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THEME 2

LEVERAGING ADVANCED TECHNOLOGY TO IMPROVE
LABOUR MOBILITY GOVERNANCE

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LEVERAGING TECHNOLOGY TO ENHANCE COMPLIANT LABOUR SELECTION PRACTICES AND IMPROVE JOB-MATCHING

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EXECUTIVE SUMMARY

Addressing non-compliant labour selection and job-matching processes can tackle some of the major systemic issues that either give rise to, or increase risk of, migrant worker exploitation, including forced labour and human trafficking. Given that technological and digital ‘solutions’ are increasingly being developed for numerous social phenomena, including migration, leveraging technology to enhance these areas is also of interest to Abu Dhabi Dialogue (ADD) Member States and stakeholders.

Compliant labour selection and effective job-matching are understood as follows:

- **Compliant labour selection** refers to recruiting in a legal manner. This involves labour recruiters and employers complying with legal standards on recruitment put in place by governments in origin and destination and reduction of opportunities that labour recruiters and employers have to engage workers outside of the legal framework.
- **Effective job-matching** is the process of selecting the right worker for the job. Effective job-matching may also have a positive effect on retention rates, presupposing working conditions are adequate. Job-matching may occur internationally or domestically (with migrant workers already in the country).

While job-matching and labour selection is highlighted in this paper, the broader labour migration experience, especially with respect to experience of any abuse, must be considered forefront in initiatives or responses. Compliant labour selection, for example, will not be possible without robust and effective labour inspection and labour administration forming part of the labour migration governance framework in origin and destination. Effective job-matching will not be feasible without reliable skills recognition systems and meritorious selection processes in migrant workplaces.

This paper examines what technological and digital options exist to promote and streamline compliant labour selection and job-matching, what the opportunities for expansion or gaps are, and how labour migration stakeholders may approach the growing demand for technological platforms within labour migration governance frameworks. The paper draws on survey data from a questionnaire distributed by the ADD Secretariat, good practices globally and secondary research. It outlines several existing migration platforms.

While proponents of technological solutions claim numerous benefits – including data benefits and reductions in time and cost - from leveraging technology to enhance compliant labour selection and job-matching, the paper finds that the success of any technological tool or platform, will be at least in part reliant on the level of awareness of migration issues in duty-bearer and migrant communities. Fundamentally, migrant inclusive participatory design, development and piloting of the platform will be critical in delivering any successful tool.

The paper suggests that several pre-conditions are necessary foundations for building effective and sustainable technological interventions across countries of origin and destination. These are data privacy, ownership and security, data transparency, non-discrimination, averting “capture” of platforms or tools and the right and ability of migrant workers to access technology devices and data. The paper also outlines suggested considerations when conceptualising and building technological tools, including platform accessibility, responsiveness, maintenance, sustainability and cost considerations. Finally, the paper discusses how best to ensure engagement with any technological ‘solution’ through incentives, building trust, streamlining platforms and enabling worker protection and access to meaningful redress.

The paper suggests that a practical strategy would include taking a staged, or incremental approach to platform development. It concludes by finding that while algorithms and other technology solutions may be presented as more efficient and fairer systems for job matching and compliant labour selection, only where commitment, accountability and human beings lie behind their design and work will these ensure outcomes benefit migrant workers as well as other stakeholders.

INTRODUCTION:

Addressing non-compliant labour selection and job-matching processes can tackle some of the major systemic issues that either give rise to, or increase risk of, migrant worker exploitation, including forced labour and human trafficking. Given that technological and digital ‘solutions’ are increasingly being developed for numerous social phenomena, including migration,¹ it is understandable that leveraging technology to enhance these areas is also of interest to Abu Dhabi Dialogue (ADD) Member States, and stakeholders, social partners and NGOs, dedicated to improving rights protection for migrant workers.

This paper briefly examines what technological and digital options exist to promote and streamline compliant labour selection and job-matching, what the opportunities for expansion or gaps are, and how labour migration stakeholders may approach the growing demand for technological platforms within labour migration governance frameworks. To do so, the paper draws on survey data from a questionnaire distributed by the ADD Secretariat,² good practices globally and secondary research. The paper was prepared in response to a request from the Secretariat, and adds to the body of work delivered by the ADD through Theme 2 of its research strategy on leveraging advanced technology to improve labour mobility governance.

CONCEPTUAL FOUNDATIONS:

Compliant labour selection and effective job-matching are understood as follows:

- **Compliant labour selection** refers to recruiting in a legal manner. This involves labour recruiters and employers complying with legal standards on recruitment put in place by governments in countries of origin and destination and reduction of opportunities that labour recruiters and employers have to engage workers outside of the legal framework.
- **Effective job-matching** is the process of selecting the right worker for the job. Finding workers with appropriate skills from one country to fill labour market needs in another is often seen as a way to deal with demographic shifts and mitigate other labour market asymmetries. Effective job-matching may also have a positive effect on retention rates, presupposing working conditions are adequate. Job-matching may occur internationally or domestically (with migrant workers already in the country³).

Secondly, while job-matching and labour selection is highlighted in this paper, the broader labour migration experience, especially with respect to experience of any abuse, must be considered forefront in initiatives or responses. Labour migration governance systems benefit from systems thinking and design, and enhancing job-matching and/or labour selection in isolation from other processes that impact migration journeys is unlikely to have the overarching effect states and other stakeholders are striving for. Fragmenting the labour migration experience into steps and single processes, or looking at one part of job matching in destination without also looking at what happens in origin runs the risk of new measures and technologies being ineffective. Similarly, the experience of workers should not be considered in isolation from the needs or challenges faced by employers, or governments.

If it is accepted that the abuses we aim to prevent, including trafficking and forced labour, are linked to processes, or resultant of several different actions and actors, a single entry point is unlikely to adequately reduce the risk for individual migrant workers. Compliant labour selection, for example, will not be possible without robust and effective labour inspection and labour administration forming part of the labour migration governance framework in origin and destination. Effective job-matching will not be feasible without reliable skills recognition systems and meritorious selection processes in migrant workplaces.

Thirdly, job-matching and compliant labour selection have links to several areas in which significant research and policy progress has been made. Job-matching systems development should consider, at minimum, pre-departure training delivery and institutions, recognition of prior learning mechanisms and skills and language training and testing institutions.⁴ Compliant labour selection necessarily draws from working conditions' assessments and sectoral knowledge to ensure compliance carries through to the workplace and is not limited to immigration aspects of compliant recruitment.⁵ For example, the existence of access to justice mechanisms as preventative and remedial tools in workplaces is required for labour selection to be compliant with fair recruitment practices.⁶ Compliance will mean adherence to different standards for different migration corridors, and is likely to need to incorporate not only legislative and policy compliance, but also adherence to standards in bilateral labour agreements or Memoranda of Understanding, or even supply chain or business requirements.

Both focus areas of this paper, and indeed the success of any technological tool or platform, will be at least in part reliant on the level of awareness of migration issues in duty-bearer and migrant communities, a topic that has also been the subject of considerable research and development programming.⁷ As one Member State survey respondent for this paper said about an existing platform: "It works well as a system where all the stakeholders involved in the process of overseas recruitment participate. The challenge is to generate more awareness ... about [the] legal process of recruitment." Research and predictions on changes anticipated in the future of work, and particularly gendered shifts, should also inform the scope and investment in development of any digital platforms. Fundamentally, migrant inclusive participatory design, development and piloting of the platform will be critical in delivering any successful tool.

With these principles in mind, this paper explores what digital and technology platforms exist to meet the needs of job-matching and compliant labour selection and factors to consider when (and if) developing these.

What exists? Summary of initiatives and learnings

This section outlines a selection of existing technology platforms and learnings gathered from their implementation in attempts to improve labour selection compliance and job-matching. It is not a comprehensive overview of all platforms, and given the scope of this paper, only brief information is included here.⁸ Several geographically focussed platforms are available. National and corridor-based technological initiatives offer to aid with specific migration processes (such as immigration processes or skills recognition) via digital platforms. Currently, there are few platforms that certify or recruitment conditions in compliance with State or bilateral standards.

The concept of ‘compliance’ within most of these existing platforms does not include certification with regards to specific standards beyond requirements to provide evidence of completed immigration processes (where necessary). While this does offer an increased transparency over some recruitment actors, the notion of compliance is necessarily determined by the national context, where regulations can be weak in countries of origin and/or destination.⁹ Few of these tools endeavour to consider compliance with international labour standards, such as the ILO Private Employment Agencies Convention, No. 181 (1997) and the General Principles and Operational Guidelines for Fair Recruitment, which should be taken into account for future platform development among ADD Member States.

BOX 1: GEOGRAPHICALLY-SPECIFIC TECHNOLOGICAL PLATFORMS AND TOOLS FOR COMPLIANT LABOUR SELECTION AND JOB-MATCHING

GOVERNMENT PLATFORMS:

Baideshik Rojgari (Nepal)

- Aims to make the Nepal Individual Re-Entry Process easier; migrant workers can use mobile phones to apply for re-entry and search for passport and other migration details.

Easier Service (Kuwait)

- Facilitates employment procedures and electronic clearance for recruitment and labour use. Workers can follow up complaints.

e-migrate (India)

- Digitalizes emigration processes for outbound Indian migrant workers.

EURES (Europe)

- Links migrant workers to job opportunities across the European Union.

EPS (Republic of Korea)

- Enables and regulates cross-border government-to-government employment of low-skilled migrant workers for identified labour migration corridors to the Republic of Korea.

MUSANED (Kingdom of Saudi Arabia)

- Designed primarily to streamline labour migration processes for migrant domestic workers entering Saudi Arabia.

Virtual Labour Market (United Arab Emirates)

- Designed to support the migrant workforce inside UAE during the COVID-19 pandemic, this registry matches workers made redundant with employers who post vacancies.

PRIVATE SECTOR PLATFORMS (LINKED TO ADD WORKPLACES):

Bayt (Middle East and North Africa)

- Connects job seekers with employers, listing thousands of new vacancies daily.

Monstergulf(GCC)

- Provides job seeking, career management, recruitment and talent management products and services.

NAUKRIGULF (GCC)

- Provides for job matching across the GCC with a database of more than 9000 employers and of registered jobseekers’ resumes.

Looking more broadly to platforms designed to provide international coverage, the IOM's International Integrity Recruitment System (IRIS) aims towards establishing a platform that would be able to offer labour selection compliant with international standards, particularly the 'zero fee to migrant worker' principle, to the extent that recruitment agencies are able to (and employers are willing to) meet these standards. Another platform with intended global scope, initiated from the workers' vantage point, the Migrant Recruitment Advisor seeks not to certify the recruitment principles of agencies and actors, but to draw on user input to assess their recruitment experiences, building on Trip Advisor and similar rating models.¹⁰ Through providing this information, the Migrant Recruitment Advisor can contribute also to effective job-matching, reducing the risk of mismatched expectations between workers and labour recruiters/employers.

BOX 1: GLOBAL TOOLS AND PLATFORMS (SELECTED)

IRIS

- Establishes mechanisms to certify recruitment agencies using the IRIS Standard, creates a voluntary certification scheme, and a compliance and monitoring mechanism

Indeed

- Gives job seekers access to search for jobs, post CVs and research companies on this private sector global job matching site.

Migrant Recruitment Advisor (global, with limited countries at present)

- Establishes a recruitment and employment review platform offering a chance to workers to review and read reviews of recruitment agencies and information on workers' rights

Interestingly, efforts to provide job-matching services appear to be more prolific in the domestic worker sector, where a number of platforms offer the ability for domestic workers to post their availability and experience, and for potential employers to post their jobs, or seek specific candidates with the desired profiles.¹¹ The number of digital labour platforms in the domestic work sector, globally, has risen eight-fold in ten years, especially in high-income countries.¹² Absent the broader recognition within institutions of the skillsets involved in domestic work, this is likely to limit effective job matching in this sector, given that possession of the skills required for the job in question are almost entirely self-assessed by the worker.

While the government-led EURES platform offers job-matching, given the context of free movement and a relatively advanced skills recognition framework in Europe, and significant investment in site efficacy through regular contact with workers, employers and other partners,¹³ the situation may be unlikely to be mirrored in ADD Member States, though numerous private sector sites exist (see Box 1). Further, a meta-evaluation conducted of EURES concludes that the platform's primary utility has been in creating a network of labour market actors and information provision, and less so with job-matching and placement.¹⁴

Potential benefits of technological platforms for compliant labour selection and job-matching

Proponents of technological solutions claim numerous benefits from leveraging technology to enhance compliant labour selection and job-matching. A forthcoming ILO and IOM assessment of platforms options in the Arab States suggests benefits include reductions in time and cost for migration and increases in transparency and oversight of recruitment practices.¹⁵ In terms of job matching, a successful platform could also mean labour market efficiencies, as well as worker satisfaction in jobs to which they are well suited.

Reductions in time and cost for formal processes have been evident in several existing migration platforms. In India eMigrate has reduced the recruitment process for migrant workers considerably, from an estimated three months to two weeks.¹⁶ Through technological and other system control factors, the Republic of Korea EPS implementation has reduced reported recruitment costs for migrant workers from US\$3,500-4,900 to around US\$940.¹⁷ These figures are impressive, but other revenue streams associated with individuals who do not become migrant workers should also be considered in the broader assessment of cost reduction.¹⁸ The reported sale of application forms and placement opportunities in EPS communities of origin highlights the gaps that are readily identified and exploited by unscrupulous actors, even when technological platforms are successful in changing recruitment practices, and despite best intentions.

Data collection and analysis drawn from digital labour migration platforms can also provide evidence to be used in policy making and in designing appropriate interventions that further the realisation of relevant international labour standards and the objectives of the Global Compact for Safe, Orderly and Regular Migration and particularly its Objective 6,¹⁹ but will need to be supplemented with other survey and administrative data to capture a fuller picture of migration.

Blockchain technology promises to track contracts, recruitment costs, working conditions, and remittances.²⁰ Blockchain solutions often purport to ‘automate trust,’²¹ but many of the potential benefits rely on the ability of migrant workers to access and verify records on the chain. More broadly, this is not an insignificant barrier; one ADD Member State survey respondent noted: “[Our] system works well. However, not all migrant workers are capable to fill in the online form themselves.” Language and digital literacy remain a challenge (discussed further below), and in many cases, platform use may result in migrant workers disclosing private details to others who can manipulate the entries on their behalf almost certainly creating potential for confusion and, more egregiously, ‘system-sanctioned’ exploitation (see also the risk of “capture” below).²² Proponents of blockchain rightly identify scope for increased transparency on recruitment and working conditions, but there are few examples of blockchain used for these purposes at scale.

Requirements for effective development and implementation of technological tools

Several pre-conditions are suggested as the necessary foundation for building effective and sustainable technological interventions across countries of origin and destination, drawing from lessons learned from previous attempts to deliver migration governance technologies.

Data privacy, ownership and security

“A challenge specific to digital tools is that the collection of data creates new risks for workers’ wellbeing and safety.” – Musto, Thakor and Gerasimov²³

A worker, labour recruiter or employer who puts data into a job matching or compliance-driven system may assume that their personal/corporate information is secure and will not be used for other purposes. However, without robust data privacy provisions, persons with access to the data may tamper with or use it for other purposes, such as identity theft or selling of a workers’ data to labour recruiters or employers among others.²⁴ Without safeguards, financial or identity theft is also a risk if databases include bank account or credit card details or other unique identification information. While most of the ADD Member States who completed the survey for this paper felt that their data privacy laws were adequate to protect nationals’ and migrant workers’ data, not all did. One Member State respondent notes simply: “[The laws are] not adequate.” Another responded: “No, [the laws are not adequate]. Regular audit of systems, labour audits, and an update to the cyber security law [are] needed.”

Data privacy protections and data access and control systems should build appropriate safeguards for all parties. The right to privacy is firmly established in international law. Further, where a State exercises regulatory control over a third party, including technological service providers, that State is required to also extend human rights protections to those who might be affected by the access or use of that information.²⁵

The ILO Private Employment Agencies Convention, 1997 (No. 181), Article 6 states:

“The processing of personal data of workers by private employment agencies shall be: (a) done in a manner that protects this data and ensures respect for workers privacy in accordance with national law and practice; and (b) limited to matters related to the qualifications and professional experience of the workers concerned and any other directly relevant information.”

Data ownership, responsibility for protecting data, and rights of access should all be clearly delineated before building any platform. Many platforms have third party hosts that may have also designed the platform or may only host them. Given migration platforms are necessarily used cross-border, there may be complications about which data privacy laws apply to a given platform. If privacy protections are uneven across migration corridor jurisdictions, it is recommended to apply the highest level of legal protection, or consider setting data protocols in bilateral agreements or similar to reduce confusion. Where legal standards are absent or not well developed,

international data protection standards should be followed.²⁶ These issues must be settled before platform development so that there are neither overlaps in claims to data ownership for instance, nor accountability vacuums where no party steps in to solve problems or take responsibility for harms that the platform use may cause.²⁷ Protocols for access to the data, including in cases of alleged crimes or infringement of laws, should be established before any tool is ‘live.’²⁸

ILO 1997 CODE OF PRACTICE: PROTECTION OF WORKERS’ PERSONAL DATA

The ILO 1997 Code of Practice: Protection of Workers’ Personal Data was adopted by a Meeting of Experts on Workers’ Privacy in accordance with a decision taken of the ILO’s Governing Body its 264th Session. The meeting was composed of experts appointed following consultations with governments, Employers’ and Workers’ Groups of the Governing Body.

Article 5, General Principles may be of particular best practice guidance to platform developers:

1. Personal data should be processed lawfully and fairly, and only for reasons directly relevant to the employment of the worker.
2. Personal data should, in principle, be used only for the purposes for which they were originally collected.
3. If personal data are to be processed for purposes other than those for which they were collected, the employer should ensure that they are not used in a manner incompatible with the original purpose, and should take the necessary measures to avoid any misinterpretations caused by a change of context.
4. Personal data collected in connection with technical or organizational measures to ensure the security and proper operation of automated information systems should not be used to control the behaviour of workers.
5. Decisions concerning a worker should not be based solely on the automated processing of that worker’s personal data.
6. Personal data collected by electronic monitoring should not be the only factors in evaluating worker performance.
7. Employers should regularly assess their data processing practices:
 - (a) to reduce as far as possible the kind and amount of personal data collected; and
 - (b) to improve ways of protecting the privacy of workers.
8. Workers and their representatives should be kept informed of any data collection process, the rules that govern that process, and their rights.
9. Persons who process personal data should be regularly trained to ensure an understanding of the data collection process and their role in the application of the principles in this code.
10. The processing of personal data should not have the effect of unlawfully discriminating in employment or occupation.
11. Employers, workers and their representatives should cooperate in protecting personal data and in developing policies on workers’ privacy consistent with the principles in this code.
12. All persons, including employers, workers’ representatives, employment agencies and workers, who have access to personal data, should be bound to a rule of confidentiality consistent with the performance of their duties and the principles in this code.
13. Workers may not waive their privacy rights.

Data transparency

Data transparency is necessary for understanding how platforms operate and for combatting discrimination that may emerge from platform use, particularly when machine learning is used in candidate/CV sorting or hiring (see above). Some researchers have proposed a “datasheet for datasets,” a document that would accompany platforms and their datasets to improve transparency and accountability. It would detail a platform’s standard operating characteristics, test results, recommended usage, and other information.²⁹

Non-discrimination

Technological solutions can be developed with systems that enhance or disrupt a society’s biases and discriminations. For instance, where nationality is listed or photographs of domestic workers are required for job selection, racial biases may become a factor in hiring decisions, resulting in systemic racial discrimination.³⁰ It has been shown that employers discriminate based on a person’s name, gender, ethnicity, nationality and many other factors.³¹ Technology can anonymize those factors, so that the employer selects the worker based on skills and merit that are visible to them on the platform; or it can foreground and highlight those factors, fostering discriminatory employment decision-making.

Artificial Intelligence (AI) in job matching technologies may also result in discriminatory hiring. This can happen when a tool is programmed to favour workers based on the profiles of current employees, thus mirroring and repeating the human-based discriminatory hiring practices that went before it, or reflecting past profiles where a certain category of workers were trained in the field with more frequency than others.³² For instance, if in the past a construction company hired predominantly men from Bangladesh, and now equally skilled persons from Thailand, including women, apply, the AI-model (based on past hiring) would overlook both profiles from Thailand and of women.

Averting “capture”, ensuring benefits to migrant workers

“Data-driven software and algorithmic decision-making...[can] act as a force-multiplier for the power held by firms, with no balancing agent on the side of workers.”

-Adler-Bell and Miller³³

Unless explicitly designed in a participatory and tripartite manner, workers’ interests and abilities may not be reflected in a job-matching technology. There may be “uneven benefits of technology on different actors, for instance, when technology’s ‘solutions’ benefit corporations more than workers, or where technical fixes hailed as innovative fail to address poor working conditions, substandard labour migration regimes, and business demand for profits.”³⁴ For instance, a government body, employer or recruitment agent reliant on a job-matching interface may not respond to workers’ queries or complaints, deferring to the algorithm. With a human manager, workers’ concerns and their genuine complaints about unfair processes are more likely to be accommodated. “Workers’ interaction with a system rather than humans depriv[es] them of opportunities for feedback or discussion and negotiation...”³⁵ unless these features and access are also available through the platform (or alongside it). This is especially concerning where labour selection platforms may deny the opportunity to work to those who have been unable to navigate and operate the platform effectively, or need to correct a record within the system.

Rights to access technology devices and data

One type of policy in particular undergirds technology's success: the right of migrant workers to retain their phones and have access to the internet and other communication channels. Through laws, Memoranda of Understanding, Bilateral Agreements, and standard employment contracts, stakeholders can commit to workers' right to communication, providing the foundation for a technological intervention. This is important for all sectors, but especially for domestic work, where confiscation of phones and restriction of access to data packages or Wi-Fi are common.³⁶ Where migrant workers face restrictions on using mobile phones, self-help programmes can be considered to teach "mobile phone negotiation" with an employer through win-win conversations, showing how ICT access is positive for both parties. Other remote and isolated workers, including fishers, may face Wi-Fi access issues, and accessibility/cost of data plans needs to be considered during any platform development.

Platform accessibility, responsiveness, maintenance, sustainability and cost considerations

Accessibility

Any platform – whether designed for compliant labour selection or job-matching, or a combination– needs to be accessible to those who need to use it. Before development begins, this necessitates a thorough knowledge of the intended user cohort and testing throughout development. Multilingual platforms are likely to be required, and functions that allow users to hear, instead of read, information, may meet literacy challenges. For certain languages, Unicode may not be available, complicating the development of the tool and the ability to run it on certain devices.

As digital literacy may be low among platform users, an intuitive design can allow for 'self-learning' while using the tool. ADD Member State survey respondents particularly suggested that migrant workers' ability to access and operate digital services and platforms was either somewhat or very challenged. Several Member State representatives suggested that women migrant workers in particular have more challenges to access digital tools than men. Participatory design is key to ensure that all parties, and migrants especially, are able to access and use the platform and should also be considered from a budget perspective. An evaluation of the EURES job-matching platform suggests that there is also a risk that easier to reach groups such as those who are better educated may find access to platforms easier.³⁸ This is a technology bias that may or may not match with platform design intentions, and is especially relevant when building compliant labour selection platforms that may result in excluding migrant workers most in need.

Technology is not politically or socially neutral in either its development or impact, and being mindful of differentiated access to technology and the power imbalances within labour migration processes is critical.³⁹ It is strongly necessary that any technology initiative also invest in redressing digital imbalances within the target communities, including among women migrant workers and those in remote and isolated locations. Failing to do so will result in an unacceptable risk that the digital solutions entrench or exacerbate status quo power imbalances that give rise to migrant worker exploitation and abuse.

Accessibility considerations should also consider the kinds of devices from which the platform is likely to be accessed and the data needs required to run it effectively. Migrant workers most probably do not use the same mobile phones or operating systems as those designing the platform. It is important to ensure compatibility, otherwise platforms will need to be redesigned. Platforms that require frequent downloads and updates are unlikely to be easily accessible or desirable to migrant workers.

Responsiveness

As highlighted above, accessibility to the people behind the platforms is vital, especially where users are employers or migrant workers. Multilingual support will likely be required, and a ‘helpdesk’ or other function to respond to queries should be considered during design. Appropriately resourcing this function, and capacitating the human resources delivering responses, most likely across time zones, will also be critical. Disclosures of poor treatment of migrant workers, or alleged crimes, should be expected within these platforms, and appropriate protocols to deal with these and provide referrals should be in place.⁴⁰

Maintenance and sustainability

Ongoing platform maintenance requires not only technological maintenance, but investment to monitor and consider changes based on user feedback and patterns and policy developments. A study of labour migration-related ICT platforms found that some government and non-government organizations tended not to maintain or monitor platforms, citing gaps in capacity and infrastructure.⁴¹ Regular updates also need to take into account regulatory changes in origin and destination, and hence, government participation may be crucial to platform success. An out-of-date platform risks eroding trust of the user and may result in reputational and business risks. Available government capacity for providing timely updates or participating in the platform should also be considered with respect to sustainability. Platform sustainability requires financial stability, with long-term funding commitments or a functional model that does not require that and is not likely to give rise to situations where migrant workers must pay for the service. Where platforms are developed through development funding, ownership or transition of budget support should be planned. Where institutional funding is not the predominant means of support, advertising, support from government, worker or employer organizations, or other revenue streams will need to be carefully considered to ensure migrant workers are not burdened by additional costs.

Costs

Technological platform development is sometimes considered as a ‘low investment, high rewards’ option for the complex issue of labour migration governance. In part, this misperception that technological development will be cheap, and then handed over to users, might go some way to explaining the numerous platforms that have been unable to meet their goals. Some labour migration tools “pilot and crash”.⁴² Stakeholders should consider the extensive resources in ongoing development and maintenance of the most popular platforms (WhatsApp, Facebook, Twitter, TikTok and so on) which provide the easiest and most user-friendly interfaces, support services and administrative control of public messaging, and allocate resources accordingly. With regards to user cost structures (if any), piloting can ensure that any ‘free’ tool does not have hidden costs that may be passed on to users, and eventually migrant workers.

Ensuring engagement: Incentives, trust, streamlined platforms, and worker protection

Incentivising use

The technological and bureaucratic burden of any platform should be low for the sake of sustainability and upkeep in the long-run, but the burdens and risk must also be low for users of the platform and the incentives for use clear. Especially where the platform is designed to operate responding to user input (for example in job-matching where workers and employers must upload data, or where reviews of processes or migration actors are expected), the necessary incentives for users to engage with the platform should be considered. Reward systems are one way that TripAdvisor provides incentive for individuals to post reviews; a similar principle may be considered. For compliant labour recruitment, government policies and legislation may require certain actors to participate in the platform, but in these instances, incentives should still be considered, lest the platform become another hurdle that prevents the uptake of regular migration.

Inspiring trust

Migrants' trust in any platform and in what the government or other organization will do with their information can impact effectiveness. One ADD Member State survey respondent from a country of destination said that one of their biggest challenges is that migrant workers do not provide correct contact numbers or other information, making it difficult for the government officials to be able to provide help when needed. Communication about what the platform is for and how data will and will not be used are important, per the Data privacy section above. Demonstrating responsiveness to migrant worker needs can help build the necessary trust within the community.

Streamlining and combining with other platforms

Two recent studies suggest that the recent proliferation of labour migration-related apps could be streamlined into a “One-Stop App”.⁴³ Thus job-matching platforms could usefully combine with other services, such as recruitment rating, service provision, and redress mechanisms. This of course takes coordination across ministries, other organizations, and even countries to create a streamlined and coordinated interface, which needs to be weighed up against coordination gains. In survey, two ADD Member States reported on the success of integration across ministries where two or more ministries collaborated on a platform, so that comprehensive data from multiple sources is available to the migrant worker and also the government – a positive development as long as data privacy protections and firewalls are operating effectively. One Member State anticipated a next step would be to integrate with the online platforms of destination countries. Due consideration should also be given to what existing platforms migrant workers already use to share information and job opportunities. For instance, Facebook ubiquitously has become understood as the entirety of the Internet by some migrant communities studied.⁴⁵

Access to redress as a deliverable and incentive for use

No matter if a platform is delivering job-matching or compliant labour selection functions, in every migrant work instance, migrant workers should have access to redress for any complaints related to the platform or any other aspect of their migrant work. Many ‘worker voice’ or similar technological tools provide a function to support

complaint delivery, and access to this channel may be a strong incentive for worker use.⁴⁶ One ADD Member State survey respondent noted that migrant workers' access to their case details on the government app has been a particular success. With proper data privacy considerations, worker protection measures built into platforms could include the use of anonymous, collated trend data from migrant workers to trigger investigations of labour recruiters and workplaces when the job is not as advertised or other irregularities surface. The governance of the complaints function on any platform should include sanctions, penalties and compliance requirements, following national and international laws, and link to legal aid service providers in the national context to enable these measures. Investment in the legal aid systems that are often the target of platform referrals should accompany platform development budgets.

Practical possibilities for technological advancement in job-matching and compliant labour selection

Sometimes it is relatively easy and quick to deliver a technological platform designed for job-matching or compliant labour selection; it is much harder to ensure it is designed and delivered in a manner that furthers international development goals related to labour migration governance.

A practical strategy would include taking a staged, or incremental approach to platform development. For example, a time keeping tool for domestic workers could be designed first to allow workers to track their rest, stand-by and working hours, and linking to a calculator function that would enable them to estimate their weekly or monthly pay.⁴⁷ With assessment of this stage and perhaps provision of appropriate incentives, the platform could be extended to engage with existing employers to ensure their tracking of working hours and pay, or even to labour inspectors. Then with a user base and accessibility tested with migrant workers, the platform could expand its services to bring in prospective employers and recruitment agencies for job matching and recruitment functions, but only for those who adhere to legal compliance and remain open to independent inspection and monitoring.

At each stage, expansion of the platform would need to be carefully considered among tripartite and other stakeholders, with respect to the risks and incentives outlined above. Job-matching platforms may wish to begin by focussing on specific sectors or migration corridors and test usage among a limited number of employers seeking specific ascertainable and certifiable skillsets. Assessments that engage with both users of the platform and consider those that may be excluded from their use should inform iterated design.

Conclusion

Algorithms and other technology solutions may be presented as more efficient and fairer systems for job matching and compliant labour selection, but only where accountability and human beings lie behind their design and work to ensure outcomes benefit migrant workers as well as other stakeholders.⁴⁸ Technology can be made beneficial to migrant workers and employers if risks are minimized. It is clear that

‘digital technology platforms have the strongest capacity to facilitate fair, transparent and ethical recruitment practices only when participating States fully commit to, and invest in, using digital technology information ...’⁴⁹

Where ADDMember States are able to meet this commitment, and support communities of origin in their effective and transparent participation in these platforms, the opportunities for streamlining a fairer and more protective labour migration governance system are apparent. A shared understanding of data privacy and protection, the ability of migrant workers’ to meaningfully uphold their rights in destination legal systems and political will of States parties to deliver fair migration are the natural precursors to this commitment and realising the potential of digital platforms. It is recommended that ADD Member States, alongside international development actors strive in their programming to build these foundations before embarking on further digital ‘solutions’ to the complex phenomenon of international labour migration.

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ENABLING TEMPORARY CONTRACTUAL WORKERS TO RATE AND REVIEW RECRUITERS AND OTHER INTERMEDIARIES THROUGH ONLINE PLATFORMS

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EXECUTIVE SUMMARY

Digital technology or technology, in general, has had huge impacts on various sectors of society and stakeholders. In labour migration governance, it provides support to state and non-state actors, and migrants themselves in safeguarding and upholding migrants' rights. The regulation of recruitment of migrant workers is one of the crucial areas that pose a challenge to state and non-state actors and is also where, in recent years, we have seen a surge in the development of digital platforms. These platforms allow migrant workers to rate and review recruiters, employers, and other intermediaries, provide information on the whole migration journey including hotlines or contact details in case of emergency, and offer features such as grievance redressal and 24*7 toll free assistance. At present, there is an array of such platforms that were developed by governments, civil society, trade unions, private sectors, and international organizations. This paper describes the good practices of existing online platforms from other migration corridors, from international organizations, and from NGOs with the objective of helping ADD Member States in developing similar platforms that will mitigate the imbalanced information dissemination in the labour recruitment process in the region.

Data for this research was gathered from primary and secondary sources. Information largely came from Migrant Forum in Asia's (MFA) members and partners from major countries of origin in Asia who provided critical feedback and evaluations on the effectiveness of the platforms. The online platforms that were evaluated in this study were divided into online platforms that are available at the regional and global level (rate and review platform that offer grievance redressal) and online platforms that are country-wise (feedback platforms). The online platforms under the first category are: Recruitment Advisor, Migrants Rights Violation Reporting System (MRVRS) or Hamsa, Golden Dreams, Laborlink, Worker Connect, and Contratados. The second category includes: platforms in India, Nepal, Sri Lanka, Bangladesh, Philippines, and Indonesia. This paper also touched upon social media platforms being utilized, chiefly by civil society, as feedback mechanisms such as Facebook and WhatsApp.

Despite the numerous online platforms developed with the aim to rate and review recruitment in the region, most are lacking and need improvement to ensure that it serves its purpose of helping migrant workers make informed decisions from the beginning of their migration. A few of the key findings from the study are: migrant workers who are the beneficiaries are unaware of these online platforms; migrant workers face unequal access to technology which includes high cost of internet fees; and sub-agents and irregular recruiters are not part of such platforms. Based on these findings, the researcher recommends publicizing information about the online platforms through awareness campaigns and orientation programs at the pre-departure and post-arrival stage. Countries of origin, together with civil society and recruitment agents, should allow migrant workers to participate in the rate and

review of their recruitment experience. This reviews and ratings should be published and disseminated among prospective migrants. Governments should also coordinate with civil society organizations to access the reliable and legitimate information collected through social media interactions with the migrant workers. Moreover, State and non-state actors should consider the communication literacy of migrants making sure that they are user-friendly. There should also be an option to capture migrants' rating and review of recruitment agencies at pre-departure and return stage. Experience of irregular migrants and victims of trafficking should also be taken into account given that regular recruitment may become irregular at the destination country. Finally, developing partnerships between stakeholders at all levels is vital to ensure transparency in the recruitment by removing unethical recruiters.

INTRODUCTION AND BACKGROUND:

The influence of technology on the day-to-day affairs in the world is fast expanding. Technological innovations, especially the digital technology platforms have the capacity to bring together the world in various capacities. The development of digital platforms supports not only the entrepreneurs or capital, it could also facilitate and support various actors such as labour, state, non-state actors etc. The various stakeholders such as states, recruitment agencies etc are increasingly experimenting with technology in the migration management. The use of digital platforms can have significant impact on the protection and promotion of the rights of migrant workers. These platforms can ensure access to information which helps them to make important choices at various stages of migration. However, the existing technology platforms are criticised for lack of accountability, data privacy and for the violation of fundamental rights of the migrants. So, it is important to understand and review the existing technology related platforms in the migration management.

The technology platforms are crucial for the both countries of destinations and origins to protect the rights of migrant workers and to ease the management of migrants and migration. Most of the governments, civil society organisations (CSOs) and coalition of stakeholders have relied on technological solution to resolve the concerns of migrant workers by ensuring smooth communication facilities and information. Simultaneously, private sector and recruitment agents use technology to obtain information about the labour markets and prospective migrants. Technology can enhance the migrant's agency by providing platforms to exercise their rights by using it properly. However, the uneven access to technology platforms even within the country, the concerns about the data privacy, privacy and confidentiality have been identified as major drawbacks of adopting technology platforms for the migrant workers. However, well-considered and responsible digital technology platforms should be promoted in origin and destination countries with proper guidelines and protocols for data protection and privacy.

Importance of technology in monitoring recruitment practices

The regulation of recruitment of migrant workers is considered as a major challenge in the migration governance globally. The difficulties in identifying the credibility of recruitment agencies prevent the safe recruitment of labour migrants. i.e, the presence of illegal and unregistered recruitment agencies leads to irregular movement of people and trafficking from countries of origin. Such irregular practices often add to the existing vulnerabilities of migrant workers since the illegal recruitment does not offer employment contract, registration at missions and other support mechanisms. The migrant workers are unable to access to first-hand reliable information about the recruitment agencies from stakeholders and fellow migrant workers. Even though, the victims of trafficking and irregular recruitment can file grievances through various channels, the recruitment agencies usually escape by accusing the government systems and employers at the destination countries. Moreover, governments do not publish the details of irregular or unregistered agents and fail to update the list of legal recruitment agencies on a regular basis. Another major problem in sharing the information is the lack communication between migrants due to the remote nature of their jobs and illiteracy. A clear picture and experience of recruitment can only be given by feedback from direct beneficiaries of the recruitment, i.e, migrant workers themselves.

In the past two decades, number of government and non-government stakeholders have developed platforms that enable migrant workers to rate and review recruiters, employers and other intermediaries¹. These platforms improve the transparency in the process and allow migrant workers and their families to make informed decisions. The existing attempts are established by trade unions, CSOs and a few private players across various migration corridors. By simplifying the structure of various rate and review platforms such as ‘TripAdvisor’, these platforms seek answers from migrants, mostly using Likert scale questions². The anonymity offered by these platforms allow the workers to express themselves without any fear. They may often be afraid of criticising the recruitment agencies or employers. The existing rate and review platforms offer various other benefits such as grievance redressal, information dissemination, documentation assistance and 24*7 toll free assistance. Some of these platforms share the ratings with various stakeholders such as governments and CSOs to regulate the unscrupulous agents.

Need for reviewing the existing monitoring platforms in ADD countries

The six Gulf Cooperation Council countries are one of the main destination regions globally for migrant workers. The proportion of migrant to local workers is amongst the highest in the world. In 2019, according to the Population Division of the United Nations Department of Economic Affairs (UNDESA), there were 35 million international migrants in the Gulf Cooperation Council (GCC) countries, and Jordan and Lebanon. The migrants in the six GCC States account for over 10 per cent of all migrants globally, while Saudi Arabia and the United Arab Emirates host respectively the third and fifth largest migrant populations in the world. Foreign nationals make up the majority of the population in Bahrain, Kuwait, Qatar and the United Arab Emirates (and more than 80 per cent of the population in Qatar and the United Arab Emirates).

Even though migrant workers in the GCC States are employed in a variety of sectors, including the oil and gas industry, agriculture, transportation and hospitality, by far the largest number of migrant workers are found in construction and in domestic work. The workers in these sectors are also more likely to be lower-skilled and at the risk of abusive and fraudulent practices by recruitment agencies, such as contract substitution and the charging of workers the equivalent of several months’ salary for visas, air tickets and other related recruitment costs. Mainly, private recruitment agencies in the interconnected regions of Asia and the GCC States lie at the heart of the recruitment process are criticised. While some are ethical and legally compliant operators, many if not most, intentionally structure agreements with employers so that low-skilled workers are forced to pay high charges for recruitment. Unfortunately, fraudulent practices at the recruitment stage leave low-skilled workers extremely vulnerable. While fraudulent practices like excessive recruitment fee will push migrant workers into debt bondage, lack of job contract or fake job contracts can lead to trafficking of the migrant worker and trap him in forced labour. A complex and opaque web of intermediaries including subagents and outsourcing agents facilitate visa trading and drive-up recruitment charges for low skilled migrant workers. It is a fact that national laws and enforcement mechanisms have proven to be inadequate in preventing or responding to these crimes, and with the difficulties migrant workers face to access complaints mechanisms, unscrupulous actors can continue to profit.

¹ <https://www.opensocietyfoundations.org/uploads/dfe50370-e15a-4a78-99f9-3954c0e73bb3/transformative-technology-for-migrant-workers-20181107.pdf>

² <https://www.typeform.com/surveys/likert-scale-questionnaires/>

The existing governance structure responds to the illegal recruitment activities in various capacities. The countries of origin established legislations to regularise the labour recruitment and strengthened the grievance mechanisms to address the concerns of the victims of illegal recruitment. However, most of the major countries of origin of migrants to Gulf countries still witness large-scale irregular recruitment. As discussed above, use of technology platforms can address the lack of access to information in the recruitment process. The direct review and rating of recruitment experienced by the labour migrants will help to address the existing bottlenecks in the governance of labour recruitment. There are attempts made by governments, CSOs and other stakeholders globally, regionally and nationally to develop such platforms. A number of countries in the Asia also has platforms that captured feedbacks from the migrant labourers and rate the recruiters based on such information.

The identification and documentation of those online platforms would immensely help the stakeholders to address the irregular recruitment in the region.

OBJECTIVE

As the key ministerial level regional consultative process on migration between the Gulf states and major countries of origin in Asia, Abu Dhabi dialogue (ADD) identifies the need to document and review existing online platforms that enable workers to rate and review recruitment process. Even though ADD coverage is limited to GCC countries, Malaysia and eleven Asian countries of origin³, the paper aims to capture good practices from other migration corridors and attempts from international organisations and NGOs. The review and documentation of these existing platforms would help the countries in ADD process to develop similar online platforms that reduces the asymmetric information in the labour recruitment process in the region.

DATA COLLECTION AND METHODOLOGY

The information is gathered from both primary and secondary sources. As a network of civil society organisations and grassroots level organisations, MFA compiled inputs of our members and partners on the existing technology related platforms that captures feedbacks from workers. Apart from sharing the existing replicable models, the respondents critically evaluated the effectiveness of the strategies adopted by government and non-government partners. The respondents are mainly MFA partners from major countries of origin in Asia. In order to review similar platforms in other migration corridors, a detailed review of existing literature also conducted.

³<http://abudhabidialogue.org.ae/members>

OUTLINE FOR THE REPORT

- *Introduction*
- *Objective, data collection and methodology*
- *Rate and Review platforms at Regional and Global level*
- *Good practices*
- *Review of Country-wise feedback platforms in ADD countries*
- *Feedback mechanisms using social media platforms*
- *Observations from the reviewing the existing platforms*
- *Recommendations*

RATE AND REVIEW PLATFORMS AT THE REGIONAL AND GLOBAL LEVEL

This section attempts to capture the rate and review platforms that allow migrant workers to provide feedbacks on recruitment at the regional and global level. The major focus of the paper is to capture recruitment related feedback platforms. However, documentation of online platforms that allow workers to provide feedback or submit grievances could help to understand about replicable models. These platforms are mostly managed by non-government institutions and international organisations.

a. RecruitmentAdvisors

RecruitmentAdvisor is a global recruitment and employment review platform offering a migrant worker easy access to information about recruitment agencies and workers' rights when they are looking for a job abroad. This online platform allows check the rating of recruitment agencies based on worker reviews, check migrant workers' rights where they will work and ask for assistance when your rights have been violated. RecruitmentAdvisor is developed by a consortium of unions from different countries and it has coordination teams in 5 countries (currently in the Philippines, Indonesia, Nepal, Malaysia and Kenya)⁴.

In collaborations with organisations in respective countries, the platform reaches out to the workers with the mission to raise awareness on the workers' rights to be fairly recruited based on ILO General Principles and Operational Guidelines for Fair Recruitment and to encourage workers to share and learn about fair recruitment through 'RecruitmentAdvisor'.

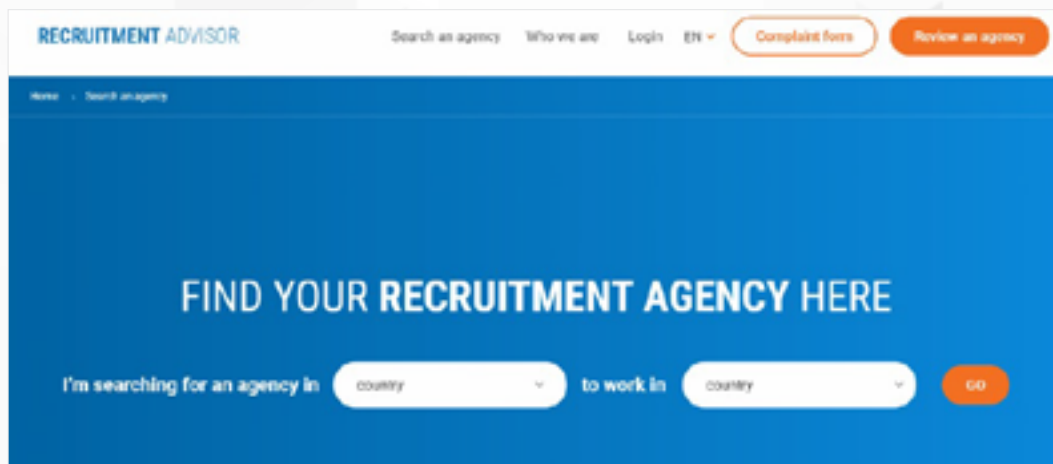
⁴ <https://www.recruitmentadvisor.org/about-us>

Table 1. List of Recruitment agencies reviewed in the platform

COUNTRY OF ORIGIN	COUNTRY OF DESTINATION / NUMBER OF RAS			
	Saudi	Qatar	Hong Kong	Taiwan
Nepal	RAAs 126	RAAs 103	RAAs 179	RAAs 211
Philippines	RAAs 126	RAAs 103	RAAs 179	RAAs 211
Indonesia	RAAs 126	RAAs 103	RAAs 179	RAAs 211
Sri Lanka	RAAs 126	RAAs 103	RAAs 179	RAAs 211
Kenya	RAAs 126	RAAs 103	RAAs 179	RAAs 211

Source: The workers can access the platform in seven different languages including English. Any worker from anywhere in the world can access the website to verify the rating of recruitment agencies included in the platform. Currently 4835 recruitment agencies are included in the platform among them 1363 agencies are at the countries of destination.

Image 1: Home page of RecruitmentAdvisor platform



Source: <https://www.recruitmentadvisor.org/search-an-agency>

b. MRVRS / HAMSA

The Migrants Rights Violation Reporting System (MRVRS), Hamsa, is an online database and a mobile application that records, stores, and manages information about human rights and labour rights violations against migrant workers and members of their families. It was developed by Migrant Forum in Asia (MFA), its 20 partners in migrant sending and receiving countries, and HURIDOCS, in 2004. The network organisations log in to the system with their own account and enter information by completing a form designed specifically for the MFA network. Thousands of cases have been added to the database and four organisations have entered close to 100% of their case information into Hamsa. The data collected help MFA and its network to understand migrant workers' rights violations and also about recruiters.

The MRVRS / Hamsa, for the longest time, acts as a tool for case documentation among the MFA network who need a more systematic and efficient way to document and manage cases by utilizing technology⁵. Now Hamsa act as a complaint mechanism component of 'RecruitmentAdvisor' platform. Based on this partnership, Hamsa receives complaints and grievances from the workers who use the 'RecruitmentAdvisor' platform. Once a complaint has been made, the coordinator in the MFA Secretariat notifies the national coordinators in the concerned country, who will then notify the appropriate members and/or partners to assist in the case, given that each country has a different referral mechanism. The partnership not only helps the workers to file complaints but also helps to notify the unscrupulous recruitment activities to the concerned authorities.

Image 2: Online complaint form of HAMSA

MIGRANT FORUM IN ASIA
MFA believes in the human rights and dignity of all migrants.
Promotion of their gender roles, age, religious belief and status.

Migrant Forum in Asia Online Complaint Submission Form

Victim Information

What is your name?*

When is your birthday or how old are you?
DD-MM-YY

Gender:

Are you male or female? ▼

Country of origin:

What is your nationality? ▼

Employment status:

Are you a recruiter or unscrupulous migrant worker? ▼

Occupation:

What kind of work do you do? ▼

Additional information:

Please fill in this form if you are not satisfied with your family members' complaint handling process (if any).

Event:

Short description:

Can you please provide more information on your complaint?

Submit Complaint

Source: <http://mfasia.org/online-complaints-form/>

⁵ <http://mfasia.org/philippine-launch-of-migrant-recruitment-adviser-and-hamsa-complaints-mechanism/>

c. Golden Dreams

The multi-lingual platform named as ‘Golden Dreams’⁶ aims to use smartphone technology to empower workers from Myanmar, Cambodia, Thai migrants and current migrant workers living in Thailand. It is an inclusive labour monitoring system by the Issara Institute. The system consists of social media accounts and a Burmese-language mobile application. The system allows the workers to exchange views and opinions about employers, recruiters, and service providers via its rate and review platform. The users can access lists of employers and recruitment agencies as well. The application also gives migrants the ability to share a problem or seek immediate assistance using a phone call or a text message in the social media platforms such as Facebook, Line or viber. The application works similar to applications such as Tripadvisor that allows people to review and express their opinion. It offers easy and secure log in either through social media account or with an id and password.

The system works closely with both recruitment agencies and workers. Both stakeholders had concerns about the reviews. In order to address the trust issues, ‘Golden Dreams’ provide training to recruitment agencies. The interactions try to reduce the trust concerns among stakeholders. As the next step, Golden Dream 2.0 will be introduced where the recruiters can post the job opportunities. So, workers can use the platform to apply for jobs directly. I.e., the application will also operate as a reliable online market place.

Image 3 : Screenshots from golden dreams log in page and complaint filing page



Source: <https://www.issarainstitute.org/issara-labs>

⁶ https://docs.wixstatic.com/ugd/5bf36e_3e603529513746c5a8f3da91b45aec0c.pdf The application works like popular platforms such as Tripadvisor.

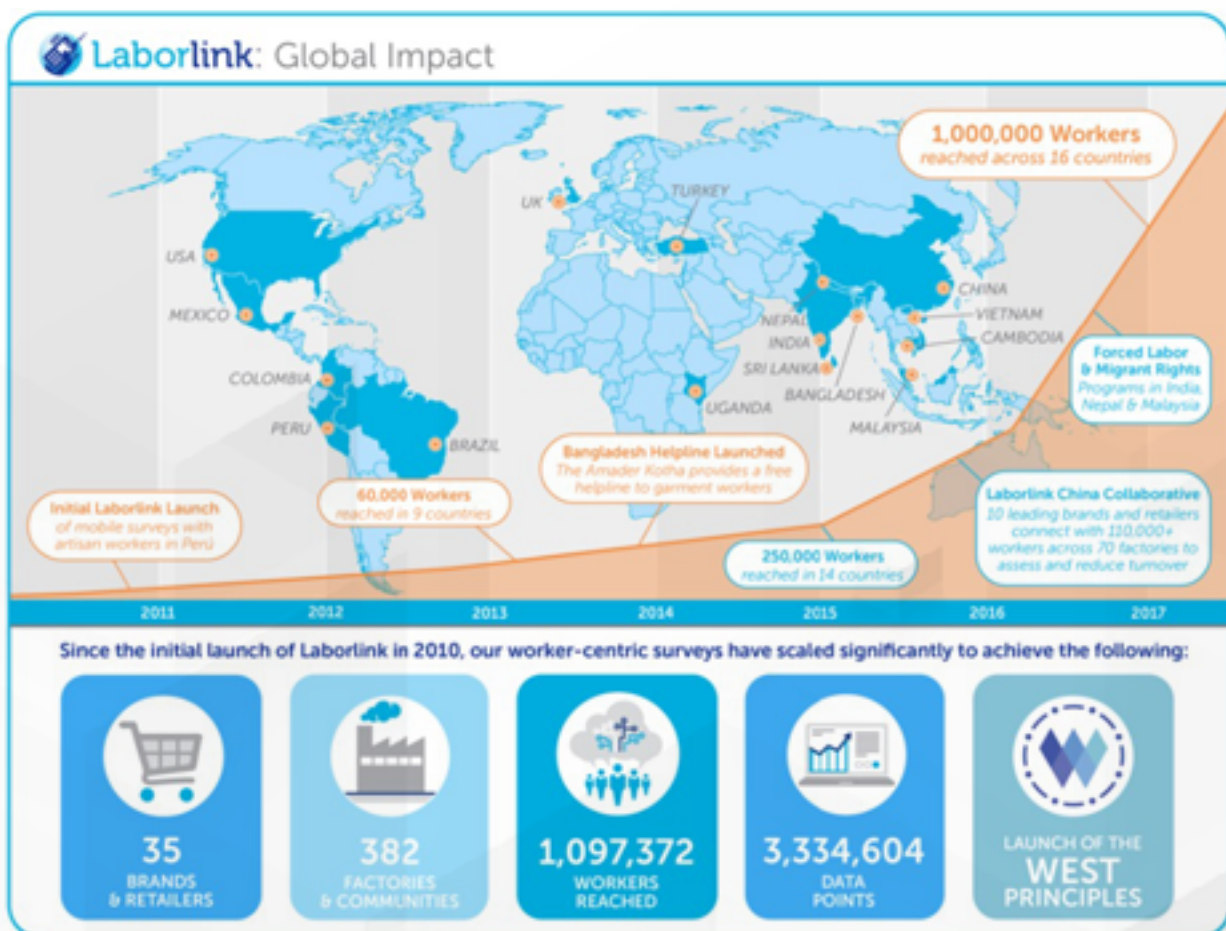
GOOD PRACTICE - REPLICABLE PLATFORMS AT THE REGIONAL & GLOBAL LEVEL

This section discusses the online platforms that gather the feedback from workers, but not limited to feedback mechanisms on labour recruitment related activities.

a. Laborlink

'Laborlink' is a mobile platform that gathers feedback from workers on various concerns based on multiple choice questions. In order to address the lack of access to communication facilities, laborlink offers voice-based surveys as well. Since 2010, Laborlink technology has been deployed in 20+ countries and has reached over 3,000,000 workers worldwide. The initiative address issues such as forced labour and ethical treatment, health and safety, grievance mechanisms, sexual harassment and women's health.⁷ The multiple-choice survey addresses six key following issues of migrant workers. Grievance mechanism, work atmosphere, wages and hours, production efficiency, worker force stability and demographics are covered through 17 questions. The platform is owned by ELEVATE which a business solution provider.

Image 4: Infographics of laborlink



Source: <https://goodworldsolutions.org/>

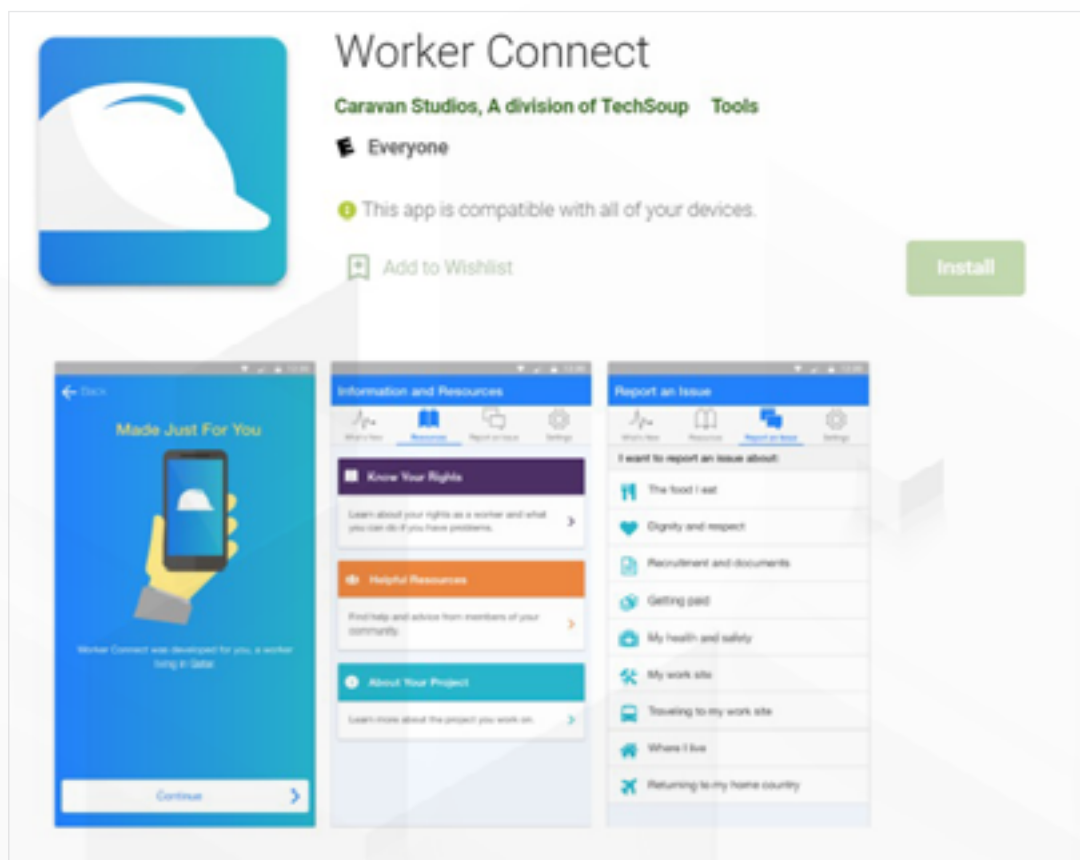
⁷ <https://www.elevatelimited.com/services/consulting/worker-engagement/>

b. Worker Connect

'Worker Connect is a mobile application supported by Caravan Studios which is a private entity. It offers two-way communication between employer and workers. Through this application, workers can send anonymous feedbacks and learn about their rights. The employers can view the feedback by workers and analyse the trends and risks. The employers can send polls to learn more about workers and post updates. It was initially developed for the construction workers in the Gulf region with the support from the then construction firm CH2M. Worker Connect was developed with the invaluable assistance of migrant workers in the Gulf and workers who had returned to their home country; worker welfare professionals; and experts and organizations supporting and studying the experiences of migrant workers in the Gulf region⁸.

The application supports even basic smartphones used by the workers. It allows the workers to choose nationality and preferred language. Further, it seeks details about employment. The application protects the anonymity of the workers and built exclusively for the workers in Gulf countries. The workers feel like engaging relatively more with applications such as 'workers connect' since it ensures responses from the employer's side by respecting the anonymity of the workers.

Image 4: Infographics of laborlink



Source: <https://play.google.com/store/apps/details?id=org.caravanstudios.workerconnect&hl=en&gl=US>

⁸ <https://www.workerconnect.org/>

c. Contratados

The platform is managed by a non-profit entity, Centro de los Derechos del Migrante, Inc. and it is designed with the help of migrant workers. It aims to investigate and document the process of low-wage recruitment in the Mexico-USA migration corridor. The platform allows the migrant workers to share their experience and review the actors involved in the recruitment. In other words, it develops transparency in the process by sharing the information and made it publicly available to all migrants. According to Contratados.org, the initiative seeks to build worker power in the recruitment process and generate a self-supporting community of workers to end recruitment and employment abuse in temporary work programs⁹.

The service is being offered in both English and Spanish. Contratados offers completely anonymity and allows migrant workers to post and read reviews about recruiters and employers in the platform. The questions for review process are mostly multiple-choice questions or yes/No questions that helps the workers to answer smoothly. If a migrant search for a particular employer, they can easily find the ‘contratados’ reviews online rather than searching in their website. The questionnaire tries to understand the employment conditions and practices using 18 short questions¹⁰. Similarly, the worker can review recruitment agencies separately by reviewing the recruitment conditions and practices by answering 13 short questions. The platform permits the workers to review both the recruiter and employer separately.

Apart from the options for review and rating, Contratados offers various resources that enhance safe recruitment. The resources include, various helpline numbers and grievance mechanism that supports the migrant workers during the process of recruitment. A section called ‘Know your rights’ provides various information for workers about migrant rights, Visa regimes, workers safety, wages and so on.

Image 6: Sample review of employer in Contratados.org

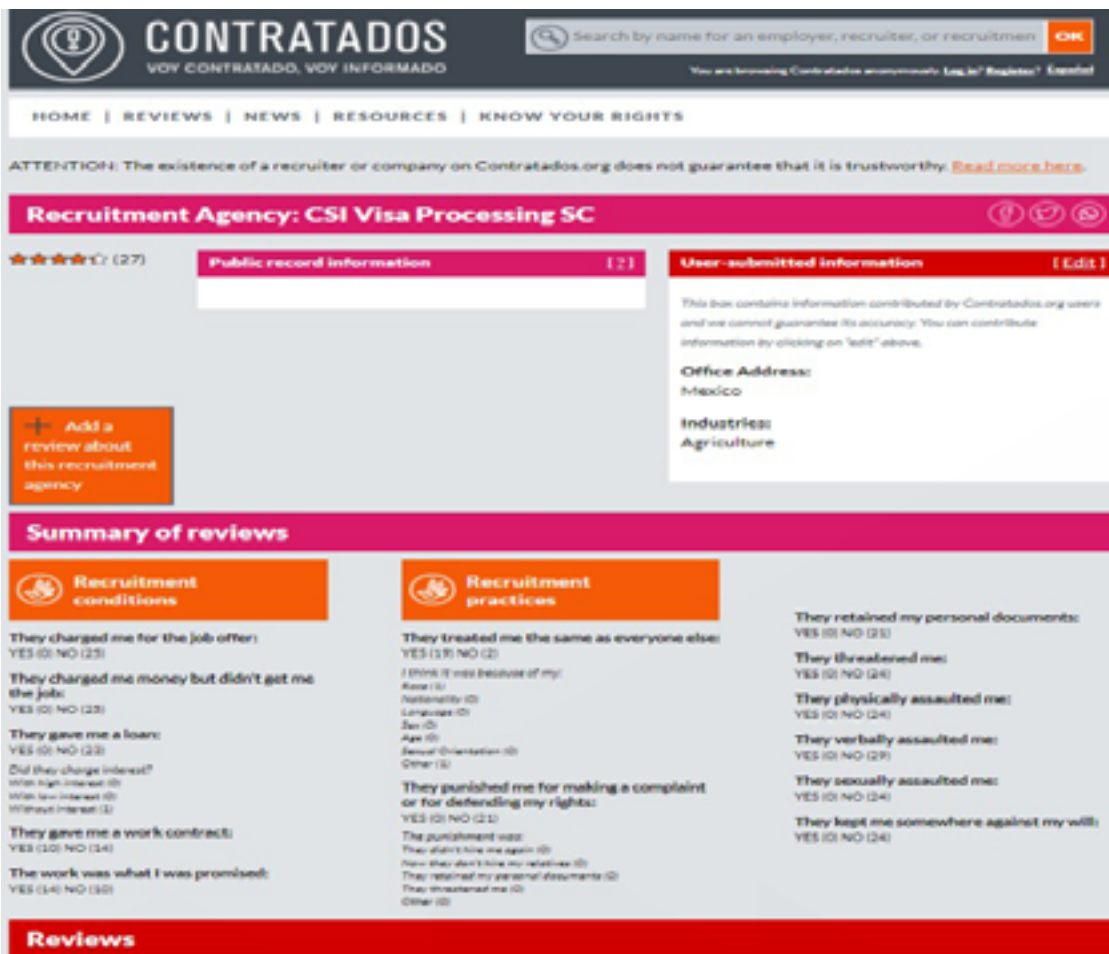


Source: <https://contratados.org/en/content/fish-farms>

⁹ <https://contratados.org/en/content/about>

¹⁰ <https://contratados.org/en/content/fish-farms>

Image 7: Sample review of recruiter in contratados.org



Source: <https://contratados.org/en/content/csi-visa-processing-sc>

REVIEW OF COUNTRY-WISE FEEDBACK PLATFORMS IN ADD COUNTRIES

A number of countries of origin among the ADD members use feedback platforms for migrant workers at the destination countries. The feedback platforms are often used for filing grievances, reviewing the recruitment agencies and employers. Some of the online feedback models can also be replicated for rating and reviewing the recruiters and employers in the region. This section aims for a comprehensive review of various online platforms used by governments, CSOs and other stakeholders.

India

Even though Indian government and other stakeholders do not have a rate and review platform for labour recruitment from India, a number of online feedback mechanisms are available to address the grievances of migrant workers. The existing mechanism to rate the recruitment agencies are carried out by government without collecting the feedbacks from migrant workers.

- **eMigrate Platform**

In India an interactive platform for emigration ‘eMigrate’¹¹ was developed in 2015 along with a grievance redressal platform called MADAD. In eMigrate all key external stakeholders in the overseas employment process such as Recruiting Agents (RA), Foreign Employers (FE), Project Exporters (PE), and internal stakeholders i.e. Indian Missions, OWRC, Passport Seva Project and Bureau of Immigration (MHA) are electronically interlinked on the eMigrate platform to provide transparent, fast, cost-effective legal framework to Indian workers/ professionals for overseas recruitment and emigration.

Even with the presence of eMigrate and registered RAs, the Indian government receives complaints from Indians getting duped by recruitment agencies. Between 2017 and 2019, some 1000 complaints have been received from Indian migrants against illegal recruitment agencies. The initiative attempts to bring the recruitment agent, migrant and the employer in a single platform to improve transparency. The platform was supposed to bring down cost of migration and irregular migration from the country. However, the failure to address the concerns related to subagents in the platform kept the cost of migration high. Amidst all negatives, the platform provides some kind of transparency in the process and manages to protect the well-being of migrants in certain aspects at CODs.

- **RA Rating in the eMigrate system**

The Indian government frequently uploads the list of unregistered and illegal recruitment agencies operating in the country through eMigrate website. Additionally, the Indian government also rates the registered recruitment agents every six months based on the indicators such as number of recruitments per year, fulfilment of demand by the employer, number of grievances, efficiency in addressing the grievances, logistics and infrastructure and the foreign exchange earned per year¹². In this rating mechanism, only the recruiter and the government are involved. The migrant worker does not have an opportunity to register the feedback. Additionally, the ratings are not disseminated among the non-state stakeholders or published in the public domain.

- **MADAD Grievance platform¹³**

The ministry of External Affairs (MEA) launched online Consular Grievances Management System named MADAD in 2015. This e-portal provides Indian citizens living abroad an online platform in which they can file consular grievances to the Indian government. MADAD handles the consular grievances through online forwarding, tracking and escalation until the resolution and allows direct registration of the grievances by migrant workers, relatives or third parties. MADAD was introduced as part of the digital revamp of governance system in India along with eMigrate portal. MADAD can be used both in web and mobile platform with the support of a mobile application on Android, IOS and windows platforms. The number of grievances registered in the MADAD platforms and the efforts taken by the recruitment agency to resolve the grievances are considered for RA rating. However, the grievances are often registered by a third party since most of the migrant workers are not familiar with the online filing of application.

¹¹ The portal is a comprehensive platform for all recruitment related activities from country and it contains a wide array of information and data on ECR migrants <https://emigrate.gov.in/ext/>. Unlike FEIMS, public can access eMigrate website for information and data.

¹² <https://emigrate.gov.in/ext/static/OfficeMemorandum19July18.pdf>

¹³ <http://www.madad.gov.in/AppConsular/welcomeLink>

- **MigCall**

MigCall is another online service provider for Indian migrants. MigCall is a mobile application for the benefit of Indian workers in Oman and other countries of the Gulf Cooperation Council. MigCall, which available in various Indian languages such as Hindi, Malayalam, Tamil, Telugu, Kannada and Bengali and English. The main feature of this mobile application is that once downloaded it can be used offline in the absence of internet connection. MigCall automatically downloads helpline numbers in India and country of residence, as selected and provides helpline numbers of passport services, counselling services, local police numbers and hospital numbers. MigCall does not allow the migrant workers to submit feedbacks. But the outreach (more than 30000+ downloads) portrays that an online platform by non-government actors can also be reached to the migrant workers at the destination countries.

Apart from the online platforms, the helpline numbers of national government, state governments and CSO receive hundreds of grievances daily.

All these existing platforms underlines the potential for a possible rate and review platform that allow Indian migrant workers to review the recruitment agents and employers. The success of MADAD and the willingness of government to rate recruitment agencies can collate together and develop an inclusive review mechanism that ensures the basic rights of migrant workers.

Nepal

The regional feedback platform 'RecruitmentAdvisor' is operational in Nepal. The platform support Nepali language for easing the access. Similar to India, Nepali government also introduced an e-platform to enhance safe recruitment of Nepali workers. However, there are no exclusive feedback platforms for Nepali migrant workers in Nepal.

- **FEIMS**

The FEMIS is one of the key initiatives of the Government of Nepal and it keeps comprehensive information on labour permits, job vacancies, list of Recruitment Agencies (RAs), medical institutions for health check-up and Pre-departure Orientation Training (PDOT) centres¹⁴. By bringing all migration-related stakeholders to the same platform and automating the entire recruitment process, FEIMS has increased transparency, efficiency and effectiveness of the related services including minimizing potential ill practices. As a comprehensive database with key details of all regular migrant workers, the FEIMS provides updated information on Nepali labour migrants. FEIMS also allows for online registration of grievances.

- **Baideshik Rojgar' and 'Shuvayatra – Safe Migration'**

The Department of Foreign Employment (DoFE) has introduced new mobile applications such as 'Baideshik Rojgar' and 'Shuvayatra – Safe Migration'¹⁵ by The Asia Foundation (TAF) and ILO to provide migrants with various information necessary for migrants in the different stages of the migration cycle. Shuvayatra has a lot of information awareness

¹⁴ <https://www.southsouth-galaxy.org/solution/foreign-employment-information-management-system-feims/>

¹⁵ To help address the challenges and risks related to working abroad, the Shuvayatra app was designed to deliver the information and content migrant laborers most need, and in a language they can understand. <https://asiafoundation.org/2016/05/18/asia-foundation-partners-launch-shuvayatra-safe-migration-app/>

tools on the potential human trafficking during the process of migration. Similarly, the application also contains several segments that highlight the do's and don'ts for the migrant workers according to destination countries.

The concerns emerged with FEIMS portal are based on the difficulty in accessing the portal. Even though FEMIS can be accessed by all the concerned with foreign employment services, including ministry of labour, recruitment agencies, orientation centres, department of passport, immigration, consular services and Nepali embassies, the system is not flexible enough for civil society and migrant workers. The portal does not provide adequate information for the migrant workers and the vulnerable migrants such as women domestic workers are still fully depending upon recruitment agents for information. The poor outreach remains a concern even with both mobile applications. Like India, Nepal also develops e-platforms for recruitment process. However, the absence of comprehensive feedback mechanism is visible. The presence of 'RecruitmentAdvisor' provide certain level of information on illegal recruitment agents and allow Nepali workers to express their feedback. Nevertheless, a rate and review platform can be developed by using the existing governance framework. The respondents suggested that a platform that allows Nepali migrants to file grievances and feedback on recruiters can be included in the FEIMS structure. However, poor e-literacy remains a concern for inclusive data gathering.

Sri Lanka

The online platform 'RecruitmentAdvisor' allow the Sri Lankan labour migrants to rate and review the recruiters in both Tamil and Sinhalese. The national government made several attempts to review the recruitment agents to avoid unscrupulous agents over the years. The migrant workers did not have direct role in the review process. The government considers the grievances and complaints registered by the migrant workers to review the recruitment agencies based on several indicators. Sri Lankan Bureau of Foreign Employment (SBLFE) is keen on governing the recruitment to ensure safe and regular recruitment from the country.

However, Sri Lanka does not have a comprehensive platform for recruitment such as eMigrate or FEIMS.

- **Grievance redressal mechanism by SLBFE**

As per the SLBFE website, the Sri Lankan migrants can file the grievances at Sri Lankan missions or at SLBFE offices at home. An online grievance or feedback mechanism is absent in Sri Lanka where migrants can register complaints online¹⁶. However, the grievances filed are considered during the rating of recruitment agencies conducted by government.

- **The Rating system of recruitment agents by SLBFE**

Sri Lanka has established a rating system for licensed recruitment agencies to prevent abuses¹⁷. The rating system for licensed recruitment agencies introduced by SLBFE in 2009 in order to identify and promote the better agencies and attempt to minimize the negative impact of exploitative agencies. A system of awarding a maximum of five stars was initiated in 2013¹⁸.

¹⁶ <http://www.slbfe.lk/page.php?LID=1&MID=38>

¹⁷ <https://www.mfa.gov.lk/wp-content/uploads/2018/03/CMW-3.pdf>

¹⁸ https://www.ohchr.org/Documents/Issues/SRMigrants/A-HRC-29-36-Add.1_en.pdf

The licences need to be renewed every year and that the criteria for renewal are based on the number of complaints against the agency. Additionally, the Ministry of Foreign Employment Promotion and Welfare has introduced a blacklisting system for recruitment agencies. Association of Licensed Foreign Employment Agents (ALFEA) has taken moves to ensure and enforce best ethical practices for Foreign Employment Trade by strict disciplinary control. The review shows that there are hardly any online feedback mechanisms for migrant workers. So, it is important for the stakeholders in Sri Lanka to develop systems that encourages migrants to use online feedback mechanisms which can later be developed into rate and review platforms. The reviews of SriLankan migrants in the ‘RecruitmentAdvisor’ portal can be analysed to understand the involvement and interest in the online feedback mechanisms. Most importantly, as a beginning the government and other stakeholders should establish an online grievance redressal platform for the migrants.

Bangladesh

There are no feedback platforms for migrant workers apart from the grievance documentation platform. The Bureau of Manpower Employment and Training (BMET), the agency that manages recruitment and migration in Bangladesh provides an online complaint mechanism¹⁹ for migrants. The CSOs in the country mainly rely on hotline services, WhatsApp and other mobile applications for Grievance redressal.

- **Online complaint mechanism by BMET**

The grievance platform is attached to the BMET website. The migrant workers will be redirected to the case filing section from the BMET page. The worker can fill the necessary details and submit the complaint. However, the respondents unanimously stated that the majority of migrants do not able to access the page at the destination country due to various reasons.

- **Rating of recruitment agencies**

The labour recruitment from Bangladesh is carried out by government and private agencies. The recruitment at the private level is managed by more than 1,000 licensed recruitment agencies. BAIRA is the private recruiter’s association at the national level and approximately 1300 member agencies are registered and operated in collaboration with and support from the Government of Bangladesh. BMET regulates Recruitment Agencies by issuing, suspending and cancelling licenses. The number and details of registered, cancelled and suspended recruitment agencies are available for the public in the BMET website²⁰. It is useful for existing and prospective migrants to visit the list of recruitment agencies before approaching an agency. However, the rating and suspension of licence is done exclusively by BMET. Even though government may consider the grievances registered in the BMET platform for rating, there is no transparency in the process of rating. The role of migrant workers and non-state stakeholders in the review process is minimal.

The existing feedback mechanism in Bangladesh, i.e, the grievance platform, is not at all user-friendly. The workers

¹⁹ <https://www.ovijogbmet.org/en/>

The portal consists of complaint form and tracking facility of the complaints

²⁰ <http://www.old.bmet.gov.bd/BMET/raHomeAction>

with poor internet literacy would not be able to file complaint or provide feedback. So, it is important to develop a comprehensive platform to gather opinion from migrants on recruiter that includes various strategies to reach out to migrants who do not have telecommunication access.

Philippines

In the Philippines, 'RecruitmentAdvisor' platform is widely used. It allows the migrants to review the recruitment agencies in English and Tagalog. The migrants register complaints in the platform with the support from HAMSA by MFA. Apart from that the Philippines Overseas Employment Administration (POEA) offers various feedback platforms for filing the grievances and review the recruitment agencies.

• Platform for grievanceredressal

To file administrative cases and illegal recruitment cases against a violating recruitment agency that deployed you abroad, an Overseas Filipino Worker (OFW) has to ask assistance from the Legal Assistance Division (LAD) of the Philippine Overseas Employment Administration (POEA) through both online and offline. Online registration can be done at <http://legalassistance.poea.gov.ph/>

• Review of recruitment activities

The Philippines Overseas Employment Administration (POEA) closely supervises and monitors private recruitment agencies and their compliance with the conditions imposed under their licence and the undertakings made by the licence holder. POEA evaluates the performance of the recruitment agencies annually based on deployment, foreign exchange earned, compliance with the rules and regulations, provision of welfare assistance to workers etc. The status of recruitment agencies can be seen at the official website of POEA²¹.

In the Philippines, other than the POEA recruitment system, there are alternative systems to increase the accountability by connecting the employees to recruitment agents through public platforms such as social media. In 2015, POEA mandated that every recruitment agency who recruit the migrant domestic workers should maintain an active Facebook page to deal with the complaints and queries of workers. It improves the accountability and malpractices in the recruitment business which increases the cost and vulnerability among migrants.

Compared to other countries of origin, Filipino migrants have better access to feedback mechanisms. However, the role of migrants in the review of recruitment activities are still limited. The POEA rating system does not directly involve the review of migrant workers. The agency does the review based on certain criterion mentioned above. Regarding the feedback in social media platform, many workers are reluctant to review due to lack of anonymity. Even though the worker rates the agencies, they may not write feedback publicly. If a linkage can be established between the grievance platforms and POEA rating system, a national level rating and review mechanism can be established in the country.

²¹ <http://poea.gov.ph/cgi-bin/aglist.asp>

Indonesia

Indonesia is another country in the region that witnesses massive recruitment of temporary labour migrants. There are innovative online platforms by government and civil society organisations to facilitate recruitment. Indonesian government offers mobile application for grievance redressal. The civil society in the country provides a rating platform for migrant workers to review recruitment agencies

- **Indonesian Migrant Workers Information System (SIPMI)**

The Ministry of Manpower in Indonesia developed the Indonesian Migrant Workers Information System (SIPMI) to provide protection for Indonesian migrant workers. The SIPMI application allows Indonesian migrant workers to communicate privately and manage group activities, such as personal chatting, group chatting, get and share locations, both with fellow migrant workers and with their families. The SIPMI is also equipped with a panic button which Indonesian migrant workers can press when in distress. The application does not capture feedback from migrant workers.

- **Pantau PJTKI (Recruitment Watch)**

Pantau PJTKI is a recruitment agency rating platform with information on agencies' practices vis a vis the law in Indonesian context²². The platform is a collaborative effort by a number of Non-government organisations in the country. It supports Indonesia migrant workers, especially the women migrant workers to rate Indonesian recruitment agencies. The initiative aims to facilitate access to workers-generated reviews about the services of recruitment agents to assist the migrants to choose their service provider²³. It further allows civil society to monitor the recruitment industry through advocacy supported by the reviews of workers in the platforms. The major highlight is that the platform also collects offline review through face-to-face interactions with the migrants at the destination countries.

The government agencies seek support of the platform to gather information about irregular recruitment and human traffickers. The data set was updated from the years 2014-2017, and the platform owner is waiting on law reform (Law 18/2017) to fully take effect before updating further. Nonetheless, the site has accumulated over 1000 reviews on upward of 400 agencies. It receives 400-500 unique visitors per day²⁴.

'Recruitment watch' does not receive financial support from the government. In order to expand the operations and logistics, the platform requires support from government and other donors. A co-ordination between government and non-government platforms is essential to enhance the operations of feedback platforms in Indonesia.

²² <http://www.pantaujtki.buruhmigran.or.id/>

²³ <https://www.opensocietyfoundations.org/publications/transformational-technology-migrant-workers-opportunities-challenges-and-risks>

²⁴ https://www.ilo.org/wcmsp5/groups/public/---asia/---ro_bangkok/documents/publication/wcms_732253.pdf

FEEDBACK MECHANISMS USING SOCIAL MEDIA PLATFORMS

The stakeholders, especially civil society effectively make use of the social media platforms to interact with the migrant workers. The Facebook pages and WhatsApp/viber groups allowed the migrant workers to share the information and receive assistances. Migrant Forum in Asia and many of its civil society partners have created social media platforms that enhances the interactions with the migrant workers. The information often provided by the migrant workers in such platforms are reliable compared to many existing mechanisms. Such platforms help the stakeholders to develop trust between the migrants and the stakeholders.

#WHATSUPport²⁵ by MFA

#WhatSuport is a Facebook group managed by Migrant Forum in Asia. It was established as a facebook group to spread awareness on support system for migrant workers. Support systems are vital in protecting and promoting the rights and welfare of migrant workers. They are usually offered by the labour and employment, and foreign affairs ministries, and missions. The members of MFA who are part of this Facebook group are also stepping in to extend further assistance. The members post about the support they offer for the migrant workers. But the platform became more interactive than expected. It allowed migrant workers and civil society organisations to share information on various aspects of migration, especially on the process of recruitment. The cases and concerns at the destination countries are posted in the group either by civil society organisation or migrant workers themselves. In other words, the platform not only operate as an information dissemination tool but also act as a bridge between migrant workers and civil society in the social media.

The Facebook page: <https://www.facebook.com/groups/whatsupport>



²⁵ <https://www.facebook.com/groups/whatsupport>

WhatsApp groups for migrant workers

Many civil society organisations use messaging services to reach out to migrant workers. Some of these platforms are interactive and provide reliable information directly from migrant workers. Among the members of MFA, Centre for Indian Migrant Studies (CIMS)²⁶ manages a WhatsApp group titled 'CIMS Helpline for Migrants'. The group specifically deals with the issues of Indian labour migrants at the destination countries. The group consists of migrants from the destination countries and associates of CIMS from the origin. The migrants are able to provide information and issues on various aspects of migration. The information can be considered as feedbacks from migrants on the activities of stakeholders, especially on governments and recruitment agencies. The shared information is mostly used to support the migrant workers to address their various grievances and to advocate for the rights of migrant workers. The group consists of migrant workers, advocates, researchers, civil society activists, diaspora organisation representatives and returnees. Another MFA member in India, Emigrant Welfare Forum (EWF) manages 'village diaspora organisation WhatsApp groups' which connects the migrants from same village globally. The village WhatsApp groups offer a closer interaction among the migrant workers and EWF monitor such discussions and assists migrants based on their needs.



OBSERVATIONS FROM REVIEWING THE EXISTING PLATFORMS

From the documentation of existing programs, it is evident that there are hardly any well-established online platforms to rate recruitment in the region. Recruitment Advisor and a few efforts from civil society and trade union can be seen as notable exemptions. However, the emerging platforms allow migrant workers to make informed decisions about the recruiter by accessing the rate and review platforms. The key observations are the following.

- **Lack of data sharing by the government agencies**

Among the existing platforms, a few governments are involving in rating of recruitment agencies. Some of them conduct periodic reviews and blacklist agencies based on their way of operations. However, the government platforms do not allow the migrant worker's either rate or review through an online platform. The data on

²⁶ <http://www.cimskerala.org/>

recruitment is accessed and reviewed by governments based on certain criterion and publishes the list occasionally. The involvement of migrant workers in the rate and review platforms of governments is negligible.

- **Lack of information about the existing platforms**

As the direct beneficiaries of the rate and review platforms, most of the migrants are unaware about such platforms. In most of the cases, migrant rights activists and CSOs are unaware about the existing options. The Pre-Departure Orientation or Post-Arrival Orientation of most of the countries in the region do not discuss the possibilities of reviewing the recruitment agents.

- **Unequal access to technology**

It is true that the access to technology especially to telecommunication facilities are drastically improved in the last decade. Most of the migrants possess smartphone as a gadget to support their daily life activities. Among the migrants a sizable number of migrants still have no access to technology or who cannot use it to protect themselves. There is restriction on the usage of mobile phones and internet for low-skilled migrant workers at the destination countries. The high cost of internet also prevents equal access to technology. The irregular or trafficked workers are often victims of recruitment frauds. Most of them do not able rate or review the recruitment agents at the destination countries due to lack of access to technology

- **The existing platforms are not user-friendly**

Even the most established rate and review platforms are not user-friendly. Since the migrants do not receive trainings on how to use such platforms, ensuring easiness in accessing such platforms are important. A large proportion of them migrants may only be using one single language and many among them may not have enough technology literacy to use such platforms.

- **Sub agents and irregular recruiter are outside the coverage of current platforms**

The existing platforms by the government and non-government organisations only covers the registered/regular recruitment agencies. The unregistered and irregular recruiters are yet to be captured by the rate and review platforms.

- **Absence of personal data protection and concerns about online privacy**

Social media platforms and individual websites are used for rating and reviewing the recruitment agencies. The migrants are not confident enough to use social media platforms due to the fear of publicising their choices. The stories of data misuse and privacy concerns also prevent the workers.

- **Lack of co-ordination and trust among stakeholders**

The governments do not collaborate with other stakeholders and vice versa. The network and data possessed by the CSOs and other stakeholders can be used while developing new applications. The existing RA rating by government agencies does not incorporate migrant and CSO voices. In case of rate and review platforms, a trust deficit between recruitment agencies, platforms and workers is very much visible. If the platforms can educate and train the stakeholders, especially the recruitment agencies, then thereviews can be used for improving the recruitment standards.

RECOMMENDATIONS

- Disseminate information on the existing platforms among existing and prospective migrants through awareness campaigns and orientation programs at pre-departure and post-arrival stages.
- All governments of origin with the support of civil society and recruitment agents should develop platforms that allow migrant workers to rate and review their recruitment experience. The criteria and variables for review should be easily communicable for the migrants
- The governments shall co-ordinate with the civil society organisations to access the reliable and legitimate information collected through social media interactions with the migrant workers. Considering the legitimacy of the information gather via organic interactions, such partnership would benefit all stakeholders.
- Considering the lack of communication literacy among migrants, the platforms should include multi-lingual, offline facilities and audio options. The existing platforms should provide options such as mobile applications, text message services in the rate and review platforms
- The responses of migrant workers on recruitment should be captured before and after the journey separately to understand the issues such as absence of information (disinformation) provided by the recruiters.
- The stakeholders should make sure that the responses of irregular migrants and victims of trafficking are included in the platforms since the regular recruitment from the COOs may become irregular at the destinations.
- The reviews and rating of recruitment agencies should be published and it should be disseminated among the prospective migrants through online and offline modes (through Newspaper advertisements, social media etc)
- Developing partnerships between stakeholders at the local, national and regional level is important to ensure transparency in the recruitment by removing the fraudulent recruiters.
- Transparency in the process of 'rate and review platforms' can be ensured by publishing the criterion and ratings. It would help to attract more recruitment agencies to the system. The support of recruitment agents and their associations/federations are crucial to the success of the platforms. The trust between stakeholders can be built through consultations and training programs.

TELE-JUSTICE: FACILITATING WORKERS' ACCESS TO JUSTICE THROUGH DIGITAL TOOLS

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EXECUTIVE SUMMARY

The most common types of employment disputes that affect migrant workers in GCC countries can be categorised as: non-payment, under-payment or late-payment of wages and benefits; unilateral variation of contract conditions and termination of contracts; levy of illegal charges and unfair fees; breach of standards regarding worker housing, health and safety; and conditions that undermine the psychological and general social welfare of workers. In exploring how digital tools can be used to facilitate expanded and enhanced migrant access to justice, key factors need to be analysed, including: operational and practical challenges and impediments; existing and structural causes of lack of access to justice; prevention of injustice as best form of access to justice; and mitigating and remedial options and opportunities provided by technology. The main systemic factors that undermine access to justice are: the rigidity of court systems, a problem common to many jurisdictions globally; the unbalanced employee-employer relationships inherent in migrant labour relations in the Middle East.

Access to justice is not a single act or incident, but a process on a continuum. As such it should be approached in a broad sense, rather than a narrow focus on adjudication and litigation. Labour relations reforms are crucial in facilitating access to justice for migrant workers. The best way to provide access to justice to migrant workers is to prevent injustice befalling them in the first place. Thus technology should be used proactively to promote access to justice.

Judicial administrations and court systems across the world are faced with the common issue of rigid formalities and procedures, leading to backlogs and delays and limitation to access to justice, especially for disadvantaged groups such as low-income migrant workers. A number of specialist IT companies and global corporations have developed versions of court management and digital court systems. The tech-based digital solutions have in-built potential to enhance the delivery of justice through improved accessibility, affordability, speed and fairness of judicial services.

United Arab Emirates is a good case study of tele-justice in the Middle East. It introduced e-Trials in 2017 across a range of civil disputes. In 2018, it launched the Abu Dhabi Global Markets (ADGM) courts as fully-fledged digital courts and end-to-end tele-justice system. If best endeavours and technology can be used to enhance commercial dispute resolution, it can also be applied to deliver the rights and entitlements of migrant workers.

Many of the operational problems that impede access to justice for migrant workers are well documented. The paper examines how digital tools can improve operational aspects of migrant access to justice, from preventative,

administrative, adjudication and litigation perspectives, covering: Wage Protection Systems; Online Dispute Resolution; User-Friendliness of Options for Access; Deterring Malicious and Vexatious Claims; Reducing Non-Compliance and Weak Penalties; and Prevention of Injustice.

For migrant workers in the Middle East, access to fair and enforceable contracts, and flexible visas and work permits is the fount of justice. This is what labour and Kafala reforms are seeking to deliver, and success will largely be dependent on the use of technology. The Saudi government is explicit in indicating that its new Labour Relations Initiative (LRI) shall rely on the use of digital tools. The reform process can be improved significantly through use of technology especially for: Interoperability and Worker Protection; Personalised Alerts and Permit Renewals; and Monitoring and Management of Breaches.

1. Common Employment Problems Faced by Migrant Workers

The Gulf Cooperation Council (GCC) countries which are part of the Abu Dhabi Dialogue (ADD) are home to over 20 million migrant workers, with the highest percentage of these migrants employed in domestic work, construction, hospitality and other low income occupations. This paper analyses the main underlying factors that lead to these migrant workers not accessing justice. It also highlights how existing and emergent technology can be used to address both the operational and systemic impediments to access to justice.

The most common types of employment disputes that affect GCC migrant workers can be categorised into the following:

- Non-payment, under-payment or late-payment of wages and benefits
- Unilateral variation of contract conditions and termination of contracts
- Levy of illegal charges and unfair fees
- Breach of standards regarding worker housing, health and safety
- Conditions that undermine the psychological and general social welfare of workers.

Plans, projects and actions for tele-justice for migrant workers will be more effective if they focus on these most common and well documented forms of migrant labour problems. Between 2008 and 2011, 75 percent of Indonesian migrant workers returning home from GCC countries reported having employment problems. The problems related to non-payment of wages (22 percent), loss of contract (20 percent) and employment being different from contract terms (11 percent)¹.

In 2018, the International Labour Organization (ILO) indicated that the most pressing problems in the construction sector were: casual labour contracts and subcontracting; late and non-payment of wages; and inadequate health, safety and welfare provisions² pertaining to both physical and mental wellbeing.

In 2020, Migrants-Rights.Org provided an assessment of common problems faced by domestic workers in the GCC. In addition to the old problems of non-payment of wages and misrepresentation of contract terms, migrant domestic workers reported that they were suffering from overwork, restricted mobility, communication restrictions and social isolation³.

In the past decade, like other people around the world, migrants have become dependent on mobile telephones, social media and online platforms, not only for work related transactions, but also for day-to-day family and community relations. It is not surprising that communication restrictions have now emerged as a major problem perceived by migrant workers. The Consultations during the 13th Summit of the Global Forum on Migration and Development (GFMD) hosted by the United Arab Emirates, proposed that access and affordability of communication technology should be viewed as basic welfare rights in the current cyber-age in which we live⁴.

¹ Farbenblum, Bassina, Taylor-Nicholson, Eleanor and Paoletti, Sarah H. (2013), Migrant Workers' Access to Justice at Home: Indonesia, New York, Open Society Foundations – pages 53-55 https://www.researchgate.net/publication/280570050_Migrant_Workers_Access_to_Justice_at_Home_Indonesia

² Wells, Jill (2018), Exploratory study of good policies in the protection of Construction Workers in the Middle East: White Paper, Geneva and Beirut, International Labour Organization https://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_618158.pdf

³ 2020 Mapping of Domestic Worker Resources by Migrants-Rights.Org <https://www.migrant-rights.org/2020/01/new-mapping-of-rights-resources-for-domestic-workers-in-the-gcc/>

⁴ GFMD Roundtable Background Paper: Leveraging New Technologies to Empower Migrants (December 2020)

With the outbreak of the COVID-19 pandemic, migrant worker problems were exacerbated. Overcrowded and unsanitary housing became potential hotspots of infection⁵. Halt to projects, the general economic and financial uncertainty faced by employers, and repatriation of workers led to what advocacy organisations⁶ and the media⁷ refer to as incidents of extensive and massive migrant wage theft. On the other hand, the pandemic accelerated the usage of digital tools for public administration, commercial transactions and social relations, highlighting the opportunities for tele-justice as a practical and cost-effective means for migrant access to justice.

It is important to note that the COVID-19 pandemic worsened the extent, expanse and intensity of the legal plight of migrant workers, but the nature and types of contractual breaches and abuse of rights as identified above have remained the same. In exploring how digital tools can be used to facilitate expanded and enhanced migrant access to justice, key factors need to be analysed, including:

- Operational and practical challenges and impediments
- Existing and structural causes of lack of access to justice
- Prevention of injustice as best form of access to justice
- Mitigating and remedial options and opportunities provided by technology.

1.1 Underlying Structural Factors that Undermine Access to Justice

Amongst the Abu Dhabi Dialogue (ADD) member states, the six GCC countries and Malaysia are the seven main migrant receiving countries. All of these countries have legislation and regulations of varying strength regarding migrant worker protection. Amongst other things, these laws, regulations and rules entail provisions and guarantees including:

- Standard worker contracts
- Paid annual holidays and end-of-service entitlements
- Minimum wage and overtime rates;
- Days off per week, period of rest and maximum working hours
- Prohibition of charging of recruitment fees
- Prohibition of passport confiscation, and
- Dispute mediation and resolution frameworks⁸.

Despite these laws, access to justice is relatively low. One of the factors for this state of affairs is the fact that beyond implementation and enforcement challenges there are underlying structural factors that undermine and impede access to justice for migrant workers. These entrenched disablers and impediments need to be addressed substantively; otherwise migrant workers will remain largely excluded from accessing legal and judicial redress, be it through in-person processes or usage of digital tools.

<https://www.lse.ac.uk/iga/assets/documents/research-and-publications/GF-Background-Paper-3-on-Technology-Dec-2020-FINAL.pdf>

⁵ <https://www.amnesty.org/en/latest/campaigns/2020/04/covid19-makes-gulf-countries-abuse-of-migrant-workers-impossible-to-ignore/>

⁶ <https://justiceforwagetheft.org/en/page/c1cu5etilr>

⁷ Reuters report; 9 September 2020: 'South Asian migrant workers seek justice as wage theft worsens under coronavirus'
<https://www.reuters.com/article/us-india-migrants-wages-insight-trfn-idUSKBN26000L>

⁸ See '2020 Mapping of Domestic Worker Resources by Migrants-Rights.Org' and Harkins, Benjamin and Åhlberg, Meri (2017), Access to Justice for Migrant Workers in South-East Asia, Bangkok, International Labour Organization

The two main underlying structural disablers are systemic problems, namely: the general formality of judicial administration and the rigidity of court systems, a problem common to many jurisdictions across the world and not unique to the Middle East; and the unbalanced employee-employer relationships inherent in migrant labour relations. As such, this paper examines how tele-justice and digital tools can minimise general access to justice challenges, as well as mitigate imbalanced labour relations.

2. Digital Judicial Systems and Virtual Courts

Judicial administrations and court systems across the world are faced with the common issue of rigid formalities and procedures, leading to backlogs, delays and limitation to access to justice, especially for disadvantaged groups such as low-income migrant workers. In the past few decades, attempts have been made to use technology to improve effectiveness and accessibility of courts and tribunals. As in most aspects of public administration, elements of Information Technology are now routine part of court systems, covering functions such as case management and documentation, and limited forms of video-link court proceedings. However, despite the major advances in technology, fully-fledged digital courts or tele-justice platforms have not become commonplace.

In the five years before the COVID-19 pandemic, a number of specialist IT companies and global corporations such as Fujitsu, Cisco and Microsoft had developed versions of court management and digital court systems. In 2016, Microsoft published an article on how “justice systems around the world are moving away from legacy IT systems and paper-based procedures to embrace digital technologies....redefining the ways in which justice is delivered.....to be more efficient, fairer, and less expensive”⁹.

The article addressed how digital technology addresses the systemic access to justice problems such as: ever growing number of cases; mismatch between increase in cases and availability of judicial resources in the form of officials, time for proceedings and physical spaces; inefficiencies and increasing costs associated with dependence on printed paper documentations; missing documents and absence of centralised access; risks and corruption associated with missing records, document tampering and general lack of transparency. These inevitably lead to chronic backlogs and the delay and denial of justice. As always, disadvantaged groups such as low-income migrant workers bear the brunt of the negative effects and exclusion that arise from strained judicial systems. The tech-based digital solutions have in-built potential to enhance the delivery of justice through improved accessibility, affordability, speed and fairness of judicial services.

2.1 Case Study of Tele-Justice in the Middle East

Judicial portals “.....are already in use in the UK, the Netherlands, and across the Nordic region. In Argentina.....the Augusta System allows users to upload or download legal documents, with digital signatures.....users can search for files.....download or stream videos related to their case. Launched in 2016, the Augusta System already serves 200,000 users a month and promises to improve court efficiency dramatically in the years to come.....It is worth noting that commercial courts in countries such as Dubai and Qatar, which built a modern digital infrastructure from scratch, are in a stronger IT position than courts in places that are saddled with legacy systems”¹⁰

The 2016 analysis by Microsoft was borne out by the groundbreaking introduction of e-Trials in the UAE in 2017, which is a good case study of tele-justice in the Middle East.

⁹ Microsoft article; 30 October 2016: 'How Digital Justice Is Transforming the Justice System': <https://news.microsoft.com/en-xm/2016/10/30/how-digital-justice-is-transforming-the-justice-system/>

¹⁰ ibid

Beyond the facility for e-Trials across a range of civil disputes, fully-fledged digital courts were also introduced for commercial litigation. The implementation experience and digital functionalities used in commercial tele-justice are relevant and applicable to migrant employment disputes. The COVID-19 pandemic and the necessity of remote proceedings provided an impetus for wider use of virtual courts. Current and ongoing labour reforms in the Middle East also serve as the policy basis and framework to apply new technology to access to justice challenges faced by migrant workers. UAE promulgated Federal Decree No. 10 of 2017 amending the Civil Procedures Law, allowing:

“the use of remote communication technologies, known as “e-Trials”, into civil proceedings.....The aim of the Law is to further promote the rule of law, enhance effective justice, provide for fast-track civil trials and to keep pace with advanced technological changes.....the Law will allow videoconferencing in civil court trials and specialised courts to hear labour, financial, contracting and intellectual property disputes, among other cases.....This Law.....will make trial procedures in the UAE easier, efficient, cost-effective and in line with international best practices”.

“The UAE Ministry of Justice’s strategy is to launch four initiatives, to be implemented over the course of the next four years, to ensure fair and swifter trials whilst ensuring ease of access to justice. By 2021, there will be an online dispute resolution mechanism. The UAE judicial system will see a ‘smart leap’ as it plans to provide electronic trials (i.e., without physical courtrooms), video-conferencing during court hearings, real-time translations in court proceedings via a screen that will connect translators to secretaries of court and judges, and electronic mediation and conciliation services in criminal justice”¹¹

By 2018, UAE had launched the end-to-end tele-justice system for commercial disputes in the Abu Dhabi Global Markets (ADGM) Financial Free Zone. With the outbreak of the COVID-19 pandemic, in April 2020, UAE also introduced virtual courts for criminal cases. Having assessed all the known challenges of traditional non-digital court and dispute resolution systems, the ADGM Courts:

“designed a platform that truly serves local and global investors. The vision was to innovate and identify every opportunity to improve the way that a court interacts with opposing parties and their legal advisors....The court is now accessible 24/7 from anywhere in the world, so we know no geographical or time boundaries. You can register, submit documents, file and pay online, and utilize Skype-enabled trial hearings from remote locations.....manage and visualize the judicial process workflow.....This technology-based system will enable judges and court professionals to operate in a judicial system that lets them do more daily. They also have a truly unique embedded evidence bundle and that is no cost to the parties, so they can interact with the court and produce the evidence they need to manage their cases extremely quickly”¹³

The ADGM courts are highlighted in this paper to emphasise the point that if best endeavours and technology can be used to enhance commercial dispute resolution, it can also be applied to deliver the rights and entitlements of migrant workers. The ADGM courts demonstrate the fact that the technology and digital tools already exist to optimise access to justice. Policy aspirations to improve access to justice for migrant workers can be translated into reality through the adoption and adaption of existing digital tools.

¹¹ Article by law firm; November 2017: ‘Introducing smart e-Trials into the UAE judicial system’: <https://www.tamimi.com/law-update-articles/introducing-smart-e-trials-uae-judicial-system/>

¹² News article; April 2020: ‘Virtual courts to dispense digital justice in Abu Dhabi’: <https://www.thenationalnews.com/uae/courts/virtual-courts-to-dispense-digital-justice-in-abu-dhabi-1.1001909>

¹³ Microsoft news; August 2018: ‘Abu Dhabi Global Market (ADGM) Courts: Pioneering digital transformation in the legal and justice system’: <https://news.microsoft.com/en-xm/2018/08/14/abu-dhabi-global-market-adgm-courts-pioneering-digital-transformation-in-the-legal-and-justice-system/>

2.2 Using Technology to Overcome Operational Challenges

Many of the operational problems that impede access to justice for migrant workers are well documented, and over the years, various recommendations have been offered, and in some cases adopted. The fact that the problem of inadequate access to justice persists indicates that the recommended solutions are not fully implemented, and/or are not by themselves adequate. This reality reinforces the importance of continuous improvement, especially to adopt and harness the benefits of ongoing technological innovations and advances.

Having analysed the recommendations produced by various organisations in the past decade on how to improve migrant access to justice, it is possible to see how some of these proposals can be optimised through the application of digital tools. However, laws and regulations will never be perfectly implemented and disputes are inevitable. This paper examines how digital tools can improve operational aspects of migrant access to justice, from preventative, administrative, adjudication and litigation perspectives, as discussed below:

I. Wage Protection Systems

With Bahrain introducing a Wage Protection System in 2021, all the GCC countries now have WPS, with experience going back to the first scheme by UAE in 2009. Potential tech-based improvements of WPS include:

- Use of simplified apps and online forms to enrol all categories of employers, and provide protection to all employees including domestic workers;
- Improve the effectiveness of the penalty system by requiring repeat offenders easily identified using technology to 'deposit' pre-payments on the system, such that defaults or delays would not automatically translate to non-payment of migrant worker salaries;
- Use Artificial Intelligence (AI) functionalities to monitor general contractual salary compliance, beyond just minimum wage checks;
- Use data analytics of the sectors with the highest incidents of payment delays and wage theft to model and initiate longer term solutions such as: general salary pre-payment deposits by employers; end to 'pay when paid' practices by subcontractors; and viable State-supported dispute compensation schemes for small scale employers.

II. Online Dispute Resolution Platforms

The provision of pre-litigation dispute resolution services is generally deemed to be a useful way of providing justice to migrant workers. These mediation and conciliation services are mainly administrative rather than juridical processes, but they still follow set formalities and procedures. They are also used widely in the commercial world, which has led to the development of integrated Online Dispute Resolution (ODR) systems and platforms.

ODR technology, with its multi-language, remote access and affordability features can improve access to justice for migrant workers. Migrants can lodge and pursue claims even if they are outside the country. It also increases their options to get specialist, legal aid and pro bono technical and legal assistance from diverse institutions and organisations, as these professionals also need not be physically present at a given location.

In a similar vein, labour courts should be digitised to harness technological benefits including: automated electronic scheduling, notifications and reminders sent to parties, lawyers, nominated representatives, interpreters etc; automated archiving and document retrieval; easy access to past judgments and analytical data on orders and awards, to reduce bias and disparities in judgements.

¹³ These organisations include ILO, Migrant Forum Asia (MFA), MigrantRights.org and Justice Without Borders

III. User-Friendliness of Options for Access to Justice

The principle of ‘privity of contract’ provides that in general, only contracted parties can lodge legal cases for breach¹⁵. This means that migrant workers who are victims need to have good knowledge of the options and legal protections available to them in order to seek to access justice. Given the general imbalance in bargaining power between the migrant employee and the corporate or domestic employers, this level of knowledge and understanding of options need to be quite high before an employee would ‘risk everything’ to lodge a complaint.

The popularity and high usage of social media and Fintech apps by migrant workers is evidence that the user-friendly technology exists, and these sectors provide lessons on how to engage effectively with migrants for them to gain required knowledge and understanding of platforms and functionalities.

Technology can be used to provide amongst other things: approved translations and audio-visual options of information, guidance, procedures and forms relating to access to justice; profile-related targeted advertisement of information on rights and options; simplified app-type multiple choice forms, and dashboard-type summary data. These and other techniques have been successful commercially and can be used for migrant worker awareness-raising. Furthermore, for migrant workers who have provided registered mobile numbers to the State authorities, they can proactively receive tailored information about all aspects of their rights and welfare, including multilingual help-lines and legal advice.

IV. Deterring Malicious and Vexatious Claims

Actual and threats of false accusations of criminal conduct such as theft has been a method used by unscrupulous employers to exploit and deny justice to migrant workers. This ruse is effective in undermining legal protection of migrants as the victims are deterred from lodging or pursuing complaints. Technology can be deployed to reduce this form of abuse by using:

- Data analytics and social research to identify and flag up particularly vulnerable migrant workers, including women in domestic work, who can be afforded greater protection when claims are made against them;
- Automated alerts to contact migrant rights and other support agencies when accusations against migrant workers are lodged;
- Automated cross agency data search and analysis to flag up previous court cases and other complaints by or against employer claimants, so as to undertake cautionary reviews to prevent abuse of process.

V. Reducing Non-Compliance and Weak Penalties

Even when migrant workers win their cases, justice can be delayed or denied through slow or non-enforcement of judgments and orders against employers. A related problem is that in practice, non-compliance of orders does not lead to aggravated penalties, and the penalties in general are too weak to serve as effective deterrence against further and future breaches and abuse.

Technology can help address these problems through: automated, repeated and continuous red-flagging and alarms regarding cases of non-compliance, preventing closure of not only specific non-compliant cases but related caseloads as well, thereby creating urgency for escalation and action; automated alerts and reminders leading to the publication of the names and judgment details of non-compliant employers in local publications and their social media networks; using non-compliant data analytics for periodic review and amendment of penalties.

¹⁵ In the UAE Labour Courts, beneficiaries are recognised as eligible to lodge complaints

VI. Prevention of Injustice

The prevention of injustice is the best form of access to justice. This is particularly the case with migrant workers who are relatively vulnerable as a group of potential litigants. Only a small percentage of aggrieved migrants embark on the formal processes of complaints, mediation, arbitration and litigation. By default, the majority of aggrieved migrants may not be accessing justice.

Due to the ‘privity of contract’ principle, legal complaints are generally restricted to individual complaints. With restrictions on trade unionism and collective bargaining, access to justice for group and collective grievances is limited. As such, it is important that State authorities, regulators and support institutions proactively deploy technology and digital tools to prevent injustice against migrant workers.

A range of technological tools from data and image analysis, to AI can be used to predict, pre-empt and prevent injustices faced by migrant workers in areas such as: housing and sanitation; health and safety at work; human trafficking; non-prosecution of crimes against migrants; unfair and prejudicial criminal prosecution of migrants; harsh and disproportionate punishment of migrant convicts.

3. Labour Relations Reform and Justice for Migrant Workers

As discussed above, despite the existence of laws, mediation and conciliation services, the common forms of abuse of migrant worker rights persist. This is partly due to the inherent imbalance in labour relations in the Middle East¹⁶. Discussions and debates about this systemic issue have informed ongoing labour relation reforms in GCC countries, including changes to Kafala sponsorship rules regarding visas and permits, and migrants being allowed to move from one to another employer. The COVID-19 pandemic worsened the problems faced by migrants¹⁷, but have also provided impetus for further reform, with technology being deployed as an enabler in improving labour relations.

In 2017 Bahrain introduced a 2-year flexi-permit allowing migrants to work without needing a sponsor. At the onset of the pandemic, in April 2020, Bahrain also announced an amnesty enabling migrant worker visa regularisation¹⁸. In August 2020, Qatar adopted Law 19 of 2020 on migrant labour, which the International Labour Organization (ILO) described as the beginning of a new era regarding the Kafala reform¹⁹. In November 2020, the Kingdom of Saudi Arabia launched the ‘Labour Reform Initiative’ which the Philippines Department of Foreign Affairs described as a progressive move²⁰.

¹⁶ ILO (2017), Employer-migrant worker relationships in the Middle East: exploring scope for internal labour market mobility and fair migration, Beirut, International Labour Organization https://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_552697.pdf

¹⁷ United Nations (2020), Impact of COVID-19 on Migrants and Refugees in the Arab Region - Technical Paper, Beirut, United Nations https://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_764756.pdf

¹⁸ MigrantRights.org new report 3 April 2020: <https://www.migrant-rights.org/2020/04/bahrain-announces-amnesty-for-irregular-migrants-and-cuts-in-flexi-permit-fees/>

¹⁹ ILO statement, 30 August 2020: ‘Dismantling the kafala system and introducing a minimum wage mark new era for Qatar labour market’ https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_754391/lang--en/index.htm

²⁰ Philippines government statement, 6 November 2020: ‘DFA Welcomes Saudi Arabia’s New Initiative to Abolish Kafala System for Migrant Workers’ <https://dfa.gov.ph/dfa-news/statements-and-advisories/update/28121-dfa-welcomes-saudi-arabia-s-new-initiative-to-abolish-kafala-system-for-migrant-workers>

3.1 Use of Technology and the Access Justice Continuum

In 2017, ILO proposed a number of specific evidence-based labour-reform measures to amongst other things, promote 'fair migration' and address the root causes of the common legal problems faced by migrant workers²¹. To a large extent, the 2020 Qatar reforms which came into effect in March 2021 seek to achieve the common goals articulated in the ILO paper. If these and other developments in labour relations are implemented effectively, the positive effects will include: protection of the fundamental rights of migrant workers; reduction of the common legal problems faced by migrants; and reduction in the need for migrants to seek redress through adversarial litigation. These outcomes form part of the complement of 'justice for workers'. As such, there is merit in taking a broad view of how technology can be used to facilitate access to justice for migrant workers. Effective implementation of any or all aspects of progressive labour policies is part of the facilitation of workers' access to justice.

- Access to justice is not a single act or incident, but a process on a continuum, including amongst other things:
- Advocacy and development of policies and frameworks
- Promulgation of laws and regulations
- Awareness-raising amongst parties and stakeholders affected
- Practical implementation and application of legal provisions
- Monitoring of compliance and breaches
- Mediation, adjudication and litigation of lapses and breaches
- Enforcement of legal penalties and remedies.

Technology and digital tools can play important roles at every stage of the access to justice continuum, including the facilitation of measures that prevent breaches and obviate litigation, as discussed below.

3.2 Technology and Proactive Access to Justice

It is arguable that the best way to provide access to justice to migrant workers is to prevent injustice befalling them in the first place. This proactive approach is important for a number of reasons, namely:

- The process of litigation and court action tends to take a long time and cost lots of money, thereby causing severe strains on low-income migrant workers;
- Disputation and litigation are by nature disruptive and stressful, and can be distressing due to its innate adversarial nature;
- Tribunal and court cases are not based on facts alone, but operate on procedural rules, meaning that cases can fail due to technicalities even if the evidence of breach and injustice exists.
- Litigants with good cases and professional legal representation are not guaranteed to win; and even if they win, satisfactory enforcement of orders and remedies may not happen expeditiously, if at all.

Technology can be used proactively to deliver justice to migrant workers. This is particularly important in the context of labour relation reforms in GCC countries, including recent developments in Qatar and Saudi Arabia. The systemic changes are amenable to being strengthened and entrenched through the use of digital tools to facilitate amongst other things, easy migrant access to the new legal rights and provisions, and monitoring and promotion of take-up amongst migrants. This is already beginning to happen through the actions of civil society organisations and migrant networks using online and social media platforms. Digital tools can speed up the expansion and successful usage of these rules, thereby heralding a new era of fairer labour relations in the Middle East.

²¹ ILO (2017), Employer-migrant worker relationships in the Middle East: exploring scope for internal labour market mobility and fair migration, Beirut, International Labour Organization https://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_552697.pdf

3.3 Digital Access to Fair Contracts and Flexible Visas

For migrant workers in the Middle East, access to fair and enforceable contracts, and flexible visas and work permits is the fount of justice. This is what Kafala and labour relation reforms are seeking to deliver, and success will largely be dependent on the use of technology. The Saudi government is explicit in indicating that its new Labour Relations Initiative (LRI) shall rely on the use of digital tools, stating that:

“LRI also activates the contractual agreement between the employee and employer based on their employment contract through digital documentation of those contracts.....Final Exit Visa reforms allow the expatriate worker to leave the Kingdom after the end of the employment contract without the employer's consent, and will notify the employer electronically.....services will be made available to the public through the smartphone application (Absher) and (Qiwa) portal.....”²²

Technology is already widely used for visa applications, but less so in contract management. To harness the benefits of emergent reforms and other improvements in labour relations, technology can be deployed to optimise migrant workers' access to options, opportunities and justice through a range of measures, including the following:

I. Interoperability and Worker Protection

One of the reasons for systemically tying migrant workers to employer-sponsors was supposedly to ensure that the migrants are in the jurisdiction as genuine workers. Despite the shortcomings of existing systems, it is evident that to protect workers, focus should be on the authenticity of the employers, and by extension the recruitment agencies.

Digital tools can be used to achieve interoperability between different government, regulatory and other bodies to identify employers and agents. Artificial Intelligence (AI) can analyse their record on compliance, breaches, disputes etc. This will enable labour authorities to raise concerns, undertake pre-emptive enquiries, and provide intelligence-based advice and guidance to migrant workers. Technology makes it easier to implement GFMD call for “multi-stakeholder approach [to] ensure that verified data can come from national law enforcement and judicial sources, specialist international and non-governmental organisations, and other reputable sources”²³

II. Personalised Alerts and Permit Renewals

New digital functionalities can be added to existing visa and migrant permit platforms to improve access to rights and entitlements. With the authorities aware of expiry dates of visas and permits, pre-set text messages or email alerts can be sent to migrant workers, reminding them of these dates. These can be sent, for example at intervals of 12, 4 and 1 week before the expiry date.

Furthermore, the alerts can have other features such as: being also sent to a lawyer or other representative nominated by the migrant applicant; and information, guidance and even the permit renewal portal being presented in a language chosen by the migrant applicant. Such proactive personalised service and support can reduce the lapses that lead migrants to fall into irregular status and loss of rights.

²² Update from Saudi Ministry of Human Resource and Social Development (HRSD), 4 November 2020: <https://hrsd.gov.sa/en/news/ministry-human-resources-and-social-development-launches-labor-reforms-private-sector-workers>

²³ GFMD Roundtable Background Paper: Leveraging New Technologies to Empower Migrants; December 2020 <https://www.lse.ac.uk/iga/assets/documents/research-and-publications/GF-Background-Paper-3-on-Technology-Dec-2020-FINAL.pdf>

III. Monitoring and Management of Breaches

Labour reforms and changes in law do not by themselves translate automatically to real changes in practice. This fact is recognised by all parties including the governments that initiate the legal and regulatory reforms. New technology provides the tools for more extensive and intensive monitoring of the acts, omissions and breaches that degrade and diminish migrant worker rights. AI and other tools can be used to search, analyse and report on multiple sources of information, including mass and social media reports, law enforcement and judicial sources. Such monitoring can focus on known and new forms of breaches, leading to preventative and remedial measures to expand and improve migrant access to justice.

4. Conclusion: Technology, Options and Cooperation to Access Justice

Technology is not of itself the solution to justice-related problems, but it offers tools, facilities, options and opportunities to improve access to justice for migrant workers. The digital tools function within the framework of existing laws, policies and practices. Thus, policy advocacy and development cannot be replaced by technology; instead, the tech tools serve as powerful catalysts and enablers that can positively transform not only the delivery of justice, but also the prevention of injustice.

Given its complex nature, matters related to access to justice need to be approached in a broad sense, rather than a narrow focus on adjudication and litigation. Access and delivery of justice requires cooperation between diverse parties and partners. For the ongoing work to support migrant workers, again, technology assists to optimise institutional partnerships and collaboration within a jurisdiction, and foreign cooperation, especially between host and countries of origin. Matters such as migration governance, bilateral and multilateral agreements, rights protection, and portability of social benefits are all directly relevant to migrant access to justice.

Although technology is not a panacea by itself, the COVID-19 pandemic has created both challenges and opportunities for the deployment of technology to improve judicial administration and access to justice. This was reflected in the proceedings of the 13th GFMD summit in January 2021:

“Even though the tech-platforms are capable of providing a wide range of services effectively and efficiently, it is important that face-to-face services remain as options and alternatives for those who cannot use tech-platforms. The reality is that a digital divide exists, with certain groups.....having limited capacity and capability to use new technology.....The COVID 19 pandemic has highlighted the need and opportunities for tech-platforms devoted to access to justice for migrants, facilitating remote and online adjudication.....A multi-stakeholder approach can.....[bring] together government agencies, employer federations, employee representatives, legal aid, migrant and civil society organisations, and relevant international bodies”²⁴

²⁴ GFMD Roundtable Background Paper: Leveraging New Technologies to Empower Migrants; December 2020
<https://www.lse.ac.uk/iga/assets/documents/research-and-publications/GF-Background-Paper-3-on-Technology-Dec-2020-FINAL.pdf>