

MIGRANT FORUM



in ASIA

Migrant Forum in Asia

CARAM Asia

Human Rights Watch

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HUMAN  
RIGHTS  
WATCH

# PROTECTING ASIAN MIGRANTS' RIGHTS

Recommendations to Governments  
of the Colombo Process

## INTRODUCTION

**Some three million Asian men and women migrate for work each year, contributing significantly to the economies of both their countries of origin and countries of employment. Labor migration expands opportunities for individuals trying to improve their lives, but may also be accompanied by the risk of deception and abuse.**

Migrant Forum in Asia, Human Rights Watch, and CARAM Asia welcome the reinvigoration of the Colombo Process, a series of regional consultative meetings on Asian labor migration. The fourth ministerial consultation, taking place in Dhaka, Bangladesh, from April 19 to 21, 2011, provides an important opportunity to improve the benefits of labor migration and to protect against potential abuses through enhanced international cooperation and exchange of information.

Migrant Forum in Asia is a regional network of grassroots organizations, associations, trade unions, faith-based groups and individual advocates across Asia who are committed to protecting and promoting the rights and welfare of migrant workers and their families. Migrant Forum in Asia represents over 200 groups in 17 countries across Asia. Human Rights Watch is an international nongovernmental organization that investigates human rights violations in some 90 countries, and has published several reports on the abuse of migrant domestic and construction workers in Asia and the Middle East. Coordination of Action Research on AIDS and Mobility (CARAM) Asia is a regional network of nongovernmental and community-based organizations focused on migration and health with members in Asia and the Middle East.

In this briefing, we present four key recommendations to governments on: 1) protection of migrant domestic workers; 2) increased multilateral cooperation; 3) oversight of recruitment fees; and 4) civil society participation in the Colombo Process meetings.

## THE COLOMBO PROCESS

We welcome the theme of this ministerial consultation, entitled “Migration with Dignity,” and we hope that the discussions can assist the development of policy and practice to protect migrant workers’ human rights. We encourage participants in the Colombo Process to produce clear benchmarks for progress in this direction, along with timelines for implementation and periodic reviews.

The previous three ministerial consultations that took place in Colombo, Sri Lanka (2003), Manila, the Philippines (2004) and Bali, Indonesia (2005), took important steps to recognize the importance of regional cooperation, exchange of best practices, and harmonization of policies and practices in the field of labor migration. The discussions have revolved around three themes: protection of, and provision of services to, migrant contract workers; optimizing the benefits of organized labor mobility; and improving capacity, data collection and international cooperation. In recent years, the dialogue has included labor-receiving governments, who attended the Bali meeting as observers. In 2008 the United Arab Emirates also hosted a meeting among labor-sending and labor-receiving states.

These types of regional dialogues are vital for protecting migrants’ rights and maximizing the benefits of migration for economic development. However, this process has been stalled for the past few years. A key component of the fourth ministerial consultation in Dhaka will be to review past resolutions of the Colombo Process, assess progress on implementation, and chart future goals and strategies.

## KEY RECOMMENDATIONS TO GOVERNMENTS

### 1. PROTECTIONS FOR MIGRANT DOMESTIC WORKERS

Millions of migrant domestic workers work across Asia and the Middle East. They provide important services in host countries and support their families at home. However, exclusion of domestic workers from key protections in national labor laws, deceptive recruitment practices, immigration policies that give employers inordinate control over workers, and isolation in private homes, place them at serious risk of exploitation. While many enjoy positive experiences while working abroad, complaints from migrant domestic workers regularly make up a disproportionate amount of migrant abuse cases. These complaints include unpaid wages, excessively long work hours without rest days, restrictions on freedom of movement, and in some cases physical and sexual violence or forced labor, including trafficking.

The vulnerability of domestic workers is not unique to Asia and the Middle East, and a global review of laws and practices around the world conducted by the International Labor Organization (ILO) reaffirmed the need to improve protections for this sector globally. In recognition of these problems, members of the ILO have been drafting a new international convention to establish global labor standards on domestic work. In June 2011, governments, workers' representatives, and employers' representatives will finalize the text and vote on adopting this convention. The current draft text includes the ILO's fundamental principles and rights at work, a minimum age, conditions of employment not less favorable than other workers under national laws, written contracts for migrant domestic workers, freedom to leave the workplace during rest periods, and guidance on circumstances specific to domestic work such as in-kind payments of room and board.

***Recommendation: Governments participating in the Colombo Process should pledge their support for the adoption of an ILO Convention on Decent Work for Domestic Workers at the International Labor Conference in Geneva in June 2011.***

Member governments should sign and ratify this convention and take steps to bring their national laws and policies into compliance with it.

### 2. INCREASED MULTILATERAL COOPERATION

Many governments have pursued bilateral agreements and memoranda of understanding to strengthen regulation and coordination of international labor migration. While these often represent an improvement over existing frameworks, the uneven bargaining power between labor-sending and labor-receiving governments means that such agreements are generally weak and fail to guarantee key protections. Bilateral agreements or negotiations may also actually promote unhealthy competition. For example, if one country establishes stronger protections for its nationals through a bilateral agreement, employers and recruiters from the host country may simply seek workers from countries without such protections.

Multilateral cooperation and agreements are better suited to create a more equitable balance of bargaining power among governments and to avoid market pressures to minimize protections. Bilateral agreements designed within multilateral frameworks and international standards are also stronger. By exchanging information regularly and coordinating on shared issues of interest, for example through regular meetings of embassy officials, labor-sending countries may also be able to raise concerns with host countries more effectively. Policy coherence and information exchange should also be given priority as other regional mechanisms develop, such as an ASEAN instrument for the protection and promotion of the rights of migrant workers.

***Recommendation: Promote multilateral agreements, increased information-sharing, and the establishment of regional minimum standards on labor migration.*** Regular meetings of members of the Colombo Process should help to support these efforts.

### 3. COOPERATION ON RECRUITMENT PRACTICES AND FEES

Many of the past resolutions from the Colombo Process address exploitative recruitment practices and the ways in which these practices engender abuse, smuggling, and trafficking. Governments should share information on blacklisted agencies, strategies on registering and monitoring subagents and local-level brokers, and strategies for identifying and shutting down illegal agencies.

A central concern about recruitment practices is the charging of recruitment fees, often inflated, and the associated loans that may be taken out at usurious interest rates or result in lengthy salary-deduction arrangements. This indebtedness leads to intense financial pressure and can contribute to workers getting trapped in exploitative situations. Recruiters at various points in the process often blame each other for excessive charges. Despite sustained attention to this issue, there is little transparency in the process and inflated fees remain a widespread problem. Governments should make employers and agencies responsible for performing due diligence on the recruiters they contract with to ensure they comply with recruitment regulations.

ILO Convention No. 181 on private employment agencies prohibits the charging of fees, directly or indirectly to workers, and this protection is reiterated in the ILO Multilateral Framework on Labor Migration.

***Recommendation: Governments should prohibit the practice of charging migrant workers recruitment fees and insist that this cost should be borne by employers. Governments should also make employers and agencies responsible for taking reasonable measures to screen the recruiters they contract with.***

### 4. INCLUSION OF CIVIL SOCIETY IN FUTURE COLOMBO PROCESS CONSULTATIONS

Migrants' organizations, trade unions, and nongovernmental organizations are key stakeholders in migration debates. Social dialogue with civil society will help to ensure that policy-makers are better aware of the realities on the ground and that governments and civil society groups exchange information on innovative programs and services. Deeper consultations will assist governments to be more responsive to the concerns and priorities of migrants.

Conveners of the Colombo Process should increase opportunities for meaningful and regular social dialogue with migrants and migrants' groups. Instead of having to organize a parallel event, there should be more opportunities for civil society to observe parts of the government discussions and to interact with delegates. While we welcome the time allotted for civil society to make a statement to the meeting on April 20, 2011, we would like deeper and wider channels for participation and transparency.

***Recommendation: In consultation with civil society groups, increase opportunities for participation and interaction in future Colombo Process meetings and activities.***

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