Ensuring Ethical Recruitment Practice in the Supply Chain
Rapporteur's Report, 12th March, 2014

Moderator: Federico Soda
Rapporteur: Lara White

This business roundtable gathered approximately 40 participants from governments, businesses and civil society. The moderator opened with a presentation of the dilemma facing both businesses and governments with regard to the **need to identify skills and to ensure that recruitment**, particularly for low/mid-skilled workers is **done in a transparent, ethical manner.** There is a general agreement in terms of what is meant by fair or ethical recruitment by stakeholders. This is underpinned by the instruments that exist in international law (ILO Convention 181 on Private Employment Agencies), government regulation and private regulation by industry groups and companies (e.g. CIETT, corporate codes of conduct, social auditing).The moderator pointed out **that recruitment needs to be examined in the context of broader labour market and immigration policies**. He explained that there is often a disconnection between these two areas within government ministries; while labour market policies are designed to protect national workforces and bolster the ability of the private sector to create thriving and inclusive economies, immigration policies are often based on emotional rather than empirically driven needs. Given the need to identify skills that match shortage occupations, it is important to identify areas of convergence.

The questions posed by the moderator to the floor addressed: a) what are the needs of the private sector and governments vis à vis regulation; b) what systems of consultation between states and the private sector were needed to identify a workable format for ethical recruitment practices; and c) what are the greatest challenges to establishing an ethical recruitment system.

The report is structured along four themes: acknowledging the challenge to ensure ethical recruitment practices; migration policy contexts; areas of convergence between governments and private sector in areas of migrants' rights, and next steps.

Challenges facing ethical recruitment practices

The International Organisation of Employers (IOE) has created a migration taskforce within the Organisation to ensure that the voice of business is heard in migration debates. The IOE has also launched an initiative together with IOM to support the promotion of ethical recruitment practices through the International Recruitment Integrity System (IRIS), a global voluntary accreditation system for recruitment intermediaries and employers. IRIS's framework will be based largely on existing international instruments such as ILO's convention 181 and the International Confederation for Private Employment Agencies' (CIETT) code of conduct to ensure complementarity and cohesion

of approaches. Several governments spoke in support of the IRIS initiative which can also be a way to foster public-private collaboration around lowering the costs of recruitment. IOM elaborated on the IRIS initiative which could serve as a tool for recognizing "good" recruiters, and invited stakeholders to support and participate in the development of practical solutions and tools to make ethical recruitment viable. Another state suggested that ethical recruitment and lowering the costs of recruitment could be one of the concrete outcomes of the post 2015 development agenda. Some states expressed that recruitment could not be disconnected from the employment process and that labour migration policies should be structured to minimize the risk of exploitation. One state explained that their government spends considerable time on determining whether exorbitant fees have been paid before approving work visas, citing one example where a migrant had been obliged to pay 10 month's salary to a recruiter for one year of work. This, he felt, contributes to migrants being willing to overstay their visas once their contract has ended. At the same time, the time put into conducting the assessments, delays the visa approval process.

Another government participant pointed out that the focus should be on combatting unethical recruitment, and addressing non-compliance of immigration legislation. Even in the case of bilateral agreements, it is difficult to enforce standards if and when they exist. A code of conduct absent of a compliance mechanism is not enough. In one example cited, where there are strict rules for recruitment and regulatory frameworks, with minimal payment equivalent to one month's salary (in country of origin), both country of origin and destination know that the labour migrant has been burdened with debt. The question is, how governments and the private sector (both the recruiter and end user) can collaborate to combat this.

A private sector participant reflected that abuse is more likely to happen when there is a mismatch between supply and demand; when there are few means for legal migration, and he urged governments to balance policy initiatives to facilitate migration flows. He cited good examples in the agricultural sector, but also mentioned public criticism that temporary work programs become a substitute for local training.

One international organization commented that restrictive policies do not deter migration flows as workers come anyway and are vulnerable to exploitation. He referenced the asymmetry of policy and enforcement, citing the importance of ensuring that labour inspectors are properly deployed (e.g.: also at night to mitigate child labour).

One government urged all stakeholders to commit themselves to complying with labour laws and to combat trafficking and labour exploitation. He acknowledged that gaps in recruitment regulation exist, and urged that unethical employers should also be held legally accountable. The example of the EU and Philippines was cited (0 costs for workers, strict rules for recruitment etc.)

Another private sector representative suggested that the reluctance to reach agreement on ethical recruitment practices was linked to the negative perception of migrants and that there is a strong need to communicate positive stories concerning the value that migrants bring to countries of origin and destination.

Migration policy contexts

One government representative raised the value of harmonized policies, and conducting labour market evaluations that focus on wages and working conditions. He referenced his own government and explained that a "trusted employer system" is in place, whereby companies can be cleared for fast track approval of work permits. He cited the disadvantages of bilateral agreements, underlining complications due to lack of uniformity or disconnect among agreements.

A third state commented on the excessive fees charged in South Asia and the Middle East, suggesting that this issue could be addressed in bilateral labour agreements, but he was challenged by another state asking whether both countries had harmonized their policies and regulations. A private sector actor argued in favour of bilateral agreements, particularly in the case of large volumes of workers.

One international organization commented on the need to also consider visa policies and flow regulations. Another country agreed that countries of destination and origin should harmonize their rules, also commenting that in his country's experience the bigger companies are compliant with migration regulations but that abuses have been found with smaller companies. One industry representative cited the different approaches to migration by various states: one places little value on bilateral agreements, another doesn't allow foreign recruitment agents to operate within its borders, in other global regions competitiveness is viewed in the context of low wages. He urged governments to be more open about the need for recruitment of skills, but that at the same time businesses should be more willing to engage in the migration debate. Another country pointed out regional differences and that some regions do offer very low wages. He voiced support for a code of conduct as proposed by IOM and ILO. One country pointed out that recruitment within the government (public) sector supply chains matched labour standards, but that was not always the case with the private sector where the government had less insight.

Several international organizations (IOs) raised the need for a migrant-centered approach to migration policies. Some advocated for targeted information campaigns, others offered practical solutions such as using analysis of data and benchmarking costs towards lowering the cost of recruitment. Another suggested closer review of existing legislation to identify good practices, including housing, working hours and other regulations related to employment of migrant workers. IOs also referenced the work of KNOMAD (World Bank) as a knowledge source on ethical recruitment practices.

A private sector representative noted the importance of a socially responsible business approach and how unethical recruitment undermines the bottom line, suggesting the need for a multi-platform partnership beyond states and businesses, to create a coalition of support for ethical recruitment.

ILO and IOM confirmed that they are collaborating on IRIS; that IRIS is linked to ILO Convention 181 but is very operational; that both organizations are coordinating within the Global Migration Group (GMG).

One state urged for more engagement (more operational) efforts, in the form of a pilot project in a particular migration corridor to see what can be done to address unethical recruiters. This idea was well received by civil society participants. The state also advocated for the need to look more closely at the interface between skills development and training and recruitment (and linking that to labour matching, including up-skilling and skills recognition).

Areas of convergence of interest:

There was an agreement that assurances of ethical recruitment practices can mitigate risks associated with immigration violations such as visa fraud that also lead to the creation of downward pressure on labour markets. Governments asked how states could work together (and with the private sector) to address the issue of unethical international recruitment when they have such varied approaches to managing migration - e.g. those who advocate for bilateral agreements (very hands-on approach) vs. demand-driven systems. Businesses were concerned with how an accreditation system (or through the robust licensing and inspection of recruitment intermediaries) could facilitate more fluid labour mobility to ensure that companies can have access to available workers with the appropriate skills and competencies. There is consensus that **what is lacking is adequate enforcement of existing laws and regulations** and what **are needed are more operational tools** that can be **tested through pilot projects** in specified migration corridors.

It was acknowledged that to measure progress in this area of work, **ethical recruitment in the context of lowering the costs of migration could become a concrete focus of the post-2015 development agenda**.

Next steps:

To develop a system for ethical recruitment practices, more is needed, including:

1. Research on the nature of recruitment activities across sectors and across regions
2. Operational tools for business that harmonize with government regulations
3. More fulsome enforcement of the tools that currently exist (both government and private regulations)
4. Need for the advancement of a new business model for recruitment: one that is not predicated on exploitation and abuse of migrant workers and one that helps, rather than hinders businesses to meet their labour needs to ensure sustainable growth and development.

March 13, 2014

Concept note in preparation for the GFMD roundtable

Ethical Recruitment: Ensuring fair recruitment practices in labour supply chains

12 March, 2014
Salle IV, R2 Level

In today's global labour market, labour recruitment intermediaries play an important role in matching workers with jobs and ensuring the continued prosperity of businesses and families. But when unscrupulous intermediaries exploit job seekers by conducting unethical recruitment, the negative outcomes impact everyone.

Excessive fees, passport withholding and false promises are at the heart of unethical labour recruitment. Not only are these practices detrimental to migrant workers, they also have negative effects on the labour markets of the countries of destination by inducing erosion of wages and working conditions for nationals, resentment and xenophobia against foreign workers, and impediments to integration. These unethical recruitment practices also harm the private sector, exposing employers and corporations to criminal activity and negative publicity, thereby damaging employers' reputations and branding. Similarly, unethical recruitment practices can lead to poor skills-matching, decreased productivity, and a high rate of employee turnover.

While consensus is building globally on the need for more regulation of international labour recruitment practices, it is important to examine the various approaches (international law, national regulatory frameworks, codes of conduct and industry standards, and other government regulations that target labour supply chains of multinational companies and brands) and the successes and challenges of each. While governments are increasingly regulating recruitment practices in accordance with ILO Convention 181 – Private Employment Agencies, companies are also addressing the issue through their own corporate social responsibility mandates and by demonstrating due diligence in their efforts to eliminate human trafficking and forced labour from their labour supply chains.

However, both government and private regulation run into enforcement and jurisdictional roadblocks. For example, transnational links are missing between the migrants' countries of origin and countries of destination, often creating a jurisdictional impasse for those attempting to enforce international labour recruitment regulations. These limitations suggest the need for a global and multi-stakeholder approach.

For all of the reasons above, governments and business have a mutual interest in exploring ways to address unfair recruitment and bridge international regulatory gaps governing labour recruitment in countries of origin and destination.

The roundtable session will focus on a dialogue on how governments, the private sector and other stakeholders can work together to promote ethical recruitment.

We ask:

- What is ethical or fair recruitment? What are the benchmarks?

- What are the needs of the private sector vis-à-vis ethical recruitment and regulation (both for end-user employers in direct employment situations and companies with more complex issues related to recruitment and employment within their value chains)?

- Consistent with the UN Guiding Principles on Human Rights and Business, the State has an obligation to "Protect" while business has a responsibility to "Respect" and both have a duty to "Remedy". In this context, when is government regulation enough?

- Should more be done to support governments and the private sector to fulfill their obligations?

- What are the challenges and best practices common to both government and private regulation?

- What can be done to better harmonize the social auditing practices of employers and companies with the regulatory efforts of governments? What are the impediments (e.g. information sharing)?

- On this issue, what consultation process would you like to see states establish with businesses and what format would you prefer to use?

This roundtable is intended to stimulate discussion between states and the private sector on what works, why some things don't work, and how international recruitment could be improved.

Mobility is a defining framework for the 21st century, closely linked to employment opportunities. States and businesses that can establish partnerships based on a mutual interest in sustainable growth will have a competitive advantage.