Best Practices in Management of Labour Migration in East and Southeast Asia

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Abstract: National migration policies in East and Southeast Asia have evolved to better manage large flows of international labour migration. Migration policies both in countries of origin and in host countries have strived for three major objectives: (1) to regulate and manage the labour migration process, (2) to maximise the contribution of labour migration to national development, and (3) to offer greater protection to migrant workers. Countries of origin have attempted to realise these objectives by licensing and regulating recruitment agencies; by enacting regulations on standard contracts, fees charged to prospective migrants, and pre-deployment training; and by assigning responsibility to their overseas diplomatic missions for offering assistance to migrants while abroad. Countries of destination manage labour migration through laws on immigration, work permits, and private recruitment agencies. To link migration with economic growth, they set annual quotas by sector for the number of new migrant workers. They attempt to provide protection to migrant workers by ensuring equality with national workers in labour standards, providing post-arrival orientation, and by requiring health and accident insurance.

Keywords: Labour migration, migration management, Southeast Asia.

Subject classification: Sociology

1. Introduction

The deployment of temporary labour migrants from countries of origin and their employment in host countries in East and Southeast Asia have grown rapidly over the past two decades. As a result, temporary labour migration has become an integral part of the economic structure of many countries in those two regions. Several countries have developed legislation and policies to manage this migration, to reduce the volume of irregular migration and to provide greater protection to migrant workers.

This paper reviews the legal framework, procedures and regulations that have been put in place by one country that deploys

very large numbers of migrant workers - the Philippines - and by three countries that formally recruit foreign workers - the Republic of Korea, Singapore and Thailand. The paper attempts to draw some conclusions concerning common elements that are involved in the best practices.

2. The Philippines

The Philippines is the quintessential labour exporting country, as no country in the world formally deploys more migrant workers abroad. The Philippines deployed one million workers in 2007. While many other countries deployed reduced numbers of workers during 2009 and 2010 because the global economic slowdown, the Philippines was able to continue increasing the number deployed each year. The country deployed 1.8 million workers in each 2012, 2013 and 2014 [9].

Approximately two thirds of the land-based workers deployed go to the Middle East and close to one third go to East and Southeast Asia. The Philippines records a higher percentage of highly-skilled workers being deployed than most other countries of origin, although that may be partially because Philippine Overseas Employment Administration (POEA) regulations concerning registration are stricter than in other countries. In 2013, some 12.0 per cent of the land-based, new-hire workers deployed were considered professional, technical and related workers [9].

2.1. Overseas labour infrastructure

POEA was created in 1982 but the *Migrant Workers and Overseas Filipinos Act* of 1995 (and amended in 2007 and 2010) strengthened its legal mandate to promote and monitor overseas employment and to regulate the private agencies involved in the business. It is an agency within the Department of Labour and Employment (DOLE) guided by a six-person Governing Board headed by the Secretary of DOLE, with the POEA Administrator as vice-chair and representatives from the private and women sectors, and of land-based and sea-based overseas workers [8].

The Philippines separates the functions of promoting and facilitating the deployment of workers abroad from that of ensuring protection of overseas workers, which is the responsibility of the Overseas Workers Welfare Administration (OWWA), also an agency within DOLE. Its legal mandate was also strengthened by the Migrant Workers and Overseas Filipinos Act of 1995. It is responsible for the repatriation of migrant workers in the event of war or natural or made-made disasters. It has created a migrant workers loan guarantee fund to prevent recruiters from taking advantage of prospective migrant workers. It works with government financial institutions to create financial schemes for pre-departure and family assistance loans. OWWA is funded by a mandatory fee of USD 25 per worker, paid by the foreign principal or employer [8]. The 2010 amendment of the migrant workers law requires recruitment agencies to provide insurance coverage to migrant workers at no cost to them, covering death or permanent disability and providing for evacuation or repatriation for medical purposes when necessary.

Other government units tasked with assisting migrant workers and other Filipinos overseas include the National Reintegration Centre for Overseas Filipino Workers (also within DOLE), the Department of Foreign Affairs, Office of the Undersecretary for Migrant Affairs; Philippine Overseas Labour Offices; and the Commission on Filipinos Overseas [8].

2.2. Regulation of overseas labour

POEA [10] has developed a thorough set of detailed regulations governing every aspect of the recruitment, placement, employment and return of Filipino migrant workers. Most Filipinos taking employment abroad must register with POEA. Direct hiring is normally banned, with the exception of that done by the diplomatic corps, international organisations and high government officials from other countries. Professionals and highly-skilled workers whose contracts exceed the terms and conditions set by POEA may also be hired directly [10].

Private recruiters may charge a placement fee to prospective migrant workers, not exceeding one month's basic salary and to be paid only upon signing a contract approved by POEA. Domestic workers are exempt from the placement fee.

Migrant workers can be charged for the fees paid for (1) a passport, (2) police clearance, (3) authenticated birth certificate, (4) transcripts of school records, (5) professional license, (6) certificate of competency for vocational skills, (6) medical examinations, and (7) enrolment in health insurance coverage and the Social Security System (pension).

Foreign principals (recruiters) are required to pay the following fees: (1) for visa and stamping, (2) work and residence permits, (3) round trip airfare, (4) transportation from the airport to the job site, (5) POEA processing fee, (6) OWWA membership fee and (7) any additional trade testing required by the employer [10].

Contracts of overseas Filipino workers must be approved by POEA and must include, at a minimum: (1) name and address of the employer, (2) position and job site of the worker, (3) basic salary and mode of payment, with the salary not lower than the local minimum wage or the prevailing minimum wage in the National Capital Region of the Philippines, whichever is higher, (4) food and accommodation, or equivalent, (5) commencement and duration of the contract, (6) regular work hours and day off, (7) overtime pay, including for rest days and holidays, (8) vacation leave and sick leave, (9) free emergency medical and dental treatment, (10) just cause for termination of contract, (11) settlement of disputes, (12) repatriation during war or disasters, (13) repatriation in case of death.

Prospective overseas migrants must attend a pre-employment orientation seminar and a pre-departure orientation seminar.

An important function of POEA is the licensing and regulation of private recruitment agencies in the Philippines. It has recently raised the capitalisation requirement for those agencies from PhP 2 million to PhP 5 million[2]. Currently licensed agencies have four years to raise their capitalisation to the required amount, by increments of PhP 750,000 per year [10].

Several categories of persons and businesses are not permitted to engage in the recruitment of overseas migrant workers. These include travel agencies and sales representatives of airlines, board members in corporations or partners in partnerships in the business of travel agencies, similar officers in insurance companies that provide compulsory insurance coverage to migrant workers, those convicted of illegal recruitment or agencies whose license has previously been cancelled, and officials and employees of any of the many government agencies involved in the deployment of migrant workers overseas.

Agencies receive a provisional license valid for two years (non-extendable) then a license for four years from the date of issuance of the provisional license. Agencies cannot deploy domestic workers when they hold a provisional license.

The mandate of POEA includes a judicial function in that it exercises original and exclusive jurisdiction to hear and decide cases that are administrative in nature regarding violations of recruitment rules and regulations by licensed recruitment agencies. POEA exercises similar jurisdiction to decide disciplinary action against overseas Filipino workers and foreign principals and employers that are administrative in nature, excluding money claims [10]. POEA attempts to conciliate disputes before opening formal cases.

Licensed recruitment agencies can have their license suspended temporarily, with the length determined by the number of offenses, or cancelled if they are judged to have committed serious offenses, which include:

- Knowingly deploying a minor
- Gross misrepresentation to secure a license
- Submitting job orders for non-existent work or for a different principal or employer
- Placing workers in jobs that are harmful to public health or morality
- Collecting a placement fee when the country of employment does not permit it
- Charging fees greater than the amount specified in the schedule of fees
- Passing on to the worker fees and costs that should be paid by the principal or employer
- Deploying workers whose documents have not been processed by POEA
- Allowing a non-Filipino citizen to manage a licensed recruitment agency.

POEA rules and regulations also list less serious and light offenses and prescribe the related penalties.

POLOs, or in their absence Philippine Embassies or consulates, are required to authenticate the documents submitted to POEA by foreign principals and employers. Further, the authority to accredit foreign principals and employers may be delegated to POLOs or the relevant Philippine Embassy. POEA rules and regulations also spell out serious and less serious offenses by foreign principals and employers. Those judged to have committed a serious offense or two less serious offenses are permanently disqualified from recruiting or employing Filipino migrant workers.

The rules and regulations also specify serious and less serious offenses that can be committed by Filipino migrant workers both during the pre-employment phase and during employment, and the related penalties, which include a temporary suspension or permanent disqualification of the worker from the overseas employment programme [10].

3. Republic of Korea

3.1. Legal framework

The Republic of Korea admits low- and semi-skilled workers from other Asian countries with which it has entered into Memoranda of Understanding (MOU) for that purpose, and accords those workers most of the rights and protection of Korean workers. Prior to 2004, the Republic of Korea admitted low-skilled workers only under the Industrial Trainee Scheme but, as those trainees did not have the full protection of the country's labour laws, numerous abuses occurred. Furthermore, as workers learned that they could earn more as irregular migrant workers, many of those who entered as trainees left their assignments for other jobs. In 2002, there were 363,000 foreign workers in the country but 290,000 of them were in an irregular status [6].

As it was clear that the trainee scheme was the main point of entry for irregular migrants, the Government began phasing it out in 2004 by not accepting any new entrants. Instead, it put in place the Employment Permit System (EPS) to better regulate lower-skilled labour migration. The EPS is governed by the *Act on Foreign Workers' Employment* of 2003 and its several amendments.

3.2. The Employment Permit System (EPS)

The Ministry of Employment and Labour (MOEL) delineates nine major steps in the recruitment, employment and return of migrant workers [11].

3.2.1. Decision on quota, sectors and sending countries

The Foreign Workforce Policy Committee, established by the Prime Minister's Office, decides annually on the number of foreign workers to be admitted, by sector, and assigns a quota to each of the potential sending countries. This decision takes into account supply and demand in the domestic labour force. Following the global economic slowdown of 2009 and 2010, the Government has been steadily increasing the quota, which in 2010 was 34,000, in 2011 was 48,000, in 2012 was 57,000 and in 2013 was 62,000. As of August 2012, there were 188,000 EPS foreign workers in the country. The Republic of Korea admits workers through the EPS for employment in manufacturing, construction, fish farming, and agriculture and stockbreeding. About 83 per cent of foreign workers are hired by the manufacturing sector [6].

3.2.2. Signing of MOU with sending countries

As of 2015, the Government had signed MOU with 15 other Asian countries to furnish migrant workers. The distinguishing feature of the MOU is that in both the sending country and in the Republic of Korea the recruitment, selection and placement of workers through the EPS must be managed entirely by Government ministries in charge of labour migration, or entities affiliated with the relevant ministry. Human Resources Development Korea (HRD Korea) is a public recruitment agency within MOEL that is mandated to implement the EPS on the ground. It posts a liaison officer in each of the sending countries to monitor the recruitment process there [6].

3.2.3. Preparation of the job seekers roster

The country of origin prepares a roster of qualified workers that is a multiple of the quota assigned to that country and HRD Korea approves the roster submitted. The roster includes each worker's skill test scores, work experience and score on the EPS test of proficiency in the Korean language (TOPIK). TOPIK includes 25 listening comprehension and 25 reading comprehension questions, and takes about 70 minutes. The question book and the results of tests are posted on the HRD Korea Website.

Foreign workers wishing to apply to the EPS must be between 18 and 40 years of age, have no criminal record, pass a medical examination, possess a passport and not have been deported from the Republic of Korea.

3.2.4. Korean employers select foreign workers and MOEL issues employment permits

Korean employers must demonstrate that they have made an effort to recruit Korean workers for periods of from three to seven days. The employers select foreign workers from the roster at a Job Centre in the Republic of Korea (workers can appear on a roster up to three times) then MOEL issues employment permits to the employer (thus the name of the system).

3.2.5. Employers and workers sign the labour contract

Standard labour contracts are drawn up and HRD Korea sends them to the counterpart agency in the sending country. The standard contracts vary in terms by the job sector but cover the duration of employment; place of employment; occupation; working hours, rest period and days off; components of the wage and when and how it is to be paid; and other necessary matters. A probationary period of up to three months can be applied, during which workers can receive 10 per cent less than the minimum wage. Workers who are offered contracts may refuse to sign one but if they refuse a second contract, their application to EPS is suspended for one year. Contracts enter into force on the day that workers enter the Republic of Korea. Contracts are normally for three years and can be extended once for a period of less than two years. Workers who have completed a sojourn must wait at least six months before applying to EPS again.

Foreign workers who have signed an employment contract undergo preliminary training in their country. For those workers who will not be on probation, the training period is 45 hours. The training covers Korean language, Korean culture, understanding the EPS, industrial safety and specific education for each job sector. The training is conducted at public institutes that are approved by MOEL from among organisations recommended by the sending country.

3.2.6. Issuance of Certificate for Confirmation of Visa Issuance (CCVI)

Employers request a CCVI for each worker they wish to employ. The Ministry of Justice approves the requests and sends the CCVIs to the sending country.

3.2.7. Entry into the Republic of Korea

Workers who are issued a CCVI apply through the sending agency to the Embassy of the Republic of Korea for their visa. When workers travel to the Republic of Korea, they must carry their signed contract and the results of their medical examination. When entering the country, workers must wear the uniform and name tag issued to them by the sending agency. They are transported to the Employment Training Centre where they receive 20 hours of training, spread over three days and two nights. At this time, they receive another medical examination.

Four types of insurance are also arranged during the training period. Foreign workers must purchase return cost insurance. They can them claim payment when their contract expires, if they decide to leave earlier for personal reasons, they have left their place of deployment or they are being deported. Workers must also purchase casualty insurance with a one-time payment covering their three-year contract. Employers are also required to hold two types of insurance policy for their foreign workers. The first is departure guarantee insurance which covers severance pay and pension contributions for workers who desert or return home before the end of their contract. The second type is called guarantee insurance and covers unpaid wages of up to KRW 2 million (about USD 1,800).

3.2.8. Employment and sojourn management

When foreign workers are employed in the Republic of Korea, they are covered by legislation on labour relations, minimum wages and industrial safety and health. It should be noted, however, that the National Labour Relations Act does not cover either Koreans or foreigners employed within households, in agriculture and stockbreeding, or in fish farming. Foreign workers are also covered without discrimination by industrial accident compensation insurance, national health insurance and the national pension (on a reciprocal basis with the sending country).

Workers must be paid at least monthly, either in cash or by a deposit to their bank account. MOEL should inspect workplaces with foreign workers. Workers can change their workplace if it has gone out of business, if wage payments have not been made, or for other valid reasons.

The Ministry of Justice provides sojourn management support to both employers and foreign workers to help them adjust to the new living and working environment. It provides conciliation services for disputes at the workplace, counselling to migrants on issues of living in the Republic of Korea, administrative support in complying with legal requirements, assistance following industrial accidents, and departure support, including for temporary leave [11].

3.2.9. Happy Return Programme

HRD Korea operates the Happy Return Programme to assist migrant workers in the return to their countries. While the workers are still in the Republic of Korea, the Programme provides training in business skills for those who may want to start their own business after returning,

help in searching for jobs at home, and assistance with making their claims from the return cost insurance. After foreign workers have returned home, they can attend job fairs, join meetings, access a newsletter and receive other training organised by HRD Korea [11].

Although the EPS should be considered a successful practice in the management of labour migration, Kim [6] identifies a number of weaknesses in the system. He argues that most effort is devoted to the pre-admission phase but that there is not enough monitoring of compliance when migrants are working in the Republic of Korea. This results in a high rate of contract infringements. Surveys have found that many migrants do not understand their rights and how to process their insurance claims, for example. In spite of efforts to control recruitment costs, many migrants reported having to pay costs higher than those officially approved.

Some of the weaknesses are rooted in the legal framework for the EPS and labour protection in the Republic of Korea. The *Labour Standards Act* applies only to companies that employ at least five workers but 35 per cent of the companies hiring foreign workers through the EPS employ four of fewer workers. In addition, as noted above, the Act does not cover workers in households, in agriculture or in fish farming. Kim [6] also believes that, because a worker cannot remain in the Republic of Korea for longer than five years and cannot easily change jobs, the EPS restricts the contribution of human resources that foreign workers could potentially make to the Korean economy.

4. Singapore

4.1. Background

Singapore became an independent country in 1965 and has a current population of 5.7 million. Population growth in Singapore has often been driven by immigration, which currently accounts for about three fourths of the growth. In the 1980s, Singapore transitioned from an economy based on manufacturing and production to one based on the service and financial sectors, and now also emphasises technology-related areas [14]. It has developed migration policies intended to support the transition from manufacturing to a knowledge-based economy by encouraging the immigration of highly-skilled persons and imposing limitations on the number of low-skilled foreign workers.

The number of foreign workers in Singapore increased from 615,700 in 2000 to 1,088,600 in 2010. In the latter year, 870,000 of the migrant workers were low-skilled and 240,000 were skilled or highly-skilled. In 2010, foreign workers (or non-residents) equalled 25.7 per cent of the population of Singapore and 34.7 per cent of the labour force [14]. Singapore is one of the few countries in Asia that encourages highly-skilled migrants to become permanent residents and citizens. Those who have lived in the country for two years may apply to become permanent residents. Those who have been permanent residents for between two and six years may apply to become citizens. The latter must also plan to live in Singapore permanently and be able to support themselves and their

dependents financially. As a result of the country's immigration policies, the foreign-born population increased from 18.1 per cent of the total in 2000 to 22.8 per cent in 2010 [14].

4.2. Managing labour migration

Singapore limits the number of low- and medium-skilled foreign workers by deciding the number of work permits to be issued annually, a dependency ceiling and a foreign-worker levy. The dependency ceiling applies to the percentage of foreign workers among total workers employed by an employer. In the construction sector, companies can hire up to seven foreign workers for every local employee. In the manufacturing sector, employers can hire up to 60 per cent foreign workers but the levy that they pay is higher if they employ higher percentages. The rules are similar for the services sector but employers can hire a maximum of only 40 per cent foreign workers [12].

The foreign-worker levy is a fee that employers must pay to the Government for employing foreign workers. It is designed to discourage hiring large numbers of low-skilled migrant workers because it is higher for low-skilled than skilled workers and does not apply to highly-skilled workers. In addition, in the manufacturing and services sectors, it is higher for employers who employ higher percentages of foreign workers. Thus, the monthly levy that an employer in the construction sector must pay for each foreign worker is generally S$300[3] for a higher-skilled foreign worker but S$650 for a worker with basic skills.

In the manufacturing sector, the monthly levy for skilled workers ranges from S$250 if the foreign workers constitute 25 per cent or less of the workforce up to S$550 if they constitute between 50 per cent and 60 per cent of the workforce. The monthly levy for low-skilled workers ranges from S$370 to S$650, again depending on their percentage of the workforce. In the services sector the dependency ceilings are lower and the levies are higher. Thus, the monthly levy for each skilled worker ranges from S$300 to S$600 and that for low-skilled workers ranges from S$450 to S$800, with the lower rate applicable to employers for whom foreign workers make up 10 per cent or less of the workforce and the higher rate for companies where foreign workers are between 25 and 40 per cent of the workforce [12].

In addition to these requirements, employers must post a bond of S$5,000 with the Government for each foreign worker employed and cannot pass the cost of the bond onto the foreign worker. The bond is discharged when the work permit has been cancelled by the employer, the foreign worker has returned home and if the employer has not breached any of the conditions of the bond. The bond will be forfeited if the employer does not pay the salary of the worker on time or fails to send the worker home when the work permit has expired, been revoked or been cancelled. If a worker goes missing, half of the value of the bond will be forfeited if the employer makes a reasonable effort to locate the worker and files a police report [12].

The types of employment passes and work permits issued by the Singapore

Ministry of Manpower to foreign workers are summarised in Table 1. The S pass includes work permits for semi-skilled foreign workers, domestic workers, Malaysian confinement nannies (for up to 16 weeks) and performing artists. In addition, Singapore makes available a training employment pass, a work-holiday programme and a training work permit [12].

Table 1: Eligibility Requirements and Conditions for Employment Passes and Work Permits in Singapore [14]

Type of pass	Pass	Eligibility	Eligible for dependent's pass?[4]	Eligible for Long-term Social Visit pass?[5]	Subject to dependency ceiling?	Subject to foreign-workers levy?
P	P1	Foreigners whose basic monthly salary is more than S$8,000.	Yes	Yes	No	No
	P2	Foreigners whose basic monthly salary is between S$4,500 and S$8,000.	Yes	Yes	No	No
Q	Q1	Foreigners whose basic monthly salary is at least S$3,000 and who possess recognised degrees, professional qualifications, or specialist skills	Yes	No	No	No
S	A category of work pass for mid-level skilled foreigners earning a minimum monthly salary of S$2,200, introduced in 2004		Yes, if salary is at least S$2,800	No	Yes, subject to a sub-quota up to 25%	Yes, ranges from S$300 to S$600 per month
R Work permit	Work pass issued to a skills-qualified or unqualified foreigner below 50 (or 58 for a Malaysian) years of age, who earns a basic salary of not more than S$2,200.		No	No	Yes, subject to quotas up to 87.5%	Yes, ranges from S$370 to S$800 per month

Employers of work permit holders must post a S$5,000 security bond for each non-Malaysian foreign worker. Employers of foreign domestic workers must also take out medical insurance (S$15,000) and accident insurance (S$40,000) for those workers because they are not covered by workmen's compensation. Work permit holders are subject to a regular medical examination, including a chest x-ray and a test for HIV/AIDS. They may not marry a Singapore national without the approval of the controller of work permits. Female work permit holders who are found to be pregnant are subject to repatriation [14]. Work permit holders are required to carry the permit at all times and produce it for inspection upon demand.

Work permits are valid for up to two years. The total number of years that a work permit holder may work varies by skill level and national origin. Thus, low-skilled workers in construction and manufacturing from most countries can work for only a total of ten years, but those from Malaysia do not face that restriction. Most skilled workers in construction may work for a total of 22 years and those in manufacturing may work for a total of 18 years but these limits do not apply to skilled workers from Malaysia [12].

Employers of foreign workers are required to state the fixed monthly salary of the worker when applying for a work permit. The salary must be paid for a period not exceeding one month, and must be paid no later than seven days after the last day of that month. The salary may be paid in cash or by crediting the wages to the worker's bank account. The employer is required to keep a record of salary payments and to produce the record if requested. Foreign workers in Singapore do not participate in the Central Provident Fund so employers are not required to make contributions to the Fund for those workers [12].

When the employment of a foreign worker is completed or terminated, the employer must cancel the work permit within seven days; provide the cost of repatriation, including an air ticket and check-in baggage allowance; and clear all outstanding salary or other payments [12].

Foreign workers in Singapore benefit from a number of protections. Their salary is stated in the work permit application, they receive post-arrival orientation, they are covered by health and accident insurance, they must be paid monthly and their documents cannot be confiscated.

4.3. Policy coherence

The detailed regulations summarised in the previous section indicate that the migration policy of Singapore has been designed to promote the overall development strategy of the country in many ways. The country gives preferences to highly-skilled workers in that they can bring their dependents with them, other relatives are eligible for long-term social visit passes, and the workers are not subject to either the dependency ceiling or the foreign-worker levy. On the other hand, low-skilled workers may not bring their dependents and are subject to the dependency ceiling. Employers are discouraged from employing large numbers of low-skilled workers because

they must post a bond of S$5,000 for each worker and must pay a monthly levy that is higher for the least-skilled workers and for companies that hire greater percentages of migrant workers. Highly-skilled workers may apply for permanent residency after two years in the country and later apply for citizenship whereas non-Malaysian low-skilled workers are limited in the number of years that they can be employed in Singapore and may not obtain a work permit when they are over 50 years of age. Finally, although it does not directly concern labour migration, Singapore has made an effort to become an education hub for students from primary school through university. Foreign students who graduate from a university in Singapore may remain in the country for three months to seek employment.

5. Thailand

Thailand formally admits low-skilled migrant workers only from Cambodia, Lao People's Democratic Republic and Myanmar. There are two regular channels for those workers - the Memorandum of Understanding (MOU) process and one involving nationality verification (NV). Given the volume involved, irregular migration could be considered a third channel for employment in Thailand.

Thailand has no legislation specifically regulating the activities of private agencies in the recruitment and employment of foreign workers. The *Recruitment and Job Seekers Protection Act* of 1985 was designed to apply to Thai workers going abroad but in February 2013 the Council of State ruled that it should also apply to the recruitment of foreign workers for employment in Thailand. The *Labour Protection Act* of 1998 is generally interpreted to apply to all workers in Thailand [3].

Thailand signed MOUs on labour migration with Lao People's Democratic Republic in October 2002, with Cambodia in May 2003 and with Myanmar in June 2003. On 23 July 2015, Thailand and Vietnam also signed an MOU on labour cooperation but no formal deployments have taken place to date. On 10 February 2015, the Thai Cabinet approved the registration of migrant workers from Vietnam for domestic work and work in the construction, fishery and restaurant sectors. Some 50,000 migrants from Vietnam might already be working in Thailand in an irregular status.

While the MOUs were meant to ensure that all migrant workers entered Thailand through regular channels, they have not been fully successful because the MOU process is bureaucratically complex, time-consuming and expensive. In February 2016, there were 1.36 million migrant workers from the three neighbouring countries currently holding work permits in Thailand but only 293,000 of them (21.5 per cent) had entered via the MOU process [5]. A limitation of both the MOU and the NV processes is that foreign workers are permitted to stay in Thailand for only four years, after which they should return to their country for at least 30 days and reapply for employment in Thailand. (The original MOUs had specified a period of three years but were amended in March 2015).

The MOU process between Thailand and Myanmar can be broken down into at least 25 distinct steps that involve the Thai employer, usually a Thai recruitment agency, the Department of Employment (DOE) of the Thai Ministry of Labour, the Labour Attaché at the Myanmar Embassy in Bangkok, the Myanmar Overseas Employment Agencies Federation, the Department of Labour in Myanmar, a Myanmar recruitment agency, and the Myanmar one-stop service centre at the Myawaddy border crossing [4].

This process takes an average of six weeks to complete. The migrant worker will pay a minimum of USD 100 in fees in Myanmar. The Thai recruitment agency collects at least THB 10,000[6] from the employer who then recovers that sum by deducting THB 1,000 per month from the worker's wages. The MOU process with Cambodia takes up to six months and typically leaves the migrant worker owing THB 20,000 to the employer.

Even if the MOU process worked more efficiently, there was still the issue that at least one million migrants were already working in Thailand so the Government needed a procedure to regularise those while verifying that they were actually from one of the three neighbouring countries. The procedure was referred to as nationality verification (NV) and initially involved 13 steps. Essentially employers submitted a list of migrant workers whom they wanted to regularise to DOE, who then transmitted it to the respective Governments of the countries of origin. Those Governments verified that the individuals were their nationals and issued them temporary passports. The passports were transmitted to offices in Thailand where the migrants or their agents could collect them. The original deadline for the NV process was February 2012 but it was extended a number of times to 13 August 2013 [7]. Furthermore, additional rounds of NV have been implemented. The latest round was for the period from 1 April to 29 July 2016. Those migrant workers who registered during that period are allowed to work in Thailand until 31 March 2018. Those migrants who had previously completed the NV process could register for work permits without going through it again [5].

Work permits valid to 31 March 2018 cost a total of THB 1,900. Migrant workers employed in the formal sector should be enrolled in the Social Security Fund, which includes health care, to which they and their employer each contribute five per cent of their wages. Those migrants not covered by the Social Security Fund can purchase health insurance from designated hospitals. They must pay THB 500 for a medical examination and THB 3,200 for a two-year health insurance package [5].

Although the Royal Thai Government has taken many steps to regularise labour migration to the country and to offer a degree of social protection to migrants, major policy gaps remain. The Government has no stated migration policy, with the result that rules and regulations change frequently and employers and migrants are often not well-informed about them. There is no law specifically governing the recruitment of low-skilled migrant workers for employment in the country. The MOU process remains bureaucratic, time-consuming and costly for migrants. The *Labour Protection Act* of

1998, the Social Security Fund and the Workmen's Compensation Fund do not apply to informal sector jobs, where many labour migrants are employed.

6. Vietnam

Vietnam deployed only 31,500 migrant workers in the year 2000. The total was quickly increased but then reached a plateau at between 73,000 and 90,000 during the years from 2006 to 2013. The number deployed has again increased rapidly, reaching 106,840 in 2014 and 119,530 in 2015. The proportion of women deployed equalled 38 per cent in 2014 and 31 per cent in 2015 [2, pp.28-50].

In 2006 the National Assembly of Vietnam enacted the *Law on Vietnamese guest workers* and it became effective on 1 July 2007 [13]. The Law is notable both for its scope and for its detail. Vu [2, pp.28-50] notes that currently all laws and policies concerning international migration in the country are being reviewed to strengthen the protection and promotion of the rights of Vietnamese migrant workers.

The following paragraphs highlight the key features of the Law on Vietnamese guest workers. The discussion is based on the English translation of the Law as available on an International Labour Organisation website [13]. Article 7 of the Law lists 11 actions that are prohibited. The first is granting guest worker service provision licenses to unqualified enterprises as prescribed by this Law. This is noteworthy because it apparently refers to an action by a Government official. Licensed enterprises are prohibited from using the license of another enterprise to send workers abroad, sending workers to areas or occupations that have been banned under Government regulations, and sending workers abroad without registering their contracts with the competent State agencies. Migrant workers are prohibited from failing to report to or fleeing from the workplaces stated in their contracts in the country of destination and from staying abroad illegally after the expiration of their labour contract.

The Law requires enterprises providing migrant worker services to have legal capital under Government regulations (Article 8). The person in charge of sending workers abroad must have at least a university education and three years of experience in sending workers abroad or in international cooperation (Article 9).

Articles 10 and 11 provide clear procedures for granting and renewing licenses for sending Vietnamese workers abroad. Article 14 specifies the period of suspension of an enterprise's license for violating the clauses contained in Article 7, which listed several prohibitions. Article 15 lists the conditions and procedures under which the Minister of Labour, War Invalids and Social Affairs (MOLISA) can revoke the license of an agency for sending workers abroad.

A licensed service enterprise may assign not more than three of its branches in provinces or designated cities to provide some migrant worker services. Branches are not permitted to sign labour supply contracts or guest worker contracts, however (Article 16).

Article 17 lists 16 items that must be included in a contract that an enterprise signs to supply labour overseas, and guest

worker contracts are required to conform to the labour supply contract. A labour supply contract must specify:

- the term of the contract;
- the number of workers to be sent overseas, their occupations and jobs;
- the workplace;
- the working conditions and environment;
- work time and rest time;
- labour safety and protection conditions;
- wages, remuneration, other benefits and bonuses, overtime pay;
- living conditions;
- medical examination and treatment regime;
- social insurance regime;
- conditions for termination of contracts ahead of time and compensation liability;
- responsibility for payment of travel fares from Vietnam to the place of work, and return;
- brokerage commissions (if any);
- responsibility of the concerned parties for the death of worker overseas;
- settlement of disputes;
- responsibility for assisting workers to remit money to Vietnam.

Article 21 indicates that MOLISA shall set the ceiling for service charges that workers must pay to a service enterprise for obtaining a contract for overseas employment. Payments may be made on a one-off basis or by multiple payments during the time workers are overseas.

The Law on Vietnamese guest workers is also noteworthy because it contains sections on the rights and obligations of different types of organisations that may send workers overseas. Thus, there is a section pertaining to Vietnamese enterprises that win or receive contracts for projects overseas, one on companies that have offshore investment projects, and one on enterprises that want to send workers abroad for skill-improvement internships. Each of these types of organisations must obtain permission from MOLISA, send workers only to the specified projects, and comply with detailed reporting requirements. An enterprise sending workers abroad for skill-improvement internships must have a contract for that purpose with the foreign entity that will receive the interns. That contract must conform to the laws of Vietnam and specify, among other things, the duration of the internship, the occupations of the interns, time of work and of rest, labour safety and protection, salaries and incomes, living conditions, medical examinations and provisions for social insurance.

In Vietnam, non-business State organisations may send workers abroad and a section of the Law specifies the rights and obligations of those organisations that do so.

Chapter III of the Law on Vietnamese guest workers sets out the rights and obligations of the migrant workers. Prospective migrant workers must submit a dossier to the enterprise that will deploy them overseas. The dossier must contain at least and application for working abroad, a curriculum vitae signed by People's Committee at the worker's residence, a health certificate, diplomas, and certificates of skills. Guest workers have the right to enjoy the salaries and other benefits

provided in their contracts. They are obligated to observe the laws of Vietnam and of the host country, to work at the proper workplace and to return home at the end of the contract.

Migrant workers have the right to work overseas under individual contracts, i.e., without going through a recruitment enterprise, and a section of the Law sets out the requirements for doing so, including having a comprehensive employment contract that is registered with the local office of MOLISA.

Article 65 of the Law specifies the orientation that enterprises and other organisations must provide to the workers whom they send overseas. The training must cover Vietnam's traditions and relevant laws, the relevant laws of the host country, the contract between the worker and the sending organisation, and labour discipline and safety.

Article 71 spells out the responsibilities of overseas Vietnamese diplomatic missions and consulates. These responsibilities include protecting the lawful rights and interests of guest workers but also to research foreign labour markets, labour policies, and procedures. The diplomatic missions should also supply information to and assist enterprises in approaching foreign labour markets. They should also assist Vietnamese state agencies in appraising the conditions and feasibility of contracts to send workers abroad.

As demonstrated by the summary above, the Law on Vietnamese guest workers is exceptionally comprehensive and detailed. It provides guidance to Government officials, labour recruitment agencies and workers themselves concerning the requirements for sending Vietnamese workers abroad for employment.

7. Conclusion

The case studies presented in this paper have been selected in order to highlight migration policies that both benefit national development strategies and provide considerable protection to migrant workers.

By facilitating the deployment of close to two million migrant workers a year, the Philippines benefits from the large volume of remittances flowing into the country, which exceeded USD 28 billion in 2013 and equalled nearly 10 per cent of the country's gross domestic product [1]. Because Filipino migrant workers can remain enrolled in national health insurance and pension plans, their families' economic stability is supported.

The destination countries discussed above all implement policies to restrict the hiring of foreign workers in order to offer some protection to local workers. The Republic of Korea admits relatively small numbers of foreign workers, and they work in only a few sectors, namely construction, manufacturing, agriculture and fish farming. Singapore encourages the hiring of highly-skilled foreign workers but limits the number of low-skilled workers by applying a dependency ceiling on the percentage who can work for an employer and by imposing a levy that is higher for lower-skilled workers and increases with the percentage of

foreign workers in an employer's workforce. Thailand issues work permits to low-skilled migrant workers from only four nearby countries and reserves employment in certain occupations for Thai nationals.

The policies of the five countries considered in this paper all offer considerable protection to migrant workers. The Philippines strictly regulates private recruitment agencies and accredits foreign principals and employers. The country has also established Philippine Overseas Labour Offices to assist migrant workers where there are large numbers of them. The Philippines requires that workers hold a standard contract and that the principal or employer pays for their round-trip air fare and expenses for visas and work and residence permits. Vietnam regulates agencies that deploy migrant workers, requires that those workers have a standard contract, and obligates its diplomatic missions overseas to protect migrant workers and to research the labour market in the host country.

Migrant workers recruited through the Employment Permit System in the Republic of Korea are covered by labour standards, laws and regulations on a basis of equality of treatment with national workers. The system was designed to reduce exploitation and excessive charges paid by migrants during the recruitment phase. In Singapore, migrants must be covered by health and accident insurance provided by the employer. The country also has strict requirements for the prompt payment of salaries. Migrant workers in the formal sector in Thailand are enrolled (in principle) in the Social Security Fund. Those not covered by social security can obtain a health insurance package from the Ministry of Public Health. Health insurance can be obtained for the children of migrant workers at a much-reduced rate.

While exploitation in the system of temporary labour migration remains a serious issue, the many successful practices cited in this paper show that several countries in the region have addressed the issue and found practical ways of enhancing the protection of international migrant workers.

Notes

[2] USD 1 = PhP 46.8.

[3] USD 1 = S$ 1.34.

[4] Issued to the spouse and children of pass holder entitling them to live in Singapore with the pass holder.

[5] Gives long-term visit entitlement to parents, parents-in-law, step children, common law spouses, handicapped children and unmarried daughters over age 21 of the pass holder.

[6] USD 1 = THB 34.6.

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