



**UGANDA CONSORTIUM ON  
CORPORATE ACCOUNTABILITY**

**U C C A**

**BETWEEN EXPLOITATION AND WORK:  
REALIZING THE RIGHT TO WORK OF UGANDAN MIGRANT  
WORKERS IN THE MIDDLE EAST**

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## Introduction

Uganda is one of the countries grappling with a high rate of population growth albeit with low levels of economic growth resulting in a high unemployment rate. Currently, the country's average population growth is 3.32%,<sup>1</sup> with a working age population of 52%.<sup>2</sup> However, the employment to population ratio is relatively low at 39%.<sup>3</sup> This implies that the larger part of the country's working age population is currently unemployed.

With low rates of job creation, the government resorted to externalization of labor as an avenue for creating employment opportunities to its high unemployed working age population abroad. The Labour Externalization program is a strategic initiative of the Government of Uganda that intends to facilitate the recruitment of Ugandan migrant workers to “decent employment opportunities and promote the protection of their rights and welfare in the respective countries they are exported into.”<sup>4</sup> The Ministry of Gender, Labour and Social Development (MoGLSD) is the responsible agency for the implementation of the program and it among others conducts the licensing and regulating of private recruitment companies/agencies; and signing bilateral agreements on behalf of Uganda with countries interested in importing labour from Uganda.<sup>5</sup> It mainly relies on the Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulation, 2005 as the main legal instrument in guiding the implementation of the program.

By July 2019, MoGLSD had negotiated and signed three bilateral labour management agreements between the Government of Uganda and the respective Governments of the Kingdom of Saudi Arabia, the Hashemite Kingdom of Jordan and the United Arab

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1 World Population Review at <https://worldpopulationreview.com/countries/uganda-population> <accessed on February 15, 2022>

2 Uganda Bureau of Statistics (UBOS), 2021. Uganda National Household Survey 2019/2020. Kampala, Uganda; UBOS at [https://www.ubos.org/wp-content/uploads/publications/09\\_2021\\_Uganda-National-Survey-Report-2019-2020.pdf](https://www.ubos.org/wp-content/uploads/publications/09_2021_Uganda-National-Survey-Report-2019-2020.pdf) <accessed on February 16, 2022>

3 *Ibid.*, the Employment to Population Ratio (EPR) also referred to as the employment rate is defined as the proportion of the Working Age Population (WAP) that is employed, that is; involved in the production of goods and services for pay or profit. It provides an indication of the degree to which the economy is utilizing its key productive labor.

4 Office of the Auditor General, Value for Money Audit on the Regulation of Labour Externalization by Ministry of Gender, Labour, and Social Development (MoGLSD), 2017, p. iii

5 *Ibid.*, p.iii.

Emirates.<sup>6</sup> Negotiations for a Bilateral Agreement with Qatar were also concluded and the Government was using Diplomatic channels to secure a date for signing. It's worth noting that this agreement is yet to be signed. As of August 2021, the Ugandan government is working on signing additional agreements with countries such as Qatar, Oman, and Turkey, among others<sup>7</sup>. Also, under the East African Community, Uganda has signed regional cooperation agreements with the aim of harmonizing labor migration and being part of the common platform for engagement with the Gulf Countries.<sup>8</sup> As of July 2022, The Ministry had licensed 276 firms to export labour.<sup>9</sup> The Minister of Gender, Labour and Social Development, Ms. Betty Amongi, while addressing members of the Uganda Association of External Recruitment Agencies (UAERA), however, revealed that Cabinet has halted the registration of new labour export companies in Uganda until a comprehensive report on the measures being taken to ensure the safety and well-being of migrant workers has been made.<sup>10</sup>

The Uganda Association of External Recruitment Agencies (UAERA), an umbrella association of private companies involved in externalization of labour has 219 member companies as per June 2022.<sup>11</sup> UAERA regulates and monitors the activities of member agencies.

The Uganda Association of External Recruitment Agencies estimates that there are about 165,000 Ugandan migrant workers in the Gulf countries.<sup>12</sup> Majority of the

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6 Parliament of the Republic of Uganda, Ministerial Statement by Hon. Mutuuzo Peace Regis Minister of State for Gender and Cultural Affairs/ Holding the Portfolio of Minister of Gender, Labour and Social Development, 2019, p.8, <https://mglsd.go.ug/wp-content/uploads/2020/01/-Statement-to-Parliament-on-Externalisation-of-Labour-Issues-16th-May-2019.pdf>, (accessed October 5, 2022)

7 Franklin Draku, "Uganda to review labour export agreements with the Middle East", Daily Monitor, August 19, 2021 <https://www.monitor.co.ug/uganda/news/national/uganda-to-review-labour-export-agreements-with-the-middle-east-3516654> (accessed October 4, 2022)

8 See Bisong Amanda, 2021, Regional Solutions: Regulating Recruitment and Protection of African Migrant Workers in the Gulf and the Middle East, ecdpm, Making Policies Work, Discussion Paper no. 292. The Gulf cooperation council is composed of the following states; Kingdom of Bahrain, the State of Kuwait, the Sultanate of Oman, the State of Qatar, the Kingdom of Saudi Arabia and the United Arab Emirates (UAE). Available at: <https://ecdpm.org/publications/regional-solutions-regulating-recruitment-protection-african-migrant-workers-gulf-middle-east/> <accessed February 17, 2022>

9 Jane Nafula, "Cabinet halts registration of new labour companies", Daily Monitor, July 15, 2022 <https://www.monitor.co.ug/uganda/news/national/cabinet-halts-registration-of-new-labour-companies-3880820> (accessed October 5, 2022)

10 Ibid

11 UAERA -About at <https://uaera.org/> (accessed October 7, 2022)

12 Bisong, 2021, Regional Solutions: Regulating Recruitment and Protection of African Migrant Workers in the Gulf and the Middle East, p. 7

Ugandan migrant workers are into domestic work that entitles them to a fixed minimum wage of USD198 (approximately Uganda shillings 742,000) and USD 212 (approximately Uganda shillings 795,000) in countries such as Kuwait and Jordan respectively.<sup>13</sup> In addition to earning a salary, which is far better payment compared to their counterparts and even higher than a number of formal jobs in Uganda, domestic workers in the Middle East also receive other benefits such as free accommodation, free food, medical insurance and bonuses.<sup>14</sup> It is important to note that in addition to creating job opportunities, the program is also a major foreign exchange earner for the country bringing in over US\$ 1.4billion in form of remittances.<sup>15</sup>

In spite of the benefits accruing to the government of Uganda in terms of job opportunities to the unemployed youth, foreign exchange, and revenue, the externalization of labour is marred with abuse of the migrant workers' rights due to inhumane treatment such as sexual abuse, denial of food, being overworked without rest among other rights violations.<sup>16</sup> The situation was further exacerbated by the outbreak of the COVID-19 pandemic for the migrant workers that work and live in the Gulf Countries. Many were exposed to the coronavirus and eventually infected due to the unsanitary and crowded places of accommodation that they live in with limited initiative from their employers to protect their health, lack of protective gear for workers in the construction sector, loss of jobs for those in the tourism industry and finally, long working hours for the domestic workers without equitable compensation among others.<sup>17</sup> This is happening even in countries where the government of Uganda signed bilateral agreements and memoranda of understanding with.<sup>18</sup>

This necessitates an examination of the efficacy and adequacy of the institutional, legal and policy regulatory framework guiding the implementation of the externalization of labour program.

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13 ILO Policy Advisory Committee on Fair Migration in the Middle East, *Minimum wages and wage protection in the Arab States: Ensuring a just system for national and migrant workers*, January 2019, 1, available at [https://www.ilo.org/beirut/publications/WCMS\\_660002/lang-en/index.htm](https://www.ilo.org/beirut/publications/WCMS_660002/lang-en/index.htm) accessed on February 17, 2022

14 Zahara Nampewo, *supra*. at n. 8.

15 Parliament of the Republic of Uganda, *supra*. at n. 7.

16 *Ibid*.

17 See Bisong Amanda, *supra*, at n.9, p.4.

18 Parliament of the Republic of Uganda, *supra*. at n. 7.

## The Institutional Framework on Externalization of Labour in Uganda

Formally, Uganda started the exportation of labour in 2005, following the high demand for labour by the American forces in Iraq.<sup>19</sup> This prompted the government through the Ministry of Gender, Labour and Social Development (MGLSD) to establish The External Employment Unit EEU under the Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulations of 2005, these have since been repealed by the Employment (Recruitment of Ugandan Migrant Workers) Regulations, 2021.<sup>20</sup> The Unit is responsible for Licensing of recruitment agencies, accreditation of pre - departure training institutions, inspection of the operations of the recruitment agencies among others.<sup>21</sup>

As of 2022, there are 276 companies registered for purposes of exporting labour. These companies are organized under an umbrella - UAERA, recognized by the Ministry of Gender, Labour and Social Development. The Association aims at championing safe labour migration in Uganda and beyond through various strategic objectives. First, organizing and uniting companies licensed under the labour externalization program to operate under one umbrella and speak with one voice for strengthening the sector. Secondly, ensure the protection of migrant workers, and observation of their human rights and welfare in accordance with international labour standards. Thirdly, to self-regulate and ensure adherence to the code of conduct, laws, regulations, and guidelines set by the MGLSD. The last strategic objective underscores the fact that much as the MoGLSD might be aware of the association, its operations are not regulated by the government. It is self-regulatory and it is only its members who are answerable to the ministry. Before migrant workers leave the country to work abroad, they are required to undergo training conducted by the accredited pre-departure training institutions by MoGLSD.<sup>22</sup> The pre-departure training institutions are strictly required to only receive trainees from licensed Recruitment Agencies.<sup>23</sup>

One of the reforms introduced by the recent regulations is the restriction of shareholding and directorship in Recruitment Agencies to only Ugandan

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19 Parliament of the Republic of Uganda, Preliminary Report of the Committee on Gender, Labour and Social Development on the Externalization of Labour Phenomenon, p. 1.

20 They introduced some reforms such as; restricting owning of shares in Recruitment Agencies to only Ugandans; Migrant workers not paying more than 20,000 for the administrative costs. The placement fees that are paid by the migrant workers are regulated by the MoGLSD.

21 Regulation 4, 5, 15, 16, 28 of the Employment (Recruitment of Ugandan Migrant Workers) Regulations, 2021

22 Regulation 29 of the Employment (Recruitment of Ugandan Migrant Workers) Regulations, 2021

23 Regulation 28 of the Employment (Recruitment of Ugandan Migrant Workers) Regulations, 2021

nationals.<sup>24</sup> Nevertheless, even Foreign Recruitment Agencies can also apply for accreditation by the Ugandan Mission where the agency is located to engage in labour externalization.<sup>25</sup> One of the key conditions for accreditation is the requirement of the Agency to have internal dispute and complaint settlement mechanisms preferably manned by a Uganda official.<sup>26</sup> The same regulations also provide for complaints handling between any person aggrieved with the decision or conduct of a Recruitment Agency to file complaint with the MoGLSD. It is important to note that for complaints involving recruitment agencies locally, the MoGLSD is the arbiter whereas the ones involving Foreign Recruitment Agencies, the complaint mechanisms are left to themselves and not foreign missions. This is subject to abuse as the migrant workers are left to handle their complaints with foreign entities moreover in a foreign country.<sup>27</sup>

## Domestic and International Legal and Policy Framework on Externalization of Labour

The National Employment Policy for Uganda 2011 acknowledges the rising unemployment challenges in the country and considers externalization of labour as a viable option for offering employment opportunities and generating income for the country's development in form of remittances. In the same vein, the policy has listed the challenges with the externalization of labour such as breach of contracts, unsafe working conditions, sexual harassment, and unavailability of data on migrant workers that makes regulation of the working conditions difficult.

As noted earlier, the main legal instrument regulating the externalization of labour in Uganda is the Employment (Recruitment of Ugandan Migrant Workers) Regulations, 2021 which derives its authority from the Employment Act, 2006. The 2021 Regulations replaced the one of 2005, with the aim of strengthening labour externalization as discussed above. Externalization of labour is also regulated by the Bilateral Agreements and memoranda of understanding that Uganda has entered with

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<sup>24</sup> Regulation 4 & 5 of the Employment (Recruitment of Ugandan Migrant Workers) Regulations, 2021

<sup>25</sup> Regulation 17 of the Employment (Recruitment of Ugandan Migrant Workers) Regulations, 2021

<sup>26</sup> Regulation 17 (3) (g) & (h) of the Employment (Recruitment of Ugandan Migrant Workers) Regulations, 2021

<sup>27</sup> Parliament of the Republic of Uganda, *supra*. at n. 7. at p. 26.



the receiving countries and their legal and policy framework such as the *Kafala* sponsorship system.<sup>28</sup>

At the International level, Uganda has ratified a number of Instruments such as the Abolition of Forced Labour Convention, 1957 (No.105), which provides that each member of the ILO that ratifies this Convention undertakes to suppress and not make use of any form of forced or compulsory labour;<sup>29</sup> the Migrant Workers (Supplementary Provisions) Convention 1975 (No.143) which stipulates that each member to the convention shall systematically seek to determine whether there depart from its territory movements of migrants for employment which the migrants are subjected during their journey, on arrival or during their period of residence and employment to conditions contravening relevant international multilateral or bilateral instruments or agreements or national laws or regulations;<sup>31</sup> and the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.

Uganda is also ratified the International Convention on the protection of the Rights of all Migrant Workers and Members of their Families in 1995. The ICRMW is considered the primary and most comprehensive international human rights instrument on the protection and promotion of the rights of migrant workers by emphasizing the link between human rights and migration.<sup>31</sup> The convention enjoins the state parties to observe and uphold minimum standards for migrant workers and members of their families with a focus on safe, fair, healthy, and clean working conditions and leaving during the period of migration.

However, there still exists gaps in the Uganda's and the receiving countries' legal frameworks that is resulting in abuse and exploitation of the migrant workers.

28 Council on Foreign Relations, 'What is the Kafala System?' 2021. The kafala, or sponsorship, system defines the relationship between foreign workers and their local sponsor, or kafeel, which is usually their employer. Available at: <https://www.cfr.org/background/what-kafala-system> <accessed May 16, 2022>

29 Abolition of Forced Labour Convention, International Labour Organisation 1957, No. 105, Available at [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312250:NO](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312250:NO) (accessed October 6,2022)

30 Migrant Workers (Supplementary Provisions) Convention, International Labour Organisation 1975, No. 143 Available at [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312288:NO](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312288:NO) (accessed October 6,2022)

31 Office of the United Nations High Commissioner for Human Rights, The International Convention on Migrant Workers and its Committee, United Nations New York and Geneva, 2005, Fact Sheet No. 24 (Rev.1) at <https://www.ohchr.org/en/publications/fact-sheets/fact-sheet-no-24-rev-1-international-convention-migrant-workers-and-its> <accessed on March 8, 2022>



An example is that the 2021 Regulations do not provide for social security, annual leave, inspection and monitoring of the working conditions of the Uganda migrant workers. The *Kafala* sponsorship system which is the legal and institutional framework that govern the entry, stay and exit of migrant workers in the Gulf Countries has been subject to criticism for perpetuating the abuse and exploitation of the low skilled workers.<sup>32</sup> It restricts immigration and legal status of the migrant worker to the residence of the individual sponsor throughout the duration of the contract.<sup>33</sup> The implication of this restrictive system is that the migrant worker cannot exercise the labour rights such as resigning from the current job and join another one and in some instances cannot leave the country without express permission from the employer.<sup>34</sup> There was hope that the bilateral agreements would address the plight of the migrant workers especially those engaged in domestic work but even the government of Uganda came to the realisation that the agreements are too weak to cause any significant change in the entrenched system.<sup>35</sup>

A number of reforms are being advanced to try and respond to the gaps in the current legal framework highlighted above. Domestically, the Externalization of Labour Bill, 2019 has been in the offing, it is intended to grant and uphold the dignity, fundamental rights, and freedom of migrant workers with the full force of the law in form of an Act of Parliament<sup>36</sup> as opposed to the current subsidiary legislation – the Employment (Recruitment of Ugandan Migrant Workers) Regulations, 2021.

Internationally, there are several instruments that Uganda can rely on to close the gaps in the legal framework. These include; the International Labour Organisation Private Employment Agencies Convention, 1997 (No. 181) (Private Employment Agencies Convention); International Labour Organisation (ILO) Domestic Workers Convention, 2011 (No. 189) (Domestic Workers Convention); and ILO General Principles and Operational Guidelines for Fair Recruitment and definition of recruitment fees and related costs.

<sup>32</sup> Manseau, G. S. 2007. Contractual solutions for migrant labourers: The case of domestic workers in the Middle East, *Human Rights Law Commentary*, 3, 25–47.

<sup>33</sup> Zahara Nampewo, *supra*. at n. 8.

<sup>34</sup> Kagan and Sophia, Domestic workers and employers in the Arab States: Promising practices and innovative models for a productive working relationship – ILO white paper / International Labour Organization, Regional Office for Arab States. - Beirut: ILO, 2017 at [https://www.ilo.org/wcmsp5/groups/public/--arabstates/--ro\\_beirut/documents/publication/wcms\\_619661.pdf](https://www.ilo.org/wcmsp5/groups/public/--arabstates/--ro_beirut/documents/publication/wcms_619661.pdf) <accessed on March 8, 2022>.

<sup>35</sup> Zahara Nampewo, *supra*. at n. 8.

<sup>36</sup> NTV Uganda, Workers MP allowed to table Externalisation of Labour Bill 2019 at <https://www.youtube.com/watch?v=DjUKtWqOaGo> <accessed on March 8, 2022>.

The Private Employment Agencies Convention, 1997 (No. 181) recognizes the private players in labour export such as the Recruitment Agencies that are incorporated in Uganda and Foreign Recruitment Agencies that are accredited by the Ugandan Foreign Missions to also engage in labour export from Uganda. The Convention prohibits fee charging from job seekers and also requires the exporting and receiving states to finalize bilateral agreements aimed at protecting the rights of the workers by preventing abuses and fraudulent recruitment, export, placement and employment of the migrant workers.

The Domestic Workers' Convention exclusively focuses on migrant workers engaged in the domestic work. It offers stronger protection and promotion of the rights of migrant workers such as; protection from all forms of forced labour and compulsory labour; availing the intending migrant workers all the information relating to their terms and conditions of employment in a manner that is appropriate and understood easily with the intention of realizing better and fair working terms of employment and informed consent to the contract; it also provides for the right to keep the personal documents of travel and identity; and access to remedy in case of any grievances.

The above provisions in the international human rights instruments can be of good relevance in strengthening the Externalization of Labour regulations. Additionally, Uganda can also undertake comparative benchmarks from countries that have implemented labour externalization programs for a long time.

## **Comparative Analysis of Uganda's Legal Regime on Externalization of Labour with the Republic of the Philippines**

Philippines is one of the countries that have greatly benefited from the externalization of labour program. It commenced the implementation of the program as a stopgap measure to the high unemployment rate, poor economic development, political instability, and low wages. However, in the end, the program turned out to be a major avenue for the employment of many jobless youths and spurring economic growth in the country through remittances.<sup>37</sup> The number of Overseas Filipino Workers (OFWs) in 2020 was estimated at 1.77 million, which is a reduction from the 2.18 million reported in 2019.<sup>38</sup> Earning the country's total annual remittances of approximately

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<sup>37</sup> Feina Cai, 2014, The Labour Export Policy: A Case Study of the Philippines, 2011. Available at: <https://www.e-ir.info/2011/08/24/the-labour-export-policy-a-case-study-of-the-philippines-2/> accessed on April 12, 2022

<sup>38</sup> Philippines Statistics Authority at <https://psa.gov.ph/statistics/survey/labor-and-employment/-survey-overseas-filipinos> accessed on April 12, 2022

Earning the country's total annual remittances of approximately USD 29.9 billion.<sup>39</sup>

The high employment rate and earning from externalization of labour can be attributed to the government deliberate efforts of considering labour migration as an employment strategy. This can be attributed to the legal and institutional regimes that the government established to facilitate the externalization of labour program. The Philippines Overseas Employment Administration is responsible for external labour industry regulation, employment facilitation, worker's protection, and general administration and support services.<sup>40</sup> The Overseas Workers Welfare Administration develops and implements responsive programs and services and ensures viability of the fund towards the protection of the interest and promotion of the welfare of the OFWs.<sup>41</sup> In turn, the Commission on Filipinos Overseas promotes policies, programmes and projects with migration and development as a framework for the strengthening and empowerment of the Filipino overseas community.<sup>42</sup>

In addition to the institutions highlighted above, the government has enacted various legislations to guide and support the externalization of labour program. The laws include; the Labour Code of the Philippines 1974, the Migrant Workers and Overseas Filipinos Act, which is the primary legislation on externalization of labour. The law contains standards on protection and promotion of the welfare of migrant workers, their families and overseas Filipinos in distress, and for other purposes. Specifically, it contains provisions that mandate the state to sign and ratify international conventions that guarantee and protect the rights of the migrant workers and entering bilateral agreements with countries hosting Filipinos overseas; access to courts of law and legal assistance in case of complaints and disputes; the state obligation to empower and capacitate intending migrant workers with skills before exporting them among others.

The result of these elaborate policies and institutional framework has been noted to be a double-edged sword that Uganda could learn from either way. Not only does the Philippines record remittances from externalization of labour as its second largest source of foreign funding but also the program has contributed to curbing of gender inequality in the country due to the legal and safe means of engagement under responsible recruitment.<sup>43</sup> With this framework, the Philippines government is

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<sup>39</sup> See Statista at <https://www.statista.com/statistics/1242750/remittance-overseas-filipino-workers-to-philippines/> accessed on April 12, 2022

<sup>40</sup> Parliament of the Republic of Uganda, *supra*. at n. 7, p.8.

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*

<sup>43</sup> Feina Cai, 2014, The Labour Export Policy: A Case Study of the Philippines, *supra* at n. 34.

mandated to support in orientation of workers before departure; undertake efforts to keep track of all migrants and signing of bilateral agreements with host countries to ensure protection for OFWs.<sup>44</sup> All of which contribute to a sustainable and beneficial program. However, the program has seen to increase in ‘brain drain’ of professional Filipinos and despite these institutional frameworks, difficulties in the protection for OFWs abroad remain especially due to illegal recruitment of workers and the absence of direct legitimacy of the Philippines government in host countries. Finally, the program has revealed that externalization of labour can only be a tentative solution to the root causes of the high levels of unemployment it seeks to resolve.<sup>45</sup> Governments ought not to look at it as a fundamental solution.

Any country such as Uganda that seeks to adopt externalization of labour as one of the avenues for creating employment opportunities should borrow a leaf from Philippines especially in regard to institutional and legislative regime as well as the prioritization of responsible recruitment.

## Responsible Recruitment and the Dhaka Principles for Migration with Dignity

At the heart of lessons from the Philippines case, which Uganda should learn from, is the effort to ensure responsible recruitment and engagement in the whole process of the externalization of labour. The principles for responsible recruitment are best laid out in the Dhaka Principles for Migration with Dignity (Dhaka Principles) developed by the Institute of Human Rights and Business in 2011. The Dhaka Principles were developed from a business and human rights perspective founded on the United Nations Guiding Principles on Business and Human Rights and existing international standards to respond to the call for an overarching framework relating to migrant workers’ rights that would be easily understood by businesses such as recruitment agencies and potential employers.<sup>46</sup> The Dhaka principles ‘provide a roadmap that traces the worker from recruitment, through employment, to the end of contract and provides key principles that employers and migrant recruiters should respect at each

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<sup>44</sup> Geoffrey Bakunda and George F. Walusimbi Mpanga, Labor Export as Government Policy: An Assessment of Uganda’s Potential for Export of Labor in the Framework of Regional and Multilateral Agreements by Private Sector Foundation Uganda (PSFU). ICBE-RF Research Report No. 12/11. p. 14 – 26. Available at: [https://media.africaportal.org/documents/icbe\\_labor\\_export2.pdf](https://media.africaportal.org/documents/icbe_labor_export2.pdf) (accessed on May 16, 2022).

<sup>45</sup> *Supra.* n. 34.

<sup>46</sup> Institute of Human Rights and Business, About the Dhaka Principles. Available at: <https://www.ihrb.org/dhaka-principles/about> <Accessed on May 17, 2022>

stage in the process to ensure migration with dignity.’<sup>47</sup>

Guided by two core principles, on equal treatment for all without discrimination and that all workers should enjoy the protection of the employment law, the Dhaka principles offer a solid understanding of how migrant labour should be handled. The Dhaka principles further provide for non-payment of recruitment fees by workers;<sup>48</sup> clear and transparent worker contracts; inclusive policies and procedures; non-retention of migrant workers’ identity documents; regular direct and prompt payment of wages; respect for worker representation rights; safe and decent working and living conditions; provision of access to remedy; respect for the freedom to change employment; as well as guarantee of safe and timely return home on contract completion and exceptional circumstances.

These principles have been endorsed by the Confederation of International Recruitment Agencies (CIETT, now the World Employment Confederation) and the International Trade Union Confederation (ITUC) and are in application in many Asian countries including the Philippines, Vietnam, Taiwan and Bangladesh and they have been adopted by various businesses, trade associations and significant migrant worker initiatives on worker recruitment such as the ILO General Principles and Operational Guidelines for Fair Recruitment.<sup>49</sup>

Frameworks such as the Dhaka Principles could be handy in guiding the Ugandan government and private recruitment agencies on entrenching migration with dignity in externalization processes going forward in addition on the 2021 regulations. They offer solutions to many root causes of the challenges in Uganda’s externalization of labour sector as highlighted above and prevent forced labour and trafficking. The application of these principles at a global stage could prove useful in engagements with host countries’ government and recruitment agencies going forward. If utilized by stakeholders in the externalisation of labour sector these principles that have stood the test of time for the last ten years could be a game changer.

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47 Institute of Human Rights and Business, *Migration with Dignity: A Guide to Implementing the Dhaka Principles*, 2017. p. 6. Available at: <https://www.ihrb.org/dhaka-principles/implementation-guidance> <accessed on May 17, 2022>

48 This is supported by the *Employer Pays Principle* and model of responsible recruitment premised on the idea that, ‘No worker should pay for a job - the costs of recruitment should be borne not by the worker but by the employer.’ Institute of Human Rights and Business, *Responsible Recruitment Gateway*. Available at: <https://www.ihrb.org/employerpays/> <Accessed on May 17, 2022>

49 Neill Wilkins, *The Dhaka Principles at 10 - Reflecting on Lessons Learned and Challenges Ahead in Ensuring Migration with Dignity*, Institute of Human Rights and Business, January 12, 2022. Available at: <https://www.ihrb.org/focus-areas/migrant-workers/the-dhaka-principles-at-10-reflecting-on-lessons-learned-and-challenges-ahead-in-ensuring-migration-with-dignity> <Accessed on May 17, 2022>



## Conclusion and Recommendations

Externalization of labour can be useful in creating employment opportunities for countries with high levels of unemployment among the youths such as Uganda. However, to secure greater benefits from externalization of labour programs, there is need for such economies that seek to derive benefit from externalization to take deliberate efforts to ensure that the people engaged are skilled and empowered; and to establish policy, legal and institutional frameworks that promote and protect the rights of the migrant workers. For the case of Uganda, there is need to undertake the following;

- i. Enact a specific law to manage and facilitate affairs of externalization of labour in Uganda or make amendments to the Employment Act 2006 such that this sector is regulated by substantive law and not just policies and regulations.
- ii. Establish a fully-fledged Institution responsible for regulation and management of affairs of externalization of labour
- iii. Ensure that all intending migrant workers are empowered and skilled before they leave the country.
- iv. The MoGLSD is entrusted with the regulation of this sector and as such should ensure to also regulate the actions of the UAERA that has been left unregulated.
- v. Sign, ratify and domesticate the International Labour Organisation Private Employment Agencies Convention, 1997 (No. 181) (Private Employment Agencies Convention); International Labour Organisation (ILO) Domestic Workers Convention, 2011 (No. 189) (Domestic Workers Convention).
- vi. Jointly under the East African Community and African Union push the hosting countries to adopt sign, ratify and domesticate international human rights instruments that protect the rights of migrant workers.
- vii. Utilize the Dhaka Principles for Migration with Dignity to ensure that externalisation of labour processes are informed by responsible recruitment principles and to address loopholes in the current legal framework.
- viii. At the time of publication of this brief, there was no evidence of any formal training institutions as required by Regulation 28 of the Employment (Recruitment of Ugandan Migrant Workers) Regulations, 2021. This should be operationalized and enlisted on the External Employment Management Information System by the MoGLSD.
- ix. The Government should ensure a large dissemination of the content of the bilateral labour agreements concluded. It should further ensure that these



bilateral agreements:

(i) are consistent with the provisions of international labour instruments ratified by the country; (ii) include a gender dimension as women migrant workers, in particular domestic workers, face specific abusive conditions; and (iii) adopt a system for regular monitoring and periodic evaluation of the effective implementation of the provisions of these agreements.<sup>50</sup>

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<sup>50</sup> Comment by the Committee of Experts (CEACR), Direct Request (CEACR) - adopted 2021, published 110th ILC session (2022), *Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)* - Uganda (Ratification: 1978) Available at [http://ilo.org/dyn/normlex/en/f?p=1000:13101:0::NO:13101:P13101\\_COMMENT\\_ID:4117294](http://ilo.org/dyn/normlex/en/f?p=1000:13101:0::NO:13101:P13101_COMMENT_ID:4117294) (accessed October 5, 2022)



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