



Asian Migrants Demand Rights, Dignity and Solidarity Statement for the 4th Colombo Process

Dhaka, Bangladesh
19 April 2011

We, the participants of the Civil Society Consultation for the 4th Colombo Process organized by Migrant Forum in Asia on 17-18 April 2011 in Dhaka, Bangladesh, coming from 14 countries* of labour sending and receiving states, welcome the revival of the Colombo Process Ministerial Conference taking place in Dhaka on 19-21 April 2011. The 4th Colombo Process, with the theme "Migration with Dignity," shows the renewed commitment of labor-sending and receiving countries to improve interstate cooperation on labor migration, strengthen protection of the rights of migrant workers and optimize information sharing.

Having considered the recommendations of governments who took part in the 2003, 2004 and 2005 Colombo Process Ministerial Meetings, we remind governments participating in the 4th Colombo Process that it is imperative to evaluate the progress that they have made since then.

We note the invitation of the government of Bangladesh for civil society participation in this year's Process. In succeeding meetings, however, we look forward to a more meaningful engagement in all stages of the process including the preparations, actual meetings and the follow ups.

Based on the consultations we have had over the last year with migrant groups across the region, and the deliberation of the last two days, we submit the following observations and recommendations on the issues dwelt upon in previous meetings of the Colombo Process:

1. We note the increasing efforts to forge bilateral agreements in recent years. However, our assessment is that these agreements are nonbinding, weak in terms of protections, gender-blind, and lack effective mechanisms for implementation and monitoring. Furthermore, the strength of these agreements is diminished by the uneven bargaining power between labor-sending and labor-receiving states, and the lack of consultation with civil society and other stakeholders. When these agreements are finalized, they are often not publicly accessible.

In order to address these problems, we recommend that labor-sending countries pursue a collective approach rather than bilateral negotiations.

2. Existing information modules and pre-departure programs are failing to ensure migrants have comprehensive information about their rights; country-specific laws, social norms, and working conditions; and where they can turn for help in distressed situations.

We recommend that governments conduct rigorous evaluations of current programs involving different stakeholders and study of curricula used in other countries to identify weaknesses and to develop more effective programs, including improved methods of teaching and learning.

3. The recruitment industry and intermediaries such as subagents remain the source of many abuses against migrant workers (and employers), including deception, charging excessive recruitment fees, deducting fees from migrant workers' salaries, contract substitution, threatening and abusing workers, and failing to assist workers who come to them for help. Illegal recruiters continue to flourish. Recent regulations often have minimal penalties—such as blacklisting, fines, or losing one's license—for recruitment agencies committing serious abuses.

* Bahrain, Bangladesh, India, Indonesia, Kuwait, Lebanon, Nepal, Oman, Pakistan, Philippines, Sri Lanka, Switzerland, UAE, and the United States.

We recommend that governments strengthen and enforce regulation of recruiters, including intermediaries such as subagents, in labor-sending and receiving countries. This should include both regular and spot inspections and more aggressive campaigns against illegal recruitment and other unethical practices. Governments should establish the respective legal liability of the employer and the agency.

There should be stiffer penalties, such as imprisonment and a lifetime ban on working in labor recruitment, for serious recruitment-related abuses.

Establish independent commissions to investigate corruption and nepotism in recruitment and migration.

4. There has been increased recognition of the importance of standard contracts and the problem of contract substitution. However, many migrant workers still do not receive a contract, or the contract they sign in their home country is not recognized in the employment country. Given contracts are often the main reference point to resolve labor disputes, this puts workers into an especially vulnerable situation. Workers who have contracts may not be able to understand them, for example, when they are only available in Arabic.

Labor-sending and receiving governments should no longer delay cooperation to create a standard and enforceable contract recognized in both countries. Labor-sending governments should ensure these contracts protect human rights and are translated into a language the migrant worker understands.

5. In recent years, several labor-sending countries have expanded the services available at their embassies abroad and training for its officials. However, embassies are still difficult for many migrants to access and many staff do not have adequate skills to deal with migrant workers' needs, especially when they have complaints. Some labor-sending countries do not have diplomatic missions in countries where they have significant numbers of migrants.

We recommend that governments increase resources to provide services to workers abroad, including ensuring a certain ratio of embassy staff per population of migrant workers. They should provide regular and improved training to embassy and labor office staff to ensure they implement effective, gender-sensitive, and timely interventions. Governments should take measures to ensure embassies are welcoming and accessible to migrants.

6. Migrants' freedom of association and right to organize is often severely restricted. Vibrant workers' and civil society organizations are critical for migrants to have access to information and to mobilize to improve their working and living conditions.

We demand that labor-sending and receiving governments provide an enabling social and legal environment for migrants to exercise their right to self-organization and representation.

7. We urge governments to recognize that current labor migration management programs as espoused by intergovernmental agencies often fall short on securing internationally agreed standards, lack protection, and fail to ensure justice.

We call on labor sending countries to increase cooperation with UN agencies, in particular the International Labour Organisation. Policies on labor mobility should be developed within the framework of the ILO Multilateral Framework on Labor Migration.

8. Civil society has consistently advocated for migration to be of choice and not of necessity and the need for national development programs for sustainable and meaningful employment. Furthermore, where migration is as one aspect of the development program of the State, civil society has demanded for a comprehensive, meaningful and sustainable reintegration program. The current crisis of migrants fleeing conflict in the Middle East and North Africa has starkly made obvious this demand from civil society.

We strongly demand for sending countries to devise sound measures on evacuation, reception, repatriation, and comprehensive, meaningful and sustainable reintegration.

9. The *Kafala* system [sponsorship], which defines the employment relationship for millions of migrant workers in the Middle East region is in need of reform. The large number of cases that have emerged as a consequence of the abuses within the system have led to a growing demand for change from international and regional human rights groups as well as the United Nations. The initiatives taken by the Governments in the Middle East region to address this issue have been a positive development. However, much more needs to be done to eradicate the human rights violations that occur within this traditional employer / employee relationship. Some of the major concerns are:
 - a) Mobility of the employee is restricted due to the employer continuing to withhold the passport of the worker. This practice is prevalent despite some GCC governments that have enacted legislation declaring this practice illegal.
 - b) Exit of the migrant worker is controlled by the employer.

We recommend that countries in the Colombo Process, both members and observers, engage in constructive dialogue in enhancing the reform measures currently being undertaken in some States; that these reform measures continue to be improved to reflect a rights-based approach to labour migration.

10. Since 2006, there has been a trend of labour sending countries taking unilateral decisions in the imposition of minimum wage for migrant domestic workers. Evidence has shown that in most cases, the migrant domestic worker has not been able to receive that minimum wage and nor have the States been able to ensure the payment of these wages. This has created a complicit environment of denial and deceit, in the promulgation and implementation of the law. In the recently concluded Workshop on Recruitment of Workers for Overseas Employment in Dubai on 18-19 January 2011, discussions were held on the possibility of exploring a “reference wage” along sector lines. In principle, reference wage offsets competition among labor sending countries in sourcing markets for domestic workers which leads to competition in a race to the bottom of the barrel in terms of wages.

We recommend sending country governments to continue discussions stemming from the Workshop on Recruitment of Workers for Overseas Employment in Dubai on 18-19 January 2011 with regard to reference wage for migrant domestic workers.

Finally, we commend the government of Bangladesh for hosting this year’s Colombo Process and taking the important step of ratifying the 1990 UN Migrant Workers Convention.

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