

International Recruitment Consultation Report
Open Society Foundations
John D. and Catherine T. MacArthur Foundation
New York, April 29-30, 2013

The International Migration Initiative of the Open Society Foundations and the Migration Program Area of the MacArthur Foundation hosted a two-day meeting on international labor recruitment on April 29-30, 2013. The purpose of the meeting was three-fold: 1) to take stock of the recruitment work that each foundation has supported to date; 2) to bring together organizations working in the U.S. and internationally to explore commonalities and limitations of various models of interventions and bolster collaboration; and 3) to investigate and refine options for fruitful work in the future. The international recruitment convening is also part of the strategy development processes for the foundations' grantmaking on international labor recruitment.

The meeting brought together experts, advocates, policy specialists, and representatives from international and national organizations to explore commonalities in this work, including a) the nature of recruitment and its impact on migrant workers; b) common forms of abuse; and c) strategies for improving recruitment practices and addressing this abuse. Strategies considered by the convening participants ranged from reform of immigration policy and regulation to litigation; voluntary practices (such as codes of conduct); market-based mechanisms; use of information and communication technologies; and policy research and advocacy. Participants explored the commonalities and differences across regions and strategies, identifying the limitations of different approaches. They discussed the strengths of various efforts and discussed how these efforts might be shared and improved across regions or at the international level.

The foundations commissioned Patricia Pittman of George Washington University to draft a background paper for the convening, entitled "Alternative Approaches to the Governance of Transnational Recruitment." This paper served as a starting point and reference for the discussion.

Background and Problem Statement

Recruitment is a pressure point in the migration process in which workers are particularly vulnerable to abuse and exploitation. Abuse of migrant workers by smugglers, recruiters, and employers is widespread, occurs across different employment sectors and regions, and affects both high and low-skilled workers. Forms of abuse range from wage theft and fraud to indebtedness, and, in the most egregious cases, to outright forced labor and human trafficking. Progress has been elusive, however, with respect to attempts to systematically improve recruitment practices across sectors and skill levels. Participants agreed that there is a governance gap at the international level in the regulation of migrant recruitment. In most parts of the world, this gap extends to the national level as well.

Recruitment is a common facet of international labor migration. The recruitment industry in most sectors is highly fractured and diffuse, with many formal and informal labor brokers forming "hiring chains" that operate across national boundaries. Most recruiters serve as "middlemen" linking employers with workers, though in some cases employers recruit workers directly. Participants

discussed how the expanded reach of transnational companies and the increase in labor mobility have made regulation by any single entity, including states, difficult. The result is a power imbalance between transnational corporations and migrant workers and their communities.

While much focus has been placed on large multinational corporations as *employers* of migrant workers, there has been less interest in large companies that have entered the business of recruitment to directly engage and contract workers for these employers. In fact, there are few very large multi-national recruitment companies; Manpower and Adecco are two exceptions, though some large recruitment companies also exist in the health sector such as AMN Healthcare, which is publicly traded on the New York Stock Exchange. Manpower, Adecco and AMN Healthcare are major multinational corporations that help businesses fill their staffing needs. Some participants speculated that involvement of other large corporations in the recruitment business might help improve practices, under the assumption that large corporations would be more likely to adopt transparent and ethical practices, a supposition that would need to be tested.

Participants discussed the increasing involvement of organized crime in labor hiring chains, particularly in the Central America-Mexico-U.S. corridor, a circumstance that further complicates the regulation of recruitment and the enforcement of existing laws. In addition to organized crime, recruitment in Mexico is also characterized by a large number of informal brokers and fraudulent recruiters. Unauthorized migration from Mexico to the U.S. has fallen sharply in recent years. Some analysts ascribe this decrease to increased employment opportunities and falling birthrates in Mexico. It is also likely triggered by an increase in U.S. border enforcement and the threats to migrants from organized crime. Meanwhile, migration from Central America to Mexico is growing. In contrast, the Asia – Middle East corridor is characterized by migration through (legal) temporary work programs facilitated by a variety of private recruiters. In some cases, governments collude with recruiters to defraud workers. Involvement of criminal gangs in this region's migrant worker recruitment is limited. However, the regulation of recruitment practices and working conditions is weak.

Presenters at the convening described how the fragmented nature of the recruitment industry, and the difficulty of regulating activities across multiple jurisdictions contribute to workers' vulnerability. Common problems include frequent denial by employers of workers to access copies of their employment contracts. In the Asia - Middle East corridor, more common than the inability to access contracts is 'contract substitution', whereby a new employment agreement – usually with poorer terms and lower remuneration - is substituted for the one signed by the worker before he or she leaves the country of origin.

Employers often retain control of workers' passports and other identity documents. Research by a range of organizations and experts indicates that in many sectors workers are charged illegal fees in return for a job, sometimes posting personal property as collateral. In these instances, workers can become severely indebted, working for long periods to pay off fees. Discrimination based upon age and gender is also common in many industries. The asymmetry in power and information between recruiter, employer, and worker frequently results in an atmosphere of fear for the workers. In addition, such circumstances often prevent workers from leaving the employment situation or bringing legal charges, further increasing migrants' vulnerability.

All of these factors result in (a) an increase in the abuse of human and labor rights of migrant workers on the one hand, and (b) a lack of transparency in the recruitment process and weak accountability for

recruiters and employers on the other. Ultimately, this system diminishes the potential benefits of migration for workers, employers, countries of origin, and countries of destination. Workers themselves bear a disproportionate share of the direct costs, while employers and recruiters are also exposed to reputational and business risks that can affect profitability. States also bear some of the cost due to the likelihood of increased criminality and compromised integrity of immigration policy and programs. Moreover, reduced labor standards and lower wages for migrant workers can lower standards and wages for native-born workers.

Actors and Mechanisms Addressing Recruitment Abuses

The meeting explored a number of actors and mechanisms that seek to address recruitment abuses. At present, these efforts are largely limited to discrete examples in distinct sectors, regions, and migration corridors. Participants generally agreed that international recruitment is a key problem, which has not, until recently, received focused attention at the international level. No international governance mechanism or civil society movement exists to set norms or standards, nor to advocate for improved recruitment practices systematically at a regional or global level. This moment in time may be ripe to build on new signs of momentum, including interest by states and other actors, in addressing recruitment in a number of geographic corridors.

Participants generally agreed that states hold the primary responsibility for regulating international labor recruitment and protecting workers from abuse, but also recognized that civil society plays a key role as a “watchdog.” International agencies such as the International Labor Organization (ILO) and International Organization for Migration (IOM) can help set norms and standards; in some cases, they also monitor and report on compliance. The degree and effectiveness of state regulation varies by country and by migration corridor. Regulation is particularly weak in Central America, Mexico, as well as Asia and the Middle East. In the U.S., some laws and regulations exist to oversee recruitment practices, but these could be strengthened, and enforcement is often lacking.

Some participants called for greater government cooperation and collaboration to more effectively manage labor migration and recruitment. Such action might include the drafting of a regional agreement containing minimum parameters for working and recruitment conditions in order to prevent a “race to the bottom” among countries of origin. Some participants recommended a legislative approach, with statutes outlining minimum wage and labor standards, provisions for the portability of visas among employers, and requirements that employment contracts be approved by both countries of origin and destination. Canada and Mexico’s joint Seasonal Agricultural Workers’ Program, in which the Mexican National Employment Service serves as the recruiter, was cited as one example of effective government-to-government cooperation. Additional examples of state regulation that incentivize improved recruitment and labor supply chain management are the U.K.’s Gangmaster’s Licensing Authority, Canada’s Worker Recruitment and Protection Act, and the 2010 California Transparency in Supply Chains Act.

While serving as the main regulator, states can also create conditions conducive to improved recruitment practices by leveraging their public procurement and temporary worker programs to improve recruitment practices. States can also provide benefits to “ethical” or pre-certified recruiters by offering them lower licensing fees or expedited visa processing for the workers they seek to recruit.

In the U.S., approximately 700,000 to 900,000 workers enter each year through a myriad of temporary work visas, covering both low and high wage workers, as well as employment for students and cultural exchange programs (the J-1 visa).¹ Regulatory authority is similarly spread across government agencies, including the Departments of State, Homeland Security, Labor, and Agriculture. The system is characterized by a lack of common understanding across agencies and visa categories, and limited communication between agencies.

Migration corridors also vary according to the degree of legal versus illegal labor migration. In the U.S., only a small fraction of foreign agricultural workers are employed through the H2-A program designated for this sector. The remainder of the foreign agricultural workers, who number in the hundreds of thousands, come to the U.S. illegally, primarily from Central America and Mexico, and many of them have been residing in the U.S. for many years. If comprehensive immigration reform legislation is enacted in the U.S., legal channels for migrant agricultural and other temporary laborers could expand significantly. At present, however, given the predominance of unauthorized labor migration in agriculture as well as other sectors such as construction, recruitment in the Central America-Mexico-U.S. corridor tends to be informal, fragmented, and largely outside of government regulation—with involvement of organized crime in the recruitment and smuggling of workers.

The Asia-Middle East and Europe corridors are characterized by a higher share of legal labor migration, occurring through state-sponsored temporary worker programs. Nonetheless, abuses in the recruitment process are common in these corridors.

Participants of the convening discussed how differences in regional flows – including the scope of *authorized* temporary worker programs and volume of labor migration by corridor – impact the types of interventions that are most effective for addressing recruitment abuses.

Governments in countries of origin typically manage licensing schemes for recruiters, and sometimes educate migrant workers through pre-departure trainings designed to inform workers about their rights. These countries may also educate their nationals about any legal claims they may make if they are abused. Some nations offer post-departure programs to track and rescue stranded workers. The Philippines Overseas Employment Agency is the most prominent example of such activity. Though countries of origin often have laws on the books regulating recruitment and making it illegal to charge fees, enforcement can be weak, hampered in part by geopolitical and economic power imbalances between these countries and countries of destination. Governments in countries of origin may also be conflicted between the desire to send workers abroad, so that they may send earnings home, and their responsibility to offer protections to their nationals and uphold their domestic law.

There is a role for advocacy and watchdogs to encourage governments to step up enforcement. In 2011, Mexico passed a new Migration Law, which extends protections for migrants coming to Mexico, and grants them access to services such as health and education. Regulations for implementing this law have just recently been issued; NGOs in Mexico played an important role in providing input both on the design of the law and issuance of these regulations. They will continue to advocate for improvement of the law and for its enforcement. Mexico's labor law covers recruitment. Some NGOs have begun to advocate for greater enforcement of Article 28 of this law, which governs employment contracts.

¹ "Visas, Inc.," Global Workers Justice Alliance, 2012, 8.

In recent years (and in some regions, such as the Middle East and Asia), interest has increased in negotiating bilateral agreements between countries of origin and destination. There are many examples of bilateral agreements signed between origin and destination countries in the Asia - Middle East corridor. The Philippines is perhaps the most noteworthy example of a country of origin that has pursued a strategy involving forging bilateral agreements; it has signed agreements with more than a dozen destination countries. For example, in 2007 it signed a memorandum of understanding with the United Arab Emirates formalizing the bilateral relationship on temporary “manpower” and specifying that temporary workers and employers are subject to both Philippine and UAE labor law.

Bilateral agreements are typically arrangements intended to harmonize regulations and strengthen enforcement mechanisms. It is too early to judge the effectiveness of these efforts, but some participants expressed skepticism over the effectiveness of bilateral agreements in protecting workers. Bilateral agreements tend to be “toothless” in the sense that they are difficult to enforce, especially given power imbalances between countries of origin and destination. Concerns have also been raised about the fact that bilateral agreements may allow for preferential treatment of certain nationalities of workers rather than raising minimum standards for the migrant workforce as a whole.

Paths to Progress

Norms and Standards

International organizations such as the United Nations, ILO) and IOM can play an important role in setting norms and standards, guiding states, and harmonizing approaches across countries and regions.

The UN Guiding Principles for Business and Human Rights, unanimously endorsed by the UN Human Rights Council in 2011, lay out principles regarding the state’s responsibility to protect human rights through regulation and other means, on the one hand, and the responsibility of business entities to respect human rights in their operations, on the other. These principles do not directly address recruitment.

Building on the UN Guiding Principles, the Dhaka Principles for the Responsible Recruitment and Employment of Migrant Workers were developed by the Institute for Human Rights and Business (IHRB) after wide consultation and are supported by business, government, trade unions and civil society. The Principles were first shared publicly at a migration roundtable in Dhaka, Bangladesh, in June 2011.

The Dhaka Principles, which are currently being applied by companies such as Ikea, Coca-Cola, Shell and Nike, provide a roadmap that traces the worker from recruitment, through employment, to the end of the employment contract. They define key principles that employers and migrant recruiters should respect at each stage in the process to ensure migration with dignity.

The ten principles are based on two core pillars: that all migrant workers are treated without discrimination, and enjoy the protection of employment law. The ten principles include the following:

- 1) workers are not charged fees for recruitment or employment;
- 2) workers are provided with written contracts that are clear and transparent;
- 3) migrant worker rights are explicitly referred to in employer and recruiter policies and statements;
- 4) no worker passports or documents are withheld;
- 5) wages are paid directly, regularly and on time;

- 6) the right to worker representation is respected;
- 7) working conditions and living conditions are safe and decent;
- 8) workers have access to judicial remedy and credible grievance mechanisms without fear of reprisal;
- 9) freedom to change employment is respected, and
- 10) safe, timely return guaranteed.

Going beyond the principles to ensure their use is the challenge. Participants at the convening discussed the need for external monitoring and enforcement mechanisms in addition to companies' own internal audits. So far, such external monitoring and enforcement of the Dhaka Principles—and others like them—is not in place.

Finally, a number of ILO conventions (including the Private Employment Agencies Convention 181, adopted in 1997) address recruitment directly, including provisions requiring employers to cover all of the costs of recruiting employees, with a prohibition on fees being charged to workers. While such conventions set important benchmarks, implementation is difficult, given the challenge of enforcement. Once ratified by a state, ILO conventions have the force of law, and ratification submits states to the ILO's regular supervisory system ensuring that the convention is applied. To date, 27 states have ratified ILO Convention 181 governing recruitment.

Non-Governmental Organizations and Multi-Stakeholder Initiatives

Non-governmental organizations (NGOs) and trade unions increasingly play an important and prominent role in bridging the gap between the ethical principles laid out at the international level and their implementation. Participants noted however that despite the importance of NGOs and multi-stakeholder initiatives, they are not a substitute for government regulation; indeed, in many cases, NGO efforts would be relatively ineffective absent government regulations that serve as a basis for litigation or for holding private actors to account in public fora.

NGO efforts encompass research, policy advocacy, litigation, and multi-stakeholder initiatives such as voluntary codes of conduct. A variety of NGOs also operate at the grassroots level to offer education, advisory, and legal services to migrant workers. In the United States, the International Labor Recruitment Working Group (ILRWG), comprised of a variety of stakeholders including trade unions, advocacy and legal organizations working across different sectors, have united to draft a set of eight core principles to prevent recruitment abuse in U.S. work programs. Some of these principles are shared by the Dhaka Principles (including the right to receive a contract, to change employer, and have access to justice); others go further by calling for workers to have the right to join unions and for *employers* to be accountable for abuses occurring during recruitment and employment. Finally, unlike the Dhaka Principles, the ILRWG principles do not address quality of worker housing or withholding of identity documents. The eight ILRWG core principles include²:

- 1) freedom from discrimination and retaliation;
- 2) right to know (knowledge of the recruitment process and rights under U.S. work programs);
- 3) freedom from economic coercion;

² "American Dream Up for Sale: A Blueprint for Ending International Labor Recruitment Abuse," International Labor Recruitment Working Group Report, 2013.

- 4) right to receive a contract with fair terms and give informed consent;
- 5) employer accountability for abuses during recruitment and employment;
- 6) freedom of movement (the right to change employers);
- 7) freedom of association and collective bargaining; and
- 8) access to justice for abuses suffered under U.S. work programs.

Some of these principles and other recommendations were reflected in the 2013 U.S. Senate Bill 744 on comprehensive immigration reform (S.744IS, 113th Congress).

A number of multi-stakeholder initiatives (MSIs) among NGOs, trade unions, employers and recruiters are being tested as another category of governance strategies for improving recruitment practices. For example, the organization Verité and the staff sourcing company Manpower have built on the UN Guiding Principles to develop the Ethical Framework for Cross-Border Labor Recruitment, which offers a set of operational practices (“Standards of Ethical Practice”) for recruitment firms that operate internationally in order to limit abuses in recruitment and combat forced labor and trafficking.

These practices are reinforced by a Verification and Certification system to document compliance and provide essential information to third parties and potential business partners. The standards are aligned with principles and recommendations developed by leading global organizations, governments, businesses, labor, civil society and other stakeholder coalitions. They are designed to protect against specific patterns of worker vulnerability and abuse in the current cross-border recruitment marketplace, including recruitment debt, contract fraud, exploitative host country conditions, and lack of legal and financial remedies for migrants. Some large corporations, such as Walmart and Apple, are piloting the “Standards of Ethical Practice” in a number of sectors, with monitoring largely restricted to the corporations’ own “self-auditing” process. There is no external monitoring and enforcement system in place so far under this framework.

The Voluntary Code of Ethical Conduct for Recruitment of Foreign Educated Health Personnel to the U.S. is the first of its kind. The Code sets out standards for fair and transparent recruitment, the provision of cultural and clinical orientation, and best practices to ensure that recruitment is not harmful to health systems in the home countries of these health professionals. The Code was drafted by a set of diverse stakeholders including nurses associations, hospitals, and recruiters, in an intensive process lasting over two years. It has been endorsed by leading organizations such as the American Nurses Association, the American Hospital Association, the Service Employees International Union, the American Association of International Healthcare Recruitment, and the American Health Care Association. Several leading health care recruitment companies have signed on and been certified. Compliance with the Code is monitored and enforced by the Alliance for Ethical International Recruitment, in part through surveys of foreign educated personnel before and after they are recruited to work in the U.S. Certified companies with identified violations must change practices or be “decertified.” Participants at the convening agreed that while voluntary strategies such as the Code can help weed out “bad apple” recruiters and provide positive incentives for ethical practices, they alone cannot solve the structural problems in the industry on their own, and in the absence of state regulation and enforcement. Likewise, the effectiveness of such Codes also depend on civil society watchdogs that publicize abuses and raise the reputational costs of unethical (and illegal) practices.

In addition to voluntary codes and ethical frameworks and standards, participants discussed a number of market-based mechanisms such as consumer “trustmarks” and product certification systems that are being tried as a means to generate positive incentives for businesses to engage in ethical practices. Oxfam America, for example, has created the Ethical Food Initiative, a multi-stakeholder effort involving growers, retailers, and agricultural workers. The Ethical Food Initiative has created a set of standards that simultaneously cover fair treatment of workers (including ethical recruitment) and sustainable agricultural practices, including limited use of pesticides. Their trustmark certified that produce is grown according to these practices, with the project being piloted by Costco and Bon Appétit. Success of the model rests on the assumption that retailers (and also customers) are willing to pay a modest premium for products grown and harvested by workers according to these standards. Participants in the convening agreed that a mix of positive incentives (in the form of increased worker productivity, for example) and negative incentives (in the form of regulation and/or the threat of litigation and harmful publicity) are needed to bring companies to the table to participate in multi-stakeholder initiatives and ultimately to improve practices.

Participants in the convening also described the model of ethical, for-profit and not-for profit recruitment entities. Thus far, these have been tested in only a few instances. FSI Worldwide, for example, is a for-profit recruiter that provides ethical manpower for diverse industries. FSI has developed a recruiting, training, and contract management model for quality and efficiency in providing manpower from Nepal, India, and Kenya. FSI is also engaging in a joint venture with the Fair Hiring Initiative of the Philippines.

While these voluntary and market-based examples were lauded, some convening participants emphasized the continued need for watchdogs to enforce recruitment standards. They stressed that even the most ethical recruitment companies are ultimately paid by employers and may have limited bargaining power. While such smaller scale models have been effective, participants in the convening asked why, so far, none have been able to go to scale. Some participants emphasized that such profit-based models would not be adopted widely until there were economic reasons to do so; the costs of non-compliance, or the benefits of compliance and use of ethical standards, must be high enough.

Legal Services and Litigation

Participants explored a variety of litigation and non-litigation strategies for improving recruitment practices, including administrative dispute mechanisms, and pursuing claims through insurance. In some countries of origin, governments offer workers access to life insurance, disability insurance, and insurance against other risks such as unemployment prior to departure for employment abroad. These programs help minimize the potential costs of migration for migrant workers and their families. In the Central America-Mexico-U.S. corridor, and in other areas where the judicial system is relatively well developed and independent, legal mechanisms can be effective for holding recruiters and employers to account. This strategy is now applied by a small number of NGOs and law firms. Litigation can hold employers and recruiters accountable, set legal precedent, achieve redress for workers, and influence policy. Participants in the convening discussed a range of cases brought in the U.S. on behalf of migrant workers, including the case of gender discrimination in the U.S. non-agricultural temporary worker program.

Other organizations, such as the Global Workers Justice Alliance (GWJA), facilitate “transnational justice” for migrants by training law firms in countries of origin and NGO staff on how to bring or assist with cases in foreign countries, typically where the migrant worker performed labor. GWJA assists law firms in the country of destination to bring cases after a worker returns to the country of origin, by locating workers, identifying witnesses, and taking depositions. These organizations also play an important role in educating migrant workers about their rights.

Participants noted that while it can be effective, litigation requires extensive resources and staff time. It also requires strong rule of law and an independent judiciary in the country of destination— factors that are not present in some of the countries and regions where MacArthur and Open Society Foundation support work. Some participants argued that in the Middle East, where migrants face significant challenges accessing and navigating the formal justice system, litigation may not always be the most effective strategy for addressing recruitment and other labor issues. Other participants stressed the importance of pursuing legal cases not just in countries of destination, but also in countries of origin. Recruiters operating in Mexico, for example, should be held liable for violations of Mexican labor law. In some cases, pursuing administrative claims and policy advocacy may be more cost effective. (For example, in the U.S., Canada, and Mexico, administrative claims may be brought under the terms of NAFTA.) These measures, however, typically do not set legal precedent.

Some organizations represented at the convening are active in the legal sphere not only by bringing cases and administrative complaints, but also by providing legal services and pre-departure training to migrants. This includes informing migrants of their rights and identifying sources of assistance should the migrants experience difficulties or exploitation in the country of destination. Sometimes such training is delivered in person, other times via local radio shows or online. Participants in the convening noted that if comprehensive immigration reform is enacted in the U.S., then the demand for legal services for migrants could vastly increase. Expansion would not only address recruitment and labor issues but would govern access to a vastly expanded temporary worker program or programs. Many organizations have already begun preparing for such an eventuality.

Data and Research

A number of non-governmental organizations have made significant progress in the past several years in documenting abuses in the recruitment sector, particularly in Central America, Mexico and the U.S. However, experts agreed that progress to better regulate, and advocate for, improvements in labor recruitment is hindered by the lack of both data and a body of research on international recruitment actors and practices. Research, and in particular, data on the recruitment industry and its practices is underdeveloped relative to other areas of human and worker rights, including human trafficking and forced labor. Governments generally do not maintain public registries of recruiters or employers. Many countries do not release data to the public on employers who have been authorized to hire foreign workers, making it difficult for NGOs and other entities to verify recruiters’ offers of employment or to track recruiters’ practices. The lack of data also undermines both coordination and public accountability. Government involvement can be instrumental in building better data and evidence, largely by issuing reporting requirements. Provisions in the U.S. Senate Bill 744 on immigration policy reform, for example, call for registries of recruiters to be made publicly available. Participants cautioned, however, that

public registries are not a silver bullet, and will not alone prevent recruitment abuses without enforcement of regulations and civil society efforts to make use of the data.

Participants discussed new research that is helping to fill knowledge and data gaps. A recent study, for example, has helped to illuminate the structure of international recruitment in the health care sector.³ Centro de los Derechos del Migrante has created the Labor Recruitment Transparency Project, which features a web-based interactive map of recruitment of agricultural and non-agricultural workers coming to the United States through the H2-A and H2-B programs (www.recruitmenttransparency.org). The map documents abuses occurring at the hands of specific recruiters by region, state and town, and includes information on grievances in specific cases.

Research on violations of domestic workers' rights helped lead to the recent adoption of the ILO Convention on Domestic Workers, though recruitment was not a specific focus of this effort. Other research has helped to describe recruitment in the Asia-Middle East corridor, including a study of workers' access to justice in Indonesia. The researchers found that workers face significant obstacles in seeking redress for harms committed during the recruitment process. They suggested the possible role for insurance in helping workers access redress. Indonesia has a comprehensive insurance program that insures every worker through a fee system. The scheme is broad in scope and could, if it functioned effectively, provide redress for many of the problems experienced by workers. However, the program has been controversial and both its structure and operation have been criticized by various parties in Indonesia. Participants agreed that the role of insurance in recruitment systems is an area for future exploration and could hold potential for providing redress to and protecting the financial well-being of migrant workers. Some suggested that as a general principle, the cost of insurance should be paid by employers.

Some participants argued that additional research is needed to estimate and document recruitment costs for migrant workers, including recruitment fees and the opportunity cost of work foregone in the country of origin. Some possibility may exist for an international effort to reduce these recruitment costs, along the lines of the effort to reduce remittance sending costs over the last decade. Foundations can play an important role within this landscape, helping to support research, advocacy and exploratory efforts by NGOs and other actors. Support for convenings has been critical in bringing actors from the industry and non-profit sectors together, as evidenced in recent multi-stakeholder efforts and other pilots. While a number of large, U.S. and international foundations work on issues of migration, most of these are focused on domestic issues, including migrant integration, and service provision. In the U.S., a cluster of prominent foundations has played a significant role in sponsoring advocacy for eventual passage of major immigration reform legislation. Few foundations in addition to MacArthur and Open Society Foundations appear to be focused specifically on *international* migration (in addition to U.S. immigration policy), and on recruitment in particular. Humanity United, which focuses on human trafficking and slavery, also addresses recruitment issues.

Emerging Issues and Opportunities

Participants explored existing trends and windows of opportunity for affecting recruitment and the movement of migrant labor to maximize impact. In the U.S., the use of temporary visas is expected to

³ P. Pittman, A. Folsom and E. Bass "U.S.-Based Recruitment of Foreign-Educated Nurses: Implications for an Emerging Industry," *American Journal of Nursing*, June 2010.

increase dramatically, from approximately 700,000 or more temporary workers recruited today to potentially hundreds of thousands of additional temporary workers each year. Analysts debate the exact number of additional temporary workers that would be authorized to work in the U.S. under Senate bill 744, but some estimates put it as high as 600,000 additional workers per year.⁴ Further, if comprehensive immigration reform is enacted, there will be opportunities to implement and oversee enforcement of new provisions on recruitment if such language is contained in the legislation. In Mexico, the presidential administration that took office in late 2012, through the Ministry of Labor, has shown signs of a willingness to tackle recruitment fraud.

Worldwide, employers increasingly rely on temporary workers as part of the trend toward a subcontracted and contingent workforce. The supply of labor, both low and high-wage, from developing countries will continue to grow faster than even this increased demand for temporary workers, leading to continued wage gaps and incentives to migrate for better and more highly remunerated work. At the same time, some businesses are increasingly concerned with the integrity of their supply chains, providing incentives for them to ensure that hiring and sourcing is conducted in an ethical manner. Many participants felt that while some companies are aware of risks to their supply chains from unethical recruitment practices, additional mechanisms are needed to bring the majority of companies to the table to adopt recruitment standards and to improve practices—be it increased regulation and enforcement, consumer advocacy, and reports and advocacy by watchdog organizations, for example.

Participants active in the Asia -Middle East corridor noted that a window of opportunity has opened due to Qatar’s hosting of the World Cup in 2022. Anticipation of this event has already created demand for an additional 400,000 to 600,000 temporary workers in construction, hospitality and other sectors. International attention on this event creates an opportunity to bring actors together to improve standards and practices for temporary labor, including recruitment.

Discussants also explored linkages between the movement to end human trafficking and the issue of recruitment, and whether there might be lessons that could be applied more broadly. Some emphasized the links between these two issues: recruitment at its very worst can result in cases of human trafficking. Many cases of human trafficking involve some form of recruiter. At the turn of the millennium, as human trafficking began to rise higher on national and international policy agendas, the emphasis was largely on sex trafficking. This has shifted somewhat in recent years to bonded labor more broadly. The latter has been a priority of the Obama administration, which put in place the Executive Order on Strengthening Protections on Trafficking in Persons in Federal Contracts. Successful federal cases brought on behalf of the Omakalee workers in Florida and others have made trafficking an issue that is more difficult for agricultural producers to ignore.

In the Nepal-Qatar corridor, emphasis has been on consumer education, for example through a website launched with the *Guardian* newspaper called Modern Day Slavery. Anti-trafficking groups have formed effective alliances, including a coalition of 13 organizations, similar to that of the International Labor Recruitment Working Group. Trafficking organizations have also explored the use of new technology and social media to advance their cause, including an application that allows consumers to gauge their “slavery footprint” by examining the sources of labor in the products they buy. There is also a web-based consumer ranking profile that rates companies from A to F based on their supply chain. One

⁴ Center for Immigration Studies, “Senate Bill Doubles Annual Flow of Guest Workers,” June 2013.

potential strategy for bringing greater attention to recruitment issues by employers would be to emphasize the importance of transparent, fair and legal recruitment processes for reducing human trafficking—and perhaps exploring use of some of these methods for the issue of recruitment.

Recommendations for Future Work

Participants generally agreed that exploitation and abuse of workers throughout the international recruitment and employment process is a challenge that evades regulation by any given jurisdiction or single actor. Many argued that a multi-dimensional approach including international, bilateral, and single state level programs, in coordination with efforts by non-state actors, such as NGOs, unions, and MSIs, can together best promote improvements in the treatment of migrant workers. The IOM is piloting a new International Recruitment Integrity System (IRIS) that could begin to serve such a function if adopted by a range of stakeholders, taking advantage of IOM's 440 offices worldwide.

Combining better state regulation, improved enforcement of existing regulations and codes, application of international norms, and pressure from NGOs, trade union and MSIs on recruiters, employers, and governments can together provide incentives for changes in behavior, while empowering workers with better information and knowledge, ultimately reducing abuse and exploitation of migrant labor.

Participants at the MacArthur and OSF convening provided a range of specific suggestions for future work. These can be classified according to five themes: building the evidence base; fostering transparency and accountability; policy, advocacy and litigation; multi-stakeholder, voluntary and market-based mechanisms; and regional and global efforts. While some of these efforts would be taken up by governments, others would be aimed at civil society and the private sector. These suggestions include:

- 1) Building the Evidence Base
 - a. Research on the recruitment industry and actors in different sectors/corridors
 - b. Documentation of abuses
 - c. Use of innovative technology to disseminate research findings and data
- 2) Fostering Transparency and Accountability
 - a. Support to create and maintain public registries of recruiters and employers
 - b. Advocacy to make government data on visas and employers public
 - c. Use of public registries to populate interactive maps on recruiters
 - d. Monitoring and evaluation of government regulation and enforcement (“watchdogs”) including through social media, new technology
- 3) Policy, Advocacy, and Litigation
 - a. Advocacy for improved government regulation of recruitment
 - b. Guidelines for countries on migration and recruitment management
 - c. Pressure/advocacy for employers and recruiters to adhere to principles, change behavior, and participate in MSIs

- d. Strategic litigation to incentivize improved practices in the regional migration corridor and elsewhere and bring employers and recruiters to the table for voluntary initiatives;
 - e. Strengthening the cross-regional network of lawyers in the Asia - Middle East corridor, including through fellowships
- 4) Multi-stakeholder/Voluntary/Market-based Efforts
- a. Incentivize trade unions and NGOs to develop non-profit recruitment entities to compete with private recruiters
 - b. Subsidize/incentivize large multinationals to enter low-wage recruitment and/or create standardized contracts by sector
 - c. Support monitoring and enforcement mechanisms to hold participants in MSIs accountable (involve workers directly)
 - d. Incorporate recruitment language in sector-specific certification mechanisms
 - e. Pilot efforts to expand CSR codes and standards beyond forced and child labor to include recruitment
 - f. Pilot insurance schemes for migrant workers as part of the recruitment process
- 5) Global/Regional Efforts
- a. A “Trip Advisor” consumer ranking system for recruiters by migration corridor
 - b. Expand the Recruitmenttransparency.org map to other sectors, regions
 - c. Build a common, multi-stakeholder, cross-sectoral, international platform on recruitment involving NGOs, trade unions, MSIs, and international agencies such as IOM
 - d. Foster efforts to help migrant workers organize transnationally
 - e. Promote a regional agreement with minimum parameters for labor and recruitment conditions among countries of origin in Central America/Mexico corridor
 - f. Partner with organizations in human trafficking field to explicitly address recruitment
 - g. Exploratory support for innovative uses of technology