedicated office or department mandated to manage recruitment agencies; these offices formulate and implement policies and programs designed to regulate recruiters' operations.

Despite this comprehensive set of rules and regulations governing recruitment practices, Sri Lankan and Filipino workers migrating to Jordan remain vulnerable to abuse and exploitation at the hands of recruitment agents.

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### *The challenges surrounding recruitment of foreign workers are complex, and the solutions are far from simple.*

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Recruitment agencies in all three countries still charge migrants excessive fees and violate contractual terms and conditions. The problems migrant workers face include excessive placement fees, prohibitive deployment costs, expensive predeparture loans, underpayment or nonpayment of wages, confiscation of passports, poor working and living conditions, and physical abuse and sexual harassment.

The continued vulnerability of Sri Lankan and Filipino migrants suggest that there are still gaps in the current system, which unscrupulous recruiters and employers are more than willing to exploit. Improving the situation for migrant workers requires first identifying exactly where these gaps are and then finding and implementing enforceable solutions that are as effective on the ground as they appear on paper.

Review of government data, in-depth interviews with various stakeholders (including government officials in all three countries), and focus group discussions with Sri Lankan and Filipino migrants in Amman, Colombo, and Manila point to six problem areas:

1. An overcrowded marketplace for licensed agents
2. Proliferation of unlicensed subagents and brokers
3. Exploitation and collusion among agents and between agents and employers
4. Insufficient capacity to weed out unqualified employers



5. A broken legal system for migrants
6. The recruitment ban on Filipino domestic workers.

Clearly, serious challenges remain. It is therefore critical to design and implement policies that would squarely address these gaps. All three governments should seriously consider adopting initiatives that would:

- Reduce the number of licensed recruitment agencies, control the informal operations of subagents and brokers, and prohibit unqualified employers from accessing foreign labor.
- Define legally acceptable transactions among recruiters and between recruiters and employers, particularly on how much they can legitimately charge each other.
- Create migrant-friendly grievance mechanisms and clarify solutions for problems concerning deployment costs, overstay fees, and the holding of passports.

Filling these gaps requires a renewed focus on effective implementation, one that could be aided by tapping into new technology, investing in needed resources (especially in personnel), and effectively disseminating information to migrants and their employers.

## I. Introduction

In countries of migrant origin, transit, and destination, recruitment agencies are key actors in temporary labor migration today. They oversee one of the most critical junctures of labor migration channels: the moment when the terms and conditions of the employer-employee relationship are negotiated, and when power asymmetries between actors can lead either to a mutually beneficial relationship or to exploitation.

Despite their prominent role in the labor migration process, however, many governments at origin and destination have not reached consensus on how to best manage the operation of recruitment agencies. This gap in policy is, in part, an extension of a long-standing research gap in this important area. Most experts would acknowledge that migration — and especially contract labor migration — is driven by profit-seeking on the part of both employers and workers, as well as other actors. However, most existing research overlooks the “business” of migration — the sphere of for-profit recruitment agencies that, in many cases, have a larger role even than governments in shaping the size and character of labor flows.

This study attempts to fill this gap by looking into the role of recruitment agencies in the labor migration of Filipinos and Sri Lankans to Jordan.

This report is divided into six major parts. The first part sets the context by outlining some of the key characteristics and trends that have defined labor migration from Sri Lanka and the Philippines to Jordan. The second and third sections highlight how the three governments manage the recruitment process, both on paper and in practice, while the last three sections identify some of the key gaps and ways to address them.



## II. Sri Lankan and Filipino Labor Migration to Jordan: Trends and Characteristics

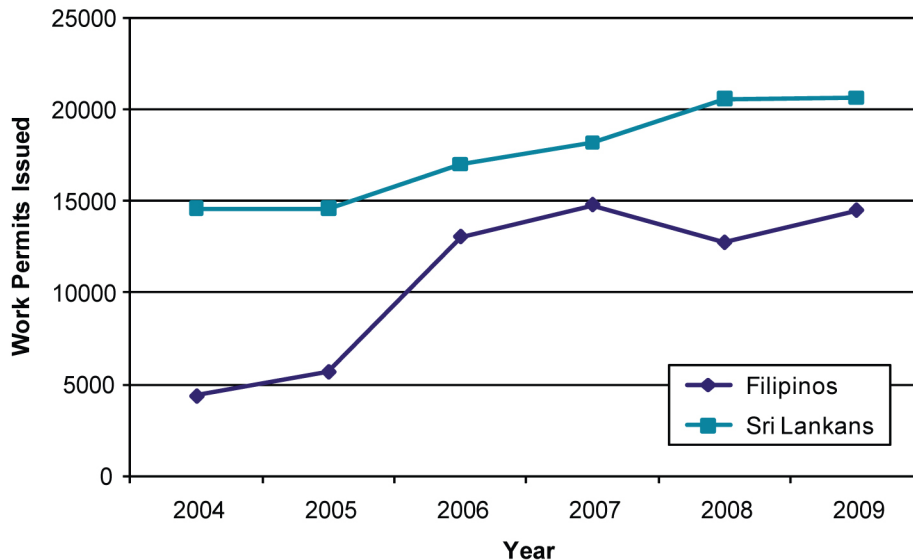
Unskilled and semi-skilled migrant workers from the Arab region have been filling labor shortages in Jordan for decades, shaping its labor market and sustaining its economy. Although Arab nationals still account for a majority of migrant workers in Jordan today, the migration flow to Jordan has changed in recent years with the growing importance of non-Arab migrants from Asia.

Jordan's census data suggest that the non-Arab Asian population's share of the total foreign population more than doubled from 7 percent in 1994 to 15 percent in 2004. Among economically active migrants, non-Arab Asians comprised an even larger share, reaching nearly 30 percent by 2004.<sup>1</sup>

A significant proportion of this new migration flow from Asia comes from Sri Lanka and the Philippines, which together account for nearly a third of the total non-Arab Asian population in Jordan. Between 1994 and 2004, census data found that the number of Sri Lankans increased by 36 percent to 13,552 while the Philippine population more than doubled to 4,173.<sup>2</sup>

More recent data on work permits issued by Jordan's Ministry of Labor (MOL) suggest that this trend has continued. As Figure 1 shows, work permits issued to Filipinos more than doubled between 2004 and 2009, reaching nearly 15,000, while Sri Lanka's number increased by 40 percent, reaching 20,000 during the same period.

**Figure 1. Number of Work Permits Issued to Filipinos and Sri Lankans, 2004-09**



Source: Figures provided to the author by the Ministry of Labor, Jordan.

It is important to note that the number of work permits issued likely underestimates the actual population of Filipinos and Sri Lankans in Jordan. Unlike census data, work permit data do not capture unauthorized migrants who may have entered Jordan as tourists but ended up working in the irregular economy, or those who have failed to renew their work permits but chose to remain and work in the

1 Anna Di Bartolomeo, Tamirace Fakhoury, and Delphine Perrin. *Migration Profile: Jordan* (San Domenico di Fiesole: Consortium for Applied Research in International Migration [CARIM], 2010), [www.carim.org/public/migrationprofiles/MP\\_Jordan\\_EN.pdf](http://www.carim.org/public/migrationprofiles/MP_Jordan_EN.pdf).

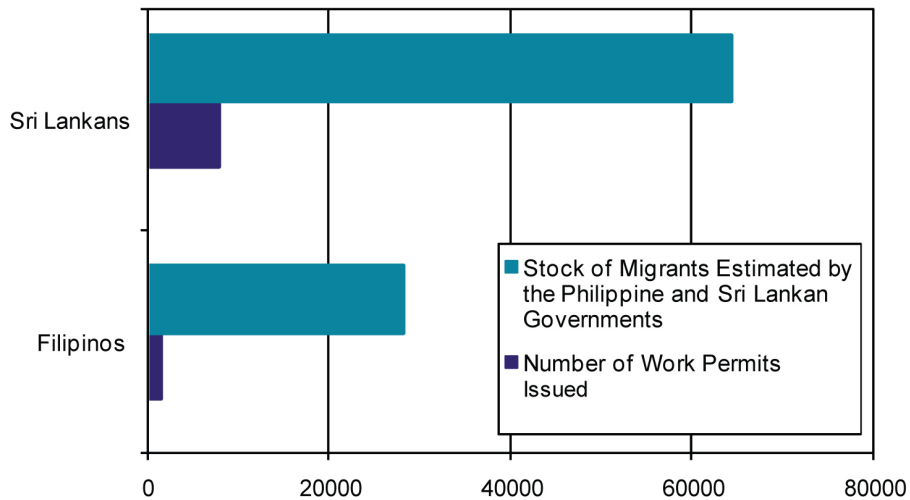
2 Jordanian Department of Statistics, *Population and Housing Census 1994 and 2004* (Amman: Department of Statistics, 2005).



country.

Since there are no authoritative data that capture irregular migration to Jordan, the actual extent of Sri Lankans and Filipinos working outside of documented channels is hard to pinpoint. Interviews with government officials conducted for this report, however, suggest a high level of irregular migration from Sri Lanka and the Philippines to Jordan. As of 2009, the Sri Lankan government officially estimated that there were 75,403 Sri Lankan migrant workers in Jordan while the Philippine government's official estimate reached 32,896 for Filipinos. Both figures are significantly higher than the actual number of work permits issued by MOL for the same year (see Figure 2).

**Figure 2. Estimated Stock of Migrant Workers vs. Number of Work Permits Issued, 2009**



Sources: Sri Lankan Bureau for Foreign Employment, *Annual Statistical Report of Foreign Employment – 2009* (Battaramulla: Sri Lankan Bureau for Foreign Employment), [www.slbfe.lk/downloads/annual](http://www.slbfe.lk/downloads/annual); Commission on Filipinos Overseas, “Stock Estimates of Overseas Filipinos, 2009,” (Manila: Commission on Filipinos Overseas), [www.cfo.gov.ph/pdf/statistics/Stock%202009.pdf](http://www.cfo.gov.ph/pdf/statistics/Stock%202009.pdf).

Work permit data also do not account for migrants who may have legal papers but are still working illegally. For instance, focus group discussions with Filipino and Sri Lankan migrants and in-depth interviews with key informants conducted for this report suggest that some migrants hold permits for domestic work but are employed illegally outside the home — in, for example, beauty salons, hotels, and hospitals.

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*Filipinos and Sri Lankans who received work permits in 2009 were mostly female.*

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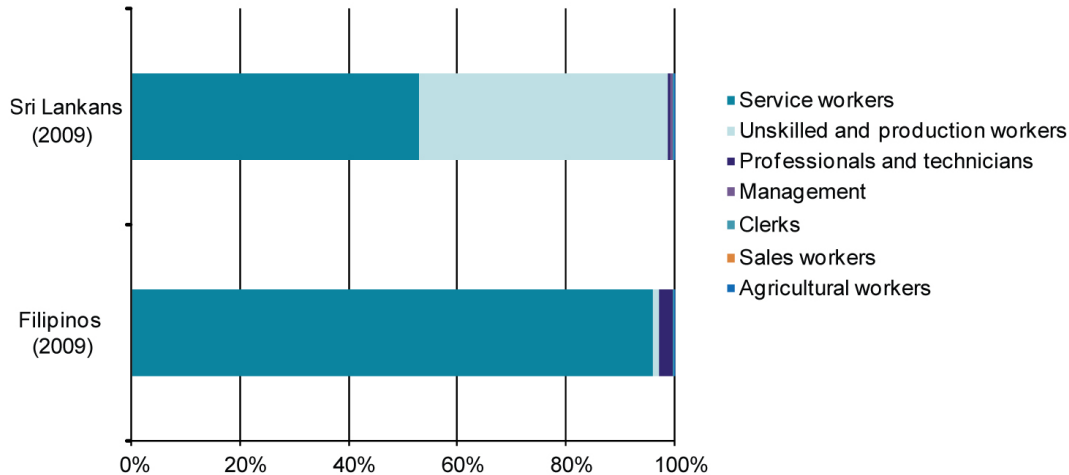
With the next census not scheduled until 2014, work permit data compiled by MOL provide the best available information not only on the number but also on the characteristics of migrants in Jordan. Filipinos and Sri Lankans who received work permits in 2009 were mostly female (90 percent of Filipinos and 60 percent of Sri Lankans) and worked primarily in unskilled or semi-skilled sectors — making this migrant population especially vulnerable to abuse and exploitation.

An overwhelming majority of Filipinos with work permits (nearly 14,000, or 94 percent) are working inside private homes as domestic workers while the rest are either professionals or unskilled and



production workers. Sri Lankans are spread across two sectors, with 52 percent working as domestic workers while another 46 percent are unskilled and production workers, particularly in the garment industry (see Figure 3).

**Figure 3. Distribution of Sri Lankans and Filipinos by Job Category, 2009**



Source: Figures provided to the author by the Ministry of Labor, Jordan.

### III. The Recruitment Marketplace, on Paper

The flow of vulnerable migrants from Sri Lanka and the Philippines to Jordan is not increasing spontaneously but is spurred by the actions of recruitment agencies — the private actors found in all three countries that match Jordanian employers with Sri Lankan and Filipino workers.

From promoting Filipino and Sri Lankan manpower among Jordanian employers to repatriating distressed workers, private agencies assume a wide range of functions beyond matching. Administrative data from the Philippines, Sri Lanka, and Jordan suggest that private recruitment agencies facilitate the vast majority of contract labor migration to Jordan.

In 2009, 151 agencies from Sri Lanka and 19 agencies from the Philippines officially sent workers to Jordan. Data compiled by the Jordanian government do not allow the identification of Jordanian agencies that specifically recruit Filipinos and/or Sri Lankans but MOL currently regulates 96 agencies which recruit domestic workers from three countries: the Philippines, Sri Lanka, and Indonesia.

Governments in all three countries understand that private recruitment agencies play an important role in establishing work conditions for migrants and recognize the potential for abuse if the agencies are left unregulated.

For nearly three decades now, the Sri Lankan, Philippine, and Jordanian governments have chosen to regulate the operations of private recruitment agencies. In Jordan the oversight of recruitment agencies generally falls to MOL. The Philippines and Sri Lanka both created dedicated agencies in the early 1980s to manage overseas employment: the Philippine Overseas Employment Administration (POEA) and the Sri Lankan Bureau for Foreign Employment (SLBFE).

MOL, POEA, and SLBFE control recruiter operations in four main ways: (1) by operating licensing schemes for recruitment agencies, (2) by imposing entry barriers to workers and employers, (3) by creating rules



and regulations that govern the recruitment process and set minimum employment standards, and (4) by maintaining a system of monitoring and adjudication to ensure that all those involved comply with rules and regulations.

### A. The Licensing of Recruitment Agencies

All three countries operate a licensing scheme that requires recruitment agencies to meet various criteria in four key areas: citizenship, financial capacity, personal and professional qualifications, and management and marketing capabilities (see Table 1).

**Table 1. National Requirements for the Licensing of Recruitment Agencies**

Requirements	Jordan	Sri Lanka	Philippines
<b>Nationality</b>	Must be a duly registered Jordanian company; all partners must have Jordanian citizenship.	Must be a Sri Lankan citizen or a firm in which all partners are Sri Lankan citizens or a company where Sri Lankan citizens own the majority of shares.	Must be owned by a Filipino citizen or operated as a partnership or corporation in which 75 percent of the capital is owned or controlled by a Filipino.
<b>Financial capacity</b>	Provide proof of capital of no less than 50,000 Jordanian dinar (JD) (US\$71,000) and a bank guarantee of 100,000 JD (\$141,000).	Provide a bank guarantee of 750,000 rupees (\$7,000).	Provide proof of capital of not less than 2 million pesos (\$44,000) and two types of guarantees: a bank deposit under an escrow account of 1 million pesos (\$22,200) and a surety bond of 100,000 pesos (\$2,200). Also, pay a filing fee of 10,000 pesos (\$200) and a license fee of 50,000 pesos (\$1,100).
<b>Personal and professional qualifications</b>	25 years of age or above. Not convicted of a felony or misdemeanor involving moral turpitude, to be proven by a security clearance issued a month before application. Not a former owner or a partner of a private employment agency whose license was revoked Not a spouse, father, or supplier of another employment agency. Not an owner or a partner of a travel agency, hotel, restaurant, ballroom, massage center, beauty salon, or gym.	Must submit police clearance reports from the nearest police station and two recent testimonials in support of the character and reputability of the person who is in charge of the foreign employment agency. One of these should be from the local Gramasevaka Niladhari of the area where he or she resides, confirming that the person who is applying for the license has been living in that area.	Must pass a check for a criminal record. Must not have been subject to a complaint or charged with or convicted of illegal recruitment. Must not be an owner of a travel agency or airline.
<b>Management and marketing capabilities, business viability</b>	25 years of age or above.	Maintain an office with a floor area of at least 500 square feet, located in an easily accessible area near public transportation, and with telephones with IDD facilities, fax, computers, databases, typewriters, photocopiers, and trade testing facilities.	Proof of job orders for not less than 100 workers. Needs to attend training in recruitment business management.

*Note:* Currency conversion as of September 2010.

*Sources:* Hend Bent Ammar Al Tarawneh, "Recruiting and Employing Foreign Labor in Jordan: An Analysis," unpublished 2010 manuscript submitted to the International Labor Organization; Philippine Overseas Employment Administration (POEA); Sri Lankan Bureau for Foreign Employment (SLBFE). Sri Lankan Bureau of Foreign Employment Act, Colombo: SLBFE, 2010.



The Sri Lankan, Philippine, and Jordanian governments require agency owners and their partners to be citizens of their respective countries to ensure that the agencies are within their jurisdiction, should litigation be necessary.

Agency owners in all three countries must also prove financial competence by meeting minimum capital requirements and/or posting bonds. The amounts required vary by country; Jordan has the steepest requirements among the three.

To meet personal and professional qualifications, all three countries require applicants to undergo a criminal record check. Sri Lanka also requires applicants to provide two recent testimonials in support of the character and reputability of the person who is in charge of the recruitment agency. Jordan prevents former agency owners whose license was revoked from applying for a new license, while the Philippines bars individuals or corporations who have been subject to a complaint or charged with or convicted of illegal recruitment.

To prevent a potential conflict of interest between their businesses, owners of travel agencies and airlines cannot apply for a recruitment agency license in the Philippines. Jordan not only bans potential applicants who own travel agencies but also those who own a wide array of service-focused businesses such as hotels, restaurants, ballrooms, massage centers, beauty salons, or gyms. A recruitment agency is also ineligible to acquire a license in Jordan if the owner's spouse or parent also owns another agency.

To prove the viability of a potential recruitment business, the Philippines requires proof of job orders for not less than 100 workers and attendance at a government-accredited training course on how to manage a recruitment agency. Jordan has a minimum age requirement of 25, while Sri Lanka has specific requirements regarding office size, location, and facilities.

Licenses in Jordan and Sri Lanka are valid for one year; the Philippines issues a provisional one-year license for first-time applicants, which can then be renewed every four years to remain active.

## **B. Requirements for Worker and Employer Qualifications**

All three governments further exercise control by limiting recruitment agencies' choice of clients. Recruitment agencies in all three countries can mediate only on behalf of what government regulators consider to be qualified workers and employers. Each country has developed its own set of standards and qualifications that employers and workers must meet.

### **I. Requirements for Workers**

In all three countries, prospective migrant workers have to meet a prescribed level of physical health and technical training, and have a record of good conduct.

To satisfy government requirements, prospective migrants have to undergo a medical examination twice, once in the Philippines or Sri Lanka and again upon arrival in Jordan. Migrants heading to Jordan must be tested for various infectious diseases such as tuberculosis, hepatitis, AIDS, malaria, syphilis and gonorrhea, addiction, mental health, and pregnancy.<sup>3</sup> If the migrant arrives in Jordan with a disease or is found to be pregnant, the Jordanian agency must repatriate the migrant and provide a replacement to the employer without asking for additional fees.

Sri Lanka and the Philippines also require skills certification for their workers in vulnerable sectors, especially domestic work. As of 2006, all deployed domestic workers from the Philippines must be at least 23 years old, attend a language and culture course, and secure a certification in household work from a

<sup>3</sup> Hend Bent Ammar Al Tarawneh, "Recruiting and Employing Foreign Labor in Jordan: An Analysis Submitted to the International Labor Organization," Unpublished manuscript, February 2010: 29.



government-accredited training agency.<sup>4</sup> Sri Lanka has similar training requirements for its domestic workers heading to the Middle East, lasting 15 days and covering various topics from care-giving and cooking to personal hygiene and Arabic and English language lessons.<sup>5</sup>

All three countries require workers to get a police clearance or other proof of a clean record. Jordan also restricts the entry of former migrants who violated their employment contracts or the provisions of Jordanian labor laws and regulations. Depending on the type of violation committed, migrant workers can be banned from reentering Jordan on a temporary or permanent basis.

## 2. Requirements for Employers

Not all Jordanian employers can hire Sri Lankan and Filipino workers. And those that can must meet a range of requirements set by the three governments, although the rules vary depending on the workers' occupation or sector.

Generally, the Jordanian government's requirements of employers vary by sector. Jordanian households that would like to recruit domestic workers in the Philippines and Sri Lanka must utilize the services of a licensed recruitment agency in Jordan and prove their financial solvency to MOL by providing a bank statement.

On the other hand, Jordanian companies do not need to work with a recruitment agency in Jordan and can recruit directly from the Philippines and Sri Lanka as long as they can provide MOL with bank collateral proportionate to the size of the company's workforce. The collateral ranges from 1,000 Jordanian dinar (JD) (US\$1,410) — for companies employing three to ten workers — to up to 40,000 JD (\$56,417) for those with more than 300 workers.<sup>6</sup>

Companies within qualified industrial zones (QIZs), which are special economic areas in Jordan that primarily host foreign-owned businesses, have to submit a higher guarantee, starting at 30,000 JD (\$42,313) for those employing less than 100 workers and reaching 75,000 JD (\$105,782) for those with 200 workers or more. Companies in QIZs must also submit a certificate from the Philippine or Sri Lankan embassy to MOL stating that the workers were recruited through a licensed recruitment agency at origin and that no extra payments were made to recruiters outside of those prescribed by national laws.

Sri Lanka and the Philippines also have their own set of requirements for Jordanian employers. Since 2008, the Philippine government has actually banned Jordanian households from hiring Filipino domestic workers, citing problems such as the nonpayment or underpayment of wages and exploitative work conditions. This means that the Philippines prohibits its local agencies from sending domestic workers to Jordan. Doing so is tantamount to illegal recruitment, which can result in outright cancellation of licenses. Jordanian agencies also cannot come to the Philippines to recruit workers directly.

The Philippine government does allow Jordanians to hire Filipinos for nondomestic work. Jordanian companies hiring five Filipino workers or more have to register with the diplomatic post in Amman. To register, employers must be represented by a Philippine-based recruitment agency and provide the embassy with a valid proof of the business or project as well as documents showing that the necessary visas are available.<sup>7</sup>

Both the Philippines and Sri Lanka also suspend or blacklist employers that have defaulted on contractual

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4 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](http://www.migrationpolicy.org/pubs/Insight_POEA_Oct07.pdf).

5 Sri Lankan Bureau for Foreign Employment (SLBFE), "Domestic Sector and Housekeeping and Caregiving Training Programme for Middle East Countries," Unpublished manual, 2010.

6 All currency conversions in this report, made via [www.xe.com](http://www.xe.com), were as of September 2010.

7 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](http://www.coa.gov.ph/GWSPA/GWSPA.htm).



obligations or violated national laws, rules, and regulations. These employers are disqualified from hiring Filipino and Sri Lankan workers for a specified time or even permanently.

### C. *Setting the Terms and Conditions of Recruitment*

Beyond licensing agencies and imposing entry limits on workers and employers, the Jordanian, Philippine, and Sri Lankan governments further exercise control by instituting rules that govern the recruitment process and the terms and conditions of employment. All three countries have set standards on where and how recruitment can take place and the associated fees and costs that agencies can legally charge workers and employers.

#### 1. Guidelines for Where and How to Recruit

In all three countries, only a recruitment agency licensee (whether an individual or entity) may actively recruit workers and only in the place indicated on the license held. In the Philippines, if the license holder needs to conduct special recruitment activities outside the office, prior approval from POEA must be obtained.<sup>8</sup> In Jordan government regulations do not allow agencies to establish branches without approval from the labor minister. A Jordanian agency wishing to move its office to another area must surrender its existing license and file a new application. Jordanian agencies are also prohibited from appointing agents or representatives in other areas or collaborating with persons other than their staff or dealers to execute their work.

The Philippines and Sri Lanka both prohibit employers from directly placing job advertisements. Jordanian employers have to ask a licensed recruitment agency in Sri Lanka and the Philippines to advertise on their behalf. In Sri Lanka, local agencies must first obtain government permission before they can advertise vacancies in the media and must provide SLBFE with a copy of the advertisement and job order. Similarly, in the Philippines, advertisements must conform to POEA's prescribed form and layout to ensure they are not false or misleading. For instance, agencies may advertise to maintain a pool of applicants as long as the phrase "manpower pooling only" is clearly indicated.<sup>9</sup>

#### 2. Caps on Recruitment Fees

Since most recruitment irregularities are fee-related, all three governments have set limits on the fees recruitment agencies can legally charge clients. Agencies generate revenue by charging employers service fees and workers placement fees. Service and placement fees typically include costs directly related to recruiting, documenting, and placing workers, with limits that differ by country as well as by sector.

Under the Jordanian law governing the recruitment of domestic workers, a Jordanian recruitment agency can only charge service fees to the homeowner, not the worker. The fees are capped at 10 percent of the domestic worker's one-year wage for the initial placement and 2 percent of the one-year wage for renewal of the contract.

Since 2006, Philippine agencies are also prohibited from asking for placement fees from domestic workers. In fact, agencies cannot impose additional charges on any worker without the government's approval, nor can they collect the placement fee before the worker receives a formal employment offer. Agencies can, however, charge nondomestic workers a placement fee equal to one month's salary. For instance, a nurse deploying to Jordan is expected to pay the Filipino agency that sent him or her about \$400.

Sri Lanka has a more complicated system for determining allowable fees. Jordanian agents recruiting

<sup>8</sup> Philippine Overseas Employment Administration (POEA), "POEA Rules and Regulations," Rule VI.

<sup>9</sup> Ibid., Rule VII.



Sri Lankans have to give an official declaration or statement to the Sri Lankan embassy in Amman on whether a commission was given to or received from the Sri Lankan agent. If the Sri Lankan agent does not get any commission from the Jordanian agent, he or she can charge the worker the actual expenses incurred as long as they are within the allowable limit set by the Sri Lankan government and are backed up by receipts. Allowable fees differ from job to job and range from one to two months' salary.<sup>10</sup>

### 3. Terms and Conditions of Work

Jordan has concluded separate memoranda of understanding (MOU) with Sri Lanka and the Philippines, which require that every Filipino or Sri Lankan worker deployed to Jordan must have an employment contract (signed by the Jordanian employer and the worker) and submitted to and/or approved by MOL and either SLBFE or POEA. The contract defines the terms and conditions of migrant workers' service during their employment abroad and must be written in two languages, Arabic and English.

Since 2003, MOL has been using a standard contract specifically for domestic workers. Drafted in partnership with the United Nations Fund for Women (UNIFEM), the standard form includes the term of the contract, the date when the contract enters into force, the type of work to be conducted, the workplace, the wages and duties of both parties, and other conditions agreed on by the worker and homeowner. Under this standard contract, the employer pays for airfare and other expenses incurred in obtaining the residence and work permits and must provide decent accommodation, food, clothing, health care, and life and health insurance policies.

In 2009, Jordan issued new regulations with more explicit provisions for the terms and conditions of domestic work. Employers must pay the worker on a monthly basis and provide clothes, food, drink, and decent sleeping quarters with lightning, ventilation, and bedding. The regulations limit actual working hours to ten per day and require the homeowner to provide at least eight hours of sleeping time, one rest day per week, 14 days' paid leave at the end of each year,<sup>11</sup> and 14 days of paid sick leave per year. Employers must also allow the domestic worker to write letters and make phone calls to his or her family abroad, with one phone call per month at the expense of the homeowner. The domestic worker can also perform religious rites as long as they do not go against public order and established morals.<sup>12</sup>

The Philippines and Sri Lanka have additional provisions that differ from or are not included in the Jordanian regulations. For instance, the Philippine government requires that domestic workers sign contracts with paid vacation of not less than 15 calendar days for every year of service. The employer must also assist in remitting a percentage of salary through proper banking channels and is prohibited from deducting fees from salaries. Most importantly, Sri Lanka and the Philippines also require that contracts reflect a prescribed minimum wage that each country sets unilaterally. The Philippines requires that its domestic workers are paid the equivalent of US\$400 per month while Sri Lanka sets the monthly minimum wage at \$200.

### 4. Agency Liability and Responsibility

Another critical policy area pertains to the degree of liability agencies have for the workers they help deploy. In the Philippines, every licensed recruitment agency is liable — both jointly with and separately from the Jordanian 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. In this setup, agencies are responsible for unpaid salaries and tickets for repatriation, among other things. This requirement essentially turns agencies into “coemployers.”

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

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10 SLBFE, Sri Lankan Bureau of Foreign Employment Act, Section 51 A-1.

11 Al Tarawneh, “Recruiting and Employing Foreign Labor in Jordan.”

12 Ibid.



agencies to accept liability for worker abuses, the onus for regulating the employer-employee relationship falls to the agencies. Ideally, this arrangement benefits workers who would otherwise have no recourse in case of unfair treatment.<sup>13</sup>

Jordan and Sri Lanka, on the other hand, limit the duties and responsibilities of the recruitment agency to the role of mediator. Apart from matching employers with workers, agencies in Jordan are responsible for authenticating the contract at the Philippine or Sri Lankan embassy, obtaining a valid work visa to Jordan before the worker leaves the country of origin, and providing homeowners with brochures on the rights of domestic workers. Upon the arrival of the domestic worker in Jordan, Jordanian agencies must ensure that residence and work permits are issued on time and that the worker is not pregnant and is free of infectious diseases.<sup>14</sup> The recruitment agency in Jordan is also prohibited by law from keeping the worker for any reason and must repatriate the worker if a homeowner cannot be readily identified.

#### **D. Ensuring Compliance Through Monitoring, Adjudication, and Sanctions**

Lastly, MOL, SLBFE, and POEA must monitor agencies, employers, and workers to make sure all comply with the rules. They also must hear and, in most cases, adjudicate complaints of noncompliance and impose the necessary penalties and fines on recruitment agencies.

##### **I. Monitoring Agencies, Workers, and Employers**

Jordan, Sri Lanka, and the Philippines have regulations that require the inspection of the offices and records of accredited private recruitment agencies. In the Philippines, the agency may also conduct spot inspections upon receiving a complaint or report of a violation. Inspectors in the three countries 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.<sup>15</sup>

In addition, MOL requires that Jordanian agents provide full information about operations and activities on a periodic basis, and maintain the privacy of workers' and employers' data.<sup>16</sup>

Under new regulations in Sri Lanka, SLBFE inspectors have immunity from lawsuits from recruiters and have the right to take original documents relating to foreign employment and records.<sup>17</sup> The Sri Lankan government also created a special group of officers within SLBFE with the power to arrest recruitment agents without a warrant and present them to a magistrate. This police power can be exercised only upon the violation of certain provisions — for example, by printing or publishing an advertisement without government permission, recruiting without a valid license, forging and altering documents, and charging unauthorized fees.<sup>18</sup>

All three countries check on workers as they transit in and out of their respective borders. To ensure that workers are properly documented before proceeding to their overseas job sites, the Philippines and Sri Lanka maintain assistance centers at international airports and other exit points; those without proper documents cannot leave.<sup>19</sup> In Sri Lanka new regulations allow SLBFE officers to examine, at airports, any documents in the possession of a person going abroad in order to verify whether registration has been

13 For an analysis of the Philippine migration system, see Agunias, *Managing Temporary Migration*.

14 Jordanian Ministry of Labor, "Instructions on Licensing Private Employment Agencies Recruiting and Employing Domestic Workers," (Amman: Ministry of Labor, 2009).

15 POEA, "POEA Rules and Regulations," Rule III.

16 Al Tarawneh, "Recruiting and Employing Foreign Labor in Jordan."

17 SLBFE Act, Section 60B.

18 *Ibid.*, Section 69.

19 POEA, "POEA Rules and Regulations," Rule IX.





obtained — a role typically reserved for immigration officers.<sup>20</sup> Once they reach Jordan, immigration officers check if migrants have the proper documentation and necessary visas.

The Philippines also checks on workers returning temporarily for vacation purposes. Filipinos need an exit clearance to prove they have undergone the right procedures. This exit clearance — which can be acquired online, at the diplomatic post in Amman before returning home, or upon return to the Philippines — also exempts workers from paying travel taxes and airport terminal fees. To receive this clearance, returning migrant workers have to show proof that they have the legal papers to work abroad, such as an active employment contract.<sup>21</sup>

Once workers are in Jordan, personnel from the Philippine or Sri Lankan diplomatic posts visit migrants and employers at their workplace. The majority of visits, however, are made to companies and only rarely to households employing domestic workers. The visual inspections determine if the accommodations and working conditions are in line with the contracts. Employers and workers alike are interviewed to ascertain discrepancies between actual salary amounts and job responsibilities and those stipulated in the contract. Aside from visiting workplaces and accommodations, Sri Lankan and Philippine consular personnel also visit workers in jails and hospitals.

However, much of the monitoring of workers and employers is still conducted by MOL, most of whose local labor offices throughout the country are responsible for labor inspection

In 2006 MOL, in consultation with the private sector, created the Golden List, a monitoring mechanism for garment factories that aims to ensure that employers are complying with the law by distinguishing those that adhere to certain best practices in labor rights and working conditions. Employers that meet the criteria are added to this list, which is used by a number of international buyers in their sourcing decisions. MOL revised the Golden List criteria in May 2008, stipulating stricter limits on overtime hours and the maximum amount that can be deducted from workers' salaries for living accommodations.<sup>22</sup>

MOL also groups enterprises with records of serious and repeated labor violations in an Intensive Inspection Surveillance List (IISL). Factories on the IISL are inspected more frequently to ensure that they are improving their compliance.

## 2. Hearing and Adjudicating Complaints

All three governments offer ways to address grievances arising from contractual and other violations. Cases against Jordanian recruiters can be filed at a special office, the Directorate for Domestic Workers Affairs, created to hear and adjudicate complaints concerning the domestic work sector. Jordan also maintains a free call-in telephone service that migrant workers can use to submit complaints about improper living and working conditions, such as unsuitable accommodations, nonpayment of overtime and state-imposed minimum wages, wage arrears, ill-treatment, and passport confiscation. The service is offered in various languages such as Hindi, Bengali, Sri Lankan, Filipino, Chinese, and Indonesian.

The Philippine and Sri Lankan consular posts in Amman also accept complaints, make referrals to relevant local Jordanian authorities, and preside over voluntary conciliation proceedings if both parties request their involvement. During voluntary conciliation, the complainant agrees to try and resolve issues amicably before a conciliation officer, not through an adjudicator. Both the Sri Lankan and Philippine diplomatic posts employ a Jordanian lawyer who provides legal advice to migrants, mediates conciliation proceedings, and represents migrants filing cases in the Jordanian judicial system. Aside

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20 SLBFE Act, Section 16, Article J.

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

22 Jordanian Ministry of Labor, *Labour Administration and Compliance in Jordan: A Multi-stakeholder Collaboration* (Amman: Ministry of Labor, 2008): 12–3, [www.jordanembassyus.org/new/LabourAdministrationandComplianceinJordanFinalLT.pdf](http://www.jordanembassyus.org/new/LabourAdministrationandComplianceinJordanFinalLT.pdf).



from handling the cases mentioned, the Sri Lankan and Philippine diplomatic missions also maintain safe houses in Amman for distressed migrant workers who have left their employers and have no place to stay.

Depending on the outcome of complaints made in Jordan (or even if no complaints were made while in the country), migrants can still pursue cases against their Philippine or Sri Lankan recruiters once they return home. SLBFE and POEA have conciliation offices headquartered in Colombo and Manila to hear and adjudicate complaints against local recruiters and workers alike.

### 3. Imposing Sanctions

Depending on the nature of an agency's violation, all three governments issue sanctions in the form of a reprimand, a suspension order, or an outright cancellation of license. In all three countries, the regulators can restrict an agency's work if it has committed any violations. Government authorities will not accept new recruitment or employment applications until the violation is rectified.

In the Philippines, offenses are classified into serious, less serious, and light. For instance, inflating recruitment fees and deploying underage workers are considered serious violations and are sufficient reasons for revoking the license of even a first-time offender. In other offenses deemed less serious, such as collecting fees without an appropriate receipt, POEA suspends the license for two months to a year on the first and second offenses and revokes the license only on the third offense.<sup>23</sup>

Similarly, Jordanian regulations call for sanctions ranging from a notice advising the agency to not repeat the violation to a revocation of license in case of serious violation. The labor minister may close the agency without notice for actions that severely violate human rights, such as illegally recruiting workers, using forged documents, recruiting underage workers, committing physical and sexual abuse, and employing workers for someone other than the registered homeowner.

## IV. The Recruitment Marketplace, in Practice

Despite the comprehensive rules and regulations governing recruitment practices, Sri Lankan and Filipino workers in Jordan remain vulnerable to abuse and exploitation. Review of government data, in-depth interviews with various stakeholders (including government officials) in all three countries, and focus group discussions with Sri Lankan and Filipino migrants in Amman, Colombo, and Manila point to a gap between what the regulations prescribe on paper and what actually happens on the ground.

Recruitment agencies in all three countries still resort to charging migrants excessive fees either before departure, in the form of a placement fee or high-interest loan, or, once in Jordan, in the form of deployment costs. Agencies also do not necessarily provide complete and honest information about the real terms and conditions of employment. Khaled Al-Husainat, President of the Recruiting Agents Association (RAA), the only association of recruitment agencies in Jordan, estimates that one in five domestic workers who come to Jordan are surprised when they learn about the real terms and conditions of their work.<sup>24</sup> Most of the problems they face upon arrival in Jordan pertain to the charging of deployment costs to migrants who would like to renege on their contracts and go home, the underpayment or nonpayment of wages, the confiscation of passports, poor working and living conditions, and physical abuse and sexual harassment.

The following section discusses these issues in more detail, highlighting seven areas of particular concern.

<sup>23</sup> POEA, "POEA Rules and Regulations," Part VI, Rule IV.

<sup>24</sup> Interview of Khaled Al-Husainat, President, Recruiting Agents Association, by author on June 15, 2010.



## A. Placement Fees Vary by Workers' Sector and Gender

One of the ways recruitment agencies make money is by directly charging migrants placement fees before departure. In Jordan placement fees vary depending on a worker's sector and gender.

Focus group discussions with Sri Lankan and Filipino migrants in Manila, Colombo, and Amman show roughly three groups: domestic workers, who generally do not pay fees; female factory workers, who pay a fairly minimal amount; and male factory workers and mid- and high-skilled workers, who pay a significantly higher up-front fee.

### I. A Free Ride for Domestic Workers?

Compared to its wealthier neighbors in the Arab Gulf, Jordan is not usually the first country of choice for domestic workers from Sri Lanka and the Philippines. Reasons vary as to why this is the case, including the relatively lower salary in Jordan compared to other countries in the Middle East and migrants' preference to follow relatives and friends, many of whom work elsewhere, such as the United Arab Emirates and Saudi Arabia. Therefore, unlike other destinations in the Arab region, agents recruiting for Jordan generally ask minimal up-front fees — or waive fees altogether to entice applicants. The agency would typically cover all expenses such as airfare, medical exams, and required training. Most domestic workers do not pay placement fees to the Sri Lankan and Philippine agents recruiting them. Interviews with key informants and focus group discussions with migrants reveal that in Sri Lanka, some domestic workers even received payments from the agents that recruit them, ranging from \$100 to \$200. Even for some who pay, migrants considered the fees minimal.<sup>25</sup> A Sri Lankan domestic worker, for instance, would typically pay around 12,000 LKR (\$108), equivalent to a half a month's expected salary.

Even domestic workers from the Philippines, who are essentially being smuggled out of the country because of the Philippine ban on working as domestic workers in Jordanian households, do not typically pay up-front fees to the illegal recruiters that facilitate their departure. Of those interviewed, a few paid between \$200 and \$300, an amount that is very low compared to smuggling fees in other corridors.<sup>26</sup> Many come from far-flung provinces and are flown to Manila. While in Manila, they stay in hotels until they leave for Jordan, without incurring significant costs.<sup>27</sup>

Female Sri Lankan migrants heading to work in factories do, in fact, pay their recruiters but generally perceive the amount as minimal. The placement fee ranges between 17,500 LKR (\$156) and 25,000 LKR (\$225), which is equivalent to a month's expected salary.<sup>28</sup>

On the other hand, male factory workers from Sri Lanka pay significantly more — between 60,000 LKR (\$540) and 80,000 LKR (\$720).<sup>29</sup> Male factory workers from the Philippines also pay a significant up-front placement fee: between P50,000 (\$1,142) and P60,000 (\$1,371).<sup>30</sup> These amounts are equivalent to three or four months of expected salary and are nearly three times more than what their female counterparts would pay to be placed in exactly the same job with the same monthly salary.

The Philippines also sends a small number of mid- and high-skilled workers to Jordan, such as nurses and electricians, and they typically pay double the Philippine government's prescribed limit of a one-month salary. For instance, Filipino nurses with an expected monthly salary of between P20,000 (\$456) and P25,000 (\$571) pay around P40,000 (\$914) in placement fees, P8,000 (\$182) in processing fees, and P2,000 (\$48) for medical exams.<sup>31</sup>

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25 Focus group discussions with migrant workers convened by author in Amman, Jordan, and Colombo, Sri Lanka, June 18 and July 7, 2010.

26 Focus group discussions with migrant workers convened by author in Amman, June 18, 2010.

27 Interview of Mu'tasem Hindawi, General Manager, Mu'tasem Hindawi Company, by author, June 23, 2010.

28 Focus group discussions with migrant workers convened by author in Colombo, July 7, 2010.

29 Ibid.

30 Focus group discussions with migrant workers convened by author in Amman, June 18, 2010.

31 Focus group discussions with migrant workers convened by author in Amman, June 11, 2010.



Focus group discussions with Filipino and Sri Lankan migrants who were about leave for Jordan revealed that many do not know the breakdown of the costs being charged by agencies. What is important for many migrants is the total cost of their migration, with many noting that they compared the placement fees charged by various agencies and chose the cheapest.<sup>32</sup>

## 2. Fees Vary by Demand

Variations in placement fees reflect the very high demand in Jordan for domestic workers and the preference of employers for female factory workers over male. Group interviews with male Filipino migrant workers, for instance, reveal that many are aware that they should be paying less in placement fees since their contracts clearly state that expenses, such as airfare, are to be covered by the employer. However, migrants in these situations still pay the higher fee. Local agents in the Philippines and Sri Lanka explain that the Jordanian market is very competitive for males, and only those who are willing to pay extra can secure a job. Indeed, the higher fee charged to males is the single most important factor explaining why migration to Jordan is predominantly female.

The high fees paid by mid- and high-skilled workers from the Philippines — such as nurses, engineers, and electricians — reflect the fact that many came to Jordan with very little or no experience. For these skilled workers, Jordan is a “stepping stone” to other destinations in the Middle East, where salary and work conditions are generally better.<sup>33</sup>

In cases for which a placement fee is not charged, such as for domestic workers, it becomes easier for illegal recruiters to entice prospective migrants from the Philippines to leave for Jordan (despite, in the case of domestic workers, the government ban). Focus group discussions with migrants in a Philippine-embassy-run shelter in Amman reveal that they found it easier to trust their illegal recruiters since no money was involved.

### B. Expensive Predeparture Loans

Stiff placement fees, especially for male factory workers, force many to borrow money at extremely high interest rates. For instance, a male Sri Lankan factory worker typically takes loans of around 70,000 LKR (\$631) to 100,000 LKR (\$901) at 10 percent interest per month. At this interest rate and with a monthly salary of just around 21,000 LKR (\$189), migrants can afford to pay only the interest for the first year. Filipino male workers are no better off. Group interviews conducted for this report with mid-skilled Filipinos working in private companies revealed that some have taken loans at 16 percent interest per month. At this rate, a loan of P55,000 (\$1,256) will earn P33,000 (\$754) in interest.

To pay these loans, some agree to salary deduction schemes that withhold a sizeable proportion of their salaries as payment. Other agencies agree to not make deductions from wages as long as the migrants remit the balance within two to three months upon their arrival in Jordan.<sup>34</sup>

Aside from paying back these stiff loans, workers must also pay for food and other necessities in Jordan and, on top of that, send money for their families’ upkeep in Sri Lanka or the Philippines. For W. M. P. Aponso, President of the Association of Licensed Foreign Employment Agencies (ALFEA), it is not a surprise that many workers in Jordan, especially male factory workers, become — as he characterized it — “mentally troubled” due to the financial burden associated with their recruitment.<sup>35</sup> Some recruiters interviewed for this report admit that the current placement fee rate could be lower. For instance, Jagath de Silva, a longtime Sri Lankan recruiter, believes that a 20,000 LKR (\$180) placement fee for factory workers would provide recruiters a decent profit.<sup>36</sup>

32 Focus group discussions with migrant workers convened by author in Colombo and Manila, July 7 and October 20, 2010.

33 Focus group discussions with migrant workers convened by author in Amman, June 14, 2010.

34 Interview of key informant by author, July 13, 2010.

35 Interview of W. M. P. Aponso, President, Association of Licensed Foreign Employment Agencies, by author, July 19, 2010.

36 Interview of Jagath de Silva, Chairman, Nadishani Travels and Tours, by author, July 14, 2010.



### C. *Prohibitive Deployment Costs*

Filipinos and Sri Lankans who have yet to leave for Jordan must pay back the expenses incurred by the agency should they wish to back out of their contract. Prospective migrants interviewed for this report are aware that they have to pay back their agencies; most do not know the exact amount but only a rough estimate based on an informal conversation with their agent.

Those that are already in Jordan and would like to break their contracts must still pay agencies' deployment costs, ranging from \$2,000 to \$3,000 for domestic workers and at about \$1,500 for factory workers. Agencies calculate the deployment cost by adding the price of a round-trip airfare, visa fees, and other fees associated with the deployment.

Interviews with government officials, recruiters, and migrant workers alike reveal that many cannot afford to pay the deployment costs, which amount to almost a year's salary, and are forced to make the difficult decision to resume work and finish the length of their contracts. As will be discussed further in the next section, the only options for migrants wanting to leave their employers is to seek shelter in their respective embassies or find better employment opportunities in the informal economy. The practice of demanding repayment of deployment costs makes migrants more vulnerable to exploitation, since — unlike placement fees — deployment costs are not regulated.

### D. *Underpayment or Nonpayment of Wages*

Various stakeholders interviewed for this report agree that, upon arrival in Jordan, the biggest problem facing migrant workers from the Philippines and Sri Lanka relates to the underpayment or nonpayment of wages. As Table 2 shows, wage-related problems top the list of complaints filed in the Sri Lankan and Philippine embassies in Amman.

This may come as a surprise since, with the exception of Filipino migrants who have defied the Philippine government's ban on domestic workers, all other migrants from the Philippines and Sri Lanka have signed a valid contract before departure that clearly indicated their expected wage. Despite this legal protection, however, there is a concern among various stakeholders interviewed for this report that many migrants still do not receive the wage they signed up for.

Domestic workers from Sri Lanka, for instance, might sign a contract before departure stating a monthly wage of \$200. But in reality they get paid less, typically in the range of \$125 to \$150. Problems of wage nonpayment and underpayment are even more pronounced among migrants from the Philippines who have defied the deployment ban on domestic workers and traveled to Jordan as tourists (see Box 1).

Group discussions with migrants and interviews with recruitment agencies conducted for this report suggest that some migrants had verbal agreements with their recruiters that they would receive a lower monthly wage than that stated on their contract — some even before leaving for Jordan — while others did not.

Group discussions with migrants who were seeking shelter at the Sri Lankan embassy in Amman also revealed that some not only had deductions taken from their monthly wages but ended up getting paid for only a few months. Some reported working for two years and receiving as little as \$550, which translates to just around \$30 per month; others did not get paid at all.<sup>37</sup>

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<sup>37</sup> Focus group discussions with migrant workers convened by author in Amman, June 14, 2010.



**Table 2. Number of Complaints Filed by Migrants against Recruiters and Employers with the Philippine and Sri Lankan Embassies in Amman, by Type of Complaint, 2009**

Philippines			Sri Lanka		
Type of complaint	Number	Proportion of total complaints (%)	Type of complaint	Number	Proportion of total complaints (%)
Nonpayment, delay, or underpayment of salary	249	34	Nonpayment or underpayment of wage	782	41
Poor working and living conditions	165	23	Others	578	30
Mistreatment	129	18	Physical harassment	512	27
Physical abuse	116	16	Sexual harassment	47	2
Sexual harassment	20	2			
Immigration documentation problems	17	2			
Health/medical problems	15	2			
Personal problems such as pregnancy	10	1			
Rape	7	1			
Minor/underage	7	1			
<b>Total</b>	<b>735</b>	<b>100</b>		<b>1,919</b>	<b>100</b>

Source: Embassy of the Philippines, Amman; Embassy of the Republic of Sri Lanka, Amman.

### Box 1. The Philippine Ban on Domestic Workers Going to Jordan

In 2008 the Philippines imposed a recruitment ban on domestic workers going to Jordan. Despite the ban, licensed recruitment agencies in Jordan continue to recruit Filipino domestic workers through the help of illegal recruiters in the Philippines. Most leave illegally as tourists but enter Jordan with proper working visas. Going through this irregular route makes this particular group of Filipino migrants more susceptible to abuse and exploitation from unscrupulous recruiters and employers.

A group discussion among migrants who left during the ban and are seeking shelter in the Philippine Embassy in Amman revealed that they were promised monthly salaries ranging from \$150 to \$400. Many left the Philippines within a week of meeting their recruiters, some in just a matter of days. Almost all went through medical screening and gave little or no money to the illegal recruiters. Others left the Philippines without knowing that Jordan was their final destination; they had been promised jobs in other parts of the Middle East or even in Europe. Others were not aware that they were leaving the Philippines illegally and were surprised when told by recruiters at the airport that they had to lie to Philippine immigration officials and/or approach specific airport officials who were working with the illegal agencies.

Many came to Jordan not knowing that they would end up as domestic workers. According to Imad Shargawi, a lawyer hired by the Philippine embassy in Amman to represent Filipino migrant workers in court and mediation proceedings, illegal recruiters in the Philippines typically promise workers placement in hospitals and beauty salons, along with a generous compensation package that includes a minimum monthly wage of \$400, one day off per week, a maximum work day of eight hours, and a month of paid vacation each year. However, once the migrant arrives in Jordan, a new contract for domestic work is, as Shargawi characterized it, "forced on her." The wage is generally much smaller than promised, at around \$200, and workers are not allowed to take a day off from work, use a mobile phone, contact their family, or make friends outside of the home. As one Jordanian agent interviewed for this report admitted, "Some girls come here thinking that they will work in the salon, etc; when she comes in and sees the salary is \$200, she wants to die."

Source: Interview of Imad Shargawi (lawyer, Philippine embassy in Amman, Jordan) by author, June 21, 2010; focus group discussions with migrant workers convened by author in Amman, June 17, 2010; interview of key informant by author in Amman, July 8, 2010.



For factory workers, the main problem pertained to unexpected deductions in wages, particularly for food. The Sri Lankan government allowed deductions for food as long as they are clearly stated in the employment contract. Some factories, however, were deducting more than the amount the local agents had told migrants about before departure.

Indeed, in 2010, the International Labor Organization (ILO) and the International Finance Corporation (IFC) assessed 15 garment factories predominantly employing migrant workers and found that seven did not properly inform workers about wage payments and deductions while six made unauthorized deductions from wages.<sup>38</sup>

Even high-skilled Filipino migrants interviewed for this report had problems related to wages and deductions. Their Philippine agents had verbally informed them, for example, that food and accommodation would be free or that they would get a salary increase after six months. When the migrants complained to their employers upon arrival in Jordan, they were told that only what was written on the contract stood, not the verbal promises of the Philippine recruiter.

Dr. A.W. Mohottala, the Sri Lankan Ambassador to Jordan, acknowledged in an interview for this report that there may be many others facing wage-related problems who do not come to his embassy to seek help; they would rather accept the situation and finish their two-year contracts. Mohottala explained that that the embassy can only intervene and provide help if workers complain. Otherwise, there are limits to what the embassy can do, given the difficulties in actively monitoring migrants — especially those working in private homes.<sup>39</sup>

Aponso, of the Association of Licensed Foreign Employment Agencies, admitted that very few Sri Lankans complain about salaries that are lower than promised. However, as far as ALFEA is concerned, the nonpayment or underpayment of wages is the biggest problem affecting the recruitment industry. Those who complain typically notify their family in Sri Lanka, which either contacts the Sri Lankan agent and/or SLBFE.<sup>40</sup>

## **E. Confiscation of Passports**

Given the costs involved in recruitment, some agencies perceive migrants primarily as investments that they need to protect from the risk of default. Migrants report the routine confiscation of their passports, which severely limits their freedom and keeps them from abandoning the process of working abroad.

During the recruitment phase, many agencies keep an applicant's passport to prevent him or her from seeking the services of another agency. Prospective migrants in Sri Lanka who had decided not to migrate were surprised to find out that they had to pay an agency 2,500 LKR (\$23) in order to get their passports back; otherwise, the agency would return the passport only after three months.<sup>41</sup> Agents interviewed for this report reasoned that if migrants are serious in their plans to migrate, then they must be willing to give up their passports.

Once in Jordan, employers appear to confiscate passports routinely, irrespective of skill level. Group interviews with mid- and high-skilled Filipino migrants reveal that even highly skilled workers expect their passports to be taken from them for "safekeeping." Sri Lankan and Filipino agencies told almost every Sri Lankan factory worker interviewed for this report that his or her passport would be kept in the administration office of the factory.

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38 International Labor Organization (ILO) and International Finance Corporation (IFC), *Better Work Jordan: Garment Industry 1st Compliance Synthesis Report* (Amman: ILO and IFC, 2010).

39 Interview of Dr. A. W. Mohottala (ambassador, Embassy of the Democratic Socialist Republic of Sri Lanka, Amman, Jordan) by author, June 14, 2010.

40 Aponso interview.

41 Focus group discussions with migrant workers convened by author, Colombo, July 10, 2010.



Interviews with Sri Lankan and Filipino migrants who were about to leave for Jordan suggest that the majority will hand their passports over to their employers and recruiters as long as they are given another form of identification in return, such as a work and/or residence card or permit.

The majority of migrants interviewed, regardless of skill level, were not aware that all three countries have laws explicitly prohibiting the confiscation of passports; they thought it was a common and accepted practice in Jordan. It is only when problems arise that migrants realize the importance of having their passports with them, as will be discussed at greater length in the next section.

## **F. Poor Working and Living Conditions**

Aside from the nonpayment and underpayment of wages, domestic workers complain about long working hours and being required to do jobs that they are unqualified to do and/or are beyond what they had agreed on their recruiters while still in Sri Lanka and the Philippines. For instance, domestic workers end up working for more than one household and caring for children with special needs, the sick, and/or the elderly.

Agencies also do not inform domestic workers that many sponsors ban the use of mobile phones. Agents interviewed for this report reason that domestic workers learn about problems at home through cell phone. Mobile phones are also seen as a way to make friends and start intimate relationships in Jordan, which household owners generally don't like. As one agent put it "it keeps her from concentrating on her work."

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 Jordanian government, as a rationale for their strict demands. As one agent explained, "It's a process . . . if she is good, then she gains the trust of the employer and with [that comes] more freedom."<sup>42</sup>

Among those working in companies and factories, focus group discussions revealed that their local agents did not inform them about restrictions that would be imposed on their mobility or warn them of poor-quality accommodations and food.

Indeed, in the ILO and IFC assessment mentioned earlier, many garment factories provide insufficient worker accommodations, amenities, and mobility. For instance, of the factories included in their assessment, the majority do not have adequate hand-washing facilities and soap; adequate cooking facilities; free mobility for workers; adequate toilets, showers, sewerage, and garbage disposal systems; accommodations with enough safe water; or adequate protection from heat, cold, and dampness (see Table 3).

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<sup>42</sup> Interview of key informant by author, June 23, 2010.



**Table 3. Share of Factories Out of Compliance on Key Indicators**

Indicators	Noncompliance (%)
Does the workplace have adequate hand-washing facilities and adequate soap?	87
Does the accommodation have adequate cooking facilities?	73
Does the employer allow workers to come and go freely from the dormitories and the industrial park or zone in which the factory is located?	67
Does the workplace have adequate accessible toilets?	67
Does the accommodation have adequate toilets, showers, sewerage, and garbage disposal systems?	67
Is the accommodation protected against disease-carrying animals or insects?	67
Is the workplace clean and tidy?	60
Does the accommodation have enough safe water?	60
Is the accommodation adequately protected against heat, cold, and dampness?	60
Does the employer provide workers enough free, safe drinking water?	47
Does the workplace have an adequate eating area?	40

Source: ILO and IFC, *Better Work Jordan: Garment Industry 1st Compliance Synthesis Report*, May 20, 2010.

## G. Physical Abuse and Sexual Harassment

Aside from problems with wages, passports, and working and living conditions, there are migrants who suffer physical abuse and sexual harassment. Some such cases end up being reported in the media. One recent case, for instance, involved a Sri Lankan domestic worker who reportedly was made to swallow nails by her employer.

Although cases involving sexual and physical abuse constitute a smaller proportion of complaints filed at the Philippine and Sri Lankan embassies, the number of cases is not negligible. As Table 2 shows, in 2009, the two embassies received 824 complaints described in government data as mistreatment, physical abuse, harassment, or sexual harassment. Ambassador Mohottala does not know how many cases remain unreported, but said he believes that there could be many.<sup>43</sup>

Agencies themselves recognize problems pertaining to physical and sexual abuse. When signing an MOU in 2008, RAA and ALFEA jointly identified “sexual harassment” and “assault and harassment” as two of the eight priority issues to be addressed.<sup>44</sup> As ALFEA President Aponso admitted during an interview for this report, “Some sponsors treat domestic workers badly, and agencies must be in a better position to help.”<sup>45</sup>

43 Interview of Dr. A.W. Mohottala, Democratic Socialist Republic of Sri Lanka Ambassador to Jordan, by author, June 14, 2010.

44 Association of Licensed Foreign Employment Agencies (ALFEA) and Recruiting Agents Association (RAA). “Memorandum of Understanding, 2008.” Other problems identified were homesickness, illness, lack of proper facilities, absconding, nonpayment of salaries, and refusal to work.

45 Aponso interview.



## V. Gaps Between Policy and Practice

The continued vulnerability of Sri Lankan and Filipino migrants to exploitation and abuse — despite the comprehensive set of rules and regulations already in place to control their recruitment — suggests that there are still gaps in the current system, which unscrupulous recruiters and employers are more than willing to exploit. Improving the current situation for migrant workers requires first identifying where exactly these gaps are, and then finding enforceable and effective solutions that look as good on the ground as on paper.

In-depth interviews with various stakeholders — including agencies and government officials in all three countries, group discussions with Sri Lankan and Filipino migrants, and analysis of government data — point to six problem areas that require attention: (1) an overcrowded marketplace for licensed agents, (2) proliferation of unlicensed subagents and brokers, (3) exploitation or collusion among agents and between agents and employers, (4) insufficient capacity to weed out unqualified employers, (5) a broken legal system for migrants, and (6) the recruitment ban on Filipino domestic workers.

### A. An Overcrowded Market for Licensed Agents

Although competition is necessary to a certain degree, especially in private-sector-driven industry, too much competition can increase the likelihood of worker abuse. In an overcrowded market, not all agencies will make enough profit — but instead of closing shop, some will recoup their losses by cutting corners and breaking the rules (i.e., charging exorbitant recruitment fees or colluding with employers).

Controlling and limiting the number of agencies, however, is difficult to effect in practice. Indeed, the author's analysis of deployment data and in-depth interviews with industry insiders suggests that despite increasing entry barriers for recruitment agencies, the number of Philippine, Sri Lankan, and Jordanian agencies serving the Jordanian market remains very high. A very large proportion of the total number of agencies commands a tiny fraction of the Jordanian market, since the market is not large enough to accommodate the number of licensed agencies.

In Sri Lanka, the author's analysis of deployment data for 2010 provided by SLBFE suggests that 90 percent of the recruitment agencies that send workers to Jordan control less than 2 percent of the market each. While the top ten Sri Lankan recruiters to Jordan control 41 percent of deployment, the rest is divided among 117 recruitment agencies. Among these 117 agencies, 75 send fewer than 40 workers per year to Jordan (or fewer than three workers per month).

Similarly, in the Philippines, deployment data from before the 2008 ban on domestic workers provided to the author by POEA show that from 2005 to 2007, the top ten Filipino recruiters to Jordan controlled 52 percent of deployment to Jordan. The other 48 percent was divided among 73 recruitment agencies, of which 46 sent fewer than 44 Filipino workers to Jordan in three years; this translates to 15 workers per year or a little over one worker per month.

After the deployment of domestic workers to Jordan was banned in 2008, the number of Philippine recruiters legally sending workers to Jordan decreased markedly, from an all-time high of 62 in 2006 to 19 only three years later. Deployment data for 2008 and 2009 suggest that despite this drastic decline, however, the number of agencies still remains high relative to the volume of deployment. In 2008, 13 agencies sent seven or fewer workers, of which five agencies only managed to send one worker. In 2009, although the top four agencies gained a larger share of the market, there were still far too many agencies involved, with eight agencies sending fewer than eight workers while four agencies sent only one worker.

Limitations on data preclude a similar analysis of Jordanian agents, but interviews with industry insiders in Jordan also suggest a saturated market. Al-Husainat of RAA acknowledged that the market in Jordan is



very small. He estimated that the 96 licensed Jordanian agencies recruit around 2,000 domestic workers monthly, which translates to an average monthly deployment of 20 domestic workers per agency. Al-Husainat explained, however, that some agents recruit significantly more domestic workers than others. For instance, the top agencies recruit around 40 to 50 domestic workers a month while others only manage to recruit fewer than five domestic workers per month.<sup>46</sup>

How these small agencies continue to send workers to Jordan despite their miniscule market share is open to interpretation. It can be argued that given the fixed costs associated with establishing relations with Jordanian employers and/or other agencies, and meeting government requirements in the source and the destination countries, many of these agencies should not have found it profitable to enter the Jordanian market in the first place. One possible explanation is that they are making money some other way, such as by selling their access to job orders and charging workers more than the prescribed limits.

What is clear, though, is an agreement among agencies in Jordan, Philippines, and Sri Lanka to control their numbers. In an interview for this report, Al-Husainat expressed deep concerns over alleged plans that MOL will open up more licenses in the near future. “There are more than enough agencies already” and “adding more agencies will only result to even more problems,” he said. He argued that the new agents will not have enough experience and knowledge to run a recruitment business.<sup>47</sup>

ALFEA President Aponso shares similar sentiments with his Jordanian counterpart. He noted that it “has been very easy to open agencies in Sri Lanka, especially if one has government connections.”<sup>48</sup> Indeed, the point of debate among various stakeholders interviewed for this report, including agents themselves, is not whether the number of licensed recruitment agencies should be reduced but how to go about reducing it effectively — an issue that will be discussed in the next section.

## **B. Proliferation of Unlicensed Subagents and Brokers**

As mentioned earlier, licensed recruitment agencies rarely work alone, but rather use a host of (mostly informal) subagents and brokers to find prospective migrants or employers, creating additional layers of intermediaries.

Sri Lankan and Filipino recruitment agencies work with brokers in Jordan, who work for companies looking for employees from overseas. Since Jordanian recruitment agencies can only recruit domestic workers, agencies in Sri Lanka and the Philippines interviewed for this report reported paying brokers in Jordan to get access to job orders from Jordanian companies. Some of these brokers work directly within companies as part of the personnel department; others are independent brokers with connections to many different — and typically smaller — companies.

The National Commission on Human Rights (NCHR), a human-rights advocacy organization based in Amman and funded by the Jordanian government, noted this practice in its 2008 annual report: the “lack of a clear mechanism to recruit workers in the textile and garment factories in the QIZs led to local mediators and foreigners providing the workers for the plants in return for financial amounts.”<sup>49</sup>

At the same time, agencies also work with subagents in Sri Lanka and the Philippines who find and refer prospective migrants from villages and areas far from city centers. This practice of outsourcing recruitment to subagents carries far too many risks, and increases the costs to both workers and employers. For instance, agencies and government officials alike agree that subagents earn the most profit, and in many cases earn more than the licensed agent. Aponso of ALFEA noted that of the \$600 that

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46 Al-Husainat interview.

47 Ibid.

48 Aponso interview.

49 National Center for Human Rights, *State of Human Rights in the Hashemite Kingdom of Jordan, 5th Annual Report, 1 January 2008–31 December 2008* (Amman: National Center for Human Rights, 2009).



Sri Lankan agencies typically receive from Jordanian agents as commission, two-thirds, or \$400, goes to the subagent.<sup>50</sup>

As more and more parties try to make profit on every deployment, the system of accountability breaks down. Essentially the recruiters of subagents and brokers are not formally connected to the agencies they work with, and rarely are accountable to them or to the migrants they eventually help to recruit. As Ambassador Mohottala finds in the case of subagents: “Since they work for commission only, subagents really try to convince migrants to go — even those who are not ready to go.”<sup>51</sup>

### C. *Exploitation and/or Collusion Among Agents and Between Agents and Employers*

Interviews with industry insiders also indicate a fair amount of exploitation and/or collusion among local and Jordanian agents and between agents and employers. Since migrants, especially those working in low-skilled or unskilled sectors, occupy the lowest rank in this complicated food chain, agents and employers recover their losses from each other by passing their costs on to migrants — whether in terms of higher placement and deployment fees, lower salaries, and/or poor working and living conditions.

One of the biggest problems relates to how much agencies charge one another and the employers. As Aponso of ALFEA has noted, agencies are simply charging one another more than they should.<sup>52</sup> For instance, in the domestic work sector, a Jordanian agent recruiting from the Philippines receives around 2,000 JD (\$2,820) from the employer. From this amount, the Jordanian agent deducts roughly two to three months’ salary as commission, or around 450 JD (\$633). Agents in Jordan also spend money on medical examinations, work permit applications, and other expenses, which add up to another \$700. The rest — around \$1,800 — is remitted to the illegal recruiter in the Philippines. Illegal recruiters then use this money to purchase airfare, pay subagents, and cover other costs, including bribes to government officials.

Sri Lankan agents, on the other hand, receive between \$800 and \$1,000 from their Jordanian agents — a much lower amount, since domestic workers from the Philippines are in higher demand than Sri Lankans and therefore employers are willing to pay more. From this amount, Sri Lankan recruiters deduct \$200 as commission — as well as a one-way airfare, training fees (if they are not paid by the migrant), and commission for the subagent, which come to about \$400.

With this amount of money being passed around for every domestic worker deployed, it is surprising that the agents interviewed for this report still complain that there is not enough money for everyone. Agents in Jordan argue that agents in the Philippines arbitrarily increase deployment costs. Al-Husainat recounted his private dealings with a recruiter in the Philippines who increased the deployment cost from \$1,700 per domestic worker to \$2,000 with no clear reason. In cases like this, Jordanian agents complain that they have very little choice but to agree to the new amount, since it would cost them even more money to cancel existing job orders and find another agency in the Philippines.<sup>53</sup>

Agents in Jordan also complain that Sri Lankan agents cancel visa requests far too often, which costs money since visa fees paid to MOL are nonrefundable. Sri Lankan agents counter, however, that they only receive a fraction of the fees paid by the employer anyways. Also, if there are problems with the domestic worker, Jordanian agents typically ask for about 150,000 LKR (\$1,352) back, which is more than what they send to Sri Lanka in the first place.

Similar dynamics are at play between Jordanian companies and their Philippine and Sri Lankan agents. As discussed earlier, male factory workers pay significantly more in placement fees than their female counterparts. Agents in Sri Lanka reason that this discrimination is beyond their control since many

50 Aponso interview.

51 Mohottala interview.

52 Aponso interview.

53 Al-Husainat interview.

**Box 2. Following the Money Trail Across Borders**

As discussed elsewhere in this report, Jordanian agents recruiting Sri Lankans have to give a declaration to the Sri Lankan embassy in Amman as to whether a commission was given to or received from the Sri Lankan agent. If the Sri Lankan agent does not get any commission from the Jordanian agent or employer, he or she can charge the worker the actual expenses incurred as long as they are within the allowable limit set by the Sri Lankan government and are backed up by receipts.

Industry insiders interviewed for this report, however, note that the new regulations do not stop demands for money from Jordan's side. Rather, the system forces Sri Lankan agents to make "adjustments" in their official declaration to SLBFE. One cost that Sri Lankan agents cannot declare to the government, because it is not backed up by a receipt, is the so-called commission that they have to pay to personnel of factories and agencies in Jordan. If this commission, which is essentially a bribe, is not paid, the Sri Lankan agent can lose the factory or the agency's services. The Sri Lankan agencies interviewed for this report complain that they have no choice but to adjust" the declaration to cover some of what they pay under the table. In other words, the declaration they give to SLBFE does not capture the true cost of recruitment because of these hidden charges.

This is a reality that SLBFE does not deny. Kingsley Ranawaka, chairman of SLBFE, acknowledged that Sri Lankan agents have found it "difficult to prove that they are giving commissions to local (foreign) agents or in cases where personnel are taking bribes without knowledge of the companies." If they fail to give this money, Ranawaka said he recognizes that the job order could go to another country where agents can easily provide commissions.

With limited ability to exercise real control or influence over employers and agents in Jordan, it would be very difficult for the government of a country of origin, such as Sri Lanka, to unilaterally regulate transactions among agencies and between agencies and employers since these transactions are essentially transnational in nature, and are thus beyond the jurisdiction of any one country.

*Source:* Kingsley Ranawaka, Statement Prepared for Strategy Meeting, Open Society Foundations, November 2010.

households must show proof that they have the financial capacity to recruit and employ a domestic worker by showing a bank statement. As of June 2010, the Directorate for Domestic Workers Affairs generally approves requests from households with a minimum monthly income of 500 JD (\$706). But Hamada Abu Nijmeh, who directs this office, noted that the 500 JD (\$706) is not an official requirement.<sup>55</sup>

factories in Jordan don't reimburse airfare for male migrants, although the contract may indicate that they do.

Sri Lankan agencies find that employers, especially in the garment industry, do not like to employ men due to a perceived tendency to consume alcohol and engage in fights, especially with workers of other nationalities. Sending female migrants is actually more profitable for Sri Lankan agents because employers generally pay \$200 per deployed female worker. For the agency, the only way to make money from sending male workers is to ask for a substantial placement fee directly from the male workers themselves. The placement fee typically covers all the expenses the employers refuse to pay, such as the airfare and, more often than not, an allowance for bribing employers. Since the demand for male factory workers is very low, Kingsley Ranawaka — who chairs SLBFE and is a lawyer by training — is aware that some Sri Lankan agents offer up to \$350–\$400 in bribes to employers and/or their brokers to accept male workers.<sup>54</sup>

Indeed, finger-pointing among agencies and between agencies and employers is easy, since governments cannot effectively follow their money trail (see Box 2).

**D. Difficulty in Screening Out Unqualified Employers**

As discussed earlier, Jordan has initiated a number of policies that raise the standards that companies must meet before they can hire foreign employers. In the domestic-work sector, however, current requirements for household employers remain lax.

In fact, current regulations in Jordan do not have an official minimum income requirement for households applying to hire a foreign domestic worker. As mentioned earlier, Jordanian

54 Kingsley Ranawaka, "Statement Prepared for Strategy Meeting, Open Society Foundations," Unpublished document, November 2010.

55 Interview of Virginia Calvez, Labor Attaché, Philippine Labor Office, Philippine Embassy, Amman, Jordan, by author, June 16, 2010.



This lack of an official requirement of financial capacity is particularly problematic when more than one domestic worker is requested. Abu Nijmeh explained that if the sponsor requests more than one domestic worker, he will typically be expected to have a much larger income, “typically in the thousands and, sometimes, even millions.” Abu Nijmeh emphasized, however, that there is no regulation. As he admitted, “I do it myself . . . I try not to give two or more domestic workers per household.”<sup>56</sup>

There is a concern among various stakeholders that many employers simply cannot afford to pay their domestic workers. As Labor Attaché Virginia Calvez of the Philippine embassy in Amman noted in an interview, “Look, 500 JD is not even \$1,000; how can you live with that monthly income and give the other half to your domestic worker?”<sup>57</sup>

This difficulty in ensuring that employers have the capacity to pay prompted the Philippines to ban the deployment of domestic workers to Jordan in 2008, citing problems including the nonpayment and underpayment of wages and exploitative work conditions.

Abu Nijmeh’s office also cannot inspect sponsors’ home to determine if they have enough space for the workers requested. While his office may ask for documentation proving that a potential employer has the needed space, there are no means to confirm household claims since no law authorizes him or his colleagues to visit sponsors’ homes.<sup>58</sup> As he put it, “All we do here is on paper.”

Abu Nijmeh acknowledged hearing, although not officially, of households where domestic workers don’t have their own private spaces as mandated. According to him, home inspections would be the “best way” for MOL to ensure that households have proper capacity to hire domestic workers. He stated that MOL has explored the idea of home inspections but was constrained by difficulties in implementation (see Box 3). The current system is actually “easy” for his office to implement, Abu Nijmeh said — but, he lamented, “It does not solve the problem and control the situation.”<sup>59</sup>

If the Jordanian government cannot visit the household, then who should? For Ambassador Julius Torres of the Philippine embassy in Amman, the recruitment agency must be responsible for household inspection. The Philippine labor attaché can verify if companies are reputable by doing an

### Box 3. Jordanian Labor Law and Domestic Workers: Practice vs. Paper

Many actors agree that domestic workers are more susceptible to abuse and exploitation than factory workers because their work is confined to a private home. A number of Sri Lankan agents who used to send domestic workers to Jordan and now primarily send factory workers admit that it is much more difficult to monitor households than factories. As one Sri Lankan agent put it, “Agencies in Sri Lanka and Jordan cannot really know what is happening inside the house. If you are my client and I tell you I know the house you will be working in, that would be a lie. It’s a business trick in which generally everybody lies.”

Ambassador Mohottala said that “the Jordanian government has been very responsible in coming up with progressive regulations, but the real challenge is enforcement.” For instance, he asked, “By including the domestic workers in the labor law, they should have one day off, but how do you implement that?” As discussed earlier, Jordan is one of the first countries in the region that has included domestic workers under its labor laws.

Monitoring migrants is important but difficult, especially for domestic workers, simply because the home is not easily accessible to third parties, including governments. Hamada Abu Nijmeh, who directs Jordan’s Directorate for Domestic Workers Affairs, explained that Jordan’s legal regulation prescribes that, if there is a complaint, his office would “ask both sides to visit the inspector and if the inspector found the need to visit the house, he must ask permission from the sponsor.” Abu Nijmeh noted, “The home has special protection from the law. Permission from a judge is required before authorities can enter the home.”

According to Abu Nijmeh, home inspections are important — and, one may note, they are possible for police. But for representatives of MOL, visiting factories and other public places of work is much easier. And indeed, MOL has made headway in recent years on that front. The missing piece of the puzzle remains in the domestic work sector.

*Source:* Author interviews with Ambassador A.W. Mohottala and Hamada Abu Nijmeh, June 2010.

<sup>56</sup> Ibid.

<sup>57</sup> Interview of Virginia Calvez, Labor Attaché, Philippine Labor Office, Philippine Embassy, Amman, Jordan, by author, June 16, 2010.

<sup>58</sup> Abu Nijmeh interview.

<sup>59</sup> Ibid.



on-site inspection. Torres argued, however, that it's a "physical impossibility" for the embassy to inspect each and every household employing a Filipino domestic worker: "The RAA must conduct the inspection. It is not our job."<sup>60</sup>

Ambassador Mohottala of the Sri Lankan embassy in Amman agrees with his Filipino counterpart and expressed doubt that the "recruitment agents are looking seriously at whether the sponsors have the capacity to pay the migrants." For Mohottala, the Sri Lankan embassy cannot inspect the home and the responsibility must fall on the agent or MOL.<sup>61</sup>

## **E. A Broken Legal System for Migrants**

Another problem area is the inadequacy of Jordan's grievance mechanisms for addressing cases that involve migrant workers. The problem is twofold: first, Jordan lacks effective and transparent grievance mechanisms that migrants with complaints are willing to use; second, rules are missing, incomplete, or vague and so further complicate the administration of justice.

There is a wide agreement among the government officials, recruiters, and migrants interviewed for this report on the need to improve migrants' access to courts and other justice mechanisms so that they can seek redress for violations of their rights. Without effective grievance mechanisms and appropriate sanctions, unscrupulous agencies and employers have little incentive to abide by a contract's terms and conditions.

Interviews with key informants suggest that the current system does not settle cases within a reasonable amount of time and that cases of violations are not appropriately sanctioned.

Imad Shargawi, a lawyer hired by the Philippine embassy in Amman to represent Filipino migrant workers in court and mediation proceedings, expressed deep concerns about how the current justice system works. For Shargawi, "there is no legal system in Jordan." He complained that a case filed in court takes a long time before it can be resolved, with some cases taking one to two years to get a verdict; the process is time- and resource-consuming. He explained that should the Philippine embassy take every case to court, "it would need to hire more than 100 Jordanian lawyers."<sup>62</sup>

Mohottala shared similar views during an interview, citing one specific case in 2007 in which the embassy helped a domestic worker file a case against an employer for nonpayment of wages. The verdict was reached three years later, in 2010, and by that time both the sponsor and the domestic worker had left Jordan. According to Mohottala, the domestic worker "lost faith in the slow legal system, grew tired of waiting, and reached the point where she didn't want the money anymore and just wanted to go home."<sup>63</sup>

Tamkeen, a nonprofit organization based in Amman that provides free legal advice and representation services to distressed migrant workers, faces similar problems. Linda Alkalash, who directs Tamkeen, noted that one of its biggest challenges is maintaining migrants' interest in pursuing their cases, given the time it usually takes to bring the case to court and reach a verdict.<sup>64</sup>

Ranawaka, the SLBFE chair, noted that the odds are stacked against migrant workers once they file cases in the destination country. He acknowledged that "to solve labor disputes, migrants have to go through a normal procedure, which in itself takes a long time . . . during that time, migrant workers can become helpless. If they go for litigation, they experience even more difficulties."<sup>65</sup>

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60 Interview of Julius Torres, Ambassador of the Philippines to Jordan, by the author, June 16, 2010.

61 Mohottala interview.

62 Interview of Imad Shargawi, Lawyer, Philippine Embassy in Amman, by author, June 21, 2010.

63 Mohottala interview.

64 Interview of Linda Alkalash, Programs Manager, Tamkeen, by author, June 21, 2010.

65 Interview of Kingsley Ranawaka, Chairman, Sri Lankan Bureau for Foreign Employment, by author, July 5, 2010.



While contemplating filing a case against employers and/or agencies, migrants have to overcome many obstacles, such as:

- Where would they stay when they cannot stay with an employer?
- Can they work anywhere else legally while the problem is being addressed?
- Can they afford a lawyer to represent them?
- Can they leave the country without the objection of the sponsor?

Going through litigation can become a very expensive proposition for migrants, since they most likely will not receive a monthly salary while the trial is ongoing. Added to this difficulty are the costs associated with filing a complaint. Since migrants in Jordan are paid very little to begin with, they neither have enough savings to stay on without a job nor can they bear the extra cost associated with pursuing a case. The problem becomes even more complicated if the employers lodge a counter case against the migrants.

For Ranawaka, it's important to understand that migrant workers are not Jordanian citizens and many fear the prospect of getting trapped in a foreign country. As far as the Sri Lankan government is concerned, he noted that the embassy does provide translators and legal assistance. However, he admitted that while "in theory, there is a remedial action," in practice, "the system itself has problems."<sup>66</sup>

#### I. Mediation: The Solution to a Broken Legal System?

Given the weakness of the court system, both the Sri Lankan and Philippine governments try to settle problems amicably through mediation proceedings conducted within their embassies. Aside from the employer and the migrant, mediation proceedings typically involve the Jordanian recruitment agent, the embassy-appointed Jordanian lawyer, and the Sri Lankan or Philippine labor attaché.

Indeed, mediation is the preferred method for solving disputes. A MOU between the Philippines and Jordan states that the two governments would "resolve disputes that arise between workers and employers through possible amicable methods, and within the legal framework of the country concerned." Agencies interviewed for this report admit that everything is settled at the embassy, with only a few cases making it to court.

Mediation almost always provides the quickest possible solution. Success depends in part on the amicable relationship between agents and embassy staff. As a lawyer hired by the Philippine embassy to represent migrants, Shargawi acknowledged that it's easier to work with agents if he is "friends with them," since a settlement can be reached faster and passports more easily retrieved from the employer. For Shargawi, problems are best resolved through mediation because Jordan "does not have a good system" in place for the judicial review of complaints.<sup>67</sup>

Embassy-officiated mediation may be a quicker solution than going through the Jordanian court system, but it is not necessarily the most transparent. Some Jordanian agents interviewed for this report alleged, for instance, that embassy staff would sometimes "coach" domestic workers to testify that their employers abused them physically or sexually. This way, the employer would end up paying the worker a monetary compensation that agents charged were shared with embassy staff. Agents suggest that sponsors found guilty of abuse pay between \$4,000 and \$5,000 and that the worker typically gets only a fraction of that amount.

Agents further alleged that some embassies have allowed migrants who have taken refuge in their shelters to work part-time without proper documentation, mostly in hospitals and hotels. Some embassy staff allegedly partake of the wages these migrants earn while working in the informal economy. Agencies

<sup>66</sup> Ranawaka interview.

<sup>67</sup> Shargawi interview.





complain that this practice is not only illegal, but also entices domestic workers who have no problems with their current sponsors to leave their sponsors' homes and seek shelter in the embassy in order to access higher-paying jobs outside the domestic sphere (see Box 4).

Whether these allegations are true or not is hard to ascertain. Some migrants who were seeking shelter in the Sri Lankan and Philippine embassies admitted, in focus group discussions conducted for this report, that though they had left an embassy shelter to work outside, they usually did not like the job and ended up going back to the embassy.<sup>68</sup> It is not clear from the discussions, however, whether the embassy staff facilitated their employment or if proper documents were secured before they started work.

Officials from both embassies noted that some migrants leave the shelters without permission from embassy staff in order to work and earn money to sustain their families back home, a practice confirmed by group discussions with Filipino and Sri Lankan migrants working without proper documentation.<sup>69</sup> As Box 5 shows, migrants seeking shelter in the Sri Lankan and Philippine embassies face a difficult situation, given the shelters' limited resources and the long waits many have to endure for their cases to get resolved.

#### **Box 4. Embassy Staff as Recruitment Agents?**

Several agents interviewed alleged that some migrants who had taken refuge in embassy-run shelters were actually working part-time in hospitals and hotels. The second in command at the Ministry of Labor, Secretary General Mazen Odeh Naser, admitted in an interview for this report that MOL is aware of such cases. Naser noted an instance in 2009 when MOL discovered that hospitals were employing domestic workers who had sought shelter in an embassy, although he declined to identify the embassy. The matter, according to Naser, is currently under review.

Labor Attaché Virginia Calvez of the Philippine embassy confirmed that the embassy allows migrants in its shelters to leave if there are employers willing and able to legalize their status in Jordan, but that these migrants are not allowed to take part-time jobs in the informal economy. Calvez, who came to Jordan in 2010, admitted the possibility that this practice may have happened before she assumed her post, but stated that it is not happening now.

She explained that domestic workers cannot change their job category in Jordan, so the embassy does not allow them to work in other sectors. If the embassy allows migrants who have escaped abusive employers to work with employers who cannot provide them with a stable and legal job, then the embassy is, as she put it, "no better than a trafficker." For Calvez, "allowing migrants to work without the assurance of legalization will only prolong their agony."

She noted that the Philippine labor office in Jordan has been very transparent with MOL and writes formally to them every time a Jordanian employer intends to hire and legalize the status of a woman in her shelter. Calvez underscored that even Royal Hashemite Court and US embassy personnel have visited her office wanting to hire domestic workers from the Philippines. According to Calvez, these employers, like many others, recognize the difficulty of hiring domestic workers directly from the Philippines due to the ban. In cases like these, the embassy connects them only to those who are eligible for transfer to a new employer. If a match is made, the new employer signs an undertaking with the embassy that he or she will legalize the status of the workers. For Calvez, who is a lawyer by training, "that is not a violation."

*Source:* Author interview with Mazen Odeh Naser, Secretary General, Ministry of Labor, Jordan), June 15, 2010; Calvez interview.

## **2. Missing, Incomplete, or Vague Rules**

Rules that are missing, incomplete, or vague in three key areas — (1) who pays for the deployment costs when the migrant worker refuses to work, (2) who pays for the overstay fines, and (3) who can keep a worker's passport — further complicate the administration of grievance mechanisms and allow for unscrupulous actors to dodge the system.

<sup>68</sup> Focus group discussions with migrant workers convened by author, Amman, June 14 and 17, 2010.

<sup>69</sup> Focus group discussions with migrant workers convened by author, Amman, June 18, 2010.



### Box 5. The Waiting Game

At any given time, about 150 migrants stay in the Philippine embassy-run shelter in Amman while approximately 80 seek shelter in the Sri Lankan embassy, all waiting for some resolution of their cases. Some have to pay back deployment costs, otherwise their sponsors will not drop cases filed against them; others are waiting to retrieve their passports or to hear back from relatives at home who are desperately looking for money to purchase the migrants' return tickets. Many have filed cases against their employer, mostly for back wages. Some have even received job offers from other employers, but the agencies and/or their current employers will not agree to transfer their sponsorship unless they withdraw their claims for back wages. Many have to wait for months in the shelter — and some for years — before their cases get resolved.

The situation in these shelters could be better. The Philippine shelter, for instance, has 150 migrants sharing four apartments with eight bathrooms and not enough beds. Water is at a premium, with each migrant allowed to use only 1 liter of water per week for bathing and cleaning. They also have to purchase personal-use items such as shampoo and soap.

Despite the difficult situation, many of the Filipino and Sri Lankan migrants interviewed for this report expressed some appreciation that at least they have a safe place to stay at night and food to eat, as migrant workers of some other nationalities don't even have a shelter. As one Sri Lankan migrant expressed through a translator: "Without the embassy, where would we find ourselves but nowhere?"

The Philippine embassy personnel also organize gatherings on special occasions, such as during the Philippine Independence Day and on Christmas, when they are asked to perform in groups at an embassy-organized party. Every Friday, Father Kevin O'Connell, a Catholic priest, comes to the shelter to hold a mass, which almost everyone at the shelter attends, including embassy staff. He brings with him an all-Filipino choir, the majority of whose members are also domestic workers. Similarly, Sri Lankans in the shelter can have access to the only Buddhist temple in Jordan situated within the embassy grounds.

Although many become desperate in these shelters, not all are entirely without hope. As one Sri Lankan migrant put it, "I have no choice but to wait and believe that this will all be resolved in the end." When asked why has she remained in the shelter, a Filipino migrant answered in Tagalog, "Ano pa ba ang ginagawa ko dito kung hindi maghintay ng grasya" (What else am I doing here but waiting for grace?). "Waiting for grace" has a particular religious connotation for many Filipinos, as coming from a predominantly Catholic society they still see Jordan as the Holy Land. As one Filipino migrant asked, "Didn't Jesus walk on these very same grounds thousands of years ago? So I am still hopeful for a miracle."

For some of migrants in the shelter, miracles do happen, although not as fast or as frequently as they would like. Indeed, in this waiting game, help may come from any side — but may not be sustained. The 2009 presidential election in the Philippines, for instance, brought a slew of prominent national politicians who paid the return airfare of migrants in the shelter, enabling some to go home. Ambassador A.W. Mohottala of the Sri Lankan embassy noted that the Jordanian government has sometimes issued waivers allowing those who have overstayed their visas to go home without paying the hefty fines.

Fully addressing the problem of migrants in shelters requires a much more permanent solution that addresses the root causes of their distress in the first place. Mazen Odeh Naser, Secretary General of Jordan's Ministry of Labor, acknowledged in an interview that even if the shelters are cleared and all existing cases solved, it will only be matter of time before a new batch of migrants in distress comes along.

*Source:* Focus group discussions with migrant workers convened by author, June 14 and June 17, 2010; author interviews with Ambassador Mohottala and Secretary General Naser.

### 3. Deployment Costs

The biggest problem arises when for some reason or other, migrant workers refuse to work with their current employers and would like to go home. In such cases, agents typically ask the migrants to pay back the expenses incurred in bringing them to Jordan. As discussed earlier, the deployment costs can be prohibitively expensive since, unlike placement fees, they are not regulated. In other words, there is no government-prescribed rate or guideline to calculate how much a migrant should pay the recruiter and/or employer should he or she break a contract.

For Ranawaka, without a standard way to calculate deployment costs, "employers are free to demand



unreasonable amounts. In the absence of evidence to prove harassment or unhealthy working conditions, employees who face difficult conditions are forced to pay this money back or stay and endure the poor conditions.” Ranawaka accurately framed the situation for many of these migrants: “They mortgage their property to secure a job and when employers demand an almost equal amount to give release they become helpless.”<sup>70</sup>

The ways out of this problematic situation are few. The Philippine embassy sometimes assists migrants in paying the deployment costs, and Torres explained that although his office negotiates with recruiters and employers to lower deployment costs, migrants still have to pay as much as \$2,000 in some cases. Torres lamented that every time he signs a check to cover deployment costs, he feels “very bad” because, for him, the Philippine government should not be doing this at all. He asked, “What about our people in the Philippines who are not getting as much, for example, farmers and workers who get sick in the Philippines and yet here we are spending thousands of dollars for somebody who cannot take the work and wants to go home.” Indeed, the Philippine government cannot and does not pay deployment costs on a regular basis but only in special circumstances, such as when it receives directives from Manila to pay.<sup>71</sup>

#### 4. Change of Sponsorship

The only other choice for a migrant who does not have enough money to pay for the deployment costs is to work with a new employer. As one Jordanian agent put it, “If the girl can pay, then she can go home. If she can’t pay, then she should stay with the sponsor or work with a new one.” Agents typically remind a domestic worker that she has signed a contract to work for two years and may use that contract to intimidate her.

Domestic workers can change sponsors in Jordan as long as the old sponsor agrees to the arrangement. Indeed, in the case of domestic workers, Jordanian agents routinely find a new employer for a migrant who refuses to work and only rarely send the migrant home.

The regulations and rules governing deployment costs and changes in sponsorship, however, create loopholes in the system that allow some unscrupulous agencies to turn migrants’ ability to change employers into a moneymaking venture. When transferring a domestic worker to a new sponsor, the agent should use the fees paid by the new sponsor to pay back the old sponsor, but some agents subtract the number of days the domestic worker worked for the sponsor from the original amount to be returned and, in some cases, also charge the fees the agents paid to MOL, thus giving the agents extra profit. As Box 6 explains in more detail, this practice creates a perverse incentive whereby agents can potentially make more money when domestic workers refuse to work.

#### 5. Overstay Fees

Another murky issue relates to overstays. Sponsors sometimes don’t renew their worker’s residence visas after completing the initial contract period. The Jordanian government levies a fee of 1.5 JD per day. For Ambassador Mohottala, the problem of overstay fees for residence visas is most unfortunate as many Sri Lankans end up staying in the shelter for ten to 12 months, or sometimes even more, because they can’t afford the fines.

As Mohamed Olwan notes, the administrative deportation procedures are slow, and the fine levied exceeds the term of the worker’s residence permit. The deportation order will be executed only after this fee has been paid or if the Ministry of Interior issues an order exempting the violators from payment. According to Olwan, “This process sometimes takes several months, which constitutes a flagrant infringement on personal liberties.”<sup>72</sup>

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70 Ranawaka interview.

71 Torres interview.

72 Mohamed Olwan, *Irregular Migration in Jordan — A Policy of No Policy — Analytical and Synthetic Notes* (San Domenico di Fiesole: CARIM, 2008), <http://hdl.handle.net/1814/10105>.



## Box 6. “Recycling” Domestic Workers?

Domestic workers can change sponsors in Jordan as long as the previous sponsor agrees to the arrangement. Industry insiders reveal, however, that unscrupulous agencies have transformed this flexibility, which ideally could be beneficial to migrants, into a moneymaking venture.

Before a domestic worker can transfer to a new employer, the old employer typically demands the return of the recruitment costs charged by the agent, which amount to around 2,000 JD (\$2,800). However, agents do not return this full amount but prorate it for the number of days the domestic worker stayed in the old sponsor’s home, at the rate of 10 JD (\$14) per day — plus fees paid to MOL, in some instances.

So if a domestic worker stayed in a home for a month, the agent will charge the employer 300 JD (\$422) and only return 1,700 JD (\$2,400) to the old employer. The agency will then find a new employer and charge that employer 2,000 JD (\$2,800), giving the agent a clean profit of 300 JD (\$422). From that profit, the agent will typically pay the domestic worker a month’s salary, which is around 150 JD (\$211), and will pocket the remainder. The same domestic worker may end up working for three months with the second employer. The agent will charge the second employer 900 JD (\$1,300) for three months’ worth of work, and return only 1,100 JD (\$1,550). The domestic worker, who in most cases, would not get paid during those three months, would receive around 450 JD (\$634) from the agent, leaving the agent with a profit of 650 JD (\$916).

Imad Shargawi, a lawyer for the Philippine embassy, said he has seen such “recycling” occur quite often. Shargawi said he finds that Jordanian agents actually make more money if their domestic workers refuse to work and instead run away, as long as they can be convinced to change sponsors. He has even handled cases in which agents have told the domestic workers to run away. Shargawi explained that the practice is “not illegal,” and sponsors don’t necessarily complain. He asked, “What will the sponsor complain for? The agreement is I give you the girl, I give you the girl.”

Indeed, almost every recruitment agency in Jordan has a Filipino or Sri Lankan representative whose main job is to convince domestic workers who don’t want to stay with their existing sponsor to transfer to a new sponsor. Julius Torres, Ambassador of the Philippines to Jordan, also acknowledged that this happens, characterizing it as similar to “trading in slaves” since, as he explained, the agents in Jordan “already got the deployment cost back” but still want more.

This practice of convincing domestic workers to move to a different employer rather than go back to their country of origin also keeps agents from losing money. Jordanian agents interviewed for this report revealed that in cases where migrants refuse to work, their agent counterparts in Sri Lanka and the Philippines typically do not send money for the ticket and deployment costs. As one Jordanian agent bluntly asked: “What would I do with a girl who does not want to work? If I send her back to her country, then who will pay my money back?”

Interviews and group discussions conducted for this report suggest that in some cases, the family of the migrant worker refunds the deployment costs, essentially buying the worker’s freedom, and the Sri Lankan or Filipino agent sends for another domestic worker as a replacement. Clearly, in cases like this, migrants and their families incur all the costs while leaving recruiters in all three countries totally off the hook.

*Source:* Interview of key informant by author, June 15, 2010; author interviews with Imad Shargawi and Ambassador Julius Torres; focus group discussions with migrant workers convened by author in Amman.

Interviews with agencies, governments officials, and migrants suggest that current guidelines do not clarify who is responsible for paying the overstay fees. Both Philippine and Sri Lankan embassy personnel share the same view that the sponsor should pay for the overstay fees. Ambassador Mohottala explained that since the sponsors are registered with MOL, actions must be filed against them to recover the overstay fees. He stated, “The embassy cannot pay the fees and even if they do, there will be no end. We are not in a position to spend.”<sup>73</sup> The Sri Lankan government’s view is that Jordan should regularly waive this visa requirement or create a mechanism to recover the visa fee from the sponsor. The Jordanian government has waived the fines before, but usually just once a year. In the meantime, Mohottala lamented, “The embassy has to take care of them.”<sup>74</sup>

73 Mohottala interview.

74 Ibid.



Labor Attaché Calvez of the Philippine embassy shares similar sentiments. The embassy has asked for waivers before, but, as of this writing, some requests have not been acted on since 2009. As Calvez explained, “They are not even saying they approve or disapprove. It’s a waiting game.” Given the little success the embassy has had in asking for waivers, it has shifted its stance and instead asked the Ministry of Interior to “compel the employers to pay for the overstay fees.” Calvez asked, “If not the employer, then who should be responsible?”<sup>75</sup>

Some agents interviewed for this report, however, question why the sponsor should pay for the overstay fees when the migrants have already left the employer or, especially, when the migrants are in the embassy shelter.

### Box 7. Running to the Streets to Find Decent Wages

Agencies in Jordan argue that some domestic workers who run away from abusive employers take to the streets to find more profitable employment opportunities. Many eventually find work, most as part-time employees, and stay in group homes or with their partners. Our focus group discussions with migrant workers suggest that domestic workers can potentially earn more by working outside the home. Migrants in these situations typically plan to work in the informal economy for one or two years, save enough money to pay the overstay fees, and send the rest of their earnings to their families back home. Some have made arrangements with Jordanian nationals who are willing to act as their employers in exchange for a bribe, typically around 700 JD (\$987) for one year of sponsorship.

There is little debate among informants interviewed for this report that migrants tend to work in sectors or occupations that command a lower wage. W. M. P. Aponso, the president of ALFEA, for instance, said that “agencies need to be educated about the dangers in bidding the wage too low . . . especially since agents know very well that migrants leave with too much debt.” Unable to make ends meet, it is conceivable that migrants who have decided to work in the informal sector may have found the option to stay within legal channels increasingly difficult.

Although Jordanian agents interviewed for this report recognize this need for migrants to earn more money, many reason that migrants have signed a contract and that this contract must be honored by all the parties concerned. For them, it is important that the Jordanian government prosecute domestic workers who have left the household that sponsors them to work in the informal sector. Khaled Al-Husainat, President of the Recruiting Agents Association (RAA), complained that some would eventually “show up after three or four years and go to human rights’ groups to tell lies.” For Al-Husainat, if the domestic worker is serious about solving a problem with an existing employer, she will go to an embassy or an agent and not to the street.

*Source:* Author interviews with Khaled Al-Husainat and W. M. P. Aponso; focus group discussions with migrant workers convened by author.

For Mu’tasem Hindawi, a Jordanian recruitment agent, the problem of overstay fees becomes more complicated once the domestic worker leaves the employer and goes to the embassy. If the domestic worker stays in the house and the employer refuses to pay for the visa, Hindawi said he would have his own lawyers contact the employer and compel him or her to pay. Hindawi noted that based on his experience employers usually pay, many in less than 48 hours.<sup>76</sup>

Recruitment agents in Sri Lanka, who concentrate on sending factory workers to Jordan, have similar views. For these agents, some workers who leave their factory jobs don’t have a legitimate reason except to earn more money. Agents allege that some migrants leave the factory that sponsored them to work for smaller factories that pay them more but do not provide them with legal papers.

As Box 7 discusses, migrants sometimes leave their sponsors to work in the informal economy, which makes the question of who should pay the overstay fees even more complicated. Both the Sri Lankan and Philippine officials find that migrants come into the shelter for assistance only when they run into difficulties, such as when they are caught by the police. The case becomes different and harder to settle when it is obvious that the migrant has left the employer to work outside.<sup>77</sup> Another source of complication is when the employer files a counter case against the migrant worker, typically for stealing.

Ambassador Mohottala recognizes the

75 Calvez interview.

76 Hindawi interview.

77 Mohottala interview.



complexity of the problem, but says that it is important to stay focused on the end result. For Mohottala, the “bottom line is, somebody has to pay: the maid, the sponsor, the embassy, somebody — unless the Jordanian government does a waiver.”<sup>78</sup>

Indeed, the only other solution is to change the system altogether. Virginia Calvez, who headed the Philippine Labor Office in Dubai in the United Arab Emirates (UAE) before being transferred to Jordan, can’t help but compare the two systems. Calvez explained that the “in-out system is much faster in the UAE because they have a better system for repatriation, which allows migrants workers who have overstayed their visa to go home, as long as they don’t have other pending cases. They receive an eye scan which essentially is a lifetime ban.” Calvez lamented that since Jordan does not have a similar system in place, migrant workers end up staying in the embassy shelter for months and some even for years just for overstaying their visas. Calvez argued that it’s important for the Ministry of Interior to provide an alternative option in case migrant workers can’t pay. For Calvez, under the current system, “there is no remedy. In the event the workers cannot pay, there is no clear avenue. They are helpless and they have nowhere to go.”<sup>79</sup>

## 6. Passport Rules

Another problematic issue is migrant workers’ access to their own passports. As noted earlier, our focus group discussions revealed that employers appear to routinely confiscate passports, irrespective of workers’ skill level. Adnan Rababa, Director of the Workers Affairs and Inspection Directorate at MOL, clarified that employers can keep the passports as long as they have a written statement of consent from the migrant worker in question. Rababa explained that especially in factory or accommodation settings, “It may not be safe to keep the passport, so the MOL allows the employers to keep it.”<sup>80</sup>

Rababa admitted, though, that some employers ask for the passport not for safekeeping purposes, but as a form of insurance. He noted that MOL has received complaints from employers asking what precautions they can take against a migrant worker’s absconding.<sup>81</sup> As already explained, employers often keep passports on the grounds that they have paid for the workers’ recruitment, including airfare, and want to ensure they get their “money’s worth.”

Agencies in Sri Lanka and the Philippines interviewed for this report reason that it is not fair for the agency and the factory owner to cover the cost of recruitment and airfare if the migrant worker refuses to work. For these recruiters, taking migrants’ passports away is the only guarantee a factory owner has of retaining the worker and recouping costs.<sup>82</sup> Agencies also condone this practice because they sign an agreement with the factory guaranteeing that the worker will work for three years. They also want to keep their clients from asking the services of another agency. As one recruiter puts it: “I have to be responsible, too, if she runs away.”<sup>83</sup>

Indeed, holding passports can be effective leverage for employers when problems arise. It keeps workers from leaving Jordan, since migrants would generally need about four months to recover their passports by force through the court system.<sup>84</sup>

Rababa suggested that it’s important to introduce an alternative form of employer insurance in the event that a worker leaves before the end of a contract; otherwise, he is concerned that “although it’s illegal to hold the passport, employers will still hold it.” For Rababa, the “law prohibiting the confiscation of a

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78 Ibid.

79 Calvez interview.

80 Interview of Adnan Rababa, Director, Workers Affairs and Inspection Directorate, Ministry of Labor, Jordan, by author, June 15, 2010.

81 Ibid.

82 Interview of key informant by author, July 14, 2010.

83 Ibid.

84 Shargawi interview.



passport did not solve the problem of how to make the employer secure.”<sup>85</sup>

## F. Ban on the Deployment of Filipino Domestic Workers

As noted earlier, the Philippines has banned its nationals from working as domestic workers in Jordan. Some informants interviewed for the report argue that the ban has only worsened an already bad situation. It is important to emphasize here that the ban was imposed unilaterally by the Philippine government and is not recognized by Jordanian authorities. Ambassador Torres explains that migrants leave the Philippines mainly as tourists, but upon arrival, “They have a valid entry permit and work permit so, from the perspective of Jordan, they are legal workers here.” Jordanian recruiters still work with agencies in the Philippines, and process their visa and work permit applications just as before the ban. As Box 8 shows, the only difference is that the Philippine recruiters are now working illegally and have to figure out a way to circumvent border controls imposed on the Philippine side.

The government checks on workers as they transit in and out of the Philippines. For instance, to ensure that workers are properly documented before proceeding to their overseas job sites, the government maintains assistance centers at international airports and other exit points; those without proper

### Box 8. Would a Deployment Ban Work?

The Philippine embassy in Amman estimates that, since 2008, over 10,000 migrant workers have defied the ban on domestic workers and flown into Jordan. For Ambassador Torres, the “ban is only good for atmospherics.” It essentially forces destination governments to come to the negotiating table and enact certain measures. Torres warned, however, that the ban does not really stop workers from going since the wages are attractive and there is a strong demand for them to come. As he aptly describes the current situation: “When we suspended deployment, we closed the door, but in fact, the windows are quite open.”

And many have used the open windows to get out. Labor Attaché Virginia Calvez noticed that migrants to Jordan are coming from the rural areas, many from Mindanao, an island south of the Philippines, which has not been a traditional source of migrant workers. She finds that “recruiters go the hinterlands to find people, typically with no prior experience of going abroad.” According to Calvez, “If you have experience, you won’t go to Jordan.”

Indeed, there is an agreement among government officials and recruiters alike that the ban has led to the arrival of more unqualified workers — in large part because they did not undergo the right procedures. Torres is concerned that the “image of Filipinas as quality domestic workers is going down because the government is forcing recruiters to go underground and deal with unscrupulous recruiters in the Philippines.” Jordanian agents complain that due to the ban, it is harder to check on their local partners in the Philippines and interview domestic workers firsthand.

As far as the Philippine government is concerned, what is happening is tantamount to trafficking. For Calvez, Jordanian agencies are “traffickers because they know very well that the migrants did not go through the proper government process. They have counterpart recruiters in the Philippines which are all illegal recruiters.” Recruiting Agents Association President Khaled Al-Husainat admitted that not all who come to Jordan “know the real deal,” and estimated that 10 to 15 percent sign fake contracts in the Philippines and get cheated by agencies at both ends. As far as RAA is concerned, however, he explained that if there is indeed trafficking, it’s not happening in Jordan since everything is legal from the time they step into the country. For Al-Husainat, “If they leave as tourists in the Philippines, it’s not the fault of Jordan.”

Both Philippine embassy officials and recruitment agents agree on one critical point, however: it is better for everyone concerned — the agents, the governments, the migrants, and the employers — to lift the ban, primarily for two reasons: migrants are coming regardless of the ban and, without it, domestic workers can go through normal channels and be afforded some of the protection provided by law, such as signing a contract at the origin. Agents think that lifting the ban would also make it less expensive, easier, and safer to recruit from the Philippines.

Source: Author interviews of Virginia Calvez, Khaled Al-Husainat, and Julius Torres.

85 Rababa interview.



documents are not permitted to leave.

As can be expected, however, it is difficult for the Philippine government to control its porous borders. Despite the checks, the Philippine government also guarantees everyone the right to travel. “If somebody books a return ticket, indicating that they are traveling for tourism purposes to Jordan or anywhere else, the Philippine government cannot hold him or her at the airport suspecting she is a domestic worker,” Ambassador Torres said. He highlighted a case where a businesswoman was kept from leaving the Philippines as she was suspected of being a domestic worker, which placed the government in an embarrassing situation when it was discovered otherwise.

Ambassador Torres admitted that an even larger problem pertains to what he characterized as “unworthy employees and officials at immigration who accept bribes.” For Torres, “Everybody knows about that. The government has tried time and again to catch those culprits and some of them have been caught and some of them have been prosecuted but it’s prevalent, it happens.” Indeed, as discussed earlier, illegal recruiters in the Philippines have a lot of money to spread around, since they receive around \$2,000 from Jordanian agents for every domestic worker they help deploy.

“Promising a worker that she will work in a hotel, in Bahrain, etc . . . is mere trafficking,” Torres said. He explained, “Here we are trying to blacklist employers, blacklist recruitment agencies, but since we have now suspended deployment there is no use blacklisting anybody, everybody is going underground. That is why I said to our Department of Labor, ‘Let’s put in place a strict screening procedure and have a common position with the Jordanian government.’”<sup>86</sup>

## VI. Bridging the Gaps: Five Ways Forward

It is clear from the foregoing discussion that there are gaps in the current recruitment system that unscrupulous agencies, employers, and other actors are more than willing to exploit. In order to improve the policy framework, it is critical for the three governments involved to develop regulations, especially around the following five areas:

- The number of licensed recruitment agencies
- Subagents’ and brokers’ informal operations
- Unqualified employers who hire domestic workers
- Transactions among agencies and between agencies and employers
- The inadequacies of existing grievance mechanisms.

### A. *Reduce the Number of Recruitment Agencies to an Optimum Level*

As discussed, employers and recruitment agencies have to meet various sets of standards imposed by both the source countries and the destination country before they can work with migrant workers. However, the entry rules that MOL, SLBFE, and POEA currently have in place have not effectively screened participants.

It is important that all three governments reduce the number of recruitment agencies to an optimal level to prevent cut-throat competition among agencies. Guaranteeing worker protection requires keeping the market from becoming oversaturated.

<sup>86</sup> Torres interview.





One policy route is to adopt more stringent entry barriers to weed out potential violators. As noted earlier, all three countries already operate a licensing scheme that limits operational recruitment agencies to those who can meet various requirements by posting bonds and undergoing a criminal record check. Some in the recruitment industry call for even stricter regulations that would:

- **Professionalize the recruitment industry.** For M. Z. M. Manzoor, Vice President of ALFEA, it's important for the Sri Lankan government to concentrate on curbing the proliferation of agencies whose owners do not have the management skills required to successfully run a recruitment agency. He gave examples of former domestic helpers and what he described as “tea boys” who went back from Jordan and started agencies without undergoing training in business management.<sup>87</sup>
- **Increase bank guarantees, fees, and bonds.** Some agencies in Sri Lanka have suggested further increasing the bank guarantee required from those applying for an agency license. As Jagath de Silva, long-time Sri Lankan recruiter puts it, “The current rate of \$7,000 is so very low that it practically amounts to nothing.”<sup>88</sup>
- **Stop the proliferation of foreign-owned recruitment agencies.** Although both the Philippines and Sri Lanka have nationality requirements, industry insiders in both countries assert that an alarming number of agencies have foreign owners who have married or hired locals to act as proxies. These foreign owners typically control the company as members of the board. In-depth interviews with Jordanian agencies confirm that this may be true of some agencies interviewed for this report, admitting that they have relatives and Arab friends in Sri Lanka and the Philippines who are nonnationals and are running agencies and supplying them with workers. As noted earlier, the proliferation of foreign-owned agencies makes it difficult for governments to successfully prosecute cases against erring agencies when the real owner is not a national and therefore beyond their jurisdiction.

## Beyond Entry Barriers

Stricter regulation, however, is typically not enough. Government officials and recruiters alike are concerned that overtly stringent entry rules may only drive the recruitment industry underground. In other words, agencies that cannot meet entry requirements may remain active in the informal market, where they are harder to control. Agencies may also pass on the additional costs associated with meeting more stringent regulations to employers and/or migrants. As Box 9 shows, it is critical for all three governments to formulate entry barriers that deter violators without driving the recruitment industry underground or passing extra costs on to employers and, ultimately, to migrants.

Imposing strict entry barriers should be just one item on a policy menu aimed at decongesting the recruitment market. Another route worth considering is the creation of complementary sets of policies that give rewards and privileges to agencies that meet and exceed government standards and to employers and migrants that utilize their services.

A number of suggestions surfaced during interviews conducted with various stakeholders for this report on ways to create an incentive system that makes working with good agencies better for employers and migrants alike. Among these are:

- **Ranking.** Agencies can be ranked based on a set of criteria that government regulators consider important, such as deployment figures and the number of violations previously committed. Several stakeholders interviewed for this report propose an “ABC” ranking system in which only agencies meeting the highest standards get into the first tier. RAA agrees, in

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87 Interview of M. Z. M. Manzoor, Vice President, Association of Licensed Foreign Employment Agencies, by author, July 17, 2010.

88 de Silva interview.



principle, to the idea of ranking agencies in Jordan, noting that with a ranking system in place agencies will work harder to get into the A tier and those that do not meet the highest rating standard will lose customers. For Al-Husainat, “Over time, only the A-rated agencies will remain and this will be good for everyone.”<sup>89</sup>

- Rating or labeling.** Governments can also choose to require or provide incentives for recruitment agencies to earn international standard certification. For instance, major multinational companies have earned the ISO 9000 label of quality management of the International Standards Organization (ISO). Agencies can use the ISO label in their advertising and marketing campaigns as a guarantee of quality, since throughout the ISO 9000 family, emphasis is placed on the satisfaction of clients.<sup>90</sup> The standards can also be set nationally. For instance, Labor Attaché Virginia Calvez highlighted the merits of a prequalification system. Government regulators in all three countries can review the track record of recruiters for a given period of time, especially those with no pending applications. Only agencies meeting prescribed standards can be labeled as prequalified. For Calvez, both the Philippine and Jordanian governments would benefit from a list of what she describes as “clean agencies.”<sup>91</sup>

### Box 9. Balancing Act: Keepings Standards High, But Not Too High

Among recruiters in the Philippines, there is no appetite to raise entry barriers higher; they argue it would only worsen the current situation. Former POEA Deputy Administrator Hans Leo Cacdac of the Licensing and Regulation Office and current Undersecretary of the Philippine Department of Labor and Employment, cautioned in an interview with the author in 2008 that policy changes, especially on bonds and fees, must be based on solid empirical data and analysis, not only to better withstand public scrutiny, but to limit unintended effects. As Cacdac put it, “The last thing the POEA wants to do is to ease prospective applicants out of the legitimate market.”

Agencies themselves admit the risk that higher standards may result in higher costs to migrants. Long-time Philippine recruiter Rene Cristobal said the requirements on capitalization and bonds, which he termed 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.”

Khaled Al-Husainat of RAA and Rasem Hourani, a long-time recruiter who specializes in sending Sri Lankans, agree with Cristobal. Both agents argue that more stringent regulations will only increase the cost of doing business and thus raise the cost for the employer. Al-Husainat, for instance, noted that meeting new requirements for a larger office space would cost him 20,000 JD (\$28,250) in extra rent and moving expenses. Hourani calculated his projected cost at around 15,000 JD (\$21,190) and warned that he would have to charge the household employer 300 JD (\$420) more to cover his moving cost — otherwise he will close shop.

This kind of response from recruiters may well be an indication that stringent regulations do work, in part by cutting into their profits. By raising the bar in terms of standards, strict regulations can potentially drive less efficient agencies out of business; unfortunately, the opposite scenario may also materialize. Agencies are not always ready to admit that although employers may bear extra costs, domestic workers end up paying more as well, not only financially but also by facing more restrictions at the workplace. As mentioned earlier in this report, 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 Jordanian government, as a rationale for their strict demands.

Source: Dovelyn Rannveig Agunias, *Managing Temporary Migration: Lessons from the Philippine Model* (Washington, DC: Migration Policy Institute, 2009); Al-Husainat interview; Interview of Rasem Hourani (general manager, Rasem Hourani Est.) by author, June 15, 2010.

89 Al-Husainat interview.

90 Dovelyn Agunias, “Guiding the Invisible Hand: Making Migration Intermediaries Work for Development,” (Human Development Research Paper 2009/22, United Nations Human Development Report, New York, 2009), [http://hdr.undp.org/en/reports/global/hdr2009/papers/HDRP\\_2009\\_22.pdf](http://hdr.undp.org/en/reports/global/hdr2009/papers/HDRP_2009_22.pdf).

91 Calvez interview.



In thinking about implementing these incentive systems, it is important for government regulators to ensure the impartiality of results. The criteria must be set in a transparent manner and in consultation with various stakeholders, such as members of civil society, migrants, employers, and recruiters alike. Agencies must also be evaluated by an independent and highly respected body.

Beyond issues of impartiality is a concern over effectiveness. Incentives must be designed in a way that benefits not only agencies but employers and migrants as well. Most of the incentive systems in place accord benefits entirely to the agency — but migrants and employers are the ones who eventually make the choice of which agency to choose, and should have reason to choose the best. For instance, in adopting a ranking system, rules can be put in place to ensure that households and domestic workers dealing with agencies in the A-tier can get discounts on residency and work visas and on the fees they pay to MOL, POEA, or SLBFE. The discount must be big enough to offset the lower fees unscrupulous agencies may charge in order to entice and keep clients.

### **B. Bring Subagents and Brokers into the Formal Sector**

Weeding out unqualified recruiters also requires formulating effective regulations to control subagents and brokers. Governments in all three countries have regulations in place that essentially ban subagent operations. As Jagath de Silva, a Sri Lankan recruiter, noted the government, if it wants to, can arrest all subagents since everybody knows who they are in the first place. Recruitment agencies also typically maintain records of the subagents they work with.<sup>92</sup>

Such a crackdown on subagent operations, however, would be difficult to implement. Subagents perform critical roles, and there is a concern among government regulators that impeding their operations too much would have a negative impact on deployment figures and further drive subagents underground. Indeed, current thinking seems to suggest the need to bring subagents into the formal market by giving them a legal entity.

Sri Lanka has taken this approach — SLBFE will start registering subagents as business promotion assistants of licensed agencies. The new system would require Sri Lankan agencies to provide SLBFE with information on their assistants and to maintain records of transactions with them, records that should be available for review when requested. An assistant can work for only one licensed agency at a time and is prohibited from placing notice boards, maintaining offices, and keeping or collecting passports from prospective migrants.<sup>93</sup> After a registration period, SLBFE plans to conduct an island-wide campaign to conduct raids and file legal actions against noncomplying subagents, whose offense is subject to a fine of not less than 100,000 SLR (\$900) and imprisonment of not less than four years.<sup>94</sup>

A roughly similar approach has been proposed by an ILO-commissioned study on recruitment practices in Jordan regarding the role of brokers. The report recommends allowing recruitment agencies to expand beyond the domestic work sector and into other sectors, such as agriculture and production.<sup>95</sup>

It is not clear if the route Sri Lanka is taking will work. Kingsley Ranawaka, Chair of SLBFE, recognized in an interview conducted for this report that Sri Lanka is breaking new ground and will have to closely monitor the impact of the new registration system for subagents.

Some have also expressed reservations that the ILO recommendation to extend recruiter operations beyond domestic work may only add additional layers of recruiters and increase the cost for employers and migrants alike.<sup>96</sup> For Labor Attaché Calvez, for instance, companies and migrants would be better

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92 de Silva interview.

93 Ranawaka interview.

94 Ibid.

95 Al Tarawneh, “Recruiting and Employing Foreign Labor in Jordan.”

96 Ranawaka interview.



off if agencies in the Philippines dealt directly with Jordanian employers that have passed embassy accreditation. This eliminates agencies in Jordan from cutting into the salaries of workers. She explains: “If I am a company, why do I have to go and hire an agent here when I can go straight to the Philippine agency? Some sectors, especially those in the hotel and hospitality construction sectors, have sister or mother companies in other parts of the Middle East who also recruit from the Philippines. These companies know the Philippine system very well and can maneuver their way and won’t need assistance from agencies in Jordan.”<sup>97</sup>

It is clear, however, that the status quo — subagents and brokers working totally outside of the regulated sector — does not work either. It’s important to design regulations that would effectively regulate the operations of subagents and brokers. This policy gap, if left unfilled, will not serve migrants’ interests either way.

### **C. Ensure that Employers Are Qualified**

Weeding out unqualified recruiters should be accompanied by parallel efforts to ensure that only qualified employers can hire migrant workers. The Jordanian government, in particular, should consider building on the considerable progress it has made in monitoring companies, especially those operating in the QIZs.

The next big challenge is how to be effective in monitoring domestic workers and ensure that the rights and privileges afforded to them by labor laws and relevant regulations are upheld. Interviews with key informants point to a number of suggestions. One idea is to require the deposit of bonds, by the employer and/or agent, which can be used in cases when problems arise. Some suggest that such bonds could be maintained at the embassy, at MOL, or both.

Another idea is for the Jordanian government to consider creating an all-female unit that can visit households. This unit ideally can bring along embassy staff during visits. Kingsley Ranawaka of SLBFE argued that doing so would allow the Sri Lankan government “to take prompt actions to minimize the problems. Introducing such a unit, at least in cases of gross violation or abuse, will make a big difference.”<sup>98</sup>

Indeed, finding a balance between respecting the sanctity of a home and protecting domestic workers is difficult, but should not be impossible. For Ranawaka, finding a workable solution is critical for all the governments concerned.

### **D. Regulate Transactions Among Recruiters and Between Recruiters and Employers**

Another set of policy challenges relates to the lack of clear regulations defining legally acceptable transactions among recruiters and between recruiters and employers. The majority of existing regulations concentrates mainly on framing migrants’ relationships with recruiters and employers — by outlining, for example, acceptable placement fees, minimum wage requirements, and bonds.

It is important for government regulators in all three countries to recognize, however, that how migrants fare in the recruitment marketplace is ultimately determined not just by the nature of their relationship with the agencies that recruit them or the employers that hire them but also by the nature of the relationship between agencies at destination and origin and between the agencies and employers.

Regulating transactions among agencies and between agencies and employers is difficult. As mentioned earlier, Sri Lanka has recently instituted regulations to do just that, but agencies interviewed for this

<sup>97</sup> Calvez interview.

<sup>98</sup> Ranawaka, “Statement Prepared for Strategy Meeting, Open Society Foundations.”



report admit that it can be very easy to cheat the system. The transnational nature of these transactions makes it particularly hard for national regulators to control them unilaterally.

In cases where the demand for jobs is extraordinarily high relative to the supply — such as with male migration to Jordanian factories — the concept of setting fees that reflect recruiters' cost of provision plus what may be considered "normal" or competitive profits may not easily apply in practice. As Manolo Abella, an economist, argues, the "fee is not determined by the financial value of the good procured but by demand itself . . . What the recruiter gets is not a fee for the recruiter's service but a 'bribe' to the job he or she offers."<sup>99</sup>

Migrants tapping into competitive overseas markets are typically willing to pay more. A policy that focuses mainly on banning placement fees charged to migrants or keeping them within the cost of provision is not enough. The other regulatory challenge is to also identify the legitimate ceiling on fees that agents can charge each other as well as the payments foreign employers must make to their local agents. The ceiling and required payments, if regulators choose to identify them, must balance realities on the ground without disregarding concerns over fairness.

### **E. Address Inadequacies of Existing Grievance Mechanisms**

Lastly, it is critical to create migrant-friendly grievance mechanisms and develop sets of regulations that would clarify solutions to problems that commonly arise and that recognize the unique needs and situations of a vulnerable migrant population. There is no point in expecting migrant workers to fit into an existing legal system that is unable to effectively respond to their needs.

Adopting a more comprehensive approach may require a three-pronged strategy aimed at increasing migrants' access to formal courts, improving existing alternative grievance mechanisms, including mediation, and clarifying rules in specific areas.

#### **I. Improve Access to Formal Courts**

The pervasive lack of understanding and/or access to national justice systems prevents migrants from challenging abusive actions by employers and submitting complaints. It is critical for all three countries to ensure that migrants receive appropriate legal advice and aid so that they can make informed decisions at the very outset. There are many suggestions offered to address this problem that typically require cooperation between actors in Jordan and in the Philippines and Sri Lanka.

One idea is to create regional networks of lawyers, legal clinics, or community-run legal centers connecting all three countries that can provide legal assistance and advice to migrants in distress in Jordan. The approach may include supporting exchange and scholarship programs for young lawyers and paralegals in the Philippines and Sri Lanka who are interested in learning about Jordan's justice system. These scholars can receive part of their training within relevant Jordanian government agencies or nongovernmental organizations that provide legal advice, such as Tamkeen.<sup>100</sup>

Another idea is to create incentive programs to encourage victims of illegal recruitment and work-related abuse to participate in prosecuting cases. The Philippine government, for instance, started such a program in 2007, which provides financial assistance (including the payment of docket fees and a subsistence and transportation allowance) and welfare assistance (such as help in finding employment locally or overseas and free skills training) to victims and witnesses of illegal recruitment.<sup>101</sup> All three countries may consider adapting this approach to Jordan and even consider sharing costs.

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<sup>99</sup> Economist Manolo Abella cited in Agunias, "Guiding the Invisible Hand."

<sup>100</sup> Interview of Elizabeth Frantz, Consultant, Open Society Institute, by author, June 29, 2010.

<sup>101</sup> POEA, "Incentive Programs for Victims and Witnesses of Illegal Recruitment" (Memorandum Circular No. 2, Series of 2007, December 14, 2007).



One other approach is adopting a system of “transnational justice.” In the current system, migrants who would like to file a case in court have to stay in Jordan while the case is ongoing, which some suggest may not be necessary. Imad Shargawi, the lawyer hired by the Philippine embassy in Amman to represent Filipino migrant workers, for instance, recommends a system that would allow migrants to go home and at the same time file a case against a Jordanian employer or recruiter.<sup>102</sup> Atef Al-Majali, Director of the National Centre for Human Rights, has similar views,<sup>103</sup> and the idea seems to be gaining some ground. A “General Comment” by the UN Committee on Migrant Workers, released in December 2010 to guide states on how to implement their obligations under the 1990 Migrant Workers Convention, recommended a similar set-up:

*States’ parties are encouraged to enter into bilateral agreements in order to ensure that migrants who return to their country of origin may have access to justice in the country of employment, including to complain about abuse and to claim unpaid wages and benefits.*<sup>104</sup>

## 2. Improve Mediation Proceedings

Alongside improving migrants’ access to formal courts, governments in all three countries should also adopt measures that improve mediation proceedings. Serious efforts can be put into making the proceedings more transparent and ensuring that all parties, especially the migrant workers, are given a fair deal. Civil-society groups and the private sector, including migrant organizations, can be tapped not only as monitors but as mediators and translators.

Central to improving mediation proceedings is solving the problem of where migrants who have filed cases against their employers can stay. Some of the key informants interviewed for this report note that migrants in mediation proceedings should have an additional option to stay in a government-sponsored shelter, and not just within the embassy grounds.

## 3. Clarify Rules on the Ground

It is also important to develop sets of regulations that would provide better guidance when problems arise. There must be an effort to clarify who will pay for the deployment costs when a migrant worker refuses to work, what deployment costs are appropriate, who pays overstay fines, and who can keep a worker’s passport.

# VII. Conclusion: Developing Capacity for Better Implementation

Various actors interviewed for this report agree that the Jordanian government has enacted a number of progressive labor laws.<sup>105</sup> For Philippine Ambassador Julius Torres, the “political will to make the change is clearly there; everybody wants to do more and work more in this field.” How effectively this political will is manifested on the ground is, however, a different issue. “The pronouncements are all correct, efforts are there, but ultimately, how these filter down to the ordinary bureaucrat or the ordinary policeman or immigration officer or even how it filters down to the employers can be problematic.”<sup>106</sup>

<sup>102</sup> Shargawi interview.

<sup>103</sup> Interview of Atef Al-Majali, Director, National Centre for Human Rights, by author, June 21, 2010.

<sup>104</sup> United Nations Committee on the Protection of the Rights of all Migrant Workers and Members of their Families, “General comment No. 1 on migrant domestic workers,” February 23, 2011.

<sup>105</sup> Torres interview.

<sup>106</sup> Ibid.



Firas Taamneh, a lawyer who worked with the Philippine embassy for six years and at the time of interview was a program manager with ILO, shared these views: “The law is not everything. Different aspects must work together to make things work on the ground. Even if Jordan has the regulations, it still needs people to apply and enforce the law.” For Taamneh, central to that is “a national strategy containing a clear action plan.”<sup>107</sup>

Beyond addressing the gaps highlighted in the preceding section, it is also important for all three governments to renew their focus on implementation. This can be achieved by improving capacity through tapping into new technology, investing in needed resources (especially personnel), and effectively disseminating information to migrants and their employers.

### A. *Effective Use of Technology*

Effective use of new technology can potentially augment governments’ capacity to implement regulations. Interviews with stakeholders suggest strongly that adopting new technology can help harmonize information and ensure its disclosure.

For instance, in Sri Lanka officials admit that going through the formal channel does not guarantee that migrants will receive their agreed-upon salary. Kingsley Ranawaka of SLBFE finds that in this type of situation, the “foreign agents try to pass that blame to local agents and local agents pass that to the foreign agents or the companies.” To minimize such a finger-pointing exercise, SLBFE has developed the Web-Based Recruitment Process (WBRS), a system that allows local and foreign recruitment agents to access a secure, online platform and send job orders through the Internet. This reduces cost, time, and human resources.

Four parties can access the system: SLBFE, the Sri Lankan missions abroad, the Sri Lankan agent, and the foreign agent. The Sri Lankan agent enters the information on the selected workers while the foreign agent enters information on the employer, such as telephone number, address, and ID card number. The foreign agent can also scan and attach the family identification and income statements of the sponsor as well as the salary and other conditions of employment. The missions abroad verify the information provided at the job order, checking that the job really exists and that the facilities of the employers are adequate. If the mission abroad needs more information to make a recommendation, it can make the request directly within the system.

For SLBFE, the system would allow full disclosure of information. The migrant worker would have access to the correct information pertaining to his or her employer and the terms and conditions of the job itself. Of course, missing in this system is the participation of destination governments. Clearly, the value of such a system would be maximized if both the origin and destination governments used connected online platforms, or even better, shared the same platform.

There have also been discussions of creating a system that would automatically notify agents and relevant government officials if the migrants did not receive the correct pay on time. If a worker did not receive his or her monthly pay, the Jordanian agent would get a notice; the agency would then inform MOL, which would inform the employer. The employer would then prove to MOL that the salary had been remitted to the bank account of the migrant worker, including receipts as needed. For Khaled Al-Husainat, of the Recruiting Agents Association, if such a system were to be installed and some employers still did not pay, the agency should assume full responsibility for paying the domestic worker.

A similar system can also be set up to address problems related to the payment of overstay fees. Ambassador Mohottala of the Sri Lankan embassy suggests that a computer program be used by MOL that would alert the parties concerned — the employer, agents, migrant workers, and relevant

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<sup>107</sup> Interview of Firas Taamneh, National Program Manager, International Labor Organization, Amman, Jordan, by author, June 17, 2010.



government officials — if a visa is not renewed on time. For Mohottala this is a simple solution and can be accomplished with existing technology. “The only hurdle is the willingness to put the mechanism in place and the capacity to invest in staff and infrastructure.”<sup>108</sup>

## **B. Investment in Needed Resources**

Another important way to augment capacity is by investing in needed resources, especially infrastructure and personnel. Stakeholders interviewed for this report expressed concern that governments are not fully equipped to attend to the needs of migrant workers. For instance, the Sri Lankan embassy in Amman needs additional personnel to share the workload. As of mid-2010, it had two labor officers, a safe-house keeper, two local translators, three clerical staff, and two drivers. Hemantha Wijeretna, the labor attaché, highlights the importance of adding more people to his unit so that it can address migrants’ needs more effectively.<sup>109</sup>

One of the most critical jobs in the embassy is that of the Jordanian lawyer who can formally represent migrant workers in mediation and court proceedings. Hiring the services of a lawyer is not cheap. For instance, Imad Shargawi, who works for the Philippine embassy, receives \$12,000 a year in exchange for his services. Shargawi notes that he handles an average of 600 cases per year, and the fee he receives from the Philippine government barely covers his operational expenses. He explains that this is one of the reasons why cases don’t always reach the courts. “It’s hard to give legal service; that is why I handle the cases here and (do) not send (them) to (the) courts.”<sup>110</sup>

Similarly, MOL’s domestic workers unit has three inspectors to receive complaints. For Hamada Abu Nijmeh, who directs the Directorate for Domestic Workers Affairs, that is not enough given the amount of work that they do. Abu Nijmeh’s office officially receives 150 complaints per month, but he notes that this number does not include those that come into his office with oral complaints that do not materialize into a formal complaint. For Abu Nijmeh, “Three people are not enough . . . You can’t finish a complaint within less than 2 minutes.” To address this issue, Abu Nijmeh believes that it is important to create a separate directorate that will handle only the complaints of domestic workers. He also highlights the importance of hiring more inspectors in order to establish contacts with the embassy, recruitment agencies, and other actors.<sup>111</sup>

## **C. Disseminating Information to Migrants and their Employers**

Lastly, it is also important to strengthen measures that prevent, as much as possible, problems from occurring. Central to this renewed focus on prevention is an effective information dissemination strategy, catering both to migrants and to their employers.

Governments, along with other stakeholders, should focus on distributing accurate information so that migrants can make informed decisions. Prospective migrants need to be knowledgeable about their rights at home and abroad, safe recruitment and 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.<sup>112</sup> Allowing agencies to monopolize dissemination of this type of information is a recipe for migrant abuse.

Taamneh, who conducted an analysis of the effectiveness of the standard working contract, found that most migrants still “don’t know the terms and conditions of the contract.” The results were, as he

<sup>108</sup> Mohottala interview.

<sup>109</sup> Interview of Hemantha Wijeretna, Sri Lanka, labor attaché, by the author, June 14, 2010.

<sup>110</sup> Shargawi interview.

<sup>111</sup> Abu Nijmeh interview.

<sup>112</sup> 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): 42.





characterized it, “shocking.” He noted, in an interview, that “some don’t even know basic information about their employer, such as his or her name.”<sup>113</sup> Indeed, our focus group discussions with migrants found that many do not know the names of their employers, or their recruitment agents, which makes pursuing a case against these actors difficult.<sup>114</sup>

Stakeholders interviewed for this report agree on the need to educate migrant workers about the terms and conditions of their work and other basic information about their employment status. The more difficult question, however, is how best to provide that information. MOL, for instance, is looking into putting stickers on the migrants’ passports as they pass through immigration procedures. Such stickers would provide information to victims of trafficking, including numbers to call when problems arise<sup>115</sup> — the problem with this approach being that migrants generally do not keep their passports with them. Taamneh admits that this should be only one of the many ways to inform migrants; there is no one, perfect solution.

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*The challenges surrounding recruitment, though enormous,  
are by no means insurmountable.*

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Employers, especially those hiring domestic workers, should also be informed about their rights and obligations. Mohottala, for instance, recommends that Jordan consider launching an education campaign about domestic workers. For Mohottala, “Fifteen minutes on national television saying that they are part of your family and that you need to treat them well are little things that go a long way.”<sup>116</sup> Ambassador Torres of the Philippine embassy agreed, noting the difficulty in reaching employers, especially those that hire domestic workers.<sup>117</sup> Agents interviewed for this report also recognize the importance of educating employers. As Aponso sees it, this would require developing an understanding from both sides about the other’s culture and customs.<sup>118</sup>

A key issue here is that there is no clear line dividing practices that respect culture from those that limit personal liberty. For instance, Shargawi noted that some employers consider domestic workers as members of the family. As Taamneh explained, “Jordan is a conservative society . . . acts done by a domestic worker that are not culturally acceptable would be a shame for the family itself.”<sup>119</sup> For Shargawi, this ongoing perception is problematic since domestic workers should be treated as workers who have rights, not as family members. He explains that some employers would come to his office complaining that the domestic worker they hired is sending provocative pictures to her husband in the Philippines or is meeting a boyfriend during her day off. Shargawi would typically remind employers in this situation that the domestic worker they hire is not their daughter or sister.<sup>120</sup>

The challenges surrounding recruitment, though enormous, are by no means insurmountable. All three governments need not start from scratch but should build upon the progress already made. It’s also clear that no one government should bear the burden of protecting workers and managing what is essentially a transnational phenomenon. It is important for all three governments to build meaningful partnerships, not only among themselves, but also with members of civil society who are capable and willing to share the load. International migration, by definition, transcends borders. The problems that arise from this international movement of people are, in most cases, transnational — as are many of the solutions.

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<sup>113</sup> Taamneh interview.

<sup>114</sup> Focus group discussions with migrant workers convened by author, Amman, June 17, 2010.

<sup>115</sup> Taamneh interview.

<sup>116</sup> Mohottala interview.

<sup>117</sup> Torres interview.

<sup>118</sup> Aponso interview.

<sup>119</sup> Taamneh interview.

<sup>120</sup> Shargawi interview.



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For more information on MPI's Migrants, Migration, and Development Program and research on migrants, please visit:

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The Migration Policy Institute is a nonprofit, nonpartisan think tank dedicated to the study of the movement of people worldwide. MPI provides analysis, development, and evaluation of migration and refugee policies at the local, national, and international levels. It aims to meet the rising demand for pragmatic and thoughtful responses to the challenges and opportunities that large-scale migration, whether voluntary or forced, presents to communities and institutions in an increasingly integrated world.

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