

THE TRANSFORMATION OF WORK: Challenges and Strategies



INTERNATIONAL
LABOR MIGRATION:
Re-regulating
the private power
of labor brokers

Acknowledgements: Migrant workers no matter where they originate from or where they work make invaluable contributions to their communities and the global economy. They do so with great personal sacrifice. Their work needs to be recognized, their rights respected and justice provided.

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The Transformation of Work research series is produced by the Solidarity Center to expand scholarship on and understanding of issues facing workers in an increasingly globalized world. The series is a product of the Solidarity Center's USAID-funded Global Labor Program, which supports the efforts of the Solidarity Center and its partners to document challenges to decent work and the strategies workers and their organizations engage to overcome those challenges.

This report was made possible through support provided by the Office of Democracy and Governance, Bureau for Democracy, Conflict, and Humanitarian Assistance, U.S. Agency for International Development, under the terms of Award No. AID-OAA-L-11-00001. The opinions expressed herein are those of the authors and do not necessarily reflect the views of the U.S. Agency for International Development. Any errors found in the research are the author's own.

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*International Labor Migration: Re-regulating the private power of labor
brokers*

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January 2015

Introduction

Ramanjulu joined the long line waiting for the customs officer to stamp his passport alongside his one year work visa. The labor recruiters had promised him a job as a chef in a high end restaurant. Because of his qualifications and award winning cuisine back home, they said his wages would greatly exceed what he had been being paid. They also assured him getting citizenship status within North America would be easy. Chandra never saw the promised restaurant. He found himself in a remote town behind the grill of a road-side diner. The recruiter said it would be temporary, but that was eight months ago when he was coerced to hand over his travel documents. He lives in a cramped room at the back of the kitchen and 40 percent of his meager wages are taken for 'rent'. From the window, he sees there is nowhere to go.

Maria worked as a nurse in Manila earning \$300/month. Her cousin went the Gulf States as a domestic worker, and though Maria knows that experience was very difficult, she hopes that as healthcare worker her experience would be better. Recruiters got her an employment contract in a modern city hospital abroad, so she bid her family farewell promising to send back money that would change her family's future. When she arrived at the departure point, her recruiter said there was a change and she would now be working in a different country and have an even better job waiting for her. Confused and unsure, but feeling she had little choice, she got on the plane. The well-paying hospital job was gone and Maria was forced to accept a placement in a cramped overcrowded inner city hospital. The recruiter confiscated her documents, her phone, and what little money she had saved. He demanded she sign over part of her much lower wages or be abandoned in a country where she knew no one. The threats to comply were menacing and sexual. It occurred to her, that she had no choice but be forced to work in order to survive in this new place.

Rajan wanted to be part of building the soccer stadiums in Qatar in advance of the 2022 World cup. The recruiters that came to his village, promised wages beyond what he could earn in Nepal in a lifetime. He imagined being on the same turf where the ball would be dropped. His experience was nothing like what he imagined. As one of thousands of laborers he was forced to work in 50C heat and denied free drinking water. He lives in a cramped trailer with a dozen other workers. The employer withheld their salaries for several months and the recruiter took their passports making it impossible for them to leave. He watched many of his fellow workers literally die on the job from exhaustion or horrific injuries from heavy equipment they are not trained to use. Rajan hopes to live long enough to return home in one piece.

Rajan, Marie and Ramanjulu's experiences are not unique.¹ Common among these real life stories is the role of unscrupulous private recruitment agencies, which are prevalent in the labor migration process. Numerous migrant rights groups, labor bodies, researchers and faith groups around the world have documented fraudulent practices perpetrated by brokers, including:

- offering non-existent jobs
- providing false employment or permanent residency information
- misrepresenting conditions of work and wages
- falsifying contracts
- exploitation
- document confiscation
- imposing excessive and illegal fees
- promoting forced labor
- facilitating human trafficking (ILO 2010 & 2013, AFL 2009, HRW 2007, Flecker 2011, UFCW, 2012).

Policy makers are increasingly concerned about these practices. With hundreds of millions of workers seeking better employment opportunities than can be found in their home countries, the private recruitment industry has found a growing market for their services. As a result, many governments are coming under pressure to examine and regulate private recruitment practices.

In the 1950s and 60s, the regulation of labor migration was generally done through bilateral agreements between originating and receiving countries of migrants (ILO 2010). Government agencies undertook the role of recruiter, as well as the supervisor of employment contracts and working conditions. Today, in most countries this is no longer the case. Now such tasks are very much in the hands of private recruitment agencies. The shift away from government to private sector involvement has occurred without accompanying tools for comprehensive compliance, monitoring and enforcement at national levels that would ensure migrant workers' rights and employment standards are consistently respected.

As increasing numbers of people migrate for work, the exploitation of migrants is taking on new and multiple forms and the rapidly growing labor recruitment industry is positioned in the middle

¹ These vignettes are composites of real cases involving migrant workers (names have been changed) who anonymously shared their experiences in interviews with K. Flecker between the years 2007-2014

of this dynamic. As this industry seeks to circumvent national-level frameworks of social protection, workers' advocates campaign for regulatory change and effective governance. Yet, the structure of the global political economy under conditions of crisis and neoliberalism has afforded labor brokers the distinct advantage of operating in multiple and separate jurisdictions. Employment and labor law is bounded by state institutions, with the result that migrant workers' representatives are typically unable to hold labor brokers accountable to high standards. In effect, this industry is trans-nationalized but regulations remain bound in national spaces. "The absence of strong regulatory frameworks has allowed for the growth of unethical recruitment practices which stands as a significant barrier to migrant workers and their families" (Flecker 2011).

On the global stage, most notably expressed at the 2013 United Nations High Level Dialogue on Migration and Development, results have been mixed. Some member states show a policy preference for the adoption of voluntary codes of conduct to govern labor brokers. Under such regimes, global suppliers of human labor would simply need to attest to their commitment to 'ethical recruitment practices'. In the absence of state-to-state agreements or programs requiring detailed compliance, monitoring and enforcement mechanisms, brokers can claim adherence to voluntary codes of conduct or express their commitment to ethical practices without the burden of engaging in meaningful accountability practices. At best, it is unclear how worker' rights can be effectively upheld and enforced within such approaches. At worst, workers, particularly women facing specific forms of systemic oppression, often find themselves unable to claim the basic human rights to which they are entitled. Nevertheless, there are a number of innovations emerging in different countries, suggesting better ways to regulate labor brokers across borders. These new policies governing transnational labor recruitment are under-examined and not well known.

In this paper, we explore a range of initiatives showing potential to effectively uphold, monitor and enforce adherence to labor regulation for workers employed under bilateral temporary migration schemes. Here we highlight two types of interventions intended to address rogue practices of labor brokers. First, we examine the strengths and weaknesses of state level interventions using legislative and administrative measures. Second, we evaluate the strengths and weaknesses of interventions undertaken by labor unions and other civil society organizations. What becomes evident is that migrant workers need broad social supports and connections with civil society, rather than isolation and direct dependency on labor brokers. Civil

society and labor groups are well placed to extend supportive monitoring functions and importantly alternative forms of social supports to migrant workers. State relationships with labor brokers, however, need to be regulatory in nature and public officials must be prepared to use strong compliance, monitoring and enforcement measures with this industry.

Based in a conceptual framework in which workers' rights are given priority, we conducted research into a number of cases. In part, our research is informed by direct engagement on these issues during the years 2006-2013 when we worked together at the Canadian Labor Congress. At that time, Karl was the Director of Human Rights and Anti-Racism and Teresa was Senior Researcher in the Social and Economic Policy department. Although most of our research for this paper is document-based, we also conducted a series of interviews with workers' rights activists. We analyzed our findings in light of the insights and questions raised by the literature on migration and the regulation of labor brokers, and present these initiatives in the form of short case studies. Finally, we have added summaries of additional promising practices that warrant further exploration for migrant rights advocates and policy makers.

Privatization vs Best Practices in the Public Domain

The United Nations (UN) has estimated there are more than 230 million migrant workers around the world. The latest migration data also shows that since 2000, there has been a shift in direction of migration patterns, with individuals leaving poorer regions for wealthier ones. According to John Wilmoth, Director of the UN Department of Economic and Social Affairs "in recent years, international migrants have been settling in almost equal number in developed and developing regions." (UN DESA 2013)

After over 30 years of deregulation, structural adjustment and privatization, migrant workers are subject to the worst expressions of 'free market' economics. They are now crossing borders into countries where the state has taken an active role in dismantling state-led models of development that had previously depended upon various models of social compromise. Whether in the decolonizing countries of the global south, or in the wealthiest countries that had taken up the Keynesian alternative to socialism after World War II, over the last three decades we have witnessed a grand assault by employers and right-wing governments against regulation and in favor of economic liberty. In re-articulating a claim in favor of elevating the rights of workers over those with the right to make profit at any cost, migrant rights advocates are facing serious opposition.

As noted above, until the 1960s, it was common for bilateral agreements between most origin and destination countries to be concluded under the direction of public employment services. Civil servants played a significant role in the recruitment and supervision of work contracts and working conditions. In most countries this is no longer the case since the devolution of government services to the private sector has been a widespread ideological policy choice for many nations. The Canadian case is a useful one to begin with, since it offers an example of how policies favoring deregulation and privatization have reshaped the governance of labor migration.

Canada's long standing Seasonal Agricultural Workers Program (SAWP) was originally managed by the federal government. The program brought workers from the Caribbean region, Mexico and Central America during the Canadian harvest season. In 1987 the program was privatized into the hands of the growers under an organization called Foreign Agricultural Resource Management Services (Ferguson 2007). When producers took control of the program, a number of key practices changed. For example, a cap on the number of farm workers who could enter the country was replaced with an employer demand/country supply approach. This directly affected the ability of young workers in Canada to find good jobs on farms during the summer season. Correspondingly there was a major rise in the number of migrant workers coming to Canada. Another key change allowed farm owners or their brokers the right to "name" which farm worker they wanted to return the following season. In other words, a farmer or their broker can choose to exclude specific workers with no rationale required. Under such a system those who complain or try to advocate for improved working conditions are made particularly vulnerable. Approximately 70 percent of farm workers return to Canada annually as 'named' participants (Basok 2002).

Once recruitment is put into the hands of private agencies who charge fees, problems immediately arise. These include the tendency of brokers and recruitment agencies to download their operational costs or apply fees to work onto the backs of migrant workers. It has been long standing business practice of private recruiters to charge fees that are almost always paid by the workers themselves. In the early 2000's the ILO conducted a migration survey and found this was a common practice together with other malpractices involving private labor brokers which included sending migrants to countries where they find no jobs actually exist, withholding information or providing false information about the jobs and conditions of employment. Little

had changed by 2010 when another ILO report on labor migration noted the trends identified in their earlier report continued with significant deficits in employment, rights at work, social protections and social dialogue in many countries with temporary migration programs (ILO 2010).

In 2005 practices “imposed by private agents for labor exploitation” (ILO 2013 p 5) was categorized by the ILO to be a form of forced labor. That same year the ILO published its first global estimate of the size and regional distribution of such practices. Between 2007 and 2012 a number of subsequent surveys were undertaken along with improved and sophisticated methodologies to put numbers to, ‘Something hard to see and harder to count’ as they titled their 2012 report. Using these new and improved methodologies the ILO now “estimates that 20.9 million people are victims of forced labor globally, trapped in jobs into which they were coerced or deceived and which they cannot leave.” (ILO 2013 p.7) Put another way, about 3:1000 people are in a situation of forced labor at any given time. Counting just the victims of non-domestic force labor exploitation, the ILO estimates \$43.4 billion is realized per year, with an annual profit of US \$4,000 per victim (ILO 2013, p.21).

Nearly 90 percent of the 20.9 million people estimated to be situations of forced labor are in the private economy and are being exploited by individuals or enterprises. These staggering, yet likely conservative figures make it evident why greater attention is urgently needed by policy makers for comprehensive state measures to curb the unfettered and damaging growth of private recruitment agencies.

Rather than continuing the trend to privatize the governance of temporary migration and shift its administration into the hands of brokers where abuse, exploitation, forced labor and labor standards are ignored, policy makers must better regulate labor brokers and recruiters. Since 2006 the annual Global Forum on Migration and Development/Civil Society Days (GFMD/CSD) has put forward detailed recommendations to regulate the recruitment industry. These measures would include licensing brokers, imposing meaningful sanctions for violations, and prohibiting the charging of fees to migrant workers. Unfortunately the GFMD and CSD processes adhere to non-binding formulae for participating member states which would limit the effectiveness of these recommendations. In part because of the active participation of private recruitment agencies at these forums, policy makers are defaulting to calls for voluntary measures designed by the same stakeholders, who profit from brokering human labor to self-

regulate themselves, or adopt vague unaccountable or contradictory 'ethical frameworks' intended to guide recruitment practices (Flecker 2013).

In part because of this shortcoming in the GFMD/CSD process, civil society groups from around the world came together in May 2014 to form an open working group to share information and advocate with one voice for more substantive migrant labor recruitment reform practices at the global level. This group made a number of recommendations to the United Nations Special Rapporteur on the Human Rights of Migrants' report to the UN Human Rights Council calling for specific migrant labor recruitment reforms in October 2014. These recommendations included:

- Ratification of key international instruments protecting migrants' rights.
- Adopting national measures to reform internal recruitment practices by adhering to a human rights based framework;
- Eliminating recruitment fees;
- Advancing publicly accessible government to government recruitment and bilateral agreements that have comprehensive compliance, monitoring and enforcement measures;
- Identifying and lifting national measures that contribute to undocumented migration or the growth of unlicensed labor recruiters and subagents;
- Registering and monitoring recruitment agencies and their sub-agents in both countries of origin and destination;
- Ensuring compliance with national laws including prohibiting the seizure of documents and personal property of migrant workers;
- Providing comprehensive and compulsory pre-departure orientations that adhere to a strong rights based curricula;
- Extending meaningful, accessible information and skills training that is well-suited to the linguistic and educational levels of migrant workers;
- Extending labor laws and labor rights to all categories of migrant workers without discrimination based on occupational sector. Prevailing wage rates and working conditions must be in force;
- Ensuring reasonable access to assistance in all necessary languages;
- Prohibiting recrimination for any and all efforts to report abuse;
- Allocating adequate resources to support these measures (MFA 2014).

Via online fora, other members of the civil society network organized by the Open Working Group on Labor Migration and Recruitment have called on governments to:

- Legislate employer-recruiter co-liability measures to address cases of migrant worker abuse;
- Adhere to a “No-Fees” requirement for companies (particular those operating in the commodities sector) to ensure their entire supply chain does not contract with private recruitment agencies who charge workers fees in any form to work;
- Adhere to a zero tolerance policy for employment contract substitution;
- Provide industry with the tools to assess if they have ‘fair hiring practices’ that are consistent with responsible recruitment and hiring of migrant workers in global supply chains;
- Use new technologies to better track and report on the practices of labor recruiters from the lived experiences of migrant workers themselves.

(www.recruitmentreform.org)

As Flecker has argued previously, the regulation of labor brokers is often achieved by establishing specific agencies or mandating existing governments’ departments, with the power and resources to ensure employers’ and brokers’ compliance with licensing regimes. A variety of policy measures from different countries are currently being used to regulate labor brokers. Some of these practices include:

- Prohibitions by countries of origin on the recruitment of their nationals by persons or entities other than those licensed by the State;
- Requiring licensees to be resident nationals as well as being members of recognized associations of immigration consultants or members of the legal profession. This requirement allows for licensees to be held accountable for recruiting violations;
- Requiring licensees to put up significant financial guarantees, such as bonds, for claims that may be brought before them;
- Requiring licensees to have a good record of compliance to national and subnational labor standards;
- Obliging recruiting agencies to bring job-seekers that have employment contracts to attend pre-departure orientations conducted by governments;
- Making continuation of the license contingent on performance and give incentives to the best performing agencies; and

- Enacting legislation that limits fees that can be legally charged to migrants, differentiate fees by class of worker, or ensure the employer will pay the fees.” (Flecker 2011)

It is instructive to examine examples where some of these measures have been put into action in specific national contexts. This approach allows us to illustrate where policy shortcomings exist, and helps make the case for why more comprehensive labor recruit reforms are needed and why specific stakeholders like civil society, unions and migrants workers themselves must be given greater voice within national and international level policy spaces.

We begin with Namibia, then look at the example of Singapore. We follow this with a discussion of the specific issues faced by women domestic workers, and examine an initiative in Belgium. We conclude our examination of state-led interventions with a discussion of sub-national regulation in the Canadian case. We then turn to a number of initiatives arising from civil society, including proposals led by unions at the sub-national, national and transnational levels. We finish our series of case studies by examining the transnational work of a US-Mexican civil society organization.

Namibia: Legislative measures to curb labor brokers

In the mid 1990's labor brokers (also known as labor hire agencies) were established in Namibia. Labor brokers offered to employers the possibility of renting the services of workers on either a temporary or indefinite basis, for a specified price per worker. Many of these workers were migrants from within the region of southern Africa. In a short time, the practice of hiring workers on a temporary basis began to have a marked impact on the enforcement of Namibian labor law. According to a 2006 study conducted by the Namibian Labor Resource and Research Institute for the Ministry of Labor, most workers hired by labor hire agencies earned R3-R6 (0.28-0.56cents USD) per hour. In some cases wages could be as low as R2/hour (0.19cents/hour USD) (Jauch and Mwilima 2006). By comparison, skilled artisans earned around R40 per hour (\$3.74 USD/hr.), particularly if they worked at mining companies. Additionally, labor hire workers enjoyed very few benefits and most worked 37-46 hours/week (Thomas 2013).

The insertion of labor hire agencies was having a pronounced effect on wage and working conditions of the national labor force. Employers were quick to realize they stood to take more

profit by shifting away from using permanent workers and/or unionized workers and instead increasing their reliance on labor hire agencies to provide them with low wage labor pools. Institutionalizing labor brokers into the national economy also meant migrant workers faced increased hostility from members of the national workforce because their presence in the labor supply contributed to wage suppression, undercut gains protecting workers interests won by unions, fueled xenophobia and reduced worker's collective power with employers. The labor broker model is flawed because of these impacts and it heightens vulnerability for all workers and creates conditions that pit one worker against another.

In the years following the fall of apartheid in South Africa there was an upsurge in the development of new businesses, including the establishment of labor hire companies working in the southern Africa region. Ironically, many of these enterprises benefited from the post-apartheid Black Economic Empowerment (BEE) program that provided incentives to establish new businesses owned and operated by black South Africans. One successful company born out of this circumstances, African Personnel Service (APS), became one of the largest labor broker agencies with operations in Namibia. Ironical because the collapse of apartheid and the advent of democracy in South Africa led to many calls to abolish the migrant labor system, which was seen as one of the cornerstones of the apartheid system (Crush & Williams 2010).

APS dominates the labor broker sector, although approximately 10 similar companies operate in Namibia supplying unskilled and semi-skilled labor to employers in mining, fishing and retail sectors. Their clients include private companies but also state owned enterprises. As a result migrant laborers can be found throughout the national labor force. Virtually all labor brokers take between 15-55 percent of the temporary workers' hourly wages as their fee for connecting workers with employers (Jauch 2013). It is common for workers to be denied paid leave, severance, and job security or pay if no work is available, despite having been called into work. Additionally, workers' rights groups have documented the lack of respect for legal provisions upon the termination of employment. Workers are routinely removed or replaced by the labor brokers at the employer's request (Cottle 2014). Herbert Jauch who was instrumental in creating the Labor Resource and Research Institute (LaRRI) of Namibia argues that companies use labor brokers "to reduce the impact of strikes by permanent workers, to increase labor flexibility and to cut labor costs, to avoid having to deal with disciplinary cases, to outsource labor relations, to avoid social responsibility toward staff and to avoid labor unions." (Jauch 2013).

In Namibia, labor brokers, such as the APS are used throughout the economic business cycle, and not only during peak production times when it could be argued that labor is scarce. For many years, companies had been encouraging employers to contract their services as a foil to hide behind and avoid dealing with trade unions, address employee grievances, adhere to legislated health and safety requirements or ensure workers (no matter their origin) would enjoy the basic conditions of employment guaranteed to employees under the country's Labor Act, such as annual leave, sick pay, overtime pay and the right not be unfairly dismissed. Historically, their presence in the labor market was an ongoing problem for workers in the permanent workforce. In effect, brokers commodified the nation's labor supply on a rental basis in order to avoid labor standards. The presence of brokers and the terms and conditions by which they have made pools of workers available to employers has resulted in powerful downward pressure on employment conditions across the board and for all workers.

In 2007, the Namibian government moved to address these negative impacts labor hire agencies were having on the wages and working conditions of the national workforce. The Namibian government introduced an amendment (known as Section 128) to the Labor Act stating that "no person may, for reward, employ any person with a view to making that person available to a third party to perform work for the third party" (Government Gazette Republic of Namibia 2007). Essentially this amendment was aimed at ending labor for hire companies. This singular measure by the Labor department of Namibia was a radically progressive attempt to use its national legislative powers to ban agencies profiting from the sale or rental of temporary labor pools. This represented a significant step by a government using its legislative powers to safeguard both migrant workers and members of their national labor force.

Labor hire companies made it clear they were prepared to fight back. In 2007, African Personal Services filed a legal challenge with Namibian High Court claiming the ban was unconstitutional, citing Article 21 of the Constitution which provided all persons the right to carry on any trade or business (Jauch 2010). Employers under the banner of the Namibian Employers Federation joined with APS legal action and sought not only to have the amendment scrapped but also demanded the Minister of Labor and Social Welfare and the government pay the costs of the lawsuit (Routh 2012). Labor hire companies and employer federations argued that their business enterprises held the same status and right protections as "persons".

The High Court ruled that not every trade or business was entitled to the protection of Article 21. The Court cited for example businesses that are criminal enterprises, or ones that profits from

trafficking people or slavery. From the Court's point of view constitutional protections did not extend to those doing business that operated outside of the law. The High Court concluded "that labor hire companies (third parties) could not be party to employment contracts in Namibia as defined under Roman law. They cited the only other form of hiring or letting labor under Roman law was slavery, where the slave was the possession of its owner" (Horn and Kanguuei 2009). In essence the Court's view was that labor hire companies are an uninvited third wheel in the employer-employee relationship and the business model had no basis in law. As a result, Article 21 did not apply. Justice Parker summed up the High Court's ruling with his statement, "letting or hiring of persons as if they were chattels; ... smacks of the hiring of a slave his slave-master to another person... Consequently, the Court does not find it necessary to balance the right of labor protected in Article 21 with the disadvantages of labor hire to the workforce." (Horn and Kanguuehi 2009). The High Court went further, pointing out Namibia is a signatory member of the International Labor Organization (ILO) and a fundamental principle of belonging to this group includes adherence to the principle that labor is not a commodity -yet that is precisely the business model of labor hire companies. The legal wrangling and related media coverage of the case framed the labor hire companies as nothing more than slave traders in the public eye.

The argumentation behind this case is instructive for governments seeking to severely curtail the growth of labor hire/broker companies by using their national legislative powers. However, the Employer Federation and powerful labor hire companies like APS were not prepared to give up easily. They launched an appeal that ended up in the Supreme Court. Here, the employers were successful in seeking amendments to the original Article 128 of the 2007 Labor Act. In 2012, the Namibia government, disappointed by the Supreme Court directive but nonetheless committed to protecting migrant workers and their national workforce, introduced a compromise amendment obligating employers who recruit staff through labor brokers to offer employment conditions "that are in no way worse than those offered to permanent staff in comparable positions." Additionally the amendment called for all existing legal provisions regarding workers' rights including situations of retrenchment (layoffs) to be upheld, including that labor brokers cannot hire migrant workers to replace striking workers.

Namibia's experience is important because it shows that even with an initially strong legislative position intended to eradicate the labor broker model from its economy, the government was unsuccessful in the face of powerful and heavily-resourced, internationally-based stakeholders. Such labor brokers can and do wield considerable influence and persistence as evident in

Namibia's multi-year legal battle. While the policy outcome is in principle beneficial for both migrant workers and national members of the workforce, the onus for compliance, monitoring and enforcement of out of country based brokers falls to the government of Namibia. This example speaks to the importance of why multilateral or global approaches are needed for comprehensive labor recruitment reforms.

Singapore: Greater state involvement in the management of labor brokers.

The establishment of a British port in Singapore in 1819 was a key point in the evolution of labor migration to this island nation. At that time the population was small and made up of migrants from Malaysia and China (The Malays 2011). The establishment of tin mines and rubber plantations grew the population with yet more migrants coming from other parts of Asia. Industrialization and a modernization program later made the country even more prosperous and attracted more migrants from yet more parts of Asia. In essence economic and population growth of the country has been driven by migrants. A central plank of Singapore's public policy continues to rely on migration. Migrant workers now make up more than half of the total national workforce. Lower skilled migrant workers make up the bulk of this cohort.

Singapore Foreign Workforce Statistics	
Total economically active population June 2014	2,056,100
Total foreign workforce June 2014	1,336,700
Total professional/semi-or high skilled work permits issued June 2014	341,300

Singapore Ministry of Manpower

The Divisional Director of the Foreign Manpower Management Division, Ng Cher Pong has described two categories of migrant workers in Singapore. A highly skilled and educated professional class of workers, who are generally well equipped to negotiate directly and ensure a fair relationship with their employers. The second group of workers occupy jobs driving buses, working in the marine industry, or on production lines and are categorized as unskilled or semi-skilled (Pong 2006, p.99). The latter group is disproportionately subjected to abuse and

exploitation at the hands of labor brokers and/or employers. These workers are often not educated about their rights, they endure sharp power imbalances with their employers and experience social and economic precarity, while taking on debt with labor brokers in order to secure better economic opportunities abroad (Skype interviews with M.O.M officials). In 2003, in response to these concerns about the welfare of low-skilled migrant workers, a special division was established within the Ministry of Manpower called the Foreign Manpower Management Division (FMMD). The main role for this new division was to review and establish an operational framework that would provide a favorable environment for migrants living and working in Singapore, particular low skill/low wage workers who are most risk of exploitation and workplace abuse (Pong 2006). This starting point is a marked difference from government approaches that design and implement migration programs primarily to address the concerns of employers and employment agents and assume that existing national laws will provide sufficient protections for migrant workers.

Despite the impetus for this policy framework, low skilled migrant workers still endure serious challenges. A Singaporean NGO called Humanitarian Organization for Migration Economics (HOME) noted last year that “many migrant workers continue to be subjected to violations which include, but are not limited to:

- Inadequate accommodation and food
- Psychological abuse
- Non-payment of salary, unauthorized salary deductions
- Unsafe workplaces, work injuries and lack of compensation for injuries
- Long working hours.” (HOME 2014)

Singapore’s Ministry of Manpower officials recognize that the practices of unscrupulous employment agents is a threat to people’s lives and livelihoods. A senior official with a special unit tasked with addressing the management of migrant workers in Singapore wrote that“(t)his is not an isolated problem involving a handful of countries, but a global one confronting many countries” (Pong 2006). This admission points to the international challenges of keeping in check the poor practices of employment agents who operate outside of the rules and avoid state legislative measures. The FMMD department’s policy framework maintains that three key stakeholders must be involved in the development of successful regulatory frameworks. These include employment agents, employers and the migrant workers themselves. The Division further defined the obligations and responsibilities of each stakeholder. Because employers are

the main beneficiaries of access to migrant labor, they were given responsibility for their wellbeing and management. The policy model internalizes the costs such as, ensuring the workers are in their approved occupations, proper and timely salary payment, safe working environments, appropriate housing, adequate medical coverage, mutually acceptable working conditions, and return airfare at the end of the employment contracts.

Employment agents who match employers and migrant workers are viewed as having an even wider role and set of responsibilities than employers (Pong 2006). The FMMD has long recognized that employment agents are profiting from something other than the trade in goods and services. However given the country's sizable dependence on a migrant workforce the government is essentially rationalizing the labor broker industry as one that relies on human relationships and claims that human labor should not be viewed or regulated as a commodity. In reality that is not the practice. Nuanced wording aside, Singapore has opted for a multi-pronged policy and regulatory approach to deal with employment agents who are quite simply seen as a necessary reality.

Employers are not able to claim they are exempt from violations that may be done by their employment agents and these stakeholder are prohibited from acting solely in the interests of the employer at the expense of migrant workers. Agents are seen to have dual responsibilities: One to help employers recruit workers that are proven to be needed and who meet national entry requirements, and the second is to help migrant workers secure suitable employment. While a laudable policy goal, in reality employment contracts have costly and differential fees attached that are deducted from migrant workers' wages. An NGO advocating for migrant workers in Singapore called Transients Workers Count Too (TWC2) has filed numerous reports of employment agencies charging dubious agency fees, or recruitment fees which range from SG\$3,000-\$9,000 for a one or two year contract. TWC2 reports "these fees can represent anything from 20-80% of the workers expected total income for the term of the employment contract." (Au 2014)

In the experience of HOME, migrant workers are more likely to accept abusive working conditions if they are bound by debt. Recruitment agencies figure prominently in creating debt bondage. HOME has documented migrant Chinese construction workers accumulating debts of US\$2,440 to \$3,252 in order to work in Singapore. TWC2 found that inexperienced Bangladeshi construction workers paid recruitment fees averaging US\$5,561. Meanwhile foreign domestic

workers in Singapore repay brokers their employment placement debts through a system of salary deductions. Although the government sanctioned limit for such fees is supposed to be no more than one month's salary, the reality is different and depends on the country of origin of the worker. On average the deduction for Filipina and Indonesian workers is five months. Burmese migrant workers typically forfeit eight months wages in fees but some are forced to pay as much as 11 months. With monthly wage levels set at about US\$345, the deducted amounts for these migrant domestic workers adds up to between US\$2,760 to as much as US\$3,795 (HOME 2014). Clearly there are serious shortcomings between the Singapore government's policies and practices on the ground.

Another point of FMMD's policy framework is to view migrant workers themselves as having a level of responsibility to safeguard their own interests against exploitation. The Singapore policy approach recognizes there is a power imbalance inherent in the employment relationships of the three stakeholders and places greater accountability, costs and consequences on the employers and agents versus the worker. That said, it is the government's expectation that migrant workers will comply with all national laws and employment regulations while working in Singapore. To ensure workers are informed of their rights and obligations, Singapore has put in place obligatory courses for migrant workers. The framework also promotes outreach initiatives that continually reinforce the message of self-responsibility.

A major shortcoming with this policy initiative is the failure to meaningfully redress the established power imbalance between worker and employer or broker. Despite Singapore's recognition of the power imbalance that exists between migrant worker and employer or labor broker, Singapore operates on the principle the worker is tied to the employer (particularly for low wage/low skilled workers) via their work permit that allows them to live in Singapore. This gives the employer enormous power over the worker. In addition, passports are routinely taken away and the government does not consider this practice objectionable (Au 2014). In a situation of abuse or conflict asserting one's rights against an employer or broker also means risking losing the very permit that grants legal status to remain within Singapore. Additionally, tied work permits do not recognize the deplorable extent to which private brokers are prepared to go for their pound of profit. For example, HOME has reported the case of a migrant domestic worker from Myanmar who endured seven months of physical and sexual abuse at the hands of her employer, because her recruiter based in Myanmar informed her if she did not honor her illegal eight month salary deduction, then her father would be forced to work as a slave until the

debt was paid in full (HOME 2014). A more balanced policy formulation would be to allow open work permits for migrant workers particularly when a worker wants to register a complaint regarding their wage/working conditions.

Singapore's multi-pronged policy approach to build a "great workplace for all" (Pong, 2006) relies on, licensing, accreditation measures and enforcement tools to regulate employment brokers via the Employment Agencies Act. For example, any person (not just a business) "that provides recruitment and placement services to Singapore employers is regulated by the Act" (M.O.M., 2011) and must be licensed by the Ministry of Manpower/FMMD. This legislative measure establishes a directory of all employment agents. "All licensed agents are governed by licensing rules, regulations and conditions including prohibitions from placing workers in occupations that have not been approved; and obligations to provide proper housing of workers prior to work placements." (M.O.M. 2011). Despite this effort, unlicensed agencies thrive. HOME and TWC2 argue that by not placing a cap on the number of licensed recruitment agencies the government is limiting its own capacity to realistically monitor, violations and abuses. The Ministry of Manpower has listed 1,154 employment agencies as being licensed to recruit domestic workers and 2,211 agencies are licensed to recruit international based migrant workers (M.O.M. 2014). HOME argues that in such a competitive environment, agencies vie for business by offering lower rates/reducing costs to employers which inevitably are born by the migrant workers in the form of exploitative employment contracts (HOME 2014).

To Singapore's credit, the policy of involving key stakeholders to contribute to the development of a regulatory framework enables advocates for migrant workers to pinpoint areas needing reform. For example, TWC2 analyzed the first set of amendments to Singapore's Employment Agencies Act in 2009-10 and found important shortcomings affecting semi-skilled and skilled workers, including domestic workers. To begin with, migrant workers were less protected because they had little formal education; impoverished backgrounds; limited language skills to communicate with employment agents, and employers; and they had limited access to critical information to make informed employment decisions. Added to these difficulties, TWC2 identified four major shortcomings of the Employment Agencies Act rules:

- 1) Ineffective protection for migrants being charged excessive fees and penalties; administrative practices that fail to divide acceptable fees² between worker and employer;
- 2) Failure to protect workers from unsuitable or exploitative situations.
- 3) Insufficient accountability measures for employment agents to safeguard workers' well-being on the job; and
- 4) Administrative failures to deter and punish illegal behaviors of employment agents (TWC2 2010).

The TWC2 legal group provided detailed recommendations for regulatory changes and improvements in administrative practices.

Singapore had reason to be responsive to the critique from NGO's. The growth of employment agents both licensed and unlicensed in Singapore had risen significantly. In 1984 there were only 300 licensed EA's. By 2011 the number had grown seven-fold (M.O.M. fact sheet 2011). EA's now exceed 3,000 and malpractice by these agents has become widespread. The number of complaints filed with MOM has been on the rise, resulting in more enforcement actions (Shyan 2011). A case in point, one employment agency was recently fined over SG\$30,000 (US\$23,500) for non-compliance while it was knowingly under a suspension order prohibiting them from placing workers (M.O.M., 2014).

Originally the Employment Agency Act prescribed penalties for agents who violate rules up to a maximum of SG\$10,000 or imprisonment for up to two years, or both. Despite efforts to create a protective and balanced regulatory environment, a tougher approach become necessary because the huge growth in employment agents led to increased exploitation and malfeasance by brokers. In 2011, new amendments called for SG\$80,000 for a first time offence and/or up to two years of imprisonment. Subsequent offences include penalties up to twice that amount (M.O.M. 2011b). In 2014, MOM published a list of 78 employment agencies' who had their licenses revoked and another 21 were placed on surveillance for repeated breaches of EA regulations (M.O.M. Lists 2014). Despite opting for a balance between protecting migrants while

² Singapore permits brokers to charge a registration fee (\$5) to workers plus take no more than 10 percent commission of the first month's salary. TWC2 has found these rules are routinely ignored by brokers and have proposed measures that would obligate brokers to derive their payment for services rendered from employers rather than workers.

enabling employment agencies to exist, it is telling that Singapore has found it necessary to ratchet penalties up rather than down between 2006 and 2011. Ironically, even though the FMMD screens all employment agent applications and will not issue licenses to applicants who have records of criminal convictions that are likely to have adverse effects on their clients, illegal operators continue to exist (M.O.M. 2014). New regulations released in 2011 now detail criteria for prohibiting persons to own or work at employment agencies. These include, charges of undischarged bankruptcy; conviction of offence involving dishonesty, human trafficking or having been a director or manager of an employment agency whose license has been revoked (M.O.M. 2011b).

Singapore has taken other noteworthy measures. The FMMD requires employment agents to prove they are familiar with Singapore employment laws prior to being licensed. A postsecondary institution in Singapore was given the task of running a Certificate in Employment Agency course that is a prerequisite for all agents planning to place low to semi-skilled migrant workers. In 2011, the certificate courses were updated and both staff of the employment agency and owners/CEO's and managers are required to take a 32 hour and 40 hour course respectively (M.O.M. 2011b). Additionally, all employment agency licenses are renewed annually, giving the FMMD the ability to conduct regular screening of the licensed operators. For employment agencies recruiting and placing domestic workers the standards are more exacting. Since June 2004, independent bodies must accredit such agents before their licenses will be renewed (Pong 2006).

Several requirements to both employers and workers must be met for employment agencies to be accredited. This includes providing workers with orientation and training, providing contact numbers for assistance, written employment contracts and holding periodic follow-up measures during the term of the employment contract. Employment agencies are also obligated to employers to ensure the workers they put forward are competent and skilled to do the jobs; provide full and accurate disclosures, and maintain an effective complaint resolution system (Pong 2006).

Singapore's approach to dealing with labor brokers reveals some useful measures including obligatory licensing, accreditation, compliance, and monitoring and enforcement measures. However, allowing fees, no matter how nominal or structured they may appear on paper, without adequate capacity for oversight means both licensed and unlicensed agents skillfully

exploit these opportunities at the expense of migrant workers, as Singapore's NGO community routinely documents. A policy of zero fees would be more constructive. Additionally, despite some of the positive state measures referenced in this example, maintaining tied work permits negates efforts to address systemic imbalances in the power relationship that exists between worker and broker/employer in temporary migration programs.

Addressing challenges faced by migrant domestic workers

The work wasn't what I expected it to be. It was totally different. I would wake up to start cooking, then cleaning, washing clothes, and then cooking again. No rest, there was just no rest... Because she kept yelling, I cried and asked to go back to agency, but madam said "I already bought you." —Farah S., a 23-year-old Indonesian domestic worker, Dubai, December 7, 2013 (Human Rights Watch 2013)

This poignant comment from a young migrant domestic worker reveals some of the serious challenges facing this unique category of migrant worker. It is not uncommon for labor brokers to entice women from other countries with promises of high wages and good working conditions. The sales pitch relies on visions of a golden opportunity that can lead out of poverty and enroute to an education, a home, medical care or other essentials for themselves and their families. Yet with just these four words of an employer - "I already bought you" - the true nature of many migrant domestic workers employment contracts becomes repugnantly clear.

The 2014 ILO report titled *Profits & Poverty: The economics of forced labor* estimates 3.4 million people are in Farah's situation. In addition to the job not meeting expectations and absence of rest, women like Farah are typically deprived of 60 percent of their wages. The ILO has estimated for just those in a forced labor/domestic work context this amounts to US\$8 billion stolen each year from the workers (ILO 2014).

The definition of domestic work in a global context is not straightforward. Domestic workers are not homogenous. They differ in terms of age, gender and migration status. In addition, the work varies and domestic workers may be engaged in childcare, eldercare, guarding a home, cooking, cleaning, gardening and many other areas of work. The ILO Domestic Workers Convention 189 Article 1 defines domestic work as work performed in or for a household(s). A domestic worker is someone engaged in domestic work within an employment relationship. A

domestic worker maybe be someone who does domestic work on an occasional or sporadic basis, but those doing domestic work outside of their formal occupation are not considered domestic workers.

There is a wide range in the global estimates of the number of persons doing domestic work even using the Convention definition. The range is between 53 to 100 million. Eighty-three percent are women. And migrants compose the majority of this estimate (ILO 2013). Because of the irregularity, invisibility and diverse ways that encompass domestic work globally, data tallies are never going to be comprehensive. A 2013 ILO report titled *Domestic workers across the world* notes that due to data limitations, it is also not possible to give a reliable estimate of the share of migrants among domestic workers, but the global and regional data report indicates the proportion is substantial. The boxed tables (see below) provide some perspective.

Migrant domestic workers, like other categories of temporary laborers, endure the same adverse effects related to dealing with labor brokers --wage theft, exploitation, hazardous and/or unhealthy work, fraud, false or misleading employment information. However because it is women and young girls³ that make up the vast majority of the migrant domestic labor pool, and because their workplace is principally in private homes this group is particularly vulnerable to the malpractices of labor brokers. As a result migrant domestic workers face heightened levels of isolation, linguistic and cultural unfamiliarity, extended work hours, and are more vulnerable to sexual and physical abuse and human trafficking. These workers also experience lesser employment standards protections. This has been the case at the global level from the end of World War II to the mid-1980s, as most ILO conventions explicitly excluded domestic workers from protections. (Rosewarne 2013).

Protections at the national & international levels: First go global and local may follow

A small minority of all domestic workers is covered by national labor legislation to the same extent as other workers. Roughly 70 percent of all domestic workers enjoy some protection, through a combination of provisions found in general labor laws, specific labor laws, subordinate regulations and state-level legislation. The problem is that the degree of protection is frequently weaker than that afforded other workers (ILO 2013.) Although migrant domestic workers are in principle afforded national labor protections, typically this does not translate into effective

³ Globally one of every 13 female wage workers is a domestic worker (ILO 2013)

practice. For example when a worker's immigration status is tied to her employer, pursuing complaints about brokers must be weighed against the risk of losing employment and residency status.

However, in June of 2011, the passage of the ILO Domestic Workers Convention 189 and the accompanying Domestic Workers Recommendation, 2011 (No. 201), represents a major milestone towards improving the working conditions of millions of migrant workers across the world. This achievement is the first time the ILO has adopted international labor standards dedicated exclusively to domestic workers. It will have a major impact on migrant domestic workers in particular.

The Convention affirms the fundamental rights of domestic workers and lays down basic principles and measures regarding the promotion of decent work for them. The instruments recognize that domestic workers including migrant domestic worker have the same right to benefit from social and labor protections as other workers. At the same time, they accept that domestic work is in many aspects "work like no other" and has special characteristics and, hence, that domestic workers face particular vulnerabilities, which require specific responses to ensure these individuals can fully enjoy their rights.

Those countries that currently offer some level of protection could extend or adopt national laws and regulations to be consistent with the Convention should they agree to ratify and implement the Convention within their country. Admittedly this is a significant challenge, but there are important measures embedded in the Convention that offer constructive redress to some of the malpractices labor brokers perpetrate on migrant domestic workers.

For example, in the context of dealing with labor brokers Article 8 of Convention 189 would require that migrant domestic workers recruited in one country for domestic work in another receive a written job offer or contract of employment that is enforceable in the country in which the work is to be performed. Furthermore the article obliges member countries to work with each other to ensure the rules can be implemented. This measure could deal with the jurisdictional football that for so long has allowed brokers to dodge culpability by leaving no accountable organizational footprint in countries where they work. Article 15 also offers important protections for migrant domestic workers by:

- obliging ratifying governments to regulate labor brokers;

- ensuring there are adequate measures to investigate complaints of brokers;
- collaboration with other Member governments where recruiters operate and place migrant domestic workers, in order to prevent abuses;
- taking measures to ensure that fees charged are not deducted from wages of domestic workers;
- obliging ratifying countries to establish effective and accessible complaint mechanisms.

Currently, only 17 countries have ratified the Convention. Expanding this number holds tremendous potential for realizing comprehensive protections for tens of millions of migrant domestic workers while also addressing many of the adverse impacts of brokers on a global scale.

Examples of national measures strengthening protections for domestic workers (with particular significance for migrant workers):

- South Africa's 1997 Basic Conditions of Employment Act, contained a binding mandate to protect domestic workers. (ILO 2010);
- In 2010 the Philippines government adopted the Batas Kasambahay Magna Carta for Household Helpers as part of the Labor Code of the country. The legislative amendments are framed with the right to decent work and include provisions detailing working hours, leave, minimum wage, payment of a 13th monthly wage, as well as membership in the social security and the Philippines healthcare system (UN WOMEN and ITUC);
- Mali has a special statutory instrument relevant for domestic workers. Mali's Collective Agreement on the Employment Conditions of Household Employees (section 41) states that for cases not expressly provided for under the relevant decree, the conditions laid down in the Labor Code, the Social Security Code and other regulatory texts in force shall apply. (ILO 2010);
- Hong Kong granted the right to organize including domestic workers under the Employment Ordinance which stipulates employment contracts that must adhere to the minimum standards required by the Immigration Department (ILO, 2010).

Domestic workers by the numbers and directions of travel

Much domestic work migration is South-South. For example:

- Approximately 6.3 million Asian migrants were legally working in the more developed countries of Asia, while another 1.2 million undocumented migrants reside in the region. (United Nations Population Fund 2006);
- Arab countries employ millions of migrant domestic workers. In Saudi Arabia there were approximately 1.5 million domestic workers, primarily from Indonesia, the Philippines and Sri Lanka (Human Rights Watch 2008). In the UAE alone there are estimated to be 150,000 female migrant domestic workers -perhaps more. (Human Rights Watch 2014);
- In Latin America, domestic workers account for up to 60 percent of internal and cross-border migrants. Young women migrate from less economically developed countries, for example Bolivia and Peru, to work in more developed countries. The vast majority of immigrant domestic workers are women – 70-74 percent in Costa Rica, the Dominican Republic and Honduras; 89-96 percent in Argentina Chile, Brazil and Paraguay. For women immigrants, employment in domestic work ranges from 10 percent in the Dominican Republic to 19 per cent in Paraguay, 37 percent in Chile, 47 percent in Costa Rica and 78 percent in Argentina (WIEGO 2013);
- The migration of domestic workers is also a North-South phenomenon. Women migrants from Mexico and other parts of Latin America make up most of the domestic workforce in the United States accounting for 58 percent of workers in personal and related services (United Nations Population Fund 2006);
- Domestic work, including migrant domestic work routinely involves girls The ILO International Program on the Elimination of Child Labor (IPEC) notes that available statistics show only the “tip of the iceberg” and provide “an alarming indication of the extent of the phenomena worldwide.” Furthermore most child laborers are between 12-17 years of age; some are as young as five ;
- Around 175,000 children under 18 are employed in domestic service in Central America (Schwenke & Heimeshoff 2011);
- More than 688,000 in Indonesia. (WIEGO 2013);
- In South Africa nearly 54,000 children under 15 work as domestics. (WIEGO 2013);
- In Guatemala the figure hovers around 38,000 children between the ages of five and seven years of age. The number of girls between the ages of 5-17 years estimated to be doing domestic work exceeds 11 million compared, to just over 4 million boys in the same age range. (ILO 2013).

Belgium – National Service Ticket Program

Belgians have been familiar with a common site of 200 some individuals each day forming a line at a well-known location in the city, hoping to be recruited for under the table work doing cleaning, construction, hotel, restaurant or agricultural jobs (Martiniella & Rea 2004). Partly in response to this labor force dynamic in 2001, the government of this small nation embarked on a national 'service ticket' (ST) program. In addition to a policy objective to reduce illegal or undeclared work, the government also wanted to create new jobs and to give vulnerable workers access to fair employment opportunities (EurWork 2014).

It is the last point that makes the initiative relevant because the initiative holds potential to curb the poor practices of recruiting agencies by regulating the market for domestic services supplied by migrant workers. While there are variations of this program in France and Italy, the Belgian program effectively undercuts labor brokers who are routinely exploiting workers (again who are primarily women) from within Belgium as well as those from neighboring EU countries who are in search of low wage/low skill employment opportunities in domestic work (Sansoni 2009). In order to understand the benefit of the models approach to changing this picture, it is necessary to explain how the Service Ticket program is structured.

The program involves a payment coupon or 'service ticket' that is issued by a private company that allows a user to pay for housework. The ST can be bought from a labor recruiter or as they are referred to in Belgium, Service Provider, by any resident for €9 and are used to pay a domestic worker for one hour of household services such as cleaning, ironing, preparing meals or shopping. The true cost of the voucher amounts to €22.04 for each hour of work. The government provides a subsidy to account for the difference, plus buyers benefit from a 30 percent personal income tax deduction which was recently capped at €1,380 per person (EurWork 2014). The government gives an extra tax reduction to the company who manages the national program (Stalpaert 2011).

A private company (Sodexo) holds the bid to issue the service tickets and administer the program, as well as to work with service providers who hire, train and oversee the domestic workers who deliver the services. In return, Sodexo receives a management fee from the Belgian government. Customers buy service tickets and sign a contract with a local service ticket provider for a specific number of hours and tasks, for example, four hours of domestic work per week. The provider sends a worker to the customer's home. In most cases the

provider is responsible for the transportation of the worker to the customer's residence, thereby reducing the travel costs of the domestic worker and adding a level of personal safety.

In this program, the service ticket provider is the employer, not the customer. The customer pays the provider (1 ticket = 1 hour) and the provider is responsible for paying the worker. Providers send tickets they have sold to Sodexo and receive a portion of the government subsidy for every ticket. The Provider has to pay all costs. This includes salary, taxes, social security, administration, training, insurance and benefits. Because of the government subsidy and contract conditions, the program has been structured to ensure domestic workers are properly paid, that health and safety issues are addressed, and that all necessary tools and equipment are provided. Domestic workers can only work a maximum of 38 hours/week under the program and hourly wage rates are determined in consultation with unions. Typically a domestic worker earns more than €9 paid by the customer. The program was also structured to include modest annual wage increases and an end of year bonus totaling over four percent of the salary. In addition unions in concert with social partners who support the initiative negotiated the right to establish unions for the workers to help counter workplace isolation and ensure a voice within the program (Samsoni 2009). The program is a tremendous success with “approximately 834,959 users, involves more than 2,700 service-providing enterprises and gives work to 149,827 persons.” (EurWork 2014).

The Service Ticket program offers migrant workers a uniform employment contract, better wage and working conditions and safe transport to work sites. Because Belgium was seeing a significant influx of undocumented persons, this program provided domestic workers with a nationally recognized form of documentation. This last point contributes to some easing of immigration tensions, though advocates for the program from the Belgian labor movement have noted public perceptions of those doing domestic work as having lower social status. As a result the workers and their work are not always treated with dignity and value (Stalbert 2014).

The program while successful in growth relies on sizable government subsidies. An evaluation of the program revealed the following:

- Domestic workers now have a normal legal labor contract with decent wages and working conditions. They are provided with social security benefits including pension, healthcare and unemployment benefits and they can join a union.
- The government in consultation with labor unions sets the legal basis and minimum working conditions;

- There is an organized social dialogue that supports the rights and interests of the domestic workers and customers who rely on the in-home services provided;
- There is balance in the power relations between the customer and the domestic worker due to the role of the Service Provider acting as the employer and the requirement of minimum wage, working conditions and adherence to social benefits established by the government;
- Workers benefit from the flexibility of the program design;
- Decent work job opportunities are created for low skilled individuals;
- Brokers/employment agents can operate profitable enterprises without having to exploit workers (Stalbert 2011).

While these attributes are important, there are still drawbacks. They include significant cost to society due to tax credits and subsidies provided to the Service Providers. Additionally, because the service is low-cost to customers, sometimes domestic workers experience a lack of respect for the work they provide.

The evaluation found that despite stated openness to engaging undocumented workers, illegal and informal domestic work does still exist. Despite monitoring of Service Providers, fraud also persists and unions have noted that it is difficult to organize Service Ticket workers. An interesting development is that trade unions in Belgium are exploring the potential for the national labor center to take on the role of Service Providers, which may reduce program costs while providing these workers with the ability to join a union of domestic workers (Stalpaert 2011).

Canada: Sub-national efforts to regulate labor brokers

Although the Canadian federal government enabled brokers/employers to quickly and with little oversight access work permits nationally, it is the provinces and territories within Canada that are obliged to enforce employment law. Faced with increasing media attention and mounting concerns over rogue labor brokers and employers abusing the Temporary Foreign Workers Program (TFWP), a number of provinces and territories began to put in place stronger sub-national legislative measures to force greater compliance, monitoring and enforcement of labor standards. They specifically targeted labor brokers. These measures came about in part because of direct advocacy work by the Canadian Labor Congress (CLC) working in concert

with migrant rights groups to compel strategic interventions by civil servants working within key departments of provincial levels of government.

During the years we worked together at Canada's central labor body, the CLC was unable to move an intransigent federal government from their policy of enabling faster, cheaper and less regulated access to migrant workers. The CLC opted instead to create demand for concrete policy change at the subnational levels. As Director of the CLC's Human Rights and Anti-Racism Department, Karl Flecker organized a series of two-day workshops across the country beginning in 2010. The sessions brought together migrant workers, unions, and community based allies, along with select employers, brokers and provincial government representatives. In addition to sharing and learning the regional realities of how the TFWP was operating, participants were encouraged through a structured and on-going process to advocate within their sub-national parliamentary structures for specific legislative measures to license and regulate labor brokers. The legislative policy tool was modeled on the Manitoba government's Worker Recruitment and Protection Act (WRPA), which came into force in 2009 (Province of Manitoba 2009). The genesis of this particular regulatory regime came from a round table discussion involving senior CLC staff and government officials from Manitoba during an international convention addressing labor migration in 2007.

Manitoba officials had been experiencing negative consequences on their labor market and immigrant settlement patterns as a result of the shift to temporary migration (Johanson 2014). Eager to counter these impacts and foster long-term settlement of their province by newcomers to Canada, the provincial government chose to strengthen its oversight of migration policies. This included putting in place an Act that would govern the activities of third party employment agencies, and require them to be licensed and registered with the provincial Labor and Immigration department. At the same time, the province sought to increase its federally-allocated quota to grant permanent residency status to workers with temporary work permits. In short, the province of Manitoba was determined to use the federal TFWP to boost the integration and permanent settlement of newcomers (drawn from temporary migrant worker pools) who were needed to address regional labor shortages and declining provincial population growth.

In order to ensure brokers and employers seeking temporary work permits would operate with integrity, the Manitoba government crafted a registration and licensing legislative system

containing enforcement provisions and penalties designed to ensure compliance. To obtain a license, employment agencies or labor brokers must be a member of the Canadian Society of Immigration Consultants, or a member of the Law Society of Canada/ or its counterpart the *Chambre des Notaires* de Quebec. This measure is intended to hold operators accountable via a relevant professional standards and ensure brokers can be tracked to a domestic address. The Act also requires brokers to deposit an irrevocable letter of credit to the licensing government department for CDN\$10,000. The province also put in place measures to work in tandem with the federal government which issues the temporary work permits. Until brokers and employers successfully register with the Manitoba Labor and Immigration department they are not permitted access to federally-granted permits for migrant workers. Additionally, all brokers and consultants must demonstrate a history of provincial compliance with labor legislation (WRAPA 2014).

Manitoba's Labor Program Integrity Branch works with employers to educate them about the fiscal advantages of converting trained and experienced migrant workers into permanent residents via the Provinces Nominee Program (PNP). This is a fast-track for migrant workers interested in gaining permanent residency status in Canada. When the new legislation came into force, the Manitoba government also allocated resources for enforcement and investigation. The provincial government is also empowered to recover any illegal fees charged to workers by an employer or broker. Officials and labor organizers in the province have both noted the positive impacts of these policy measures include a self-monitoring dynamic in which "nearly 75% of recruiters who initially applied for licensing dropped out before completing the license process" (Faraday: 2014 p.41) Similar licensing and registering measures have since come into force in the provinces of Alberta, Saskatchewan, Nova Scotia and New Brunswick. These provisions coincided with the targeted advocacy efforts pursued by the CLC and its allies.

Senior staff within Manitoba's government have commented that their political policy directives were intended to promote permanent migration and reduce the existence and growth of brokers operating within their jurisdiction, and curtail the practices of the ones that remain (Faraday 2014). In contrast, the province of Saskatchewan, which continues to experience rapid employment growth largely driven by resource extraction industries, was motivated to put in place policy measures accepting the existence of brokers in their labor market mix. Not wanting to see an unregulated and exploitative industry gain further ground, Saskatchewan's priority was

to effectively regulate brokers and employers who claimed their industries required greater access to migrant labor pools (Johansen 2013).

Despite these different end goals, the Saskatchewan government opted for a more rigorous regulatory approach via their Foreign Worker Recruitment and Immigration Services Act (Saskatchewan government Bill 83 2012). This included:

- Extending coverage of the Act to employers, brokers and immigration consultants;
- Conducting a comprehensive and inclusive consultation process, included soliciting views of migrant workers, and their allies;
- Registration and renewal of licenses made dependent upon statutory declaration of compliance with labor standards and occupational health and safety legislation;
- Prohibitions on fees and direct or indirect costs recovery efforts. Where fees for select services are permitted, there must be full written disclosure of the fees and evidence of worker consent;
- Up to five years requirement for record keeping in recognition that migrant workers may return to home countries before remedial actions can be pursued for ESA violations;
- Power to issue compensation orders for Employment Standards Act violations including unlicensed brokers or employers who use unlicensed agents, and including those operating outside of Saskatchewan's jurisdiction;
- Letter of irrevocable credit in the amount of CDN\$20,000 that can be used expeditiously for remedy of ESA violations;
- Ensuring clarity of all relevant terms and conditions of employment contracts which must be in writing and known to be understood by the migrant worker. Reasonable efforts must be made to communicate employment terms and conditions in the first language of the workers;
- Adoption and enforcement of Codes of Conduct and professional ethics standards for brokers and immigration consultants seeking to be licensed within the province; and
- Significant public education efforts designed to reach all relevant stakeholders.

It is noteworthy that in the preparation of this Act, the Saskatchewan government went to greater efforts than other provinces to consult with migrant worker advocates including trade unions as they developed their policy.

Ontario originally passed the Employment Protection Act for Foreign Nationals in 2009 (Ministry of Labor 2009) to cover only live-in caregivers (domestic workers) but expanded it in 2014 to provide coverage to any worker holding a temporary work permit (Bill 18). The revised Act includes prohibitions on employers and brokers from charging fees directly or indirectly to migrant workers and taking, retaining or withholding property or personal documents such as passports of migrant workers. It further prohibits reprisal actions against migrant workers who file complaints about their treatment.

On the heels of targeted advocacy by labor unions over the summer of 2013, (NBFL 2013) the provincial government of New Brunswick put in place amendments to the Employment Standards Act to create an employer/broker registry. These amendments contained provisions to ensure employers/brokers can only recover allowable recruitment and transportation costs directly from migrant workers. The changes also clarify the legal allowances with respect to housing and holding of personal documents.

Nova Scotia conducted a consultation process with stakeholders beginning in 2010. In May 2011 it passed legislation similar to the Manitoba legislation establishing a licensing regime for brokers/employers and prohibiting fees being charged to workers. The first draft of the legislation called for the establishment of CDN\$100K fund for community organizations to access in their advocacy for migrant workers. This was an important recognition by the government that government departments alone could not adequately provide services to the growing number of migrant workers.

The policy workshops conducted by the CLC have also motivated the provincial governments of Newfoundland and Prince Edward Island to begin an examination of licensing measures undertaken by other provinces (Flecker 2013). At the same time, increased public awareness and media attention on egregious cases of exploitation of migrant workers and members of the national workforce at the hands of rogue brokers and employers has served as additional motivation for policy change.

Although each of these legislative measures is a step towards offering greater protections to migrant workers, they have significant shortcomings. For example, Ontario's legislation did not come into force with adequate financial and staffing resources that would ensure comprehensive implementation. The Act has been criticized for not establishing a registry of

labor brokers (Mojtehedzadeh 2014). New Brunswick allowed an exemption for brokers working with high skilled workers to avoid the registry. Although Manitoba did include a resource allocation package with its legislation, the Assistant Director of the Labor Branch tasked with implementation noted the following on-going challenges:

- Implementation of the Act requires strong partnership and regular communication between all levels of government;
- Considerable investments are needed for administration, investigation and enforcement. This includes challenges enforcing rules regarding fees, as some immigration consultants can charge fees related to processing landing documents but may falsely register illegal employment related fees for immigration services.
- Challenges persist in dealing with workers who are relocated across jurisdictions;
- Infractions that occurred and are unresolved prior to the Act coming into force still need to be addressed;
- Problems persist with variances between employer/broker registration certificates and their applications for permits at the federal level, despite an information sharing protocol between the two levels of government; and
- Workers need clear and concise multi-lingual information, as well as accessible support services (Sharma 2010).

Although New Scotia created a registry licensing and regulatory regime for brokers and employers, after pressure from these groups claiming the new measures were too restrictive, the government diluted its regulations making it easier for brokers claiming to recruit high skilled to operate within the province (Bill 53 2011). Alberta has long standing legislation requiring employment agencies which includes recruiters, to be licensed with the province. Known as the Fair Trade Act, recruiters are not allowed to charge fees to migrants seeking employment, but they can apply fees for 'settlement services.' The legal distinction between these lines has meant migrants are often wrongly charged fees for settlement services that are in fact employment related (Nakache & Kinsoshita 2010). Because Alberta has only a complaints-based monitoring system, the inherently skewed power relations between a migrant worker and his/her job via a recruiter means few complaints are registered. In a province with over 60,000 migrant workers this is a significant shortcoming. For example, "since 2007, there were only 277 investigations made into allegedly wrongful broker activities of recruiters, resulting in just seven orders being issued and only one prosecution which has been in on-going legal challenges for years." (Flecker, 2011)

These shortcomings reveal that in the absence of a national, standardized and comprehensive policy approach to regulate labor brokers and employers utilizing temporary work permits sub-national legislative measures will have important but less than ideal impacts.

Unions: Advocacy, Alliances and Transnational Cooperation⁴

As part of the policy mix that would decrease the private, transnational power labor brokers have over migrant workers, an essential element is to strengthen the role of trade unions in civil society, and to encourage horizontal relationships between migrant workers and workers' organizations in countries of origin and destination. Unions have an essential role to play in maximizing benefits for migrant workers and their families. This includes policy advocacy work, international union cooperation, and alliance-building between migrant advocacy groups and the governments of origin and destination countries. National labor federations in Argentina, Belgium, Canada, France, Germany, Ireland, Italy, Mauritius, the Netherlands, Portugal, the Republic of Korea, Malaysia, South Africa, Spain, Sweden, the United Kingdom, Indonesia, Costa Rica, Nicaragua, the Dominican Republic and the United States, among others, are active in policy advocacy to advance protections for migrant workers and promote decent working conditions. For example, trade unions from Sri Lanka and their counterparts in Bahrain, Jordan, and Kuwait have established bilateral cooperation agreements, making commitments to pursue specific actions that promote migrant workers' rights.

The Kuwait Trade Union Federation (KTUF) has long campaigned for legal reforms to protect migrant workers from forced labor. The KTUF has been calling for the abolition of the kafala system, an employer-based sponsorship system. In 2010, the Kuwaiti government pledged to end the system within a year (MFA 2010). However, the General Secretary for the KTUF in August 2014 noted that "we have been given promises, but do not see any seriousness or clear steps taken to end the Kafala system" (MRI 2014). KTUF continues to advocate for the state to be the sole sponsor for recruitment as a viable alternative to the kafala process which they describe as a system of slavery.

⁴ This section adapted from the CLC 2011 publication, *Canada's TFWP: Model program or Mistake* and was written by K. Flecker.

The Indonesian Migrant Workers Union cooperates closely with other trade unions and civil society organizations in Indonesia to deliver monthly pre-departure trainings to migrant workers. It also conducts regular employment contract discussions with migrants.

The Malaysian Trade Union Confederation (MTUC) meets regularly with migrant workers in its offices and through community outreach. The MTUC has invested in this work by hiring full-time officers and recruiting volunteers who troubleshoot on issues such as unlawful dismissals, engage in conflict resolution and provide legal assistance to migrant workers.

United Steelworkers Union Canada had formed a partnership with Migrant- Ontario, a grassroots advocacy group of diasporic members of the Filipino community supporting domestic workers/live-in caregivers. Although this group of predominantly migrant women workers is prevented by provincial labor codes from joining a union, USW and Migrant-Ontario established an Independent Workers Association (IWA) which lobbies for changes to Canada's Temporary Foreign Worker & Live-in Caregiver programs. In addition, the IWA provides legal, dental, insurance, telecommunications services (to enable contact with family members). It also offers a range of educational and leadership training services to its members (USW 2008).

Unions such as United Food and Commercial (UFCW) successfully negotiated collective agreement provisions with major employers in the meat processing sector who had become reliant on the TFWP. These provisions require the employer to assist workers with temporary work permits to secure permanent residency (Flecker 2007). Employers have realized reduced costs of having to re-train new temporary workers every 24 to 48 months under the time limiting rules of the TFWP. In addition, these workers are now able to sponsor their families as permanent residents to Canada, adding yet more individuals to the provincial labor force. In turn, this aids industries with growing demand for workers and consumers.

In addition, the UFCW operates migrant worker centers staffed with multilingual personnel. These centers provide workplace support services as well as educational courses, and health-and-safety training annually to tens of thousands of migrant agricultural workers. In addition to publishing annual reports that document challenges, and proposing policy remedies to Canada's TFWP, this international union established a post-secondary scholarship award program for the children of migrant workers.

In an effort to change policy and practices, UFCW also successfully negotiated 10 unique union-to-state agreements detailing measures to better protect migrant workers who work in Canada under the Seasonal Agricultural Workers Program. Initially, the Mexico-Canada Temporary Agricultural Program began with just over 200 workers, but four decades later the number of registered workers has jumped to nearly 20,000 (UFCW 2014). Mexico is one of three fastest growing source countries for migrant workers coming to Canada (AFL 2009). In 2007, so that they could better understand the working conditions of Mexican migrant workers on Canadian agricultural farms, the UFCW invited representatives from the Population, Borders and Migratory Affairs Commission of the Chamber of Deputies of the Mexican Congress to tour job sites in Ontario and Québec. In April 2008, representatives from the State of Michoacán and the UFCW signed the first of ten Cooperation Agreements designed to extend a range of support and services to migrant workers before, during and after their work term in Canada. These include counselling; advocacy for labor rights and better housing conditions; assisting with medical claims, workers' compensation, pension matters and parental benefits; providing workshops on health and safety matters; providing translation services; offering ESL classes; and assisting migrant workers with toll-free long distance calls between UFCW support centers in Canada and Mexico. The initiative even recognizes support for sporting competitions and culturally significant holidays (UFCW and State of Michoacan). Such innovative agreements between a labor union and sub-national levels of government mitigate the inherent flaws in bilateral arrangements developed between federal governments. This initiative demonstrates the strategic value of creating alternative social structures that have the effect of undermining the isolation of migrant workers and disrupting their individual dependency on labor brokers.

Mapping and marking labor brokers

If we were to envision a continuum of strategies that address the unequal power relationships existing between workers, labor brokers and employers, those directing their attention to the legislative and regulatory role of the state would be located on one end, while approaches giving priority to the empowerment of workers would fall on the other side. It is to a case of the “workers’ rights” approach we now turn. *Centro de los derechos del migrante* (CDM) is a transnational non-profit rights organization with offices in the US and Mexico. CDM opened its doors in Zacatecas in 2005, and since then has helped over 6,000 workers in more than 23 Mexican states know their rights before crossing borders. CDM has also helped workers recoup more than US\$5 million in unpaid wages and establish important legal precedents that better

protect migrant workers and their families. CDM has documented the following flaws in the US guest worker program:

- Lack of government oversight, creating an environment where recruiters and employers are able to act with near impunity for recruitment abuses;
- Lack of transparency, making it difficult to hold employers and recruiters accountable for problems in the recruitment chain;
- Lack of access to timely information about actors and rights;
- Reliance on government or other intermediaries for information that is inadequate; and
- Recruitment fees to migrant workers that increase vulnerability to exploitation.

Because migrant workers are vulnerable to abuse and fraud, CDM recognized there was an urgent need to create space for workers to access information and share experiences regarding employers and brokers. In the words of Rachel Micah-Jones, the Executive Director and Founder of CDM, the “challenge was to build a self-sustaining and self-supported community for informed and transparent recruitment.” The Centro began to envision an interactive visual digital tool that would allow migrant workers to contribute experiential information about employers, recruitment agencies, and recruiters involved temporary or seasonal agricultural work. CDM held a series of focus groups with migrant leaders to help identify major problems in recruitment, critical gaps in available information, and strategies to help address these concerns. Prototypes were developed, tested and modified based on migrant worker feedback. From this process CDM developed an innovative, interactive website to build worker power. As CDM describes it, *Contratados* is a social justice initiative using technology and art to increase transparency and combat abuse in the US guest worker programs. It is an interactive website, a hotline, a place to find audio and pocket-sized graphic novellas, as well as a transnational radio program. The initiative allows workers to:

- Contribute information about recruiters and employers;
- Read and write reviews and reports about their experiences;
- Learn more about their rights as temporary migrant workers;
- Stay informed about immigration policy, fraud alerts and other important news; and
- Access assistance and resources once a rights violation has occurred.

Recognizing that not all migrant workers have easy on-line access, *Contratados* utilizes a multi-media platform design. The on-line portal (www.Contratados.org) is accessible to users with low internet literacy. It allows anonymity in reading and writing reviews and offers access to audio

and visual “Know your Rights” materials in Spanish. There are also print materials designed to be easily printable from cyber cafes and which double as posters for community events. There are SMS messaging options, “Know your Rights” radio novellas and even phone review options that allow migrants to record and listen to reviews of employers and brokers. Armed with information, CDM strives to assist workers to undertake their journeys with greater protection against labor recruitment abuse and fraud.

Illustrations for future consideration

We have presented a number of multi-sited examples of initiatives meant to regulate the activities of labor recruiters and confront the inequalities of power existing between them and migrant workers. To recap:

- In Namibia, South Africa, Singapore, and Canada, human rights activists have promoted legislative measures to better regulate labor brokers and curtail exploitative practices;
- In the United States and Mexico/Central America, community-based organizations have developed innovative and participatory research methods to map, monitor and contribute to enforcement measures to better regulate brokers and employers at the transnational level;
- Organizations based in Brussels are working on a model program which can replace private sector brokers with unions/worker-led associations to facilitate employment placement for women migrant workers; and
- Unions and sub-national levels of government in Canada and Mexico are working together to establish union- state cooperation agreements that govern a range of migrant worker issues, including the role of labor brokers.

Many other examples are being tried in countries around the world and merit further exploration and consideration. It would be valuable to further investigate these measures to determine their effectiveness in addressing concerns with labor brokers. We include a few examples here:

Nepal: Kafa (Enough) Violence against Women has conducted and released an interview-based report that documents the abuses that migrant labors from Nepal and Bangladesh endure while in Lebanon. These abuses are often consequence of recruitment agency exploitation. This evidence is being used to advocate for policy changes. <http://recruitmentreform.org/?p=7843>

Indonesia: Domestic workers have been personalizing the political struggle of ratifying policies that outline migrant workers' rights and regulate recruitment agencies. Erwiana Sulistyaningsih is one example of migrant workers advocating for policies to regulate recruitment agencies. <http://www.aljazeera.com/indepth/opinion/2014/06/domestic-workers-silent-no-more-201461673219838306.html>

Philippines: Philippine Overseas Employment Administration (POEA) works to enforce ILO Convention No. 189 Article 15, which the government has ratified. The policy states that recruitment agencies can be suspended for exploiting migrant workers. POEA continues to enforce this policy. <http://recruitmentreform.org/?p=7936>

Sri Lanka: Sri Lanka's Ministry of Labor has been drafting direct government to government long term contracts in order to reduce the exploitation migrant labors experience when working with private recruitment agencies. <http://recruitmentreform.org/?p=7893>

Maldives: The creation and implementation of laws such as the Employment Act which established special agencies such as the Employment Tribunal to deal with violations. The goal is to expand legal support to workers whose rights are violated. http://www.employmenttribunal.gov.mv/index_en.html

Tanzania: The Ministry of Labor and Employment released a list of approved recruitment agencies. The 51 approved agencies were given licenses that permit them to operate for a year. The Ministry has cautioned potential workers, as there are recruitment agencies illegally operating without a license. <http://recruitmentreform.org/?p=7836>

Mexico and California: California Gov. Brown and Mexican Labor Secretary Navarrete signed a July 2014 letter of intent to cooperate in the creation of a voluntary pilot program to help prevent abuses in the recruitment of Mexican H-2 temporary workers going to California. <http://gov.ca.gov/news.php?id=18638>

United States (California): California passed bipartisan legislation that protects foreign workers in California from abuse and human trafficking by labor recruiters, and helps to eliminate fraud in U.S. nonimmigrant visa programs (SB 477).

http://www.endslaveryandtrafficking.org/news_releases/alliance-end-slavery-and-trafficking-applauds-ca-law-combat-trafficking#sthash.yvGl66Xn.dpdf

Nigeria: Minister of the Interior Comrade Abba Moro reported that the federal government will compensate those who were affected by the government's failed immigration recruitment pilot program. Minister Moro, said in an interview the delay in compensations stems from the Ministry's efforts to ensure that the claims are not false. <http://recruitmentreform.org/?p=7567>

Cambodia: The International Labor Organization (ILO) has been researching ways to establish *prakas* in Cambodia. *Prakas* would allow migrant workers to file complaints and receive legal support in dealing with recruitment agencies. In 2010 alone there were over 350,000 Cambodian workers working abroad. <http://recruitmentreform.org/?p=8093>

Discussion and Conclusion:

Our review of initiatives meant to regulate the activities of labor brokers has touched on a range of possibilities. It is not only the exploitation of migrant workers that has taken on new and multiple forms, but so too have the responses by states and civil society, whether at the level of the workplace, within sub-national and national spaces, and even transnationally. Together these proposals suggest the beginnings of a new policy framework that could strengthen migrant workers' attachment to civil society in both their originating and destination countries.

First of all, we see state-led proposals to use national legislative powers to establish a regulatory framework within a well-supported institutional infrastructure. Some of these strategies include the responsibility of the state to:

- Ensure a role for the public sector in contracting and establishing working conditions (Namibia, Singapore);
- Establish dedicated public agencies or departments (Singapore, Manitoba, Philippines, Maldives);
- Ensure that state administrative capacity is sufficient to investigate and enforce the law;
- Ensure transparency, accountability and timeliness;
- Maintain the ability to recover illegal fees charged to workers (Manitoba);
- Promote permanent migration and reduce the role of labor brokers (Manitoba);

- Cooperate with different levels of government and between governmental departments (Manitoba, Hong Kong);
- Intervene in the market for services supplied by migrant workers (Belgium);
- Establish long-term government to government agreements (Sri Lanka, Mexico-California);
- Establish a national, standardized and comprehensive policy approach.

We have also illustrated efforts meant to impose direct requirements on labor recruiters including the need for states to:

- Screen brokers and require previous compliance (Singapore, Manitoba, Saskatchewan);
- Educate brokers on their responsibilities (Singapore, Saskatchewan);
- Require accreditation of labor brokers (Singapore, Manitoba);
- License brokers (Singapore, Manitoba, Nova Scotia, Alberta, Tanzania);
- Establish a directory of brokers (Singapore, Manitoba, New Brunswick);
- Require a letter of credit (Manitoba, Saskatchewan);
- Prohibit recruitment fees (Saskatchewan, Ontario, New Brunswick, Nova Scotia, Alberta);
- Ensure violators will face fines, penalties, imprisonment and/or the revocation of licenses (Singapore, Manitoba, Thailand);
- Ensure specific requirements for recruiters of domestic workers (Ontario);
- Require labor brokers to fulfil their obligations up to the point of contracting and during the contract as well (Singapore).

Other options focus on the role of the state in relation to workers themselves, including the need for states to:

- Educate workers on their rights and responsibilities (Singapore, Saskatchewan);
- Protect migrant workers within the national labor code (South Africa, Philippines, Mali);
- Accord migrant workers the same labor rights and working conditions as nationals (Namibia);
- Ensure national labor legislation is not undermined (Namibia);
- Permit mobility for migrant workers;

- Provide public compensation to workers when warranted (Nigeria);
- Establish a fast-track pathway for migrant workers to secure permanent residency status (Manitoba);
- Respect the right to unionize (Hong Kong);
- Ensure workers have clarity on the terms of their employment contracts in their first language (Saskatchewan);
- Prohibit reprisals against workers who file complaints (Ontario);
- Assist workers who wish to file complaints and receive legal support (ILO-Cambodia);
- Prohibit recruitment fees (Saskatchewan, Ontario, New Brunswick, Nova Scotia, Alberta);
- Regulate the wages and working conditions of domestic workers (Belgium).

We have outlined other options that depend upon the state's democratic relationship with civil society, including its need to:

- Establish or maintain social dialogue and the participation of civil society (Singapore, Belgium, Saskatchewan, Nova Scotia);
- Maintain space for civil society to evaluate independently the regulatory framework by monitoring the impact on workers (Singapore);
- Create spaces for workers to report and communicate with one another (CDM);
- Intervene in the market for services supplied by migrant workers (Belgium);
- Establish a national program administered by either a labor center and or with civil society partners that coordinates labor recruiters (Belgium);
- Ensure employers shoulder the necessary costs and responsibilities, including direct wages, and elements of a social wage (Singapore).

Finally, we contend that none of these initiatives would have arisen, were it not for the social engagement and political work of unions and workers' rights organizations. We find numerous examples of workers' organizations contributing to social change having a transnational dimension, by working within their own state institutions and national societies. These include efforts to:

- Advocate for national-level legislative change (Kuwait, Canada, Bangladesh, Indonesia);

- Provide trainings for departing migrant worker (Indonesia, CDM);
- Support migrant workers in the destination country (Malaysia, Canada, CDM);
- Negotiate collective agreements with provisions supporting migrant workers (Canada);
- Support a pathway to citizenship for migrant workers (Canada);
- Negotiate transnational union to state agreements (Canada, CDM);
- Establish transnational bilateral cooperation agreements by unions (Bahrain, Jordan, and Kuwait);
- Educate and organize key leaders in the national labor movement (Canada).

In the context of increasing inequality, ongoing economic instability and a crisis in the provision of decent work, we conclude that it is the responsibility of the state to re-regulate the economic spaces that migrant workers inhabit. There are a myriad of ways in which our respective states can creatively address the injustices and exploitation faced by an astounding number of workers made vulnerable by current conditions in the world economy. They are more likely to do so, however, if our labor movements are engaged in this pursuit, confident in the necessity and possibilities of a more equal future for all workers, and willing to compel governments to act in the best interests of the most marginal workers among us.

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